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Asylum Information Database

Country Report: Greece

GREEK COUNCIL FOR REFUGEES

2021 Update

ecre European Council on Refugees and Exiles

Acknowledgements & Methodology

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The information in this report is up-to-date as of 31 December 2021, unless otherwise stated.

The Asylum Information Database (AIDA)

The Asylum Information Database (AIDA) is coordinated by the European Council on Refugees and Exiles (ECRE). It aims to provide up-to date information on asylum practice in 23 countries. This includes 19 EU Member States (AT, BE, BG, CY, DE, ES, FR, GR, HR, HU, IE, IT, MT, NL, PL, PT, RO, SE, SI) and 4 non-EU countries (Serbia, Switzerland, Turkey and the United Kingdom) which is accessible to researchers, advocates, legal practitioners and the general public through the dedicated website www.asylumineurope.org. The database also seeks to promote the implementation and transposition of EU asylum legislation reflecting the highest possible standards of protection in line with international refugee and human rights law and based on best practice.

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Glossary

EU-Turkey statement	Statement of Heads of State or Government of 18 March 2016 on actions to address the refugee and migration crisis, including the return of all persons irregularly entering Greece after 20 March 2016 to Turkey.
Fast-track border procedure	Expedient version of the border procedure, governed by Article 90(3) IPA and applicable in exceptional circumstances on the basis of a Ministerial Decision.
Objections against detention	Procedure for challenging detention before the President of the Administrative Court, whose decision is non-appealable
Reception and Identification Centre	Centre in border areas where entrants are identified and referred to asylum or return proceedings.
CCACI	Closed Controlled Access Centres of Islands

List of Abbreviations

AEMY	Health Unit SA | Ανώνυμη Εταιρεία Μονάδων Υγείας
AIRE	Advice on Individual Rights in Europe
AFM	Tax Number | Αριθμός Φορολογικού Μητρώου
AMIF	Asylum, Migration and Integration Fund
AMKA	Social Security Number | Αριθμός Μητρώου Κοινωνικής Ασφάλισης
AAU	Autonomous Asylum Unit | Αυτοτελές Κλιμάκιο Ασύλου
AVRR	Assisted Voluntary Return and Reintegration
CERD	United Nations Committee on the Elimination of Racial Discrimination
DYEP	Refugee Reception and Education Facilities | Δομές Υποδοχής και Εκπαίδευσης Προσφύγων
DOATAP	Διεπιστημονικός Οργανισμός Αναγνώρισης Τίτλων Ακαδημαϊκών και πληροφόρησης| Hellenic National Academic Recognition and Information Center
EASO	European Asylum Support Office
ECHR	European Convention on Human Rights
ECtHR	European Court of Human Rights
EKKA	National Centre of Social Solidarity | Εθνικό Κέντρο Κοινωνικής Αλληλεγγύης
ELIAMEP	Hellenic Foundation for European and Foreign Policy | Ελληνικό Ίδρυμα Ευρωπαϊκής και Εξωτερικής Πολιτικής
ESTIA	Emergency Support to Integration and Accommodation
EODY	National Organisation of Public Health | Εθνικός Οργανισμός Δημόσιας Υγείας
GCR	Greek Council for Refugees | Ελληνικό Συμβούλιο για τους Πρόσφυγες
IPA	International Protection Act | Νόμος Περί Διεθνούς Προστασίας
JMD	Joint Ministerial Decision | Κοινή Υπουργική Απόφαση
KEA	Social Solidarity Income | Κοινωνικό Επίδομα Αλληλεγγύης
KEELPNO	Hellenic Centre for Disease Control and Prevention | Κέντρο Ελέγχου και Πρόληψης Νοσημάτων
L	Law | Νόμος
MD	Ministerial Decision | Υπουργική Απόφαση
NCHR	National Commission for Human Rights | Εθνική Επιτροπή για τα Δικαιώματα του Ανθρώπου
PAAYPA	Foreigner's Temporary Insurance and Health Coverage Number | Προσωρινός Αριθμός Ασφάλισης και Υγειονομικής Περίθαλψης Αλλοδαπού
PACE	Parliamentary Assembly of the Council of Europe
PRDC	Pre-removal Detention Centers | Προαναχωρησιακά Κέντρα Κράτησης (Προ.Κε.Κ.Α)
PD	Presidential Decree | Προεδρικό Διάταγμα
RIC	Reception and Identification Centre | Κέντρο Υποδοχής και Ταυτοποίησης
RIS	Reception and Identification Service | Υπηρεσία Υποδοχής και Ταυτοποίησης
RAO	Regional Asylum Office | Περιφερειακό Γραφείο Ασύλου
UNHCR	United Nations High Commissioner for Refugees

Statistics

Overview of statistical practice

Since February 2020, the authorities have suspended the publication of statistical information by the Asylum Service, previously made available on a monthly basis. Disparities continue to persist between figures provided by the Greek government to Eurostat and actual practice. Eurostat continues to report zero figures for withdrawals of international protection in Greece, even though withdrawal decisions have in fact been taken by the Asylum Service based on cases followed by GCR and other NGOs working on the field. A similar issue is reported vis-à-vis decisions in the accelerated procedure pursuant to Article 31(8) of the recast Asylum Procedures Directive.

The Appeals Authority has still not published quarterly activity reports pursuant to Article 4(3) L 4375/2016, in which it should include statistics on appeals lodged, the percentage of cases processed in written and oral procedures, processing times of appeals, recognition rates, applications for annulment lodged against Appeals Committee decisions, applications for legal aid and beneficiaries of legal aid.[1] However, some figures on the appeal procedure are included in the monthly statistical reports of the Ministry of Migration and Asylum.

Applications and granting of protection status at first instance in 2021:

	Applicants in 2021	Pending applications at the end of 2021	Refugee status	Subsidiary protection	Rejection (on the merits)[2]	Refugee rate	Subs. Prot. rate	Rejection rate (on the merits)
Total	28,320	31,787	13,051	3,537	10,991	47.3%	12.9%	39.9%
Breakdown by countries of origin of the total numbers:								
Afghanistan	4,618	1,568	3,879	2,772	-	-	-	-
Pakistan	4,273	1,433	114	6	-	-	-	-
Syria	3,870	1,599	3,087	3	-	-	-	-
Bangladesh	2,731	1,589	-	-	-	-	-	-
Turkey	1,923	1,961	364	0	-	-	-	-
Iraq	1,622	438	1,531	293	-	-	-	-
Somalia	1,541	594	749	244	-	-	-	-

[1] RSA, 'Asylum statistics for 2020 should be published and unpacked', 15 July 2020, available at: https://bit.ly/3fgR7yn.

[2] Inadmissibility decisions (12,332) exceeded rejections on the merits (10,991) at first instance due to the wide application of the safe third country concept after the entry into force of the JMD 42799/2021.

Source: MoMA, Factsheet December 2021, https://bit.ly/3tA7eA0; Ministry of Migration and Asylum, Reply to parliamentary question, 97157/2022, 17 February 2022, https://bit.ly/3HiYIsF: Information provided by the Appeals Authority, 11 March 2022.

Gender/age breakdown of the total number of applicants: 2021

	Number	Percentage
Total number of applicants	28,320	100%
Men	15,665	55.3%
Women	4,210	14.8%
Minors (also unaccompanied)	8,445	29.8%

Source: Source: MoMA, Factsheet December 2021, https://bit.ly/3tA7eA0.

The figures on children and unaccompanied children are part of the figures on men and women.

Comparison between first instance and appeal in-merit decision rates: 2021

	First instance		Appeal	
	Number	**Percentage**	**Number**	**Percentage**
Total number of decisions on the merits	10,991	100	11,059	100
Positive decisions	16,588	60.22%	1,863	16.84%
Refugee status	*13,051*	*47.3%*	*730*	*6.60%*
Subsidiary protection	*3,537*	*12.9%*	*1,133*	*10.24%*
Negative decisions (in merits)	10,991	39.9%	9,196	83.15%

Source: MoMA, Factsheet December 2021, https://bit.ly/3tA7eA0; Ministry of Migration and Asylum, Reply to parliamentary question, 97157/2022, 17 February 2022, https://bit.ly/3HiYIsF; Appeals Authority, Information provided on 11 March 2022.

Overview of the legal framework

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

Title (EN)	Original Title (GR)	Abbreviation	Web Link
Law 4825/2021 "Reform of deportation and return procedures of third country nationals, attracting investors and digital nomads, issues of residence permits and procedures for granting international protection, provisions within the competence of the Ministry of Migration and Asylum and the Ministry of Citizen Protection and other emergency provisions", Gov. Gazette A' 157/4-9-2021	Νόμος 4825/2021 «Αναμόρφωση διαδικασιών απελάσεων και επιστροφών πολιτών τρίτων χωρών, προσέλκυση επενδυτών και ψηφιακών νομάδων, ζητήματα αδειών διαμονής και διαδικασιών χορήγησης διεθνούς προστασίας, διατάξεις αρμοδιότητας Υπουργείου Μετανάστευσης και Ασύλου και Υπουργείου Προστασίας του Πολίτη και άλλες επείγουσες διατάξεις», ΦΕΚ Α' 157/4-9-2021	L 4825/2021	https://bit.ly/3Lc8bEz (GR)
Law 4686/2020 "Improvement of the migration legislation, amendment of L. 4636/2019 (A΄ 169), 4375/2016 (A΄ 51), 4251/2014 (A΄ 80) and other provisions" Gov. Gazette A' 96 /12-5-2020	Νόμος 4686/2020 «Βελτίωση της μεταναστευτικής νομοθεσίας, τροποποίηση διατάξεων των νόμων 4636/2019 (Α΄ 169), 4375/2016 (Α΄ 51), 4251/2014 (Α΄ 80) και άλλες διατάξεις». ΦΕΚ Α' 96 /12-5-2020	L 4686/2020	https://bit.ly/2LGoOvl (GR)
Law 4636/2019 "on international protection and other provisions" Gazette 169/A/1-11-2019	Νόμος 4636/2019 «Περί Διεθνούς Προστασίας και άλλες διατάξεις» ΦΕΚ 169/Α/1-11-2019	IPA	https://bit.ly/2Q9VnFk (GR)
Law 4375/2016 "Organisation and functioning of the Asylum Service, Appeals Authority, Reception and Identification Service, establishment of General Secretariat for Reception, transposition of Directive 2013/32/EU of the European Parliament and of the Council 'on common procedures for granting and withdrawing international protection (recast)' (L 180/29.6.2013), provisions on employment of beneficiaries of international protection" and other provisions. Gazette 51/A/3-4-2016	Νόμος 4375/2016 «Οργάνωση και λειτουργία Υπηρεσίας Ασύλου, Αρχής Προσφυγών, Υπηρεσίας Υποδοχής και Ταυτοποίησης σύσταση Γενικής Γραμματείας Υποδοχής, προσαρμογή της Ελληνικής Νομοθεσίας προς τις διατάξεις της Οδηγίας 2013/32/ΕΕ του Ευρωπαϊκού Κοινοβουλίου και του Συμβουλίου «σχετικά με τις κοινές διαδικασίες για τη χορήγηση και ανάκληση του καθεστώτος διεθνούς προστασίας (αναδιατύπωση)» (L 180/29.6.2013), διατάξεις για την εργασία δικαιούχων διεθνούς προστασίας και άλλες διατάξεις. ΦΕΚ 51/Α/3-4-2016	L 4375/2016 (Asylum Act)	http://bit.ly/2kKm2cu (EN) https://bit.ly/2NU5U4A (GR)
Amended by: Law 4399/2016, Gazette 117/A/22-6-2016 *Amended by:* Law 4461/2017, Gazette 38/A/28-3-2017 *Amended by:* Law 4485/2017, Gazette 114/A/4-8-2017 *Amended by:* Law 4540/2018, Gazette 91/A/22-5-2018 *Amended by:* Law 4636/2019, Gazette 69/A/1-11-2019	*Τροπ.:* Νόμος 4399/2016, ΦΕΚ 117/Α/22-6-2016 *Τροπ.:* Νόμος 4461/2017, ΦΕΚ 38/Α/28-3-2017 *Τροπ.:* Νόμος 4485/2017, ΦΕΚ 114/Α/4-8-2017 *Τροπ.:* Νόμος 4540/2018, ΦΕΚ 91/Α/22-5-2018 *Τροπ.:* Νόμος 4636/2019, ΦΕΚ 169/Α/1-11-2019		http://bit.ly/2lKABdD (GR) http://bit.ly/2y0vNq5 (GR) http://bit.ly/2FLLM3H(GR) https://bit.ly/2KCbDx6(GR) https://bit.ly/2Q9VnFk (GR)

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 provisions. Gazette 7/A/26-01-2011 *Amended by:* Presidential Decree 133/2013, Gazette 198/A/25-09-2013 Law 4058/2012, Gazette 63/A/22-03-2012 Law 4375/2016, Gazette 51/A/3-4-2016	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» ΦΕΚ 7/Α/26-01-2011 *Τροποποίηση από:* Προεδρικό Διάταγμα 133/2013, ΦΕΚ 198/Α/25-09-2013 Νόμος 4058/2012, ΦΕΚ 63/Α/22-03-2012 Νόμος 4375/2016, ΦΕΚ 51/Α/3-4-2016	L 3907/2011 PD 133/2013 L 4058/2012 L 4375/2016	http://bit.ly/1KHa9dV (EN) https://bit.ly/3uMO9Zo (GR) https://bit.ly/3onVTPe (GR) http://bit.ly/2kKm2cu (EN) https://bit.ly/2NU5U4A (GR)
Presidential Decree 114/2010 “on the establishment of a single procedure for granting the status of refugee or of beneficiary of subsidiary protection to aliens or to stateless persons in conformity with Council Directive 2005/85/EC on minimum standards on procedures in Member States for granting and withdrawing refugee status” Gazette 195/A/22-11-2010 *Amended by:* Presidential Decree 116/2012, Gazette 201/A/19-10-2012 Presidential Decree 113/2013, Gazette 146/A/14-06-2013 Presidential Decree 167/2014, Gazette 252/A/01-12-2014 Law 4375/2016, Gazette 51/A/3-4-2016	Προεδρικό Διάταγμα 114/2010 «Καθιέρωση ενιαίας διαδικασίας αναγνώρισης σε αλλοδαπούς και ανιθαγενείς του καθεστώτος του πρόσφυγα ή δικαιούχου επικουρικής προστασίας σε συμμόρφωση προς την Οδηγία 2005/85/ΕΚ του Συμβουλίου ‘σχετικά με τις ελάχιστες προδιαγραφές για τις διαδικασίες με τις οποίες τα κράτη μέλη χορηγούν και ανακαλούν το καθεστώς του πρόσφυγα», ΦΕΚ 195/Α/22-11-2010 *Τροποποίηση από:* Προεδρικό Διάταγμα 116/2012, ΦΕΚ 201/Α/19-10-2012 Προεδρικό Διάταγμα 113/2013, ΦΕΚ 146/Α/14-06-2013 Προεδρικό Διάταγμα 167/2014, ΦΕΚ 252/Α/01-12-2014 Νόμος 4375/2016, ΦΕΚ 51/Α/3-4-2016	PD 114/2010 (Old Procedure Decree) PD 116/2012 PD 113/2013 PD 167/2014 L 4375/2016	https://bit.ly/33FnpxY (EN) http://bit.ly/1GfXCwV (EN) http://bit.ly/1M36apZ (EN) http://bit.ly/1ENgV9B (GR) http://bit.ly/1ct2sZY (GR) https://bit.ly/2NU5U4A (GR)
Law 4251/2014 “Immigration and Social Integration Code and other provisions” Gazette 80/A/01-04-2014 *Amended by:* Law 4332/2015, Gazette 76/A/09-07-2015 *Amended by:* Law 4540/2018, Gazette 91/A/22-5-2018	Νόμος 4251/2014 «Κώδικας Μετανάστευσης και Κοινωνικής Ένταξης και λοιπές διατάξεις» ΦΕΚ 80/Α/01-04-2014 *Τροπ:* Νόμος 4332/2015, ΦΕΚ 76/Α/09-07-2015 *Τροπ.:* Νόμος 4540/2018, ΦΕΚ 91/Α/22-5-2018	Immigration Code L 4332/2015	http://bit.ly/1FOuxp0 (GR) http://bit.ly/1LfUfDB (GR) https://bit.ly/2KCbDx6 (GR)
Law 3386/2005 “Entry, Residence and Social Integration of Third Country Nationals on the Greek Territory”	Νόμος 3386/2005 «Είσοδος, διαμονή και κοινωνική ένταξη υπηκόων τρίτων χωρών στην Ελληνική Επικράτεια»	L 3386/2005	http://bit.ly/1Pps1eO (EN) http://bit.ly/1Qkzh9R (GR)

Abolished by: Law 4251/2014 except for Articles 76, 77, 78, 80, 81, 82, 83, 89(1) - (3) *Amended by:* Law 4332/2015	*Καταργήθηκε από:* Νόμος 4251/2014 πλην των διατάξεων των άρθρων 76, 77, 78, 80, 81, 82, 83, 89 παρ. 1-3 *Τροπ.:* Νόμος 4332/2015		
Law 4554/2018 "Guardianship of unaccompanied children and other provisions" Gazette 130/A/18-7-2018	Νόμος 4554/2018 «Επιτροπεία ασυνόδευτων ανηλίκων και άλλες διατάξεις», ΦΕΚ 130/Α/18-7-2018	L 4554/2018	https://bit.ly/2FAeL7z (GR)
Presidential Decree 131/2006 on the transposition of Directive 2003/86/EC on the right to family reunification Gazette 143/A/13-7-2006 *Amended by:* PD 167/2008, PD 113/2013	Προεδρικό Διάταγμα 131/2006 Εναρμόνιση της ελληνικής νομοθεσίας με την Οδηγία 2003/86/ΕΚ σχετικά με το δικαίωμα οικογενειακής επανένωσης, ΦΕΚ 143/Α/13-7-2006 *Τροπ:* ΠΔ 167/2008, ΠΔ 113/2013	PD 131/2006 (Family Reunification Decree)	http://bit.ly/2nHCPOu (GR)

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

Title (EN)	Original Title (GR)	Abbreviation	Web Link
Joint Ministerial Decision No 472687 Determination of the procedure for entering of payments in the budget of the Ministry of Migration and Asylum in line with the revenues ΑΛΕ 1450114001 "Fees of any, after the first, subsequent application for international protection" and relevant issues Gazette B/6246 / 27-12-2021	Κοινή Υπουργική Απόφαση αριθμ. οικ. 472687 (ΦΕΚ Β' – 6246 / 27-12-2021) Καθορισμός διαδικασίας εγγραφής πιστώσεων στον τακτικό π/υ του Υπουργείου Μετανάστευσης και Ασύλου κατ' αντιστοιχία εισπραττόμενων εσόδων στον ΑΛΕ 1450114001 "Παράβολα κάθε μεταγενέστερης της πρώτης αίτησης από αιτούντα διεθνούς προστασίας" και λοιπά συναφή θέματα.		https://bit.ly/3u6MCj7 (GR)
Decision of the Secretary General for the Reception of Asylum Seekers 25.0/118832 General Regulation for the Operation of Closed Controlled Facilities on the islands Gazette B/3191/20-7-2021	Απόφαση 25.0/118832 Γενικός Κανονισμός Λειτουργίας Κλειστών Ελεγχόμενων Δομών Νήσων.		https://bit.ly/389fkHi (GR)
Joint Ministerial Decision no 42799 Designation of third countries as safe and establishment of national list pursuant to Article 86 L. 4636/2019 (A' 169) Gazette B' 2425/07-06-2021 *Amended by Decision no* 458568 *"*Amendment of no 42799/03.06.2021 Joint Ministerial Decision of the Minister	Κοινή Υπουργική Απόφαση Αριθμ. 42799 (ΦΕΚ Β' 2425/07-06-2021) Καθορισμός τρίτων χωρών που χαρακτηρίζονται ως ασφαλείς και κατάρτιση εθνικού καταλόγου, κατά τα οριζόμενα στο άρθρο 86 του ν. 4636/2019 (Α' 169). *Τροπ: Απόφαση υπ'αριθμ 458568 «Τροποποίηση της υπ' αρ. 42799/03.06.2021 κοινής απόφασης των Υπουργών*		https://bit.ly/3uILhhf (GR) https://bit.ly/3uISduV (GR)

of Foreign Affairs and the Minister of Migration and Asylum "Designation of third countries as safe and establishment of national list pursuant to Article 86 L. 4636/2019 (a' 169)" Gazette B/5949/16-12-2021)	*Εξωτερικών και Μετανάστευσης και Ασύλου «Καθορισμός τρίτων χωρών που χαρακτηρίζονται ως ασφαλείς και κατάρτιση εθνικού καταλόγου κατά τα οριζόμενα στο άρθρο 86 του ν. 4636/2019 (Α' 169)»*		
Joint Ministerial Decision no 788 Establishment of a national List of countries of origin considered as safe pursuant to para. 5 Article 87 L. 4636/2019 (A' 169) Gazette B' 317/29-01-2021	Κοινή Υπουργική Απόφαση Αριθμ. 778 (ΦΕΚ Β' 317/29-01-2021) Κατάρτιση Εθνικού Καταλόγου χωρών καταγωγής που χαρακτηρίζονται ως ασφαλείς, σύμφωνα με την παρ. 5 του άρθρου 87 του ν. 4636/2019 (Α΄ 169).		https://bit.ly/3iRHuc0 (GR)
Joint Ministerial Decision No 22066 on the establishment of the International Protection Applicant Cards Gazette B/4699/23-10-2020	Κοινή Υπουργική Απόφαση Αριθμ. 22066 (ΦΕΚ Β' 4699/23-10-2020) Καθορισμός του τύπου του Δελτίου Αιτούντος Διεθνή Προστασία.	Establishment of the international protection applicant cards JMD	https://bit.ly/3o4A8DX (GR)
Joint Ministerial Decision 23/13532/2020 "General Regulation for the Operation of Temporary Reception and Accommodation Facilities for third countries nationals or stateless persons, operating under the care of the Reception and Identification Service, Gazette 5272/B/30.11.2020	Υπουργική Απόφαση 23/13532/2020 (ΦΕΚ 5272/Β'/30.11.2020) "Γενικός Κανονισμός Λειτουργίας Δομών Προσωρινής Υποδοχής και Φιλοξενίας πολιτών τρίτων χωρών ή ανιθαγενών που λειτουργούν με μέριμνα της Υπηρεσίας Υποδοχής και Ταυτοποίησης"	Regulation for the operation of temporary reception and accommodation JMD	https://bit.ly/3w8umDM (GR)
Decision No 3063 on the Register of Greek and foreigner NGOs and Register for the members of NGOs Gazette B/1382/14.4.2020	Απόφαση Αριθμ. 3063 (ΦΕΚ Β'-1382-14.04.2020) Καθορισμός λειτουργίας του «Μητρώου Ελληνικών και Ξένων Μη Κυβερνητικών Οργανώσεων (ΜΚΟ)» και του «Μητρώου Μελών Μη Κυβερνητικών Οργανώσεων (ΜΚΟ)», που δραστηριοποιούνται σε θέματα διεθνούς προστασίας, μετανάστευσης και κοινωνικής ένταξης εντός της Ελληνικής Επικράτειας.	NGO's Register Decision	https://bit.ly/3y3YNNk (GR)
Decision No 13221 on the conditions of "ESTIA II" program for housing of international protection applicants, Gazette 1223/B/9.4.2020 *Amended by* Decision No 21260, Gazette 3093/B/24.07.2020 *Amended by* Decision No 14320, Gazette B/5269/30.11.2020 Amended *by* Decision No 270, Gazette B/451/15.2.2021	Υπουργική Απόφαση Αριθμ. οικ. 13221 (ΦΕΚ 1223/Β΄/09.04.2020) Καθορισμός πλαισίου προδιαγραφών του προγράμματος «ESTIA II» για τη στέγαση αιτούντων διεθνή προστασία *Τροπ. :* Υπουργική Απόφαση Αριθμ.21260 (ΦΕΚ 3093/Β/24.07.2020) *Τροπ.:* Υπουργική Απόφαση Αριθμ. οικ: 14320 (ΦΕΚ Β 5269/30.11.2020). Τροπ: Κοινή Υπουργική Απόφαση Αριθμ. 270 (ΦΕΚ Β 451/5.2.2021)	Conditions for housing of international protection applicants JMD	https://bit.ly/2R0LjkZ (GR) https://bit.ly/3y0oGOb (GR) https://bit.ly/3ezL49e (GR)

Decision No 13348 on the Terms and conditions for the provision of material reception conditions under ESTIA II program for housing of international protection applicants Gazette B/1199/7.4.2020	Απόφαση Αριθμ. οικ. 13348 (ΦΕΚ Β'-1199-07.04.2020) Όροι παροχής υλικών συνθηκών υποδοχής για το πρόγραμμα «ESTIA II» για τη στέγαση αιτούντων διεθνή προστασία	Material reception conditions under ESTIA II JDM	https://bit.ly/3fnItia (GR)
Decision No 3686 on the provision of legal aid to applicants for international protection Gazette B/1009/24.3.2020 Decision No 3449 on the provision of legal aid to applicants for international protection Gazette B 1482/13.04.2021	Απόφαση αριθμ. 3686 (ΦΕΚ Β'-1009-24.03.2020) Παροχή νομικής συνδρομής σε αιτούντες διεθνή προστασία Απόφαση Αριθμ. 3449 (ΦΕΚ Β 1482/13.04.2021) Παροχή νομικής συνδρομής σε αιτούντες διεθνή προστασία	Legal Aid JMD	https://bit.ly/3uLVnNm (GR) https://bit.ly/2RSHZbw (GR)
Decision No 2945 on the Establishment of Temporary Accommodation Facilities for third country nationals and stateless persons, who have applied for international protection Gazette B/2945/24.3.2020	Υπουργική Απόφαση αριθμ.2945 (ΦΕΚ Β'-1016-24.03.2020) Σύσταση Δομών Προσωρινής Υποδοχής Πολιτών Τρίτων Χωρών ή ανιθαγενών, οι οποίοι έχουν αιτηθεί διεθνή προστασία.	Establishment of Temporary Accommodation Facilities Decision	https://bit.ly/2RWInH1 (GR)
Decision No Δ1α/ΓΠ.οικ. Δ1α/Γ.Π.οικ. 80417/2021 (Gazette B' 6214) Urgent measures for the protection of public health against the spread of SARS-COV-2 across the country valid from 24 December 2021 to 3 January 2022 Gazette B' 6214/23.12.2021	Απόφαση Αριθμ. Υ.Α. Δ1α/Γ.Π.οικ. 80417/2021 Έκτακτα μέτρα προστασίας της δημόσιας υγείας από τον κίνδυνο περαιτέρω διασποράς του κορονοϊού SARS-COV-2 στο σύνολο της Επικράτειας για το διάστημα από την Παρασκευή, 24 Δεκεμβρίου 2021 και ώρα 06:00 έως και τη Δευτέρα, 3 Ιανουαρίου 2022 και ώρα 06:00. (Β' 6214/23.12.2021).	Measures against COVID 19 across the country	https://bit.ly/3iVBFdy (GR)
Decision No 717/2020 on the Access to healthcare services for applicants for international protection– P.A.A.Y.P.A. issuance Gazette B/717/31.1.2020	Υπουργική Απόφαση αριθμ. 717 (ΦΕΚ Β'-199-31.01.2020) Ρυθμίσεις για τη διασφάλιση της πρόσβασης των αιτούντων διεθνούς προστασίας στις υπηρεσίες υγείας, την ιατροφαρμακευτική περίθαλψη, την κοινωνική ασφάλιση και την αγορά εργασίας – Έκδοση Π.Α.Α.Υ.Π.Α.	Access to healthcare services Decision	https://bit.ly/2yjx8Oz (GR)
Decision No 1333/2019 on the Application of the provisions of Article 90 paras.3 and 5 of L 4636/2020 Gazette B/4892/31.12.2019	Απόφαση αριθμ. 1333 (ΦΕΚ Β'-4892-31.12.2019) Εφαρμογή των διατάξεων των παραγράφων 3 και 5 του άρθρου 90 του ν. 4636/2019 (ΦΕΚ 169 Α΄).	Fast-Track Border Procedure JMD	https://bit.ly/3cPAojw (GR)
Decision No 1302(2)/2019 on the List of safe countries of origin Gazette B/4907/31.12.2019	Απόφαση αριθμ. 1302 (2) (ΦΕΚ Β 4907-31-12-2019) Κατάρτιση Εθνικού Καταλόγου χωρών καταγωγής που	List of safe countries of origin	https://bit.ly/2AMPjgr (GR)

	χαρακτηρίζονται ως ασφαλείς σύμφωνα με το άρθρο 87 παρ. 5 του ν.4636/2019. Κοινή Υπουργική Απόφαση Αριθμ. 778/2021 (ΦΕΚ 317/Β/29-1-2021). Κατάρτιση Εθνικού Καταλόγου χωρών καταγωγής που χαρακτηρίζονται ως ασφαλείς, σύμφωνα με την παρ. 5 του άρθρου 87 του ν. 4636/2019 (Α' 169).	Decision	https://bit.ly/3eCpwZL (GR)
Decision No 1140/2019 of the Minister of Migration Policy on the restriction of movement of applicants for international protection Gazette B/ B/4736/20.12.2019	Υπουργική Απόφαση αριθμ. 1140 (ΦΕΚ Β'-4736-20.12.2019) Περιορισμός Κυκλοφορίας των Αιτούντων Διεθνή Προστασία.	Restriction of Movement Decision	https://bit.ly/2LG02eG (GR)
Joint Ministerial Decision Δ11/οικ.28303/1153 Definition of necessary formal and material conditions to be fulfilled for the selection of professional guardians, obstacles, establishment of number of unaccompanied minors by professional guardian, technical specifications on training and education, as well as regular evaluation, types, conditions, content of contracts, remuneration and necessary details Gazette B/2558/27-6-2019	Κοινή Υπουργική Απόφαση Δ11/οικ.28303/1153 Καθορισμός απαιτούμενων τυπικών και ουσιαστικών προσόντων που πρέπει να πληρούνται για την επιλογή ενός προσώπου ως επαγγελματία επιτρόπου, τα κωλύματα, καθορισμός αριθμού ασυνόδευτων ανηλίκων ανά επαγγελματία επίτροπο, τεχνικές λεπτομέρειες εκπαίδευσης, διαρκούς επιμόρφωσής τους, καθώς και της τακτικής αξιολόγησης τους, είδος, όροι, περιεχόμενο της σύμβασης, αμοιβή τους και κάθε αναγκαία λεπτομέρεια, ΦΕΚ Β/2558/27.6.2019	Guardianship JMD	https://bit.ly/2qL7FJr (GR)
Decision οικ. 13411/2019 of the Minister of Migration Policy on restriction of movement of applicants for international protection Gazette B/2399/19.06.2019	Απόφαση αριθμ. οικ. 13411/2019 του Υπουργού Μεταναστευτικής Πολιτικής: Περιορισμός κυκλοφορίας των αιτούντων διεθνή προστασία, ΦΕΚ Β/2399/19.06.2019	Restriction of Movement Decision	https://bit.ly/32GYtU5 (GR)
Decision οικ. 868/2018 of the Director of the Asylum Service on the duration of international protection applicants' cards Gazette B/201/30.01.2018	Απόφαση αριθμ. οικ. 868/2018 της Διευθύντριας Υπηρεσίας Ασύλου: Διάρκεια ισχύος δελτίων αιτούντων διεθνή προστασία, ΦΕΚ Β/201/30.01.2018	Asylum Seeker Card Decision	http://bit.ly/2DEDtka (GR)
Joint Ministerial Decision οικ. 13257/2016 on the implementation of the special border procedure (Article 60(4) L 4375/2016) Gazette B/3455/26.10.2016	Κοινή Υπουργική Απόφαση οικ. 13257/2016: Εφαρμογή των διατάξεων της παραγράφου 4 του άρθρου 60 του Ν. 4375/2016 (Α' 51), ΦΕΚ Β/3455/26.10.2016	Fast-Track Border Procedure JMD	http://bit.ly/2maKUeC (GR)
Joint Ministerial Decision οικ. 12205 on the provision of legal aid to applicants for international protection Gazette B/2864/9-9-2016	Κοινή Υπουργική Απόφαση οικ. 12205: Παροχή νομικής συνδρομής σε αιτούντες διεθνή προστασία, ΦΕΚ Β/2864/9-9-2016	Legal Aid JMD	http://bit.ly/2kPSjzE (GR)

Joint Ministerial Decision 1982/2016 on age assessment of applicants for international protection Gazette B/335/16-2-2016 *Amended and replaced by* Ministerial Decision 9889/2020 Gazette B/3390/13-08-2020	Κοινή Υπουργική Απόφαση 1982/2016 διαπίστωση ανηλικότητας των αιτούντων διεθνή προστασία, ΦΕΚ B/335/16-2-2016 Τροποποιήθηκε και αντικαταστάθηκε από την Υπουργική Απόφαση Αριθμ. 9889/2020 (ΦΕΚ Β'-3390-13.08.2020) "Τροποποίηση και αντικατάσταση της υπ' αρ. 1982/15-02-2016 απόφασης «Διαπίστωση Ανηλικότητας των αιτούντων διεθνή προστασία» (Β΄ 335)"	Age Assessment JMD/ Decision	http://bit.ly/2lc8mDX (GR) https://bit.ly/3vY5WNn (GR)
Joint Ministerial Decision οικ. 10566 on the procedure for issuing travel documents to beneficiaries of and applicants for international protection Gazette B/3223/2-12-2014 Joint Ministerial Decision No 10302 on the procedure for issuing travel documents to beneficiaries of and applicants for international protection Gazette B/2036/30-05-2020	Κοινή Υπουργική Απόφαση οικ. 10566 Διαδικασία χορήγησης ταξιδιωτικών εγγράφων σε δικαιούχους διεθνούς προστασίας, καθώς και στους αιτούντες διεθνή προστασία, ΦΕΚ B/3223/2-12-2014 Υπουργική Απόφαση Αριθμ. 10302 (ΦΕΚ Β' 2036/30-05-2020) Διαδικασία χορήγησης ταξιδιωτικών εγγράφων σε δικαιούχους καθεστώτος του πρόσφυγα, σε δικαιούχους επικουρικής προστασίας καθώς και σε αιτούντες διεθνή προστασία.	Travel Documents JMD	http://bit.ly/2mfwqXA (GR) https://bit.ly/2P71hc8 (GR)
Hellenic Police Circular 1604/17/681730/3-4-2017 on participation of applicants for international protection in voluntary repatriation programmes of the International Organisation for Migration (IOM)	Εγκύκλιος Ελληνικής Αστυνομίας 1604/17/681730/3-4-2017 Συμμετοχή αλλοδαπών υπηκόων αιτούντων τη χορήγηση καθεστώτος διεθνούς προστασίας στα προγράμματα οικειοθελούς επαναπατρισμού του Διεθνούς Οργανισμού Μετανάστευσης (Δ.Ο.Μ.)		http://bit.ly/2E8Mlmr (GR)

Overview of the main changes since the previous report update

The report was previously updated in **June 2021**.

Asylum procedure

- **Number of Arrivals**: In 2021, a total of 9,157 refugees and migrants arrived in Greece. This marks a decrease of 31.7% compared to 2020 (15,696).[3] Out of them, 4,331 persons arrived by sea (compared to 9,714 in 2020); most of new arrivals came from Afghanistan (20.2%), Somalia (19.9%) and Palestine (15.3%). Approximately half were women (18.8%) and children (28.5%), while 52.7% were adult men.[4] Moreover, 4,826 persons arrived in Greece through the Greek-Turkish land border of Evros in 2021, compared to a total of 5,982 in 2020.[5] The registered number entries in 2021 may however under-represent the number of people actually attempting to access Greek territory, given that cases of alleged pushbacks at the Greek-Turkish land borders and at the Aegean Sea have been systematically reported in 2021.

- **Push-back practices**: An increasing number of allegations of pushbacks continued to be reported during 2021 and have been largely criticised *inter alia* by UNHCR, IOM, the UN Special Rapporteur on the human rights of migrants, the Council of Europe Commissioner, the Greek Ombudsperson and civil society organisations. Several reports indicate that they have become a "standard practice", including violent border practices, arbitrary detention and even deaths at borders. The Greek Government remains opposed to the development of an independent border monitoring mechanism and no effective investigation has been conducted up until today on repeated push backs allegations.[6]

- **Key asylum statistics:** The Asylum Service received 28,320 asylum applications in 2021 (marking a 30.71% decrease compared to 2020), mainly from applicants from Afghanistan (4,618 applications representing 16% of all applications) followed by applicants from Pakistan (4,273 applications, 15% of all applications), Syria (3,870 applications, 13.66% of all applications), Bangladesh (2,731 applications, 9.64% of all applications), Turkey (1,923 applications, 6.8% of all applications), Iraq (1,622 applications, 5.7% of all applications) and Somalia (1,541 applications, 5.44% of all applications) The recognition rate on the merits at first instance was 60% as was the case in 2020. However, a significant number of applicants have not been provided with access to an in merits examination and their applications have been examined under the safe third country concept, following the issuance of the Joint Ministerial Decision designated Turkey as a safe third country for applicants from Syria, Afghanistan, Somalia, Pakistan, Bangladesh. The backlog of pending applications was of 31,787 at the end of 2021, which marked a decrease compared to the 57,347 cases pending at the end of 2020.

- **Access to the asylum procedure:** Access to asylum on the mainland continued to be a serious matter of concern throughout 2021. The ineffectiveness of the access to the procedure through Skype was reiterated by the Greek Ombudsman in January 2021.[7] A Circular issued by the Ministry of Migration and Asylum on 24 November 2021 has further exacerbated difficulties in accessing the procedure on the mainland as it foresees that applications will only be received in 'designated locations' ; i.e. they can no longer be lodged in the existing offices/units of the Asylum Service on

3 UNCHR, Operational Portal, Mediterranean Situation: Greece, available at: https://bit.ly/3qQJs0K.
4 *Ibid.*
5 *Ibid.*
6 GCR, Greek Council for Refugees input for the forthcoming report of the Special Rapporteur on the human rights of migrants with respect to human rights violations at international borders: trends, prevention and accountability, 28 February 2022, available at: https://bit.ly/3NQU0XF.
7 Greek Ombudsman, Letter to the Asylum Service, 290565-291571/2367/2021, 15 January 2021.

the mainland unless the applicant has been subject to reception and identification procedures. These sites/locations have not been defined yet and there has therefore been no access to asylum for the majority of people on mainland Greece since 24 November 2021. There are also concerns that the procedure will lead to a generalised use of *de facto* detention as the Circular foresees that a restriction of liberty within the premises of a reception and identification centre (*de facto* detention measure), is also applicable to those transferred to the designated locations in order to lodge an asylum application. Access to the asylum procedure for persons detained in pre-removal centres remains also a matter of concern.

- **Subsequent applications:** Following a legislative change introduced in September 2021 and further clarified by a Joint Ministerial Decision in December 2021, each subsequent application after the first one is subject to a fee amounting to EUR 100 per applicant and, in case of families, to a EUR 100 fee per family member.[8] Greece is the only EU Member State which applies a fee to lodge a subsequent application,[9] thereby raising concerns on the access to the asylum procedure as stated by the EU Commissioner Johansson herself".[10] An Application for Annulment of the relevant JMD has been filled by GCR and RSA before the Council of State and is currently pending.

- **Processing times:** Despite the decrease in asylum applications and in the number of first instance decisions issued during the year, significant delays continue to be reported at first instance. At the end of 2021, more than half of the applications (58.08%) pending at first instance had been pending for a period exceeding 12 months (18,463 out of the total 31,787 applications pending at the end of 2021). In 45.27% of the pending applications, the personal interview has not yet been conducted (14,390 out of the total 31,787 applications pending at the end of 2021). Out of those, the interview has been scheduled in 2022 in 10,368 pending cases (32.61%); in 2023 in 3,311 pending cases (10.41%) and after 2023 in 711 pending cases (2.2%).[11]

- **First instance procedure:** Given that the national legislation on asylum adopted in 2020, as widely noted, introduced "unwarranted procedural and substantive hurdles for people seeking international protection" and "tough requirements that an asylum seeker could not reasonably be expected to fulfil",[12] in 2021 14,047 application were terminated at first instance, due to the issuance of an act interrupting the procedure. During 2021, the Asylum Service has resorted to the non-communication of first instance decisions in person to the applicant ('*fictitious service*' -*πλασματική επίδοση*) in a significant number of cases, without first attempting to locate the applicant at their registered address, nor, in cases when the applicant is represented by a lawyer, attempting to locate their lawyer. The practice of 'fictitious service' of decisions has resulted in the expiration of deadlines for submitting an appeal without the applicant having been actually informed about the issuance of the decision, effectively depriving asylum seekers of the right to an effective remedy

- **Fast-track border procedure:** The EU-Turkey statement, adopted in March 2016 and initially described as "a temporary and extraordinary measure", continues to be implemented to those arrived by sea on the Aegean islands. The impact of the EU-Turkey statement has been *inter alia* a *de facto* dichotomy of the asylum procedures applied in Greece. Asylum seekers arriving after 20 March 2016 on the Greek islands are subject to a fast-track border procedure with limited guarantees

8 Article 89 (10) IPA, as added by article 23 L.4825/04.09.2021, Gazette 157/ A/ 04.09.2021.
9 EASO, Fees or other charges for applications for international protection in EU+ countries, October 2021, available at: https://bit.ly/3DPRMmB.
10 Available at: https://bit.ly/3IkoWLG.
11 Ministry of Migration and Asylum, Reply to parliamentary question, 97157/2022, 17 February 2022, available in Greek at: https://bit.ly/3HiYIsF.
12 UNHCR, 'UNHCR urges Greece to strengthen safeguards in draft asylum law', 24 October 2019, available at: https://bit.ly/3fXkm9j.

- **Legal assistance:** No state-funded free legal aid is provided at first instance, nor does the law establish an obligation to provide it. A state-funded legal aid scheme operates for the appeal procedure, on the basis of a registry of lawyers managed by the Asylum Service. However, obstacles in accessing free legal aid continued to be reported, *inter alia* because of the digitalization of the procedure and the fictitious service of negative first instance decisions. In 2021, out of 17,500 appeals lodged before the Independent Appeals Committees, a total of 11,045 appellants applied for and received free legal assistance under the state-run scheme. According to official data, the remaining 36.9% of the appellants (6,455 persons) were not assisted by a lawyer at second instance, as they did not apply for free legal aid. Since it is unlikely that such a percentage of appellants (more than 1 out of 3) had either sufficient funds to secure a private lawyer and/ or access to free legal aid provided by NGOs, the aforementioned discrepancy highlights the difficulties that applicants face in accessing and securing state funded free legal aid at appeal stage as provided by law.

- **Second instance procedure**: Most appeals are rejected at second instance. Out of the total in-merit second instance decisions issued in 2021, only 6.6% (730) resulted in the granting of refugee protection, 10.24% (1,133) resulted in the granting of subsidiary protection and 83.15% (9,196) resulted in a negative decision. The possibility to grant a resident permit for humanitarian reasons was abolished in 2020. During 2021, 532 appeals were rejected as "manifestly unfounded" without an in-merit examination, due to the fact that the appellants did not comply with the obligation of an in-person appearance of the appellant or his/her appointed lawyer before the Committee, or to present a certification of residence to the Committee, which constitutes a disproportionate administrative burden imposed to the appellants. Appeals against decisions rejecting the application in the accelerated procedure or as inadmissible under certain grounds do not have automatic suspensive effect, despite the fact that these decisions also incorporate a return decision with immediate effect. A 'fictitious service' of the second instance decision is also foreseen by national legislation, which entails the risk that deadlines for judicial review have expired without the appellant having been actually informed about the issuance of the decision. Additionally, the right to remain in the country terminates once the second instance decision is issued, irrespectively of the time that the decision is communicated. This entails the risk that a person may be removed from the territory prior to the notification of the second instance decision.

- **Dublin:** Additional obstacles to family reunification continued to occur in 2021 due to practices adopted by a number of receiving Member States, which may underestimate the right to family life. By the end of 2021, 4,770 individuals in total, including 1,199 unaccompanied children, had been relocated to other EU Member States under the voluntary relocation scheme launched by the EU Commission in March 2020.

- **Safe third country:** One of the major changes in the Greek asylum system in 2021 relates to the expansion of the safe third country concept. On 7 June 2021, a Joint Ministerial Decision (JMD) designated Turkey as a "safe third country" in a national list for asylum seekers originating from Syria, Afghanistan, Pakistan, Bangladesh and Somalia, was issued.[13] As a result, all applications for international protection lodged by persons of said nationalities throughout the Greek territory (borders and mainland) are examined under the safe third country concept and not on their individual circumstances and the risks they face in their country of origin (in merits examination). Three of the five nationalities mentioned in the JMD are those who were most often recognised as beneficiaries of international protection in Greece previous to the issuance of the JMD (to exemplify, recognition rates in 2020 were of 92% for Syrianss 66% for Afghans and 94% for Somalis. An Application for Annulment of the JMD has been filed before the Council of State by GCR and RSA in October 2021 and is currently pending before the Council of State.

[13] JMD 42799– Gov. Gazeete 2425/B/7-6-2021, available in Greek at: https://bit.ly/3zbSojR.

- **Inadmissibility decisions:** The application of the JMD resulted in a sharp increase in inadmissibility decisions based on the "safe third country" concept, rising from 2,839 in 2020 to 6,424 in 2021. Out of a total of 6,424 inadmissibility decisions based on the concept, 5,922 (92%) were issued in application of JMD 42799/2021. The overwhelming majority of "safe third country" decisions (85%) concern the mainland, while only 979 out of 6,424 inadmissibility decisions concerned the border procedure on the Eastern Aegean islands.[14] Despite the suspension of readmissions to Turkey, since March 2020 Greek Authorities have been rejecting asylum applications as inadmissible on the basis of safe third country concept vis-à-vis Turkey and, contrary to Art. 38 (4) of the Asylum Procedure Directive, do not provide an in merits examination for cases of applications rejected as inadmissible. As stated inter alia in December 2021 by the EU Commission, "[t]he Commission has requested the Greek authorities to apply Article 38(4) of the Asylum Procedures Directive (2013/32/EU), to the extent the conditions are met, to applicants whose applications have been deemed inadmissible on the basis of the Safe Third Country Concept under the Joint Ministerial Decision of 7 June 2021, in order to avoid the legal limbo you refer to. The Commission will continue to monitor the situation on the ground. This issue non-compliance is reportedly being monitored by the European Commission.[15]

- **Identification of vulnerability:** Gaps and shortcomings in vulnerability assessments remain a matter of concern, despite the fact that no excessive delays between the moment of arrival and the realization of the vulnerability assessment were reported in 2021, as it was instead the case in previous years. The main problems included the limited or non-existent realisation of psychosocial assessment, difficulties regarding referrals made by RIS to public hospitals, the low quality of the medical screening and the psycho-social support, the classification of vulnerability and non-vulnerability and the lack of information on the outcome of the procedure. Moreover, the regulatory framework for the guardianship of unaccompanied children initially introduced in 2018 is still not operational.

- **Response to the situation in Ukraine as of 4 May 2022:** According to the Ministry of Citizen Protection, as of 19 April, 21,028 persons from Ukraine had arrived in Greece, including 5,975 children. This is more than double the total number of refugee and migrant arrivals to Greece in the whole year (when 9,157 people arrived) and higher than in 2020 (when 14,785 arrived). Among recent arrivals, 53 unaccompanied or separated children have been registered at the Promahonas border crossing with Bulgaria. According to the Special Secretary for the Protection of UAMS, these children were separated from their families and accompanied by other adults. Following the activation of the Temporary Protection Directive by the EU and Greece, Greece grants temporary protection status to Ukrainian nationals residing in Ukraine who have been displaced on or after 24 February 2022, and to their family members. Additionally, temporary protection status is granted to third-country nationals and stateless persons legally residing in Ukraine as beneficiaries of international protection or equivalent national protection and to their family members displaced from Ukraine on or after 24 February 2022. The Greek Asylum Service subsequently stated that Ukrainians who had left the country since 26 November 2021 were also included in the temporary protection scheme and were eligible to apply, although this has not been formally announced at the moment of writing. In practice, there have already been cases of Ukrainians who arrived in Greece in the period between 26 November and 24 February and were granted temporary protection status. A visa is required for holders of a Ukrainian passport without biometric features (old type), which is

[14] Ministry of Migration and Asylum, Reply to parliamentary question, 97157/2022, 17 February 2022, available at: https://bit.ly/3oXKvuD, 7-8; Refugee Support Aegean (RSA), The Greek asylum procedure in figures: most asylum seekers continue to qualify for international protection in 2021, available at: https://bit.ly/3qH3qeo, p.1 and 4.

[15] European Commission, Directorate General for Migration and Home Affairs, Ref.Ares(2021)7836311, 17 December 2021.

issued directly at all entry points. Ukrainian citizens who do not have travel documents may enter only from the Passport Control Department in Promahonas at the Greek-Bulgarian border, where a document is issued by the staff of the Ukrainian Embassy in Greece. All the above allow for a stay of a maximum of 90 days. According to a Decision of the MoMA on the procedure for issuing Residence Permits to Beneficiaries of Temporary Protection, the procedure of granting temporary protection status started on the 4 of April 2022 before the Regional Asylum Offices (RAOs) of Athens, Thessaloniki, Western Greece (Patra) and Crete. The pre-registration process and the scheduling of an appointment for the full registration started on the 28 March, through a special online platform of the MoMA. After registration, a one-year temporary protection card is issued with the possibility of automatic extension for 6 months and then for a further 6 months. In case of submission of an asylum application, the temporary protection status will not be revoked. [16]

Reception conditions

- **Freedom of movement:** Asylum seekers subject to the EU-Turkey statement, i.e. arriving on Greek islands, are issued a geographical restriction (geographical limitation) order, imposing them not to leave the respective island until the end of the asylum procedure. The geographical limitation is applied *en masse* and without any prior individual assessment to all new arrivals to the Greek islands, while the regulatory framework that entered into force in January 2020 has significantly limited the categories of applicants for whom the restriction can be lifted. The disproportionate application of COVID-19 preventive measures in a number of facilities across the country has equally restricted the freedom of movement. Since November 2021, residents of the newly established "Closed Controlled Access Facility" of Samos without a valid asylum seeker's card were prohibited from exiting the facility, a measure amounting to de facto detention. Among those subjected to the measure there are persons who have filed a subsequent application until a decision on admissibility is rendered, and asylum seekers whose applications have been rejected at first instance, until they lodge an appeal.

- **Reception capacity:** Temporary camps on the mainland, initially created as emergency accommodation facilities, continued to operate throughout 2021. In December 2021, 15,793 persons- most of whom were children (39%) and women (24%) - were accommodated in mainland camps.[17] Additionally, 12,447 people were accommodated under the ESTIA II accommodation scheme in December 2021 (nearly 49% were children). In February 2022, the Ministry for Migration and Asylum announced that the ESTIA II accommodation scheme would be terminated by the end of 2022. On 31 December 2021, 3,508 persons remained on the Eastern Aegean islands; 106 among them were held in detention in police cells and the Pre-Removal Detention Centre (PRDC) of Kos.

- **Living conditions:** Despite the decrease in the number of applications, reception conditions remain substandard in different locations across the country. On the mainland, the main concerns refer to the remote location of the mainland camps, limited access to rights and services for residents, lack of sufficient equipment and electricity shortages, the disproportionate restrictions of movement imposed on the residents due to COVID, limited access to education for children and the construction of the high concrete walls around a number of mainland camps, exacerbating the feeling of isolation. It should be mentioned that by the end of 2022 camps, which per se cannot considered as suitable for long term accommodation, will be the only accommodation structure offered, as the ESTIA accommodation scheme will be terminated. Conditions prevailing at the Reception and Identification facilities on the islands reportedly are in violation of the minimum

16 GCR, Oxfam, Save the Children, "GREECE: A two-tier refugee system", Bi-monthly bulletin, May 2022, available at: https://bit.ly/3kNiDao.

17 IOM, Supporting the Greek Authorities in Managing the National Reception System for Asylum Seekers and Vulnerable Migrants (SMS), December 2021, available at: https://bit.ly/3uf4jwP.

standards set by the Reception Conditions Directive. In May 2021, the Commissioner for Human Rights of the Council of Europe, stressed that "action to improve the lingering substandard living conditions in the Reception and Identification Centres must not be delayed". In Samos, the launch of the operation of the new EU-funded "Closed Controlled Access Centre" has been highly criticized in particular due to its prison-like conditions.

Detention of asylum seekers

- **Statistics on detention:** The total number of third-country nationals detained in Pre-removal Detention Facilities (PRDFs) during 2021 was 12,020, out of whom 6,447 were asylum seekers. At the end of 2021, there were 2,715 persons in administrative detention, of whom 1,344 asylum seekers. Out of the total number of detainees at the end of 2021, 2,335 were detained in pre-removal facilities and 380 (13.9%) in several other detention facilities countrywide such as police stations; border guard stations etc. About 30% of the detainees in pre-removal detention facilities at the end of 2021 (700 detainees out of 2,335) remained detained for a period exceeding 6 months.

- **Detention facilities**: There were 7 active pre-removal detention facilities (PRDF) in Greece at the end of 2021. Police stations continued to be used for prolonged immigration detention. Two new pre-removal facilities established through a Joint Ministerial Decision in February 2022 on the islands of Samos and Leros were still not operational at the time of writing.

- **Detention in case of non-feasible return:** Greek authorities continue to impose detention even in cases where removal is not feasible. This is particularly visible for applicants that have been rejected based on the safe third country concept in Turkey, as all removals to the country have been suspended since March 2020. This is also the case of Afghan nationals who remain in detention despite the rapid deterioration of the security and human rights situation in their country of origin in particular since August 2021 and the fact that returns to Afghanistan have been suspended.

- **Detention of vulnerable persons:** Vulnerable groups are detained in practice, without a proper identification of vulnerability and individualised assessment prior to the issuance of a detention order.

- **Detention conditions:** In many cases, the detention conditions in pre-removal centres fail to meet adequate standards, *inter alia* due to their carceral and prison-like design. Police stations and other police facilities, which are not suitable for detention exceeding 24 hours by nature, continue to fall short of basic standards. Overall, the major concerns regarding detention conditions have been summarised by the Greek Ombudsman in June 2021: overcrowding, especially in police stations; lack of doctors, nurses, psychologists and social workers; total lack of interpretation services; lack of recreational activities; poor structures, hygiene conditions and lack of light and heating; inadequate cleaning; lack of clothing; lack or limited possibility of access open air spaces. Moreover, pre-removal centres continue to face a substantial shortage in medical staff. At the end of 2021, there were only 2 doctors present in Amygdaleza PRDF, 1 in Tavros, 1 in Korinthos, 1 in Fylakio and 1 in Paranesti. No doctors were present in Xanthi and Kos PRDF. No psychiatrist or phycologist was present at any PRDF across the country at the end of 2021, as well as no interpreter.[18]

- **Legal Remedies against Detention:** The possibility for detained persons to challenge detention orders is severely restricted in practice due to gaps in the provision of interpretation services and to the lack of free legal aid, resulting in a lack of access to judicial remedies. Out of the total 12,020

[18] Information provided by the Directorate of the Hellenic Police, 8 March 2022.

detention orders issued in 2021, only 2,803 (23.3%) were challenged before a Court. Limited judicial control regarding the lawfulness and the conditions of detention remains a matter of concern.

Content of international protection

- **Family reunification:** Administrative obstacles, in particular for the issuance of visas even in cases where the application for family reunification has been accepted, continue to hinder the effective exercise of the right to family reunification for refugees. In practice, the family reunification procedure is extremely complex and lengthy. It lasts at least three years, and requires constant legal assistance and support. The procedure of family reunification includes, *inter alia*, communication and cooperation with the competent Greek Embassies, interviews with both the refugee and his/her family members, DNA testing where requested, as well as legal representation before the competent Administrative Court in case of rejection.

- **Naturalization:** Following an amendment of the Citizenship Code in March 2020, the minimum period of lawful residence required prior to submitting an application for citizenship in the case of recognised refugees has been increased from 3 to 7 years, despite the legal obligation of the Greek Authorities under Article 34 of the Geneva Convention 1951 to "facilitate the assimilation and naturalisation of refugees" and "in particular make every effort to expedite naturalisation proceedings". The applicant must undergo a written test and in addition he/she must go through a new form of interview. This Committee will determine the adequate integration of each applicant in the economic and social life of the country based on specific rules, common standards and a unified methodology, compiled by the National Transparency Authority (NAC), in the form of a multi-page Practical Interview Guide.

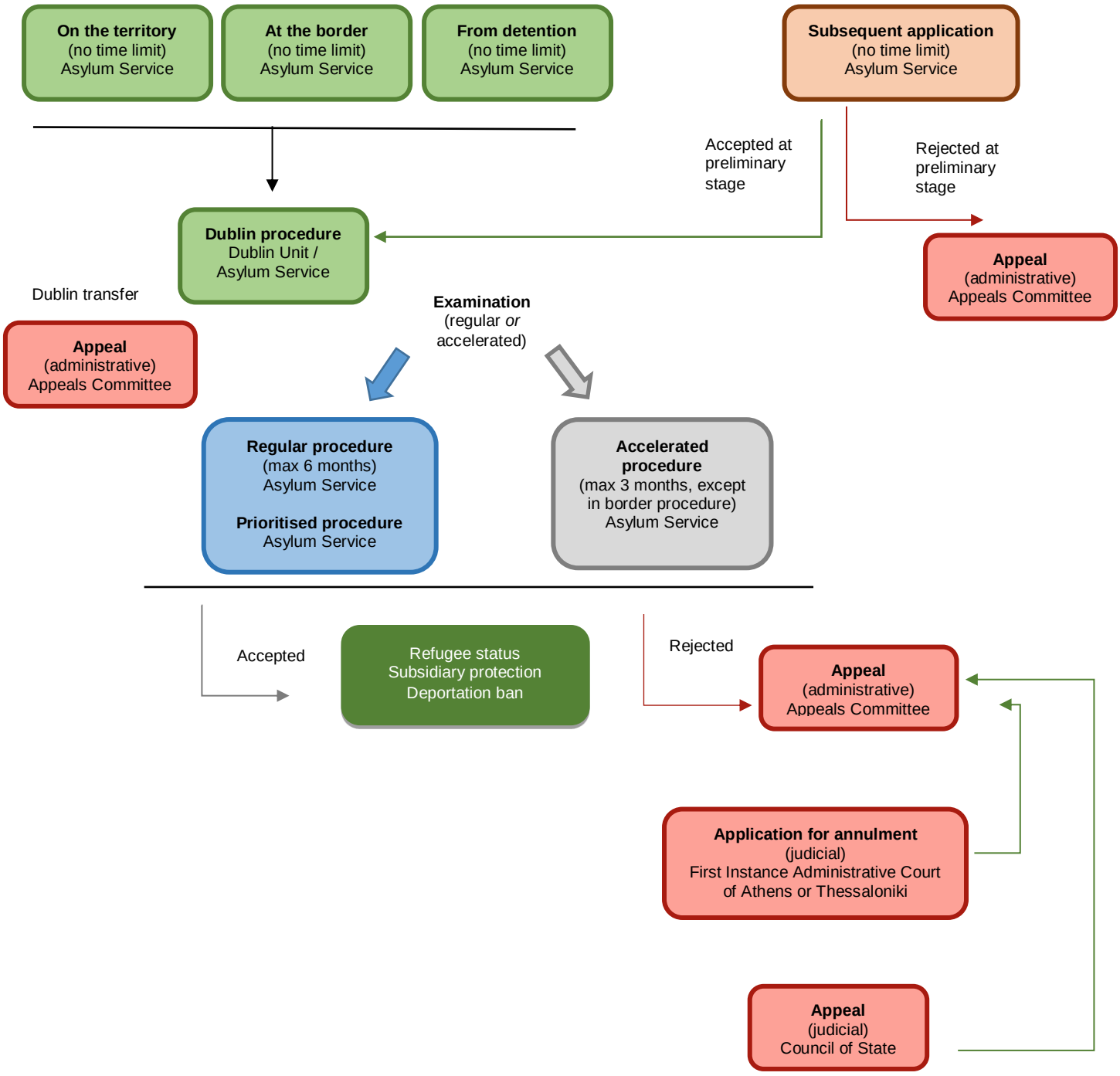
- **Housing of recognised refugees:** Beneficiaries of international protection residing in accommodation facilities must leave the centres within 30 days after being granted international protection. Given the limited integration of recognised beneficiaries of international protection in Greece, this results in a high risk of homelessness and destitution. In 2021, a number of national Courts across the EU, including Administrative Courts in Germany and the Council of State in the Netherlands, suspended the return to Greece of beneficiaries of international protection by taking into account the conditions that they would face upon return.

Asylum Procedure

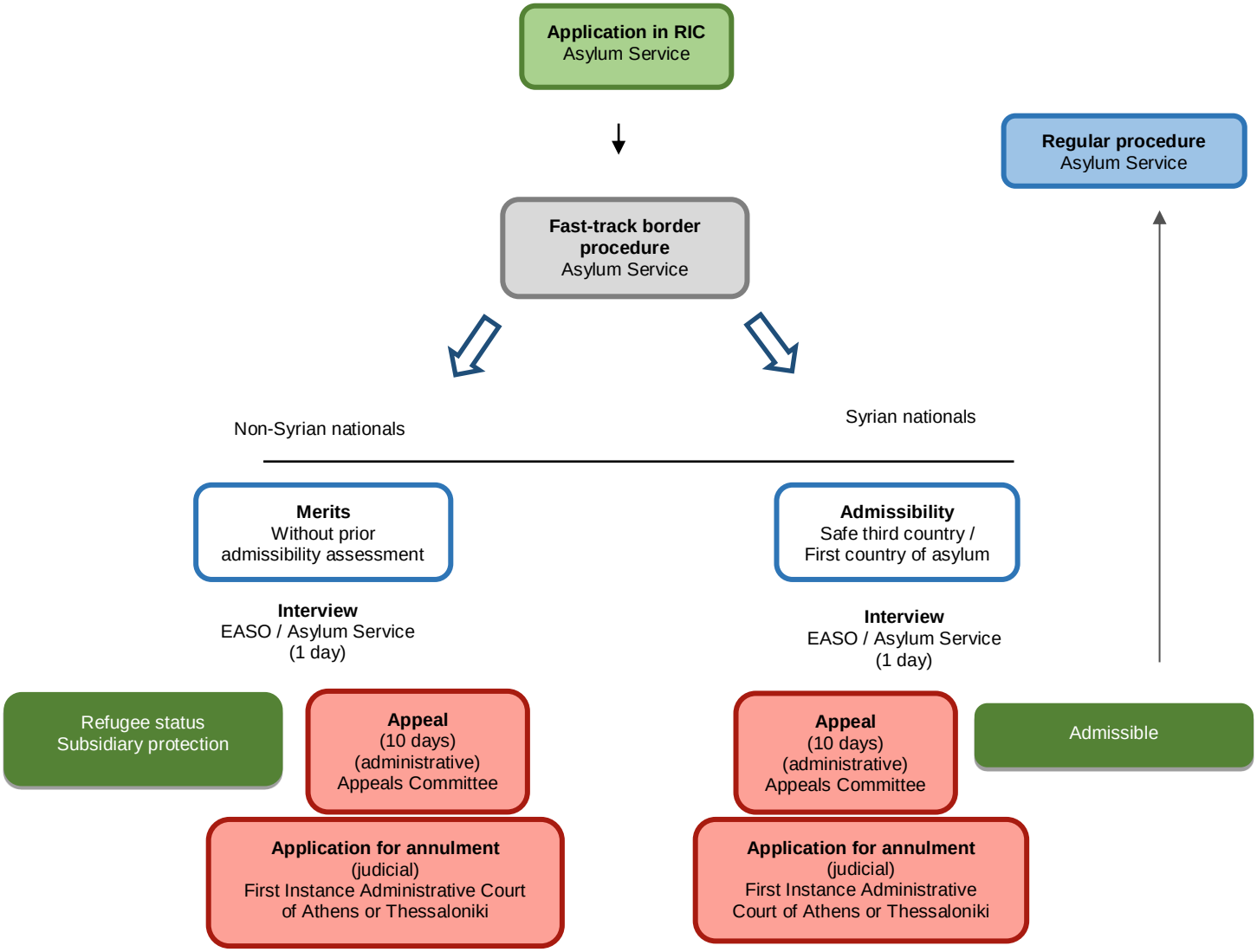
A. General

1. Flow chart

1.1 Applications not subject to the EU-Turkey statement



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



Overview of the asylum procedure in 18 languages published by the Asylum Service: https://bit.ly/3umNwVg.

2. Types of procedures

Indicators: Types of Procedures

Which types of procedures exist in your country?

- ❖ Regular procedure: ☒ Yes ☐ No
  - ▪ Prioritised examination:[19] ☒ Yes ☐ No
  - ▪ Fast-track processing:[20] ☒ Yes ☐ No
- ❖ Dublin procedure: ☒ Yes ☐ No
- ❖ Admissibility procedure: ☒ Yes ☐ No
- ❖ Border procedure: ☒ Yes ☐ No
- ❖ Accelerated procedure:[21] ☒ Yes ☐ No
- ❖ Other:

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

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

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

The European Asylum Support Office (EASO) is also involved at different stages of the procedure, as will be explained further below.

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

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

21 Labelled as "accelerated procedure" in national law. See Article 31(8) recast Asylum Procedures Directive.

4. Determining authority

Name in English	Number of staff	Ministry responsible	Is there any political interference possible by the responsible Minister with the decision-making in individual cases by the determining authority?
Asylum Service	Not available	Ministry on Migration and Asylum	☐ Yes ☒ No

The Asylum Service is responsible for examining applications for international protection and competent to take decisions at first instance.

Staffing and capacity

Asylum Service

PD 104/2012, as modified by L 4375/2016, provides for Regional Asylum Offices (RAO) to be set up in Attica, Thessaloniki, Thrace, Epirus, Thessaly, Western Greece, Crete, Lesvos, Chios, Samos, Leros and Rhodes. It is possible to establish more than one Regional Asylum Office per region by way of Ministerial Decision for the purpose of covering the needs of the Asylum Service.[22]

At the end of 2021 , the Asylum Service operated in 24 locations throughout the country, as at the end of 2020 and 2019, compared to 23 locations at the end of 2018, 22 locations at the end of 2017 and 17 locations at the end of 2016.[23]

13 RAO and 11 AAU were operational as of 31 December 2021. However, according to GCR's knowledge the AAU responsible for Pakistani nationals was not operational during the last trimester of 2021.

Operation of Regional Asylum Offices and Autonomous Asylum Units: 2021[24]	
Regional Asylum Office	Registrations 2021
Attica	5,315
Thrace (Alexandroupoli)	978
Lesvos	3,219
Rhodes	34
Western Greece (Patra)	519
Thessaloniki	2,057
Samos	697
Chios	667
Leros	214
Kos	1,219
Alimos	2,117
Piraeus	2,972
Crete	443
Autonomous Asylum Unit	Registrations 2021
Fylakio	3,123

22 Article 1(3) L 4375/2016.

23 Information provided by the Asylum Service, 17 February 2020; Information provided by the Asylum Service, 26 March 2019; Asylum Service, 'The work of the Asylum Service in 2017', 25 January 2018, available at: http://bit.ly/2BsCDGd.

24 RSA, The asylum procedure in figures: most asylum seekers continue to qualify for international protection in 2021, available at: https://bit.ly/3Pn9yCZ.

Amygdaleza	1,522
Xanthi	284
Corinth	1,076
Fast-Track Syria (Attica)	-
Applications from Pakistani nationals	199
Applications from Albanian and Georgian nationals	608
Beneficiaries of international protection	-
Applications from persons in custody	272
Ioannina	555
Nikaia	-

EASO (now EUAA)

In April 2016, the law introduced the possibility for the Asylum Service to be assisted by European Asylum Support Office (EASO) personnel "exceptionally" and "in cases where third-country nationals or stateless persons arrive in large numbers", within the framework of the Fast-Track Border Procedure.[25] a subsequent amendment in June 2016, national legislation explicitly provided the possibility for the asylum interview within that procedure to be conducted by an EASO caseworker.[26] The IPA has maintained this option, and has inserted the possibility for fast-track border procedure and admissibility interviews to be conducted by personnel of the Hellenic Police or the Armed Forces in particularly urgent circumstances.[27]

Since May 2018, Greek-speaking EASO personnel can also assist the Asylum Service in the Regular Procedure. The law provides that in case of urgent need, EASO personnel can carry out any administrative procedure needed for processing applications.[28] EASO caseworkers have conducted interviews under the regular procedure since the end of August 2018.[29]

Following the signature of the Seat Agreement for the Hosting of the EASO Operational Office in Greece on 28 January 2020, EASO announced that the Agency's operations in Greece are expected to double in size to over 1,000 personnel in 2020.[30]

On December 2020, a new operational plan for the provision of scientific, technical and operational assistance to Greece from 01 January until 31 December 2021, was agreed by EASO and Greece.[31] In accordance to this operational plan, EASO was about to provide *inter alia* a number of 44 registration-admin assistants, 180 Caseworkers seconded to GAS, 5 Coordination personnel and 163 Interpreters on the islands, 53 registration-admin assistants, a total of 180 Caseworkers seconded to GAS and 100 Interpreters on the mainland, 1 Legal Officer, 32 Dublin experts/Operations assistants, 1 Statistician and 5 Interpreters for the support of the Greek Dublin Unit and 8 Rapporteurs, 2 statisticians and 6 Admin assistants for the support of the Appeals Authority.[32]

In 2021, EASO deployed 688 different experts in Greece, mostly temporary agency workers (650). The majority of these experts were caseworkers (186), followed by reception assistants (102), site management reception assistants (94), registration, administrative and information provision

25 Article 60(4)(b) L 4375/2016.
26 Article 60(4)(b) L 4375/2016, as amended by Article 80(13) L 4399/2016.
27 Articles 77(1) and 90(3)(b) IPA.
28 Article 36(11) L 4375/2016, inserted by Article 28(7) L 4540/2018; Article 65(16) IPA.
29 Information provided by EASO, 13 February 2019.
30 EASO, 'EASO operations in Greece to expand significantly', 28 January 2020, available at: https://bit.ly/3cMwXu5.
31 Operation plan agreed by EASO and Greece, 17 December 2020, available at: https://bit.ly/3NKKWU2.
32 Ibid. 17.

assistants (67), operations assistants (59), administrative assistants (46), vulnerability reception assistants (31) and a series of other programme and support staff (e.g. security staff, coordination staff, legal officers, Dublin staff, info providers etc).[33]

As of 13 December 2021, there were still a total of 465 EASO experts present in Greece, out of which 77 were site management reception assistants, 62 registration, administrative and information provision assistants, 42 caseworkers, 35 reception assistants, 28 administrative assistants, 28 operations assistants and 28 vulnerability reception assistants.[34]

On 9 December 2021 the Executive Director of EASO and the Greek Minister of Migration and Asylum signed the 2022-2024 Operational Plan, which constitutes the longest one in the Agency's history to date. The 3 year long 2022-2024 Operational Plan aims at contributing to the enhanced capacity of the Greek Authorities in processing asylum applications and providing reception conditions for persons in need of protection in Greece.

On 19 June 2022, Regulation 2021/2023 entered into force transforming EASO into the EU Agency for Asylum (EUAA). The EUAA will provide support to the National Asylum and Reception Authorities in governance, strategic planning, quality and procedures. Regarding asylum, the Agency will support the asylum processing of applications for international protection at first and second instance, the Relocation program and the processing of Dublin requests.[35]

In early 2022, the EUAA operates in around 45 locations throughout Greece with more than 680 personnel of various capacities.[36]

5. Short overview of the asylum procedure

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

Following the July 2019 elections, the new government announced a more restrictive policy on migration and asylum, with a view to reduce the number of arrivals, increase the number of returns to Turkey and strengthen border control measures.[37] As a result, national asylum legislation was radically re-amended in November 2019. L. 4636/2019 (hereinafter International Protection Act/IPA), which was adopted on 1 November 2019 without any significant prior consultation, entered into force on 1 January 2020 and replaced the previous legislation on asylum and reception.

The IPA has been repeatedly and heavily criticised by national and international human rights bodies including the Greek Ombudsman,[38] the Greek National Commission for Human Rights

33 Information provided by EUAA, 28 February 2022.
34 Information provided by EUAA, 28 February 2022.
35 EUAA, Member States Operations, Greece, available at: https://bit.ly/3Kgld3G.
36 *Ibid.*
37 Amnesty International, *Annual Report 2019*, Greece, available at: https://bit.ly/2LDT5L6.
38 Greek Ombudsman, *Παρατηρήσεις στο σχέδιο νόμου του Υπουργείου Προστασίας του Πολίτη περί διεθνούς προστασίας*, 23 October 2019, available in Greek at: https://bit.ly/2LAxCCH.

(GNCHR),[39] UNHCR[40] and several civil society organisations.[41] It has been categorised, *inter alia,* as an attempt to lower protection standards and create unwarranted procedural and substantive hurdles for people seeking international protection. As noted by UNHCR, the new Law reduces safeguards for people seeking international protection and creates additional pressure on the overstretched capacity of administrative and judicial authorities. "The proposed changes will endanger people who need international protection […] [the law] puts an excessive burden on asylum seekers and focuses on punitive measures. It introduces tough requirements that an asylum seeker could not reasonably be expected to fulfil"[42] […] "As a result, asylum seekers may be easily excluded from the process without having their international protection needs adequately assessed. This may expose them to the risk of refoulement".[43]

On 10 April 2020, four months after the entry into force of the new law L.4636/2019 (IPA) on 1 January 2020, the Ministry of Migration and Asylum submitted a bill entitled "Improvement of migration legislation", aiming at speeding up asylum procedures and at "responding to practical challenges in the implementation of the law". It was submitted for public consultation amid a public health crisis. The proposed amendment further weakens basic guarantees for persons in need of protection. *Inter alia,* the draft law increases the number of applications which can be rejected as manifestly unfounded and introduces a set of provisions that can lead to arbitrary detention of asylum seekers and third country nationals.[44] The draft law was adopted by the Parliament on 9 May 2020,[45] despite concerns of human rights bodies, including the Council of Europe Commissioner for Human Rights and civil society organizations.[46]

Further amendments have been introduced by L. 4825/2021 voted in September 2021.

First instance procedure

Asylum applications are lodged before the Asylum Service. Thirteen Regional Asylum Offices (RAO) and eleven Asylum Units were operational at the end of 2021. The Asylum Service is also competent for applying the **Dublin procedure**, with most requests and transfers concerning family reunification in other Member States. The Asylum Service may be assisted by European Asylum Support Office (EASO) (EUAA since January 2022) staff in registration and interviews. Access to the asylum procedure still remains an issue of concern and has been further restricted for application on the mainland at the end of 2021. First instance decisions rejecting an asylum

39 GNCHR, *Παρατηρήσεις της ΕΕΔΑ στο Σχέδιο Νόμου του Υπουργείου Προστασίας του Πολίτη «Περί Διεθνούς Προστασίας*", 24 October 2019, available in Greek at: https://bit.ly/3cIUBYa.

40 UNHCR, 'UNHCR urges Greece to strengthen safeguards in draft asylum law', 24 October 2019, available at: https://bit.ly/3fXkm9j.

41 See inter alia GCR, *Observation on the draft law on international protection*, 23 October 2019, available at: https://bit.ly/3cIFluD; Amnesty International, *Το προτεινόμενο σχέδιο νόμου για το άσυλο υποβαθμίζει την προστασίας και τα δικαιώματα των προσφύγων και παραβιάζει τα διεθνή πρότυπα*, 24 October 2019, available at: https://bit.ly/3dWduqV, Refugee Support Aegean, RSA *Comments on the International Protection Bill, 21 October 2019*, available at: https://bit.ly/2LCfJU7; Actionaid Greece et al, 15 civil society organisations call upon the Government to organise a substantial public consultation prior of voting the draft law on asylum, 31 October 2019, https://bit.ly/2Zf4tFe; Amnesty International et al., *Joint press conference regarding the draft law on asylum*, 30 October 2019, available at: https://bit.ly/3bDUgVr.

42 UNHCR, 'UNHCR urges Greece to strengthen safeguards in draft asylum law', 24 October 2019, available at: https://bit.ly/3fXkm9j.

43 UNHCR, 'UNHCR's Intervention at the hearing for actors to the Standing Committee of Public Administration, Public Order and Justice of the Hellenic Parliament regarding the Draft Law on the Improvement of Migration Legislation', 9 May 2020, available at: https://bit.ly/3dJEB8H.

44 Ibid; See also GCR, *GCR's comments on the draft law amending asylum legislation*, 27 April 2020, available at: https://bit.ly/2ywIMWa; RSA, *Comments on the Reform of the International Protection Act*, 23 April 2020, available at: https://bit.ly/2WrMwQR .

45 L. 4686/2020, Gov. Gazette A' 96 /12 May 2020; Amendments introduced by L. 4686/2020 in May 2020 are not included in the present report.

46 Council of Europe, Commissioner for Human rights, 7 May 2020, https://bit.ly/2YY5PnS.

application also include a removal order or incorporate a previous removal decision if this has been already issued.

A **fast-track border procedure** is applied to applicants subject to the EU-Turkey statement, i.e. applicants arriving on the islands of Eastern Aegean islands after 20 March 2016, and takes place in the Reception and Identification Centres (RIC) where hotspots are established (Lesvos, Chios, Samos, Leros, Kos) and before the RAO of Rhodes.

Following the issuance of the Joint Ministerial Decision on 7 June 2021 by which Turkey has been designated as a **safe third country** for applicants from Syria, Afghanistan, Somalia, Pakistan and Bangladesh, applications submitted by applicants of said nationalities on the islands and in the mainland, are examined under the safe third country concept.

Appeal

First instance decisions of the Asylum Service are appealed before the Independent Appeals Committees under the Appeals Authority. An appeal must be lodged within 30 days in the regular procedure, 20 days in the accelerated procedure, in case of an inadmissibility decision or where the applicant is detained, 15 days in the Dublin procedure, 10 days in the border procedure and in the fast-track border procedure and 5 days in the case of an inadmissibility decision on a subsequent application.

The IPA has abolished the rule of automatic suspensive effect for certain appeals, in particular those concerning applications rejected in the accelerated procedure or dismissed as inadmissible on certain grounds. Moreover, the IPA re-modified the composition of the Appeals Authorities. The procedure before the Appeals Committees remains as a rule written. A significant number of appellants have not been benefited from free legal aid at second instance during 2021.

An Application for Annulment against a negative second instance decision can be filed before the First Instance Administrative Court of Athens or Thessaloniki within 30 days from the notification. No automatic suspensive effect is provided as well as no free legal aid.

B. Access to the procedure and registration

1. Access to the territory and push backs

Indicators: Access to the Territory

1. Are there any reports (NGO reports, media, testimonies, etc.) of people refused entry at the border and returned without examination of their protection needs? X☐ Yes ☐ No
2. Is there a border monitoring system in place? ☐ Yes X ☐ No
3. Who is responsible for border monitoring? ☐ National authorities ☐ NGOs ☐ Other
4. How often is border monitoring carried out? ☐Frequently ☐Rarely ☐Never

In 2021, a total of 9,157 refugees and migrants arrived in Greece. This marks a decrease of 31.7% compared to 15,696 in 2020,[47] mainly due to an increase in pushbacks, the militarisation of borders, and restrictions stemming from the COVID-19 pandemic.

4,331 persons arrived in Greece by sea in 2021 compared to 9,714 in 2020. The majority originated from Afghanistan (20.2%), Somalia (19.9%) and Palestine (15.3%). Nearly half of the population were women (18.8%) and children (28.5%), while 52.7% were adult men.[48]

Moreover, according to UNHCR, 4,826 persons arrived in Greece through the Greek-Turkish land border of Evros in 2021, compared to a total of 5,982 in 2020.[49] According to police statistics, 3,787 arrests were carried out in 2021 for irregular entry on the Evros land border with Turkey,[50] compared to 4,666 arrests in 2020.[51]

However, figures on the number of entries in 2021 may under-represent the number of people actually attempting to enter Greece, given that cases of alleged pushbacks have been systematically reported in 2021, as was the case in 2020. The persisting practice of alleged pushbacks have been reported *inter alia* by UNHCR, IOM, the UN Special Rapporteur on the human rights of migrants, the Council of Europe Commissioner and civil society organisations (see sources below). The Greek Government remains opposed to the development of an independent border monitoring mechanism and no effective investigation has been conducted on repeated push backs allegations up to the moment of writing.[52] An Informal Forced Returns Recording Mechanism started operating early in 2022, under the supervision of the National Commission for Human Rights. In the framework of this Mechanism, participating organizations, including GCR, collect victims' testimonies.

In 2021, the practice of illegal refoulements continued being utilised as a "front-line" tool of the country's migration policy in order to halt the flows of refugees and to deter others from attempting to irregularly cross the borders. The practice is a 'permanent eventuality' for people attempting to cross the borders according to testimonies, media coverage and reports. Serious incidents of alleged illegal refoulements have been monitored regarding the arbitrary removal of people residing on the mainland (mainly Thessaloniki) or detained in Pre-removal detention centres.

In December 2021, 32 applications regarding pushback incidents from Evros, Crete, Kos, Kalymnos, Lesvos, Samos or the sea before the victims had reached any island were communicated by the European Court of Human Rights to the Greek Government. The Court asked Greece to provide information regarding whether the lives of the applicants were endangered, whether they were subjected to inhuman and degrading treatment and whether there was an effective domestic remedy to deal with allegations of violation of Articles 2 and 3 of the European Convention on Human Rights. Regarding some cases, the Court also asked whether the victims were lawfully detained, if they were informed in a language they understood of the reasons for their detention; and whether there was an effective remedy to appeal against detention.

The European Parliament delayed approval of Frontex's accounts in 2021 and rebuked the agency for failing to respond to its previous recommendations. In a report motivating the latest delay, the European Parliament's Budgetary Control Committee referred to problems in two EU member states. It found that in Greece, Frontex "did not evaluate its activities in Greece, even though reports by institutions of

47 UNCHR, Operational Portal, Mediterranean Situation: Greece, available at: https://bit.ly/3qQJs0K.
48 *Ibid.*
49 *Ibid.*
50 Information provided by the Directorate of the Hellenic Police, 8 March 2022.
51 Information provided by the Directorate of the Hellenic Police, 11 February 2021.
52 GCR, Greek Council for Refugees input for the forthcoming report of the Special Rapporteur on the human rights of migrants with respect to human rights violations at international borders: trends, prevention and accountability, 28 February 2022, available at: https://bit.ly/3NQU0XF.

Member States, the Council of Europe, and the United Nations show that the Agency was carrying out operations in sections where simultaneously, fundamental rights violations were taking place".[53]

On May 2022, the European parliament refused to sign off the EU border agency's accounts, saying it failed to investigate alleged human rights violations of asylum seekers in Greece.[54] The vote on the Agency came after the resignation of its Director in April 2022, who left after an investigation by the EU anti-fraud body Olaf.[55]

Pushback at land borders

In relation to pushbacks at the land border, the Special Rapporteur on the human rights of migrants has noted that, in addition to "*increased militarisation of the Evros land border…which has effectively resulted in preventing entry and in the summary and collective expulsion of tens of thousands of migrants and asylum seekers*", there have been allegations that "*pushbacks are also reportedly carried out from urban areas, including reception and detention centres*".[56]

On 3 May 2021, the Council of Europe Commissioner for Human Rights wrote to Greek authorities noting that "*summary returns from Greece to Turkey across the Evros River border have been reported and documented for several years*"[57] and expressed her concern about an "*increase in reported instances in which migrants who have reached the Eastern Aegean islands from Turkey by boat, and have sometimes even been registered as asylum seekers, have been embarked on life-rafts by Greek officers and pushed back to Turkish waters*".[58]

An interim report published by the Greek Ombudsman in April 2021 noted how the structure of pushbacks followed a "*standard practice*", namely a pattern of arbitrary detention, refusal to register new arrivals or allow them to apply for asylum and ultimately forceful (and sometimes violent) return to Turkey.[59] This "*standard practice*" has been corroborated by several different sources.

On 21 February 2022, UNHCR expressed its concerns regarding recurrent and consistent reports from Greece's land and sea borders with Turkey, where at least three people are reported to have died in such incidents since September 2021 in the Aegean Sea, including one in January 2022. UNHCR recorded almost 540 reported incidents of informal returns by Greece since the beginning of 2020.[60] The International Organization for Migration (IOM) was also alarmed by increasing migrant deaths and continuous reports of pushbacks at the border between Greece and Turkey.[61]

In its annual review of Greece for 2021, Human Rights Watch describes the "*heavy-handed and often abusive immigration controls*" employed by Greece and the "*mounting chorus of criticism*" of its policy

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53 Report on discharge in respect of the implementation of the budget of the European Border and Coast Guard Agency for the financial year 2020 (2021/2146(DEC)), Committee on Budgetary Control, A9-0110/2022, 6 April 2022, p.11, available at: https://bit.ly/3P2MFEU.

54 The Guardian, EU censures border agency after reports of human rights abuses in Greece, 4 May 2022, available at: https://bit.ly/3yhM6B6.

55 The Guardian, Head of EU border agency Frontex resigns amid criticisms, 29 April 2022, available at: https://bit.ly/3KPGa58.

56 Special Rapporteur on the human rights of migrants, *Report on means to address the human rights impact of pushbacks of migrants on land and sea*, 12 May 2021, available at: https://bit.ly/3tWayFO, para. 55.

57 Letter from Council of Europe Commissioner dated 3 May 2021, available at: https://bit.ly/3DthtsQ.

58 *Ibid.*

59 The Greek Ombudsman Independent Authority, *Alleged pushbacks to Turkey of foreign nationals who had arrived in Greece seeking international protection*, Interim Report (Updated up to 31 December 2020), p.13, English translation available at: https://bit.ly/3DsULkJ.

60 UNHCR, *News Comment: UNHCR warns of increasing violence and human rights violations at European borders,* 21 February 2022, available at: https://bit.ly/35ruc2X.

61 IOM, *IOM Concerned about Increasing Deaths on Greece-Turkey Border,* 18 February 2022, available at: https://bit.ly/3tWmyHk.

of pushbacks.[62] Amnesty International documented 21 pushback incidents and other abuses that occurred in Greece between June and December 2020, identifying a number of key trends.[63]

Regarding pushbacks at land, victims described to Amnesty International how they were apprehended on Greek territory, often detained arbitrarily and then transferred back to Turkey. Those carrying out pushback operations were consistently identified as appearing to belong to law enforcement. In 12 of the cases documented by Amnesty International, individuals stated that they were held in places of detention for a couple of hours up to one day without any access to phone calls, lawyers and without registration procedures. Amnesty International concluded that "*every apprehension and detention reported occurred outside of identifiable legal procedures and meets the definition of arbitrary arrest and detention*"[64]. Amnesty International further reported that the individuals were not informed that they were under arrest and that information provided regarding reasons for arrest and detention were "*either false or completely absent*".[65] In addition pushbacks of individuals soon after their arrival in Greece, Amnesty International documented instances of pushback of people with a registered protection status in Greece or who had been in the country for days or weeks.[66]

GCR also receives notifications from/about people in need of international protection who have just crossed the border close to Evros river and are afraid of being pushed back to Turkey. During 2021, 48 interventions were sent to the Greek authorities and GCR received at least 15 negative replies indicating that persons of concern were not found in the indicated area. Regarding several pushbacks that took place in spring 2019, five survivors authorised GCR's Legal Unit to take legal action. Despite strong evidence provided by the victims, the judicial authorities did not properly investigate these crimes. As a result, in 2021 three applications were submitted to the European Court of Human Rights (ECtHR) regarding five victims of different incidents which took place in 2019.

During the first months of 2022, GCR sent 28 interventions to the Greek authorities, that related to the cases of more than 350 refugees (among them, at least 65 were children) from Syria, Turkey, Afghanistan and Iraq, who entered Greece from the Evros region seeking international protection. In 12 of these interventions, Greek authorities responded positively on locating them and providing them access to the procedures provided by law. In the rest of the cases, the authorities either did not reply or replied that they had not been able to locate them. In at least 5 cases, which concerned persons fleeing from Turkey and Syria, GCR was informed that they were informally and forcibly returned to Turkey, without being given the opportunity to submit an asylum application.

According to Refugee Support Aegean (RSA), Greek authorities pushed back asylum seekers from the Evros region in violation of pending Rule 39 interim measures procedures before the European Court of Human Rights (ECtHR) in late 2021.[67] In this case, RSA noted how they had contacted the Hellenic police to confirm the arrival of the Syrian national (and others) in Greece and their intention to apply for international protection. There was no response from Greek authorities and the group were unlawfully returned to Turkey. The Syrian national explained that "*men in uniform confiscated their mobile phones*" and "*ignored their explicit requests for international protection*" and how they were "*held incommunicado without any registration in two detention sites*".[68]

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62 Human Rights Watch, *Greece: Events of 202*1, available at: https://bit.ly/372FryZ.
63 Amnesty International, *Greece: Violence, Lies, and Pushbacks*, June 2021, available at: https://bit.ly/3K8xtD6, 5.
64 *Ibid.*, 6
65 *Ibid.*, 14
66 *Ibid.*, 16
67 Refugee Support Aegean, *The timeline of a pushback of a Syrian refugee in Evros, as documented by RSA*, 19 October 2021, available at: https://bit.ly/36Wui2R.
68 *Ibid.*

Finally, several sources commented on the treatment of individuals while in detention. In its report, Amnesty International confirmed that in 17 of the 21 incidents reported on, individuals either suffered or witnessed physical violence during the course of the pushback.[69]

On 16 March 2022, the European Court of Human Rights granted interim measures under Rule 39 requested by Human Rights 360 and GCR for a group of 30 Syrian refugees who had been confined on an islet of Evros river for 6 days without water, food, medical care, or any means to keep warm.[70] In April 2022, the Court granted interim measures requested by GCR for 5 similar cases of Syrian refugees including 44 children.[71] The Court ordered the Greek government not to remove the refugees from the country's territory and to provide them with food, water and proper medical care and requested to be informed about whether the Syrian refugees had submitted an asylum application and, if so, whether they had access to the asylum procedure and to legal assistance. Many of these refugees complain that they had been pushed back to Turkey during their attempts to seek international protection in Greece.

Pushbacks at sea

In relation to pushbacks at sea, Aegean Boat Report's Annual Report for 2021 outlined that 902 boats carrying a total of 26,202 people were apprehended by the Turkish Coast Guard and Police in 2021.[72] Of these total figures, 5,220 people had already arrived on the Greek Aegean islands before being "*arrested by police, forced back to sea and left drifting in life rafts*".[73]

By way of illustration, the following pushback incidents at sea were reported in 2021 and early 2022:

- In October 2021 a Turkish-flagged ship carrying 382 asylum seekers faced technical issues near Crete and was hauled in the direction of Turkey by the Greek coastguard for three days.[74] Further evidence of the practice was documented by Der Spiegel whose investigative report includes video documentation of Greek elite security forces on the Aegean.[75]
- Aegean Boat Report documented an incident on 9 January 2022 where 25 new arrivals on Lesvos sent pictures, videos, voice messages and location data to Aegean Boat Report. At 11.20am the following day (10 January 2022), all contact was lost with them. No new arrivals were documented by the Greek authorities on that day and the Turkish coast guard then rescued them drifting in a life raft outside Seferihisar, Turkey.[76]
- Aegean Boat Report documented another incident on 24 January 2022, describing how a group of 41 individuals arrived on the Greek island of Inousses but were rescued by Turkish coast guard later that day drifting outside Cesme, Turkey.[77]
- Aegean Boat Report further documented (with photographic and audio evidence) an example of a pushback from Greece on 30 January 2022.[78] The report demonstrates that, out of the group of 21 individuals that arrived on Chios on that day, 12 were subsequently arrested by the Greek police and later rescued by the Turkish coast guard in a life raft drifting outside Cesme, Turkey. The contact was lost with the remaining members of the group, but Aegean Boat Report states that authorities in Chios claimed that there had been no new arrivals that day.

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69 Amnesty International, *Greece: Violence, Lies, and Pushbacks*, June 2021, available at: https://bit.ly/3qOLjD2, 27.
70 GCR Press release available at: https://bit.ly/3MSDeGb.
71 GCR Press release available at: https://bit.ly/3yncDwS.
72 Aegean Boat Report, *Annual Report 2021*, available at: https://bit.ly/35pi2aC.
73 *Ibid.*
74 The Guardian, *Greece accused of 'biggest pushback in years' of stricken refugee ship*, 5 November 2021, available at: https://bit.ly/3K0JkmQ.
75 Der Spiegel, *Beatings at the Border: Europe's Violent Shadow Army Unmasked*, 7 October 2021, available at: https://bit.ly/3DpQ7UF.
76 *Ibid.*
77 *Ibid.*
78 Aegean Boat Report, *Blog Posts*, available at: https://bit.ly/3LoT76k.

- On February 2022, the ECtHR granted interim measures under Rule 39 requested by Aegean Boat Report in order to prevent the pushback of four asylum-seekers from the Greek Territory (Aegean islands). Initially, the Court issued a provisional decision, asking to the Greek Government information about the steps that had been taken on the allegation of pushback. The decision also imposed that first-aid assistance be provided to the asylum-seekers, who had been forced to live for three days without access to food, water, shelter, nor medical assistance. However, by the time the Court reached such a decision, three out of four asylum-seekers had been already subjected to a violent and life-threatening pushback, according to their allegations. After having received further information on the case by Aegean Boat Report and by the Greek Government, the European Court has concluded that the asylum-seeker who was still in Greek territory cannot be subjected to a removal.[79]

Legal access to the territory

Legal ways of accessing the Greek territory are not provided for persons in need of international protection, nor does Greece issue visas for humanitarian reasons.

Exceptionally, in the last trimester of 2021, Greece accepted 819 Afghan nationals (among them 367 arrived at Athens in October 2021 for "temporary hospitality",[80] and 119 others arrived in Thessaloniki in November 2021)[81] due to "the country's commitment to provide humanitarian assistance to Afghan nationals in danger". According to the MoMA's announcement, "they reside temporarily in Greece until their relocation to third countries".

2. Reception and identification procedure

2.1 The European Union policy framework: 'hotspots'

The "hotspot approach" was first introduced in 2015 by the European Commission in the European Agenda on Migration as an initial response to the exceptional flows.[82] Its adoption was part of the immediate action to assist Member States, which were facing disproportionate migratory pressures at the EU's external borders and was presented as a solidarity measure.

The initial objective of the "hotspot approach" was to assist Italy and Greece by providing comprehensive and targeted operational support, so that the latter could fulfill their obligations under EU law and swiftly identify, register and fingerprint incoming migrants, channel asylum seekers into asylum procedures, implement the relocation scheme and conduct return operations.[83]

For the achievement of this goal, EU Agencies, namely EASO (now EUAA), Frontex, Europol and Eurojust, work alongside the Greek authorities within the context of the hotspots.[84] The hotspot approach was also expected to contribute to the implementation of the temporary relocation scheme, proposed by the European Commission in September 2015.[85] Therefore, hotspots were envisaged initially as reception and registration centres, where all stages of administrative procedures concerning

79 Aegean Boat Report, Groundbreaking decision in our first pushback case before the European Court of Human Rights, available at: https://bit.ly/3FoQxeM.
80 MoMA, Press release, 24 October 2021, avaialbe at: https://bit.ly/3yjDoCf
81 MoMA, Press release, 23 November 2021, available at: https://bit.ly/3yzVCzV
82 European Commission, *European Agenda on Migration*, COM(2015) 240, 13 May 2015.
83 European Commission, *The hotspot approach to managing migration flows*, 11 September 2015, available at: http://bit.ly/2kESJFK.
84 *Ibid*.
85 European Commission, Council Decisions (EU) 2015/1523 of 14 September 2015, OJ 2015, L239/146 and 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, available at: https://bit.ly/2wWHXVE.

newcomers – identification, reception, asylum procedure or return – would take place swiftly within their scope.

Five hotspots, under the legal form of First Reception Centres – now Reception and Identification Centres (RIC) – were established in Greece on **Lesvos, Chios, Samos, Leros** and **Kos**. During 2021, on **Samos**, **Leros** and **Kos**, the RIC have been converted into 'Closed Controlled Access Centers of Islands (CCACI)'.[86] The new facility in **Samos** has been inaugurated on 18 September 2021 and the ones in **Leros** and **Kos** on 27 November 2021.[87] On **Kos**, despite the inauguration of the new center, new infrastructures remained non-operational and only the existing facilities of the RIC and the pre-removal Center - which are part of the new center- were functional throughout 2021. Two more Closed Controlled Access Centers of Islands (CCACI) on **Lesvos** and **Chios** are foreseen in 2022.

Reception and Identification Centres (RIC) and Closed Controlled Access Centers of Islands (CCACI)			
Hotspot	Start of operation	Capacity	Occupancy
Lesvos			
Moria Mavrovouni Vastria	October 2015 September 2020[88] Under construction	Non-operational 8,000 5,000	Non-operational 1,863 Non-operational
Chios			
Chios	February 2016	1,014	445
Samos			
RIC (C.C.A.C.I.)	March 2016 18 September 2021	Non-operational 3,000	Non-operational 398
Kos			
RIC (C.C.A.C.I.)	June 2016 27 November 2021	Non-operational 2,140	Non-operational 572
Total	-	15,934	3,307

Source: Ministry of Migration and Asylum, *National Situation: Migrant and Refugee Issue*, Situation as of 31 December 2021, available at: https://bit.ly/3LJbIKF.

The total capacity of the five hotspot facilities was initially planned at 7,450 places.[89] According to official data, their capacity increased to 13,338 places by the end of 2020. The construction of the 'Closed Controlled Access Centers of Islands (C.C.A.C.I.)' in 2021 further increased said capacity to 15,934 places. Yet, according to commentators, the construction of new mass facilities cannot be justified by the number of TCN residing in the RICs nor by the flows, since both were significantly low in 2020 and 2021 compared to previous years.

Local communities also expressed their opposition against the creation of the new 'Closed Controlled Access Centers of Islands (C.C.A.C.I.) because they do not consider them necessary and because they raise strong concerns both related to the degradation of the islands and the rights of newcomers. In **Lesvos** and **Chios** several protests took place and citizens tried to disrupt the construction of the

86 Ministerial Decision 25.0 / 466733/15-12-2021, according which the RIC of Samos, Leros and Kos are renamed as 'Closed Controlled Access Centers of Islands (C.C.A.C.I.)', See also Art. 8 par. 4 L.4375/2016.

87 Ministry of Migration and Asylum, The Minister for Migration and Asylum, Mr. Notis Mitarachi, inaugurated the new closed controlled access center in Samos, 18 September 2021, available at: https://bit.ly/3DHQzOe; Ministry of Migration and Asylum, N. Mitarachi: Today in Leros and Kos, as a few days ago in Samos and in a few months in Chios and Lesvos, we inaugurate the new Closed Controlled Access Centers, with a view to the future. Images we can all recall from the period 2015-2019 belong definitely to the past, 27 November 2021, available at: https://bit.ly/3j61isb.

88 A new facility in Kara Tepe (Mavrovouni) was established in September 2020 after Moria RIC burnt down.

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

centers on the islands.[90] In **Leros** and **Kos**, criticism against the construction of the new facilities were expressed not only by local communities but also by local Authorities. The Mayors of both islands refused to attend the inauguration of the new centers. Moreover, in January 2021 the local authorities of **Leros** have challenged the construction of the new center before the Council of State.[91] Similarly, in **Samos** the inauguration of the new facility has not been welcomed by certain local opposition parties and other actors.[92]

On **Samos** and **Leros** the new closed facilities have been transferred to different areas compared to where RICs were located, namely in **Zervou** (Samos) and **Lepida** (Leros). Similarly, the new facilities on Lesvos and Chios which are planned for 2022 are going to be located in different areas, namely in **Plati- Vastria** (Lesvos) and in **Akra Pachi – Tholos** (Chios). In Kos the new facility has been expanded in an area detached to the existing RIC.

All these new structures are isolated from urban areas with very poor connection to the main cities of each islands. More specifically, the new center of Samos is located 7km away from the city of Vathy, the new center of Leros is 6km from the city of Agia Marina and the new center of Kos is 15km far away from the city of Kos. Similarly, the new center on Lesvos is being constructed in an area 30km from the city of Mytilene and the facility of Chios 11km from the city of Chios.

Conditions prevailing in the remaining RICs have not improved and people continue to be hosted in degrading conditions. In Vial (**Chios**), the conditions remain worryingly substandard despite the decrease of the accommodated population. The shocking news of the death of a Somali resident whose body was found 12 hours after his death surrounded by rodents is indicative of the situation.[93] Similarly, criticism regarding the inadequacy of the **Mavrovouni** RIC is still vivid due to extreme weather conditions, inaccessible and inadequete sanitation facilities and the lack of security incidents despite significant police surveillance.[94] This situation coupled with the closure of the site of Kara Tepe, which was run by the Municipality of Mytilene and which was offering decent living conditions to its residents spurred sharp criticism, with commentators accusing the government to adopt policies of deterrence.[95]

The new 'Closed Controlled Access Centers of Islands (C.C.A.C.I.)' are thus a cause of serious concern, despite the large amount of funding that were used for their construction. In **Samos**, the conditions prevailing in the new center are considerably better than the ones in the RIC in terms of infrastructure. Yet, testimonies collected by the Greek Council for Refugees from people living in the new center and civil society organisations amount to prison-like conditions. Approximately 100 people have been prevented to leave the reception center for two months due to an exit ban that the Greek administrative court found amounts to illegal *de facto* detention.[96] The Ministry of Asylum and Migration takes great pride in the 24/7 surveillance and security control mechanisms of the new center, while at

90 Tvxs, Χίος - Λέσβος: Μαχητικό «όχι» των κατοίκων στις προσφυγικές δομές – φυλακές, available in Greek at: https://bit.ly/3x6lHWb.

91 CNN Greece, Προσφυγικό: Στο ΣτΕ ο δήμος Λέρου κατά της κατασκευής ΚΥΤ στο Λακκί, 4 January 2021, available in Greek at: https://bit.ly/3DFVT4y and ECRE, Greece: Significant Decrease of Arrivals – Chaos Continues, 15 January 2021, available at: https://bit.ly/37tbYPr.

92 ERT News, Σάμος : Τα εγκαίνια του νέου ΚΥΤ στη Ζερβού προκάλεσαν αντιδράσεις φορέων και σωματείων, 18 September 2021, available in Greek at: https://bit.ly/3ubb7LQ.

93 The Guardian, 'A scene out of the middle ages': Dead refugee found surrounded by rats at Greek camp, 7 May 2021, available at: https://bit.ly/3J5Pxwp.

94 Legal Center Lesvos, THERE IS NOTHING MORE PERMANENT THAN THE TEMPORARY – ΟΥΔΕΝ ΜΟΝΙΜΟΤΕΡΟΝ ΤΟΥ ΠΡΟΣΩΡΙΝΟΥ, 14 September 2021, available at: https://bit.ly/3uTvY5z.

95 GCR, Closure of model camp on Greek islands amidst horrific living conditions is cause for concern, available at: https://bit.ly/3ja3qPE.

96 Administrative Court of Syros, Decision No AP 36 /17-12-2021, available at: https://bit.ly/3KroeOI.

the same time, the residents have limited access to Healthcare. In fact, the Medical Unit of the facility in Samos has no doctor.[97]

Hotspot transformation following the EU-Turkey statement

In March 2016, the adoption of the highly controversial EU-Turkey Statement committing "to end the irregular migration from Turkey to the EU",[98] brought a transformation of the so-called hotspots on the Aegean islands.[99]

With the launch of the EU-Turkey Statement, hotspot facilities turned into closed detention centres. People arriving after 20 March 2016 through the Aegean islands, and thus subject to the EU-Turkey Statement, were automatically *de facto* detained within the premises of the hotspots in order to be readmitted to Turkey in case they did not seek international protection or their applications were rejected, either as inadmissible under the Safe Third Country or First Country of Asylum concepts, or on the merits.[100] Following criticism by national and international organisations and actors, as well as due to the limited capacity to maintain and run closed facilities on the islands with high numbers of people, the practice of blanket detention was largely abandoned from the end of 2016 onwards. It has been replaced by a practice of systematic geographical restriction, i.e. an obligation not to leave the island and reside at the hotspot facility, which is imposed indiscriminately to every newly arrived person (see Freedom of Movement).

L.4825/2021[101] replaced Article 8 (4) L.4375/2016[102] as follows:

"The Regional Services of the Reception and Identification Services are:

97 GCR & Oxfam Bulletin, March 2022, available at: https://bit.ly/3NPHNCh; OXFAM and GCR, Lesbos Bulletin Update on Lesbos and the Aegean Islands, by the Greek Council for Refugees & Oxfam, 6 March 2022, available at: https://bit.ly/3ujUNIZ.

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

99 The Greens / European Free Alliance in the European Parliament, *The EU-Turkey Statement and the Greek Hotspots, a failed European pilot project in refugee policy*, June 2018, available at: https://bit.ly/38TAhkb.

100 In this respect, it should be mentioned that on 28 February 2017, the European Union General Court gave an order, ruling that "the EU-Turkey Statement, as published by means of Press Release No 144/16, cannot be regarded as a measure adopted by the European Council, or, moreover, by any other institution, body, office or agency of the European Union, or as revealing the existence of such a measure that corresponds to the contested measure." Therefore "the Court does not have jurisdiction to rule on the lawfulness of an international agreement concluded by the Member States".[100] The order became final on 12 September 2018, as an appeal lodged before the Court of Justice of the European Union (CJEU) was rejected. General Court of the European Union, Cases T-192/16, T-193/16 and T-257/16 *NF, NG and NM v. European Council*, Order of 28 February 2017, press release available at: http://bit.ly/2lWZPrr; CJEU, Cases C-208/17 P, C-209/17 P and 210/17 P *NF, NG and NM v European Council*, Order of 12 September 2018.

101 Article 28 L.4825/2021 on 'Reform of deportation and return procedures of third country nationals, attraction of investors and digital nomads, issues of residence permits and procedures for granting international protection, provisions of competence of the Ministry of Immigration and Asylum'.

102 According to Article 8(4) L. 4375/2016 "The Regional Services of the Reception and identification Service shall be: a. The Reception and Identification Centers (RIC) b. Mobile Reception and Identification Units (MRIU) c. The Open Temporary Reception Structures for third-country nationals or stateless persons who have applied for international protection, d. The Open Temporary Accommodation Structures for third-country nationals or stateless persons: who are under a return procedure in accordance with article 22 of law 3907/2011, or with paragraph 3 of this article in conjunction with article 30 of law 3907/2011 or whose removal has been postponed in accordance with Article 24 of law 3907/2011 or who fall under the provisions of article 76 para. 5 or article 78 or article 78a of law 3386/2005". Article 30(4) L. 4686/2020 amended article 8(4) L.4375/2016 and foresaw the establishment of the so called "Closed Temporary Reception Facilities" for asylum seekers against whom a detention decision has been issued and the "Islands' Closed Controlled Facilities", for asylum seekers, persons under a removal procedure and persons under geographical limitation. The provision does not specify further information, such as the general operation of such centers, the reasons for placing third country nationals in such facilities, the possibility of and procedures for entry and exit, general conditions, the maximum period of stay etc and up today such centers have not yet been established. Article 8(4) L. 4375/2016 as amended by article 30(4) L. 4686/2020 was applied until the entry into force of L. 4852/2021 in 4th September 2021.

a. the Reception and Identification Centers (RIC),
b. the Controlled Structures for Temporary Accommodation of asylum seekers and
c. the Closed Controlled Access Centers, which are structured and have the responsibilities of RIC and within which, in separate spaces, operate facilities of temporary accommodation and the special detention facilities provided in Art. 31 of L. 3907/2011
Within the premises of the above mentioned facilities, special areas dedicated to people belonging to vulnerable groups of article 14(8) L.4636/2019 are provided"

Although the Rule of Procedure of Closed Controlled Access Centers on the islands does not provide for a blanket prohibition of exit, the regime of *de facto* detention has been reintroduced in practice for certain categories of residents in the 'Closed Controlled Access Centers of Islands (C.C.A.C.I.)' of Samos, namely for those who do not hold an asylum seeker card.[103] Persons who do not have a card include:

a) new arrivals after the registration of their asylum application and pending the issuance of a card,
b) persons whose applications have been rejected at second instance who did not lodge or are unable to lodge a subsequent asylum application,
c) those who have filed a subsequent application until a decision on admissibility is issued,
d) those whose applications have been rejected at first instance, until they can lodge an appeal.

By way of illustration in the 'Closed Controlled Access Centers of Islands (C.C.A.C.I.)' of Samos the number of people banned from exiting the camp was around 100 out of the 450 residents by December 2021.[104] This prohibition took effect without any written decision ordering the restriction in the CCAC, and without information on nor notification to the persons concerned on the grounds of such a restriction.

In support of an applicant who had filed a subsequent application which was pending and thus whose exit was prohibited, GCR lodged "objections" against this *de facto* detention before the Administrative Court of First Instance of Syros. Taking into account its character as a de facto detention measure and thus acknowledging its jurisdiction to assess this "exit ban", the Court held that: a. "the detention of asylum seekers is […] only allowed on the basis of a decision issued by the competent Police Director, as an exceptional measure and only for one of the grounds exhaustively prescribed by article 46 of said Law, [yet] no decision with such content has been issued […]" and said preconditions had not been met, b. "the Head of the […] CCAC illegally took the measure in question (exit ban) against the applicant".[105]

From April 2016 to 31 March 2020, 2,140 individuals had been returned to Turkey on the basis of the EU-Turkey Statement, of whom, 801 were returned in 2016, 683 in 2017, 322 in 2018, 195 in 2019 and 139 in 2020. No readmission operations took place during 2021. In total, between 21 March 2016 and 31 March 2020, Syrian nationals accounted for 404 persons (19%) of those returned. 43 of them were returned on the basis that their asylum claims were found inadmissible at second instance on the basis of the "safe third country" concept. Moreover, of all those returned, 23% did not express a wish to apply for asylum or withdrew their asylum applications in Greece.[106]

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103 Joint Ministerial Decision 25.0/118832 - Gov. Gazette 1454/B/25-3-2022 ΦΕΚ Β 3191/20.7.2021.

104 Amnesty International, Greece: Asylum seekers being illegally detained in new EU-funded camp, 2 December 2021, available at: https://bit.ly/3v4NLH6.

105 Administrative Court of Syros, Decision No AP 36 /17-12-2021, available at: https://bit.ly/3KroeOI; GCR, The Administrative Court of Syros ruled unlawful the measure of prohibiting the exit of an Afghan asylum seeker from the new Closed Controlled Access Facility of Samos (CCF Samos), 22 December 2021, available at: https://bit.ly/3un8NBI.

106 UNHCR, *Returns from Greece to Turkey*, *Returns from Greece to Turkey*, *in the framework of the EU - TUR Statement. Source: Greek Ministry of Citizen Protection,* 31 March 2020, available at: https://bit.ly/3a4rcIV.

According to the official statistics of the Ministry of Migration and Asylum published in January 2021,[107] "returns under the EU-Turkey Joint Declaration have not been made since March [2020] due to Covid-19. It should be noted that despite the lifting of the measures for the pandemic, from 01/06 [2020] the requests of missions-returns of the Greek authorities have not been answered." This has also been confirmed by more recent notes of the Readmission Unit of the Hellenic Police Headquarters.[108] In July 2021, Greece made a new request to the EU Commission and FRONTEX for the immediate return to Turkey of 1,908 rejected asylum seekers living on the Aegean islands. The Greek Government accused Turkey for refusing to implement its commitments under the EU-Turkey Statement, and for continuing to refuse to engage in any way on the issue.[109] However, despite the suspension of returns to Turkey since March 2020, the applications lodged by applicants falling under the scope of the JMD 42799/2021 (FEK B' 2425/07.06.2021) are still examined in the context of the Safe third country concept and the Fast-Track Border Procedure.

2.2 The domestic framework: Reception and Identification Centres

The hotspot approach is implemented in Greece through the legal framework governing the reception and identification procedure in the IPA. In practice, the concept of reception and identification procedures for newly arrived people under Greek law predates the "hotspot" approach.

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

(a) Identity and nationality verification;
(b) Registration;
(c) Medical examination and any necessary care and psychosocial support;
(d) Provision of proper information about newcomers' obligations and rights, in particular about the conditions under which they can access the asylum procedure; and
(e) Identification of those who belong to vulnerable groups so that they be given the proper procedure.[110]

This approach was first implemented by the First Reception Centre (FRC) set up in **Evros** in 2013,[111] which has remained operational to date and has not been affected by the hotspot approach. Joint Ministerial Decision 2969/2015 issued in December 2015 provided for the establishment of five FRCs in the Eastern Aegean islands of **Lesvos**, **Kos**, **Chios**, **Samos** and **Leros**,[112] the regulation of which was provided by existing legislation regarding the First Reception Service.[113] However, this legislative act failed to respond to and regulate all the challenges arising within the scope of hotspots' functions. As a result, issues not addressed by the existing legal framework, for example the involvement of EU Agencies in different procedures, long remained in a legislative vacuum.

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107 Ministry of Migration and Asylum, MoMa Yearly Report 2020, December 2020, available at: https://bit.ly/3uBkAJC , p. 5

108 Fenix, Fenix calls the Greek authorities to examine the merits of asylum applications rejected on admissibility, 1 February 2022, available at: https://bit.ly/3v5wCNk.

109 Ministry of Migration and Asylum, New request from Greece for the return of 1.908 illegal economic migrants to Turkey, 28 July 2021, available at: https://bit.ly/3Jmid4r.

110 Article 7 L 3907/2011.

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

112 Joint Ministerial Decision No 2969/2015, Gov. Gazette 2602/B/2-12-2015.

113 Law 3907/2011 "On the Establishment of an Asylum Service and a First Reception Service, transposition into Greek Legislation of the provisions of the Directive 2008/115/EC 'on common standards and procedures in Member States for returning illegally staying third-country nationals' and other provisions".

On 3 April 2016 in the light of the EU-Turkey statement of 18 March 2016, the Greek Parliament adopted a law " on the organisation and operation of the Asylum Service, the Appeals Authority, the Reception and Identification Service, the establishment of the General Secretariat for Reception, the transposition into Greek legislation of the provisions of Directive 2013/32/EU, provisions on the employment of beneficiaries of international protection and other provisions". This reform was passed through L 4375/2016.[114]

L 4375/2016 has partially attempted to regulate the establishment and function of hotspots and the procedures taking place there. However, national legislation has failed to effectively regulate the involvement of the EU Agencies, for example Frontex agents. Following the enactment of L 4375/2016, the FRS was succeeded by the Reception and Identification Service (RIS). The RIS is currently subsumed under the General Secretariat for Reception of Asylum Seekers of the Ministry of Migration and Asylum.[115] The IPA, in force since 1 January 2020, regulates the functioning of the RICs and the conduct of the reception and identification procedure in a similar way.

Article 39 IPA, in force since 1 January 2020, provides that:

All third-country nationals and stateless persons who enter without complying with the legal formalities in the country, shall be submitted to reception and identification procedures."[116] Reception and identification procedures include five stages:[117]

1. Information on rights and obligations, transfer to other facilities, the possibility to seek protection or voluntary return, in a language the person understands or in a language that a person may reasonably be supposed to understand and in an accessible manner, by the Information Unit of the Reception and Identification Centre (RIC) or by the Police, Coast Guard or Armed Forces in case of mass arrivals;[118]

2. Channelling to reception and identification procedure: According to the law, newly arrived persons should be directly transferred to a RIC, where they are subject to a 5-day "restriction of freedom within the premises of the centre" (*περιορισμός της ελευθερίας εντός του κέντρου*), which can be further extended by a maximum of 25 days if reception and identification procedures have not been completed.[119] This restriction of freedom entails "the prohibition to leave the Centre and the obligation to remain in it".[120] Such a restriction is ordered on the basis of a written, duly motivated decision;[121]

3. Registration and medical checks, including Identification of vulnerable groups;[122]

4. Referral to the asylum procedure: As soon as asylum applications are made, the Special Rapid Response Units (*Ειδικά Κλιμάκια Ταχείας Συνδρομής*) of the Asylum Service distribute the cases according to country of origin. Subsequently, they proceed to prioritisation of applications according to nationality (see Prioritised Examination);[123]

114 L 4375/2016, Gov. Gazette 51/A/3-4-2016, available at: http://bit.ly/2kKm2cu.
115 Article1 PD, 18/2020 (ΦΕΚ 34/A/19-2-2020), available in Greek at: https://bit.ly/3wfJUHz.
116 Article 39(1) IPA.
117 Article 39(2) IPA.
118 Article 39(3) IPA.
119 Article 39(4)(a) IPA.
120 *Ibid*.
121 Article 39(4)(a) IPA.
122 Article 39(5) IPA.
123 Article 39(6) IPA.

5. Further referral and transfer to other reception or detention facilities depending on the circumstances of the case.[124]

2.2.1. Reception and identification procedures on the islands

At the early stages of the implementation of the Statement, persons arriving on the Eastern Aegean islands and thus subject to the EU-Turkey Statement, were systematically and indiscriminately detained. Such measure was imposed either *de facto,* under the pretext of a decision restricting the freedom within the premises of the RIC for a period of 25 days, or under a deportation decision together with a detention order. This differs from the "geographical restriction" on the island, mentioned below.

Following criticism by national and international organisations and actors, and due to limited capacity to maintain and run closed facilities on the islands with high numbers of populations,[125] the "restriction of freedom" within the RIC premises as a *de facto* detention measure was no longer applied in the RICs, as of the end of 2016, with the exception of **Kos**. More specifically, in the measure of 'restriction of freedom' has been imposed to all newcomers in **Kos** throughout 2021; it applied for a period of 25 days, within which the applicants are banned from exiting the facility.

In any case, those who arrived since March 2020 on the Eastern Aegean Islands have been subject to a 7-day, 10-day or 14-day quarantine period,[126] so as to prevent the potential spread of the COVID-19 virus, prior to their transfer to RICs in order to undergo reception and identification procedures. On Lesvos the quarantine was sometimes extended beyond 14 days. A geographical restriction is also systematically imposed on every newly arrived person on the Greek islands, initially by the police and subsequently by the Head of the Asylum Service, imposing the obligation to remain on the islands and in the RIC facilities. For more details on the geographical limitation on the Greek Eastern Aegean Islands, see Reception Conditions, Freedom of movement and Identification.

In practice, those arriving on the Eastern Aegean islands and falling under the EU-Turkey Statement are subject to a "restriction of freedom of movement" decision issued by the Head of the RIC.[127] The decision is revoked once the registration by the RIC is completed, usually within a couple of days. Exceptionally, in **Kos**, a 'restriction of freedom of movement' is imposed to newcomers for a period of 25 days, within which applicants are not allowed to exit the RIC regardless whether their registration and identification by the RIS has been concluded or not. At the same time, a removal decision "based on the readmission procedure" and a pre-removal detention order are issued by the competent Police Directorate upon arrival, parallel to the decision of the Head of the RIC. The removal decision and detention order are respectively suspended by a "postponement of deportation" decision of the General Regional Police Director.[128] The latter decision imposes a geographical restriction, ordering the individual not to leave the island and to reside – in most cases – in the RIC or another accommodation facility on the island until the end of the asylum procedure. Once the asylum application is lodged, the same geographical restriction is imposed by the Asylum Service. For more details on the geographical limitation on the Greek Eastern Aegean Islands, see Reception Conditions, Freedom of movement. It is due to this practice of indiscriminate and *en mass* imposition of the geographical limitation measures to newly arrived persons on the islands that a significant deterioration of the living conditions on the

124 Article 39(7) IPA.
125 UNHCR, *Explanatory Memorandum pertaining to UNHCR's submission to the Committee of Ministers of the Council of Europe on developments in the management of asylum and reception in Greece*, May 2017, available at: http://bit.ly/2BbSrAA, 2.
126 Information provided by the Reception and Identification Service, 26 February 2021.
127 Article 39 IPA, See also FRA, *Update of the 2016 Opinion of the European Union Agency for Fundamental Rights on fundamental rights in the 'hotspots' set up in Greece and Italy*, 3/2019, 4 March 2019, 8 «*The implementation of the EU-Turkey Statement is linked to the hotspots approach*», available at: https://bit.ly/2WpjLCF.
128 Pursuant to Article 78 L 3386/2005.

islands has occurred. Newly arrived persons are obliged to reside for prolonged periods in substandard facilities, where food and water supply is reported insufficient, sanitation is poor and security highly problematic, while their mental health is aggravated (see Reception Conditions).

Moreover, unaccompanied children, as a rule, are prohibited from moving freely on the islands and remain in the RIC under "restriction of liberty". During 2021 the waiting period for the placement of UAMs residing in island RICs to shelters for minors has significantly decreased. More specifically, according to the official data available the average waiting time for the placement was 7.4 days.[129]

Since the implementation of the EU-Turkey Statement all newcomers are registered by the RIS.[130] In 2021, the registration of the newcomers carried out by the RIS on the island RICs was conducted within a few days, however significant shortcomings and delays occur in the provision of medical and psychosocial assessment/services as required by law, due to the insufficient number of medical staff working in the RIC on the islands (see also Identification).

As of 26 January 2020, in the context of implementing the IPA and following the visit of the Minister for Migration and Asylum,[131] all the newly arrived persons on the island of **Kos** were immediately subject to detention in the Kos Pre-removal Detention Facility (PRDF), except persons evidently falling under vulnerability categories. By the second half of 2021, this practice was not as generalised as certain groups of newcomers were not held in detention upon arrival. Additionally, by the end of the year, the so called 'inter-islands arrivals', were subject to detention without access to services that shall be provided within the scope of Reception and Identification Procedures. Amongst others, persons who were detained on other islands (i.e. Rhodes) in the absence of existing reception facilities, who were transferred to Kos' PRDF, were not assessed regarding potential vulnerabilities by the RIS. Similarly, they did not receive medical checks unless they were referred to Health Unit (AEMY) active in the Detention Facility (which is deprived of doctors) or/and the hospital. Also, individuals of 'interisland arrivals' were not accepted to the RIC in case they were released, consequently exposing them to high risks of homelessness and destitution.

Procedures followed on the islands amid the COVID-19 outbreak

In addition to those who arrived during March 2020 and who were subject to the Emergency Legislative Order suspending the access to the asylum procedure (and accordingly where not transferred to RICs but detained and transferred to mainland), those who arrived since April 2020 on the Greek Islands are subject to a 7 or 14-day quarantine so as to prevent the potential spread of the virus, prior to their transfer to RICs in order to undergo reception and identification procedures. In some cases the quarantine was extended beyond 14 days.

As specific places/sites were not available to that end, individuals subject to quarantine had to remain at the point of arrival in a number of cases, i.e. at isolated beaches or in other inadequate locations, *inter alia* ports, buses etc.[132] The degrading treatment of the new arrivals was publicly criticized by the

129 Data available to GCR by the Special Secretariat for the Protection of Unaccompanied Minors of the Ministry of Migration and Asylum.

130 Article 8(2) L 4375/2016 as amended by Article 116(3) L 4636/2019, Article 9 L 4375/2016 as amended by Article 39 IPA; see also, Ministerial Decree No 1/7433, Governmental Gazette B 2219/10.6.2019, *General Operation Regulation of the RICs and the Mobile Units of Reception and Identification*.

131 Press Release, Ministry for Migration and Asylum, 26.01.2020, available at: https://bit.ly/39Z2Myk (in Greek) and TVXS, 'Οι πρώτοι μετανάστες σε κλειστό κέντρο στην Κω, την ώρα που ο Μηταράκης επισκέπτεται το νησί - Πανηγυρίζει ο Βορίδης', 26 January 2020, available in Greek at: https://bit.ly/3oMEj6W .

132 In.gr, Παρατημένοι σε παραλίες εν μέσω κορονοϊού πρόσφυγες που φτάνουν στη Λέσβο, 4 April 2020, available in Greek at: https://bit.ly/2WqQ7zJ.

Association of Doctors of the Public Health System of Lesvos[133]. Since 8 May 2020, a dedicated site for these purposes has been in operation on the island Lesvos.[134]

During 2021, designated containers inside the RIC of Mavrovouni in **Lesvos** were in use for the preventative quarantine of newcomers, apart from the site in Megala, Therma. In Samos designated containers inside the RIC of Vathy were also used for the isolation of new arrivals. In Kos, new arrivals remain during the quarantine period in a separated area of the PRDF.

Sharp criticism has been raised regarding the conditions in the quarantine sites. According to testimonies, the sites do not meet with hygiene standards (cockroaches and mice in their containers, bathrooms dirty and moldy, lack of heat or proper insulation from the elements, insufficient number of mattresses, shortcomings in access to health care).[135] Another cause of concern relates to the fact that newcomers receive no information/ decision regarding their confinement and especially regarding the legal grounds and the duration of quarantine. In addition to that, UNHCR and other actors providing legal counselling have no access to the sites and as result, newcomers receive limited to no information regarding the Reception and Asylum procedures about to be initiated following their quarantine. It is worth noting that before the end of quarantine, newcomers are not -even temporarily- registered by the RIS. Worryingly enough, in certain cases the mobile phones of newcomers are confiscated by the Authorities upon arrival, rendering any communication with their relatives and/or legal actors impossible.[136] Also, in certain cases asylum seekers arriving by sea without negative COVID tests have been fined with a 5,000€ fine by the Greek police. At the beginning of August, the Chios Police Department fined 25 asylum seekers a total of 125,000 euro.[137]

Moreover, since 21 March 2020, Greece imposed lockdown schemes to tackle the Covid-19 pandemic, including severe limitations on the movement of people hosted in RICs and Temporary Accommodation Facilities. The said restrictions applied to refugee camps were successively prolonged and remain in force, despite the nationwide lifting of restriction of movement for the general population,[138] resulting in a deterioration of [the asylum seekers'] medical and mental health (See Reception Conditions).[139]

Actors present in the RIC

As well as civil society organisations, a number of official actors are present in the RIC facilities on the islands, including RIS, Frontex, Asylum Service, EASO and the Hellenic Police.

Police: The Police is responsible for guarding the external area of the hotspot facilities, as well as for the identification and verification of nationalities of newcomers. According to the IPA, the registration of the applications of international protection, the notification of the decisions and other procedural

133 Association of Doctors of the Public Health System of Lesvos, 'ΝΕΕΣ ΑΦΙΞΕΙΣ ΚΑΙ ΜΕΤΡΑ ΑΠΟΜΟΝΩΣΗΣ', 29 April 2020, available at: https://bit.ly/3tZbtTr

134 Capital.gr, Μυτιλήνη: Λειτουργεί από το πρωί η "καραντίνα" των νεοεισερχόμενων προσφύγων και μεταναστών, 9 May 2020, available at: https://bit.ly/2WsrtPm.

135 NIEM, Serious violations of human rights and access to healthcare for new arrivals of asylum seekers on Lesvos island in 2021, available at: https://bit.ly/378pWpE; Equal Rights Beyond Borders, *Submission to the United Nations Special Rapporteur on the Human Rights of Migrants regarding the human rights impact of COVID-19 protocols on asylum seekers arriving to Kos and Chios*, March 2022, available at: https://bit.ly/3NWi1MU.

136 Rights of Migrants regarding the human rights impact of COVID-19 protocols on asylum seekers arriving to Kos and Chios, March 2022, available at: https://bit.ly/3NV77qE.

137 European Council of Refugees and Exiles, Greece: Tabled Bill Continues Erosion of Protection – Greek Authorities Imposing Fees and Fines on Asylum Seekers and NGOs, 27 August 2021, available at: https://bit.ly/3DTNpan.

138 Joint Ministerial Decision Δ1α/ΓΠ.οικ. 17567/2022 - Gov. Gazette 1454/B/25-3-2022,

139 Médecins Sans Frontières, *Constructing crisis at Europe's borders: The EU plan to intensify its dangerous hotspot approach on Greek islands*, June 2021, available at: https://bit.ly/3KqXvlw.

documents, as well as the registration of appeals, may be carried out by police staff.[140] Moreover, in exceptional circumstances, the interviews of the applicants under the "fast track border procedure" may be carried out by police staff, provided that they have received the necessary basic training in the field of international human rights law, the EU asylum acquis and interview techniques.[141] Decisions on applications for international protection are always taken by the Asylum Service, however.

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

UNHCR/IOM: provide information to newly arrived persons.

Asylum Service: According to IPA the Asylum Service has a presence in the hotspots. Specifically:
"(a) third-country national or stateless person wishing to seek international protection, shall be referred to the competent Regional Asylum Office, Unit of which may operate in the RIC;
(b) both the receipt of applications and the interviews of applicants may take place within the premises of the RIC, in a place where confidentiality is ensured".[142]

EASO (now EUAA): EASO is also engaged in the asylum procedure. EASO experts have a rather active role within the scope of the Fast-Track Border Procedure, as they conduct first instance personal interviews and they issue opinions regarding asylum applications. Following a legislative reform in 2018, Greek-speaking EASO personnel can also conduct any administrative action for processing asylum applications, including in the Regular Procedure.[143] Following a mission conducted in Greece in 2019, ECRE published a report in November 2019 which provides a detailed overview on the role of EASO in Greece.[144]

RIS: The RIS previously outsourced medical and psychosocial care provision to NGOs until mid-2017. Since then, the provision of said services have been undertaken by the Ministry of Health, throughout different entities under its supervision. At the end of 2019, the National Organisation for Public Health (*Εθνικός Οργανισμός Δημόσιας Υγείας, ΕΟΔΥ*), a private entity supervised and funded directly by the Ministry of Health and Social Solidarity,[145] was the competent body for the provision of medical and psychosocial services. Serious shortcomings were noted in 2021 due to the insufficient number of medical staff in the RIC (*see also* Identification*).*

2.2.1. Reception and identification procedures in Evros

People arriving through the Evros border are not subject to the EU-Turkey statement. Therefore, they are not subject to the fast-track border procedure and there is no geographical restriction imposed on them upon release.

140 Article 90(2) IPA.
141 Article 90(3), b IPA.
142 Article 39(6) IPA
143 Article 65(16) and 90(3) b IPA; ECRE Report, *The Role of EASO Operations in National Asylum Systems,* November 2019, available at: https://bit.ly/39JFEDI.
144 ECRE, *The Role of EASO Operations in national asylum systems*, November 2019, available at: https://bit.ly/3cSt5rs.
145 Established by L 4633/2019.

Persons entering Greece through the Greek-Turkish land border in Evros are subject to reception and identification procedures at the RIC of **Fylakio**, Orestiada, which is the only RIC that continues to operate as a closed facility. People transferred to the RIC in Fylakio are subject to a "restriction of freedom of movement" applied as a *de facto* detention measure, meaning that they remain restricted within the premises of the RIC for the full 25-day period. In some cases, in 2021, detention in the RIC exceeded one month, as an initial quarantine period is applied. More specifically, the National Public Health Organization (ΕΟΔΥ) conducts COVID-19 Rapid Tests to every newcomer, before entering the RIC. Following that and regardless of the result, a 14- or 10-days quarantine is imposed to all of them as a precaution. No registration by the RIS takes place before the end of the quarantine period. However, newcomers are formally recorded with their temporary data from the Border Guard Units before being put into quarantine.[146]

Depending on the number of arrivals, new arrivals, including families and children, once detected and apprehended by the authorities may first be transferred to a border guard police station or the pre-removal centre in **Fylakio**, where they remain in detention (so called 'pre-RIC detention') pending their transfer to the RIC **Fylakio**. Prolonged 'pre-RIC detention' has occurred in instances where new arrivals surpassed the accommodation capacity of RIC **Fylakio**.[147] Their detention "up to the time that [the person] will be transferred to Evros (**Fylakio**) RIC in order to be subject to reception and identification procedures", as justified in the relevant detention decisions, has no legal basis in national law (see Grounds for Detention). By the end of 2021, the period of pre-RIC detention has been limited to several days as far as GCR is aware. An isolation scheme is imposed to newcomers who are principally transferred to border guard police station or the pre-removal center. A quarantine within the RIC is sometimes not imposed if a Medical Note of the doctor of the Health Unit (AEMY) present in the pre-removal center demonstrates that the individuals do not show any COVID symptoms by the day they are transferred to the RIC,

According to official data, as of 31 December 2020 the capacity of **Fylakio** RIC was 282 places, while at the same date there were 259 persons remaining there.[148] Such data is not available for 2021.

Information on the number of persons registered by the Fylakio RIC in 2021 is not available.
After the maximum period of 25 days, or in some cases more than 25 days, newly arrived persons are released, with the exception of those referred to pre-removal detention facilities, where they are detained further in view of removal. Certain persons might exceptionally be released even before the period of 25 days. Upon release, asylum seekers from **Evros** are not referred by the State to open reception facilities, with the exception of vulnerable cases.

As reported in February 2021 by Human Rights 360 "In the framework of the abolishment of protective custody for the unaccompanied minors and the acceleration of their placement into suitable shelters, the Special Secretary for the Protection of Unaccompanied Minors, Irene Agapidaki, stated that the unaccompanied minors should be registered during the first day that they enter the RIC and before their 14-day quarantine. However, the fear of the spread of COVID-19 and the caution of the registration officers, puts the application of the above decision in danger, as up until now, newly arrived UASCs and the rest of the people are being placed in a 14-day quarantine before their registration at the RIC.".[149] Moreover, according to the said report "the provision of article 43 of Law 4760/2020 regarding the abolishment of protective custody does not clarify the legal status of the unaccompanied minors

146 Human Rights 360, The European and national asylum policy at the land borders of Evros, 18 February 2021, available at: https://bit.ly/3Jic757.
147 Communication from the UNHCR (15.5.2019) in the M.S.S. and Rahimi groups v. Greece (Applications No.30696/09, 8687/08), available at: https://bit.ly/39PPbt7.
148 Information provided by the Reception and Identification Service, 26 February 2021.
149 Human Rights 360, The European and National Asylum Policy at the land borders of Evros, 18 February 2021, available at: https://bit.ly/3vpE9Fd

currently present at the RIC of Fylakio and who continue to stay there until the placement in a suitable shelter is completed. The problem arises particularly when the obligatory 14-day quarantine is applied as a measure against the spread of Covid19 and the procedures of the RIC follow under the new unified registration system, in anticipation of the placement to appropriate accommodation facilities. In most cases like these, unaccompanied minors stay at the RIC of Fylakio considerably longer than the 25-day time limit in which the procedures are supposed to be completed."[150]

During 2021 the waiting period for the placement of UAMs being in a 'restriction of liberty status' (namely in protective custody or in the RIC) to shelters for minors has significantly decreased. More specifically, according to the official data available the average waiting time for the placement has been 4.7 days. However, it is underlined that the average waiting time for the placement of UAMs in protective custody was 1.26 days in 2021.[151] Transfers to shelters for minors might be conducted with certain delays which may reach up to 2-3 months.

3. Registration of the asylum application

Indicators: Registration

1. Are specific time limits laid down in law for making an application? ☐ Yes ☒ No
   - ❖ If so, what is the time limit for lodging an application?
2. Are specific time limits laid down in law for lodging an application? ☐ Yes ☒ No
   - ❖ If so, what is the time limit for lodging an application?
3. Are registration and lodging distinct stages in the law or in practice? ☒ Yes ☐ No
4. Is the authority with which the application is lodged also the authority responsible for its examination? ☒ Yes ☐ No
5. Can an application be lodged at embassies, consulates or other external representations? ☐ Yes ☒ No

3.1. Rules for the registration and lodging of applications

Article 65 IPA transposes Article 6 of the recast Asylum Procedures Directive relating to access to the procedure.

As outlined below, Greek law refers to simple registration (*απλή καταγραφή*) to describe the notion of "registration" and full registration (*πλήρης καταγραφή*) to describe the notion of "lodging" of an application for international protection under the Directive.

Registration of applications for international protection ("*Καταγραφή*")

Article 65(1) IPA provides that any foreigner or stateless person has the right to "make" an application for international protection. In this case, the application is submitted before the competent receiving authorities, i.e. the Regional Asylum Offices (RAO), the Autonomous Asylum Units (AAU) or Mobile Asylum Units of the Asylum Service or the Regional Reception and Identification Services,[152] depending on their local jurisdiction, which shall immediately proceed with the "full registration" (*πλήρης*

150 *Ibid.*
151 Data available to GCR by the Special Secretariat for the Protection of Unaccompanied Minors of the Ministry of Migration and Asylum.
152 Articles 63(d) as amended by Article 5 L. 4686/2020 and 65(1) IPA as amended by Article 6(1) L.4686/2020.

καταγραφή) of the application. In case of urgent need, the Asylum Service may be supported by Greek-speaking personnel provided by EASO for the registration of applications.

Following the "full registration" of the asylum claim,[153] the application for international protection is considered to be lodged (*κατατεθειμένη*).[154]

IPA foresees that the time limit in which such a full registration should take place, should not exceed 15 days. More precisely, according to the IPA, where "for whatever reason" full registration is not possible, following a decision of the Director of the Asylum Service, the Receiving Authorities may conduct a "basic registration" (*απλή καταγραφή*) of the asylum seeker's necessary details within 3 working days, and then proceed to the full registration by way of priority within a period not exceeding 15 working days from "basic registration".[155] In such a case, the applicant receives upon "basic registration" a document indicating his or her personal details and a photograph, to be replaced by the International Protection Applicant Card upon the lodging of the full application.[156]

According to the IPA, 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.[157] However, in practice in order for an asylum application to be properly lodged, the applicant should lodge an application in person before the Asylum Service.

For third-country nationals willing to apply for asylum while in detention or under reception and identification procedures, the detention authority or RIS must register the intention to apply on an electronic network connected to the Asylum Service no later than within 3 working days under the IPA.[158]

Moreover, according to the IPA, the lodging of the application with the Receiving Authorities must be carried out within 7 working days after the "basic registration" by the detention authority or the RIS.[159] In order for the application to be fully registered, the detainee is transferred to the competent RAO or AAU.[160]

Lodging of applications ("*Κατάθεση*")

No time limit is set by law for lodging an asylum application. Article 78 IPA transposes Article 13 of the recast Asylum Procedures Directive that refers to applicants' obligations and foresees that applicants are required to appear before competent authorities in person, without delay, in order to submit their application for international protection.

Applications must be lodged in person,[161] except under *force majeure* conditions.[162] According to the IPA, the lodging of the application must contain *inter alia* the personal details of the applicant and the full reasons for seeking international protection.[163]

153 Article 65(1) IPA as amended by Article 6(1) L.4686/2020.
154 Article 65(3) IPA.
155 Article 65(2) IPA as amended by Article 6(2) L.4686/2020.
156 *Ibid*.
157 Article 65(9) IPA.
158 Article 65(7) (b) IPA as amended by article 6(3) L.4686/2020.
159 *Ibid.*
160 *Ibid.*
161 Article 65(6) IPA.
162 Article 78(3) IPA.
163 Article 65(1) IPA as amended by Article 6(1) L.4686/2020.

For those languages where a Skype line is available, an appointment through Skype should be fixed by the applicant before he or she can present him or herself before the Asylum Service in order to lodge an application.

As a general rule, the IPA foresees that the asylum seeker's card, which is provided to all persons who have been fully registered i.e., lodged their application, is valid for 1 year, which can be renewed as long as the examination is pending.[164] However, asylum seekers' cards for applicants remaining on the islands of **Lesvos**, **Samos**, **Chios**, **Leros**, **Kos** and **Rhodes** subject to a "geographical limitation" are valid for 1 month, which can be also renewed.

Moreover, the IPA provides for a number of cases where the asylum seeker's card can be valid for shorter periods. Thus, the validity of an asylum seeker's card can be set for a period:

- No longer than 3 months, in the case that the applicant belongs to a nationality with a recognition rate lower than 35% in accordance with the official EU statistics and by taking into consideration the period for the issuance of a first instance decision expected; [165]
- No longer than 30 days, in the case that the communication of a decision or a transfer on the basis of the Dublin Regulation is imminent;[166]
- No longer than 30 days, in the case that the application is examined "under absolute priority" or "under priority", under the accelerated procedure, under Art. 84 (inadmissible) or under the border procedure.[167]

In 2021, the Asylum Service registered 28,320 applications for international protection, mainly lodged by Afghans (4,618) and Pakistanis (4,273).[168] 43% of the total number of asylum applicants (12,397) lodged applications in Attica. An important shift occurred in the Eastern Aegean, as only 22% of the total number of claims (6,320) were lodged on the islands. **Lesvos** accounted for most new applicants (3,219), followed by **Kos** (1,219), **Samos** (967) and **Chios** (667). 3,123 asylum seekers were registered in Fylakio, **Evros**.[169]

Applicants from countries such as Turkey and Eritrea have no access to the Skype service. As a result, they have no procedural channels to access the asylum procedure in the Attica region. These applicants face prolonged delays with regard to registration. In cases followed by RSA, asylum seekers from Turkey remain unregistered for many months despite several unsuccessful attempts to appear before the RAO in person and interventions from their legal representatives.[170]

Role of EASO (now EUAA) in registration[171]

EASO (now EUAA) deploys Registration Assistants to support the Greek Asylum Service in charge of registration across the territory[172]. Registration Assistants are almost exclusively locally recruited interim

164 Article 70 (1) IPA as amended by article 21(1) L.4825/2021, Gazette 157/ A/ 4.9.2021.
165 Article 70 (2) IPA
166 Article 70(3) IPA
167 Article 70 (4) IPA as amended by Article 8(1) L.4686/2020
168 Information published by the Asylum Service 31 December 2021, available at https://bit.ly/3KW2A4W.
169 Ministry of Migration and Asylum, Reply to parliamentary question by KINAL, 97157/2022, 17 February 2022, available at: https://bit.ly/3HiYIsF.
170 RSA & Stiftung PRO ASYL, *Submission in M.S.S. and Rahimi v. Greece*, April 2021, available at: https://bit.ly/3qH8Q8h.
171 It should be noted that Regulation 2021/2023 entered into force on 19 January 2022, transforming EASO into the EU Agency for Asylum (EUAA).
172 Article 65 (16) IPA

staff, not least given that, in countries such as Greece, citizenship is required for access to the database managed by the police (*Αλκυόνη*) which is used by the Asylum Service.

In 2021, EASO carried out 10,989 registrations in Greece. Of these, 87% related to the top 10 citizenships of applicants and in particular Afghans (3,015), Bangladeshis (1,989), Syrians (840), Pakistanis (835) and Somalis (742).[173]

3.2. Access to the procedure on the mainland

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

The Ombudsperson has constantly highlighted that accessing the asylum procedure through Skype is a "restrictive system, which appears to be in contrast with the principle of universal, continuous and unhindered access to the asylum procedure". According to the Ombudsperson, the Skype system has become part of the problem, rather than a technical solution.[174]

The UN Committee Against Torture, in its concluding observations on the seventh periodic report of Greece (September 2019), highlighted the fact that access to asylum on the mainland remains problematic, largely due to difficulties in accessing the Skype-based appointment system in place for registration, which has limited capacity and availability for interpretation and recommended to the State party to "reinforce the capacity of the Asylum Service to substantively assess all individual applications for asylum or international protection".[175] Said observations were confirmed by Greek NCHR in September 2020,[176] and are still valid for 2021.

In 2021 there was a considerable increase in the number of applications lodged on the mainland compared to 2020[177]. 43% of the total number of asylum applicants (12,397 out of 28,360) lodged applications in Attica and only 22% on the Eastern Aegean islands. According to GCR's observations access to asylum on the mainland continued to be highly problematic and often completely impossible throughout 2021.

The Skype line was available in 17 languages for 29 hours per week for access to the Asylum Service on the mainland and on the Eastern Aegean Islands for some specific languages. The detailed registration schedule through Skype was available on the Asylum Service's website. However, at the end of March 2022, it was available only in Greek.[178] This procedure raises several obstacles for applicants insofar as it presupposes that they have access to a smartphone with a working camera, access to Wi-Fi or money for data, strong signal and the technical knowledge to download, install and use the app.

Deficiencies in the Skype appointment system, stemming from limited capacity and availability of interpretation and barriers to applicants' access to the internet, hinder the access of persons willing to

173 Information provided by EUAA, 28 February 2022.
174 See e.g. Greek Ombudsman, *Special Report*: *Migration flows and refugee protection*, April 2017.
175 UN Committee Against Torture, Concluding Observations on the seventh periodic report of Greece, 3 September 2019, CAT/C/GRC/CO/7, available at: https://bit.ly/39Sp8la.
176 NCHR, Available in Greek at: https://bit.ly/3aLsA3m, 57.
177 In 2020 18,680 applications out of a total of 40,559 were registered on the mainland.
178 Schedule for the registration of requests for international protection as from Monday 02-08-2021, available at: https://bit.ly/3Nelt5a.

apply for asylum to the procedure. Consequently, prospective asylum seekers frequently have to try multiple times, often over a period of several months, before they manage to get through to the Skype line and to obtain an appointment for the full registration of their application, meanwhile facing the danger of a potential arrest and detention by the police. They are deprived of the assistance provided to asylum seekers, including reception conditions and in particular access to housing. Moreover, even if an appointment for full registration is scheduled via Skype, in the meantime the applicant is not provided with any document in order to prove that he/she has already contacted the Asylum Service and he/she faces arrest and detention in view of removal. The ineffectiveness of access to the procedure through the Skype service was reiterated by the Greek Ombudsman in January 2021.[179]

GCR encountered cases of applicants being detained during 2021 because they lacked legal documentation either due to the fact that they did not manage to get a Skype appointment or that they did not possess any document proving that he/she had already fixed an appointment with the Asylum Service for registration through Skype, as such documents do not exist.

Additionally, since the start of June 2020, an electronic system for the full "self-registration" of the asylum application has been launched by the Asylum Service.[180] However, that option was available only for persons whose intention to apply for asylum (βούληση) was already officially registered. This is the case of persons whose application is already pre-registered either by the Reception and Identification Service (RIS) when they entered Greece or by the Hellenic Police during an administrative detention period or by the Asylum Service via Skype and the application has not been fully registered yet. Thus, the system does not address the endemic and longstanding lack of access to the asylum procedure on the mainland. Moreover, following the "self-registration", applicants are not informed on the next steps they have to follow concerning their asylum procedure. More precisely, after the self-registration is completed, no information is provided on whether an appointment for the provision of the asylum seeker's card or for the interview before the Asylum Service has to be fixed. GCR is aware of cases of people who were "self-registered" and then had to have a new appointment fixed for the "full registration" before the Asylum Service "due to technical issues of the electronic self-registration" as reported by the competent RAO.

On 22 November 2021, a Circular from the Secretary General of Immigration Policy of the Ministry of Migration and Asylum,[181] as well as a Clarification by the Commander of the Asylum Service,[182] were released announcing a major change of the procedure to access asylum in Greece. According to the Circular all persons entering Greece or already residing in Greece without documentation who cannot prove their identity and nationality through a document from a Greek authority would be subject to reception and identification procedures as outlined in Article 39 of IPA. That is to undergo pre-registration at one of six Reception and Identification Centers, only one of which is situated on the mainland, at Orestiada in the **Evros** region, while all others are situated on the islands of **Samos**, **Chios**, **Leros**, **Kos** and **Lesvos**. According to the Clarification, the Skype system will no longer be used for first instance applications but will continue to be used for subsequent applications. It also stated that only unaccompanied minors are excluded from the procedure defined in the Circular, meaning that they still can register their application for international protection before all competent receiving authorities. Other vulnerable groups can be excluded only if they provide documentation proving their vulnerability. According to GCR's observations, in most of the cases, only documents issued from public hospitals were accepted by the Asylum Service as proof of vulnerability.

179 Greek Ombudsman, Letter to the Asylum Service, 290565-291571/2367/2021, 15 January 2021.
180 Asylum Service, Electronic self-registration available at: https://bit.ly/332MF0K, Login instructions can be found here: https://bit.ly/2S64ABu
181 Available in Greek at: https://bit.ly/3JqetzP.
182 Available in Greek at: https://bit.ly/3D9WsDG.

Local residents and MPs of the major opposition party strongly opposed to this change, as it implied that people who arrive at any point in Greece should be transferred to RIC on Western Aegean islands, despite government promises of lowering the number of people seeking asylum on these islands.[183] UNHCR officials, NGOs and civil society actors also voiced concerns of the inhuman treatment of asylum seekers who are deprived of their right to access fair and efficient asylum procedures and who are concurrently forced into prison-like structures.[184]

On 24 November 2021 the Circular by the Ministry of Migration and Asylum and the Clarification by the Commander of the Asylum Service were re-issued.[185] They clarified that those who arrive via the Aegean Sea will register their application before the RIC on the islands, meaning that the access to the asylum procedure on the islands remains largely unchanged. However, all those who enter via the mainland will be registered in undisclosed "designated spots" on the mainland. They also cite the use of Article 39 (4) IPA, which outlines *de facto* detention of people seeking asylum for the purpose of registering an asylum claim.

Although asylum seekers are able to register an asylum claim at **Evros** Fylakio RIC, this is not safe nor feasible in reality. The facility is overcrowded and not have the capacity to register an increased number of asylum claims, as a result of which asylum seekers risk to be sent to the nearby Pre-removal Detention Center. It must be noted that 2021 was the first year that more people arrived to Greece via land routes than via the sea, with 53% of new arrivals reaching Greece via the mainland.[186] Moreover, it is highly unsafe to travel without any documentation in order to reach the facility.

The Commander of the Asylum Service confirms there will be two sites on mainland Greece for the registration of asylum applications, one in the North and one in the South, but the location is yet to be decided, causing additional concern as to when access to asylum will again be possible on mainland.

In practice, the majority of people on mainland Greece did not have access to asylum starting from 22 November 2021 up to the time of publication of the report.

In 2021 the Asylum Service suspended the reception of the public several times within the framework of Covid-19 preventive measures (see below), which resulted in considerable delays concerning full registrations.

3.3. Access to the procedure from administrative detention

Access to the asylum procedure for persons detained for the purpose of removal is highly problematic. The application of a detained person having expressed his or her wish to apply for asylum is registered only after a certain period of time. The person remains detained between the expression of the intention to seek asylum and the registration of the application, by virtue of a removal order. He is deprived of any procedural guarantees provided to asylum seekers,[187] despite the fact that according to Greek law, the person who expresses his/her intention to lodge an application for international protection is an asylum seeker. Since the waiting period between expression of intention and registration is not counted

183 Available in Greek at: https://bit.ly/352FDxE.
184 The Guardian, “Refugees forced to claim asylum in ‘jail-like’ camps as Greece tightens system”, 1 December 2021, available at: https://bit.ly/3Is6H7e.
185 Available in Greek at: https://bit.ly/3JyGCou.
186 See 'Operational data portal, Greece' on UNCHR website, available at: https://bit.ly/3noy4qY.
187 Global Detention Project & Greek Council for Refugees, Joint Submission to the Working Group on Arbitrary Detention in Preparation for its Mission to Greece in December 2019, Submitted in October 2019, available at: https://bit.ly/2TRYmna.

in the Duration of Detention, asylum seekers may be detained for a total period exceeding the maximum detention time limit for asylum seekers.[188]

The findings of the UN Working Group on Arbitrary Detention in 2019 are still valid.[189] The UN working group "observed that many detainees did not understand their right to apply for asylum and the corresponding procedure, with some individuals incorrectly believing that the process was initiated when they were fingerprinted. There was no established scheme for providing legal aid during the first-instance asylum application, and interpretation was not consistently provided, with asylum seekers relying on second-hand information from fellow applicants. The Working Group was informed that no information was provided by the police to detainees on their right to apply for international protection or on the procedural stages, and that such information was provided by non-governmental actors only."

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

3.4. Suspension of access to the Asylum Procedure due to COVID-19 measures

Within the framework of the measures taken for the prevention of the spread of the COVID-19, since 1 January 2021 all RAOs only served urgent registrations, as well as notification of decisions, lodging of appeals, delivery of travel documents and deposition of Dublin documents until 5 November 2021. A specific number of interviews took place only for applicants whose appointments had been already scheduled through official interview invitations.

C. Procedures

1. Regular procedure

1.1. General (scope, time limits)

Indicators: Regular Procedure: General

1.	Time limit set in law for the determining authority to make a decision on the asylum application at first instance:	6 months
2.	Are detailed reasons for the rejection at first instance of an asylum application shared with the applicant in writing?	☒ Yes ☐ No
3.	Backlog of pending cases at first instance as of 31 December 2021:	31,787
4.	Average length of the first instance procedure in 2021:	Not available

The Asylum Service received 28,320 new applications in 2021, which amounts to a decrease of 30.07% compared to 2020.[190] Out of the 28,320 new applications, 6,050 were examined under the Fast-Track

188 Communication from the UNHCR (15.5.2019) in the M.S.S. and Rahimi groups v. Greece (Applications No.30696/09, 8687/08).

189 Report of the Working Group on Arbitrary Detention Visit to Greece 2 - 13 December 2019, A/HRC/45/16/Add.1, 29 July 2020, available at: https://bit.ly/3dPiHSX , para. 61-62

190 Ministry of Migration and Asylum, Reports, available at: https://bit.ly/3HJyKhY.

Border Procedure.[191] According to data provided by the Ministry of Migration and Asylum, a total 31,787 applications were pending by the end of 2021.[192]

According to the IPA, an asylum application should be examined "the soonest possible" and, in any case, within 6 months, in the framework of the regular procedure.[193] This time limit may be extended for a period not exceeding a further 3 months, where a large number of third country nationals or stateless persons simultaneously apply for international protection.[194] According to the new IPA, in any event, the examination of the application should not exceed 21 months.[195]

Where no decision is issued within the maximum time limit fixed in each case, the asylum seeker has the right to request information from the Asylum Service on the timeframe within which a decision is expected to be issued. As expressly foreseen in the IPA, "this does not constitute an obligation on the part of the Asylum Service to take a decision within a specific time limit."[196]

Decisions granting status are given to the person of concern in extract, which does not include the decision's reasoning. According to the IPA, in order for the entire decision to be delivered to the person recognised as a beneficiary of international protection, a special legitimate interest (*ειδικό έννομο συμφέρον*) should be proven by the person in question.[197]

Duration of procedures

However, and despite the significant decrease in the number of new asylum applications registered in 2021 and the number of first instance decisions issued during the year, significant delays occur in processing applications at first instance if the total number of pending applications is taken into consideration, i.e. applications registered in 2020 and applications registered in previous years and still pending by the end of 2021. More precisely, more than half of the applications pending at first instance at the end of 2021 (58.08%), had been pending for a period over 12 months since the day they were registered (18,463 out of the total 31,787 applications pending at the end of 2021). In 14,390 pending cases (out of the total 31,787) the interview had not taken place by the end of the year. Instead, the personal interview has been rescheduled in the upcoming years as follows:[198]

- 10,368 pending cases will be interviewed in 2022 (i.e. 32.61% of the total pending cases)
- 3,311 cases will be interviewed in 2023 (i.e. 10.41% of the total)
- And 711 cases will be interviewed after 2023 (2.2% of the total).

1.2. Prioritised examination and fast-track processing

The IPA that entered into force on 1 January 2020 sets out two forms of prioritised examination of asylum applications.

First, the Asylum Service shall process "by way of absolute priority" claims concerning:

(a) Applicants undergoing reception and identification procedures who do not comply with an order to be transferred to another reception facility;[199]

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191 Ministry of Migration and Asylum, *Reply to parliamentary question by KINAL, 97157/2022*, 17 February 2022, available in Greek at: https://bit.ly/3HiYIsF.
192 *Ibid*.
193 Article 83(3) IPA.
194 *Ibid*.
195 Article 83(3) IPA.
196 Article 83(6) IPA.
197 Article 69(5) IPA
198 Ministry of Migration and Asylum, *Reply to parliamentary question by KINAL, 97157/2022*, 17 February 2022, available in Greek at: https://bit.ly/3HiYIsF.
199 Articles 39(1) and 83(7) IPA, citing Article 39(10)(c) IPA.

(b) Applicants who are detained.[200]

Processing by way of "absolute priority" means the issuance of a decision within 20 days.[201]

Second, the law provides that an application may be registered and examined by way of priority for persons who:[202]

(a) Belong to vulnerable groups, insofar as they are under a "restriction of liberty" measure in the context of Reception and Identification procedures;
(b) Fall under the scope of the Border Procedure;
(c) Are likely to fall within the Dublin Procedure;
(d) Have cases which may be considered as manifestly unfounded;
(e) Represent a threat to national security or public order; or
(f) File a Subsequent Application;
(g) Come from a First Country of Asylum or a Safe Third Country;
(h) Have cases reasonably believed to be well-founded.

Since 2014 up until the first half of 2021, Syrians and stateless persons were eligible to a fast-track procedure examining their cases and often resulting in the granting of refugee status. This applied to those with a former residence in Syria who could provide original documents such as passports, or who had been identified as Syrians/persons with a former residence in Syria within the scope of the Reception and Identification Procedure; provided that the EU-Turkey Statement and the Fast track border procedure did not apply to their cases.[203] However, the Joint Ministerial Decision 42799/2021 issued in June 2021, pursuant to Article 86 of L. 4636/2019, provides Turkey as safe for applicants from Syria, Afghanistan, Pakistan, Bangladesh and Somalia.[204] As a result, applications lodged by these categories of persons are now first channeled into the admissibility procedure to assess whether Turkey is a safe third country and whether their cases is admissible and should be examined on the merits (for more details, see also Safe Third Country).

1.3. Personal interview

Indicators: Regular Procedure: Personal Interview

1. Is a personal interview of the asylum seeker in most cases conducted in practice in the regular procedure? ☒ Yes ☐ No
   - ❖ If so, are interpreters available in practice, for interviews? ☒ Yes ☐ No
2. In the regular procedure, is the interview conducted by the authority responsible for taking the decision? ☒ Yes ☐ No
3. Are interviews conducted through video conferencing? ☒ Frequently ☐ Rarely ☐ Never
4. Can the asylum seeker request the interviewer and the interpreter to be of a specific gender? ☒ Yes ☐ No
   - If so, is this applied in practice, for interviews? ☒ Yes ☐ No

According to the IPA, the personal interview with the applicant may be omitted where:[205]

a) The Asylum Service is able to take a positive decision on the basis of available evidence;

200 *Ibid*, citing Article 46(8) IPA.
201 *Ibid*.
202 Articles 39(2) and 83(7) IPA.
203 Information provided by the Asylum Service, 31 March 2021.
204 JMD 42799/2021, Gov. Gazette 2425/B/7-6-2021.
205 Article 77(7) IPA.

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.

Moreover, the IPA foresees that when the applicant is not in the position to continue the interview for reasons attributable to him/her "the interview is terminated". In this case, the applicant is provided with the opportunity to submit a written memo and supplementary evidences within 5 days.[206] According to the IPA, the omission of a personal interview does not adversely affect the in merits decision on the application in which the reasons for omitting the interview should be stated.[207]

The IPA furthers provides that, where the interview has been scheduled within 15 days from the lodging of the application and where the applicant is vulnerable, the authorities provide him or her with reasonable time not exceeding 3 days to prepare for the interview and obtain counselling. The possibility to request reasonable time is not granted to asylum seekers who are not vulnerable or whose interview has been scheduled more than 15 days after the submission of the application.[208]

As mentioned in Regular Procedure: General, significant delays continued to be observed in 2021 with regard to the conduct of interviews.

Under the regular procedure, the interview takes place at the premises of the RAO on the designated day and is conducted by one caseworker. According to the IPA, the personal interview takes place without the presence of the applicant's family members, unless the competent Asylum Service Officer considers their presence necessary.[209] Moreover, the personal interview must take place under conditions ensuring appropriate confidentiality.[210] However, GCR and other civil society organisations express concerns relating to confidentiality in certain RAO or AAU due to the lack of appropriate spaces, lack of isolation and technical difficulties. As reported, this is for example the case in the RAO of **Lesvos**, in particular for the remote interviews that took place within the COVID-19 prevention measures,[211] and the RAO of **Samos** where interviews were conducted simultaneously in different spaces of the same container, which does not grant proper sound insulation and is not line with the principle of confidentiality.

The person conducting the interviews should be sufficiently qualified to take into account the personal or general circumstances regarding the application, including the applicant's cultural origin. In particular, the interviewer must be trained concerning the special needs of women, children and victims of violence and torture.[212] In case of female applicants, the applicant can request a case worker/interpreter of the same sex. If this is not possible, a note is added to the transcript of the interview.[213]

EASO's (now EUAA's) role in the regular procedure[214]

Following the amendments introduced by L 4540/2018, which have been maintained in the IPA,[215] EASO could be involved in the regular procedure,[216] while the EASO personnel providing services at

206 Article 77(7) IPA.
207 Article 77(9) IPA.
208 Article 77(4) IPA.
209 Article 77(10) IPA.
210 Article 77(11) IPA.
211 Diotima et alt., The conduct of (remote) asylum interviews on Lesvos, 8 December 2020, available at: https://bit.ly/3fxZ9oz.
212 Article 77(12)(a) IPA.
213 Article 77(5) IPA.
214 It should be noted that Regulation 2021/2023 entered into force on 19 January 2022, transforming EASO into the EU Agency for Asylum (EUAA).
215 Article. 65(16) IPA.
216 Article 65(16) IPA.

the Asylum Service premises were bound by the Asylum Service Rules of Procedure.[217] The main form of support provided by EASO caseworkers involved the conduct of interviews with applicants and drafting of opinions to the Asylum Service, which retained responsibility for issuing a decision on the asylum application. According to the relevant provision, said personnel involved in the regular procedure should be consisted by Greek speaking case workers.[218]

In 2021, the number of interviews carried out by EASO caseworkers further increased to 20,658 interviews. Of these, 94% related to the top 10 citizenships of applicants interviewed by EASO, in particular Afghanistan (9,649), Syria (1,937), Pakistan (1,760), Somalia (1,288), Bangladesh (1,272) and Iraq (1,088).[219]

However, the number of concluding remarks issued by EASO decreased to 9,230 in 2021. This is due to the fact that, following the new Joint Ministerial Decision designating Turkey as a safe third country for applicants from five of the most common countries of origin in Greece, the drafting of concluding remarks by EUAA caseworkers is no longer required for a large share of cases examined on admissibility.

Interviews conducted through video conferencing

According to GCR, interviews were regularly conducted through video conferencing in 2021, either with the interviewer or the interpreter (or often with both) participating through digital tools. This was particularly the case for applicants residing in camps on the mainland, who were interviewed without having to leave the camp, as well as in certain RAOs with certain interviewers being based in other RAOs. There have also been some cases where the interview was conducted remotely though telephone rather than through video conferencing.

At the beginning of the interview, the caseworker requests the applicants' consent for use of video-conferencing to carry out the interview. The applicant gives his/hertheir consent orally and it is recorded both in the audio recording of the interview as well as the written transcript. However, in 2021, applicants were not informed about possible consequences in case of refusal to use digital tools, such as rescheduling the interview at a later date. Other issues arising from the use of digital tools include technical issues such as poor internet connection and inadequate sound quality. Even under the best of conditions, video conferencing may negatively affect the quality of the interpretation and possibly the interview due to the loss of non-verbal communication cues.

1.3.1. Quality of interviews and decisions

Without underestimating the fact that the recognition rate of the first instance procedure remains high (in-merit decisions), a number of first instance cases to the knowledge of GCR, and *inter alia* the way the interview was conducted, the assessment of the asylum claims and/or the decisions delivered, corroborates concerns already expressed with regards a "deterioration in quality at first instance".[220]

Among other, examples of such cases in 2021 include:

- The case of a young Afghan man, whose application has been rejected on the basis of the incorrect use of country of origin (COI) information. Specifically, the first instance decision cites

217 Article 1(2) Asylum Service Director Decision No 3385 of 14 February 2018.
218 Article 65(16) IPA.
219 Information provided by EUAA, 28 February 2022.
220 AIDA, Report on Greece, 2019 Update, 58-59.

COI relating to an entirely different province of Afghanistan than the one where the applicant originates from.[221]

- The rejection of the credibility of an applicant from Turkey whose political activities and affiliation to an opposition party are rejected on the basis that he did not provide any details, although no relevant clarifying question were asked to him - and critical information provided by the applicant himself are pointedly ignored both during the interview and in the asylum decision.[222]

- The case of an applicant from Cameroon, member of the LGBTQI+ community. The medical documents submitted concerning the state of the applicant's physical and psychological health were not taken into account for the assessment of her credibility.[223]

1.3.2. Interpretation

The law envisages that interpretation is provided to the applicants for making their application, for submitting their case to the competent authorities, for conducting their interview and at stages at first and second instance.[224] In accordance to an amendment of the IPA in May 2020, in case that interpretation in the language of the choice of the applicant is proven to be not possible, interpretation is provided in the official language of the country of origin or in a language that the applicant may reasonably be supposed to understand.[225]

Interpretation is provided both by interpreters of the NGO METAdrasi and EASO's interpreters. The capacity of interpretation services remains challenging. The use of remote interpretation has been observed especially in distant RAO and AAU. Technical deficiencies and constraints should be taken into consideration when assessing the quality of remote interpretation. When it comes to rare languages, if no interpreter is available to conduct a direct interpretation from that language to Greek (or English in cases examined by EASO case workers), more interpreters might be involved in the procedure.

1.3.3. Recording and transcript

The IPA envisages audio recording of the personal interview. A detailed report is drafted for every personal interview, which includes the main arguments of the applicant for international protection and all its essential elements. Where the interview is audio recorded, the audio recording accompanies the report. For interviews conducted by video-conference, audio recording is compulsory. Where audio recording is not possible, the report includes a full transcript of the interview and the applicant is invited to certify the accuracy of the content of the report by signing it, with the assistance of the interpreter who also signs it, where present.[226] The applicant may at any time request a copy of the transcript, a copy of the audio file or both.[227]

1.3.4. Notification of First Instance Decisions

The IPA further introduced the possibility for first instance decisions not to be communicated in person to the applicant ('fictitious service' *πλασματική επίδοση*) or the first instance decision to be communicated to the applicant by administrative authorities other than the Asylum Service, which both

221 Decision in file with the author.
222 Decision in file with the author.
223 Decision in file with the author.
224 Article 77(3) IPA.
225 Article 69(3) IPA, as amended by L. 4686/2020.
226 Article 77(13)-(15) IPA.
227 Article 77(13)-(15) IPA.

may significantly underestimate the possibility of the applicant to be informed about the issuance of the first instance decision and/or the content of said decision and/or the possibility to lodge an appeal. Consequently, deadlines for submitting an appeal against a negative first instance decision may expire without the applicant being actually informed about the decision, for reasons not attributable to him/her. As the Greek Ombudsman has noted with regard to the provisions of fictitious service, said provisions effectively limit the access of asylum seekers to legal remedies.[228]

More precisely, according to the IPA, a first instance decision can be communicated:

- in person or;
- with a registered letter sent by the Asylum Service to the applicant or;
- by e-mail to the applicant or;
- by uploading the Decision on an electronic application managed by the Asylum Service or ;
- by communicating the decision to the authorized lawyers, consultants, representatives. To this regards it should be mentioned that According to the IPA, once a lawyer is appointed by the applicant at any stage of the procedure, the lawyer is considered as a representative of the applicant for all stages of the procedures, including the service of the decision regardless of the actual representation of the applicant at the time of the fictitious service, unless the appointment of the lawyer will be revoked by a written declaration of the applicant with an authenticated signature.[229]

In these cases the deadline for lodging the Appeal begins on the next day of the fictitious service, with the exception of the cases that the service of the decision is taking place with electronic means; in that case the deadline begins 48 hours after the dispatch of the electronic message.[230] According to Art. 83(2) IPA, together with the decision, a document in the language that the applicant understands or in language that they may reasonably be supposed to understand is also communicated to the Applicant, where the content of the document is explained in a simple language as well as the consequences of the decision and action he/she may pursuit. Alternatively, a link to the webpage of the Ministry of Migration and Asylum where relevant information is provided is mentioned to said document.

In cases that the Applicant remains in a Reception and Identification Center or remains detained in a detention facility, the Decision is sent to the Head of the RIC or the Detention facility, who announces the receipt of the Decision and the time schedule so that the Applicant presents himself/herself to receive the decision. The deadline for lodging an Appeal begins 3 days after the communication of the Decision to the Head of the RIC or the Detention Facility.[231]

No force majeure reasons should be invoked in order for a decision to be serviced with one of the ways described above. In case that the Applicant cannot be found/contacted with one of the means/ways described above and no lawyer has been appointed, the Decision is served to the Head of the RAO/AAU of the Asylum Service or the head of the RIC or the detention facility, and following this service of the Decision it is considered that the applicant took knowledge of the Decision.[232]

In practice, for applicants on the mainland among these procedures it is mainly the communication of first instance decisions by a registered letter or via e-mail which has been used by the end of the year. However, in these cases no proof of notification is provided to the applicant, with the exception of a handwritten note and the provision of an official document proving the date of the notification can only be provided by post upon the request of the applicant. Moreover, in these cases and as the communication is not made by the Asylum Service, provision for legal aid for the appeals procedure in

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

229 Article 71 (7) IPA.

230 Article 82(3) IPA, as amended by L. 4686/2020.

231 Article 82(4) IPA, as amended by L. 4686/2020.

232 Article 82(5) IPA, as amended by L. 4686/2020.

practice it is to be requested by the electronic application of the Ministry for Migration and Asylum,[233] which significantly hinders access for those not familiar with the use of electronic applications or who do not have access to the required equipment/internet. Moreover, in practice the notification of first instance decisions is also taking place by the Head of the RICs on the islands and Evros and the Head of Pre-removal detention facilities in Athens (Amigdaleza and Tavros). In both cases, inability of the applicants to understand the content of the communicated documents and the procedure they have to follow has been observed.

It has also been observed that in state accommodation facilities in Northern and Central Greece (where the asylum seekers address is evidently known to the State), as well as facilities on Northern Aegean islands, the Asylum Service has resorted to the 'fictitious service' of decisions, without trying to locate the applicants at their registered address, nor, in cases where the applicant is represented by a lawyer, reaching out to their lawyer. The now established practice of 'fictitious service' of decisions has resulted in the expiration of deadlines for submitting an appeal, thereby effectively depriving asylum seekers of their right to an effective remedy.

1.4. Appeal

Indicators: Regular Procedure: Appeal

1. Does the law provide for an appeal against the first instance decision in the regular procedure?
   ☒ Yes ☐ No
   - ❖ If yes, is it ☐ Judicial ☒ Administrative
   - ❖ If yes, is it suspensive ☐ Yes ☒ Some grounds ☐ No
2. Average processing time for the appeal body to make a decision: Varies

Since the entry into force of the IPA on 1 January 2020, the Independent Appeals Committees are the sole administrative bodies competent for the examination of Appeals lodged against first instance asylum decisions.

Establishment and Composition of the Independent Appeals Committees of the Appeals Authority

The legal basis for the establishment of the Appeals Authority was amended several times in recent years and has been further amended by the IPA.[234] More precisely and following an amendment in 2016, the composition of the Appeals Authorities was consisting of the participation of two active Administrative Judges in the new three-member Appeals Committees (*Ανεξάρτητες Αρχές Προσφυγών*) and a third member, holding a university degree in Law, Political or Social Sciences or Humanities with specialisation and experience the fields of international protection, human rights or international or administrative law.[235] According to the amendment introduced by the IPA, the three-member Appeals Committees are composed by three active Administrative Judges of First Instance Administrative Courts and Administrative Courts of Appeal. Moreover, a single member/Judge Committee has been introduced.[236]

233 See: https://applications.migration.gov.gr/ypiresies-asylou/.
234 More precisely, it was amended twice in 2016 by L 4375/2016 in April 2016 and L 4399/2016 in June 2016, in 2017 by L 4461/2017 and in 2018 by L 4540/2018; see AIDA Report on Greece, update 2019
235 Art. 5 L. 4375/2016 as amended; the third member is appointed by UNHCR or the National Commissioner for Human Rights if UNHCR is unable to appoint one. If both are unable, the (now) Minister for Migration Policy appoints one.
236 Article 116(2) and (7) IPA.

These amendments have been highly criticized and issues of unconstitutionality have been raised due to the composition of the Committees exclusively by active Administrative Judged *inter alia* by the Union of Administrative Judges,[237] and the Union of Bar Associations.[238] An Application for Annulment with regards *inter alia* the compliance with the Greek Constitution of the single member/Judge Appeals Committee has been filled by GCR before the Council of State in 2020. The hearing of the case is pending by the time of writing.

Moreover, and as mentioned above Appeals Committees are composed of active Administrative Judges of both First Instance and Appeal Administrative Courts. However, and following the entry into force of the IPA, the responsibility for judicial review of the second instance decisions issued by the Appeals Committees has been attributed to the First instance Administrative Courts and thus further issues of constitutionality may occur. In October 2020, the Council of State triggered its pilot procedure upon referral of three cases from the Administrative Court of Athens, supported by RSA, with a view to adjudicating on the constitutionality of the competence of Administrative Courts to judicially review decisions of the Appeals Committees, given that decisions of the second instance decisions on asylum applications may be – and often are – taken by Committees composed by higher-court judges (Administrative Judges of the Administrative Courts of Appeal).[239]

In October 2021, the Council of State held by majority that the competence of First Instance Administrative Courts to judicially review decisions of the Appeals Committees, even in cases where the second instance decisions on asylum applications are taken by Committees composed by higher-court judges, is constitutional.[240] Specifically, it considered that Appeals Committees are a "collective administrative body" which exercises "competences of a judicial function", and that judges participate therein not as judicial officials but as "state officials – members of independent authorities of the executive". First-instance administrative courts therefore judicially review decisions by executive bodies, not rulings by judicial officials. Accordingly, the judicial review carried out by lower judges of decisions taken by higher judges was not deemed contrary to the principle of judicial independence and impartiality.[241]

EASO's role at second instance

Since 2017, the law foresees that "in case of a large number of appeals", the Appeals Committees might be assisted by "rapporteurs" provided by EASO.[242] These rapporteurs have access to the file and are entrusted with the drafting of a detailed and in-depth report, that will contain a record and edit of the facts of the case along with the main claims of the appellant, as well as a matching of said claims (*αντιστοίχιση ισχυρισμών*) with the country of origin information that will be presented before the competent Committee in order to decide. [243] The IPA maintained the same tasks for "rapporteurs" provided by EASO. [244] However, according to the IPA, this is not only foreseen "in case of a large number of appeals". Article 95(4) IPA stipulates that each member of the Appeals Committee may be

237 Union of Administrative Judges, *Υπόμνημα Ενόψει της συζήτησης του σχεδίου νόμου του Υπουργείου Προστασίας του Πολίτη «Περί Διεθνούς Προστασίας και άλλες διατάξεις»*, 30 October 2019, available in Greek at: https://bit.ly/376ZGXW, para 8.

238 Union of Bar Associations, 'Επιστολή του Προέδρου της Ολομέλειας των Δικηγορικών Συλλόγων προς τον Υπουργό Προστασίας του Πολίτη για το σχέδιο νόμου για τη Διεθνή Προστασία', 25 October 2019, available in Greek at: https://bit.ly/32KGSKL.

239 Council of State, 'Γνωστοποίηση της υπ' αριθ. 19/12-10-2020 πράξης της Επιτροπής του άρθρου 1 παρ. 1 του ν. 3900/2010', 19 October 2020, available in Greek at: https://bit.ly/3kUeHSV; RSA, The Council of State pilot procedure on judicial review in the asylum procedure, 1 February 2021, available at: https://bit.ly/2R8uOTx.

240 Council of State, Decision Nr. 1580-1/2021, October 2021.

241 Council of State (Plenary), Decisions 1580/2021 and 1581/2021, 8 October 2021, para 14.

242 Article 62(6) L 4375/2016, as inserted by Article 101(2) L 4461/2017.

243 Article 62(6) L 4375/2016, Article 95(5) IPA.

244 Article 62(6) L 4375/2016, Article 95(5) IPA.

assisted by "rapporteurs" provided by EASO. On 31 December 2021, 20 Rapporteurs were assisting the Appeals Committees members pursuant to Art. 95(4) IPA.[245] Since they are seconded to the individual Committees, these Rapporteurs are not supervised or line-managed by EASO.[246]

Number of appeals and recognition rates at second instance

A total of 17,500 appeals were lodged in front of the Independent Appeals Committees in 2021.[247]

Appeals before the Independent Appeals Committees: 2021	
Nationality	Appeals lodged
Pakistan	3,963
Afghanistan	3,918
Syria	1,472
DRC	1,251
Albania	1,234
Iraq	1,070
Bangladesh	1,000
Other	3,592
Total	**17,500**

Source: Appeals Authority, 2022.

The Independent Appeals Committees took 15,958 decisions in 2021 out of which 11,059 on the merits:

Decisions on the merits by the Independent Appeals Committees: 2021		
Refugee status	Subsidiary protection	Rejection
730	1,133	9,196

Source: Appeals Authority, 2022.

The remaining decisions taken by the Appeals Committees concerned appeals rejected as inadmissible on formal grounds (532 cases) or due to the application of the safe third country concept or appeals filed after the expiry of the deadline etc.[248]

As it was also the case in the previous years,[249] the recognition rate at second instance remains significantly low in 2021. Out of the total in merits decisions, the rejection rate reached 83.15% in 2021 (91.75% in 2020), while the refugee recognition rate stood at 6.6% (2.8% in 2020 and the subsidiary recognition rate at 10.24% (3.28% in 2020).

Time limits for lodging an Appeal before the Appeals Committees

An applicant may lodge an Appeal before the Appeals Committees against a first instance decision of the Asylum Service rejecting the application for international protection.[250]

245 Information provided by the Appeals Authority, 11 March 2022.
246 ECRE, *The role of EASO operations in national asylum systems,* November 2019, available at: https://bit.ly/2VNULrd, 18
247 Information provided by the Appeals Authority, 11 March 2022.
248 Information provided by the Appeals Authority, 2022.
249 See: AIDA Report on Greece, 2020 Update.
250 Article 92(1) IPA.

An applicant may lodge an appeal before the Appeals Committees against the first instance decision of the Asylum Service rejecting the application for international protection as unfounded under the regular procedure, as well as against the part of the decision that grants subsidiary protection for the part rejecting refugee status, within 30 days from the notification of the decision or from the date he or she is presumed to have been notified thereof.[251] In cases where the appeal is submitted while the applicant is in detention, the appeal should be lodged within 20 days from the notification of the decision.[252]

Scope of the Appeal

According to Article 97(10) IPA, Appeals Committees conduct a full and *ex nunc* examination of the asylum application.[253] As per consistent case law, Committees have the power to carry out their own assessment of the evidence and elements of the file.[254] Contrary to this position, however, some Committees have declared themselves as lacking jurisdiction to examine issues such as the need of the applicant for special procedural guarantees, where the first instance authority has concluded that he or she is not vulnerable.[255]

Form of the Appeal

According to Article 93 IPA, the Appeal should *inter alia* be submitted in a written form and mention the "specific grounds" of the Appeal. If these conditions are not fulfilled the Appeal is rejected as inadmissible without an examination on the merits. Said provision has been largely criticized as severely restricting access to the appeal procedure in practice, and seems to be in contradiction with EU law, namely Article 46 of the recast Asylum Procedures Directive and Article 47 of the EU Charter of Fundamental rights. The requisites set by Article 93 IPA, in practice, can only be fulfilled when a lawyer assists the applicant, which is practically impossible in the majority of the cases, considering the gaps in the provision of free legal aid. *Inter alia* and as stated by the UNHCR, "[i]n some circumstances, it would be so difficult to appeal against a rejection that the right to an effective remedy enshrined in international and EU law, would be seriously compromised".[256] Moreover, as noted "the obligation for the applicant to provide specific reasons instead of simply requesting the *ex nunc* examination of his/her application for international protection, does not seem to be in accordance with the [Asylum Procedural Directive]".[257] During 2021, the number of the Appeals rejected pursuant to Article 93 IPA doubled in comparison to the 2020 (53 Decisions) yet still remained relatively low (110 Decisions) as the Appeals Committees interpreted broadly said provision and considered as admissibly lodged even Appeals written by the Applicants in his/her native language and without mentioning "specific grounds".

Suspensive effect

Appeals before the Appeals Authority had automatic suspensive effect in all procedures under the previous law.[258] The IPA has abolished the automatic suspensive effect for certain appeals,[259] in

251 Article 92(1)(a) IPA.
252 Article 92(1)(b) IPA.
253 Council of State (Plenary), Decision 1694/2018, 21 August 2018, para 19.
254 19th Appeals Committee, Decision 6219/2021, 25 May 2021, para 4; 12th Appeals Committee, Decision 56970/2021, 10 June 2021, para A.7; 11th Appeals Committee, Decision 59841/2021, 11 June 2021, para 7; 11th Appeals Committee, Decision 62800/2021, 14 June 2021, para 9; 3rd Appeals Committee, Decision 75059/2021, 18 June 2021, para II.2; 6th Appeals Committee, Decision 140330/2021, 21 July 2021, 12; 8th Appeals Committee, Decision 1592/2021, 21 July 2021, para 3; 12th Appeals Committee, Decision 233902/2021, 9 September 2021, 3.
255 6th Appeals Committee, Decision 2411/2019, 28 February 2020, para 10; 6th Appeals Committee, Decision 30955/2020, 18 May 2021, para II.4.
256 UNHCR, UNHCR urges Greece to strengthen safeguards in draft asylum law, 24 October 2019.
257 UN High Commissioner for Refugees (UNHCR), UNHCR Comments on the Law on "International Protection and other Provisions" (Greece) , February 2020, available at: https://bit.ly/31Oh4zm.
258 Article 104(1) IPA.
259 Article 104(2) IPA.

particular those concerning applications rejected in the accelerated procedure or dismissed as inadmissible under certain grounds. In such cases, the appellant may submit an application before the Appeals Committees, requesting their stay in the country until the second-instance appeal decision is issued. However, considering the significant lack of an adequate system for the provision of free legal aid, it is questionable if such appellants will actually be able to submit the relevant request. Suspensive effect covers the period "during the time limit provided for an appeal and until the notification of the decision on the appeal".[260]

More precisely according to Article 104 IPA[261], the appeal does not have an automatic suspensive effect in case of an appeal against a first instance decision rejecting the application as inadmissible:

i) in case that another EU Member State has granted international protection status;
ii) in case that another State, bound by *Regulation* (*EU*) No *604/2013* of the European Parliament and of the Council, has taken responsibility for the examination of the application for international protection, pursuant to the Regulation
iii) in virtue of the first country of asylum concept;
iv) the application is a subsequent application, where no new elements or findings have been found during the preliminary examination; in case of an appeal against a second subsequent asylum application, and in a number of cases examined under the Accelerated Procedure.

In its report "Comments on the Draft Law of the Ministry of Immigration and Asylum", the National Commission for Human Rights remarks that while the abolition of the automatic suspensive effect of an appeal against a decision rejecting an application for international protection is on principle in conformity with Union law, an appeal against a return or removal decision pursuant to Article 6 par. 6 or 8 par. 3 respectively of the Directive should automatically have a suspensive effect as this decision may expose the third country national to a real risk of treatment contrary to the Charter of Fundamental Rights of the European Union in conjunction with Article 33 of the Geneva Convention.[262] However, as put forward in the relevant FRA Opinion on "The recast Return Directive and its fundamental rights": "*If a return decision were to be implemented before a final decision on international protection, this would also undermine the right to asylum (Article 18 of the Charter) and the principle of non-refoulement (Article 19 of the Charter and Article 3 of the ECHR) as interpreted by the CJEU and the ECtHR in their respective case law. Closely connecting or merging the two procedural steps must not lead to the reduction of safeguards which are necessary to ensure that Articles 18 and 19 of the Charter are not circumvented*."[263]

The practice of Appeals Committees in the course of 2021 shows that the requirement of a separate request for suspensive effect under Article 104(2) IPA has introduced a superfluous procedural step, as the Committees systematically dismiss requests for suspensive effect as having no object (*άνευ αντικειμένου*), after having issued a positive or negative decision on the merits of the appeal.

In 2021, 4,653 requests were submitted to the Appeals Authority to stay in the country until the second-instance decision has been issued. During the reference period the Appeals Authority issued 4,476 second instance decisions rejecting requests for suspensive effect and ordering the removal of the appellant. [264]

260 Article 104(1) IPA.
261 Article 104 L. 4636/2019 as amended by Article 20 L. 4825/2021
262 National Commission for Human Rights, "Comments on the Draft Law of the Ministry of Immigration and Asylum", July 2021, available in Greek at: https://bit.ly/3v6QkZ2.
263 European Union Agency for Fundamental Rights (FRA), *The recast Return Directive and its fundamental rights implications, FRA Opinion – 1/2019* [Return], available at: https://bit.ly/3jk4aC0.
264 Information provided by the Appeals Authority, March 2022

Procedure before the Appeals Authority

Written procedure: According to the IPA, the procedure before the Appeals Committee is as a rule a written one and the examination of the Appeal is based on the elements in the case file.[265] According to the IPA, the Appeals Committees shall invite the appellant to an oral hearing when:[266]

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

Under the previous law (L 4375/2016), the appellant could also be invited to an oral hearing if the case presented particular complexity,[267] which is no longer the case.

The prohibition foreseen in Article 105 IPA on reverting cases back to the first instance has posed particular difficulties in cases rejected by the Asylum Service as inadmissible based on the Safe Third Country concept, since asylum seekers have only been interviewed on points relating to the "safe third country" concept and not on the merits of their claim. Appeals Committees have not adopted a consistent approach: while some order an oral hearing in order for the applicant to substantiate the application on the merits,[268] others proceed directly to an assessment of the case *sur dossier*. This has resulted in grants of subsidiary protection to applicants on the basis that they did not meet the criteria for refugee status, even though they had never been requested to provide information on the reasons for fleeing their country of origin e.g. Syria.[269] During 2021, 250 appellants were invited for an oral hearing before the Appeals Committees.[270]

Obligation of the Appellant to present in person before the Appeals Committees on the day of the examination: Despite the fact that the procedure before the Appeals Committees remains written as a rule, Articles 97(2) and 78(2) and (3) IPA impose the obligation to the appellant to personally appear before the Appeals Committee on the day of the examination of their appeals on penalty of rejection of their appeal as "manifestly unfounded".[271] This is an obligation imposed on the appellant even if he/she has not been called for an oral hearing.

In case the appellant resides in a RIC or Accommodation Centre, a written certification of the Head of the RIC or the Accommodation Centre can be sent to the Committee prior of the date of the examination, by which it is certified that he/she remains there. Said certification should have been issued no more than 3 days prior of the examination of the appeal; or an appointed lawyer can appear before the Committee on behalf of the appellant.

In case that a geographical limitation has been imposed to the appellant or an obligation to reside in a given place of residence, a declaration signed by the appellant and the authenticity of the signature of the appellant is verified by the Police or the Citizens Service Centre (KEP), can be sent to Committee, prior of the date of the examination. Said certification should have been issued no more than 3 days

265 Article 97(1) IPA.
266 Article 97(3) IPA.
267 Article 62(1)(d) L 4375/2016.
268 21st Appeals Committee, Decision 29458/2020, 19 November 2020; 10th Appeals Committee, Decision 22083/2020, 28 April 2021; 5th Appeals Committee, Decision 202299/2021, 25 August 2021; 21st Appeals Committee, Decision 364000/2021, 4 November 2021; 21st Appeals Committee, Decision 398486/2021, 19 November 2021.
269 5th Appeals Committee, Decision 12366/2020, 14 September 2020; 5th Appeals Committee, Decision 12365/2020, 2 October 2020; 21st Appeals Committee, Decision 28217/2020, 7 December 2020; 10th Appeals Committee, Decision 25173/2020, 19 November 2021; 20th Appeals Committee, Decision 29118/2020, 19 November 2021.
270 Information provided by the Appeals Authority, 2022.
271 Article 97(2) IPA.

prior of the examination of the appeal or an appointed lawyer can appear before the Committee on behalf of the appellant.

As noted, these provisions impose an unnecessary administrative obligation (in-person appearance of the applicant/lawyer as well as transmission of extra certifications) and further introduced a disproportionate "penalty", as the in merits rejection of the Appeals without examination of the substance, raises serious concerns with regard to the effectiveness of the remedy and the principle of non-refoulment. This obligation imposed by the IPA confirms the criticism that the new law on asylum "*puts an excessive burden on asylum seekers and focuses on punitive measures. It introduces tough requirements that an asylum seeker could not reasonably be expected to fulfill*".[272] As UNHCR has noted these provisions "are expected to have a negative impact on applicants' access to the second instance and the proper examination of their appeal, and as such seriously undermine the right to an effective remedy".[273]

From 1 January 2021 to 31 December 2021, 532 Appeals were rejected as "manifestly unfounded" on the basis of the above-mentioned provisions imposing the in-person appearance of the appellant or his/her lawyer before the Committee or the communication of a certification to the Committee.[274]

Examination under a single-member Appeals Committee/three members Appeals Committee: the IPA provides that appeals are examined under a collegial format by the three members Committee[275] or in a single judge format when it comes to appeals filed after the deadline as well as for certain appeals in the Accelerated Procedure and the Admissibility Procedure, which should thus be examined by a single-judge.[276] Following an amendment of the Regulation for the functioning of the Appeals Committees, issued in November 2020, the categories of cases examined under a single-judge format has been extended, as all appeals submitted by applicant residing in Lesvos, Samos, Chios, Kos, Leros are examined by a single judge committee irrespectively of the procedure applied.[277]

Issuance of a Decision: According to the law, the Appeals Committee must reach a decision on the appeal within 3 months when the regular procedure is applied.[278]

Following the amendment of the IPA in May 2020, the right to remain in the country is terminated once the second instance decision is issued, irrespectively of the time that the decision is communicated.[279] As noted by the UNHCR, "UNHCR is concerned that such amendment would allow for the removal of a person from the territory before a second instance decision is notified to him/her. The parallel notification of a negative appeal decision is also undermining the right to judicial protection […], as persons whose claims are rejected will not be able to submit an application for annulment or an application for suspension in practice, which could ultimately lead to a violation of the principle of non-refoulement. The deprivation of legal stay before a notification of a negative decision has further premature negative repercussions on the enjoyment of the rights of asylum seekers from which they are to be excluded only following the notification of negative decision (e.g. the right to shelter and cash assistance)".[280]

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272 UNHCR, UNHCR urges Greece to strengthen safeguards in draft asylum law, 24 October 2019.
273 UNHCR, UNHCR Comments on the Law on "International Protection and other Provisions" (Greece), *Ibid.*
274 Information provided by the Appeals Authority, 2021.
275 Article 116(2) IPA.
276 Article 116(2) IPA.
277 Art. 114, Ministerial Decision 26750, Gov. Gazette B' 4852/4 November 2020.
278 Article 101(1)(a) IPA.
279 Article 104(1) IPA, as amended by L. 4686/2020.
280 UN High Commissioner for Refugees (UNHCR), UNHCR Comments on the Draft Law "Improvement of Migration Legislation, amendment of provisions of Laws 4636/2019 (A' 169), 4375/2016 (A' 51), 4251/2014 (A' 80) and other Provisions", 12 June 2020, available at: https://bit.ly/3wtPV2V, 9.

Notification of second instance decision: Similarly, to the fictitious service at first instance, the IPA also provides the possibility of a fictitious service (*πλασματική επίδοση*) of second instance decisions as described above.[281] Once again, as a result of this provision on the possibility of a "fictitious" service of the second instance decision - which triggers the deadline for lodging an appeal - said deadlines for legal remedies against a negative second instance decision may expire without the applicant being actually informed about the decision. To this regards it should be noted that the IPA has reduced the deadline for lodging a legal remedy before Court against a second instance negative decision from a period of 60 days to a period 30 days from the notification of the decision (see Judicial review).[282] As noted by the Greek Ombudsman, already since the initial introduction of the possibility of a fictitious service in 2018, said provisions "effectively limit the access of asylum seekers to judicial protection" and even if "the need to streamline procedures is understandable ... in a state governed by law, it cannot restrict fundamental democratic guarantees, such as judicial protection".[283]

Persons whose asylum application is rejected at second instance no longer have the status of "asylum seeker",[284] and thus do not benefit from reception conditions.

1.4.1. Judicial review

According to the IPA, applicants for international protection may lodge an application for annulment (*αίτηση ακύρωσης*) of a second instance decision of the Appeals Authority Committees solely before the Administrative Court of First Instance of Athens or Thessaloniki[285] within 30 days from the notification of the decision.[286]

According to the IPA,[287] following the lodging of the application for annulment, an application for suspension/interim order can be filed. The decision on this single application for temporary protection from removal should be issued within 15 days from the lodging of the application.

The effectiveness of these legal remedies is severely undermined by a number of practical and legal obstacles:

- The application for annulment and application for suspension/interim order can only be filed by a lawyer. In addition, no legal aid is provided in order to challenge a second instance negative decision. The capacity of NGOs to file such application is very limited due to high legal fees. Legal aid may only be requested under the general provisions of Greek law,[288] which are in any event not tailored to asylum seekers and cannot be accessed by them in practice due to a number of obstacles. For example, the request for legal aid is submitted by an application written in Greek; free legal aid is granted only if the legal remedy for which the legal assistance is requested is not considered "manifestly inadmissible" or "manifestly unfounded".[289] As noted by the UN Working Group on Arbitrary Detention "[i]nadequate legal aid is provided for challenging a second instance negative decision on an asylum application, and the capacity of

281 Article 82 and 103 IPA, as amended by L. 4686/2020.
282 Article 109 IPA.
283 Ombudsman, *Παρατηρήσεις στο σχέδιο νόμου Προσαρμογή της Ελληνικής Νομοθεσίας προς τις διατάξεις της Οδηγίας 2013/33/ΕΕ (αναδιατύπωση 29.6.13) σχετικά με τις απαιτήσεις για την υποδοχή των αιτούντων διεθνή προστασία κ.ά. διατάξεις*, April 2018.
284 Article 2(c) IPA.
285 Article 108 and 115 IPA.
286 Article 109 IPA.
287 Article 15(6) L 3068/2002, as amended by Article 115 IPA.
288 Articles 276 and 276A Code of Administrative Procedure.
289 *Ibid*.

NGOs to file this application is very limited given the number of persons in need of international protection".[290]

- The application for annulment and application for suspension/interim order do not have automatic suspensive effect.[291] Therefore between the application of suspension/interim order and the decision of the court, there is no guarantee that the applicant will not be removed from the territory.

- The Administrative Court can only examine the legality of the decision and not the merits of the case.

- The judicial procedure is lengthy. GCR is aware of cases pending for a period of about two years for the issuance of a decision of the Administrative Court of Appeals following an application for annulment.

Moreover, according to Article 108(2) IPA, the Minister on Migration and Asylum, also has the right to lodge an application for annulment against the decisions of the Appeals Committee before the Administrative Court. In 2020, the Minister on Migration and Asylum lodged one Application for Annulment against a second instance decision of the Appeals Committees. The Appeals Committee ruled that an applicant for whom a decision to discontinue the examination of the asylum application due to implicit withdrawal has been issued, cannot be removed before the nine months period during which she can report again to the competent authority in order to request her case be reopened. The hearing of the case is still pending by the time of writing of this report.

A total of 433 applications for annulment before the Administrative Court of Athens and Thessaloniki were lodged against second instance negative decisions in 2021. By the end of the year, a total of 8 decisions had been issued on Applications for Annulments, all of which rejected the legal remedy.[292]

As mentioned above, the Council of State confirmed the competence of First Instance Administrative Courts to judicially review decisions of the Appeals Committees, in cases when the second instance decisions on asylum applications are taken by Committees composed by higher-court judges.[293] Consequently the examination of the Applications for Annulment before the First Instance Administrative Courts of Athens and Thessaloniki, has resumed.

1.4.2. Legal assistance

Asylum seekers have the right to consult, at their own cost, a lawyer or other legal advisor on matters relating to their application.[294]

Legal assistance at first instance

No state-funded free legal aid is provided at first instance, nor is there an obligation to provide it in law. A number of non-governmental organizations provide free legal assistance and counselling to asylum seekers at first instance, depending on their availability and presence across the country. The scope of

290 UN Human Rights Council, Report of the Working Group on Arbitrary Detention, Addendum: Mission to Greece, 29 July 2020, A/HRC/45/16/Add.1, available at: https://bit.ly/3dL8I0U, para. 85.
291 See e.g. ECtHR, *M.S.S. v. Belgium and Greece*, Application No 30696/09, Judgment of 21 January 2011.
292 Ministry of Migration and Asylum, Annual Factsheet 2021, available at: https://bit.ly/37tf5GC.
293 Council of State, Decisions Nr. 1580-1/2021, October 2021; Council of State, 'Γνωστοποίηση της υπ' αριθ. 19/12-10-2020 πράξης της Επιτροπής του άρθρου 1 παρ. 1 του ν. 3900/2010', 19 October 2020, available in Greek at: https://bit.ly/3kUeHSV; RSA, The Council of State pilot procedure on judicial review in the asylum procedure, 1 February 2021, available at: https://bit.ly/2R8uOTx.
294 Article 71(1) IPA.

these services remains limited, taking into consideration the number of applicants in Greece and the needs throughout the whole asylum procedure – including registration of the application, first and second instance, judicial review and the complexity of the procedures followed, in particular after the entry into force of the IPA. As noted by the UN Working Group on Arbitrary Detention "[t]he Working Group urges the Government to expand the availability of publicly funded legal aid so that persons seeking international protection have access to legal advice at all stages of the process, from the moment of filing their application until a final determination is made".[295]

Legal assistance at second instance

According to the IPA, free legal assistance shall be provided to applicants in appeal procedures before the Appeals Authority under the terms and conditions set in the Ministerial Decision 3686/2020.[296]

The first Ministerial Decision concerning free legal aid to applicants, was issued in September 2016.[297] However, the state-funded legal aid scheme on the basis of a list managed by the Asylum Service started operating, for the first time, on 21 September 2017.

According to Joint Ministerial Decision 3449/2021 regulating the state-funded legal aid scheme, asylum seekers must request legal aid at least: [298]

- 10 days before the date of examination of the appeal under the regular procedure,
- 5 days before the date of examination of the appeal under the Accelerated Procedure or the application has been rejected as inadmissible,
- 3 days before the date of examination of the appeal in case the appellant is in RIC or in case of revocation of international protection status.

When Article 90(3) IPA ("fast track border procedure") applies, the application for legal assistance is submitted at the time of lodging the appeal.[299] The decision also explicitly provides for the possibility of legal assistance through video conferencing in every Regional Asylum Office.[300] The fixed fee of the Registry's lawyers is €160 per appeal and €90 per overdue appeal.[301]

In practice and given the fact that as described above, first instance decisions may be notified to the applicants with a registered letter or other ways of notification and the fact that access of applicant to RAOs/AAU has been restricted during the year due to COVID-19 preventive measure, requests for legal aid at second instance can be mainly submitted on-line, by filling a relevant electronic form on the electronic application of the Ministry of Migration and Asylum.[302] This may pose additional obstacles to applicants not familiar with the use of electronic applications or who do not have access to the required equipment/internet.

However, as reported and on the basis of cases known to GCR, there were considerable obstacles during 2021 in the provision of free legal aid at second instance under the State managed legal aid scheme.

As reported by the National Commission for Human Rights in September 2020,

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295 UN Human Rights Council, Report of the Working Group on Arbitrary Detention, Addendum: Mission to Greece, 29 July 2020, A/HRC/45/16/Add.1, available at: https://bit.ly/3dL8I0U, para. 85.
296 Ministerial Decision 3686/2020, Gov. Gazette 1009/B/24-3-2020. MD 12205/2016 was repealed by MD 3686/2020 according to Article 6(2) MD 3686/2020.
297 Ministerial Decision 12205/2016, Gov. Gazette 2864/B/9-9-2016.
298 Joint Ministerial Decision 3449/2021, Gov. Gazette 1482/B/13-4-2021. MD 3686/2020, Gov. Gazette 1009/B/24-3-2020 was repealed by MD 3449/2021 according to Article 6(2) MD 3449/2021.
299 Article 1(3) MD 3449/2021.
300 Article 1(7) MD 3449/2021.
301 Article 3 MD 3449/2021.
302 See: https://applications.migration.gov.gr/ypiresies-asylou/.

> "*a basic problem, remaining over the time and which it has not been resolved in practice, despite the corrective actions of the Administration, is the limited capacity of covering all requests of appellants for free legal aid at second instance in line with national and EU law*".

The National Commission for Human Rights notes as "*worrying*", the information received by the registry of lawyers of the Asylum Service regarding

> "*an unusual dramatic reduction in the requests submitted for legal aid, after the entry into force of the IPA, as amended by L. 4686/2020. Amendments of the procedure for the notifications of first instance decision (fictitious service to the Head of the RAO/AAU and notification from RICs) and the digitalization of the procedure throughput the platform of the Asylum Service result in the inability of the asylum applicants to request on time free legal aid. Moreover, delays occur in the assignments of cases by the RAOs to Registry's lawyers, resulting in certain cases […] the assignment of the case to take place after the lodge of the appeal, with an imminent risk the appeal to be rejected as inadmissible*".[303]

At the beginning of 2021, NGOs present in the field raised concerns regarding the insufficient provision of information to applicants for international protection following the decision of the Regional Asylum Office of Lesvos to restart the delivery of rejection decisions without prior notice. This service, along with the deadline for the submission of appeals on first instance rejection decisions, was informally suspended in the aftermath of the fire that destroyed the Moria camp at the beginning of September 2020, and was subsequently resumed at the beginning of January 2021 "without any explanation or information being provided to the applicants".[304] Following concerns expressed by legal actors, the notification of first instance rejections was postponed until April 2021 due to a lack of legal assistance.[305] After April 2021, access to legal assistance was restored and first instance decision notifications resumed.

As indicated above, a total of 17,500 appeals were lodged in front of the Independent Appeals Committees in 2021. During the same period of time, only 11,045 appellants applied for (and received) free legal assistance under the terms and conditions set in the Ministerial Decision 3449/2021.[306] Since it is unlikely that the remaining 36.9% of appellants had either sufficient funds and/ or access to free legal provided by NGOs, the aforementioned discrepancy rather highlights the difficulties faced by applicants in accessing and securing state funded free legal aid in appeals procedure, as provided by law.

2. Dublin

2.1. General

Data regarding the Dublin procedure throughout 2021 were not available at the time of publication of the report.

303 National Commission for Human Rights, GNCHR Reference Report on the Refugee and Migrant Issue (Part B), September 2020, available at: https://bit.ly/3wzcNhm (in Greek), 61-62.

304 Legal Aid Organizations are seriously objecting regarding the lack of free legal aid to asylum seekers in Lesvos, available at: https://bit.ly/3daoV0C.

305 Ενημέρωση εξελίξεων σχετικά με το Δελτίο Τύπου 11.01.21 από την ομάδα εργασίας Legal Aid Working Group Lesvos, available in Greek : https://bit.ly/3oVmVxx.

306 Ενημέρωση εξελίξεων σχετικά με το Δελτίο Τύπου 11.01.21 από την ο μάδα εργασίας Legal Aid Working Group Lesvos, available in Greek : https://bit.ly/3oVmVxx.

	Outgoing Dublin requests: 2016 - 2021					
Year	2016	2017	2018	2019	2020	2021
Number	4,886	9,784	5,211	5,459	7,014	n/a

As the previous years, take charge requests addressed to EU member states within 2021 are handled based on the particularities established by the requested member states. More specifically, all outgoing requests are being made within the three-month deadline provided in the Regulation EU 604/2003, which starts counting from the moment an application for international protection is officially registered before the Asylum Service.

However, the **German** Authorities continue to implement the *Mengesteab* ruling of CJEU. Consequently, the German Dublin Unit counts the above-mentioned deadline from the moment the applicant expressed her/ his wish to seek international protection before the Police Authorities of the requesting Member State, meaning prior to the official registration of the request for international protection before the Asylum Service. In order to avoid receiving rejection letters based on this argument, the Greek Dublin Unit is trying to address the relevant take charge requests within the three-month time limit as of the time the wish to apply for international protection is expressed. For cases of family reunification requests that the Dublin Unit of Greece was informed three months after the person expressed her/his wish to seek international protection, but within three months from the registration of her/his claim, the Unit continues to proceed with the take charge request to the German Authorities under the non-discretionary Articles (8, 9, 10), considering the request to be addressed within the time limit set in the Regulation.

Another reason for rejecting a case is the interpretation of the CJEU judgment in Joined Cases C-47/17 and C-48/17by the Dublin Units of some Member States.[307] According to GCR's knowledge, the **German** Authorities continued to implement this judgment during 2021, by accepting only one re-examination request for each case. In practice, it has been observed that many re-examination requests addressed to the German Dublin Unit remain unanswered for a long period of time, which exceeds the two-week time limit mentioned in the CJEU judgment. The final response usually comes only after reminders are sent by the Greek Authorities. **France** also follows the same practice and rejects cases on this ground. In general, an extension of the deadline is requested if a DNA procedure is still pending and will not be completed within the two-week timeframe. This request is accepted by almost all Member States, apart from **Germany**, which might reject a re-examination request on the basis that the results proving the family link were not submitted in due time.

Regarding the cases for which no final answer on re-examination requests has being received, the Greek Dublin Unit tries to address reminders to the requested states, in order for an official response to be sent. However, if the cases remain pending for a considerable period of time, the Dublin Department of Greece acts internally by referring them to the regular procedure[308]. Re-examination requests addressed to the French authorities present a certain particularity, as it has been noticed that some remain unanswered for months, or even for years. Based on GCR's knowledge, no response has been received for some re-examination requests made in 2017, despite the efforts made by both the Greek Authorities and NGO's working on field to highlight the need for an answer to be provided. No general practice is followed on those cases, which end up examined on an *ad hoc* basis.

During 2021, the COVID-19 pandemic affected Dublin transfers (including those based on the family unity criteria) to a lesser extent compared to the previous year. Nevertheless, a limited access to regional Asylum Offices across the country was maintained in order to minimise the spread of the

307 CJEU, Joined Cases C-47/17 and C-48/17, X v. Staatssecretaris van Veiligheid en Justitie, Request for a preliminary ruling, Judgment of 13 November 2018, available at: https://bit.ly/2KpcqiA.

308 Information provided by the Dublin Unit, 19 February 2021.

pandemic and physical presence was allowed only after an online appointment was booked. Most of the administrative procedures could be completed through an online platform, launched by the Ministry of Migration and Asylum. Applications such as the submission of documents relevant to an individual's case and updating contact details, could also be completed only online. While this procedure aims to minimize the 'distance' between the applicants and the access to their case[309], in practice it has become almost impossible for people who lack the necessary language and technical skills to use these tools, in particular for those deprived access to basic necessities and assistance.

As opposed to 2020, the submission of family reunification requests under the Dublin III Regulation was not ceased. However, GCR is aware of cases for which the registration of asylum applications, and subsequently the submission of reunification requests, were delayed due to backlog of cases accumulated in previous years.

2.1.1. The application of the Dublin criteria

Family unity

In order for a "take charge" request to be addressed to the Member State where a family member or relative resides, the written consent of this relative is required, as well as documents proving her/his legal status 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). For cases of unaccompanied minors, the written consent of her or his guardian is required. Based on GCR's experience, an outgoing request will not be sent until the written consent of the relative and the documents proving the legal status in the other Member State have been submitted to the Greek Dublin Unit.

On the contrary, the non-existence of documents proving the family relationship between the applicant and the family member or relative with whom she/he wishes to be reunited, is not a sufficient reason for the request not to be sent. In such cases, the availability of circumstantial evidence is assessed (e.g. photographs of the applicant and the sponsor, statement of the sponsor describing her/his relationship with the applicant, transcript of the sponsor's interview before the authorities of the requested Member State, in which the details of the applicant are mentioned). These cases, though, have little chances to be accepted.[310]

Apart from the general criteria applied to every case falling under the Dublin III Regulation, particularities have been observed on the way the family unity criteria are applied depending on the Member State to which a take charge request is sent. **Germany** still refuses to undertake responsibility for applicants who cannot prove their relationship with the person they wish to be reunited with, while other states are taking into consideration any circumstantial evidence and might proceed with the conduction of interviews with the family members/ relatives.

Furthermore, according to GCR's experience, only documents in English or the official language of the requested member state seem to be taken into account by the Dublin Units of other Member States, thus making it more difficult for the applicants to provide those. **Germany**, **the Netherlands**, **Spain** and **Italy** are among the EU countries which request for the documents submitted to be translated in English. According to the information received by the Greek Dublin Unit, Afghan identification documents and documents provided by other nationals, such as Somali nationals, are not considered by Germany's BAMF as enough evidence to prove the family link, given that they could be easily forged. Despite the submission of the above-mentioned documents and circumstantial evidence, the **German** Authorities tend to reject more and more cases due to lack of DNA test results. **Spain** and **Irish** authorities though

309 The online application is available at: https://applications.migration.gov.gr/ypiresies-asylou/.
310 Information provided by the Greek Dublin Unit, 19 February 2021.

have taken it a step further, by rejecting every take charge request in which a DNA test result proving the relationship between the persons concerned is not available, regardless of the submission of identification documents. Therefore, the DNA procedure seems to be the only way for a family link to be considered as established by the particular Dublin Units. Other Member States, such as **Sweden** and **the Netherlands**, are requesting for DNA results proving the kinship, especially in cases of relatives for which articles other than 9 and 10 are applied However, this is not the common practice of other Member States, which consider the conduction of the DNA test to be the last resort.

Subsequent separation of family members which entered the Greek territory together and applied for international protection before the competent authorities, was the subject of the Asylum Service's circular 1/2020 which continued to be implemented throughout 2021. According to this circular, requests aiming to reunite family members or / and relatives who were subsequently separated will not be sent, and the case will be examined through the regular procedure. The same principle will apply for those cases in which a minor child was subsequently separated from its family, and travelled to another member state. The only exception is when another Member State specifically asks for a take charge request to be issued.

In any case, an assessment of the particularities of each case always precedes the referral to the regular procedure. Based on GCR's experience, such requests have been accepted by the authorities in **Sweden**, **Switzerland** and **Luxembourg**. In the case of a subsequent separation of family members handled by GCR in 2021, Sweden accepted the take charge request of a mother to be reunited with her minor child sent by the Greek Dublin Unit. In this particular case, the applicant and her minor arrived together in Greece and were registered by the Police Authorities, but they had not applied for international protection when their separation took place. Thus, the minor's asylum request was never registered by the Greek Asylum Service. As soon as the mother applied for asylum, she informed the authorities of the requesting member state of her wish to be reunited with her child who, at that moment, resided in Sweden.

On the contrary, German authorities have adopted a different approach on cases of subsequent separation. They continue to reject these requests, arguing that the family was together at the time the application for international protection was lodged (Article 7 par. 2 of the Regulation EU 604/2013) and that the humanitarian grounds of Article 17 (2) do not apply. They also sometimes argue that further consideration of such cases would undermine the meaning of the Dublin III Regulation, which is allegedly to 'prevent secondary movement'. As a result, the Greek Dublin Unit does not address take charge requests to Germany based on these criteria, unless there is enough evidence available to support such a case.

It is also difficult to establish a family relationship in cases of marriages by proxy, as they may not be recognised by the receiving state's domestic law. GCR is aware of at least one case of family reunification that was rejected by the German Authorities, because the applicant's spouse was already present in the requested member state's territory when the marriage ceremony took place.

Unaccompanied children

Family reunification requests of unaccompanied minors with family members or/ and relatives present in another EU country have been affected by the delay of the implementation of the guardianship system in Greece. According to the legal framework, the Public Prosecutor is the temporary guardian of all the unaccompanied minors residing in the Greek territory.[311] The Special Secretariat for the Protection of the Unaccompanied Minors (SSPUAM) of the Ministry of Migration & Asylum, in collaboration with the National Centre for Social Solidarity (NCSS -EKKA), bears the responsibility to proceed to any

311 Law 4554/2018, Chapter C.

necessary action aiming to the appointment of guardian to unaccompanied children[312]. Although the establishment of the Supervisory Board for the Guardianship of Unaccompanied Minors was to be established and be entered into force by March of 2020, the procedure has still not been completed by the end of 2021. Temporary guardians had been appointed at the end of 2020 only for cases of unaccompanied minors who were eligible for the relocation scheme. Those guardians were authorized only to proceed with the necessary arrangements of the BIA and the security interviews Their role was expanded in 2021, allowing them to follow up with the minors' applications of international protection and have a better overview of their wellbeing. However, the above network of guardians run by the NGO METAdrasi stopped operating on 23 August 2021, creating a gap in the continuation of the representation before the competent authorities of certain unaccompanied minors.[313]

The Best Interest Assessment tool, which was drafted and launched by the Greek Dublin Unit based on previous correspondence with other EU countries, UNHCR, UNICEF and EASO and was enhanced after the provision of inputs by international and local organizations and NGOs, is an indispensable element of take-charge requests of unaccompanied minors. This tool is aiming to facilitate the family reunification requests under the Dublin Regulation (EU) 604/2013 by gathering all necessary information required by Member-States when assessing family reunification cases of UAM's.[314] In case the assessment cannot be included in the outgoing request, it is forwarded afterwards as a supplementary document.

However, the submission of the best interest assessment does not necessarily lead to the acceptance of a take charge request, since other elements are also taken into consideration by the requested Member States, regardless of the fact that no such requirement is provided in Article 8 of the Regulation EU 604/2013. These elements are considered evidence of the relative's ability (or inability) to support the minor applicant. GCR is aware of cases in which house contracts, photos of the place where the minor will be accommodated in the relative's house and proof of income have been requested in order to prove the family member's or/ and relative's ability to take care of the applicant. French authorities have rejected at least one case in 2021 based on the fact that the unaccompanied minor's relative was not able to support him, based on the financial evidence submitted. A re-examination request was made, arguing that the Regulation is not specifying that the ability of the relative to support the applicant must be purely economic. The general description provided in the Regulation indicates that psychological support also needs to be taken into account, when examining reunification cases of unaccompanied minors. However, the particular case was still pending by the time of writing of this report.

Other countries have appointed social workers in order to contact the sponsor and the child with the aim to assess whether it would be in the child's best interest to be reunited with her/his family member/ relative. The appointed social worker was allowed to contact the minor residing in Greece and conduct an interview with her/him in order to reach to a conclusion regarding the case. This practice was followed by the UK authorities, while the Italian ones used to call the minor's relative to the closest to her/his place of residence police station in order to interview her/him about his relationship with the applicant.

Another factor that is being taken into account while assessing the best interest of the minor, is the existence of a family member/ relative in the requesting Member State. Although the mere existence of this person does not change the legal status of the minor applicant as unaccompanied, some member states misinterpret the 'best interest of the minor' by considering him accompanied by her/his distant relative. Based on that argument, they reject family reunification requests of unaccompanied minors and therefore, prevent the child from being reunited with a closer family member. According to GCR's knowledge, a case of three minors, who had expressed their will to be reunited with one of their parents

312 Art. 4 IPA (amended by the Law 4686/2020).
313 METAdrasi NGO, Presse release, available at: https://bit.ly/3DcexB1.
314 Hellenic Republic, Ministry of Migration & Asylum, available at: https://bit.ly/36OiAXS.

in **Austria** was rejected on that ground in 2021. One of the reasons provided for not accepting the request was that the applicants were not alone in Greece, but were accompanied by a close relative.

Although the best interest of the minor should be of primary consideration when examining a family reunification request, it does not go without saying that the requested Member States proceed with the assessment of the case under the Dublin III Regulation in all take charge requests that are addressed to them. **Spain**, for instance, does not proceed at all with the examination of requests of unaccompanied minors that are based on Articles other than Article 8 of the Regulation. In one of the cases handled by GCR, the Spanish Unit stated that all requests concerning minors are to be examined under the criterion of article 8; while Article 17(2) was not applicable in this particular case as this is not considered to be a discretionary case by the Spanish authorities. Thus, the case was finally rejected in 2021, without due consideration of the Best Interest Assessment Form that had been prepared and no explanation for the rejection, as required under Article 17 (2) of the Regulation EU 604/2013. GCR is also aware of a case in 2021 in which German authorities have rejected an unaccompanied minor who wished to be reunited with his uncle, who holds the German citizenship. As it is stated in the rejection letter, the Dublin III Regulation is not applicable in such cases according to the Germany Dublin Unit. Yet, this reasoning is contradictory to Article 8 of the Regulation, which requires for the family member or/ and relative to be legally present. In the above-mentioned case, the best interest of the minor and the documents submitted to support the case were not taken into consideration, and the re-examination requests were rejected on the same ground.

Where applicants are not able to provide the Authorities with identification documents, the only remaining solution is to resort to DNA tests to prove the family relationship. Some countries even require a DNA tests as a rule to be able to assess family links. In 2021, **Spain** decided that the relationship between a minor applicant in Greece, who wishes to be reunited with her/his relative in the requested member state, can only be established through a DNA or blood test.[315] The reason for this positioning is that the Spanish Authorities have faced some issues in relation to take charge requests of unaccompanied minors with their relatives, in which reasonable doubts were raised regarding the authenticity of the documents that were meant to prove the alleged relationship.

Age assessments is another matter that might affect the outcome and the processing time of a reunification request. EU countries, such as **Austria** and Scandinavian countries, were questioning the age assessment results and tended to reject outgoing requests made by Greece based on previous experience, because the assessment procedure was not conducted according to the methods followed by the receiving member state.[316] The Netherlands have also questioned at least one registration of an applicant as an unaccompanied minor, according to information received by GCR.

2.1.2. The dependent persons and discretionary clauses

Outgoing requests are sent under the humanitarian clause, either when Articles 8-11 and 16 are not applicable, or in cases for which the take charge request has been sent after the three-month time-frame, regardless of the reason. As mentioned above, Article 17(2) is widely used for cases of subsequent separation,

As mentioned below in Transfers, Article 17(2) was broadly used by the Greek Dublin Unit in the beginning of 2021 for cases in which the deadline for transfer was not met. This extension of the procedure was either related to COVID-19 restrictive measures or to the delay in signing memorandum of cooperation between the Greek Dublin Unit and the responsible travel agency.

315 Information provided by the Greek Dublin Unit, 12 March 2021.

316 "Tipping the scales": a joint Oxfam and GCR briefing paper, published in February of 2021, available at: https://bit.ly/3mJHpsd.

2.1.3. The Relocation Scheme

In March 2020, the Commission launched a relocation scheme, under which vulnerable people from Greece would be transferred to other EU Member States, aiming to support Greece in its efforts to cope with the critical situation. Unaccompanied children and children with severe medical conditions who were accompanied by their families, were the two categories of persons of concern who could be included in the program[317], as long as they have arrived in Greece before 1 March 2020 and no possibility to be reunited with a family member in another Member State was available. Sixteen EU countries participated in this scheme, among which France, Germany, Luxembourg, Portugal and Bulgaria. The Commission implemented this program with the assistance of UNHCR, the International Organization for Migration (IOM) and UNICEF, following the eligibility criteria as set in the relevant SOPs. Homeless children, children living in precarious conditions, such as safe zone areas in camps and minors being previously detained, are considered eligible for the program.

The process concerning the relocation of UAM consisted of three phases[318]:

- Phase 1: the preparatory phase, in which a list of identified unaccompanied minors was drafted and shared by the Special Secretary of Unaccompanied Minors with the Greek Asylum Service and then with EASO.
- Phase 2: a Best Interest Assessment interview is taking place, during which the eligibility of each minor was assessed. The procedure was led by EASO with the support of UNCHR and the child protection partners. After the completion of the interview, the assessment and any other supportive documentation were submitted to the Greek Authorities and the receiving countries.
- Phase 3 and last phase: the transfer of the person to the Member State which accepted the responsibility for her/him. Prior to this final step, some countries, such as France, used to hold another interview before the Consulate or Embassy of their country in Greece. This interview is called '*security interview'.* Prior to the transfer, the selected minor was accommodated to transitional facilities run by IOM, in order for the necessary administrative procedures and medical examinations take place.

A minor's case was not finally excluded from the relocation programme, should the case not be accepted by a Member State. On the contrary, the applicant was internally proposed to another state for relocating. A person was only excluded if she/he refused in written to be transferred to the Member State which accepted the responsibility for her/his case. This refusal of hers/his was considered as evidence that the person does not wish to be included in the programme any more.

Although the eligibility criteria might differ based on the Member State, some criteria seemed to be unnegotiable. An applicant could not be included to the program in case a family reunification request under the Dublin III Regulation was pending, or a decision on first instance regarding the application for international protection had already been issued by the Greek authorities. Furthermore, in case an applicant had been accused or convicted of committing a crime, regardless the severity of it, would be considered ineligible. Criteria based on ethnicity, nationality, sex and age were not set.

By the end of 2021, 4,770 individuals (including 1,199 unaccompanied children) had been relocated to other EU Member States under the voluntary relocation scheme launched by the EU Commission. At

317 European Commission: Relocation of unaccompanied children from Greece to Portugal and to Finland – Questions and answers, available at: https://bit.ly/2OGowty

318 UNHCR _ Explainer: Relocation of unaccompanied children from Greece to other EU countries, available at: https://bit.ly/2Rrhwln

the moment, the program is closed and there is no provision for it to be restarted, at least any time soon.[319]

The total number of transfers of UAMs per country throughout 2021 and the total number of transfers that took place from the beginning until the end of the relocation program is as follows:

Countries	Total Number of UAMs transferred in 2021	Total Number of UAMs transferred since the beginning of the program
Luxembourg	4	16
Belgium	1	30
Bulgaria	11	28
Croatia	11	11
Finland	39	111
France	365	499
Ireland	28	36
Italy	25	26
Lithuania	2	3
Netherlands	2	2
Portugal	127	213
Germany	-	204
Switzerland	-	20
Total	615	1,199

Source: Information provided by the SSPUAM in March 2022.

2.2. Procedure

Indicators: Dublin: Procedure

1. Is the Dublin procedure applied by the authority responsible for examining asylum applications? ☒ Yes ☐ No

2. On average, how long does a transfer take after the responsible Member State has accepted responsibility? Not available

The Dublin procedure is handled by the Dublin Unit of the Asylum Service in Athens. Regional Asylum Offices are competent for registering applications and thus potential Dublin cases, as well as for notifying applicants of decisions after the determination of the responsible Member State has been carried out. Regional Asylum Offices are also competent for receiving pending cases' documents and uploading them to an online system of the Asylum Service where the Dublin Unit has access to.

As already mentioned in the sections on Determining authority and Regular Procedure, EASO (now EUAA) also assists the authorities in the Dublin procedure. According to the 2021 Operational and

[319] Information provided by the Ministry of Migration & Asylum Special Secretariat for the Protection of Unaccompanied Minors, 9f March 2022.

Technical Assistance Plan agreed by EASO and Greece[320], EASO provides support to the Asylum Service for processing applications for international protection at first instance in mainland and in the islands, so as to improve, among others, the timely identification of Dublin cases and the quality of the files submitted to the Dublin Unit. Specifically, EASO provides support to the Dublin Unit in order to process outgoing and information requests according to the Dublin Regulation criteria, enhance the transfer processing capacity and assist the Dublin Department with interpreters for information provision and other activities Unit (face to face and remote).

As mentioned in Dublin: General, most administrative procedures, such as the submission of documentation, booking of appointments, receiving copies of an applicant's file, are conducted only through online applications. As a result, physical presence in the context of Dublin procedures is only required at registration stage, during which the asylum seeker is being fingerprinted, and has to sign the relevant written consent. For other actions, an online appointment should be booked prior to the applicant's visit to the competent Asylum Office.

Applications for international protection cannot be lodged if the person refuses to be fingerprinted. In case of refusal, the person will remain undocumented. The fingerprints are crosschecked in the police's database for possible Eurodac hits. It is not a common practice for those who refuse to be fingerprinted to be automatically transferred to the police station and be administratively detained. GCR is not aware of any person who refused to be fingerprinted.

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 three months after the lodging of the application, in accordance with Article 21 of the Dublin III Regulation. However, as noted in Dublin: General, following a change of practice on the part of the German Dublin Unit following the CJEU's ruling in *Mengesteab*, the Greek Dublin Unit strives to send "take charge" requests within three months of the expression of the will to seek international protection, rather than of the lodging of the claim by the Asylum Service, although Greece considers the actual lodging of the application and not the expression of a will to seek asylum as the starting point of this three-month deadline.

The applicant is not officially informed by the Greek Dublin Unit neither of the fact that her/his request has been made, nor on the basis of what evidence. It is the asylum seeker's solicitor who is following up the procedure and provides feedback on the steps that have been made. Dublin Unit officers contact the applicant directly only if the case has been rejected, in order to request for supplementary documentation, which will be included in the re-examination request. In case of final rejection, no written information is provided to the applicant. In practice, the case is internally referred to the regular procedure. On the contrary, if the reunification request is accepted, an admissibility decision mentioning that the requested Member State is responsible to examine the asylum application, based on the provisions of the Regulation (EU) 604/2013 is delivered to the applicant.

Given the severe restrictions posed by other Member States on family reunification, as they were described in *The application of the Dublin criteria* the Unit consistently prepares for a rejection, and anticipates re-examination requests.[321]

A change in statistical practices of the Dublin Unit was noted since 2020, as the publication of monthly statistics of the Unit stopped in March 2020 for it to be substituted by Monthly Reports issued by the

320 EASO and Greece, *2021 Operating Plan*, December 17 December 2020, available at: https://bit.ly/3qDLOzQ.

321 ECRE, '*The Role of EASO Operations in National Asylum Systems'*, 29 November 2019, available at: https://bit.ly/2x2uzzN.

Ministry of Migration and Asylum.[322] These Reports include some but not all of the data previously provided by the monthly statistics of the Greek Dublin Unit.

2.2.1 Individualised guarantees

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

For children's Best Interest Assessment, see above, in the section on application of the Dublin criteria.

2.2.2 Personal interview

Indicators: Dublin: Personal Interview

☒ Same as regular procedure

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

Under the Dublin procedure, a personal interview is not always required.[323]

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

Questions relating to the Dublin procedure (e.g. on the presence of other family members in other Member States) are always addressed to the applicant during the Regular Procedure: Personal Interview examining his or her asylum claim. According to GCR's experience, applicants who at this later stage, well after the three-month deadline, express their will to be reunited with a close family member in another EU Member State, are given the chance to apply for family reunification. In several cases handled by GCR, the Dublin Unit strives to send the outgoing request as soon as possible, after the written consent and all necessary documents have been submitted.

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

2.3. Transfers

Transfers under the Dublin III Regulation are carried out by the Asylum Service, with the assistance of EASO personnel. The Transfer Department of the Dublin Unit follows the transfer procedure. Under this scope, the department is coordinating with the responsible travel agency in order for the tickets to be booked and be sent to the applicants or/ and their solicitors in due time. Before the transfer takes place,

322 One can go through the information provided in the Note of every month of 2021 here https://bit.ly/3NBvgBN.
323 Article 5 Dublin III Regulation.

the Dublin Unit submits medical documents to the airline company, as well as the requested Member State. On the day of transfer, an employee from the Department of Foreign Affairs meets the applicants at the airport in order to provide them with a *laissez-passer*, help them with the check-in and boarding. The above-mentioned information regarding the transfer are forwarded to the asylum seekers by the Greek Dublin Unit, along with the tickets.

During 2021, transfers under Dublin were once more subject to member states' measures for the prevention of Covid-19 spreading and the relevant air travel restrictions, factors that led to delays in concluding some of them in due time.

More specifically, diminished availability of flights and destinations led to a series of problems in handling Dublin transfers. A maximum number of applicants transferred per flight or per week was imposed in the first months of 2021. This number could not meet the pending cases. Thus, many asylum seekers were not transferred within the time limit set in the Regulation.

Additionally, all MS requested the applicants to provide the airline company and the requested member state with one of the following documents: either a COVID-19 vaccination certificate showing that they were fully vaccinated at least 14 days before arrival, or a negative COVID -19 PCR test taken 72 hours before arrival time, or a negative COVID -19 rapid – antigen test taken 48 hours before arrival time, or a COVID-19 recovery Certificate. The documents requested varied depending on the travel guidance of each Member State. In case of indirect flights and layovers, the passengers were responsible for complying with the guidance of the transit countries as well. In any case, the cost for the PCR or/ and Rapid Antigen tests had to be covered by the applicants themselves.

Dublin transferees were further requested to fill in a Passenger Locator Form (PLF), which was forwarded to them by the Transfer Department of the Greek Dublin Unit – although there were exceptions, such as in the UK though which did not ask for the submission of the PLF on a regular basis.

Apart from the above-mentioned reasons that resulted in transfers realized out of time limits, another factor that significantly affected the procedure the first couple of months in 2021 was the delay in the signing of memorandum of cooperation between the Greek Asylum Service and the travel agency, which would be responsible to book the applicants' tickets. Consequently, deadlines were not met in many cases, for which the Dublin Unit either proceeded to the transfer without taking any other measure, or had to resend an outgoing item under Article 17.2.

Travel costs for transfers were covered by the Asylum Service in 2021, as they were in 2020.

A total of **2,133** transfers were completed in 2021, compared to **1,923** transfers in 2020:

Outgoing Dublin transfers by month: 2021												
Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
19	5	23	272	248	397	365	107	242	218	122	115	**2,133**

Source: Hellenic Republic, Ministry of Migration and Asylum, Statistics available at: https://bit.ly/3uyzcLG.

The table above demonstrates the low number of transfers being carried out during the first quarter of 2021, which increased again as of April 2021.

2.4. Incoming Dublin requests and transfers

Contrary to the "take charge requests" that are issued based on one of Dublin Regulation criteria, "take back requests" are issued for applicants who already have an ongoing, abandoned or rejected asylum application in a MS.[324]

2.5 Appeal

Indicators: Dublin: Appeal

☐ Same as regular procedure

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

According to the IPA, applications for international protection are declared inadmissible where the Dublin Regulation applies.[325] An applicant can lodge an appeal against a first instance decision rejecting an application as inadmissible due to the application of the Dublin Regulation within 15 days.[326] Such an appeal can also be directed against the transfer decision, which is incorporated in the inadmissibility decision.[327]

Contrary to other appeals against inadmissibility decisions, the appeal will have automatic suspensive effect.[328] Appeals against Dublin decisions will be examined by the Appeals Committees in single-judge format.[329]

2.6. The situation of Dublin returnees

Transfers of asylum seekers from another Member State to Greece under the Dublin Regulation had been suspended since 2011, following the *M.S.S. v. Belgium & Greece* ruling of the ECtHR and the Joined Cases C-411/10 and C-493/10 *N.S. v. Secretary of State for the Home Department* ruling of the CJEU.[330] Following three Recommendations issued to Greece in the course of 2016,[331] and despite the fact that the Greek asylum and reception system remained under significant pressure, *inter alia* due to the closure of the so-called Balkan corridor and the launch of the EU-Turkey Statement, the European Commission issued a Fourth Recommendation on 8 December 2016 in favour of the resumption of Dublin returns to Greece, starting from 15 March 2017, without retroactive effect and only regarding asylum applicants who have entered Greece from 15 March 2017 onwards or for whom Greece is responsible from 15 March 2017 onwards under other Dublin criteria.[332] Persons belonging to

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324 European Parliamentary Research Service, *Dublin Regulation on international protection applications,* February 2020, available at: https://bit.ly/2PLN19g, 57.

325 Article 84(1)(b) and Article 92(1)(b) IPA.

326 Article 84(1)(b) and Article 92(1)(b) IPA.

327 *Ibid*.

328 Article 104(1) and (2)(a) IPA.

329 Article 116(2) IPA.

330 ECtHR, *M.S.S. v. Belgium and Greece*, Application No. 30696/09, Judgment of 21 January 2011; CJEU, Joined Cases C-411/10 and C-493/10 *N.S. v. Secretary of State for the Home Department*, Judgment of 21 December 2011.

331 Commission Recommendation of 10 February 2016, C(2016) 871; Commission Recommendation of 15 June 2016, C(2016) 2805; Commission Recommendation of 28 September 2016, C(2016) 6311.

332 Commission Recommendation of 8 December 2016 addressed to the Member States on the resumption of transfers to Greece under Regulation (EU) No. 604/2013, C(2016) 8525. For a critique, see Doctors of the World Greece, 'Επανέναρξη των επιστροφών «Δουβλίνου»', 14 December 2016, available in Greek at: http://bit.ly/2gHDKMJ; Amnesty International, 'EU pressure on Greece for Dublin returns is "hypocritical"', 8 December 2016, available at: http://bit.ly/2kG8Dzf; Human Rights Watch, 'EU: Returns to Greece Put

vulnerable groups such as unaccompanied children are to be excluded from Dublin transfers, according to the Recommendation.[333]

The National Commission for Human Rights in a Statement of 19 December 2016, expressed its "grave concern" with regard to the Commission Recommendation and noted that "it should be recalled that all refugee reception and protection mechanisms in Greece are undergoing tremendous pressure... the GNCHR reiterates its established positions, insisting that the only possible and effective solution is the immediate modification of the EU migration policy and in particular of the Dublin system, which was proven to be inconsistent with the current needs and incompatible with the effective protection of human rights as well as the principles of solidarity and burden-sharing among the EU Member-States."[334]

An interesting court case was issued in Germany in January 2021 and sets the protection threshold to a level that corresponds to the actual situation in Greece.[335] According to this decision, returns to Greece are expected to put migrants at serious risk of degrading treatment due to inadequate living conditions for beneficiaries of international protection. The court also noted that the COVID-19 situation and restrictions pose additional hardship for refugees, specifically to access the labour market.[336] This judgment seems to be in line with the case law of both the ECtHR and the CJEU that confirms that it is not necessary to show 'systemic deficiencies' for a transfer to be unlawful and that any source of risk is reason enough.[337]

Dublin returnees face serious difficulties both in re-accessing the asylum procedure and reception conditions (which is quasi inexistent) upon return.[338] In fact, returnees face the risk being subject to onward refoulement to Turkey, following the designation of Turkey as a safe third country in 2021 (see Safe third country concept).

In another case, a beneficiary of international protection was returned from Germany to Greece at the beginning of July 2021. The asylum application which the beneficiary submitted before the German Authorities was rejected as inadmissible, since his case had already been examined by the Greek Asylum Service, which recognized he is a refugee, despite the fact that the person was never informed about that. Although, the Court accepted that living conditions for beneficiaries of international protection in Greece are "undoubtedly harsh" taking also into account that beneficiaries are not entitled to accommodation as provided in the case of asylum seekers, however, it assumed that healthy, single and young individuals would nevertheless somehow be able to survive under these conditions. Upon

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Refugees at Risk', 10 December 2016, available at: http://bit.ly/2hgVaNi; ECRE, GCR, Aitima and SolidarityNow, *Letter to the President of the European Commission and the Greek Minister of Migration Policy "Re: Joint Action Plan on EU-Turkey Statement and resumption of Dublin transfers to Greece"*, 15 December 2016, available at: http://bit.ly/2kGcc8P; National Commission for Human Rights, 'Statement in response to the recommendation of the European Commission to reactivate the refugee return mechanism under the Dublin system', 19 December 2016, available at: http://bit.ly/2kGi7us.

333 Commission Recommendation C(2016) 8525, para 9.

334 National Commission for Human Rights, 'Statement in response to the recommendation of the European Commission to reactivate the refugee return mechanism under the Dublin system', 19 December 2016, available at: http://bit.ly/2kGi7us.

335 High Administrative Courts (Oberverwaltungsgerichte / Verwaltungsgerichtshöfe), Applicant (Eritrea) v Federal Office for Migration and Refugees, 21 January 2021.

336 Full case summary can be found at EASO Case Law Database, available at: https://bit.ly/2PMoOzG.

337 European Parliamentary Research Service*, Dublin Regulation on international protection applications,* February 2020, available at*:* https://bit.ly/2PLN19g, 57.

338 Refugee Support Aegean, Dublin returns to Greece, available at: https://bit.ly/3tHwi7T: "At the moment, the Greek reception system is undergoing a gradual transformation through the dismantling of open housing facilities in favour of large-scale "closed controlled centres", while a coherent policy to support integration of people granted international protection is still lacking. Despite these circumstances, EU Member States and Schengen Associated Countries continue to send thousands of Dublin take back requests to return asylum seekers to Greece. In line with a Recommendation[338] from the European Commission, Dublin transfers to Greece are carried out following the provision of individual assurances by the Greek Dublin Unit relating to the treatment of returnees in line with the EU asylum *acquis*.

his return, the beneficiary was handed to the Airport Police Department and was provided with a 10-day duration police note. According to this note, he should visit the Asylum Service to proceed with his case. Eight months after his arrival in Greece, no residence permit has been delivered, no health insurance and tax numbers have been issued, no action for accommodation has been taken, due to lack of identification documents[339].

Finally, it should be mentioned that, applicants who are subject to the EU-Turkey statement .and left the islands, despite the geographical restriction imposed, will be returned to said island upon return in Greece from another Member State within the framework of the Dublin Regulation, in virtue of a 2016 police circular.[340] Their application will be examined under the fast track border procedure, which offers limited guarantees.[341]

3. Admissibility procedure

3.1 General (scope, criteria, time limits)

Under Article 84 IPA, an application can be considered as inadmissible on the following grounds:

- Another EU Member State has granted international protection status;
- Another EU Member State has accepted responsibility under the Dublin Regulation;
- When the First Country of Asylum concept is applied;
- When the Safe Third Country concept is applied;
- The application is a Subsequent Application and no "new essential elements" have been presented;
- A family member has submitted a separate application to the family application without justification for lodging a separate claim.

Unless otherwise provided, the Asylum Service must decide on the admissibility of an application within 30 days.[342]

The examination of the safe third country concept in practice takes place under the scope of the fast-track border procedure. Up until June 2021 it was applied exclusively to Syrians who fell under the EU Turkey Statement, namely those who had entered Greece via the Greek Aegean islands and who were subject to a geographical restriction. Syrians whose geographical limitation was lifted were then channeled to the mainland and were examined under the regular procedure.

The situation changed significantly in 2021 following the new Joint Ministerial Decision (JMD) issued on 7 June 2021, designating Turkey as a "safe third country" for applicants for international protection coming from Syria, but also from Afghanistan, Somalia, Pakistan and Bangladesh, thus extending the scope of the policy established by the EU-Turkey Statement March 2016.[343]

Apart from the numerous concerns that have been repeatedly raised as to whether Turkey should be considered a "safe third country" for the abovementioned asylum seekers in Greece,[344] an additional significant element of the unfeasibility of this new decision concerns the fact that, Turkey is no longer

339 Refugee Support Aegean. Recognised refugee returned to Greece, destitute, forgotten and undocumented, available at: https://bit.ly/3K0Mt6l.

340 Police Circular No 1604/16/1195968, available at: https://bit.ly/3dVQ05t.

341 See to this regard: RSA/PRO ASYLI, *Legal Status and Living Conditions of a Syrian asylum-seeker upon his return to Greece under the Dublin Regulation*, December 2019, available at: https://bit.ly/3fMEfzH.

342 Article 83(2) IPA. Different deadlines are provided ie. for subsequent applications; when the safe third country concept is examined under the fast track border procedure, etc.

343 Joint Ministerial Decision (JMD) 42799/2021, Gov. Gazette 2425/B/7-6-2021, available at: https://bit.ly/3KBM4HG.

344 Indicatively see: GCR, Greece deems Turkey "safe", but refugees are not: The substantive examination of asylum applications is the only safe solution for refugees, 14 June 2021, available at: https://bit.ly/3E3qgCe.

accepting the return of refugees and asylum seekers from Greece since March 2020. This was pointed out both by Greece's Ministry of Migration and Asylum and the European Commission.[345] As a consequence, refugees whose applications have been/are rejected as inadmissible based on the "safe third country" concept end up in a state of limbo in Greece, exposed to a direct risk of destitution and detention, without access to an in-merit examination of their application and without the possibility to lodge a subsequent asylum application.

The Commissioner for Migration and Home Affairs of the European Commission has reiterated several times the importance to examine the merits of these applications for international protection, in accordance with EU law. .[346] On 7 December 2021, the Commissioner issued a response to a joint open letter by civil society organisations, where she reiterated the Commission's continued concerns over individuals left in "legal limbo" in Greece. [347] As she stated, "in line with Article 38(4) of the Asylum Procedures Directive, the Greek authorities should ensure that applicants whose applications have been declared inadmissible under the Joint Ministerial Decision and who are not being admitted to Turkey should be given access to the in-merits asylum procedure. The Commission has enquired with the Greek authorities on the steps taken towards this direction."[348]

According to the UNHCR's position and recommendations on the Safe Third Country declaration by Greece:
"The absence of a mutually agreed readmission arrangement or delay in the implementation elevates the risk of protracted detention and situations of legal limbo for those concerned who may not be readmitted, increasing human misery and in all likelihood, fueling further onward movement within the EU. Where cooperation is not mutually agreed to, or required protection safeguards are not in place, an in-merit examination of asylum claims of applicants of those nationality groups should take place without undue delay to avoid legal limbo situations."[349]

It should be noted that an application for the annulment of said JMD was submitted before the Greek Council of State and its examination was discussed on 11 March 2022. The decision is still pending.[350]

Finally, the 42799/3-6-2021 JMD declaring Turkey as safe third country was amended by Decision no. 458568/2021 (FEK 5949/16-12-2021) and declared also Albania and Northern Macedonia as safe third countries for all nationals entering Greece from these countries.

Data for 2021 are not available.

345 For instance see: Ministry of Migration and Asylum, 28-07-2021, New request from Greece for the return of 1.908 illegal economic migrants to Turkey: https://bit.ly/3rl5bhy; European Commission, Commission Staff Working Document: Turkey 2020 Report, 6 October 2020, https://bit.ly/3xgt4aK, 48.

346 Answers given by Ms Johansson on behalf of the European Commission, EN P-000604/2021, 1 June 2021, available at: https://bit.ly/3M01UMo; E-003875/2021, 18 October 2021, available at: https://bit.ly/3uxkTbg; E-004131/2021, 21 December 2021, available at: https://bit.ly/3KuohcB.

347 Joint Open Letter, Denying food: instead of receiving protection people go hungry on EU soil, available at: https://bit.ly/3uyeEEb.

348 Ylva Johansson, Ares S(2021)8048555, 7 December 2021, available at: https://bit.ly/3Jyt7V4.

349 UNHCR's Position and Recommendations on the Safe Third Country Declaration by Greece, 2 August 2021, available at: https://bit.ly/3EuyKm1.

350 GCR, Press Release, Εκδικάστηκε ενώπιον του ΣτΕ η αίτηση ακύρωσης της Απόφασης με την οποία η Τουρκία χαρακτηρίστηκε ασφαλής τρίτη χώρα, 15 March 2022, available in Greek at: https://bit.ly/365HUJ9.

3.2 Personal interview

Indicators: Admissibility Procedure: Personal Interview
☐ Same as regular procedure

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

The conduct of an interview on the admissibility procedure varies depending on the admissibility ground examined. For example, according to Article 89(2) IPA, in force since 1 January 2020 as a rule no interview takes place during the preliminary examination of a subsequent application.[351] The interview is conducted only if the subsequent application for asylum is deemed admissible. In Dublin cases, an interview limited to questions on the travel route, the family members' whereabouts etc. takes place (see section on Dublin).

Personal interviews in cases examined under the "safe third country" concepts focus on the circumstances that the applicants faced in Turkey. More specifically focus is laid on:

- ❖ Whether they have asked for international protection in Turkey and;
- ❖ if not, which reasons have prevented them from doing so;
- ❖ whether they have family and friends in Turkey;
- ❖ how long they remained in Turkey;
- ❖ if they had access to work, housing, education and health care;
- ❖ and in general, if Turkey is a safe country for them.

From 1 January 2020 onwards, it is possible for the admissibility interview to be carried out by personnel of EASO or, in particularly urgent circumstances, trained personnel of the Hellenic Police or the Armed Forces.[352] Such personnel is not allowed to wear military or law enforcement uniforms during interviews.[353] However, EASO caseworkers did not draft Opinions on cases where the new JMD 42799/2021 designating Turkey as a safe third country applied, as it fell outside their competence. In fact, the number of concluding remarks issued by EASO decreased to 9,230 in 2021.[354] This is due to the fact that the drafting of concluding remarks by EUAA caseworkers is no longer required for a large share of cases examined on admissibility. Instead, EASO caseworkers, following the interview, can send to Asylum Service caseworkers an Annex with notes and comments on crucial issues to be taken into consideration.

Different practices were adopted by the various RAOs in the different islands in 2021 as regards the conduct of asylum interviews. In **Samos**, for example, interviews were mainly conducted in physical presence of all parties involved, whereas in **Lesvos**, interviews were being conducted at first only through teleconference or videoconference via Teams application after they resumed, without the physical presence of the caseworker or the interpreter. These interviews had been suspended in November 2020 after the Moria fire and resumed in 2021.

351 According to the second limb of Article 59(2), "Exceptionally, the applicant may be invited, according to the provisions of this Part, to a hearing in order to clarify elements of the subsequent application, when the Determining Authority considers this necessary".
352 Article 77(1) IPA.
353 Article 77(12) (c) IPA.
354 Information provided by EUAA, 28 February 2022.

In several cases the caseworker may be present in the RAO premises in Lesvos, but the interview may be carried out from a different room. This may create a lack of trust and insecurity, especially for applicants- victims of violence. In certain cases, asylum seekers who were accompanied by a lawyer remained in one room, while the caseworker was carrying out the interview through videoconference from another room, and the interpreter was also connected remotely (sometimes without video) from a third room. Consequently, there was no visual contact between the asylum seeker and the interpreter, while at the same time there were many technical issues with the internet connection, the audio and the lack of adequate sound isolation. In several cases, the interpreter was located in a room nearby, resulting in very bad acoustics. Later in 2021, most of the interviews in **Lesvos** were carried out in person again, but in some cases, videoconferencing continued to be used.

In practice, interviews of the newly arrived persons were scheduled and conducted before their examination by the competent Medical and Psychosocial Units in most cases, meaning that they underwent the interview procedure without prior evaluation of their potential vulnerabilities. Even if indications of vulnerability arose during the asylum interview, the caseworkers did not refer the applicants for a psychosocial assessment. There was thus no individualised assessment of the specific profile and circumstances of the asylum-seeker took place.

On **Samos**, several legal aid actors confirmed that new arrivals were not subject to medical and psychosocial evaluation before the asylum interview especially since July 2021, which was scheduled immediately after the registration, even if there were indications of vulnerability such as trafficking, violent treatment, or FGM.[355] In the case of a Somali alleged minor, the RAO in **Lesvos** considered his application as inadmissible before the age assessment had been completed.[356]

The number of asylum applications that were found as inadmissible based on the "safe third country" concept increased significantly in 2021 as a direct result of the implementation of the new JMD 42799/2021. Out of a total of 6,424 inadmissibility decisions based on the Turkey as a safe third country concept, 5,922 (92%) were issued in application of the new JMD.[357] The number of asylum applications deemed admissible based on the JMD reached 6,677 in 2021.[358]

The number of asylum applications lodged by people coming from Syria, Afghanistan, Somalia, Pakistan and Bangladesh following the entry into force of the new JMD that were found as inadmissible were 5,922.

According to internal SOPs that were circulated within the Asylum Service in autumn 2021, asylum seekers of these nationalities that have entered Greece from Turkey and one year (or more) had passed since then must be considered as not having a special link with the third country or that in any case the special link with Turkey had been breached.(See Safe third country).

An example of an admissibility decision was issued to a Pakistani national receiving support from GCR, in Kos, i.e. he was one of the 375 asylum seekers on the Turkish flagged vessel roaming the high seas for 4 days that was finally transferred on 31 October to Kos Island, after Turkey's refusal to accept the cargo ship.[359] According to the decision: *"However, in the present case, Turkey a) directly violates the EU Turkey Statement, on the point that Turkey undertakes to take any necessary measures to prevent*

355 Information acquired during the Samos LAsWG meeting, 11 October 2021.
356 Information acquired during the Lesvos LAsWG meeting, 21 December 2021. The relevant case was represented by ELIL.
357 RSA, *The asylum procedure in figures: most asylum seekers continue to qualify for international protection in 2021*, available at: https://bit.ly/3IVqBro, 4.
358 Ibid.
359 The Guardian, Greece lets boat packed with Afghan refugees dock after four days at sea, 31 October 2021, available at: https://bit.ly/3uA7u2r.

new sea or land routes for illegal migration opening from Turkey to the EU, and will cooperate with neighboring states as well as the EU to this effect and b) admits with its position that in no case does accept in its territory the specific alien who was inside the cargo ship, therefore Turkey will not allow an asylum application to be submitted or at least to be examined with guarantees by this specific applicant, if he returns to Turkey and, therefore, Turkey is not a safe third country for him."

In practice, the Asylum Service did not issue nor notify applicants of their admissibility decisions. As a result, many of them received an invitation to their personal interview on the merits before RAOs without prior information on the admissibility decision and the next step of the procedure, thus not being able to prepare for the interview.

3.3 Appeal

Indicators: Admissibility Procedure: Appeal

☐ Same as regular procedure

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

According to the IPA, the deadlines for appealing an inadmissibility decision, the automatic suspensive effect of appeals and the format of the Committee examining them depend on the inadmissibility ground invoked in the first instance decision under the regular procedure:[360]

Time limits and automatic suspensive effect: Appeals against inadmissibility			
Ground	Deadline (days)	Suspensive	Format
Protection in another EU Member State	20	×	Single judge
Dublin	15	√	Single judge
First country of asylum	20	×	Collegial
Safe third country	20	√	Collegial
Subsequent application with no new elements	5	×	Single judge
Application by dependant	20	√	Single judge

The Appeals Committee must decide on the appeal within 20 days, as opposed to 30 days in the regular procedure.[361]

Following the entry into force of the new JMD declaring Turkey a safe third country, most of the cases lodged by Syrians, Afghans and Somalis were considered inadmissible at first instance and quickly confirmed as inadmissible by the Appeals Committees.

In specific in Lesvos, the 11th Appeals Committee applied the new JMD 42799/2021 declaring Turkey a safe third country for the first time at second instance, while asylum applications at first instance had been examined on the merits. In one of the cases, the Appeals Committee postponed the discussion and requested a supplementary memorandum regarding Turkey, whereas in another case, the

360 Article 92(1)(b) and (d) IPA as amended by Article 20 L 4686/2020 and 104(2)(a) IPA as amended by Article 26 (2) L 4686/2020 and Article 116(2) IPA. Kindly note that the deadline for appealing against decisions issued under the provision of Article 90 IPA (border procedure) is 10 days. All the appeals filed by residents of Lesvos, Chios, Samos, Leros and Kos are examined by Single Judge Committee [Article 5 (7) L. 4375/2016, as amended by Article 30(2) L4686/2020].

361 Article 101 (d) L4636/2019, as amended by Article 25 (d) L4686/2020.

Committee postponed the discussion and requested a hearing to examine the admissibility of the case in accordance with the new JMD.[362]

By contrast, an Appeals Committee accepted an appeal in October 2021 against an inadmissibility decision based on the safe third country concept in Turkey issued by the RAO in Lesvos, during the first period of the implementation of the new JMD, to an Afghan elderly woman who had already been referred to the regular procedure.[363] In the latter case, the Appeals Committee granted refugee status directly to the applicant without calling for an interview. This illustrates that the practice of the Appeals' Committees regarding the application of the JMD has not been consistent.

3.4 Legal assistance

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

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

Legal Assistance in the admissibility procedure does not differ from the one granted for the regular procedure (see section on Regular Procedure: Legal Assistance). Thus, asylum seekers do not have access to free legal assistance during the admissibility procedures.

The lack of legal assistance has proven particularly problematic, especially regarding the new cases falling under the JMD designating Turkey as a safe third country. Newly arrived persons did not receive information by the authorities regarding the application of the new JMD nor access to legal aid, since they were rushed through the procedures (the full registration of the asylum application was conducted immediately after the end of the quarantine while, in numerous cases, asylum interviews were conducted within 2 days from the day of arrival or the end of the quarantine). Subsequently, the 5-days deadline for the submission of an appeal following the notice of an inadmissibility decision was not, in any case, adequate for asylum applicants, who had never been informed of the admissibility procedure, nor for the registry lawyers to be properly prepared for the appeal procedure and prepare an effective representation before the Appeals Authority.

362 Information acquired during the Lesvos LAsWG meetings. The relevant cases were represented by Metadrasi and Fenix Humanitarian Legal Aid.

363 Information acquired during the Lesvos LAsWG meeting, 12 October 2021. The relevant case was represented by HIAS.

4. Border procedure (airport and port transit zones)

4.1. General (scope, time limits)

Indicators: Border Procedure: General

1. Do border authorities receive written instructions on the referral of asylum seekers to the competent authorities? ☒ Yes ☐ No
2. Where is the border procedure mostly carried out? ☒ Air border ☐ Land border ☐ Sea border
3. Can an application made at the border be examined in substance during a border procedure? ☒ Yes ☐ No
4. Is there a maximum time limit for a first instance decision laid down in the law? ☒ Yes ☐ No
   - ❖ If yes, what is the maximum time limit? 28 days
5. Is the asylum seeker considered to have entered the national territory during the border procedure? ☐ Yes ☒ No

There are two different types of border procedures in Greece. The first will be cited here as "normal border procedure" and the second as "fast-track border procedure". In the second case, many of the rights of asylum seekers are severely restricted, as it will be explained in the section on Fast-Track Border Procedure. Article 90 IPA establishes the border procedure, limiting its applicability to admissibility or to the substance of claims processed under an accelerated procedure.[364]

In the "normal border procedure", where applications for international protection are submitted in transit zones of ports or airports, asylum seekers enjoy the same rights and guarantees with those whose applications are lodged in the mainland.[365] However, deadlines are shorter: asylum seekers have no more than 3 days for interview preparation and consultation of a legal or other counselor to assist them during the procedure and, when an appeal is lodged, its examination can be carried out at the earliest 5 days after its submission.

According to Article 66 IPA, the Asylum Service, in cooperation with the authorities operating in detention facilities and at Greek border entry points and/or civil society organisations, shall ensure the provision of information on the possibility to submit an application for international protection. Interpretation services shall also be provided to the extent that this is necessary for the facilitation of access to the asylum procedure. Organisations and persons providing advice and counselling, shall have effective access, unless there are reasons related to national security, or public order or reasons that are determined by the administrative management of the crossing point concerned and impose the limitation of such access. Such limitations must not result in access being rendered impossible.

Where no decision is taken within 28 days, asylum seekers are allowed entry into the Greek territory for their application to be examined according to the provisions concerning the Regular Procedure.[366] During this 28-day period, applicants remain *de facto* in detention (see Grounds for Detention).

In practice, the abovementioned procedure is only applied in airport transit zones. In particular to people arriving at **Athens International Airport** – usually through a transit flight – who do not have a valid entry authorization and apply for asylum at the airport.

364 Article 90(1) IPA, citing Article 83(9) IPA.
365 Articles 47,69, 71 and 75 IPA.
366 Art. 90(2) IPA.

With a Police Circular of 18 June 2016 communicated to all police authorities, instructions were provided *inter alia* as to the procedure to be followed when a third-country national remaining in a detention center or a RIC wishes to apply for international protection, which includes persons subject to border procedure.[367]

The number of asylum applications subject to the border procedure at the airport in 2021 is not available.

4.2. Personal interview

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

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

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

Where the application has been lodged at the **Athens International Airport** transit zone, the asylum seekers are transferred in most cases to the AAU of **Amygdaleza** for the full registration of their asylum application and for the interview. Consequently, no interview through video conferencing in the transit zones has come to the attention of GCR up until now.

4.3. Appeal

Indicators: Border Procedure: Appeal
☐ Same as regular procedure

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

The IPA foresees that the deadline for submitting an appeal against a first instance negative decision is 7 days.[368] . The automatic suspensive effect of appeals depends on the type of negative decision challenged by the applicant (see Admissibility Procedure: Appeal and Accelerated Procedure: Appeal). For the case of applications examined under the border procedure, the derogation from automatic suspensive effect of appeals is applicable under the condition that the individual benefits from the necessary assistance of an interpreter, legal assistance and at least one week to prepare the application for leave to remain before the Appeals Committee.[369]

In practice, in those cases where the appellant has to submit a separate request before the Appeals Committee for leave to remain in Greek territory pending the outcome of the appeal. This request is being examined by the Appeals Committee on the same day with the appeal, so there has been no issue of removal from the country until the notice of the second instance decision.

367 Police Circular No 1604/16/1195968/18-6-2016, available in Greek at: http://bit.ly/2ngIEj6.
368 Article 92(1)(c) IPA.
369 Article 104(3) IPA.

In case where the appeal is rejected, the applicant has the right to file an application for annulment before the Administrative Court (see Regular Procedure: Appeal).

4.4. Legal assistance

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

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

The law does not contain special provisions regarding free legal assistance in the border procedure. The general provisions and practical limitations regarding legal aid are also applicable here (see section on Regular Procedure: Legal Assistance).

5. Fast-track border procedure (Eastern Aegean islands)

5.1. General (scope, time limits)

Indicators: Fast-Track Border Procedure: General

1. Do border authorities receive written instructions on the referral of asylum seekers to the competent authorities? ☒ Yes ☐ No
2. Can an application made at the border be examined in substance during a border procedure? ☒ Yes ☐ No
3. Is there a maximum time limit for a first instance decision laid down in the law? ☒ Yes ☐ No
   - ❖ If yes, what is the maximum time limit? 7 days

Although the fast-track border procedure was initially introduced as an exceptional and temporary procedure, it has become the rule for a significant number of applications lodged in Greece. In 2021, the total number of applications lodged before the RAO of **Lesvos**, **Samos**, **Chios**, **Leros, Rhodes** and **Kos** was 6,320 , which represents less than the 25% of a total of 28,360 applications lodged in Greece the same year. 6,050 new applicants were channeled into the fast-track border procedure in 2021, while the Asylum Service issued a total of 6,945 inadmissibility and in-merit decisions.[370]

The impact of the EU-Turkey Statement has been, *inter alia*, a *de facto* dichotomy of the asylum procedures applied in Greece.[371] This is because, the procedure is applied in cases of applicants subjected to the EU-Turkey Statement, i.e. applicants who have arrived on the Greek Eastern Aegean islands after 20 March 2016 and have lodged applications before the RAO of **Lesvos**, **Chios**, **Samos, Leros and Kos**. On the contrary, applications lodged before the Asylum Unit of **Fylakio** by persons

370 RSA, The asylum procedure in figures: most asylum seekers continue to qualify for international protection in 2021, March 2022, available at: https://bit.ly/3IVqBro.

371 Submission of the Greek Council for Refugees to the Committee of Ministers of the Council of Europe in the case of M.S.S. v. Belgium & Greece (Appl. No 30696/09) and related case, 9 May 2019, available at: https://bit.ly/2XYhHpj

who entered through the Greek-Turkish land border and remaining in the RIC of Fylakio in Evros are not examined under the fast-track border procedure.

In October 2021, 375 asylum seekers that were on board a Turkish flagged vessel and were left in international waters for 4 days finally arrived in **Crete** and were subsequently transferred to **Kos**, where the fast–track border procedure were applied. However, other arrivals in Crete were transferred to the mainland, where the regular procedure was applied. Similarly, different procedures were applied for arrivals in **Rhodes**, as certain arrivals were transferred to **Kos** or **Leros** where the fast- track border procedure was followed, while others were transferred to the mainland.

As of January 2020, asylum procedures are regulated by the new law on asylum (IPA), L. 4636/2019, amended in May 2020 by Law 4686/2020.More particularly, Article 90(3) IPA foresees that the fast track procedure can be applied for as long as third country nationals who have applied for international protection at the border or at airport / port transit zones or while remaining in Reception and Identification Centres, are regularly accommodated in a spot close to the borders or transit zones. A Joint Ministerial Decision issued on 30 December 2020, foresees the application of the fast track border procedure under Art. 90 (3) for those arrived at the Greek Eastern Aegean Islands. The JMD was in force until 31 December 2021,[372] and it was not extended through a new JMD until the time of publication of the report.

Main features of the procedure of the fast-track border procedure under the IPA

The fast-track border procedure under Article 90(3) IPA, in force since January 2020, repeats to a large extend the previous legal framework and provides among others that:

(a) The registration of asylum applications, the notification of decisions and other procedural documents, as well as the receipt of appeals, may be conducted by staff of the Hellenic Police or the Armed Forces, if police staff is not sufficient.

(b) The interview of asylum seekers may also be conducted by Greek language personnel deployed by EASO. However, Article 90(3) also introduced the possibility, "in particularly urgent circumstances", the interview to be conducted by trained personnel of the Hellenic Police or the Armed Forces –as long as they have received specific training, as opposed to the strict limitation to registration activities under the previous L. 4375/2016.

(c) The asylum procedure shall be concluded in a short time period.

This may result –and it often has- in compromising the procedural guarantees provided by the international, European and national legal framework, including the right to be assisted by a lawyer. As these extremely brief time limits undoubtedly affect the procedural guarantees available to asylum seekers subject to an accelerated procedure, as such, there should be an assessment of their conformity with Article 43 of the recast Asylum Procedures Directive, which does not permit restrictions on the procedural rights available in a border procedure for reasons related to large numbers of arrivals.

More precisely, according to Article 90(3)(c) IPA:

- The Asylum Service shall issue a first instance decision within 7 days;
- The deadline for submitting an appeal against a negative decision is 10 days

[372] Joint Ministerial Decision for the application of the provisions of par. 3 and 5 of article 90 of IPA, No 15996/30.12.2020, Gov. Gazette 5948/B/31.12.2020. It is noted that it has not been replaced by a new one by the time of writing.

- ❖ The deadline and submission of the appeal does not always have an automatic suspensive result, as provided by Article 104(3) IPA and a separate application for suspension of removal needs to be submitted before the Appeals' Authority, within the deadline for the submission of the appeal;
- ❖ The examination of an appeal shall be carried out within 4 days. The appellant is notified within 1 day to appear for a hearing before the Appeals' Committees or to submit supplementary evidence.
- ❖ The second instance decision shall be issued within 7 days.

It should be noted that these very short time limits seem to be exclusively at the expense of applicants for international protection in practice. In fact, whereas timelines are, by general principle, not compulsory for the Authorities and case processing at the borders takes several months on average, applicants still have to comply with the very short time limits provided by Article 90(3) IPA.[373] In 2021, the average time between the full registration of the asylum application and the issuance of a first instance decision under the same procedure is not available.

The Greek Asylum Service is under a constant pressure to accelerate the procedures on the islands, which was also one of the reasons invoked for the amendment of national legislation in late 2019. The FRA concerns related with the very limited processing time imposed in the scope of the previous legal framework and the impact that this could have to the quality of the procedure still remain. More specifically, FRA emphatically underlined that "even with the important assistance the European Asylum Support Office provides, it is difficult to imagine how the processing time of implementing the temporary border procedure under Article 60(4) L.4375/2016 or the regular asylum procedure on the islands can be further accelerated, without undermining the quality of decisions. Putting further pressure on the Greek Asylum Service may undermine the quality of first instance asylum decisions, which in turn would prolong the overall length of procedure, as more work would be shifted to the appeals stage."[374]

In 2021, the fast-track border procedure has continued being variably implemented depending on the profile and nationality of the asylum seekers concerned (see also Differential Treatment of Specific Nationalities in the Procedure). Within the framework of that procedure:

- 6,050 new applicants were channelled into the fast-track border procedure.
- The Asylum Service issued a total of 6,945 in-merit and inadmissibility decisions during 2021 in the framework of the fast-track border procedure. 2,199 concerned Afghans. Out of the above, 75 were issued in the context of the safe third country concept application. 1,057 concerned Syrians; among these decisions, 751 were issued in the context of the safe third county. Of the 1,037 decisions that concerned Somalians140 were issued in the context of the safe third country. 696 decisions concerned Nationals of DRC.
- Until June 2021, applications by non-Syrian asylum seekers have been examined only on the merits. However, on 7 June 2021, a new Joint Ministerial Decision (JMD) of the Ministry of Foreign Affairs and the Ministry of Migration and Asylum was issued, designating Turkey as "safe third country" in a national list for asylum seekers originating from Syria, Afghanistan, Pakistan, Bangladesh and Somalia. Accordingly, the examination of asylum applications and the interviews of these particular new arrivals took place and shall be taking place in the context of the new JMD. As a result, the use of the admissibility procedures in the context of the fast-track border procedure, prior only applied to Syrians, has been expanded to four additional nationalities. This means that the applications lodged by those nationalities can be rejected as

373 FRA, *Update of the 2016 FRA Opinion on fundamental rights in the hotspots set up in Greece and Italy, 4 March 2019*, available at: https://bit.ly/2HeRg79, 26.

374 FRA, *Update of the 2016 FRA Opinion on fundamental rights in the hotspots set up in Greece and Italy*, 4 March 2019, 26 "in **Kos**, the average time from the lodging of the application until the first interview with EASO was 41 days while from the date of the interview until the issuance of the recommendation by EASO was 45 days".

"inadmissible" without being examined on the merits. Afghans, Somalis and Syrians are the main nationalities of the newcomers on the Greek islands.

- In parallel, notes by the Readmission Unit of the Hellenic Police Headquarters from 25 and 27 October 2021 confirmed that Turkey has indefinitely suspended returns from Greece since 16 March 2020. Due to this suspension, the Greek Authorities stopped sending readmission requests to Turkey based on the Common EU- Turkey Statement for rejected asylum seekers.[375] Despite this suspension, the Greek authorities refused to examine applications for international protection on the merits, as required by Art. 86 (5) of L.4636/19.

As a consequence, applicants whose applications have been/are rejected as inadmissible based on the "safe third country" concept end up in a state of legal uncertainty in Greece, exposed to a direct risk of destitution and detention, without access to an in-merit examination of their application and without the means to lodge a subsequent asylum application. As already explained in the section on Admissibility, this has been criticised by the European Commission.

In July 2021, the Greek Ombudsman intervened before the RAOs in Chios and Samos with regard to the examination of subsequent asylum applications by a Syrian family and two Syrian single men, respectively, arguing that:

> *"If readmission to this* [third] *country is not possible, the application should be examined by the Greek authorities on the merits. Otherwise, a perpetual cycle of examination on the admissibility of applications for international protection is established, without ever examining their merits and without* [asylum seekers] *being able to be readmitted to apply for protection in the "safe third country" with the result that the fulfillment of the purpose of the Geneva Convention and the relevant European and national legislation on refugees' protection is effectively canceled* […] *Following the above, we call your services under their competence to examine the subsequent asylum application of the aforementioned according to article 86 (5) L.4636/2019, taking into consideration the current suspension of readmissions to Turkey..."*[376]

A large number of asylum seekers with specific profiles (i.e. asylum seekers from Palestine, Eritrea, Yemen and, before the implementation of the new JMD, single women/single-parent families from Afghanistan and Somalia) have been granted refugee status on the basis of their administrative file, without undergoing an asylum interview. However, this has not been a consistent practice of the Asylum Service throughout the year or even between different Regional Asylum Offices applying the border procedure.

Applications by asylum seekers from countries listed in the National List of countries of origin characterized as safe, according to Article 87 par. 5 of the IPA, have been examined in the merits only to the extent of their claims against the application of the safe country of origin assumption.

It has been highlighted that "the practice of applying different asylum procedures according to the nationalities of the applicants is arbitrary, as it is neither provided by EU nor by domestic law. In addition, it violates the principle of non-discrimination as set out in Article 3 of the Geneva Convention of 28 July 1951 relating to the status of refugees. Instead, it is explicitly based on EASO's undisclosed internal guidelines, which frame the hotspot asylum procedures in order to implement the EU-Turkey statement."[377]

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375 Fenix, Fenix calls the Greek authorities to examine the merits of asylum applications rejected on admissibility, 1 February 2022, available at: https://bit.ly/3wUxsyN.

376 The Interventions by the Greek Ombudsman were shared within the framework of the National Legal Aid Working Group. The relevant cases were represented by Metadrasi.

377 Greens/EFA, *The EU-Turkey Statement and the Greek Hotspots: A failed European Pilot Project in Refugee Policy*, June 2018, available at: https://bit.ly/2sJM2H4, 17.

Exempted categories from the fast-track border procedure under the IPA

As opposed to the previous legislation, the IPA repeals the exception of persons belonging to vulnerable groups and applicants falling under Dublin Regulation from the fast-track border procedure (see Identification and Special Procedural Guarantees). 1,569 asylum applications were exempted from the fast-track border procedure and referred to the regular procedure for reasons of vulnerability and inability to access adequate support, pursuant to Article 67(3) IPA, during 2021.[378] The majority of those concerned nationals of Syria (525), Afghanistan (453) and DRC (227).[379]

Furthermore, the total number of unaccompanied minors examined under border procedures in 2021 is not available. In particular, as far as unaccompanied minors are concerned, Article 75 (7) IPA provides that application filled by minors under the age of 15, as well as minors who are victims of human trafficking, torture, rape or other serious forms of psychological, physical or sexual violence shall be examined under the regular procedure. However, Article 90(4) IPA provides that unaccompanied minors are examined under the fast track border procedure in case that:

- the minor comes for a country designated as a safe country of origin in accordance with the national list (according to article 87 par.5 IPA)
- he/she submits a subsequent application
- he/she is considered a threat to the public order/national security
- there are reasonable grounds that a country can be considered as a safe third country for the minor; and given that it is in line with the best interest of the minor.
- the unaccompanied minor has misled the authorities by submitting false documents or he/she has destroyed or he/she has lost in bad faith his/her identification documents or travel document, under the conditions that he/she or his/her guardian will be given the opportunity to provide sufficient grounds on this.

5.2. Personal interview

Indicators: Fast-Track Border Procedure: Personal Interview
☐ Same as regular procedure

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

According to Article 65 (1) of the IPA, asylum applicants are already required at the stage of the complete registration of their asylum application before RAOs to be exhaustive about the reasons for fleeing their country of origin; if they fail to mention all reasons during the complete registration, they have no right to develop claims which are only for the first time mentioned during their asylum interview. However, in practice the registration of the asylum application before the RAOs in the islands is by no means exhaustive and it mostly includes some very basic information. It should be underlined that in certain RAOs, such as the RAO in **Kos**, the registration of the asylum application is being processed by the Reception Service, while in other RAOs, such as in **Lesvos**, the registration is being handled by the Asylum Service. In the cases that the Reception Service is handling the procedure, the registration form only includes very limited information. Nevertheless, in practice, asylum seekers have the opportunity during their interviews to present their claims, even if no mention of said claims has been included in their registration form.

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[378] RSA, The asylum procedure in figures: most asylum seekers continue to qualify for international protection in 2021, available at: https://bit.ly/3iQlKgy, 6.

[379] Information provided by the Asylum Service, 31 March 2021.

In any case, persons newly arrived on the islands were transferred to RAOs for the full registration of their asylum application immediately after the end of the quarantine, where they could not have access to any kind of information and legal consultation (see the Reception and Identification Procedure Chapter). Subsequently, in most cases, their interviews were scheduled within 1-3 days after the registration, preventing them from having enough time to access legal aid and prepare for their asylum interview.

Another issue that has been observed on **Lesvos**, relates to the unavailability of interpretation in Somali, as the majority of organizations either did not have Somali interpretation or had very limited capacity.[380] The lack of Somali interpretation combined with the fact that very often all newly arrived were all scheduled for their interview on the same day leaving them almost no time for preparation before the interview, hindered their access to legal aid even further.

According to Article 77 (4) of the IPA, asylum applicants that have been considered vulnerable, may have reasonable time to prepare for their interviews and consult a lawyer, if the interview is scheduled within 15 days from the submission of the asylum application. The preparation time may not exceed three days. If the interview is scheduled within more than 15 days from the submission of the asylum application, no reasonable time is granted for their interview preparation. If the interview is postponed, no time is granted again for their interview preparation. Decisions at first instance shall be issued within seven (7) days, according to Article 90(3)(c) of the IPA. However, in practice in most cases the interviews of the newcomers are being scheduled and conducted before their examination by the competent Medical and Psychosocial Units, thus they undergo the interview procedure without prior evaluation of their potential vulnerabilities.

Most of the time, the authorities proceed with a typical medical screening and record only manifest vulnerabilities. In any case, there is no information exchange mechanism between the RIS' Vulnerability Focal Point (VFP) and RAO, and no relevant joint process to ensure that interviews are scheduled after the vulnerability assessment is completed. Even when RAO caseworkers refer the case to RIC's Medical and Psychosocial Unit for a further vulnerability assessment, they do so after the interview has been completed. No postponements have been granted for interviews despite the applicants' and their legal representatives' relative requests that vulnerability assessments have not been completed. Accordingly, no reasonable time for their preparation can be granted on the basis of their vulnerabilities, since they have not been identified as such.

Under the amendment of the IPA in May 2020 (L 4686/2020), it is expressly foreseen that communication with asylum applicants (including interviews) may be conducted in the official language of their country of origin, if their native language is rare and it has been proven manifestly impossible for the authorities to provide interpretation in that language. A refusal of the applicants to undergo procedures in the official language of their countries of origin, rather than their native languages, may be considered as a violation of their obligation to cooperate with the Authorities and lead to the rejection of their application.

According to Article 90(3)(b) IPA, the personal interview may be conducted by Asylum Service staff or EASO personnel or, "in particularly urgent circumstances", by trained personnel of the Hellenic Police or the Armed Forces.[381] With regard to the possibility of personnel of Hellenic Police or Armed Forces to conduct personal interviews, Amnesty international has underlined that the application of such

380 Information acquired during the Lesvos LAsWG meeting, 26 October 2021.
381 Article 90(3)(b) IPA.

provision "would be a serious backward step that will compromise the impartiality of the asylum procedure".[382] This has not been applied in practice so far.

As regards EASO, now the EUAA, its competence to conduct interviews had already been introduced by an amendment to the law in June 2016, following an initial implementation period of the EU-Turkey Statement marked by uncertainty as to the exact role of EASO officials, as well as the legal remit of their involvement in the asylum procedure. The EASO Special Operating Plans to Greece foresaw a role for EASO in conducting interviews (face-to-face and remote) in different asylum procedures, drafting opinions and recommending decisions to the Asylum Service throughout 2017, 2018, 2019, 2020 and 2021.[383] A similar role is foreseen in the Operational & Technical Assistance Plan to Greece 2022-2024, including in the Regular procedure.[384]

In practice, in cases where the interview is conducted by an EASO Greek language caseworker, they provide an opinion / recommendation (*πρόταση / εισήγηση*) on the case to the Asylum Service, that remains the competent authority for the issuance of the decision. The transcript of the interview and the opinion / recommendation are written in Greek, while in 2020, they could be written either in Greek or in English, which is not the official language of the country.[385] The issuance of an opinion / recommendation by EASO personnel to the Asylum Service is not foreseen by any provision in national law and thus lacks legal basis.[386] Finally, a caseworker of the Asylum Service, without having had any direct contact with the applicant e.g. to ask further questions, issues the decision based on the interview transcript and recommendation provided by EASO.[387]

In 2021, the number of interviews carried out by EASO caseworkers further increased to 20,658 interviews. Of these, 94% related to the top 10 citizenships of applicants interviewed by EASO, in particular Afghanistan (9,649), Syria (1,937), Pakistan (1,760), Somalia (1,288), Bangladesh (1,272) and Iraq (1,088).[388] However, the number of concluding remarks issued by EASO decreased to 9,230 in 2021. This is due to the fact that, following the new Joint Ministerial Decision designating Turkey as a safe third country for applicants from five of the most common countries of origin in Greece, the drafting of concluding remarks by EUAA caseworkers is no longer required for a large share of cases examined on admissibility.

Additionally, the EU Asylum Agency (EUAA) launched the pilot phase of the "Surveys of Asylum-related Migrants" (SAM) research project in October 2021 in Lesvos, Greece.[389] The pilot project which

382 Amnesty International, Submission on the Human Rights implications on the Government proposal to change the Greek Law on international protection, reception and returns, 24 October 2019, available at: https://bit.ly/2XYyY1D.

383 EASO, *Special Operating Plan to Greece 2017*, December 2016, available at: http://bit.ly/2h1M2dF, 9; EASO, *Operating Plan to Greece 2018*, December 2017, available at: http://bit.ly/2BO6EAo, 13-14, EASO, *Operating Plan to Greece 2019*, 19 December 2018, available at: https://bit.ly/2W6vJB2, 14-15, EASO, *Operational & Technical Assistance Plan to Greece*, 20 December 2019, available at: https://bit.ly/2VUAj6P, 14.

384 EASO, *Operating Plan to Greece 2022-2024*, 9 December 2021, available at: https://bit.ly/3uIsWCt, 20-21.

385 Previously, the transcript of the interview and the opinion/recommendation had being written either in Greek or in English, which was not the official language of the country.This issue, among others, had been brought before the Council of State, which ruled in September 2017 that the issuance of EASO opinions / recommendations in English rather than Greek does not amount to a procedural irregularity, insofar as it is justified by the delegation of duties to EASO under Greek law and does not result in adversely affecting the assessment of the applicant's statements in the interview. The Council of State noted that Appeals Committees are required to have good command of English according to Article 5(3) L 4375/2016: Council of State, Decisions 2347/2017 and 2348/2017, 22 September 2017, para 33.

386 Article 60(4)(b) L 4375/2016 and 90(3)(b) only refer to the conduct of interviews by EASO staff.

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

388 Information provided by EUAA, 28 February 2022.

389 EUAA, Data Analysis and Research, Research programme, Surveys, available at: https://euaa.europa.eu/asylum-knowledge/data-analysis-and-research.

remained operational until December 2021, collected testimonies directly from asylum seekers on the reasons why they left their countries, their journeys, and their plans for the future, with the aim of improving the understanding of the root causes of asylum-related migration and onward movement within Europe. Following the successful completion of this pilot phase the project will be expanding in 2022 in reception centres within Cyprus, Greece, Italy and Malta.

It remains unclear whether alleged pushbacks' testimonies have been part of this research project and/or generally, if the EUAA has any intention to develop a system to collect asylum applicants' testimonies on alleged illegal pushbacks. Particularly, the RAO in Lesvos had no consistent practice regarding the examination of allegations of pushbacks during the asylum interview and it is unknown if the Asylum Service collects these transcripts. There were cases where the caseworker devoted almost an hour to questions regarding the reported "pushback" incident by the asylum applicant and others where no further questions were asked after the asylum applicant's reference to "pushback" incidents.[390]

In unknown number of cases, following internal SOPs of the Asylum Service, interviews on admissibility and on the merits have been conducted on the same day (the one after the other) by RAOs on the islands, when admissibility criteria were "obvious" (e.g. when a period of more than one year had elapsed since their transit via the third country). Additionally, certain interviews were even conducted by case workers of RAOs of other islands. Moreover, in a number of cases, decisions have been issued by different RAOs and/or AAUs from those where the interviews have been conducted, operating supportively to the latter.

Quality of interviews

The quality of interviews conducted by EASO and RAO caseworkers has been highly criticized. *Inter alia*, quality gaps such as lack of knowledge about countries of origin, lack of cultural sensitivity, questions based on a predefined list, closed and leading questions, repetitive questions, frequent interruptions and unnecessarily exhaustive interviews and conduct preventing lawyers from asking questions at the end of the interview continue to be reported.[391]

In 2021, concerns about the quality of the interviews as well as about the procedural fairness of how they are conducted continued to be raised. Specifically, concerns were raised about the use of inappropriate communication methods and unsuitable questions related to past experience of harm and/or persecution which included closed questions impeding a proper follow-up, no opportunity to explain the case in the applicant's own words, failure to consider factors that are likely to distort the applicant's ability to express him- or herself properly (such as mental health issues or prior trauma and/or illiteracy), lack of clarification with regard to vague or ambiguous concepts mentioned by the interviewer, potential inconsistencies or misunderstandings regarding critical aspects of the case that could lead to confusion and/or the inability of the applicant to express him- or herself effectively, and more generally, violations of the right to be heard. Moreover, concerns have been raised regarding the use of inappropriate methods and questions unsuitable for applicants' age, in cases of alleged minors, and more generally, violations of the right to a child-friendly environment and procedure. In general, no individualised assessment of the specific profile and circumstances of the asylum applicant or gender-sensitive assessment was taking place.

On **Lesvos**, negative decisions were issued by RAO for applicants who were not in a position to take part in the interview (i.e. deaf applicants and applicants who had suffered a stroke and could not speak), in absolute disregard for the procedural guarantees that should be applied to vulnerable applicants.[392]

390 Information acquired during the Lesvos LAsWG meeting, 9 November 2021.
391 See AIDA, Country Report Greece, 2020 Update, June 2021, 99.
392 Information acquired during the Lesvos LAsWG meeting, 29 June 2021.

Moreover, a significant number of asylum applicants reported that, during the interview, they were not granted sufficient time and, as a result, their asylum claims were not examined thoroughly. Furthermore, an additional issue relates to the fact that the caseworkers do not follow a standard procedure on the examination of allegations regarding previous pushbacks that are being mentioned during the asylum interview. According to lawyers, in certain cases the caseworkers disregard the allegations claiming that they are not relevant to the interview, while other caseworkers proceed to further investigate the incidents by asking focused questions.

In 2021 the issue of the use of outdated sources in a number of decisions for cases especially concerning the examination of the safe third country concept vis-a-vis Turkey still remains. Additionally, in a number of cases, an absence of country-of-origin information with regard to the examination of the merits of the applications was noted (such as absence of sources regarding gender-based violence, honor crimes, persecution of rare ethnic origin groups in the country of origin).

According to information provided during the Lesvos Legal Aid sub-Working Group meetings, participants observed that, especially, in cases of Somali applicants, all inadmissibility decisions for male applicants had the exact same argumentation/grounds for the decision; an individualized assessment of the specific profile and circumstances of the asylum-seekers did not take place.[393] Instead, for female applicants, numerous asylum applications have been rejected on the merits, on the grounds of lack of credibility, while the decision had no reference to the reasons for the admissibility.[394]

Another issue that has been observed was the fact that in **Lesvos** the applicants received an invitation for their interview, according to which they needed to present themselves before the RAO at the day of their interview either at 6:30 or at 7:00 in the morning, without any information regarding the actual time that their interview was scheduled. It should be noted that the **Lesvos** RAO operated in two shifts, one starting at around 8:00 and the second one at 12:00. This means that there were many applicants that appeared before the RAO at 6:30 only to start their interviews at 12:00 or even at a later time. GCR lawyers have experienced cases of pregnant women on their last month of their pregnancy waiting for over six hours for their interview to begin, despite the constant pleas on behalf of the lawyers to prioritise these particular interviews. On the other hand, on **Samos**, up until the transfer of the RAO and RIS services to the new facility, the local RAO was operating in shifts that would work up until 22:00 at night, however, the invitations for the interviews were at least accurate and the applicants would appear before the RAO and they would not have to wait for hours for the interview to begin. At the same time, on **Samos** it has been widely reported that interviews of asylum seekers who did not have legal representation did not last more than an hour and they did not go in depth examination of the applicants' claims.

5.3. Appeal

Indicators: Fast-Track Border Procedure: Appeal

☐ Same as regular procedure

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

393 Information acquired during the Lesvos LAsWG meeting, 21 December 2021.
394 Ibid.

In 2021, a total of 5,124 appeals were lodged on the islands against first instance decisions by the Asylum Service.[395]

Changes in the Appeals Committees

As noted in the Regular procedure, according to Article 116 IPA, the Appeals Committees shall consist of three judges and the Independent Appeal Committees may operate in a single or three-member composition.

Rules and time limits for appeal

Similar to the first instance fast-track border procedure, truncated time limits are also foreseen in the appeal stage, although a few improvements have been made following the introduction of the IPA. In particular, the deadline for appealing a negative decision is now 10 days, instead of the 30 days deadline foreseen in the regular procedure.[396] The Appeals Committee examining the appeal must take a decision within 7 days,[397] contrary to 3 months in the regular procedure.[398] In practice this very short deadline is difficult to be met by the Appeals Committees.

As a rule, the procedure before the Appeals Committees must be written, based on the examination of the dossier, except from cases, provided by the article 97(3) IPA, where the Appeals Committee decides to call for an oral hearing.[399]

In specific **Lesvos** cases, the 11th Appeals Committee applied the new JMD 42799/2021 designating Turkey as a safe third country for the first time at second instance, while asylum applications at first instance had been examined on the merits. In one of the cases, the Appeals Committee postponed the discussion and requested for a supplementary memorandum regarding Turkey, whereas in another case, the Committee postponed the discussion and requested a hearing to examine admissibility according to the new JMD.[400]

As far as the appeal procedure is concerned, apart from the concerns related to the admissibility of appeals in general (see Regular Procedure) it shall be noted that it is practically impossible for the applicants to submit an appeal on their own –without legal aid– as they could so before the implementation of the IPA. Specifically, Article 93 of the IPA requires, for the appeal to be admissible, inter alia, reference and development of specified reasons for the appeal. At the same time, the negative decisions are served to the applicants in Greek, so it is impossible for them to read and be aware of the basis on which their asylum application has been rejected. It is evident that without legal aid applicants cannot adequately articulate the legal and factual grounds on which their appeals are based, particularly taking into consideration the requirement that such appeals be submitted in writing in Greek language.

The provisions of the IPA relating to the fictitious service (*πλασματική επίδοση*) of first instance decisions are also applicable to the fast track border procedure and thus the deadline for lodging an appeal against a first instance negative decision may expire without the applicant having being actually informed about the decision.[401]

395 RSA, The asylum procedure in figures: most asylum seekers continue to qualify for international protection in 2021, available at: https://bit.ly/3IVqBro, 6.
396 Article 90(3)(c) IPA.
397 Article 90(3)(c) IPA.
398 Article 101(1)(a) IPA.
399 Article 97 IPA.
400 Information acquired during the Lesvos LAsWG meetings. The relevant cases were represented by Metadrasi and Fenix.
401 Article 82 and 103 IPA.

Another matter of concern that endangered asylum applicants' right to an effective remedy relates to Article 14 of Law 4686/2020 that amended Art. 82 of IPA and provides that the notification of decisions to applicants may be carried out via electronic means, as has been described in the section on the Regular Procedure. On **Lesvos**, legal actors observed that RAO caseworkers were asking and registering the e-mail addresses of asylum applicants, without informing them properly or at all regarding the intended use of their e-mail addresses, i.e. the delivery of decisions via e-mail. Additionally, there was no official/required form used with questions related to applicants' access to e-mail, internet connection and electronic devices before RAO caseworkers were registering the e-mail. In practice, the caseworkers just asked the applicants if they have an e-mail address. In the RIC of **Mavrovouni**, residents did not even have access to electricity for the most part of the day. Moreover, while the decision is considered to be delivered 48 hours after the sending of the e-mail according to the provision, no information was provided by the authorities to applicants with regard to the time of service. Lesvos LAsWG submitted (on 27 January 2022) a Letter/Intervention to the Lesvos RAO, Appeals Authority and the Greek Ombudsman regarding the RAO's malpractice of delivery of decisions to applicants via e-mail. Similar concerns were raised in **Kos**, where even detainees were being served their negative decisions via e-mail, despite the obvious limited access to their email address. This malpractice led to the late submission of appeals, in certain cases that came to the attention of legal actors.

Following the amendment of Article 78 IPA (by virtue of Article 11 L. 4686/2020), the obligation to present oneself before the Appeal Committees remains waived for the appellants who are either under geographical restriction or reside in a Reception/Accommodation facility. In case these cannot be represented by a lawyer or another authorized person/ consultant, a certification shall be submitted before the Appeal Authority. More specifically, for the appellants who reside in a Reception/Accommodation facility a residence written certification shall be issued by the Director of the Reception/Accommodation facility, upon application that should not be filed earlier than 3 days before the date of examination of the appeal. This certification confirms that the appellant resided in the facility at the day that the application for the certificate was filed. Appellants, against whom a geographical restriction is imposed must submit by the day before the examination of their appeal a written certification issued by the Police or a Citizens' Service Centre (ΚΕΠ) located at the area of the geographical restriction, confirming that they presented themselves before said authorities. The application for such a certificate must not be filed longer than 2 days before the date of the appeal's examination.

However, it has been noted that for a considerable period following the above amendment, the information provided to the appellants by the RAOs regarding the issuance and submission of the aforementioned residence certificates before the Appeals Authority have not been accurate; indeed, the written information provided within the 'Document – Proof of Submission of the Appeal' explicitly stated that the appellants' are obliged to submit a residence certificate before the Appeals Authority until the day before the examination of their appeal. No mention was made for their obligation to apply for said certificate no earlier than 3 days before the date of examination of the appeal. As a result, in several cases, appellants had submitted outdated residence certificates before the Appeals Authority, and, subsequently, in some of these cases, appeals were rejected by Appeals Committee (with no examination either of the admissibility or the merits of the asylum applications) on the grounds of the submission of an out-of-date residence certificate by the Head of RIC. Such cases have been introduced by GCR before the Greek administrative courts and are still pending for examination.

Similarly to the concerns raised under the Regular procedure as regards the severity of these new procedural requirements, serious concerns with regard to the effectiveness of the remedy and the risk of a violation of the principle of non-refoulement are thus also applicable to appeals in the context of fast-track border procedures.

Suspensive effect

Since the entry into force of the IPA, the appeals before the Appeals Committees no longer have automatic suspensive effect as a general rule. The automatic suspensive effect of appeals depends on the type of decision challenged by the applicant (see Admissibility Procedure: Appeal and Accelerated Procedure: Appeal). With regard to applications rejected at first instance within the framework of the fast-track border procedure, the IPA states, that a derogation from automatic suspensive effect of appeals can only be ordered provided that the individual benefits from the necessary assistance of an interpreter, legal assistance and at least one week to prepare and file a relevant application before the Appeals Committee reasoning why he/she shall be granted with the right to remain in the Greek territory.[402]

It should be noted that Article 104(3) IPA, as amended by L 4686/2020, has incorrectly transposed Art 46(7) of the recast Asylum Procedures Directive. Instead of cross-referring to Article 104(2) IPA on the categories of appeals stripped of automatic suspensive effect, Article 104(3) IPA provides that "the possibility to derogate from the right to remain" may be applied in border procedures subject to requirements including interpretation, legal assistance and at least one week. Accordingly, the law incorrectly suggests that the derogation from the right to remain on the territory may be imposed in any decision taken in a border procedure, insofar as the above guarantees are complied with in practice, the derogation from the right to remain has been generally applied to the fast-track border procedure on the Eastern Aegean islands, including in "safe third country" cases which should have suspensive appeals according to the law.[403] In any case, as it has been already mentioned, the Appeals Committees proceed to the examination of the suspension application the same day that the appeal is being examined.

Judicial review

The general provisions regarding judicial review, as amended in 2018 and 2019, are also applicable for judicial review issued within the framework of the fast-track border procedure and concerns raised with regard to the effectiveness of the remedy are equally valid (see Regular Procedure: Appeal). Thus, among others, the application for annulment before the Administrative Court does not have automatic suspensive effect, even if combined with an application for suspension. Suspensive effect is only granted by a relevant decision of the Court. This judicial procedure before the Administrative Courts is not accessible to asylum seekers without legal representation.

According to practice, appellants whose appeals are rejected within the framework of the fast-track border procedure might be immediately detained upon the notification of the second instance negative decision. In the past and in particular up until March 2020, this would mean that they would be in imminent risk of readmission to Turkey. However, since readmissions remain frozen for the last two years, the detention of the people with a second negative decision serves no purpose whatsoever and is considered a disproportionate measure. In 2021, Appeals Committees issued second instance decisions granting a period of ten (10) days or more for leaving the country in numerous cases.

A second instance negative decision issued by the 17th Appeals Committee referred to two different asylum case numbers, two different applicants and two different applicants' histories/claims, demonstrating the botched procedure of the appeals' examination.[404]

In general, the Asylum Service registered subsequent asylum applications despite pending applications for annulment before the Administrative Court; both procedures can run in parallel.

402 Article 104(3) IPA.
403 According to input provided by the Refugee Support Aegean (RSA)
404 Information acquired during the Lesvos LAsWG meeting, 23 November 2021.

Concerns regarding the effective access to judicial review for appellants for whom their appeal has been rejected within the framework of the fast-track border procedure, i.e. who remain under a geographical restriction on the Aegean Islands or are detained on the Aegean Islands following the notification of the second instance decision were not abolished by the IPA. More specifically, Article 115(2) IPA foresees that the First Instance Administrative Court of Athens is the competent Court for submitting legal remedies against second instance negative decisions with regards application submitted on the Aegean islands. Thus, legal remedies regarding appellants who reside or even are detained on the Aegean Islands, should be submitted by a lawyer before the Administrative Court of Athens. By taking into consideration the geographical distance and the practical obstacles (for example to appoint a lawyer able to submit the legal remedy in Athens) this may render the submission of legal remedies non accessible for those persons.[405]

Given the constraints that individuals geographically restricted or detained in the Aegean Islands face vis-à-vis access to legal assistance, the fact that legal aid is not foreseen by law at this stage, as well as that an application for annulment can only be submitted by a lawyer, and lack of prompt information about impeding removal, access to judicial review for applicants receiving a second instance negative decision within the framework of the fast-track border procedure is severely hindered.

5.4. Legal assistance

Indicators: Fast-Track Border Procedure: Legal Assistance

☒ Same as regular procedure

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

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

The IPA does not contain special provisions regarding free legal assistance in the fast-track border procedure. The general provisions and practical hurdles regarding legal aid are also applicable here (see section on Regular Procedure: Legal Assistance).

State-funded legal aid is not provided for the fast-track border procedure at first instance. Therefore, legal assistance at first instance is made available only by NGOs based on capacity and areas of operation, while the scope of these services remains severely limited, bearing in mind the number of applicants subject to the fast-track border procedure.

As of 16 February 2021, and according to the final tables of the Ministry of Migration and Asylum concerning the Registry of the lawyers providing legal assistance to asylum seekers on the second instance, 24 lawyers were appointed on the islands. These lawyers have been appointed to provide free legal aid under the state funded legal aid scheme at second instance as follows: 12 lawyers on **Lesvos**, 2 lawyers on **Samos**, 4 lawyers on **Chios**, 2 lawyers on **Kos**, 2 lawyers on **Rhodes**, 2 lawyers on **Leros**.[406]

405 *Mutandis mutandis* ECHR, Kaak v. Greece, Application No 34215/16, Judgment of 3 October 2019.
406 Ministry of Migration and Asylum, Decision No 1836/21, 16 February 2021.

Even though the number of Registry lawyers was significantly raised compared to the only 9 lawyers that were appointed to provide legal assistance on the islands,[407] in reality there were never that many lawyers operational, due to administrative obstacles and issues.

In a number of cases, due to the non-provision of state free legal aid, "standardized appeals", provided by legal aid NGOs, have been submitted by rejected applicants, asking for a postponement of the appeal examination until their access to free legal aid is ensured, stating in parallel the unavailability of limited NGO legal actors to undertake those applicants' cases. The results regarding the admissibility of these "standardized appeals" before the Appeals Committee have been varied by case and by responsible for the examination of the appeal each time Appeals Committee.

Since June 2020, by decision of the administration of Central Asylum Service, there has been a *"Provision of legal assistance through video conference to the Regional Asylum Services of Leros, Samos, Chios and Lesvos due to increased needs in the provision of legal aid services in the second degree to applicants for international protection"*. However, in practice, and this is something that continued throughout 2021 as well, in a significant number of cases taken over by lawyers on the mainland, the latter had no communication with the rejected applicants before drafting the appeals. As a result, appeals have taken into consideration solely the material already included in the file and the appellants had no way to communicate to their appointed lawyer any new elements related to their case and/or new significant documents; please note that often enough the applicants have not even been informed that a state run lawyer has been appointed to represent them neither by the Asylum Service nor by the lawyer him/herself). In practice, there was no provision for informing the rejected applicants applying for legal aid whether a Registry lawyer has been appointed for their case or not; the majority of the applicants for legal aid services at second instance have been informed regarding the availability or not of legal aid after the expiration of the 10-day period for filing their appeal; there are numerous cases where an appeal has been submitted by the Registry lawyer without the applicant's knowledge.

Due to the global pandemic and the fire that destroyed the Moria camp in September 2020, the RAO in Lesvos had informally suspended – without a prior legislative act - the deadline for the submission of appeals against first instance rejections that had been notified until 8 September 2020. In parallel, the notification of negative decisions had been postponed for several months for all applicants on Lesvos, on the basis that in-person submission of appeals was impossible within the 10-days deadline from the notification of the decision, according to the provisions of the fast-track border procedure. On 11 January 2021, the RAO in **Lesvos** began notifying applicants on Lesvos with first instance rejections, without the guarantee of state free legal aid from the Registry of Lawyers of the Asylum Service. According to information received from Lesvos RAO, free legal aid from the Register of Lawyers was not available, presumably partly as a result of the inability of the Coordination Department of Legal Aid to function due to the restructuring of the Ministry of Asylum and Migration. In practice, this meant that applicants who were receiving negative first instance decisions and all those who could not submit an appeal due to the destruction of the Moria RIC, were not able to effectively lodge appeals as their right to free legal aid at second instance was not guaranteed. Following an intervention by Lesvos LAsWG,[408] the notification of negative first instance decisions was adapted to the availability of the state-registered lawyers. Given that the Registry of Lawyers was not fully operational, notifications of first instance negative decisions were sometimes completely suspended during the year, however.[409]

The difficulty to access legal aid and the appeal procedure on Lesvos affected more than one hundred cases pending to submit an appeal since September 2020.

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407 Asylum Service, Decision No 20165/2019, 13 December 2019.

408 Intervention by Lesvos LAsWG: Legal Actors express serious concerns regarding the lack of state free legal aid for asylum applicants in Lesvos, available at: https://bit.ly/3JARxOi.

409 Information provided during the Lesvos LAsWG meeting, 16 March 2021.

Moreover, some asylum applicants reported communication issues with their state-registered lawyers and the short duration of their preparation meetings.

In November 2021, the GCR and Metadrasi lawyers based in **Kos** intervened to ensure asylum seekers' access to state legal aid they were unable to lodge appeals against negative first instance decisions by the **Kos** RAO While the Kos RAO personnel had referred asylum seekers to apply online for legal aid, in practice the technical obstacles (i.e. no access to cellphones or to internet, e-literacy) made it very difficult for them to secure legal aid. Following the intervention by the NGO lawyers, access to RAO was permitted and applications for legal assistance were submitted by the asylum seekers in person before the RAO personnel rather than via electronic means.

As also mentioned in the Regular Procedure: Legal assistance no tailored state funded free legal aid scheme exists for submitting judicial remedies before Courts against a second instance negative decision.

6. Accelerated procedure

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

The IPA provides that the basic principles and guarantees applicable to the regular procedure are applied to the accelerated procedure and that "the accelerated procedure shall have as a sole effect to reduce the time limits".[410] The wording of the law is misleading, however, given that the accelerated procedure as amended by the reform entails exceptions from automatic suspensive effect and thereby applicants' right to remain on the territory. According to Art. 83(4) IPA the examination of an application under the accelerated procedure must be concluded within 20 days, subject to the possibility of a 10-day exception.

The Asylum Service is in charge of taking first instance decisions for both regular and accelerated procedures.

An application is being examined under the accelerated procedure when[411]:

(a) The applicant during the submission of his/her application invoked reasons that manifestly do not comply with the status of refugee or of subsidiary protection;
(b) The applicant comes from a Safe Country of Origin;
(c) The applicant has misled the authorities by presenting false information or documents or by withholding relevant information or documents regarding his/her identity and/or nationality which could adversely affect the decision;
(d) The applicant has likely destroyed or disposed in bad faith documents of identity or travel which would help determine his/her identity or nationality;
(e) The applicant has presented manifestly inconsistent or contradictory information, manifestly lies or manifestly gives improbable information, or information which is contrary to adequately substantiated information on his or her country of origin which renders his or her statements of fearing persecution as unconvincing;
(f) the applicant submitted a subsequent application;
(g) The applicant has submitted the application only to delay or impede the enforcement of an earlier or imminent deportation decision or removal by other means;
(h) the applicant entered the country "illegally" (sic) or he/she prolongs "illegally" his/her stay and without good reason, he/she did not present himself/herself to the authorities or he/she did not submit an asylum application as soon as possible, given the circumstances of his/her entrance;

410 Art. 83(2) IPA.
411 Art. 83(9) IPA.

(i) The applicant refuses to comply with the obligation to have his or her fingerprints taken in accordance with Regulation (EU) No 603/2013.
(j) the applicant may be considered on serious grounds as a threat to the public order or national security;
(k) The applicant refuses to comply with the obligation to have his or her fingerprints taken according to the legislation

The number of first instance decisions issued under the accelerated procedure in 2021 was 5,852.[412]

6.2 Personal interview

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

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

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

6.3 Appeal

Indicators: Accelerated Procedure: Appeal
☐ Same as regular procedure

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

Since the entry into force of the IPA, the time limit for lodging an appeal against a decision in the accelerated procedure is 20 days,[413] as opposed to 30 days under the regular procedure. Before the amendment of IPA, the Appeals Committee had to reach a decision on the appeal within 40 days of the examination[414]. Since the entry into force of L.4686/2020 the Appeals Committee must reach a decision on the appeal within 20 days of the examination.[415]

Appeals in the accelerated procedure in principle do not have automatic suspensive effect.[416] The Appeals Committee decides on appeals in the accelerated procedure and appeals against manifestly unfounded applications in single-judge format.[417]

412 Ministry of Migration and Asylum, Reply to parliamentary question, 97157/2022, 17 February 2022, available at: https://bit.ly/3oXKvuD; Refugee Support Aegean (RSA), The Greek asylum procedure in figures: most asylum seekers continue to qualify for international protection in 2021, available at: https://bit.ly/3qH3qeo.
413 Article 92(1)(b) IPA.
414 Article 101(1)(b) IPA
415 Article 101(1)(b) IPA as amended by Article 25 L. 4686/2020
416 Article 104(2)(e) IPA, citing Article 83(9) & (10) IPA.
417 Article 116(7) IPA.

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

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

D. Guarantees for vulnerable groups

1. Identification

Indicators: Identification

1. Is there a specific identification mechanism in place to systematically identify vulnerable asylum seekers? ☒ Yes ☐ For certain categories ☐ No
   - ❖ If for certain categories, specify which:
2. Does the law provide for an identification mechanism for unaccompanied children? ☒ Yes ☐ No

The IPA, entered into force in January 2020, has made significant amendments to the definition of vulnerable persons and persons in need of special procedural guarantees.

According to Articles 39(5)(d) and 58(1) IPA the following groups are considered as **vulnerable groups**: "children; unaccompanied children; direct relatives of victims of shipwrecks (parents, siblings, children, husbands/wives); disabled persons; elderly; pregnant women; single parents with minor children; victims of human trafficking; persons with serious illness; persons with cognitive or mental disability and victims of torture, rape or other serious forms of psychological, physical or sexual violence such as victims of female genital mutilation." Persons with post-traumatic stress disorder (PTSD) have been deleted as a category of persons belonging to vulnerable groups.

According to Article 58(2) IPA "The assessment of vulnerability shall take place during the identification process of the Art. 39 of this law without prejudice to the assessment of international protection needs". According to article 58(4) L 4636/2019 "Only the persons belonging to vulnerable groups are considered to **have special reception needs and thus benefit from the special reception conditions**". Article 58(3) IPA provides that "[…] the special condition of applicants, even if it becomes apparent at a later stage of the examination of the application for international protection, is taken into account throughout this procedure […]"

According to article 67 (1) IPA **relating to special procedural guarantees** "The Receiving Authorities shall assess within a reasonable period of time after an application for international protection is

submitted, or at any point of the procedure the relevant needs arise, whether the applicant requires special procedural guarantees, due to their age, gender, sexual orientation, gender identity, psychological disorder or because they are a victim of torture, rape or other serious forms of psychological, physical or sexual violence."

The number of asylum seekers registered by the Asylum Service as vulnerable in 2021 is not available.

The number and type of decisions taken at first instance on cases of vulnerable applicants in 2021 is not available.

The number of first instance decisions granting refugee status or subsidiary protection to vulnerable applicants in 2021 is not available.

According to information provided by the Appeals Authority, 1,146 appeals were submitted by vulnerable persons (unaccompanied minors are not included) during 2021.[418]

Out of 910 second instance decisions issued throughout the year on appeals submitted by vulnerable applicants (unaccompanied minors not included in the figure), only 38 granted refugee status and 54 granted subsidiary protection. At the end of 2021, 406 appeals submitted by vulnerable persons (except for unaccompanied minors) were still pending.[419]

Additionally, 735 appeals were submitted by unaccompanied minors in 2021. A total of 518 second instance decisions on appeals submitted by unaccompanied minors were issued in 2021; of these, only 8 granted refugee status and 14 granted subsidiary protection. At the end of 2021, 282 appeals submitted by unaccompanied minors were still pending.[420]

1.1. Screening of vulnerability

1.1.1. Vulnerability identification in the border regions

The identification of vulnerability of persons arriving at the border regions shall take place, according to IPA, either by the RIS before the registration of the asylum application or during the asylum procedure.

Vulnerability identification by the RIS

According to Article 39(5) (d) IPA, in the context of reception and identification procedures carried out by the RIS, "[…] T**he Manager of [RIC] or the Unit**, acting on a motivated proposal of the competent medical staff of the Center, **shall refer persons belonging to vulnerable groups to the competent public institution of social support or protection as per case**. A copy of the medical screening and psychosocial support file is transmitted to the Head of the institution where the person resides or is being referred. In all cases the continuity of the medical treatment followed shall be ensured, where necessary. The assessment that a person is vulnerable shall have as only consequence the immediate provision of special reception conditions."

According to Article 75 (3) IPA "In case of doubt, the competent Receiving Authorities shall refer the unaccompanied minor to the age assessment procedures as per the provisions in force. In the case where the above-mentioned referral is considered necessary and until the completion of the procedure, special attention should be paid to the particular characteristics of the minor, especially those related to their gender or cultural peculiarities" (see below).

418 Appeals Authority, 11 March 2022.
419 Ibid.
420 Ibid.

Since the end of 2019, the authority competent for carrying out medical checks has been the National Public Health Organisation (EODY), which was established by L 4633/2019 as the successor of KEELPNO.

The number of asylum seekers identified as vulnerable by the Reception and Identification Service in the border regions in 2021 is not available.

The average time between the completion of a 14-day quarantine period imposed upon arrival to all newcomers and the completion of the medical/psychosocial examination/ vulnerability assessment in the border regions in 2021 is not available.

Even if there were no long delays between the arrival and the vulnerability assessment, the low quality of the process of medical and psychosocial screening remained a source of serious concern. Until now, alarming reports indicate that vulnerabilities are often missed, with individuals going through the asylum procedure without having their vulnerability assessment completed first. As UNHCR has reported at the end of 2020 "access to health care for asylum-seekers and refugees continued to be limited at several locations across Greece, in particular on the islands, mainly due to the limited public sector medical staff and difficulties in obtaining the necessary documentation."[421]

According to GCR's knowledge, the situation remained the same in 2021 with following issues: a lack or complete absence of psychosocial assessment, difficulties in carrying out referrals from RIS to public hospitals, low quality of the medical screening and the psycho-social support, the classification of vulnerability and non-vulnerability and the lack of information on the outcome of the procedure[422] were the main problems concerning the vulnerability assessment in the context of Reception and Identification procedure during 2021. As mentioned in the Regular procedure and Fast-track border procedure, many asylum seekers continue to be forced into the personal interview before the Asylum Service without prior assessment of their vulnerability, including pregnant women.

The number of healthcare professionals involved in the provision of medical and psychosocial services at different Reception and Identification Centers in the border regions in 2021 is not available

The following examples reflect some issues relating to vulnerability assessments in the context of reception and identification procedures conducted by RIS at the Eastern Aegean Islands during 2021:

Lesvos: According to GCR's observations, on Lesvos the quarantine period imposed upon arrival could last from two weeks up to about two months depending on several factors, such as the availability of EODY and RIS staff, the number of Covid-19 cases, etc. UNHCR Units had limited access to the quarantine area where all new arrivals were being placed for as long as quarantine lasted, thus depriving newcomers from the possibility to undergo a vulnerability assessment and access to basic information regarding their rights, the procedures and their general status. Even after the completion of the quarantine period, only evident vulnerabilities were identified given the low quality of the medical screening. Psychosocial support was conducted only upon request and mostly after the first instance interview. Due to these shortcomings, a considerable number of newcomers and asylum seekers had never been (properly) assessed regarding potential vulnerabilities. Furthermore, according to GCR, there were strong indications that many women from Cameroon were victims of human trafficking, despite the fact that they had not expressed it explicitly. Yet, they were not identified as vulnerable by Lesbos RIC before GCR's intervention.

421 UNHCR, Factsheet, Greece 1-31 December 2020, available at: https://bit.ly/39PMtWv.

422 For a detailed description of the issues that exacerbate the procedure of the vulnerability assessment see AIDA report on Greece 2021.

Chios: During 2021, EODY Unit in Chios RIC was fully staffed with the exception of a psychiatrist. Thus, referrals of people in need of psychiatric care were made to a doctor, whose medical reports were often not taken into consideration by Chios RAO on the grounds that "they were not issued by a public entity". Furthermore, people lacking valid asylum seeker's card were not accepted by the Chios General Hospital without an appointment arranged by civil society organisations or EODY personnel. Contrary to the practice followed in other Eastern Aegean Islands, Chios RIS was conducting new medical and psychosocial screening to people whose asylum application was rejected at second instance and were willing to submit a subsequent asylum application. Furthermore, social workers and psychologists of EODY would make referrals to the psychiatrist if needed. However, similarly to all the other islands, applicants did not have access to their medical/psychosocial file kept in RIS without the intervention of their lawyer.

Samos: Shortcomings related to understaffing and other issues mentioned above, apply also for Samos. Even though during 2021 the medical screening was conducted a few days after the arrival, in most of the cases it was insufficient and of poor quality. In numerous cases, no psychosocial assessment took place at the competent RIS Unit before the registration and examination of newcomers' asylum claims. Repeated interventions were made by GCR lawyers regarding the aforementioned issue.

Leros: Difficulties in access to the psychosocial support and the outcome of the vulnerability assessment and other issues mentioned above, apply also for Leros.

Kos: Up until July 2021, detention upon arrival was imposed to all newcomers, except to those with obvious vulnerabilities The limited access to healthcare and vulnerability assessments resulted in many vulnerabilities being undetected. In several cases, a vulnerability assessment was conducted only after the examination of the asylum claim and the results of the vulnerability assessment were often not communicated to the Asylum Service prior to the examination of the asylum claim. Moreover, vulnerability documents of detained applicants were often not being shared to applicants nor to Police by RIC's secretariat. As a result, many people remained detained despite their vulnerabilities (see Detention of vulnerable applicants). Shortcomings related to understaffing were also reported in the RIS of Kos, as there was only one doctor of EODY in 2021. Additionally, even though newcomers were subjected to medical screening one day after the completion of the quarantine period imposed upon their arrival, the medical examination conducted was superficial and insufficient.

During the first semester of 2021, despite the low number of new arrivals the Kos RAO immediately proceeded with the examination of the applications for international protection applying the fast-track border procedure prior to carrying out vulnerability assessments or providing proper access to reception procedures. Additionally, psychosocial screening was not always conducted. Following several interventions by GCR in July 2021 before the competent authorities and the Greek Ombudsperson, RIS committed orally that it would carry out a psychosocial screening will of all newcomers. However, there are still doubts as to whether this is actually happening in practice according to GCR.

Furthermore, according to GCR's observations, in the second semester of 2021, during the quarantine imposed upon arrival for an undetermined period, in some cases, neither people were always registered by RIS, nor UNHCR/civil society organisations had access to the "quarantine area" inside the PRDC. In other cases, both asylum and RIS's procedures were initiated while the newcomers were still in quarantine and had limited access to legal aid. Only obvious vulnerabilities were identified (e.g. pregnant women, elderly people); while victims of GBV or Female Genital Mutilation victims were often not identified as vulnerable. There are also cases where GCR had to intervene to ensure that applicants detained by Police authorities would be referred to public entities for the purpose of assessing their vulnerability, after which they were released if identified as such. However, Kos RIS often enough did

not accept to conduct a new medical and psychosocial screening to ex-detainees due to "lack of competence".

Rhodes: Even if Rhodes is among the Eastern Aegean islands and constitutes an entry point, together with other islands neighboring to Turkey (e.g. Simi, Megisti, Kastellorizo), there is no RIC, no medical/psychosocial screening and the RAO does not examine asylum applications lodged by newcomers. The majority of third-country nationals, who entered Greece through Rhodes or the nearby islands during 2021, were transferred –after an undetermined quarantine period imposed upon their arrival- to Kos PRDC (or less frequently Leros RIC) or, were released and allowed to move to the mainland. Especially since October 2021 a decision of postponement of return for six months has been issued for a significant number of newcomers entering Greece via Rhodes or the nearby islands. However, according to GCR's knowledge, there were cases of asylum seekers who after their arrival to Rhodes were transferred to Kos Police station or Kos PRDC or to Leros RIC. Others remained under administrative detention at Rhodes Police Station after their arrival and were eventually released, while others were immediately transferred by the Police to Athens. In both cases, no vulnerability assessment was conducted.

Lift of the geographical restriction (see also Freedom of movement)

Under IPA, the recognition of vulnerability of asylum seekers has no bearing on the asylum procedure under which their application is examined. Therefore, vulnerable groups, even when identified as such, are no longer referred to the Regular procedure, unless it is proven that no appropriate health care regarding their individual medical problem is available on the island where they reside (See below**).** In the latter cases, the geographical restriction imposed upon arrival is lifted and persons are transferred or allowed to travel to the mainland. In light of this, the exemption of vulnerable individuals from the Fast-Track Border procedure has become much more difficult.

More precisely, for asylum-seekers who entered Greece through the islands of Lesvos, Chios, Samos, Kos, Leros, and Rhodes during 2021, a restriction of movement within each island ('geographical restriction') has been imposed as per the Ministerial Decision 1140/2.12.2019 (GG B' 4736/20.12.2019) which has been in force since 1 January 2020[423]. Greek law transposes Article 7 RCD allowing Member States to impose a restriction of movement to asylum-seekers within a specific area assigned to them, provided that it does not affect the unalienable sphere of private life and that allows sufficient scope for guaranteeing access to all benefits under the Directive. Until 31 December 2019, the geographical restriction could be lifted, *inter alia*, in respect of vulnerable persons. Following amendments to the law, after 1 January 2020, the geographical restriction may *inter alia*[424] be lifted by a decision of the Manager of the RIC for vulnerable persons or persons in need of special reception conditions if appropriate support may not be provided within the area of restriction,[425] without sufficiently describing what such appropriate support entails.[426]

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423 This act is based on Article 45 L. 4636/2019. It is worth noting that the act mentions that the geographical restriction is necessary for the implementation of the EU-Turkey statement.

424 Except for the case of vulnerable persons and persons in need of special reception conditions the geographical restriction may be lifted in the case of: a. unaccompanied minors; b. persons falling under the family reunification provisions of Articles 8-11 of Dublin Regulation, only after the person is accepted by the concerned member state; and c. persons whose applications for international protection are reasonably considered to be founded.

425 See Article 67 (2) L. 4636/2019 and Article 2 (d) of the Ministerial Decision 1140/2.12.2019.

426 According to article 67 (2) L. 4636/2019, '[w]here applicants have been identified as applicants in need of special procedural guarantees, they shall be provided with adequate support in order to allow them to benefit from the rights and comply with the obligations of this Part throughout the duration of the procedure. Forms of adequate support shall, in particular, consist of additional break times during the personal interview in accordance with Article 77, allowing the applicant to move during the personal interview if this is necessary because of his or her health condition, as well as showing leniency to non-major inaccuracies and contradictions, where these are related to his/her health condition.'

The number of decisions of lift geographical restrictions per RIC and per category of vulnerability (or other cases) in 2021 is not available.

Lesvos: According to GCR's knowledge, following the Moria fire on 9 September 2020 and the destruction of many documents in the RIS, there were cases of applicants identified already as "vulnerable in need of special reception conditions" who, upon notification of the first instance decision, could not file an appeal because Lesvos RAO had informally suspended - without the issuing of a relevant legislative act, therefore infringing the vital principle of legal certainty - the deadline for the submission of appeals for the first instance rejections that had been notified until 8 September 2020. Thus, RIS did not proceed to the lift of the "geographical restriction" of the aforementioned persons despite their vulnerability because the latter were considered as "non-applicants" as they were notified of a first instance rejection but an appeal was not submitted in due course. On 11 January 2021, and for the first time in 4 months, Lesvos RAO would begin notifying applicants on Lesvos with first instance rejections and would start accepting appeals against these decisions[427]. However, following the concerns expressed by legal actors, the notification of first instance rejections was postponed due to lack of legal assistance. [428]According to GCR, up until March 2021 there were still vulnerable persons with first instance rejections who were not able to submit an appeal due to lack of legal aid, and thus their geographical restriction was still not lifted. Since April 2021, the RAO has started receiving pending appeals against first instance decisions.

Additionally, despite the lift of geographical restriction during the first trimester of 2021, many vulnerable groups continued to be practically trapped on the island, waiting for their transfer to a refugee camp/shelter in the mainland. During the second trimester, transfers to the mainland increased, but they were not transferred to private apartments as initially planned; while the refugee camp of Kara Tepe was closed in April 2021.

Samos: During the first trimester of 2021 significant delays occurred in the context of COVID-19 in transferring asylum seekers who received decisions lifting their geographical restrictions and providing the issuance of open cards. GCR intervened in these cases to urge for the prioritization of their transfer. In contrast many decisions lifting the geographical limitation imposed to Syrian citizens were issued in April and May 2021 in the context of the decongestion of Samos RIC and the transfer of a limited number of persons to the new RIC. In certain cases, negative first instance decisions concerning Syrian nationals were revoked after an appeal was lodged, and they were subsequently referred to the regular procedure after having their geographical restriction lifted. Even asylum seekers with a geographical restriction were encouraged to leave the island upon authorities' permission. However, by the beginning of the second half of the year, the latter were asked by the authorities to return to the island in order to avoid an interruption of their asylum claims.

In the first half of 2021, the RIS would continue to issue cards with geographical restriction even though the latter had already lifted, due to miscommunication between the RAO and the RIS. GCR had to intervene in several cases involving vulnerable persons who were facing this issue.

On 18 September 2021, the new closed facility for the reception and accommodation of the asylum seekers residing on the island of Samos was inaugurated and the residents of the old RIC were gradually transferred to the new center, which is described as one with "controlled access" (Closed Control Access Center, "KEDN"). As of November 2021, a total prohibition of exit from the closed new Camp has been imposed to all residents who did not have an asylum seeker's card. There are no exceptions to this exit ban, i.e. iot applied to vulnerable groups as well as to applicants that have lodged

427 GCR and other civil society organisations, 11 January 2021, "Legal actors express serious concerns regarding the lack of state free legal aid for asylum applicants in Lesvos", available at: https://bit.ly/3sWzU3j

428 Ενημέρωση εξελίξεων σχετικά με το Δελτίο Τύπου 11.01.21 από την ομάδα εργασίας Legal Aid Working Group Lesvos, available in Greek : https://bit.ly/3oVmVxx.

a subsequent asylum application, but who were not provided an asylum card pending the examination of their admissibility. Even following the intervention of the Greek Ombudsman and the development of the successful objections against the *de facto* detention that GCR filed, the administration of the closed facility did not change its practice. Following interventions regarding the absolute prohibition of exit and entry of those who do not hold an asylum seeker' s card in Zervou's KEDN, the Head of the Center orally clarified that 'those who are finally rejected are entitled to exit but won't be allowed to re-enter the site, thereby raising additional concerns relating to the fact that the RAO was not registering second subsequent applications for applicants who had already seen their first subsequent application rejected. Moreover, people who had already submitted a first subsequent applications, also faced important difficulties in entering and exiting the site pending the admissibility examination of their claim under Art 89 L.4636/2019, as they did not hold an asylum seeker's card.

Kos: Up until September 2021, most of the newcomers were automatically detained except for obvious vulnerable applicants. During this period, decisions lifting the geographical restriction were issued by RIS to some vulnerable people residing at Kos RIC. However, according to GCR's observations, none of the applications by lawyers requesting the lift of the geographical restriction were addressed. Decisions by the RIS that did lift the geographical restriction for vulnerable applicants did not provide specific grounds and the practice was thus described as arbitrary. During 2021 GCR addressed several interventions to the competent authorities and the Greek Ombudsperson in order to comply with procedural guarantees for vulnerable persons foreseen in the context of reception and identification.

Vulnerability identification in the asylum procedure

According to Article 72 (3) IPA "During the Reception and Identification procedure or the border procedure of art. 90 of this law, the Receiving Authorities or the Decision Authorities and especially the Regional Asylum Offices or the Autonomous Asylum Units shall refer the applicant for international protection to doctors of Public Hospitals or Public Mental Health Institutions or other contracted physicians or the Medical Screening and Psychosocial Support Unit of the RIC for the vulnerability assessment under the article 39(4) of this law. Upon the completion of medical and psychosocial assessment, the Unit, acting on a written motivated proposal, shall inform the Head of the competent RAO. The above-mentioned proposal is also notified to the Manager of the RIC. That assessment shall have as only consequence the immediate provision of special reception conditions and special procedural guarantees to the applicant."

According to Article 75 (3) IPA "In case of doubt, the competent Receiving Authorities shall refer the unaccompanied minor to the age assessment procedures as per the provisions in force. In the case where the above-mentioned referral is considered necessary and until the completion of the procedure, special attention should be paid to the particular characteristics of the minor, especially those related to their gender or cultural peculiarities." (See below)

Article 67(1) IPA provides that "The Receiving Authorities shall assess within a reasonable time after the application for international protection is lodged or at any point of the procedure the relevant need arises, whether the applicant requires special procedural guarantees as a consequence, *inter alia*, of age, gender, sexual orientation, gender identity, mental disorders or as a consequence of torture, rape or other serious forms of psychological, physical or sexual violence". According to Article 67(3) IPA "When adequate support cannot be provided [to the applicants] within the framework of the accelerated procedure (art. 83 (9) IPA) and border procedure (art. 90 IPA), especially when the applicant needs to be provided with special procedural guarantees as a consequence of torture, rape or other forms of serious psychological, physical or sexual violence, the abovementioned procedures do not apply or cease to apply […]"

Also, according to article 58 (5) IPA "In case the competent Authorities identify victims of human trafficking, they are obliged to inform as soon as possible the National System of Recognition and Referral of Victims of Human Trafficking in accordance with the article 6 L. 4198/2019"

Despite these provisions, the shortage of medical and psychosocial care can make it extremely complicated and sometimes impossible for people seeking asylum to be (re-)assessed during that process. Following the medical and psychosocial assessment, the medical psychosocial unit of the RIC should inform the competent RAO or AAU of the Asylum Service.

As mentioned above, due to significant gaps in the provision of reception and identification procedures in 2021, owing to a significant understaffing of EODY units and other issues, GCR has found that for a considerable number of applicants the asylum procedure was initiated without a proper medical screening and/or a psychosocial assessment having been concluded.

Accordingly, where vulnerability is not identified before the asylum procedure the initiation of a vulnerability assessment and further referral for vulnerability identification lies to a great extent at the discretion of the caseworker. However, according to GCR's observations, the referral for further medical/psychosocial screening by the caseworker after the first instance interview before the competent RAO is not common practice.

Also, according to GCR's knowledge, the understaffing of state authorities in combination with the constant pressure to process more asylum applications more quickly, resulted in a serious undermining of procedural legal safeguards and thus to decisions of poor quality and unjustified rejections in many cases. GCR has documented many cases where the asylum interview took place before the medical examination of the asylum seeker, who was afterwards rejected as non-credible because of his/her inability to provide all the dates and details of certain events and narrate his/her story in a chronological order, although the person suffered from acute psychiatric problems (e.g. psychosis), as was later proved.

To GCR's knowledge, article 67(3) IPA (exemption from the fast-track border procedure and referral to the regular procedure due to vulnerability) was not applied by the Asylum Service to any case without a prior lift of the geographical restriction during 2021. It was also noted that after the lift of geographical restriction for reasons not related to vulnerability, article 67(3) IPA was applied in several cases by the Asylum Service and the case was referred to the regular procedure without the person being identified as vulnerable. If the interview of first instance had already been conducted before the decision of lift of geographical restriction and the referral to the regular procedure due to vulnerability, it was not conducted again in accordance with the guarantees provided by article 67(2) IPA.

According to the Ministry of Migration and Asylum, 1,569 applications were exempted from the fast-track border procedure and referred to the regular procedure on grounds of vulnerability in 2021.[429]

On 15 February 2021 RSA, Pro-Asyl and MSF had reported that "The gravity of non-compliance of the Greek authorities with the above obligations is reflected in the case of a particularly vulnerable asylum seeker, survivor of serious and repeated violence. Despite having been recognised by the Reception and Identification Service (RIS) as a survivor of torture, rape or other form of violence, the applicant was repeatedly summoned to conduct the asylum interview within the border procedure. The authorities' indifference to his already fragile psychological state led to systematic re-traumatisation on four different occasions ending up to repeated urgent transfers from the Asylum Service offices to the hospital's emergency ward culminating to the deterioration of his mental health condition. The Asylum Service at no point assessed whether the applicant was in need of special procedural

[429] Ministry of Migration and Asylum, Reply to parliamentary question by KINAL, 97157/2022, 17 February 2022, available at: https://bit.ly/3HiYIsF .

guarantees on account of his health condition, and whether or not adequate support could be provided in his case, despite the prior submission of medical documents from the public hospital, documents attesting the person's inability to follow the demanding process of the asylum interview and recount extremely traumatic experiences, as well as documents highlighting the deterioration of his health condition stemming from the interview process. As a result, his case was not exempted from the border procedure as required by the law, even though the competent authorities were fully aware of the state of his health." [430]

Throughout 2021 different practices were being followed by the various RAOs in the different islands as regards the conduct of asylum interviews (see the Regular procedure and Fast-track border procedure)

1.1.2. Vulnerability identification in the mainland

In the Attica region, depending on their nationality, vulnerable groups are referred to the RAOs of Attica, Alimos, or Piraeus. In the rest of the mainland, vulnerable groups are registered by the RAO competent for the area they reside in. The number of vulnerable asylum seekers registered by RAOs and AAUs in the mainland in 2021 is not available.

However, obstacles to Registration through Skype in the mainland also affect vulnerable persons. As referrals of vulnerable persons to the competent RAOs in order to be registered are taking place through NGOs or other entities, GCR is aware of cases of vulnerable applicants who, before being supported by NGOs or other entities and have an appointment fixed, have repeatedly and unsuccessfully tried to fix an appointment themselves to register their application through Skype. Moreover, appointments for the registration of vulnerable persons in the mainland can be delayed due to capacity reasons or due to the suspension of services provided by the Asylum Service due to the preventive measures against Covid-19 (See above, "Registration").

Additionally, on 22 November 2021 the Greek authorities issued a circular establishing that asylum seekers (except for unaccompanied minors) who have not been through the reception and identification process can submit their asylum applications only in the Reception and Identification Centres (RIC) on the Aegean island hotspots of **Samos**, **Chios**, **Lesvos**, **Leros** and in the **Evros** region. Following strong opposition in the parliament however, the government backed up and clarified that applicants will not be transferred from the mainland to the islands, without however providing further information on the competent authorities for the registration of said applications. According to the Authorities, the island centres will exclusively process the cases of people arriving by sea. Furthermore, Skype is no longer used as a channel to access to the asylum procedure for new applicants.[431] Consequently, vulnerable persons in the mainland (with the exception of unaccompanied minors) who have not been subjected to the reception and identification procedures are not able to have access to the asylum procedure via Skype. Moreover, even if a lawyer intervenes and requests the registration of the asylum application of a vulnerable person in the mainland, a medical document of vulnerability issued from a public entity is most of the times needed according to the competent Regional Asylum Offices.

In case that indications or claims as of past persecution or serious harm arise, the Asylum Service should refer, according to the law, the applicant for a medical and/or psychosocial examination, which should be conducted free of charge and by specialised scientific personnel of the respective specialisation. Otherwise, the applicant must be informed that he or she may be subject to such

430 MSF, RSA, PRO-ASYL, "Border procedures on the Greek islands violate asylum seekers' right to special procedural guarantees", 15th February 2021, available at: https://bit.ly/3mp0Bes.

431 Efsyn, 'Μόνο σε νησιά και Έβρο τα νέα αιτήματα ασύλου', 24 November 2021, available at: https://bit.ly/3HqcnOM.

examinations at his or her initiative and expenses.[432] However, article 72(2) IPA provides that "Any results and reports of such examinations are deemed as justified by the Asylum Service where it is established that the applicant's allegations of persecution or serious harm are likely to be well-founded".

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 relatively 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, as NGOs' funding is often interrupted. In **Athens**, torture survivors may be referred for identification purposes to Metadrasi in the context of the programme "VicTorious: Identification and Certification of Victims of Torture". However, those referrals take place mostly by other NGOs.

Also, according to article 58 (5) IPA "In case the competent Authorities identify victims of human trafficking, they are obliged to inform as soon as possible the National Referral Mechanism (NRM) for the identification and referral of victims of Human Trafficking[433] in accordance with the article 6 L. 4198/2019".

The following case supported by GCR mirrors several of the aforementioned issues arising in the context of vulnerability identification by RIS and during the asylum procedure both at the border region and in the mainland:

A single woman from the Democratic Republic of Congo, victim of sexual and gender-based violence in her country of origin, arrived on Chios Island in June 2019 and applied for international protection before the competent RAO. A month later she was sexually assaulted by a man and she tried to report the incident to the local Police but to no avail. She then addressed to "Médecins sans Frontières" who referred her to the public hospital due to severe gynaecological problems. In October 2019, she breached the geographical restriction and she arrived at the mainland. It is mentioned that until her departure she was residing at Vial camp (Chios) in inhuman and degrading conditions without having been subject to any adequate medical support, psychosocial assessment and vulnerability identification by the RIS. Her interview before Chios RAO was still pending at that time. In July 2020 she was arrested on the mainland and remained in administrative detention with a view of return to Chios Island and without her asylum application being taken into consideration. Despite the several requests submitted by GCR to Chios RIS and RAO in order for the geographical restriction to be lifted and her case to be channelled to the regular procedure in accordance with article 67(3) IPA on the grounds of a) vulnerability (victim of sexual violence-mental health problems), b) need of special reception conditions given that appropriate support could not be provided within Chios, c) need for preventive measures so that young woman will not be exposed to any risk related to her gender/need to protect women and girls during reception procedures, the applications were rejected or remained unanswered. Following a suicidal attempt committed in the PRDC of Amygdaleza (Athens), the young woman was released by the Police and stayed in Athens where she was supported by several NGOs. The Police Directorate of Chios proceeded to the lift of geographical restriction for reasons other than the vulnerability. Despite a new request by GCR to RAO Chios and RAO Alimos (Athens) in order for the applicant to be exempted from the fast-track border procedure and for the asylum procedure to be continued in Athens due to the fact that the geographical restriction was already lifted, that the person in question already resides in Athens and is in need of special conditions and procedural guarantees due to her vulnerability, the Asylum Service, did not reply to that demand until June 2021. After several requests from GCR and numerous interventions by the Greek Ombudsperson, during which the young asylum seeker remained in legal limbo in Athens, the RAO in Chios replied in June 2021 that the case cannot be channeled into the regular procedure without the prior lift of geographical restriction by Chios RIS, despite the fact that said restriction was already lifted by the Police. Thus, according to the RAO in Chios RAO, the latter

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432 Article 72(1) IPA.

433 Office Of The National Rapporteur On Trafficking In Human Beings, https://bit.ly/3rVPLxB.

remained competent for the case. Meanwhile, Chios RIS did not accept the medical documents provided by GCR in order to identify the person's vulnerability and issue a decision of lift the geographical restriction. Given that the vulnerable applicant could not return, due to her traumas, to Chios neither for the first instance interview nor for the medical/psychosocial screening, the examination of her claim by Chios RAO finally took place via teleconference from Attica RAO. Consequently, Chios RAO informed Chios RIC about her vulnerability and the procedure continued in the mainland after the issuance of relevant decisions by the Authorities on Chios.

1.2. Age assessment of unaccompanied children by the RIS and in the asylum procedure

On 13 August 2020 the Joint Ministerial Decision 9889/2020[434] entered into force, which sets out a common age assessment procedure both in the context of reception and identification procedures and the asylum procedure. However, as with the previous Decisions, the scope of the JMD 9889/2020 does not extend to the age assessment of unaccompanied children under the responsibility of the Hellenic Police (meaning minors under administrative detention or protective custody) (see Detention of Vulnerable Applicants).

Article 39(5) (f) IPA related to reception and identification procedures refers to JMD 9889/2020. According to article 1(2) JMD 9889/2020, in case of doubt of the person's age, i.e. when the authority's initial assessment is not consistent with the person's statements[435], the RIS or the Asylum Service or any authority/organisation competent for the protection of minors or the provision of healthcare or the Public Prosecutor should inform -at any point of the reception and identification procedures or the asylum procedure- the Manager of the RIC or the Facility of temporary reception/hospitality, where the individual resides, or the Head of RIS or the Asylum Service -if the doubt arises for the first time during the personal interview for the examination of the asylum application-, who, acting on a motivated decision, is obliged to refer the individual for age assessment. Age assessment is carried out by EODY within the RIC, by any public health institution, or otherwise, by a private practitioner under a relevant programme.[436]

The age assessment is conducted with the following successive methods:

- Initially, the assessment will be based on the macroscopic features (i.e. physical appearance) such as height, weight, body mass index, voice, and hair growth, following a clinical examination from properly trained healthcare professionals (physicians, paediatricians, etc) who will consider body-metric data[437].

- In case the person's age cannot be adequately determined through the examination of macroscopic features, a psychosocial assessment is carried out by a psychologist and a social worker to evaluate the cognitive, behavioural and psychological development of the individual. If a psychologist is not available or there is no functioning social service in the nearest public health institution, this assessment can be conducted by a specially trained psychologist and a social worker available from a certified civil society organisation but it cannot be conducted by an organisation in charge of providing care or housing to the person whose age is in question. The outcome of the age assessment at this point is a combination of the psychosocial assessment and the examination of the development of macroscopic features[438].

434 Joint Ministerial Decision 9889/2020, Gov. Gazette 3390/B/13-8-2020.
435 See Article 1(3) JMD 9889/2020.
436 See Art 4 JMD 9889/2020.
437 See Article 1(5)(a) JMD 9889/2020.
438 See Art. 1(5)(b) JMD 9889/2020.

- Whenever a conclusion cannot be reached after the conduct of the above procedures, the person will be subjected to the following medical examinations: either left wrist and hand X-rays for the assessment of the skeletal mass, or dental examination or panoramic dental X-rays or to any other appropriate means which can lead to a firm conclusion according to the international bibliography and practice.[439]

According to Art. 1(7) JMD 9889/2020 the opinions and evaluations are delivered to the person responsible for the referral, who issues a relevant act to adopt the abovementioned conclusions, registers the age in the database of Reception and Asylum, and notifies the act to the Special Secretariat for the Protection of Unaccompanied Minors.

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. The appeal has to be submitted to the authority that issued the contested decision within 15 days from the notification of the decision on age assessment[440].

In practice, the 15-day period may pose an insurmountable obstacle to receiving identification documents proving their age, as in many cases persons under an age assessment procedure remain restricted in the RIC. These appeals are in practice examined by the Central RIS. The number of appeals submitted against age assessment decisions in 2021 is not available.

The findings of a report published by several civil society organisations in the beginning of 2020 are still valid for the year 2021: "Medical methods for age assessment are systematically used, despite well-documented concerns as to their accuracy and reliability. The authorities do not systematically comply with the procedure set out in secondary legislation […] Persons are subjected to an X-ray examination at the First-Line National Health Network Centre (ΠΕΔΥ) or general hospital, without prior assessment by a psychologist and a social worker. Moreover, EODY does not perform a systematic process starting from less invasive methods, as established by JMD 9889/2020. The alleged minors go through a one-time appointment, which includes an age assessment interview and a medical and psychological evaluation. Many are only asked about aspects irrelevant to age assessment such as their family relationships, country of origin, and reasons for fleeing. The sessions take less than 15 minutes and involve no explanation of the procedure or its outcome."[441]

In the same report, it is mentioned that "Errors in the registration of personal details e.g. name, parents' names, date of birth, are frequently reported in the different RICs. […]. Particularly as regards the date of birth, the RIS frequently sets artificial dates such as 1 January. This is especially relevant in the case of alleged minors. In several cases, documents held by individuals are disregarded on the ground that the authorities cannot access the documents' authenticity, and the authorities assign a new date of birth to the applicant. This practice is verified, for instance, vis-à-vis applicants from Afghanistan. [….] Complaints also relate to wrong registration of children as adults. Frontex officers are reported to systematically register declared minors as adults, without recording their declared age and without referring them to age assessment procedures[442]."

Moreover, UNHCR has also observed gaps in the age registration procedure followed by the police and Frontex as well as in the referrals to the age assessment procedure, which is applied contrary to the

439 See Art 1(5)(c) JMD 9889/2020. Contrary to MD 92490/2013 and JMD 1982/2016 which provided for left wrist, hand X-rays, dental examination and panoramic dental X- rays cumulatively and not alternatively.
440 See Art1(9) JMD 9889/2020.
441 RSA, HIAS, GCR, Legal Center Lesvos, DRC, Fenix, ActionAid, Mobile Info Team, The Workings of the Screening Regulation. Juxtaposing proposed EU rules with the Greek reception and identification procedure, January 2021, available at: https://bit.ly/3fL8xFF, 21.
442 *Ibid*, 10-11.

provisions provided in Greek law. The latter foresees a step-by-step and holistic assessment by the medical and psychosocial support unit in the RIC defining the referral to the hospital as the last resort and only if the medical and psychosocial assessment of the RIS is not conclusive. However, in practice, the medical and psychosocial assessment in the scope of the RIS is skipped and a referral takes place directly to the hospital for an x-ray assessment, which usually concludes the age assessment procedure. Furthermore, issues of concern are the gaps in the age assessment procedures that result in instances of repeated age assessments requested by different actors, a practice that prolongs the stay of unaccompanied children in dire conditions in RICs.[443]

According to GCR's findings, in practice, the age assessment of unaccompanied children is an extremely challenging process and the procedure prescribed is not followed in a significant number of cases, *inter alia,* due to the lack of qualified staff.

According to GCR's findings, on **Kos**, minors were treated as adults unless their lawyer submitted a request for age assessment. It is also observed that, in case of doubt, the medical and psychosocial assessment in the scope of the RIS was skipped and the individuals were directly referred to the public hospital for X-rays. Additionally, among the 375 asylum seekers stuck on the Turkish flagged vessel in territorial waters for 4 days that was finally transferred on 31 October 2021 to Kos Island, there were around 70 people who were identified as unaccompanied minors by Frontex and subsequently transferred to the safe zone of the Kos RIC. However, afterwards, the competent unit of RIS challenged their age and carried out wrist examinations concluding that around 30 children were not minors. Consequently, **Kos** RAO treated them as adults and conducted immediately their first instance interviews under the fast-track border procedure (article 90 par. 3 IPA). Negative decisions were issued to all of them except for Afghan nationals.

On **Lesvos**, age assessment procedures, which had been frozen, started taking place again as of June 2021, albeit at a very slow pace. In certain cases, alleged minors were not treated as such by the Authorities during the asylum procedure even though their age assessment procedure had not been carried out yet.

On **Samos,** since the entry into force of the JMD 9889/2020 up until March 2021, age assessment procedures were suspended for unknown reasons. However, throughout 2021, the first stage of age assessment procedures resumed . They were conducted by the doctors of Samos RIC. The second stage of the age assessment procedure, which includes the psychosocial examination by the Psychosocial Unit of Samos RIC, remained suspended. By the end of 2021, age assessment procedures have been on hold again due to lack of medical personnel in the EODY's medical division.

Concerning the age assessment in the asylum procedure, the IPA includes procedural safeguards and refers explicitly to the JMD 1982/2016 (amended by JMD 9889/2020 since 13 August 2020) (see above).

More specifically, Article 75(3) IPA provides that "when in doubt the competent receiving authorities may refer unaccompanied minors for age determination examinations according to the provisions of the Joint Ministerial Decision 1982/16.2.2016 (O.G. B' 335)[444]. When such a referral for age determination examinations is considered necessary and throughout this procedure, attention shall be given to the respect of gender-related special characteristics and of cultural particularities."

The provision also sets out guarantees during the procedure:

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443 Submission by the Office of the United Nations High Commissioner for Refugees in the case of International Commission of Jurists (ICJ) and European Council for Refugees and Exiles (ECRE) v. Greece (Complaint No. 173/2018) before the European Committee of Social Rights.

444 Amended on 13 August 2020 by JMD 9889/2020.

(a) A guardian for the child is appointed who shall undertake all necessary action in order to protect the rights and the best interests of the child, throughout the age determination procedure;
(b) Unaccompanied children are informed prior to the examination of their application and in a language which they understand, of the possibility and the procedures to determine their age, of the methods used, therefore, the possible consequences of the results of the above-mentioned age determination procedures for the examination of the application for international protection, as well as the consequences of their refusal to undergo this examination;
(c) Unaccompanied children or their guardians consent to carry out the procedure for the determination of the age of the children concerned;
(d) The decision to reject an application of an unaccompanied child who refused to undergo this age determination procedure shall not be based solely on that refusal; and
(e) Until the completion of the age determination procedure, the person who claims to be a minor shall be treated as such.

The law also states that "the year of birth can be modified after the age determination procedure under Article 75, unless during the interview it appears that the applicant who is registered as an adult is manifestly a minor; in such cases, a decision of the Head of the competent Receiving Authority, following a recommendation by the case-handler, shall suffice."[445]

The JMD was an anticipated legal instrument, filling the gap of dedicated age assessment procedures within the context of the Asylum Service and limiting the use of medical examinations to a last resort while prioritising alternative means of assessment. Multiple safeguards prescribed in both the IPA and JMD 9889/2020 regulate the context of the procedure sufficiently, while explicitly providing the possibility of remaining doubts and thus providing the applicant with the benefit of the doubt even after the conclusion of the procedure. However, the lack of an effective guardianship system also hinders the enjoyment of procedural rights guaranteed by national legislation (see Legal Representation of Unaccompanied Children).

In practice, the lack of qualified staff within the reception and identification procedure and shortcomings in the age assessment procedure in the RIC undoubtedly have a spill-over effect on the asylum procedure, as the issuance of an age determination act by the RIS precedes the registration of the asylum application with the Asylum Service. While registration of date of birth by the Hellenic Police could be corrected by merely stating the correct date before the Asylum Service, this is not the case for individuals whose age has been wrongly assessed by the RIS. In this case, in order for the personal data e.g. age of the person to be corrected, the original travel document, or identity card should be submitted. Additionally, a birth certificate or family status can be submitted, however, these two documents require an "apostille" stamp,[446] which in practice is not always possible for an asylum seeker to obtain. In practice though, in a few cases the employees in the RAOs proceed to the correction of the age of the person, based on documents without "apostille". Alternatively, according to the law, the caseworker of the Asylum Service can refer the applicant to the age assessment determination procedure in case that reasonable drought exists as to his or her age.[447] In this case, referral to the age assessment procedure largely lies at the discretion of the Asylum Service caseworker.

The number of age assessments conducted within the framework of the asylum procedure in 2021 is not available.

Several organisations sent a letter to the National Commission for Human Rights on 16 December 2021 stressing that the age assessment procedure is not conducted in compliance with the IPA and JMD 9889/2020 on Lesvos and Samos RAO. Moreover, the Asylum Service does not apply the presumption

445 Article 79(4) IPA.
446 Decision of the Director of the Asylum Service No 3153, Gov. Gazette B' 310/02.02.2018.
447 Article 75(3) IPA.

of minority while Article 39(5) IPA foresees that "In any case, until the issuance of a conclusion about his/her age, the person is considered as minor and receives appropriate treatment".

In light of the persisting gaps in child protection in Greece, including the lack of effective guardianship, lack of qualified staff for age assessment procedures, inconsistencies in the procedure followed, and the lack of any legal framework governing the age assessments conducted by the Police (see Detention of Vulnerable Applicants) the 2017 findings of the Ombudsperson are still valid: "The verification of age appears to still be based mainly on the medical assessment carried out at the hospitals, according to a standard method that includes x-ray and dental examination, while the clinical assessment of the anthropometric figures and the psychosocial assessment is either absent or limited. This makes more difficult the further verification of the scientific correctness of the assessment."[448]

Moreover, in the past, the Greek Ombudsperson had expressed serious doubts as to the proper and systematic implementation of the age assessment procedures provided by both ministerial decisions and the implementation of a reliable system.[449] On 30 August 2018, the Greek Ombudsperson had sent a letter to the Director of the Asylum Service on issues that hinder access to the asylum procedure for the unaccompanied minors as well as other issues, such as delays, erroneous implementation of the age assessment procedure, etc. This document remained unanswered, thus the Ombudsperson sent a reminder on 30 September 2019, emphasizing that age assessments based on diagnostic examinations (such as a wrist X-ray scan) should not be accepted given the fact that the accuracy of these exams is questionable.

2. Special procedural guarantees

Indicators: Special Procedural Guarantees

1. Are there special procedural arrangements/guarantees for vulnerable people?
   ☒ Yes ☐ For certain categories ☐ No
   - ❖ If for certain categories, specify which: According to Articles 39(5)(d) and 58(1) IPA the following groups are considered as vulnerable groups: "children; unaccompanied children; direct relatives of victims of shipwrecks (parents, siblings, children, husbands/wives); disabled persons; elderly; pregnant women; single parents with minor children; victims of human trafficking; persons with serious illness; persons with cognitive or mental disability and victims of torture, rape or other serious forms of psychological, physical or sexual violence such as victims of female genital mutilation."

2.1. Adequate support during the interview

According to article 67 (2) IPA, '[w]here applicants have been identified as applicants in need of special procedural guarantees, they shall be provided with adequate support in order to be in the position to benefit from the rights and comply with the obligations in the framework of the asylum procedure.

IPA provides examples of forms of adequate support that can be granted in the procedure. More specifically:[450]

- The possibility of additional breaks during the personal interview;
- The possibility for the applicant to move during the interview if his or her health condition so requires;
- Leniency to minor inconsistencies and contradictions, to the extent that they relate to the applicant's health condition.

448 Ombudsperson, *Migration flows and refugee protection: Administrative challenges and human rights*, Special Report 2017, 25-25 and 75.
449 *Ibid*, 25.
450 Article 67(2) IPA.

National legislation expressively provides that each caseworker conducting an asylum interview shall be "trained in particular as of the special needs of women, children, and victims of violence and torture."[451]

The law also provides that, when a woman is being interviewed, the interviewer, as well as the interpreter, should also be female where this has been expressly requested by the applicant.[452]

In practice, GCR is aware of cases where the vulnerability or particular circumstances of the applicant have not been taken into account or have not properly been assessed at first or/and second instance.

Inadequate interview conditions continued to be reported in the premises of RAO in 2021 according to GCR, i.e. registrations and interviews were conducted without consideration of potential vulnerabilities and relevant needs. Certain interviews and registrations took place simultaneously in different spaces within the same container, which does not grant proper sound insulation and is not in line with the principle of confidentiality.

The Appeals Committees further contribute to the non-implementation of special procedural guarantees through a strict interpretation of Article 67 IPA. Several Committees have ruled that the onus is on the asylum seeker to establish exactly what evidence he or she would have been able to submit in his/her specific case if procedural guarantees had been provided during the procedure.[453]

In a case of a young Cameroonian woman, victim of sexual and gender-based violence and human trafficking, who fled her country of origin due to persecution because of her sexual orientation, the first instance decision was full of contradictions and her serious psychological and mental health problems were not taken into account by the caseworker, even though she had been already identified as "vulnerable" by RIS (victim of torture) and her case had been channeled to the regular procedure. She had also submitted certificates from both a psychiatrist and a psychologist. In fact, failing to properly evaluate her medical problems, it was stated that "she was not considered credible since the descriptions she gave were considered insufficiently detailed". In September 2021, the negative second instance decision was notified to the applicant. The Appeals Committee rejected the appeal repeating the reasoning of the first instance decision, without taking into consideration the legal memo submitted by GCR.[454]

According to GCR's experience, in several cases, when evaluating claims made by persons of a particular nationality - mainly Pakistani or Bangladeshi– the caseworkers and the Appeals Committee seem to discriminate and minors are not given the benefit of the doubt. All decisions rejecting minors' claims have troubling similarities. Procedural deficits (absence of a guardian, of appropriate legal representation and legal aid during the process), as well as substantial deficits regarding the determination of refugee status (lack of any reference to the Best Interest of the Child or lack of assessment of the Best Interest, obvious lack of knowledge regarding forms of child persecution in general and in countries of origin in particular or the lack of a proper assessment of a minor's credibility), make it almost impossible for unaccompanied minors undergoing the procedure themselves to qualify for international protection. The number of decisions granting refugee status or subsidiary protection to unaccompanied children and the number of in-merit rejection decisions issued throughout 2021 is not available.

451 Article 77(12)(a) IPA.

452 Article 77(5) IPA, as well as Administrative Court of Appeal of Athens, Decision 3043/2018, available in Greek at: https://bit.ly/2Jk1Bk6, which found that an applicant who has not requested an interpreter of the same gender for the interview cannot rely on this provision at a later stage.

453 6th Appeals Committee, Decision 30955/2020, 18 May 2021, para II.4; 12th Appeals Committee, Decision 233902/2021, 9 September 2021, 3.

454 Decision on file with the author.

2.2. Exemption from special procedures

The IPA no longer provides for the exemption of vulnerable persons from special procedures as a rule[455] (see Identification). Applicants in need of special procedural guarantees are only exempted from the Accelerated Procedure, the Border Procedure, and the Fast-Track Border Procedure where adequate support cannot be provided (see above).[456] Nevertheless, L. 4686/2020 abolished the rule introduced by L.4636/2019 allowing for the standard processing of vulnerable cases through accelerated procedures[457].

According to the information provided by the Asylum Service, 1,569 applications were exempted from the fast-track border procedure and were channeled into the regular procedure for reasons of vulnerability in 2021, compared to 5,885 cases in 2020.[458] However, the specific vulnerabilities presented by each case are not available.

Appeal Committees have continued to dismiss alleged infringements of Article 67(3) IPA stemming from the failure of the Asylum Service to exempt the applicant from the fast-track border procedure, on the ground that the appellant has not demonstrated procedural damage (*δικονομική βλάβη*).[459] The position of the Appeals Committees remains incompatible with the case law of administrative courts, according to which failure to refer such cases to the regular procedure unlawfully circumvents the special protection afforded by law to vulnerable groups.[460]

Unaccompanied children below the age of 15, as well as unaccompanied children who are victims of trafficking, torture, rape, or other forms of serious psychological, physical and sexual violence, are always processed under the regular procedure.[461] For those aged 15 or over who are not victims of trafficking, torture or violence, exemption from special procedures depends on the individual grounds applied by the authorities in each case:[462]

Exemption of unaccompanied children aged 15 or over from special procedures			
Accelerated procedure		Border and fast-track border procedures	
Ground		Ground	
Claim unrelated to protection	√	Protection in another Member State	√
Safe country of origin	x	First country of asylum	√
False information or documents	√	Safe third country	X
Destruction or disposal of documents	√	Subsequent application	X

455 Articles 39(5)(d) and 72(3) IPA provide state that the determination of an applicant as vulnerable has the sole effect of triggering immediate care of particular reception. L 4375/2016, previously in force, expressly foresaw that applicants in need of special procedural guarantees and unaccompanied minors shall always be examined under the regular procedure.

456 Article 67(3) IPA. This provision clarifies that, where the applicant falls within the cases where no appeals have no automatic suspensive effect, he or she must have access to interpretation services, legal assistance and at least one week to prepare the appeal (see also Border Procedure and Fast-Track Border Procedure).

457 Article 60 L.4686/2020, provides for the repeal, among other provisions, of Article 83 para. 9(l) of L. 4636/2019

458 Information provided by the Asylum Service, 31 March 2021.

459 8th Appeals Committee, Decision 1592/2021, 10 March 2021, para 3; 6th Appeals Committee, Decision 140330/2021, 21 July 2021, 11; 12th Appeals Committee, Decision 233902/2021, 9 September 2021, 3; 6th Appeals Committee, Decision 248623/2021, 16 September 2021, para 3; 2nd Appeals Committee, Decision 303875/2021, 11 October 2021, 5-6.

460 Administrative Court of Appeal of Piraeus, Decision A54/2021, 11 February 2021, para 9; Decision A94/2021, 25 May 2021, paras 8-9. Note that these refer to Article 60(4) L 4375/2016, repealed by the IPA.

461 Article 75(7) IPA.

462 Articles 83(10) and 90(4) IPA.

Clearly unconvincing application	√	Application by dependant	√
Subsequent application	x	Claim unrelated to the protection	√
Application to frustrate return proceedings	√	Safe country of origin	X
Application not as soon as possible	√	False information or documents	X
Refusal to be fingerprinted under Eurodac	√	Destruction or disposal of documents	X
Threat to public order or national security	x	Clearly unconvincing claim	√
Refusal to be fingerprinted under national law	√	Application to frustrate return proceedings	√
Vulnerable person	√	Application not as soon as possible	√
		Refusal to be fingerprinted under Eurodac	√
		Threat to public order or national security	X
		Refusal to be fingerprinted under national law	√
		Vulnerable person	√

As far as the Safe Third Country concept is concerned, the law specifies that unaccompanied children may only be subject to the border and fast-track border procedure where this is in line with their best interests.[463]

Pressure on the Greek authorities to abolish the exemptions of vulnerable applicants from the fast-track border procedure and to "reduce the number of asylum seekers identified as vulnerable", for the sake of the implementation of the EU-Turkey statement and the increase of returns to Turkey has already been reported since late 2016.[464] However, as underlined by *inter alia* Médecins Sans Frontières "far from being over-identified, vulnerable people are falling through the cracks and are not being adequately identified and cared for."[465]

Within this framework, L 4540/2018, transposing the recast Reception Conditions Directive, has omitted persons suffering from PTSD from the list of vulnerable applicants.[466] Subsequently, following the 2019 and 2020 amendment, IPA has not included persons suffering from post-traumatic stress disorder (PTSD) in the list of vulnerable individuals.

2.3. Prioritisation

Both definitions "vulnerable group" and "applicant in need of special procedural guarantees" were used by IPA before the amendment by L4686 in relation to other procedural guarantees such as the examination of applications by way of priority.[467] Although article 39(5)(d) IPA provided that applications of persons belonging to vulnerable groups were examined "under absolute priority"[468], this provision was abolished by L. 4686/2020[469].

According to a letter submitted by several organisations to the National Commission for Human Rights in 16 December 2021 "there is no delay in the registration of asylum applications submitted by unaccompanied children being under the protection the National Tracing and Protection Mechanism. However, minors who have not been traced by said Mechanism might wait for years until the registration

463 Article 90(4)(d) IPA.
464 European Commission, *Joint Action Plan of the EU Coordinator on the implementation of certain provisions of the EU-Turkey Statement*, Annex 1 to COM(2016) 792, 8 December 2016, paras 2 and 3; Human Rights Watch, 'EU/Greece: Pressure to minimise numbers of migrants identified as vulnerable', 1 June 2017, available at: http://bit.ly/2qD2fQb; AIDA, *The concept of vulnerability in European asylum procedures*, September 2017, 17.
465 MSF, *A dramatic deterioration for asylum seekers on Lesvos*, July 2017, 3.
466 Article 20(1) L. 4540/2018.
467 See also Articles 39(6)(c) and 83(7) IPA.
468 Article 39(5)(d) L.4636/2019.
469 Article 2(3) L. 4686/2020.

of their asylum application or their interview before the Asylum Service. Consequently, by the time of their appointment they might already have reached adulthood.

The number of applications by vulnerable persons which were examined by priority until the entry into force of L.4686/2020 is not available[470]. However, GCR is aware of applications by persons officially recognized as vulnerable whose interview has been scheduled over one year after registration.

3. Use of medical reports

Indicators: Use of Medical Reports

1. Does the law provide for the possibility of a medical report in support of the applicant's statements regarding past persecution or serious harm? ☒ Yes ☐ In some cases ☐ No

2. Are medical reports taken into account when assessing the credibility of the applicant's statements? ☒ Yes ☐ No

Upon condition that the applicant consents to it, the law provides for the possibility for the competent authorities to refer him or her for a medical and/or psychosocial diagnosis where there are signs or claims, which might indicate past persecution or serious harm. These examinations shall be free of charge and shall be conducted by specialised scientific personnel of the respective specialisation and their results shall be submitted to the competent authorities as soon as possible. Otherwise, the applicants concerned must be informed that they may be subjected to such examinations at their own initiative and expense. Any results and reports of such examinations had to be taken into consideration by the Asylum Service.[471] The new IPA provides that any results and reports of such examinations are taken into consideration, in order for the deciding authorities to establish if the applicant's allegations of persecution or serious harm are likely to be well-founded".[472]

Specifically, for persons who have been subjected to torture, rape, or other serious acts of violence, a contested provision was introduced in 2018,[473] according to which, such persons should be certified by a medical certificate issued by a public hospital or by an adequately trained doctor of a public sector health care service provider.[474] The provision has been maintained by the IPA.[475]

The main critiques against this provision are that doctors in public hospitals and health care providers are not adequately trained to identify possible victims of torture and that the law foresees solely a medical procedure. According to the Istanbul Protocol, a multidisciplinary approach is required – a team of a doctor, a psychologist, and a lawyer – for the identification of victims of torture. Moreover, stakeholders have expressed fears that certificates from other entities than public hospitals and public health care providers would not be admissible in the asylum procedure and judicial review before courts.

Few such cases of best practice, where Asylum Service officers referred applicants for such reports, were recorded by GCR in 2021. However, several cases have been reported to GCR where the Asylum Service or the Appeals Authority did not take into account the medical reports provided (see Special Procedural Guarantees).

470 Information provided by the Asylum Service, 31 March 2021.
471 Article 53 L 4375/2016.
472 Article 72(2) IPA.
473 Article 23 L 4540/2018.
474 Immigration.gr, 'Η πιστοποίηση θυμάτων βασανιστηρίων αποκλειστικό «προνόμιο» του κράτους;', May 2018, available in Greek at: https://bit.ly/2TVAMXv.
475 Article 61(1) IPA.

As reported by several civil society organisations,[476] "certain categories such as victims of torture are systematically not identified as such, where certification does not take place. Certification of victims of torture is impossible in the country in practice, given that public health authorities do not have the processes and capacity in place to carry out certification. The authors have contacted public health institutions on the islands on various occasions to inquire whether they certify victims of torture in accordance with the Istanbul Protocol, victims of rape of other serious form of violence, as well as whether hospital staff is appropriately trained for such a certification and whether the victims are able to receive the necessary care for their rehabilitation."

Reports published by MSF and METAdrasi in December 2021 confirm that no public hospital is able to carry out the procedure set out in Article 61(1) IPA in practice. Ten public hospitals across Greece confirmed to MSF in 2021 that they lack the capacity or expertise to provide certification or rehabilitation to victims of torture. Out of 89 public hospitals contacted by METAdrasi throughout the country in 2021, only seven replied in writing and none conducts the certification procedure set out in the law.[477]

During 2021, a subsequent asylum application lodged by a national of Cameroon, victim of torture in his country of origin and suffering from serious mental health disorders, was rejected as inadmissible by Lesvos RAO and the Appeals Authority on the grounds that the medical certificates by psychiatrist and psychologist of "Médecins Sans Frontières" as well as the "Certification of Torture Victims" issued by "Metadrasi" that were submitted for the first time before the Authorities cannot be considered as "new substantial elements" due to the fact that during his first asylum application the applicant had claimed to have been a victim of torture in his country of origin. Legal remedies were lodged before the competent Administrative Court; the application for suspension was accepted in December 2021 and the application for annulment is still pending.[478]

4. Legal representation of unaccompanied children

Indicators: Unaccompanied Children

1. Does the law provide for the appointment of a representative to all unaccompanied children?
☒ Yes ☐ No

Under Greek law, any authority detecting the entry of an unaccompanied or separated child into the Greek territory shall take the appropriate measures to inform the closest Public Prosecutor's office, the National Centre for Social Solidarity (*Εθνικό Κέντρο Κοινωνικής Αλληλεγγύης*, EKKA), the Special Secretariat for the Protection of Unaccompanied Minors or any other competent authority for the protection of unaccompanied and/or separated children[479]. According to IPA, before the amendment by L.4756/2020,[480] the General Directorate of Social Solidarity of the Ministry of Labour and Social Affairs was responsible for further initiating and monitoring the procedure of appointing a guardian to the child and ensuring that his or her best interests are met at all times[481]. However, since the entry into force of L.4756/2020, the responsible authority for the procedure of guardianship of unaccompanied children is the Directorate for the Protection of the Child and the Family of the Ministry of Labour and Social Affairs in collaboration with the National Centre for Social Solidarity (EKKA) or other authorities.[482]

476 RSA, p.16

477 METAdrasi, *Θύματα βασανιστηρίων: Από την ανίχνευση στην προστασία: Ιστορικό, πρακτικές και συστάσεις για τη βελτίωση της προστασίας των θυμάτων βασανιστηρίων στην Ελλάδα*, 21 December 2021, available at: https://bit.ly/3170BJQ; MSF, 'Οι Γιατροί Χωρίς Σύνορα ολοκληρώνουν τη δράση τους στην κλινική για επιζώντες βασανιστηρίων στην Αθήνα', 21 December 2021, https://bit.ly/3EBMrOC..

478 Decisions on file with the author.

479 Article 60(1) IPA.

480 L. 4756/2020, Gov. Gazette A' 235/26-11-2020.

481 See Article 32(1) & (2) IPA and Article 60(3) IPA (before the entry into force of L.4686/2020), article 60(4) IPA (after the entry into force of L. 4686/2020).

482 Articles 13 and 14 L.4756/2020 amending respectively articles 32 and 60 IPA.

L 4554/2018 introduced for the first time a regulatory framework for the guardianship of unaccompanied children in Greek law. According to the new law, a guardian will be appointed to a foreign or stateless person under the age of 18 who arrives in Greece without being accompanied by a relative or non-relative exercising parental guardianship or custody. The Public Prosecutor for Minors or the local competent Public Prosecutor, if no Public Prosecutor for minors exists, is considered as the temporary guardian of the unaccompanied minor. This responsibility includes, among others, the appointment of a permanent guardian of the minor.[483] The guardian of the minor is selected from a Registry of Guardians created under the National Centre for Social Solidarity (*Εθνικό Κέντρο Κοινωνικής Αλληλεγγύης*, EKKA).[484] Also, the law provides a best interest of the child determination procedure following the issuance of standard operational procedure to be issued.[485] The law also creates the Supervisory Guardianship Board, which will be responsible for ensuring legal protection for unaccompanied children with respect to disabilities, religious beliefs and custody issues.[486] Additionally, the law established the Department for the Protection of Unaccompanied Minors at EKKA, which had the responsibility of guaranteeing safe accommodation for unaccompanied children and evaluating the quality of services provided in such accommodation.[487] However, since the amendment of IPA by L.4686/2020 and later by L.4760/2020, the authority responsible for the accommodation of unaccompanied minors is the Special Secretariat for the Protection of Unaccompanied Minors of Ministry of Migration and Asylum.[488]

Under Article 18 L 4554/2018, the guardian has responsibilities relevant to the integration of unaccompanied children, which include:

- ensuring decent accommodation in special reception structures for unaccompanied children;
- representing and assisting the child in all judicial and administrative procedures;
- accompanying the child to clinics or hospitals;
- guaranteeing that the child is safe during their stay in the country;
- ensuring that legal assistance and interpretation services are provided to the child;
- providing access to psychological support and health care when needed;
- taking care of enrolling the child in formal or non-formal education;
- taking necessary steps to assign custody of the child to an appropriate family (foster family), in accordance with the applicable legal provisions;
- ensuring that the child's political, philosophical and religious beliefs are respected and freely expressed and developed; and
- behaving with sympathy and respect to the unaccompanied child.

In practice, the system of guardianship is still not operating. According to the initial version of L. 4554/2018 (Art. 32), the Guardianship Law should have entered into force at the time that the Ministerial Decision approving the Rules of Procedure of the Supervision Board provided by Art. 19(6) L. 4554/2018 would be issued. Following an amendment introduced in May 2019 (Art. 85(2) L. 4611/2019, Gov. Gazette A 73/17.5.2019), the entry into force of L. 4554/2018 has been postponed until the 1st of September 2019. However, the entry into force of L. 4554/2018 has been further postponed until the 1st of March 2020 (Art. 73 (1) L. 4623/2019, Gov. Gazette A 134/9.8.2019).[489] By the end of March 2021, the system was not in place.

483 Article 16 L 4554/2018.
484 *Ibid*.
485 Article 21 L 4554/2018.
486 Article 19 L 4554/2018.
487 Article 27 L 4554/2018.
488 The Special Secretariat for the Protection of Unaccompanied Minors was established with 1(3) of the Presidential Degree 18/2020.It operates according to Articles 35 and 42 L. 4622/2019 and reports directly to the Minister of Migration and Asylum, https://bit.ly/3fMN5jn. Article 32(4) IPA and Article 60(3) IPA.
489 Response by the International Commission of Jurists (ICJ) and European Council for Refugees and Exiles (ECRE) to the Observations of the Greek Government on the Merits of Collective Complaint 173/2018.

Temporary guardians had been appointed at the end of 2020 only for cases of unaccompanied minors who were eligible for the relocation scheme. However, this system cannot substitute the system of guardianship provided by Law. Those temporary guardians were authorized only to proceed with the necessary arrangements of the BIA and the security interviews, while in 2021 their mandate broadened, allowing them to follow up with the minors' applications of international protection and have a whole overview of their beneficiaries' well-being. However, the above network of temporary guardians run by the NGO METAdrasi stopped operating on 23 August 2021, creating a gap in the continuation of the representation before the competent authorities of those unaccompanied minors who had benefited of it.[490]

In May 2019, the European Committee on Social Rights of the Council of Europe, following a collective complaint lodged by ECRE and ICJ, with the support of GCR, adopted its Decision on Immediate Measures, and indicated to the Greek Authorities, *inter alia*, to immediately appoint effective guardians.[491] Greek Authorities had not complied with said Decision by the end of March 2021.

The fact that the public sector is severely untrained and understaffed hinders the situation even more. Especially, assigning this additional task of guardianship to prosecutors has proved to be disastrous over the years, especially given the number of prosecutors and their actual workload as prosecuting authorities.[492]

Several civil society organisations mention that "Unaccompanied children are not immediately appointed a guardian for the purposes of reception and identification procedures. However, at different times in recent years, on the basis of a general authorisation of guardians coordinated by METAdrasi by public prosecutors, unaccompanied children on Lesvos, Chios, Leros and Kos have been able to be accompanied by guardians during the aforementioned procedure before Frontex. The presence of guardians has had visible impact on the transparency of the registration of the individuals' personal details, including declared age".[493]

Despite the welcome development of the legal framework under L 4554/2018, the proper implementation of the guardianship system should be further monitored. The Greek Ombudsman noted in his Observations on the draft bill on Law 4636/2019 that there are several provisions, which may complicate the protection of migrant children and hinder the implementation of existing legislation. According to this report, there is a concerning lack of clarity in the definitions of unaccompanied and separated children, uncertainty over the competent services, and absence of any reference to the Guardianship Law 4554/2018 and secondary legislation setting out age assessment procedures [494]. Despite the fact that the new L. 4756/2020 amending IPA introduces a direct reference to the Guardianship Law 4554/2018 and includes more details on the responsibilities of the competent authorities, there are still several issues to be addressed.

The total number of applications for international protection lodged by unaccompanied minors before the Asylum Service in 2021 is not available.

490 The relevant press release by METAdrasi NGO available at: https://bit.ly/3DcexB1.

491 European Committee on Social Rights, Decision on admissibility and on immediate measures, International Commission of Jurists (ICJ) and European Council for Refugees and Exiles (ECRE) v. Greece, Complaint No. 173/2018, 23 May 2019.

492 Rosa Luxemburg Foundation, *Children Cast Adrift: Exclusion and exploitation of unaccompanied minors (UAMs) in Greece (2019)*, available at: https://bit.ly/2y9sEd3.

493 RSA and other civil society organisations, as above, 24.

494 Response by the International Commission of Jurists (ICJ) and European Council for Refugees and Exiles (ECRE) to the Observations of the Greek Government on the Merits of Collective Complaint 173/2018.

On 6 April 2021, the Ministry of Migration and Asylum and UNHCR, in collaboration with IOM and the NGOs Arsis, METAdrasi and the Network for Children's Rights, launched a mechanism to rapidly identify unaccompanied children who are homeless or live in insecure conditions and transfer them to safe accommodation. The mechanism includes a 24/7 telephone hotline for identifying and tracing children in need, available in six languages.[495] According to GCR's observations, the new mechanism is very responsive to requests addressed both by NGO's and by UAMs themselves.

E. Subsequent applications

Indicators: Subsequent Applications

Does the law provide for a specific procedure for subsequent applications? ☒ Yes ☐ No

Is a removal order suspended during the examination of a first subsequent application?

- ❖ At first instance ☒ Yes ☐ No
- ❖ At the appeal stage ☐ Yes ☐ No ☒ In some cases (under the IPA)

Is a removal order suspended during the examination of a second, third, subsequent application?

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

The law sets out no time limit for lodging a subsequent application.[496]

A subsequent application can also be lodged by a member of a family who had previously lodged an application. In this case the preliminary examination concerns the eventual existence of evidence that justifies the submission of a separate application by the depending person. Exceptionally, an interview shall be held for this purpose.[497]

A total of 5,802 subsequent asylum applications were submitted to the Asylum Service in 2021, thereby doubling the number of subsequent applications lodged in 2020 (2,700).[498] This increase can be attributed to the fact that many applicants were examined under the safe third country concept and their applications were rejected as inadmissible, as well as to the deterioration of the situation in Afghanistan after the Taliban takeover in August 2021. Indicatively, out of the total number of subsequent applications, according to the figures published by Eurostat,[499] 1,435 were submitted by Afghans and 930 by Syrians. The difficulty in having access to the asylum procedure observed during 2021 should also be taken into consideration as an important factor of the number of subsequent applications.

Subsequent applications 2021*	
	Number of applications
First	5,553
Second	236
Third	13
Total	**5,802**

495 Ministry of Migration and Asylum, 6 April 2021, available at: https://bit.ly/3JGUhJk.
496 Article 89 IPA
497 Article 89(5) IPA.
498 Ministry of Migration and Asylum, *Reply to parliamentary question by KINAL*, 97157/2022, 17 February 2022, available at: https://bit.ly/3HiYIsF.
499 Eurostat, Asylum applicants by type of applicant, citizenship, age and sex - annual aggregated data (rounded), available at: https://bit.ly/3GlFCDi.

**The initial application for international protection was placed at any given time since the launch of Asylum Service (7.6.2013)*

Both the administration's insistence on the arbitrary application of the "safe third country" concept and the security situation in Afghanistan after the takeover by the Taliban are inextricably linked to an over 100% increase in subsequent applications on 2020. During 2021, one in five asylum applications registered was a subsequent application.

A total of 3,214 admissibility decisions on subsequent applications were issued throughout 2021. However, neither the total number of subsequent applications considered admissible and referred to be examined on the merits, nor the number of subsequent applications dismissed as inadmissible at first instance in 2021 is not available.[500]

"Subsequent application" is an application for international protection submitted after a final decision has been taken on a previous application for international protection, including cases where the applicant has explicitly withdrawn his/her application and cases where the determining authority has rejected the application following its implicit withdrawal.[501]

The definition of "final decision" was amended in 2018. According to the new definition, as maintained in the IPA, a "final decision" is a decision granting or refusing international protection: (a) taken by the Appeals Committees following an appeal, or (b) which is no longer amenable to the aforementioned appeal due to the expiry of the time limit to appeal.[502] An application for annulment can be lodged against the final decision before the Administrative Court.[503]

Preliminary examination procedure

When a subsequent application is lodged, the relevant authorities examine the application in conjunction with the information provided in previous applications.[504]

Subsequent applications are subject to a preliminary examination, during which the authorities examine whether new substantial elements have arisen or have been presented by the applicant and could not be invoked by the applicant during the examination of her/his previous application for international protection. The preliminary examination of subsequent applications is conducted within 5 days to assess whether new substantial elements have arisen or been submitted by the applicant.[505] According to the IPA, the examination takes place within 2 days if the applicant's right to remain on the territory has been withdrawn.[506]

During that preliminary stage, according to the law all information is provided in writing by the applicant,[507] however in practice subsequent applications have been registered with all information provided orally.

Elements or claims related either to the applicant's personal circumstances or to the situation in the applicant's country of origin that did not exist during the examination of his/her previous application are considered new in light of the first asylum procedure. Elements previously available to the applicant or

500 Ministry of Migration and Asylum, *Reply to parliamentary question by KINAL*, 97157/2022, 17 February 2022, available at: https://bit.ly/3HiYIsF
501 Article 63(g) IPA.
502 Article 63(a) IPA.
503 Article 108(1) IPA.
504 Article 89(1) IPA.
505 Article 89(2) IPA.
506 Articles 89(2) and 89(9) IPA.
507 Article 89(2) IPA.

claims that could have been submitted during the first asylum procedure are considered new when the applicant provides valid reasoning for not presenting them at that stage. Furthermore, such new elements should be considered to be substantial if they lead to the conclusion that the application is not manifestly unfounded, that is to say, if the applicant does not invoke claims clearly not related to the criteria for refugee status or subsidiary protection.

Accordingly, the 18th Appeals Committee noted in its 4829/2020 Decision that "although the applicant's claims presented in his subsequent application were also presented in general terms during the examination of his first application for international protection, the subsequent application presents for the first time in a coherent manner elements related to his mental state that shed light and explain the reasons that made him leave his country of origin and the connection between his health issues and his fear of persecution he claims to face in his country. These elements where presented during the examination of his first application through no fault of his own due to the fact that his mental health was already at that time particularly strained and he was in no position to present the reasons of his fear of persecution explicitly".[508]

Similarly, the Asylum Unit in Amygdaleza considered in its 366444/ 2021 Decision as new and substantial the applicant's claims, i.e. his sexual orientation and the tortures he experienced, presented in his subsequent application on the basis that he could not present them at an earlier stage due to the fact that *"he is suffering from depression and post-traumatic stress disorder and depressive episode of a reactive nature"* and therefore merit further consideration [509]

In its 7268/2021 Decision, the RAO Thessaloniki noted that *"while examining an international protection application it should be taken into account that that the cultural factors, the gender or the traumatic experiences of the applicants may affect the way in which they are likely to express themselves. It is common that asylum seekers find it difficult to tell their personal story. Fear and distrust of the authorities also plays a role in maintaining the applicant's silence. It is therefore accepted that applicants were afraid to present the reasons which led them to leave their country in an earlier stage* [510]

However, in most cases, the Asylum Service incorrectly interprets the concept of new and substantial elements according to GCR findings and dismisses relevant subsequent applications as inadmissible.

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.[511]

Until a final decision is taken on the preliminary examination, all pending measures of deportation or removal of applicants who have lodged a subsequent asylum application are suspended.[512]

Exceptionally, under the IPA, "the right to remain on the territory is not guaranteed to applicants who
(a) make a first subsequent application which is deemed inadmissible, solely to delay or frustrate removal, or
(b) make a second subsequent application after a final decision dismissing or rejecting the first subsequent application".[513]

508 Greek Asylum Case Law Report, available at: https://bit.ly/3Nxgexp, 47.
509 Greek Asylum Case Law Report, available at https://bit.ly/3Nxgexp, 50.
510 Greek Asylum Case Law Report, available at https://bit.ly/3Nxgexp, 48.
511 Article 89(4) IPA.
512 Article 89(9) IPA.
513 Article 89(9) IPA.

Any new submission of an identical subsequent application is dismissed as inadmissible.[514]

Until the completion of this preliminary procedure, applicants are not provided with proper documentation and have no access to the rights attached to asylum seeker status or protection. The asylum seeker's card is provided after a positive decision on admissibility.

An appeal against the decision rejecting a subsequent application as inadmissible can be lodged before the Independent Appeals Committees under the Appeals Authority within 5 days of its notification to the applicant. [515]

Second and every following subsequent application

Under the legislative change that entered into force on 4 September 2021, each subsequent application after the first one is subject to a fee amounting to 100 € per application. [516] According to this provision, the amount may be revised through a Joint Ministerial decision.

A Joint Ministerial Decision of the Ministers of Migration and Asylum and of Finance, entered into force four months later on 1 January 2022, determining various issues concerning the implementation of the aforementioned statutory provision (definitions, payment procedure, reimbursement of unduly paid fees etc.).[517]

In the intervening time between the legislative change and the issuance of the aforementioned JMD – between September 2021 and 1 January 2022, competent authorities refused to register second subsequent applications or more but one month after the JMD, they resumed the registration of such applications. Since September 2021, Lesvos RAO, amongst other RAO's, has informally suspended the registration process of second subsequent applications or more in violation of the principle of legal certainty and in violation of article 6 par. 1 of Directive 2013/32 / EU,. As a result, those applicants who had their first subsequent application rejected were unable to submit a new subsequent application and remained in a legal limbo and extremely precarious situation. They have been living in inhuman and degrading conditions for several months given that they deprived from access to healthcare and financial benefits after the final rejection of their previous application and the consequent deactivation of PA.A.Y.P.A. They are also deprived of any other financial resources and are at risk of arrest, administrative detention and deportation.

Moreover, the Ministerial Decision foresees that if the application is submitted on behalf of several members of the applicant's family, the fee is required for each applicant separately, including minor children. By way of illustration, in a constellation of five family members - two parents with three minor children - a fee of 500 euros is required.[518]

Particular concerns arise in relation to applications for international protection falling under the scope of the JMD designating Turkey as a "safe third country" for applicants whose country of origin is Syria, Afghanistan, Pakistan, Bangladesh, Somalia; i.e. cases where their previous applications have been examined only on admissibility under Article 86 par. 1 IPA (Turkey safe third country) and have been rejected as inadmissible, without ever having been examined on the merits. Moreover, despite the fact that Turkey has suspended readmission for almost 2 years, these applications have been rejected as inadmissible due to the continued refusal of the Greek authorities to enforce Article 86 (5) IPA**,** which

514 Article 89(7) IPA.
515 Article 92(1d) IPA.
516 Article 89 (10) IPA, as added by article 23 L.4825/04.09.2021, Gazette 157/ A/ 04.09.2021.
517 Joint Ministerial Decision 472/ 21.12.2021, Gazette 6246/ B/ 27.12.2021 entered into force on 01 January 2022.
518 Article 1 (2) Joint Ministerial Decision 472/2021.

foresees that they should be examined on the merits if applicants cannot return to the third country inn question.

It should be noted that the above procedure was in force for Syrian citizens even before the implementation of the JMD which defines Turkey as a "safe third country" and as a result there are cases of applicants who have not been able to access a safe legal status for 3 years, as they are constantly rejected on admissibility. For the applicants whose application for international protection has never been examined on the merits, the Administration must invite them to an oral hearing to assess the merits according to article 86 par. 5 IPA and not to lead them to apply for international protection for a third time, while obliging them to pay a fee of 100 euros for this purpose**.** Moreover, this provision also includes asylum seekers from countries where a substantial change of circumstances has taken place, such as Afghanistan, despite the fact that the existence of new and essential elements and the non-abusively submission of the application are given.

National human rights bodies including the Greek Ombudsman and civil society organisations repeatedly called on the Minister of Migration and Asylum to abolish the aforementioned legislative regulation of Article 89 (10) IPA and of JMD "as it is clear that the legislative provision based on which the payment of the fee constitutes a prerequisite for the submission of a subsequent application for international protection for a financially deprived and vulnerable population, such as asylum seekers and especially for large families, constitutes the submission of the asylum application prohibitive.[519] As a result, this condition undermines the right of access to asylum, as enshrined in Article 18 of the Charter of Fundamental Rights, as the provision is contrary to articles 6 par. 1 and 40-42 of Directive 2013/32/EU. In addition, it conflicts with the provisions of articles 25 par. 2 and 20 par. 1 of the Constitution of Greece, articles 47 and 52 of the Charter of Fundamental Rights of EU law and the relevant case law of the ECtHR regarding the provisions of Articles 3, 8 and 13 of the ECHR".[520] The Greek Council for Refugees (GCR) and Refugee Support Aegean (RSA) have filed a judicial review petition before the Greek Council of State for the annulment of the aforementioned Joint Ministerial Decision. The date of the hearing is set in June 2022.

Furthermore, it appears that European Commission has also pointed out to the Greek authorities that the unconditional submission of a fee of EUR 100 for the second subsequent applications raises issues regarding the effective access to the asylum procedure as evidenced by European Commissioner Johansson's reply of 25 January 2022 to a relevant question put under the urgent procedure by the German Green MEP Erik Marquardt.[521]

519 Document Prot. No 43/30.08.20201 "Comments and observations on the draft law "Reform of deportation procedures and returns of third country nationals, attracting investors and digital media nomads, issues of residence permit and procedures for granting international protection and other provisions of the Ministry of Migration and Asylum and Ministry of Citizen Protection|, available at https://bit.ly/36adOEj, 11.

520 GCR, Imposition of a fee of 100 euros for access to asylum from the 2nd and every following subsequent application to applicants for international protection, including minors, available at: https://bit.ly/3jBxUdN.

521 European Parliament, Parliamentary question E-005103/2021, 20 January 2022, available at: https://bit.ly/3M3dGWh.

F. The safe country concepts

Indicators: Safe Country Concepts

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

Following the EU-Turkey Statement of 18 March 2016, the provisions concerning the "first country of asylum" and the "safe third country" concepts were applied for the first time in Greece vis-à-vis Turkey. Serious concerns about the compatibility of the EU-Turkey Statement with international and European law, and more precisely the application of the "safe third country" concept, have been raised since the publication of the Statement.[522]

On 28 February 2017, the General Court of the European Union gave an order with regard to an action for annulment brought by two Pakistani nationals and one Afghan national against the EU-Turkey Statement. The order stated that "the EU-Turkey Statement, as published by means of Press Release No 144/16, cannot be regarded as a measure adopted by the European Council, or, moreover, by any other institution, body, office or agency of the European Union, or as revealing the existence of such a measure that corresponds to the contested measure."[523] Therefore, "the Court does not have jurisdiction to rule on the lawfulness of an international agreement concluded by the Member States."[524] The decision became final on 12 September 2018, as an appeal against it before the CJEU was rejected.[525]

1. Safe third country

The "safe third country" concept is a ground for inadmissibility (see Admissibility Procedure).

According to Article 86 (1) IPA, a country shall be considered as a "safe third country" for a specific applicant when all the following criteria are **cumulatively** fulfilled:

(a) The applicant's life and liberty are not threatened for reasons of race, religion, nationality, membership of a particular social group or political opinion;
(b) This country respects the principle of *non-refoulement*, in accordance with the Refugee Convention;
(c) The applicant is in no risk of suffering serious harm according to Article 15 of IPA;

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522 See e.g. NCHR, *Έκθεση για τη συμφωνία ΕΕ-Τουρκίας της 18ης Μαρτίου 2016 για το προσφυγικό/μεταναστευτικό ζήτημα υπό το πρίσμα του Ν. 4375/2016*, 25 April 2016, available in Greek at: http://bit.ly/2mxAncu; Parliamentary Assembly of the Council of Europe (PACE), Resolution 2109 (2016) "The situation of refugees and migrants under the EU-Turkey Agreement of 18 March 2016", available at: http://bit.ly/2fISxlY; United Nations Human Rights Council, *Report of the Special Rapporteur on the human rights of migrants on his mission to Greece*, A/HRC/35/25/Add.2, 24 April 2017, available at: http://bit.ly/2rHF7kl, para 31.

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

524 *Ibid*.

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

(d) The country prohibits the removal of an applicant to a country where he or she risks to be subject to torture or cruel, inhuman or degrading treatment or punishment, as defined in international law;
(e) The possibility to apply for refugee status exists and, if the applicant is recognised as a refugee, to receive protection in accordance with the Refugee Convention; and

The applicant has a connection with that country, under which it would be reasonable for the applicant to move to it[526]. The transit of the applicant from a third country may, in combination with specific circumstances, in particular (a) the time of stay there, (b) any contact or objective and subjective possibility of contact with the authorities, for access to work or granting right of residence, (c) possible, prior to transit, residence such as long-term visits or studies, (d) existence of any, even distant, kinship, (e) existence of social or professional or cultural relations, (f) existence of property, (g) connection with a wider community; (h) knowledge of the language concerned; (i) geographical proximity of the country of origin, be considered as the applicant 's connection with the third country, on the basis of which it would be reasonable to move to it.

The IPA provides the possibility for the establishment of a list of safe third countries by way of Joint Ministerial Decision.[527] On 7 June 2021, a new Joint Ministerial Decision of the Deputy Minister of Foreign Affairs and the Minister of Migration and Asylum was issued, designating Turkey as "safe third country" in a national list for asylum seekers originating from Syria, Afghanistan, Pakistan, Bangladesh and Somalia.[528] The aforementioned Joint Ministerial Decision was amended by a subsequent JMD under Article 86(3) IPA, declaring Turkey a safe third country for the said nationalities.[529]The abovementioned JMD designates for the first time also Albania as a safe third country for people entering Greece from the Albanian-Greek borders, and North Macedonia as a safe third country for people entering the Greek territory from the borders between North Macedonia and Greece. [530] As a result, from the entry into force of the JMDs, the applications lodged by those nationalities can be rejected as "inadmissible" without being examined on the merits.

This resulted in a sharp increase in inadmissibility decisions based on the "safe third country" concept, from 2,839 in 2020 to 6,424 in 2021. Out of a total of 6,424 inadmissibility decisions based on the concept, 5,922 (92%) were issued in application of JMD 42799/2021. The number of asylum claims deemed admissible based on the JMD was 6,677. It is worth highlighting that the overwhelming majority of "safe third country" decisions (85%) concern the mainland, as only 979 out of 6,424 inadmissibility concern the border procedure on the Eastern Aegean islands and thereby the implementation of the EU-Turkey Statement.[531]

The criteria provided by IPA are to be assessed in each individual case, except where a third country has been declared as generally safe in the national list.[532] Such provision seems to derogate from the duty to carry out an individualized assessment of the safety criteria where the applicant comes from a

526 In LH the CJEU examined the compatibility of said provision with Article 38(2) of the Recast Asylum Procedures Directive 2013/32/EU and ruled that "the transit of the applicant from a third country cannot constitute as such a valid ground in order to be considered that the applicant could reasonably return in this country", C-564/18 (19 March 2020). Moreover, contrary to Article 38(2) of the Directive, national law does not foresee the methodology to be followed by the authorities in order to assess whether a country qualifies as a "safe third country" for an individual applicant.
527 Article 86(3) IPA.
528 JMD 42799/03.06.2021, Gov. Gazette 2425/B/7-6-2021, available in Greek at: https://bit.ly/3zbSojR.
529 JMD 458568/15.12.2021, Gov. Gazette 5949/B/16.12.2021, available in Greek at: https://bit.ly/3IQer3d.
530 *Ibid*
531 Ministry of Migration and Asylum, *Reply to parliamentary question, 97157/2022*, 17 February 2022, available at: https://bit.ly/3oXKvuD, 7-8; Refugee Support Aegean (RSA), *The Greek asylum procedure in figures: most asylum seekers continue to qualify for international protection in 2021*, available at: https://bit.ly/3qH3qeo, 1-4.
532 Article 86(2) IPA.

country included in the list of "safe third countries", contrary to the Directive and to international law. Even where a country has been designated as generally safe, the authorities should conduct an individualized examination of the fulfillment of the safety criteria. Moreover, there should be a possibility to challenge both the general designation of a country as safe and the application of the concept in an individual case.[533]

Up until the end of 2020, the safe third country concept was only applied in the context of the Fast-Track Border Procedure under Article 84 IPA on the islands for those arrived after 20 March 2016 and subject to the EU-Turkey Statement, and in particular *vis-à-vis* Syrians, who fall under the EU Turkey Statement, namely those who have entered Greece via the Greek Aegean islands and a geographical restriction is imposed to them.

Since June 2021, all applications for international protection submitted by nationals of Syria, Afghanistan, Somalia, Pakistan and Bangladesh throughout the Greek territory are examined under the safe third country concept pursuant to JMD 42799/2021. Based on this new policy, asylum applications of people from the aforementioned five nationalities are not examined on the basis of their individual circumstances and the risks they face in their country of origin. Instead, they are presumed to be safe in Turkey, and only if Turkey is proven not to be safe, these applications are deemed 'admissible', and the competent decision authorities proceed to the examination of the applications for international protection on the merits. Three out of the five nationalities mentioned in the JMD 42799/03.06.2021 are those who are most often recognised as refugees in Greece. In 2020, before the said JMD, 92% of Syrians, 66% of Afghans, and 94% of Somalis (median acceptance rate: 84%) received refugee or subsidiary status. However, following the JMD, however, rejections have increased significantly.[534]

In addition to the above, according to the official statistics of the Ministry of Migration and Asylum published in December 2021, "Returns under the EU- Turkey Statement have not been made since March [2020] due to Covid-19 [and] despite the lifting of the measures for the pandemic, from 01/06[/2020] the requests of missions-returns of the Greek authorities have not been answered."[535]

Furthermore, the suspension of readmissions under the EU-Turkey Statement is publicly acknowledged by both the European Commission and the competent Ministers of the Greek government.[536] The Minister of Citizen Protection explicitly stated at the end of last year that Turkey refuses to implement the Statement and invokes the COVID-19 pandemic as grounds for suspending readmissions. The Minister of Migration and Asylum noted in early 2022 that "Turkey has unilaterally suspended admission of those who do not qualify international protection since March 2020, under the pretext of COVID". In a previous statement, the Minister stressed that Turkey "has refused to implement its commitments, and continues to refuse to engage in any way on the issue".[537] Besides, the Readmission Unit of the Migration Management Directorate of the Hellenic Police, in response to relevant questions submitted by GCR, systematically confirms the absence of any prospect of removal of refugees from the Eastern

533 RSA Comments on the International Protection Bill, October 2019, available at: https://bit.ly/3eqsDC0, 4-5.

534 EU-Turkey Statement: *Six years of undermining refugee protection, 8 NGOs warn that policies implemented in Greece keep displaced people from accessing asylum procedures, despite clear need of protection,* available in greek at: https://bit.ly/3tMP7GU, 1.

535 Ministry of Migration and Asylum, MoMa Report, December 2021, available in Greek at: https://bit.ly/3ITMxmF, 12.

536 European Commission, *Turkey Report 2021*, SWD(2021) 290, 19 October 2021, available at: https://bit.ly/3DiPMTP, p.48; Reply to parliamentary question, Answer given by Ms Johansson on behalf of the European Commission, Question reference: P-000604/2021, 1 June 2021, available at: https://bit.ly/3IIx2hW; European Commission, *Commission Staff Working Document: Turkey 2020 Report*, 6 October 2020, available at: https://bit.ly/3xgt4aK, 48.

537 Refugee Support Aegean (RSA), Greece arbitrarily deems Turkey a "safe third country" in flagrant violation of rights, February 2022, available at: https://bit.ly/3iIFsen, p. 3; Ministry of Migration and Asylum, "Request by Greece towards the EU for the immediate return 1,450 third country nationals under the Joint EU-Turkey Statement", 14 January 2021, available in Greek at: https://bit.ly/3izPzmA.

Aegean islands to Turkey, while the Administrative Court of Rhodes on judicial review of detention affirms the manifest lack of prospects of readmission to Turkey, highlighting that "the competent police authority does not invoke or produce evidence to the contrary, i.e. does demonstrate that it has taken any specific action to execute the readmission decision".[538]

Article 38(4) of the Asylum Procedures Directive, which provides that "where the third country does not permit the applicant to enter its territory, Member States shall ensure that access to a procedure is given in accordance with the basic principles and guarantees described in Chapter II", was transposed into Greek law through Article 86(5) of the IPA,[539] pursuant to which "when the safe third country does not allow the applicant to enter its territory, his/her application should be examined on the merits from the competent Authorities".

Despite the suspension of returns to Turkey since March 2020,[540] and the aforementioned provision of article 86(5) IPA, the Greek asylum authorities systematically applied the safe third country concept during 2021 vis-à-vis applicants originating from Syria, Afghanistan, Somalia, Pakistan and Bangladesh, leading to a large number of applicants having their claims dismissed as inadmissible and being ordered to return to Turkey, without any prospects of such readmission. As many as 6,424 asylum applications were dismissed as inadmissible based on the safe third country concept in 2021, i.e. a 126% increase compared to the previous year. The overwhelming majority of those decisions (5,445) concerned the procedure on the mainland. Subsequent applications lodged following a final rejection of an application for international protection as inadmissible are channeled again into admissibility procedures and dismissed based on the safe third country concept or due to lack of new elements.

This practice exposes applicants for international protection to a legal limbo whereby they are not granted access to an examination of their applications on the merits, contrary to the purpose of the Geneva Convention and of the Asylum Procedures Directive. It also leads to exclusion of people from reception conditions, resulting in inability to have access to dignified living standards and to cater for their basic subsistence needs, including health care and food.[541]

It should be stressed that "*The Commission has requested the Greek authorities to apply Article 38(4) of the Asylum Procedures Directive (2013/32/EU), to the extent the conditions are met, to applicants whose applications have been deemed inadmissible on the basis of the Safe Third Country Concept under the Joint Ministerial Decision of 7 June 2021, in order to avoid the legal limbo you refer to. The Commission will continue to monitor the situation on the ground*".[542]

Moreover, the Greek Ombudsman highlighted that "*if readmission to that country is not possible, the application must be examined by the Greek authorities on the merits. Otherwise, this creates a perpetual cycle of admissibility assessments of applications for international protection, without ever examining their merits and without readmission to seek protection in the safe third country being possible. As a result, the fulfilment of the objective of the Geneva Convention and of relevant European and national legislation on refugee protection is essentially rendered null and void."*[543]

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538 Administrative Court of Rhodes, AP515/2021, 16 December 2021, para 3; AP514/2021, 16 December 2021, para 3; AP450/2021, 3 November 2021, para 4; AP136/2021, 24 March 2021, para 4; AP122/2021, 4 March 2021.

539 L. 4636/2019, Gov. Gazette A' 169/01.11.2019.

540 EASO, *Asylum Report 2021*, 29 June 2021, 242; Hellenic Parliament, *Defence & Foreign Affairs Committee*, 17 December 2021, available at: https://bit.ly/3g864nv.

541 Joint Civil Society Letter to Commissioner Johansson: Implementation of the safe third country concept in Greece, 8 March 2022 Reference No: β/50/4.3.2022, available at: https://bit.ly/3iN3RPI.

542 European Commission, Directorate General for Migration and Home Affairs, Ref.Ares(2021)7836311, 17 December 2021.

543 Refugee Support Aegean (RSA), Greece arbitrarily deems Turkey a "safe third country" in flagrant violation of rights, February 2022, available at: https://bit.ly/3iIFsen, p.5; Ombudsman, Letters 301551/41050/2021 and 301755/41017/2021, 22 July 2021.

Besides, according to the second instance decision of the 21st Independent Committee of the Appeals Authority *"such a position would only result in unnecessary delays in the examination procedure, given that, following the refusal of the third country to admit the applicant on its territory, their application would in any way have to be examined on the merits by the competent decision-making authorities. Such an interpretation would contravene the principle of rapid completion of said procedure, enshrined in Article 31(2) of the Directive and aiming, according to Recital 18, at serving the interests of both Member States and applicants* […] *given the practice followed by a particular country either generally or vis-à-vis specific categories of persons or vis-à-vis the individual applicant, that it will not accept the applicant's admission to its territory, while it cannot be expected that its position will change in the future, therefore it must be accepted that the relevant application cannot be dismissed as inadmissible on the ground that said country is a 'safe third country' for that applicant, even if that country fulfils the substantive criteria set out in Article 38 of Directive 2013/32/EU and Article 86 of L 4636/2019. As a result, given, as discussed in the previous paragraph, the practice of absolute exclusion of returns of migrants/refugees who irregularly entered Greece through its territory, it is certain that Turkey will not allow the appellant to enter its territory*".[544]

According to the Ministry of Migration and Asylum, "during the year 2021, Article 86(5) IPA was applied by the Independent Appeals Committees in 314 decisions."[545] Nevertheless, according to GCR's and other NGO's knowledge, the above mentioned was the only case during 2021 (and up until the time of publication of the present report) in which article 86 par. 5 IPA was applied.

According to internal SOPs that were circulated within the Asylum Service in autumn 2021, asylum seekers of these nationalities that had crossed from Turkey a year ago or more had passed since then must be considered as not having a special link with the country or that in any case the special link with Turkey had been breached. Subsequently, this was the rationale that was applied to the majority of such cases that have been examined before the RAOs on the islands, leading to admissibility decisions and an examination of the asylum applications on the merits. This was of great importance for all the cases of Syrians, or even Afghanis and Somalis that have been in the afore-mentioned "limbo" state in Greece for more than a year, many of whom were waiting for the examination of their subsequent applications. However, this was not a consistent practice. For instance, there were cases, where the Asylum Service applied the new JMD even to old arrivals' cases that had been already referred to the regular procedure.

According to a decision issued by the Asylum Unit of International Protection Applicants under custody (AKA P. Ralli) "during the preliminary examination of the subsequent application and with regard to the existence of new and essential elements related to whether Turkey shall be considered as a Safe Third Country under Article 84 IPA … the Asylum Unit considers that the applicant's claims may be perceived as new due to the fact that his connection to the third country need to be re-evaluated since a long period of time intervened between his first (lodged on 16.1.2020) and his subsequent application (lodged on 22.11.2021) without enforcing the decision to return to Turkey.[546] According to GCR's knowledge several first instance decisions with the same reasoning were issued at the end of 2021.

On 7 October 2021, GCR and Refugee Support Aegean (RSA) filed a judicial review before the Greek Council of State for the annulment of the JMD 42799/03.06.2021 designating Turkey as a safe third country for nationals of Syria, Afghanistan, Somalia, Pakistan and Bangladesh.[547] On 4 March 2022,

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544 21st Appeals Committee, 364000/2021, 4 November 2021, case represented by the Legal Aid Unit of the NGO "METAdrasi"

545 Ministry of Migration and Asylum, Reply to parliamentary question, 97157/2022, 17 February 2022, available at: https://bit.ly/3oXKvuD.

546 Decision 414002/25.11.2021

547 GCR, Decision declaring Turkey a "safe third country" brought before Greek Council of State, 7 October 2021, available at: https://bit.ly/3iLkeMJ.

requests for the continuation of the hearing were filed before the Council of State for the annulment of the subsequent JMD, 458568/15.12.2021, of the Minister of Migration and Asylum and the Deputy Minister of Foreign Affairs. The aforementioned application for annulment was examined before the Plenary of the Council of State on 11 March 2022. The decision is pending by the time of writing.

1.1. Safety criteria

1.1.1. Applications lodged by Syrian, Afghan, Somali, Bangladeshi and Pakistani nationals

In 2021, the Asylum Service issued 12,599 first instance decisions regarding applications lodged by Syrian (initially subject to the fast-track border procedure), Afghans, Somalis, Bangladeshis and Pakistanis applicants, including third country nationals of Palestinian Origin with previous habitual residence Syria. The applications submitted by the aforementioned applicants were examined under the safe third country concept.[548]

Since mid-2016, namely from the very first decisions applying the safe third country concept in the cases of Syrian nationals, until today, first instance decisions dismissing the applications of Syrian nationals as inadmissible on the basis that Turkey is a safe third country in the Fast-Track Border Procedure, are based on a pre-defined template provided to Regional Asylum Offices or Asylum Units on the islands, and are identical, except for the applicants' personal details and a few lines mentioning their statements, and repetitive.[549]

Specifically, the Asylum Service, reaches the conclusion that Turkey is a safe third country for Syrian nationals, relying on:
(a) the provisions of Turkish legal regime in force, i.e. the Turkish Law on Foreigners and International Protection (LFIP), published on 4 April 2013,[550] the Turkish Temporary Protection Regulation (TPR), published on 2014[551] and the Regulation on Work Permit for Applicants for and Beneficiaries of International Protection, published on 26 April 2016,[552] without taking into consideration its critical amendments, based on emergency measures;[553]
(b) the letters, dated 2016, exchanged between the European Commission and Turkish authorities,[554]
(c) the letters, dated 2016, exchanged between the European Commission and the Greek authorities,[555]

548 Ministry of Migration and Asylum, "Parliamentary Control", Protocol No 9715717.02.2022, available in Greek at: https://bit.ly/3qGGT16, 8.

549 ECRE, The role of EASO operations in national asylum systems, An analysis of the current European Asylum Support Office (EASO) Operations involving deployment of experts in asylum procedures at Member State level, 29 November 2019, available at: https://bit.ly/2RVALRt, 33 and 35, ECRE et al., *The implementation of the hotspots in Italy and Greece*, December 2016, 38. On **Lesvos**, see GCR, *GCR Mission to Lesvos – November 2016*, available at: http://bit.ly/2kbN7F0, 20; On **Samos**, see GCR, *GCR Mission to Samos – June 2016*, available at: http://bit.ly/2kCHMDm, 20 On **Leros** and **Kos**, see GCR, *GCR Mission to Leros and Kos – May to November 2016*, 32.

550 Turkey: Law No. 6458 of 2013 on Foreigners and International Protection, 4 April 2013, as amended *by the* Emergency Decree No 676, 29 October 2016, available at: https://www.refworld.org/docid/5167fbb20.html.

551 National Legislative Bodies / National Authorities, *Turkey: Temporary Protection Regulation*, 22 October 2014, available at: https://www.refworld.org/docid/56572fd74.html

552 National Legislative Bodies / National Authorities, *Turkey: Regulation on Work Permit of International Protection Applicants and International Protection Status Holders*, 26 April 2016, available at: https://www.refworld.org/docid/582c6ff54.html.

553 Venice Commission, Opinion No. 865 / 2016, *Opinion on the Emergency Decree Laws Nos. 667-676 adopted following the failed coup of 15 July 2016*, adopted at its 109th plenary session, 9-10 December 2016, Doc. CDL-AD(2016)037, available at: https://bit.ly/3tK5YKt; International Commission of Jurists, Turkey: Justice suspended, Access to justice and the State of Emergency in Turkey, p. 2, available at: https://bit.ly/3DlcsTi, 2.

554 Letters between the European Commission and the Turkish and Greek authorities, available at: https://bit.ly/2ygrz32.

555 Ibid.

(d) the 2016 letters of UNHCR to the Greek Asylum Service, regarding the implementation of Turkish law about temporary protection for Syrians returning from Greece to Turkey and
(e) sources, indicated only by title and link, without proceeding to any concrete reference and legal analysis of the parts they base their conclusions.

Although a number of more recent sources have been added to the endnotes of some decisions issued since late 2018 and up until today, their content is not at all assessed or taken into account and applications continue to be rejected as inadmissible on the same reasoning as before.[556]

Accordingly, negative first instance decisions, qualifying Turkey as a safe third country for Syrians, are not only identical and repetitive – failing to provide an individualised assessment, in violation of Articles 10 and 38 of the Directive 2013/32/EU, but also outdated insofar, as they do not take into account developments after 2016, failing to meet their obligation to investigate *ex officio* the material originating from reliable and objective sources as regards the situation in Turkey, and the actual regime in the country, given the absolute nature of the protection afforded by Article 3 ECHR. It is worth noting that as regards negative first decisions qualifying Turkey as a safe third country for all the other nationalities, namely Afghans, Somalis, Bangladeshis, Pakistanis, they are based *inter alia* on the aforementioned letters dated 2016, exchanged between the European Commission and Turkish authorities, the letters exchanged between the European Commission and the Greek authorities as well as the letters of UNHCR to the Greek Asylum Service. Nevertheless, it has to be highlighted that these letters, apart from the fact that they are outdated, they concern only Syrian nationals.

As the same template decision is used since 2016, the finding of the United Nations Special Rapporteur on the human rights of migrants in 2017, that "admissibility decisions issued are consistently short, qualify Turkey as a safe third country and reject the application as inadmissible: this makes them practically unreviewable"[557] remains valid. Respectively, as far as GCR is aware, second instance decisions issued by the Independent Appeals Committees for Syrian applicants systematically uphold the first instance inadmissibility decisions.

As mentioned above, during 2021, as a rule, applications examined under the Fast Track Border Procedure submitted by Syrians applicants are rejected as inadmissible on the basis of the safe third country concept. Since June 2021, applications submitted by nationals of Afghanistan, Somalia,

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556 ACCORD, Turkey COI Compilation, August 2020, available at: https://bit.ly/3iKTfRv; Syrian Observatory for Human Rights, Turkey's involvement in Libya war | 150 Syrian children recruited and sent to fight in Libya, 16 killed, May 13, 2020, available at: https://bit.ly/3iIE2QT; UD Department Of State: 2019 Country Reports on Human Rights Practices: Turkey, available at: https://bit.ly/3wMJaM1; European Asylum Support Office, Syria: Internally displaced persons, returnees and internal mobility, April 2020, available at: https://bit.ly/35nygBg; ECRE – European Council on Refugees and Exiles: Country Report: Turkey, April 2020, available at: https://bit.ly/3wKv5i6; Report: Turkey, 2019 Update, 30 April 2020, available at: https://bit.ly/3wLBmu1; European Commission, European Civil Protection and Humanitarian Aid Operations, ECHO Factsheet Turkey: Refugee Crisis, Last updated 17/05/2021, available at: https://bit.ly/3JJyaml; Republic of Turkey, Regulation on Work Permit of International Protection Applicants and International Protection Status Holders, 26 April 2016 (Unofficial translation by UNHCR Turkey), available at: https://bit.ly/3INTB4y, Country Report on Human Rights Practices: Turkey, 30 March 2021, https://bit.ly/3xonaaJ; European Commission, Turkey 2020 Report [SWD(2020) 355 final], 6 October 2020, available at: https://bit.ly/38aSyyW; UNHCR, Key information for non-Syrians, Livelihoods, undated, available at: https://bit.ly/3Djkufi; AAN, Afghan Exodus: Migrant in Turkey left to fend for themselves, 22 December 2020, available at: https://bit.ly/3LptQZT; UNHCR, Key information for non-Syrians, Medical and psychological assistance, undated, available at: https://bit.ly/3iPQ8Yk; UNHCR, Key information for non-Syrians, Education, undated, available at: https://bit.ly/3iLI9eY; UNHCR, Turkey Education Sector Achievements; as of March 2021, March 2021, available at: https://bit.ly/3wRJ3z3; Respond, Susan Beth Rottmann - Özyeğin University, Turkey Country Report, Integration Policies, Practices and Experiences, Global Migration: Consequences and Responses, Paper 2020/50, June 2020, available at: https://bit.ly/3qJOJXE.

557 United Nations Human Rights Council, *Report of the Special Rapporteur on the human rights of migrants on his mission to Greece*, A/HRC/35/25/Add.2, 24 April 2017, para 81.

Pakistan and Bangladesh are also rejected as inadmissible based on JMD 42799/2021. However, as was also the case in previous years, in 2021 a number of first instance decisions issued for Syrian, Afghan, Somali and Pakistan applicants were declared admissible. As far as GCR is aware, such decisions include: certain applications filed by single women or single – parent families[558]. However, is not common practice, since GCR is aware of cases with similar profiles, which have been rejected at first instance as Turkey has been considered as a safe third country for them- i.e. the application of a single woman from Somalia has been rejected as inadmissible by the RAO of Alimos on 7 September 2021.[559] On the very same day, the same RAO issued a positive admissibility decision for another Somali woman with the same profile (single woman, vulnerable), pursuant to which her application for international protection was considered admissible.[560]

For a detailed analysis of the first instance decisions rejecting applications submitted by Syrian as inadmissible on the basis of safe third country, see Admissibility, AIDA Report on Greece, update 2016, 2017, 2018, 2019 and 2020 respectively. These findings are still relevant as the same template has been used since mid-2016.

An indicative example of a first instance inadmissibility decision can be found in the 2017 update of the AIDA report on Greece, which remains the same up until today.

Greece maintained the use of the fast-track border procedure under the derogation provisions of Article 90(3) IPA throughout 2021.[561] In 2021 and as far as GCR is aware, most cases of Syrian applicants examined under the fast track border procedure have been rejected as inadmissible at second instance on the basis of the safe third country concept (i.e. 1,098 applications were found inadmissible and 233 admissible, while 254 cases were pending as of 31 December 2021).[562]

Decisions under the fast-track border procedure [article 90(3)] and JMD 42799/2021

While the JMD 42799/2021 was in force from 7 June to 31 December 2021, a total of 2,000 decisions by the Committees of the Appeals Authority were issued under the fast-track border procedure [article 90(3) IPA] regarding the five main nationalities (Syria, Afghanistan, Somalia, Pakistan and Bangladesh) Out of the 2,000 decisions under the safe third country concept, 1,635 considered the applications "inadmissible", (Syria: 542, Afghanistan: 417, Bangladesh: 126, Pakistan: 498 and Somalia: 52).[563] The number of applications deemed admissible under the JMD by the Appeals Committees was 216, and the number of appeals pending by the end of the year reached 1,601. Similarly to previous years, it is worth noting that the statistics provided by the Ministry of Migration and Asylum continue to show inconsistencies.[564]

Decisions under the JMD 42799/2021

During 2021, 4,062 decisions were issued under the JMD 42799/2021 from the Appeals Committee. Out of these decisions, 19 applications of Syrians, Afghans, Somalis, Pakistanis and Bangladeshis

558 Greek Council for Refugees (GCR), HIAS Greece and Refugee Support Aegean (RSA), Greek Asylum Case Law Report, 1/2021, available in Greek at: https://bit.ly/3DmHWs9.
559 Asylum Service, RAO of Alimos, Decision 227065/2021, 7 September 2021.
560 Asylum Service, RAO of Alimos, Decision 227066/2021, 7 September 2021.
561 Refugee Support Aegean (RSA), The Greek asylum procedure in figures: most asylum seekers continue to qualify for international protection in 2021, available at: https://bit.ly/3qH3qeo, 5.
562 Information provided by the Appeals Authority, 9 February 2021
563 Information provided by the Appeals Authority, 11 March 2022.
564 Refugee Support Aegean (RSA), The Greek asylum procedure in figures: most asylum seekers continue to qualify for international protection in 2021, available at: https://bit.ly/3qH3qeo, 9.

nationals, were deemed "inadmissible" (Afghanistan: 17, Pakistan: 2), while 1,140 were found as "admissible" (Syria: 13, Afghanistan: 265, Bangladesh: 142, Pakistan: 718, Somalia: 2).[565]

Decisions of the Appeals Committees rejecting the case as inadmissible follow the line of reasoning of the Asylum Service to a great extent. Appeals Committees have continued to refrain from taking into consideration up-to-date, reliable sources of information concerning risks of inhuman or degrading treatment and *refoulement* facing individuals in Turkey.[566] Even where reliable reports on risks of non-compliance by Turkey with the principle of *non-refoulement* are cited in decisions, Committees have not engaged with available evidence in their legal analysis of the applicability of the safety criteria of the "safe third country" concept and the risks of exposure of individuals to ill-treatment.[567] Second instance decisions rely on the information provided by the letters of the Turkish authorities, considered as diplomatic assurances "of particular evidentiary value", on the relevant legal framework of Turkey, without taking into consideration any amendment or its application in practice and on a selective use of available sources, so as to conclude in a stereotypical way that the safety criteria are fulfilled. In a number of decisions issued in 2021, the Appeals Committees cited the aforementioned letters and selected provisions of Turkish legislation as reliable evidence of compliance by Turkey with the principle of *non-refoulement*.[568] In addition, Appeals Committee decisions in 2021 have dismissed alleged risks of *refoulement* on the ground that the evidence put forward by the appellants did not point to "structural problems" (*δομικού χαρακτήρα*), to "systematic violations" (*συστηματικές παραβιάσεις*) or to "mass *refoulement*" (*μαζικές επαναπροωθήσεις*) of Syrian refugees from Turkey.[569]

To the knowledge of GCR, there have been certain appeals of Syrians, which have been considered as admissible at second instance.[570]. For example, in a case of a Syrian single woman, victim of sexual violence supported by GCR, the Appeal Committee decided that in case of her return to Turkey, her physical integrity, as well as her mental health, will be endangered and may be subjected to inhuman treatment.[571] Besides, two Appeals Committee's' decisions, issued in 2021, reversed the first instance inadmissible decisions in cases supported by RSA and declared the appeals as admissible (cases concerning two Syrian families with physical problems). The Committee considered that the safe third country concept with regards Turkey could not be applied in these cases, on the basis that the connection requirement was not satisfied[572]. The Committee took into consideration the short stay of the applicants in Turkey, the lack of supportive network, the lack of any living or professional ties in that country, their inhumane treatment at the Syrian-Turkish borders from the Turkish authorities and the involvement of Turkey in the Syrian war".

Few appeals of Syrians who used to reside in Syrian areas were Turkey has military activity have been considered admissible due to the fact that the condition of 'connection' could not be fulfilled given the violent military intervention of Turkey in their region of origin. Also, GCR is aware of a second instance decision which considered the appeal of a Syrian who remained in Turkey for the short period of 15

565 Refugee Support Aegean (RSA), The Greek asylum procedure in figures: most asylum seekers continue to qualify for international protection in 2021, available at: https://bit.ly/3qH3qeo, 15-16.

566 See e.g. 6th Appeals Committee, Decision 25449/2019, 20 January 2020; 6th Appeals Committee, Decision 2411/2019, 28 February 2020; 17th Appeals Committee, Decision 3576/2020, 10 March 2020, para 12; 13th Appeals Committee, Decision 2727/2020, 9 April 2020; 14th Appeals Committee, Decision 4334/2020, 9 April 2020.

567 See e.g. 6th Appeals Committee, Decision 2411/2019, 28 February 2020, paras 11, 14 and 15; 13th Appeals Committee, Decision 2727/2020, 9 April 2020, para 19; 6th Appeals Committee, Decision 5892/2020, 27 May 2020, paras 12 and 15.

568 13th Appeals Committee, Decision 2727/2020, 9 April 2020, para 19; 16th Appeals Committee, Decision 19219/2019, 15 May 2020, para 16.

569 5th Appeals Committee, Decision 202946, 25 August 2021, 5th Appeal Committee, 202789/2021, 25 August 2021.

570 Greek Council for Refugees (GCR), HIAS Greece and Refugee Support Aegean (RSA), Greek Asylum Case Law Report, 1/2021, available in Greek at: https://bit.ly/3DmHWs9.

571 Ibid, p. 2, 18th Appeals Committee, Decision 24756/2020, 18 March 2021.

572 Ibid, p. 6, 20th Appeals Committee, Decisions 260356/2021 και 260375/2021, 21 September 2021.

days as admissible, on the ground that transit *per se* shall not be conceived in itself sufficient or significant connection with the country.

1.2. Connection criteria

Article 86(1)(f) IPA requires there to be a connection between the applicant and the "safe third country", which would make return thereto reasonable. Whereas no further guidance was laid down in previous legislation[573] as to the connections considered "reasonable" between an applicant and a third country,[574] the IPA has introduced further detail in the determination of such a connection. Transit through a third country may be considered as such a connection in conjunction with specific circumstances such as:[575]

a. Length of stay;
b. Possible contact or objective and subjective possibility of contact with the authorities for the purpose of access to the labour market or granting a right to residence;
c. Stay prior to transit e.g. long-stay visits or studies;
d. Presence of relatives, including distant relatives;
e. Existence of social, professional or cultural ties;
f. Existence of property;
g. Connection to a broader community;
h. Knowledge of the language concerned;
i. Geographical proximity to the country of origin.

The article attempts to incorporate into Greek law the decision of the Plenary Session of the Council of State No 2347-2348/2017, which ruled on the resignation of Turkey as a safe third country for Syrian citizens. However, in view of the strong minority of 12 members out of a total of 25 advocating for the referral of a preliminary question to the Court of Justice of the European Union, the judgment of the majority of the Plenary Session of the Council of State cannot be regarded as a reliable case-law, neither at a national, nor at European and International level, so as to be integrated in Greek law. It should be noted that among the issues raised in the Plenary Session, the issue of the applicant's safe connection with the third country was of particular concern as well as whether the applicant's simple transit through that country was sufficient in this respect, in combination with certain circumstances, such as the duration of their stay there and the proximity to their country of origin. Said provision adopts uncritically the rationale of the majority of the Plenary Session, despite the strong minority.

The compatibility of said provision with the EU acquis should be further assessed, in particular by taking into consideration the CJEU Decision, C-564/18 (19 March 2020) in which the Court ruled that "the transit of the applicant from a third country cannot constitute as such a valid ground in order to be considered that the applicant could reasonably return in this country".[576]

Moreover, as no provision on the methodology to be followed by the authorities in order to assess whether a country qualifies as a "safe third country" for an individual applicant, the compatibility of national legislation with Art. 38 of the Directive 2013/32/EU should be assessed, in particular under the light of and the case law of the CJEU.[577] To this regard, it should also be also mentioned that the lack of a "methodology" provided by national law, could render the provision non-applicable.[578]

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573 Article 56(1)(f) L 4375/2016.
574 Article 56(1)(f) L 4375/2016.
575 Article 86(1)(f) IPA.
576 Article 86(1)(f) IPA.
577 CJEU, Case C-564/18, LH v Bevándorlási és Menekültügyi Hivatal, 19 March 2020; see Refugee Support Aegean, Comments on the Reform of the International Protection Act, https://bit.ly/3dLzGUt, 14.
578 CJEU, Case C-528/15, Policie ČR, Krajské ředitelství policie Ústeckého kraje, odbor cizinecké policie v Salah Al Chodor, 15 March 2017; see Refugee Support Aegean, Comments on the Reform of the International Protection Act, idem.

In practice, as it appears from first instance inadmissibility decisions issued to Syrian nationals, to the knowledge of GCR, the Asylum Service holds that the fact that an applicant would be subject to a temporary protection status upon return is sufficient in itself to establish a connection between the applicant and Turkey, even in cases of very short stays and in the absence of other links.[579]

Respectively, the Appeals Committees find that the connection criteria can be considered established by taking into consideration *inter alia* the "large number of persons of the same ethnicity" living in Turkey, the "free will and choice" of the applicants to leave Turkey and "not organize their lives in Turkey", "ethnic and/or cultural bonds" without further specification, the proximity of Turkey to Syria, and the presence of relatives or friends in Turkey without effective examination of their status and situation there. Additionally, in line with the 2017 rulings of the Council of State,[580] transit from a third country, in conjunction with *inter alia* the length of stay in that country or the proximity of that country to the country of origin), is also considered by second instance decisions as sufficient for the fulfillment of the connection criteria. It should be recalled that in the case presented before the Council of State where the Court found that the connection criteria were fulfilled, that applicants had stayed in Turkey for periods of one month and two weeks respectively.

As mentioned above, as far as GCR is aware, a few second instance decisions issued in 2021 regarding Afghan and Syrian applicants examined under the safe third country concept have found that the safe third country requirements, including in some cases the connection criteria, were not fulfilled.[581] In one case, the Appeals Committee deemed a 2-month stay in Turkey of an Afghan family as sufficient to establish a connection between them and the country, despite the fact that they were detained illegally in an unofficial detection centre in Turkey for a month.[582] In another case, the three-week stay of a family was deemed sufficient *per se* to substantiate a connection.[583]

1.3. Procedural safeguards

Where an application is dismissed as inadmissible on the basis of the "safe third country" concept, the asylum seeker must be provided with a document informing the authorities of that country that his or her application has not been examined on the merits.[584] This guarantee is complied with in practice.

2. First country of asylum

The "first country of asylum" concept is a ground for inadmissibility (see Admissibility Procedure and Fast-Track Border Procedure).

According to Article 85 IPA, a country shall be considered to be a "first country of asylum" for an applicant provided that he or she will be readmitted to that country, if the applicant has been recognised as a refugee in that country and can still enjoy of that protection or enjoys other effective protection in that country, including benefiting from the principle of *non-refoulement*. The "first country of asylum"

579 Note that the decision refers to the applicant's "right to request an international protection status", even though persons under temporary protection are barred from applying for international protection, see Template Decision in AIDA, Country Report Turkey, 2017 Update, March 2018.

580 Council of State, Decision 2347/2017, 22 September 2017, para 62; Decision 2348/2017, 22 September 2017, para 62. Note the dissenting opinion of the Vice-President of the court, stating that transit alone cannot be considered a connection, since there was no voluntary stay for a significant period of time.

581 Decisions on file with the author.

582 5th Appeals Committee, Decision 202946/2021, 25 August 2021, para 20.

583 13th Appeals Committee, Decision 2727/2020, 9 April 2020, para 24: Information provided by RSA, 4 January 2021.

584 Article 56(2) L 4375/2016 and Article 86(4) IPA.

concept is not applied as a stand-alone inadmissibility ground in practice. No application was rejected solely on this ground in 2021.[585]

3. Safe country of origin

According to Article 87(1) IPA, in force since January 2020, safe countries of origin are:

(a) Those included in the common list of safe countries of origin by the Council of the EU; and

(b) Third countries, in addition to those of case (a), which are included in the national list of safe countries of origin and which shall be established and apply for the examination of applications for international protection and published in accordance with Article 87 paragraph 5, issued by a Joint Ministerial Decision by the Ministers of Citizen Protection and Foreign Affairs, following a recommendation of the Director of the Asylum Service.[586]

A country shall be considered as a "safe country of origin" if, on the basis of legislation in force and of its application within the framework of a democratic system and the general political circumstances, it can be clearly demonstrated that persons in these countries do not suffer persecution, generally and permanently, nor torture or inhuman or degrading treatment or punishment, nor a threat resulting from the use of generalised violence in situations of international or internal armed conflict.[587]
To designate a country as a "safe country of origin", the authorities must take into account *inter alia* the extent to which protection is provided against persecution or ill-treatment through:[588]

- The relevant legal and regulatory provisions of the country and the manner of their application;
- Compliance with the ECHR, the International Covenant on Civil and Political Rights (ICCPR), namely as regards non-derogable rights as defined in Article 15(2) ECHR, the Convention against Torture and the Convention on the Rights of the Child;
- Respect of the *non-refoulement* principle in line with the Refugee Convention; and
- Provision of a system of effective remedies against the violation of these rights.

A country may be designated as a "safe country of origin" for a particular applicant only if, after an individual examination of the application, it is demonstrated that the applicant (a) has the nationality of that country or is a stateless person and was previously a habitual resident of that country; and (b) has not submitted any serious grounds for considering the country not to be a safe country of origin in his or her particular circumstances and in terms of his or her qualification as a beneficiary of international protection.[589] The "safe country of origin" concept is a ground for applying the Accelerated Procedure.
Until the implementation of IPA, there was no national or EU common list of safe countries. Therefore, the rules relating to safe countries of origin in Greek law had not been applied in practice and there had been no reference or interpretation of the abovementioned provisions in decision-making practice. Following a joint Ministerial Decision issued on 31 December 2019,[590] 12 countries were designated as safe countries of origin. These are Ghana, Senegal, Togo, Gambia, Morocco, Algeria, Tunisia, Albania, Georgia, Ukraine, India and Armenia. In January 2021 Pakistan and Bangladesh were included in the aforementioned list.[591] In February 2022 Benin, Nepal and Egypt were also added to the list.[592]

The number of asylum applications submitted by citizens of countries considered as safe countries of origin throughout 2021 is not available.

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585 Information provided by the Asylum Service, 26 March 2019.
586 Article 87(5) IPA
587 Article 87(3) IPA.
588 Article 87(4) IPA.
589 Article 87(2) IPA.
590 Joint Ministerial Decision No 1302/20.12.2019, Gov. Gazette 4907/B/31.12.2019.
591 Joint Ministerial Decision No 778/2021, Gov. Gazette 317/B/29-1-2021.
592 Joint Ministerial Decision No 78391/2022, Gov Gazette 667/15-02-2022

According to Art. 86(8) IPA, the asylum applications by applicants for international protection, coming from "safe countries of origin", are examined under the Accelerated Procedure.

G. Information for asylum seekers and access to NGOs and UNHCR

1. Provision of information on the procedure

Indicators: Information on the Procedure

1.Is sufficient information provided to asylum seekers on the procedures, their rights and obligations in practice? ☐ Yes ☒ With difficulty ☐ No

- ❖ Is tailored information provided to unaccompanied children? ☒ Yes ☐ No

According to Article 69 IPA (as amended by Article 7 L.4686/2020), applicants should be informed, in a language that they understand and in a simple and accessible manner, on the procedure to be followed, their rights and obligations. Interpretation, (or tele-interpretation when the physical presence of the interpreter is not possible) is provided during the submission of the application for international protection, as well as in all the stages of the examination of the asylum application, meaning both in first and second instance. The Greek State is responsible to cover the cost of this service.

All information regarding the operation and structure of the Reception and Identification Service, the operation of the Asylum Service and the Regional Asylum Offices, information and updates about the Asylum Procedure on first and second instance, as well as press releases and announcements pertinent to those seeking for or/ and have been granted international protection are available in Greek and English language at the Ministry of Migration and Asylum's website[593].

For accurate and timely dissemination of the latest update on asylum and migration issues, the Ministry has also created a Viber community.[594]

Another initiative in 2020 was the launching of the new platform of the Ministry of Migration and Asylum[595],where applicants and beneficiaries of international protection, as well as their representatives, can proceed to the following actions:

- Set an appointment with the competent Regional Asylum Office
- Be informed on the renewal of international protection cards
- Proceed by self-registering an application for international protection
- Apply for change of personal data and contact information
- Submit application for separation of files
- Submit application to request statement of application status
- Submit application to postpone/ expedite the interview date
- Submit additional documents
- Request for copies of personal file
- Apply for legal aid on second instance
- Apply for notification of ΠΑΑΥΠΑ (Provisional Social Security and Health Care Number)
- Apply for notification of Tax Registration Number

The above-mentioned applications are available in multiple languages.

593 See: https://bit.ly/39WDeDR.
594 See: https://bit.ly/3J1xTKx.
595 See: https://bit.ly/3tLovGq.

Although these initiatives were supposed to make the Asylum Service accessible to everyone, as well as to avoid congestion and long waiting queues outside the Regional Asylum Offices, especially during the pandemic crisis, the adjustment of the applicants and beneficiaries to this new reality was not easy, and at times, not even possible. The main difficulty was the actual access to the platform, since many of the persons of concern were either illiterate or technologically illiterate. This issue, combined with the fact that the Asylum Offices did not serve requests that could be submitted through the online system, eventually excluded many applicants and beneficiaries of those services. The need for improvement and for the provision of alternative solutions was raised by several NGOs through a letter addressed to the National Commission of Human Rights in December 2021.[596]

Moreover, legal aid for the appeals procedure must be requested via the electronic application of the Ministry for Migration and Asylum, which significantly hinders access for those not familiar with the use of electronic applications or who do not have access to the required equipment/internet.[597] Moreover, in practice the notification of first instance decisions is also taking place by the Head of the RICs on the islands and Evros and the Head of Pre-removal detention facilities in Athens (Amigdaleza and Tavros). In both cases, the inability of the applicants to understand the content of the communicated documents and the procedure has been reported.

For those detained and due to the total lack of sufficient interpretation services provided in detention facilities, access to information is even more limited. According to the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment of Punishment (CPT)'s report to the Greek Government, foreign nationals detained in facilities across the country are deprived from their right to be informed about their rights in a language they could understand. According to the delegation, "a two-page information leaflet (Δ-33 form) detailing the rights of detained persons was generally available and pinned to the wall in various languages in most police stations visited, none of the persons interviewed by the CPT's delegation had obtained a copy of it". Furthermore, the detainees complained that "they had signed documents in the Greek language without knowing their content and without having been provided with the assistance of an interpreter".[598] The above-mentioned findings are still valid for 2021.

The same issue is raised in the report published in November of 2020, in which the Committee refers to migrants held in the two cells in the Coastguard premises, who "were not even provided with the notification on detainees' rights in a language they could understand". Use of fellow detainees as interpreters is a practice that, according to the Committee's suggestion, should be avoided. The delegation reports that "[…] access to a lawyer often remained theoretical and illusory for those who did not have the financial means to pay for the services of a lawyer. The provision of legal advice for issues related to detention and deportation was generally inadequate in all the detention places visited, including the Filakio RIC and the Filakio pre-departure centre. As a result, detainees' ability to raise objections against their detention or deportation decisions or to lodge an appeal against their deportation was conditional on them being able to access a lawyer*".*[599]

596 Letter signed by 14 NGOs communicated to the National Commission of Human Rights on 16 of December 2021.

597 See: https://applications.migration.gov.gr/ypiresies-asylou/.

598 CPT, Report to the Greek Government on the visit to Greece carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 28 March to 9 April 2019, CPT/Inf (2020) 15, April 2020, para. 100.

599 CPT, Report to the Greek Government on the visit to Greece carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 13 to 17 of March 2020, CPT/Inf (2020) 36, Strasbourg, 19 November 2020, para.22 -23.

2. Access to NGOs and UNHCR

Indicators: Access to NGOs and UNHCR

1. Do asylum seekers located at the border have effective access to NGOs and UNHCR if they wish so in practice? ☐ Yes ☒ With difficulty ☐ No

2. Do asylum seekers in detention centres have effective access to NGOs and UNHCR if they wish so in practice? ☐ Yes ☒ With difficulty ☐ No

3. Do asylum seekers accommodated in remote locations on the territory (excluding borders) have effective access to NGOs and UNHCR if they wish so in practice? ☐ Yes ☒ With difficulty ☐ No

Access of NGOs to Reception and Identification Centres, camps on the mainland and pre-removal detention facilities is subject to prior permission by the competent authorities. UNHCR is present in **Athens, Lesvos, Chios, Samos, Kos, Leros, Rhodes, Thessaloniki, Ioannina,** and **Evros**, covering through *physical presence*, *field missions* and *ad hoc visits* all sites in their area of responsibility.[600] UNHCR's teams present in the Aegean islands and the land border in Evros continue to assist new arrivals by helping them gain access to necessary services, and by providing them with information on procedures, rights and obligations. They also ensure that people with specific needs, who require special assistance, are being identified as such by the authorities.

Access of asylum seekers to NGOs and other actors depends on the situation prevailing on each site, for instance overcrowding, in conjunction with the availability of human resources. According to GCR's observations, UNHCR Units had limited access within the quarantine area on **Lesvos** where all new arrivals were being placed for as long as quarantine lasted in 2021, thus leaving newcomers deprived of basic information regarding their rights, the procedures and their general status. Similarly, on **Kos**, UNHCR and NGOs had no access to the quarantine area inside the PRDC where they were being registered by RIS In certain cases, the asylum procedure as well as the RIS procedures thus started despite the fact that the applicants were still under quarantine with limited access to information and legal assistance.

G. Differential Treatment of specific nationalities in the procedure

Indicators: Treatment of Specific Nationalities

1. Are applications from specific nationalities considered manifestly well-founded? ☒ Yes ☐ No
   - ❖ If yes, specify which: Syria

2. Are applications from specific nationalities considered manifestly unfounded?[601] ☐ Yes ☒ No
   - ❖ If yes, specify which:

Since 2014 up until the first half of 2021, Syrians and stateless persons were eligible to a fast-track procedure examining their cases and often resulting in the granting of refugee status. This applied to those with a former residence in Syria who could provide original documents such as passports, or who had been identified as Syrians/persons with a former residence in Syria within the scope of the

600 UNHCR, *About UNHCR in Greece*, available at: https://bit.ly/3d7ugG1

601 Whether under the "safe country of origin" concept or otherwise.

Reception and Identification Procedure; provided that the EU-Turkey Statement and the Fast track border procedure did not apply to their cases.

However, the Joint Ministerial Decision 42799/2021 issued in June 2021, pursuant to Article 86 of L. 4636/2019, established that Turkey is to be considered safe for applicants from Syria, Afghanistan, Pakistan, Bangladesh and Somalia. As a result, applications lodged by nationals of the above-mentioned countries are now channeled into the admissibility procedure upon arrival, to assess whether Turkey is a safe third country and whether their cases are admissible and should be examined on the merits.

Also, although the fast-track border procedure was initially introduced as an exceptional and temporary procedure, it has become the rule for the applicants residing in Lesvos, Samos, Chios, Leros, and Kos.

Reception Conditions

In May 2018, L 4540/2018 transposed the recast Reception Conditions Directive into national law, almost three years after the transposition deadline set by the Directive. In 2019 L 4540/2018 was replaced by the IPA, which entered into force on 1 January 2020 and was amended in May by L. 4686/2020.

As per the IPA, the Reception and Identification Service (RIS) and the Directorate for the Protection of Asylum Seekers (DPAS) within the Secretariat General of Migration Policy, Reception and Asylum, which were once more transferred under the Ministry of Migration and Asylum (MoMA), when the latter was reinstated in January 2020, remain the responsible authorities for reception.[602] Furthermore, by January 2021, the ESTIA accommodation scheme, which provides rented housing to vulnerable asylum applicants in Greece, in the context of reception, has been fully handed over to the Greek state and is since operating under the sole responsibility of the MoMA.[603]

Overall, in 2021, island RICs – including the newly established Closed-Controlled Centers – and mainland camps, as well as the ESTIA scheme have remained the predominant forms of reception. Nevertheless, the announcement by the MoMA in February 2022 of the closure of ESTIA by the end of 2022, seems to indicate that large-scale camps will become the sole envisioned form of reception in the future.[604]

Lastly, following the establishment of the Special Secretary for Unaccompanied Minors (SSUM) under the MoMA in February 2020[605], and the entry into force of L. 4756/2020 in November of the same year, the SSUM remains the competent authority for the protection of UAM, including the accommodation of UAM, while EKKA, under the supervision of the Directorate for the Protection of Children and Families of the Ministry of Labor and Social Affairs is *inter alia* responsible for the representation of UAM, including through the guardianship foreseen under L. 4554/2018,[606] which was yet to become operational by the end of 2021. As of 2021, the majority of UAM estimated to be in Greece are accommodated in dedicated shelters and Semi-Independent apartments (SILs).

602 Article 41(h) L 4636/2019.
603 For instance: MoMA, Press Release on ESTIA 2021, February 2021, available in Greek at: https://bit.ly/3uwgpjX.
604 MoMA, "ESTIA II to be completed in 2022", 22 February 2022, available in Greek at: https://bit.ly/3iGewf1.
605 Article 1(3) P.D.18/2020, Gov. Gazette 34/A/19-2-2020.
606 Articleς 13 & 14 L.4756/2020.

A. Access and forms of reception conditions

1. Criteria and restrictions to access reception conditions

Indicators: Criteria and Restrictions to Reception Conditions

1. Does the law make material reception conditions to asylum seekers in the following stages of the asylum procedure?

❖ Regular procedure	☒ Yes	☐ Reduced material conditions	☐ No
❖ Dublin procedure	☒ Yes	☐ Reduced material conditions	☐ No
❖ Admissibility procedure	☒ Yes	☐ Reduced material conditions	☐ No
❖ Border procedure	☒ Yes	☐ Reduced material conditions	☐ No
❖ Fast-track border procedure	☒ Yes	☐ Reduced material conditions	☐ No
❖ Accelerated procedure	☒ Yes	☐ Reduced material conditions	☐ No
❖ Appeal	☒ Yes	☐ Reduced material conditions	☐ No
❖ Onward appeal	☒ Yes	☐ Reduced material conditions	☐ No
❖ Subsequent application	☒ Yes	☐ Reduced material conditions	☐ No

2. Is there a requirement in the law that only asylum seekers who lack resources are entitled to material reception conditions? ☒ Yes ☐ No

Article 55(1) IPA provides that the competent authority for the reception of asylum seekers in cooperation with competent government agencies, international organisations and certified social actors shall ensure the provision of reception conditions. These conditions must "secure an adequate standard of living for asylum seekers that ensures their subsistence and protects their physical and mental health, based on the respect of human dignity". As per the same article, the same standard of living is guaranteed for asylum seekers in detention. Special care is provided for those with special reception needs.[607]

Asylum seekers are entitled to reception conditions from the time they submit an asylum application and throughout the asylum procedure. In case of status recognition, reception conditions are terminated (with a few exceptions) 30 days after having been granted a positive decision. In the specific case of UAM, this time limit starts counting from the time they reach adulthood.[608] Delays in accessing reception continued to be reported in 2021, on account of chronic delays in accessing asylum on the mainland, via the skype registration system.[609]

The law also foresees that the provision of all or part of the material reception conditions depends on asylum seekers' lack of employment or lack of sufficient resources to maintain an adequate standard of living that is sufficient to safeguard their health and sustenance.[610] The latter is examined in connection with the financial criteria set for eligibility for the Social Solidarity Benefit (*Κοινωνικό Επίδομα Αλληλεγγύης*, KEA),[611] which was renamed to Minimum Guaranteed Income (*Ελάχιστο Εγγυημένο Εισόδημα*) in 2020.[612] The law also provides that reception conditions can be reduced or withdrawn following an individual and justified decision by the competent reception authority, based on the full set of grounds provided under article 20 of the Reception Directive, including if it is established that the applicant has concealed his or her financial means or if they have lodged a subsequent asylum application.[613]

607 Article 55(1) IPA, which maintains the same standards, transposing article 17 (2) of the (recast) Reception Directive.
608 Article 114 L 4636/2019, as amended by article 111 L. 4674/2020 and article 5 of relevant JMD 13348, Gov Gazette 1190/B/7-4-2020.
609 For more on the skype system, see MIT, *Lives on Hold: Access to Asylum on Mainland Greece, Crete and Rhodes*, November 2021, available at: https://bit.ly/3JOqBe2.
610 Article 55(3) IPA.
611 Article 235 L 4389/2016.
612 Article 29 L. 4659/2020.
613 Article 57 IPA.

2. Forms and levels of material reception conditions

Indicators: Forms and Levels of Material Reception Conditions	
Amount of the monthly financial allowance/vouchers granted to single adult asylum seekers as of 31 December 2021 (in original currency and in €):	€150 (€75 if accommodation is catered)

Material reception conditions may be provided in kind or in the form of financial allowances.[614] According to Article 56(1) IPA, where housing is provided in kind, it should take one or a combination of the following forms:

a. Premises used for the purpose of housing applicants during the examination of an application for international protection made at the border or in transit zones;
b. Accommodation centres, which can operate in properly customised public or private buildings, under the management of public or private non-profit entities or international organisations and guarantee a suitable standard of living;
c. Private houses, flats and hotels, rented for the purposes of accommodation programmes implemented by public or private non-profit entities or international organisations.

In all cases, the provision of housing is under the supervision of the competent reception authority, in collaboration, where appropriate, with other competent state bodies. The law provides that the specific situation of vulnerable persons, such as minors (accompanied and unaccompanied), people with disabilities, elderly people, single-parent households and pregnant women, should be taken into account in the provision of reception conditions.[615]

In practice, a variety of accommodation schemes remain in place as of the end of 2021. These include large-scale camps, initially designed as emergency accommodation facilities, apartments and NGO-run facilities (see Types of Accommodation), albeit reduced compared to the previous years.

Up to the end of September 2021, UNHCR, in collaboration with the Catholic Relief Services (CRS), the International Federation of Red Cross and Red Crescent Societies (IFRC), and METAdrasi, also continued to provide cash assistance in Greece, in the context of the "ESTIA II-CBI" programme, which is financed through AMIF and aims to partly cover material reception conditions by addressing beneficiaries' basic needs (e.g. clothing, medication).[616] The cash card assistance programme is being implemented throughout Greece. As of October 2021, the programme was fully handed over to the Greek state,[617] and is since implemented by the MoMA, in collaboration with CRS. A serious gap in the distribution of the assistance was identified as part of this transition, which remained unresolved until the end of the year.[618]

Under the ESTIA II-CBI programme, the beneficiaries of the cash-based assistance are:[619]

- Adult asylum seekers who have been pre-registered and/or fully registered in accordance with article 65 (1)(2)&(7) L. 4636/2019, with the exception of those detained for any reason, as long as they reside in the centres and facilities provided under para. 4 article 8 L. 4375/2016, in accommodation programmes of the MoMA, in shelters and hospitality centres operated by international organisations and legal entities governed by public law, local authorities, as well as civil society actors that are registered in the Registry of Greek and foreign NGOs of the MoMA.

614 Article 55(1) IPA.
615 Article 58(1) IPA.
616 Ministerial Decision 115202/2021 on the Terms of provision of material reception conditions in the form of financial assistance to applicants for international protection, Gov. Gazette 3322/B/26-7-2021.
617 MoMA, "The Ministry of Migration and Asylum undertakes the provision of financial assistance to asylum applicants as of 1 October 2021", available at: https://bit.ly/3HygEiT.
618 *Inter alia*, Joint Statement by 26 NGOs in Greece, "Are you eligible to eat?", 18 October 2021, available at: https://bit.ly/3ipbE6a.
619 Article 1(d) Ministerial Decision 115202/2021, *op.cit*.

- Beneficiaries of international protection who upon turning 18 reside in accommodation centres for UAM or in temporary accommodation spaces for UAM, for a period of three months following their placement to the aforementioned accommodation spaces.

In both cases, the new residency requirement as a pre-condition for receiving cash assistance, took effect on 1 July 2021, after first being announced through Press Releases issued by the MoMA in April and May 2021,[620] and subsequently introduced in ministerial decisions in July and September.[621] As per the new framework, cash assistance is provided to those eligible at the end of each month, as long as it can be certified that they continue to reside in the facilities designated by the Ministry of Migration and Asylum (i.e. facilities of the reception system). Applicants who are not accommodated in these facilities need to first apply, be referred and placed to such accommodation, before the procedure for accessing the cash assistance can (re)start.[622] In these cases, the application can only be made through actors that are registered in the special referral platform of the ESTIA program (e.g. NGOs), while referrals can only take place under the responsibility of the RIS.

The decision to interrupt cash assistance to asylum applicants not accommodated in the reception system raised significant concerns, *inter alia* because it amounted to the withdrawal of material reception conditions to an estimated 25,000 asylum applicants,[623] without any personalised assessment or reasoned decision, thus potentially also amounting to a violation of article 57 L 4636/2019 transposing article 20 of Directive 2013/33/EU. Furthermore, as highlighted by 30 civil society organisations in a joint statement published in June 2021,[624] the decision would also have a detrimental impact on the integration path of the population affected, as many would not only have to abandon a place of residence of their own choice – which they were able to sustain with the support of the provided cash assistance – but would also have to return to camps, in isolation from their communities, friends and society more broadly. Lastly, the decision failed to take into consideration the protection risks that could potentially arise for some refugees in the context of shared accommodation, with some communities reportedly preferring to lose the financial allowance out of fear to be accommodated with unknown persons,[625] or the capacity of NGOs, which were in practice called to implement the decision, to do so.

Regarding the distribution of cash assistance in August-September 2021, 34,072 eligible refugees and asylum-seekers (of whom 16,471 were families i.e. 48%) received cash assistance in 93 locations throughout Greece,[626] as part of the last disbursement carried out under the auspices of UNHCR. This marked a 59% decrease of the programme's beneficiaries, compared to the same period in 2020 (82,239 families, i.e. 53%).[627] Between April 2017 and September 2021, 205,241 eligible individuals received cash assistance in Greece at least once.

620 MoMA, "The financial assistance to international protection applicants that are not accommodated in facilities under the responsibility of the Ministry of Migration and Asylum or MoMA partners is abolished from 1/7/21", 15 April 2021, available at: https://bit.ly/3IEvEgx and "Pre-requisites for the disbursement of financial assistance to international protection applicants", 25 May 2021, available at: https://bit.ly/3IDe5xx.

621 Ministerial Decision 115202/2021 *op.cit* and JMD 2857/2021 Amending JMD 2089/16-07-2021 on a "Common Framework for Managing Programmes that are assigned to the Special Secretariat for the Coordination and Management of Programmes under the Asylum, Migration and Integration Fund and the Internal Security Fund and other resources and are nor financed through National Programmes" (B' 3120), Gov. Gazette 4496/29-09-2021.

622 Annex III, article 5 JMD 2857/2021.

623 Estimates provided by UNHCR in the protection working group of 7 June 2021.

624 Joint Statement: A big setback in integration: The cut in aid to asylum seekers, June 2021, available at: https://bit.ly/3qMKIBV.

625 As per information shared in the protection working group of 7 June 2021.

626 UNHCR, *Cash assistance update: August-September 2021,* 15 September 2021, available at: https://bit.ly/3vNCdKr.

627 UNHCR, *Cash assistance update: September 2020,* available at: https://bit.ly/3tthI2y.

Of the 34,072 individuals who received cash assistance in September 2021, 455 were beneficiaries of international protection (91% decrease compared to September 2020). Out of 16,471 families, 24% were women, 36% men and 40% children. 31% of all who received cash assistance in September 2021 were families of five members or more, 29% were single adults, while the majority (78%) were from Afghanistan (43%), Syria (15%), Iraq (10%) and the DRC (10%).[628] They reside in 93 locations throughout Greece, yet the majority were located in Attica (44%), Central Macedonia (20%) and the islands (12%).

Furthermore, in December 2021, as per data published by the Ministry of Migration and Asylum,[629] a total of 14,333 asylum applicants (6,837 households) received cash assistance throughout Greece, primarily in the region of Attika (43%) and Central Macedonia (23%). Further information indicates that the specific distribution, which relaunched the scheme after the programme's transition, covered belated payments for the months of October and November for the population accommodated in ESTIA, the island RICs and in shelters.[630] The sums for December and for the rest of the population of asylum applicants gradually started being distributed in 2022.

Of the 14,333 applicants who received cash in December 2021, the majority were from Afghanistan (39%), followed by Syrians (16%), nationals of the DRC (13%), Iraq (10%) and Somalia (4%). 37% of all those who received the assistance were between the ages of 18-24, while 35% were between the ages of 0-13 as per the MoMA's data. No data on the family situation of the applicants were published.[631]

The amount distributed to each household is proportionate to the size of each household and differs depending on whether the accommodation is catered or not. Following a relevant reconfiguration of the financial sum provided under the CBI programme in 2020, the sums have been further reconfigured in 2021, with few exceptions, leading to further small reductions of the sum distributed to most categories of eligible applicants. As of July 2021, the amount distributed to each applicant or household ranges from €75 for single adults in catered accommodation to €420 for a family of four or more in self-catered accommodation.[632] In general terms, the sum provided is lower than what is provided under the Minimum Guaranteed Income, which foresees a € 200 support for a single-member household that is increased by € 100 for each additional adult member of the household and by € 50 for each minor member, up to a € 900 ceiling,[633] albeit variations may arise depending on each household.

In addition to the fact that cash assistance preserves refugees' dignity and facilitates the process of regaining an autonomous life, by inter alia allowing them to choose what they need most, the programme has also had a significant, positive impact on local communities, as this assistance is eventually injected into the local economy, family shops and service providers. In proportion to programme's beneficiaries, approximately €7.4 million in cash assistance were expected to be injected into the local economy in December 2020.[634] No relevant data are provided for December 2021.

628 UNHCR, 15 September 2021, *op.cit.*
629 MoMA, Factsheet December 2021: Programme "Financial assistance to applicants of international protection", available in Greek at: https://bit.ly/3qrPqor.
630 Information provided at the Protection Working Group of 3 February 2022 by the Head of the Directorate of Support of the RIS.
631 MoMA, Factsheet December 2021, *op.cit.*
632 Article 3 Ministerial Decision 115202/2021 on the "Terms of material reception conditions in the form of financial assistance to applicants for international protection", Gov. Gazette 3322/B/26-7-2021.
633 Article 2 (7) JMD 3359/2021,
634 UNHCR, *Factsheet: Greece*, 1-31 December 2020, available at: https://bit.ly/2QVbl8I, 3.

3. Reduction or withdrawal of reception conditions

Indicators: Reduction or Withdrawal of Reception Conditions

1. Does the law provide for the possibility to reduce material reception conditions?
   ☒ Yes ☐ No
2. Does the legislation provide for the possibility to withdraw material reception conditions?
   ☒ Yes ☐ No

Reception conditions may be reduced or in exceptional and specifically justified cases withdrawn, following a decision of the competent reception authority, where applicants:[635]

a. If provided with housing, abandon the accommodation to which they have been referred, without informing the competent administration or without permission or abandon the place of residence determined by the competent authority without permission;
b. Do not comply with reporting duties or do not respond to requests for information or do not attend, in the process of the examination of their application for international protection, to a personal interview within the deadline set by the receiving and examining authorities;
c. Have lodged a Subsequent Application;
d. Have concealed their resources and illegitimately taken advantage of material reception conditions; or
e. Have seriously breached the house rules of the reception centre, in particular by demonstrating violent behaviour, in which case the competent police authority is also notified, in order to ascertain whether detention should be applied, on grounds of national security or public order or due to a risk of absconding.

In cases a and b, when the applicant(s) is located or voluntarily presents themselves to the competent Authority, a specially justified decision, based on the reasons for abandonment, is taken with regard to the renewal of the provision of part or all of the material reception conditions, which were restricted or interrupted.[636]

Moreover, material reception conditions may be reduced, in cases where the competent reception authority can establish that the applicant, for no justifiable reason, has not lodged an application for international protection as soon as reasonably practicable after arrival on the Greek territory.[637] Similarly, reception conditions may be reduced in accordance with article 57 in cases where minor applicants and the minor children of the applicants do not comply with the obligation to enrol and attend school courses (primary and secondary education of the public system of education), because they do not want to join the education system.[638]

In order for material reception conditions to be reduced and/or withdrawn, the RIS or the Directorate for the Protection of Asylum Seekers need to take a justified decision following an individualised and objective assessment, which takes into account the applicant's vulnerability. The decision to reduce or withdraw material reception conditions cannot concern the applicant's access to medical care and cannot result in making it impossible for them to access the basic means for ensuring a decent standard of living.[639]

635 Article 57(1), (3) and (4) IPA).
636 Article 57 (1) IPA.
637 Article 57(2) IPA), which provides that "The competent reception Authority shall reduce material reception conditions when it ascertains that the applicant has without justifiable cause not applied for international protection as soon as possible after their arrival in the Greek territory").
638 Article 51 (2) IPA.
639 Article 57(5) IPA.

A relevant procedure is laid down in the General Regulation of Temporary Reception and Temporary Accommodation Facilities for third country nationals or stateless persons under the responsibility of the RIS (*Γενικός Κανονισμός Λειτουργίας Δομών Προσωρινής Υποδοχής και Δομών Προσωρινής Φιλοξενίας πολιτών τρίτων χωρών ή ανιθαγενών, που λειτουργούν με μέριμνα της Υπηρεσίας Υποδοχής και Ταυτοποίησης)* and the General Regulation for the Operation of Reception and Identification Centres and Mobile Reception and Identification Units (*Γενικός Κανονισμός Λειτουργίας Κέντρων Υποδοχής και Ταυτοποίησης και Κινητών Μονάδων Υποδοχής και Ταυτοποίησης*). In the first case, the procedure foresees: (a) a written warning and (b) a reasoned decision reducing or withdrawing material reception conditions, while in the second case a three-step procedure is foreseen, consisting of (a) an oral recommendation, (b) a written warning and (c) the interruption of accommodation as long as reception and identification procedures have been completed.[640]

Lastly, a new regulation covering the newly established Closed-Controlled Facilities on the islands was issued in 2021. This regulation *inter alia* foresees the possibility to terminate accommodation and withdraw material reception if applicants are unjustifiably not identified during the regular census-verification of the resident population for two consecutive times,[641] albeit no separate procedure is foreseen.

Between June and December 2020, reception conditions were withdrawn in the case of 4,957 beneficiaries that were accommodated in camps (2,924) and the ESTIA accommodation scheme (2,033), following recognition of their status or after receiving a second instance negative decision. Relevant data for the period between January-May 2020 or on potential decisions reducing and/or withdrawing material reception conditions on the basis of article 57 IPA remain unavailable. Data on 2021 also remain unavailable up to the time of writing.

Applicants have the right to lodge an appeal (*προσφυγή*) before the Administrative Courts against decisions that reduce or withdraw reception conditions. In the case of appeal before the Courts, applicants also have a right to free legal aid and representation.[642] However, as explained further below, the remedy provided by this provision is not available in practice.

4. Freedom of movement

Indicators: Freedom of Movement

1. Is there a mechanism for the dispersal of applicants across the territory of the country? ☐ Yes ☒ No
2. Does the law provide for restrictions on freedom of movement? ☒ Yes ☐ No

Asylum seekers may move freely within the territory of Greece or the area assigned by a regulatory (*κανονιστική*) decision of the Minister of Citizen Protection (formerly, the Minister of Migration Policy).[643] Restriction of freedom movement within a particular geographical area should not affect the inalienable sphere of private life and should not hinder the exercise of rights provided by the law.[644]

Following the entry into force of the IPA, on 1 January 2020, asylum seekers' freedom of movement may also be restricted through assignment to a specific place, only if this is necessary for the swift processing and effective monitoring of the applications for international protection or for duly justified

640 Article 18 (1) Ministerial Decision 13/13532/2020, Gov. Gazette, 5272/B'/30.11.2020 and article 10(1) Joint Ministerial Decision 1/7433/10-6-2019, Gov. Gazette 2219/B/10.6.2019.
641 Article 7 (2) Decision 25.0/118832 of the General Secretary of Reception of the Ministry of Migration and Asylum, Gov. Gazette 3191/B/ 20.7.21.
642 Article 112 (1) and (2) IPA.
643 Article 45(1) IPA.
644 *Ibid*.

reasons of public interest or reasons of public order. The limitation is imposed by the Head of the Asylum Service and is mentioned on the asylum seekers' cards.[645]

Applicants are required to notify the competent authorities of any change of their address, as long as the examination of their asylum application is pending.[646]

Finally, applicants have the right to lodge an appeal (*προσφυγή*) before the Administrative Court against decisions that restrict their freedom of movement.[647] However, as explained below, the remedy regulated by this provision is not available in practice.

4.1. The geographical restriction on the Eastern Aegean islands

In practice, the imposition of a restriction on freedom of movement is particularly applied to persons subject to the EU-Turkey statement and the Fast-Track Border Procedure, whose movement is systematically restricted within the island where they have arrived, under a "geographical restriction". As mentioned in Reception and Identification Procedure, the geographical restriction on the given island is imposed both by the Police Authorities and the Asylum Service.

Imposition of the "geographical restriction" by the Police: Following an initial "Deportation decision based on the readmission procedure" issued for every newly arrived person upon arrival, a "postponement of deportation" decision is issued by the Police,[648] by which the person in question is ordered not to leave the island and to reside in the respective RIC "until the issuance of a second instance negative decision on the asylum application". The automatic issuance of a deportation decision upon arrival against every newly arrived person on the Greek islands is highly problematic, given that the majority of newly arrived persons have already expressed the intention to seek asylum upon arrival, thus prior to the issuance of a deportation decision.[649] Moreover, the decision of the Police which imposes the geographical restriction on the island is imposed indiscriminately, without any prior individual assessment or proportionality test. It is also imposed indefinitely, with no maximum time limit provided by law and with no effective remedy in place.[650]

Imposition of the "geographical restriction" by the Asylum Service: The imposition of the geographical restriction on the islands in the context of the asylum procedure was initially based on a June 2017 Decision of the Director of the Asylum Service.[651] This decision was annulled by the Council of State on 17 April 2018, following an action brought by GCR. The Council of State ruled that the imposition of a limitation on the right of free movement on the basis of a regulatory (*κανονιστική*) decision is not as such contrary to the Greek Constitution or to any other provision with overriding legislative power. However, it is necessary that the legal grounds, for which this measure was imposed, can be deduced from the preparatory work for the issuance of this administrative Decision, as otherwise, it cannot be ascertained whether this measure was indeed necessary. That said the Council of State annulled the Decision as the legal grounds, which permitted the imposition of the restriction, could not be deduced neither from the text of said Decision nor from the elements included in the preamble of this decision. Moreover, the Council of State held that the regime of geographical restriction within the Greek islands has resulted in unequal distribution of asylum seekers across the national territory and

645 Article 45(2) IPA.
646 Article 45(6) IPA).
647 Article 112(1) IPA.
648 Pursuant to Article 78 L 3386/2005.
649 Article 34(d) L 4375/2016 (replaced by article 2(c) IPA) clarifies that a person who expresses orally or in writing the intention to submit an application for international protection is an asylum seeker.
650 See e.g. Human Rights Committee, *General Comment No 27 – Article 12 (Freedom of Movement*, CCPR/C/21/Rev.1/Add.9, 2 November 1999, available at: http://bit.ly/2uG06Fj.
651 Asylum Service Director Decision 10464, Gov. Gazette B 1977/7.06.2017.

significant pressure on the affected islands compared to other regions.[652] A new regulatory Decision of the Director of the Asylum Service was issued three days after the judgment and restored the geographical restriction on the Eastern Aegean islands.[653] This Decision was replaced in October 2018 by a new Decision of the Director of the Asylum Service.[654] Following an amendment introduced in May 2019 the competence for issuing the Decision imposing the geographical restriction has been transferred from the Director of the Asylum Service to the Minister of Migration Policy.[655] In June 2019, a decision of the Minister of Migration Policy on the imposition of the geographical restriction has been issued.[656] Following the amendment of the IPA in November 2019, a new decision on the imposition of the geographical limitation has been issued by the Minister of Citizen Protection in December 2019, which remains in effect.[657] A new application for annulment was filed by GCR before the Council of State against said Decisions, however the hearing has been since postponed on several occasions and is still pending examination in December 2021.

The Decision of the Minister of Citizen Protection as of December 2019, which regulates the imposition of the geographical restriction since 1 January 2020, states the following:

"1. A restriction on movement within the island from which they entered the Greek territory is imposed on applicants of international protection who enter the Greek territory through the islands of Lesvos, Rhodes, Samos, Kos, Leros and Chios. Said restriction is mentioned on the asylum seekers' cards.

2. The restriction on movement shall be lifted subject to a decision of the Director of the RIC, which is issued as per the provisions of para. 7, article 39 of L.4636/2019, in cases of
(a) unaccompanied minors,
(b) persons subject to the provisions of Articles 8 to 11 of Regulation (EU) No 604/2013, under the condition that after the take charge request submitted by the Greek Authorities has been accepted by another member State
(c) persons whose applications can reasonably be considered to be well founded and
(d) persons belonging to vulnerable groups or who are in need of special reception conditions according to the provisions of L. 4636/2019, as long as it is not possible to provide them with appropriate support as per what is provided in article 67 IPA ("applicants in need of special procedural guarantees")".

Thus, and in line with said Decisions in force during 2019 and since 1 January 2020, the geographical restriction on each asylum seeker who entered the Greek territory through the Eastern Aegean Islands is imposed automatically when the asylum application is lodged before the RAO of **Lesvos**, **Rhodes**, **Samos**, **Leros** and **Chios** and the AAU of **Kos**. The applicant receives an asylum seeker's card with a stamp on the card mentioning: "Restriction of movement on the island of […]". In case the applicant holds the new type of "smart card", a separate category stating whether they are subject to the geographical restriction is included on the card (e.g. stating "Άνευ" if no restriction is applied). No individual decision is issued for each asylum seeker.

The lawfulness of the aforementioned practice is questionable, *inter alia* for the following reasons:

- No prior individual decision for the imposition of the geographical restriction is issued, as the restriction is imposed on the basis of a regulatory ('κανονιστική') Decision of the Minister and no proper justification on an individual basis is provided for the imposition of the

652 Council of State, Decision 805/2018, 17 April 2018, EDAL, available at: https://bit.ly/2GmvbTI.
653 Asylum Service Director Decision 8269, Gov. Gazette B 1366/20.04.2018. See GCR and Oxfam, 'GCR and Oxfam issue joint press release on CoS ruling', 24 April 2018, available at: https://bit.ly/2N0Rwqv.
654 Asylum Service Director Decision 18984, Gov. Gazette B 4427/05.10.2018.
655 Art. 7 L.4540/2018 as amended by L. 4609/2019.
656 Ministerial Decision 13411/2019, Gov. Gazette 2399/B/19.6.2019.
657 Ministerial Decision 1140/2019, Gov. Gazette 4736/B/20.12.2019.

restriction of movement on each island, within the frame of the asylum procedure.[658] According to the relevant Decisions, any asylum seeker who enters the Greek territory from **Lesvos**, **Rhodes**, **Samos**, **Leros**, **Chios** and **Kos** is initially subject to a geographical restriction on said island. The restriction can be lifted only in case that the applicant falls within one of the categories provided by the Ministerial Decision. Consequently, the geographical restriction in the asylum procedure is applied indiscriminately, *en masse* and without any prior individual assessment. The impact of the geographical restriction on applicants' "subsistence and… their physical and mental health",[659] on the ability of applicants to fully exercise their rights and to receive reception conditions, by taking into consideration reception conditions prevailing on the islands is not assessed.

- No time limit or any re-examination at regular intervals is provided for the geographical limitation imposed;

- No effective legal remedy is provided in order to challenge the geographical limitation imposed by the Minister of Citizen Protection, contrary to Article 26 of the recast Reception Conditions Directive. The remedy provided under article 112(1) (formerly introduced by the amended Article 24 L 4540/2018 in December 2018) remained illusory, since an individual cannot lodge an appeal pursuant to the Code of Administrative Procedure in the absence of an individual, enforceable administrative act. In addition, no tailored legal aid scheme is provided for challenging such decisions (see Regular Procedure: Legal Assistance). *A fortiori*, no legal remedy is provided by the IPA to challenge said restriction.

During 2021, and in line with the legal framework in place at that time, the geographical restriction was *inter alia* lifted in the following cases:

- Persons granted international protection
- Applicants exempted due to the applicability of the family provisions of the Dublin Regulation
- Vulnerable applicants for whom appropriate support could not be provided within the area of restriction, though GCR is aware of several cases of vulnerable applicants for whom the restriction was not lifted, even though neither special reception conditions nor special procedural guarantees could be applied, not least, due to diverging practices between locations (also see Lift of geographical Restriction).

In all cases, the lifting of the geographical restriction does not necessarily amount to an immediate change in living conditions or the actual departure from the islands. For instance, in a case documented by RSA, an elderly woman who had her geographical restriction lifted in August 2020 with a view to her Dublin transfer remained under inappropriate living conditions on in the RIC of Lesvos for six months. She was only placed in suitable accommodation after repeated complaints to the Ombudsman and an interim measure request to the ECtHR.[660] Similarly, in another case handled by GCR concerning a vulnerable family of 5 living in highly unsuitable conditions in the RIC of Lesvos, with the spouse in advanced pregnancy, and one of the children with a serious medical issue that could not be addressed on the island, the geographical restriction was lifted in March 2021. Yet the family was not allowed to leave until 5 months later, after consecutive interventions by GCR's lawyer *inter alia* to the Greek Ombudsman in August 2021. The reasoning provided by the administration to the family's lawyer for the delay was that there was no organised transfer off the island scheduled and that the family would not be allowed to leave the island on their own, despite the lift of the restriction.

658 Article 7 recast Reception Conditions Directive.
659 Article 17(2) recast Reception Conditions Directive.
660 RSA, 'Refugees unprotected against COVID-19 risks in Greece', 12 March 2021, available at: https://bit.ly/3JAmF0R.

Since 1 January 2020, the new regulatory framework for the geographical restriction on the islands has significantly limited the categories of applicants for whom the restriction can be lifted. Thus, the implementation of this framework can increase the number of applicants stuck on the Greek islands and serves as a constant risk that can deteriorate the conditions there.

Throughout 2020, a total of 5,543 persons had their geographical restriction lifted, following a decision of the RIS on the islands of Lesvos (1,513), Samos (1,777), Chios (1,491), Leros (457) and Kos (305).Such data is not available for 2021.

In sum, the practice of indiscriminate imposition of the geographical restriction since the launch of the EU-Turkey Statement has consistently led to significant overcrowding in the island RICs. People are obliged to reside for prolonged periods in overcrowded and/or unsuitable facilities, where food and water supply have been consistently reported insufficient, sanitation is poor and security highly problematic (see Conditions in Reception Facilities).

In September 2020,[661] the Greek National Commission for Human Rights (GNCHR) reiterated its firm and consistently expressed position, calling the Greek Government to "review the dead-end policy with regards to the imposition of a geographical restriction on the Eastern Aegean islands and to move forward with the abolition of this onerous measure". The GNCHR also noted that regardless of circumstances "any geographical restriction must be imposed following an individual assessment and a reasoned administrative act, giving the applicant the possibility of effective judicial protection, as this [measure] introduces a restriction on [the applicant's] freedom of movement".

In May 2021, amid the lowest levels of overcrowding observed since 2015, the Council of Europe Commissioner for Human Rights similarly underlined that "action to improve the lingering substandard living conditions in the Reception and Identification Centres must not be delayed and that all appropriate standards must be met, and overcrowding prevented. With the new reception facilities reportedly set to operate as closed centres, the Commissioner is concerned that this will lead to large-scale and long-term deprivation of liberty. She urges the Greek authorities to reconsider the closed nature of these centres, in order to ensure that the regime applicable to these facilities safeguards the freedom of movement of their residents, in line with the relevant Council of Europe standards." The Commissioner also reiterated that "the policy of containment of refugees, asylum seekers and migrants on the Aegean islands lies at the heart of many of the long-standing problems Greece has experienced in protecting the rights of these persons"[662].

Failure to comply with the geographical restriction has serious consequences, including Detention of Asylum Seekers, as applicants apprehended outside their assigned island are – arbitrarily – placed in pre-removal detention for the purpose of returning to their assigned island. They may also be subject to criminal charges under Article 182 of the Criminal Code. Moreover, access to asylum is also restricted to those who have not complied with the geographical restriction since, according to the practice of the Asylum Service, their applications are not lodged outside the area of the geographical restriction and/or the applicant in case he or she has already lodged an application, cannot renew the asylum seeker card and the examination is interrupted.

661 National Commission for Human Rights, *Report on the refugee and migration issue ("Εκθεση αναφοράς για το προσφυγικό και το μεταναστευτικό ζήτημα")*, September 2020, available at: https://bit.ly/3vulqre, 44.

662 Council of Europe, "Greek authorities should investigate allegations of pushbacks and ill-treatment of migrants, ensure an enabling environment for NGOs and improve reception conditions", 3 May 2021, available at: https://bit.ly/3fpRIOC.

B. Housing

1. Types of accommodation

Indicators: Types of Accommodation	
1. Number of temporary accommodation centres:	25
2. Total number of places in the reception system:	56,002[663]
3. Total number of places in MoMA/UNHCR accommodation:	16,875
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	

The Greek reception system has been long criticised as inadequate, not least in the *M.S.S. v. Belgium and Greece* ruling of the ECtHR. Subsequent jurisprudence of the ECtHR has also found violations of Article 3 ECHR due to the failure of national authorities to provide asylum seekers with adequate living conditions.[664]

Since mid-2015, when Greece was facing large-scale arrivals of refugees, those shortcomings became increasingly apparent. The imposition of border restrictions and the subsequent closure of the Western Balkan route in March 2016 resulted in trapping about 50,000 third-country nationals in Greece. This created *inter alia* an unprecedented burden on the Greek reception system.[665]

Since then, the number of reception places has increased mainly through temporary camps and the UNHCR accommodation scheme. Despite this increase, destitution and homelessness remain a risk, which is still affecting an increasing number of asylum seekers and refugees.[666]

As mentioned by UNHCR in January 2019, "with steady new arrivals reaching the sea and land borders and limited legal pathways out of the country, there is an ever-increasing need for more reception places for asylum-seekers and refugees, especially children who are unaccompanied and other people with specific needs."[667]

Since then, throughout 2019, more than 70,000 persons arrived on the Greek islands and the mainland, amounting to a 50% increase, compared to 2018 arrivals,[668] further affecting the state's ability to provide material reception conditions. This trend continued to apply well into the first months of 2020. By 29 February 2020, more than 38,000 persons were forced to remain in island RICs with a nominal capacity of no more than 6,178 places.[669]

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663 Includes the nominal capacity of island facilities and the ESTIA scheme, as reported by the MoMA and the National Coordination Centre for Border Control, Immigration and Asylum, and data on the 25 mainland camps that were operational in December, as per IOM's updates. Does not include data on Evros RIC.

664 ECtHR, F.H. v. Greece, Application No 78456/11, Judgment of 31 July 2014; Al.K. v. Greece, Application No 63542/11, Judgment of 11 March 2015; Amadou v. Greece, Application No 37991/11, Judgment of 4 February 2016; S.G. v. Greece, Application No 46558/12, Judgment of 18 May 2017.

665 See also AIRE Centre and ECRE, With Greece: Recommendations for refugee protection, July 2016, 7-8.

666 GCR, Diotima Centre & IRC, *Homeless & Hopeless: An assessment of the housing situation of asylum applicants and beneficiaries of international protection in Greece*, January 2022, available at: https://bit.ly/3uwZ2zC; Refugees in Greece: Risk of Homelessness and Destitution for Thousands during Winter, Joint Announcement of 74 civils society organisations, 22 December 2020, available at: https://bit.ly/3nIBofT.

667 UNHCR, *Factsheet: Greece*, January 2019, available at: https://bit.ly/2SYh3qr.

668 UNHCR, *Factsheet: Greece, December 2019,* available at: https://bit.ly/37QBhFY.

669 General Secretariat for Information and Communication, National Situational Picture Regarding the Islands at Eastern Aegean Sea (29/2/2020), 1 March 2020, available at: https://bit.ly/3sZT47v.

Since then, conditions of overcrowding started gradually improving, as transfers of asylum seekers took place, with the process being undoubtedly facilitated by the decreased number of arrivals on the islands, in the context of an observed general reduction of cross-border movements in the eastern Mediterranean in 2020,[670] and particularly since March, when the COVID-19 pandemic hit Greece and Europe.[671]. Yet despite the diminished instances of overcrowding by year's end, the situation on the islands remained below acceptable standards, while the timing of diminished number of arrivals also coincides with a documented and since an important increase in reports and testimonies on pushbacks carried out at Greece's land and sea borders,[672] which have yet to be effectively investigated by the end of 2021.

The Reception and Identification Service (RIS) and the Directorate for the Protection of Asylum Seekers (DPAS) under the Ministry of Migration and Asylum, where relevant, are appointed as the responsible authorities for the reception of asylum seekers.[673] Additionally, the "ESTIA" accommodation programme, which was first implemented in Greece under the coordination of UNHCR, receives and processes relevant referrals for vulnerable asylum seekers eligible to be hosted under the scheme in 2021. As of 1 January 2021, the Greek state has undertaken full responsibility of the ESTIA scheme, which will be operating under the competence of the RIS, as per the new organisation of the Ministry of Migration and Asylum.[674] By May 2021, the programme was fully handed over by UNHCR to the MoMA.[675]

Following the establishment of the Special Secretary for Unaccompanied Minors (SSUM) under the MoMA in February 2020,[676] and the entry into force of L. 4756/2020 in November of the same year, the SSUM has become the competent authority for the protection of UAM, including the accommodation of UAM, while EKKA, under the supervision of the Directorate for the Protection of Children and Families of the Ministry of Labour and Social Affairs is *inter alia* responsible for the representation of UAM, including through the guardianship foreseen under L. 4554/2018,[677] which has yet to become operational as of the time of writing.

1.1. Temporary accommodation centres

In 2016, in order to address the needs of persons remaining in Greece after the imposition of border restrictions along the so-called Western Balkan route, a number of temporary camps were created on the mainland in order to increase accommodation capacity.

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670 FRONTEX, "Irregular migration into EU last year lowest since 2013 due to COVID-19", 8 January 2021, available at: https://bit.ly/3xxceVO.

671 New York Post, *"WHO Says Europe is New Epicenter of Coronavirus Pandemic"*, 13 March 2020, available at: https://bit.ly/3nB3bhZ.

672 Amongst many others, ARSIS, GCR *et.al*, *Joint Statement on push backs practices in Greece*, 1 February 2021, available at: https://bit.ly/36Lez3N; RSA, *Push backs and violations of human rights at sea: a timeline*, 29 December 2020, available at: https://bit.ly/3sWarrd and Campaign for the Access to Asylum, Illegal pushbacks, Lives at risk, NGOs under prosecution: Investigations on pushbacks at the EU level, targeting of those highlighting them in Greece, 16 March 2021, available at: https://bit.ly/3e2dQ2f.

673 Article 41(h) IPA. As of 15 January 2020, through the institution of the Ministry of Migration and Asylum, through P.D. 4/2020, Gov. Gazette 4/A/15.1.20, the Secretariat General of Migration Policy, Reception and Asylum, as well as the Special Secretariat of Reception have been transferred under the competence of the new Ministry.

674 Article 37, para. 2(z) of P.D. 106/2020 on the Organisation of the Ministry of Migration and Asylum, Gov. Gazette 255/A/23-12-2020.

675 ECRE, Greece: Hearing Reveals Hostile Environment for Human Rights Defenders, Strategy of Deflection and Denials on Pushbacks Continue, ESTIA Cash Scheme Unravels as Government Takes Over, 15 October 2021, available at: https://bit.ly/3LmNohy.

676 Article 1(3) P.D.18/2020, Gov. Gazette 34/A/19-2-2020.

677 Articles 13 & 14 L.4756/2020.

The law provides a legal basis for the establishment of different accommodation facilities. In addition to Reception and Identification Centres,[678] the Ministry of Economy and the Ministry of Internal Affairs may, by joint decision, establish open Temporary Reception Facilities for Asylum Seekers (*Δομές Προσωρινής Υποδοχής Αιτούντων Διεθνή Προστασία*),[679] as well as open Temporary Accommodation Facilities (*Δομές Προσωρινής Φιλοξενίας*) for persons subject to return procedures or whose return has been suspended.[680] As of 17 December 2019, the sites for the construction of controlled, open and closed facilities, as well as all facilities, including those intended for the accommodation of unaccompanied minors, throughout the Greek territory, is approved by the newly constituted position of the National Coordinator for the response to and management of the migration-refugee issue (*Εθνικός Συντονιστής για την αντιμετώπιση και διαχείριση του μεταναστευτικού - προσφυγικού ζητήματος*), following recommendations of the competent services.[681] Following a further amendment in February 2020, the specific competency of the National Coordinator was revoked and replaced with the authority for "organising, directing, coordinating and controlling the Unified Border Surveillance Body ("Ενιαίο Φορέα Επιτήρησης Συνόρων" or ΕΝ.Φ.ΕΣ)[682]. Lastly, and amongst others, as per the amendments brought forth by L. 4686/2020, the Ministers of Finance, of Citizen Protection and of Migration & Asylum can decide on the establishment of Closed Temporary Reception Centers and Closed-Controlled Island Centres for asylum applicants subject to a detention order, for asylum applicants or persons subject to a return procedure or whose removal has been suspended, provided that restrictive conditions have been imposed on them[683]. As per the same amendment, Reception and Identification Centers (RICs), Closed Temporary Reception Structures, Pre-Removal Detention Centers (PRDCs), as well as separate areas with appropriate specifications for the accommodation of third country nationals or stateless persons belonging to vulnerable groups can operate within the aforementioned Closed Temporary Reception Centers and Closed-Controlled Island Centers.

As of 24 March 2020, following the issuance of a relevant Joint Ministerial Decision of the Ministers of Finance and of Migration & Asylum,[684] all temporary accommodation centres (i.e. mainland camps) and emergency facilities (i.e. hotels) have been regulated. Before that, the only three facilities officially established on the mainland were **Elaionas**,[685] **Schisto** and **Diavata**,[686] with the rest operating without an official manager, through Site Management & Support. As of May 2020, following a decision issued by the Minister of Migration and Asylum,[687] Directors were assigned for a period of a year, which is renewable for up to an additional 2 years, to the entire island, RICs and the temporary mainland accommodation centers. In the same month, as per Joint Ministerial Decisions issued by the Ministers of Environment and Energy, of Internal Affairs and of Migration and Asylum, the locations and the construction of the new island RICs on Leros ("Ormos Lakki" location, with a surface area of 25,514.09 m^2), Samos ("Zervou" location, with a surface area of 244,789.34 m^2) and Kos ("Mesovouni" location, with a surface area of 25,514.09 m^2) were decided.[688]

678 Article 10(1)-(2) L 4375/2016. The article has not been abolished by the IPA and remains the same.
679 Article 10(4) L 4375/2016. The article has not been abolished by the IPA and remains the same.
680 Article 10(5) L 4375/2016. The article has not been abolished by the IPA and remains the same.
681 Article 11 (2)(d) of L. 4650/2019, on the Regulation of Issues pertaining to the Ministry of Defence and other matters.
682 Article 190 L. 4662/2020.
683 Article 30 (4) and (5) L. 4686/2020 amending articles 8 and 10 of L. 4375/2016 respectively.
684 JMD 2945/2020 on the "Establishment of Temporary Reception Structures for Third-Country Nationals or Stateless Persons who have applied for international protection", Gov. Gazette 1016/B/24-3-2020.
685 JMD 3/5262, "Establishment of the Open Facility for the hospitality of asylum seekers and persons belonging to vulnerable groups in Eleonas Attica Region", 18 September 2015, Gov. Gazette B2065/18.09.2015; JMD 3.2/6008 "Establishment of the Open Facility for the temporary reception of applicant of international protection", 18 September 2015, Gov. Gazette B' 1940/6.06.2017.
686 JMD 3/14762, "Establishment of Open Facilities for the Temporary Hospitality of applicant for international protection", Gov. Gazette B' 3720/16.11.2016.
687 Ministerial decision 4512/19.05.2020 of the Minister of Migration and Asylum, Gov. Gazette Government Gazette, Volume of Special Position Employees and Administration Bodies of the Public Sector and the Broader Public Sector Agencies, no.381/23-05-2021.
688 JMD 4712, 4711 and 5099, Gov. Gazette 2043/B/30-5-2020.

During 2019, 950 requests from homeless or under precarious living conditions asylum seekers on the mainland were sent from the Directorate for the Protection of Asylum Seekers (DPAS) to the Reception and Identification Service (RIS), for a place in an open accommodation facility on the mainland. Only 55 applicants were finally offered an accommodation place in a facility (5.7%).[689] Relevant data for 2020 and 2021 have not been provided up to the time of publication.

The capacity and occupancy of these accommodation sites, as of December 2021, can be seen in the following table:

Capacity and occupancy of the asylum reception system: December 2021		
Centre	Capacity	Occupancy at end of 2021
Islands		
Lesvos RIC	8,000	1,863
Samos CCC	2,040	398
Chios RIC	1,014	445
Leros CCC	1,780	29
Kos CCC	1,540	481
Mainland		
Agia Eleni	462	261
Alexandria	584	427
Andravida	498	268
Diavata	906	663
Drama	390	206
Elaionas	1,852	2,023
Filippiada	737	384
Katsikas	1,152	962
Kavala	1,207	476
Klidi-Sintiki	492	64
Korinthos	896	758
Koutsochero	1,678	891
Lagadikia	426	157
Malakasa	1,785	1,247
Nea Kavala	1,680	896
Oinofyta	621	466
Pirgos SMS	80	42
Ritsona	2,948	2,358
Schisto	1,358	759
Serres	1,651	848
Thermopyles	560	236
Thiva	956	556
Vagiochori	792	477
Veria	489	269
Volos	149	99
Grand total	**38,723**	19,009

689 Idem.

Source: IOM, Factsheets, available at: https://bit.ly/3vi4BSV; and N.C.C.B.C.I.A. Εικόνα Κατάστασης Στο Ανατολικό Αιγαίο 31 December 2021, available in Greek at: https://bit.ly/37QXRmS.

1.2. ESTIA accommodation scheme

UNHCR started implementing an accommodation scheme dedicated to relocation candidates ("Accommodation for Relocation") through its own funds in November 2015.[690] Following a Delegation Agreement signed between the European Commission and UNHCR in December 2015,[691] the project was continued and UNHCR committed to gradually establishing 20,000 places in open accommodation, funded by the European Commission and primarily dedicated to applicants for international protection eligible for relocation.

In July 2017, as announced by the European Commission, the accommodation scheme was included in the Emergency Support to Integration and Accommodation (ESTIA) programme funded by DG ECHO, aiming to provide urban accommodation and cash assistance, aiming at hosting up to 30,000 people by the end of 2017. The European Commission provided assurances that funding for the accommodation programme of asylum seekers in apartments would continue in 2019.[692] The takeover of activities by AMIF, managed by DG HOME, was confirmed in February 2019.[693]

A year and a half later, in July 2020, the Commission's commitment to the continuation and expansion of the programme was re-affirmed by the Ministry of Migration and Asylum, during the ceremonial tripartite agreement between the EC, UNHCR and the Ministry, for the gradual handover of the renewed ESTIA II programme to the Greek state. As per the Ministry's announcement[694], a total of €91.5 million, through AMIF funds, was approved for the programme's continuation, with the Ministry's aim being to increase the number of accommodation places to 40,000 by 2021. As *inter alia* noted, at the time, by the former UNHCR representative in Greece, *"[e]nsuring the viability, efficiency and quality of this exemplary programme, should be our common goal, as it has proven to enable a successful 'living together' between refugees and local communities across Greece"*[695]. In November 2020, another €91.5 million were approved for the programme's continuation in 2021.[696]

Nevertheless, despite the MoMA's stated aim of increasing ESTIA's capacity to 40,000 places by the end of 2021, between December 2021-February 2022 the number of accommodation places provided under the ESTIA II programme was significantly reduced compared to 2020 and stood at no more than 16,875 places.[697] Moreover, in February 2022, the MoMA announced that by mid-April 2022 the ESTIA II accommodation scheme would be further reduced to a total of 10,000 place and would be terminated

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

691 European Commission, 'European Commission and UNHCR launch scheme to provide 20,000 reception places for asylum seekers in Greece', IP/15/6316, 14 December 2015.

692 UNHCR, 'Interview with UNHCR Representative in Greece on housing programme for asylum-seekers', 19 February 2018, available at: http://bit.ly/2sJf6lh.

693 European Commissoin, 'Greece – End of activation of the Emergency Support Instrument (DG ECHO)', 13 February 2019, available at: https://bit.ly/2Sll5UV.

694 Ministry of Migration and Asylum, "European funding of 92 mil. Has been approved and a contract has been signed for the ESTIA II-2020 Programme" ("Εγκρίθηκε η Ευρωπαϊκή Χρηματοδότηση ύψους 92 εκ και υπεγράφη σύμβαση για το Πρόγραμμα ESTIA II-2020"), 15 July 2020, available in Greek at: https://bit.ly/3gG3B5c.

695 UNHCR, "Towards ESTIA II: UNHCR welcomes Greece's commitment to ensure the continuation of flagship reception programme for asylum-seekers", 15 July 2020, available at: https://bit.ly/3vpoRk6.

696 Ministry of Migration and Asylum, "The ESTIA programme continues in 2021 with full European funding" ("Συνεχίζεται το 2021 το πρόγραμμα ΕΣΤΙΑ, με πλήρη Ευρωπαϊκή Χρηματοδότηση"), 30 November 2020, available in Greece at: https://bit.ly/3tWxPow.

697 MoMA, *ESTIA 2021 Factsheet December 2021 – January/February 2022*, 28 February 2022, available (Greek) at: https://bit.ly/3JQFwEt.

by the end of 2022.[698] Though reasons may vary for this inconsistency with the previously announced expansion of ESTIA, it is important to note that, if the programme's capacity had reached the initially pledged 40,000 places, by the end of 2021 it could have accommodated the vast majority - if not all - asylum applicants remaining in the Greek reception system, providing a significantly improved alternative to camps. In turn, this is a further indication of the Greek government's decision to increasingly accommodate asylum applicants in camp-based and isolated accommodation, despite the availability of alternatives. In March 2022, in the context of referring the case of a highly vulnerable applicant residing in precarious conditions to the MoMA, GCR also received the following reply: *"we will never again accommodate refugees in apartments, but only in camps. The apartments have been significantly reduced until December, when the programme will be closed"*.

ESTIA II accommodation scheme: Dec 2021- Feb 2022*	
Type of accommodation	Capacity
Total number of places in Greece	16,875
Current population	12,447
Occupancy rate	75%

Source: MoMA, *ESTIA 2021 Factsheet December 2021 – January/February 2022*, 28 February 2022, available in Greek at: https://bit.ly/3JQFwEt. * The data provided cannot accurately reflect the situation in December 2021, as the relevant update issued by the MoMA was on a three-month basis, covering the period between December 2021 and February 2022.

By December 2021-February 2022, the ESTIA II accommodation programme operated in 20 buildings, in 19 cities throughout Greece. Out of the total of 16,875 places provided during this period, 578 were on the islands of Crete and Tilos, as the programme was terminated on the rest of the islands earlier in the year.

In total, 86,000 individuals have benefitted from the accommodation programme since November 2015. Out of the 16,875 people accommodated under the programme in December 2021-February 2022, 1,589 were beneficiaries of international protection.

During the same period, 49% of the residents were children, while the clear majority of those accommodated continued being families with children, primarily from Afghanistan (32%), Syria (14%), Iraq (14%), the DRC (10%), and Iran (5%).[699]

1.3. The islands and accommodation in the hotspots

Immediately after the launch of the EU-Turkey Statement on 20 March 2016, Reception and Identification Centres (RIC) –the so-called "hotspot" facilities– were transformed into closed detention facilities due to a practice of blanket detention of all newly arrived persons.[700] Following criticism by national and international organisations and actors, as well as due to the limited capacity to maintain and run closed facilities on the islands with a large population,[701] this practice was largely abandoned. As a result, RIC on the islands have since been used mainly as open reception centres, albeit similar to mainland camps, since March 2020 their residents have been subject to ongoing and

698 MoMA, "The accommodation programme ESTIA II to be concluded ("ολοκληρώνεται") in 2022", 22 February 2022, available in Greek at: https://bit.ly/35m5UXW.

699 MoMA, *ESTIA 2021 Factsheet December 2021 – January/February 2022*, 28 February 2022, available (Greek) at: https://bit.ly/3JQFwEt.

700 AIDA, Country Report Greece, 2016 Update, March 2017, 100 et seq.

701 UNHCR, *Explanatory Memorandum to UNHCR's Submission to the Committee of Ministers of the Council of Europe on developments in the management of asylum and reception in Greece*, May 2017, 10.

disproportionate restrictions of their freedom of movement in the context of measures aimed at restricting the spread of the COVID-19 pandemic[702].

Following a controversial press briefing on the Government's operational plan for responding to the refugee issue, on 20 November 2019,[703] it was announced that the island RICs would be transformed into Closed Reception and Identification Centres that would simultaneously function as Pre-Removal Detention Centres and which would have a capacity of at least 18,000 places. The announcements *inter alia* raised serious concerns and/or were condemned by a wide array of actors, including members of the European Parliament – who addressed an open letter to the Justice and Home Affairs Council – the CoE Commissioner for Human Rights,[704] as well as GCR and other civil society actors,[705] and local communities in Greece, who have on several occasions continued to display their opposition to the creation of new centres on the islands.[706]

Notwithstanding this, it should be mentioned that throughout 2019 people residing in the RICs continued being subjected to a "geographical restriction", based on which they are under an obligation not to leave the island and to reside in the RIC facility (see Freedom of Movement). Moreover, as mentioned, since March 2020, asylum seekers residing in RICs and mainland camps remain subject to a further and disproportionate restriction of their movement, in the context of measures aimed at countering the spread of the COVID-19 pandemic. These disproportionate restrictions, with small variations, continued to be imposed, albeit implemented differently in different locations, up to 2022. As per the latest relevant Joint Ministerial Decision issued as of the time of writing, covering the period between 26 March-4 April 2022, exit from the facilities (includes RICs and the totality of accommodation centres for third-country nationals) is only allowed between 7am-9pm, only for representatives of families or groups, and only in order *"to meet essential needs*".[707]

As noted by FRA in November 2020: *"Greece never lifted all the restrictions on refugee camps and reception facilities adopted at the outset of the pandemic. These included restricting residents' movement within the limits of the camps and banning or restricting visitors, which affected the provision of social services"*[708].

A total of 23 Joint Ministerial Decisions, *inter alia* imposing and/or renewing or amending restrictions in the RICs and camps were issued between March and December 2020. Additionally, full lockdowns were imposed on several occasions on the island RICs, and namely: the RIC of Lesvos, between 2-15 September 2020, the RIC of Leros between 15 September-12 October 2020, the RIC of Samos, between 15 September-25 October 2020, and the RIC of Chios, between 13-25 August, and again

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702 Though measures for the general population have largely fluctuated throughout the year, also depending on the epidemiological actualities of each location, residents of RICs and camps have been consistently subject to a horizontal restriction of their movement between 7pm-7am, with representatives of families or groups only allowed exit the respective facilities in order to cover essential needs, as per consecutive Joint Ministerial Decisions issued since 21 March 2020. Amongst others, see HRW, "Greece Again Extends Covid-19 Lockdown at Refugee Camps", 12 June 2020, available at: https://bit.ly/3fmYncl.

703 Greek Government, "Political Press Briefing – the Government's Operational Plan for dealing with the migrant issue", 20 November 2019, available at: https://bit.ly/2RO2Kml.

704 Council of Europe, *"Commissioner seeks information from the Greek government on its plans to set-up closed reception centres on the Aegean islands"*, 3 December 2019, available at: https://bit.ly/38X2GX4.

705 For instance, see GCR, "The Greek Authorities announcements on the refugee issue are in contrast to national and international law", 21 November 2019, available (in Greek) at: https://bit.ly/36Q4Oyu; The Guardian, "Aid groups condemn Greece over 'prison' camps for migrants", 25 November 2019, available at: https://bit.ly/2S4YXzW.

706 For instance, see ekathimerini, "More protests against new island centres on the way", 10 January 2020, available at: https://bit.ly/31fwkEp; Efsyn, "The papers say one thing and N. Mitarakis says another", 26 April 2021, available at: https://bit.ly/3t2kiuc and GCR - SCI, GREECE – ADVOCACY UPDATE: March-April 2021, available at: https://bit.ly/2SNIsw2, 4-5 [may change].

707 Annex II, JMD Δ1α/ΓΠ.οικ. 17567, Gov. Gazette 1454/B/25-03-2022, available at: https://bit.ly/3NxeOmL.

708 FRA, Coronavirus pandemic in the EU – fundamental rights implications: focus on social rights, Bulletin 6, November 2020, available at: https://bit.ly/3eUZDEC, 31.

between 14 October and 11 November 2020, based on relevant Ministerial Decisions.[709] No relevant data have been provided for 2021 up to the time of writing.

Beyond the hotspots, each island has an additional, though limited, number of facilities, inter alia operating under the ESTIA II accommodation scheme or NGOs for the temporary accommodation of vulnerable groups, including unaccompanied children. Albeit, following the Ministry of Migration and Asylum decisions to shut down dignified accommodation alternatives, namely PIKPA Lesvos and PIKPA Leros in November 2020, as well as the municipal Kara Tepe camp in Lesvos in April 2021,[710] PIKPA Lesvos, and the announced plan to terminate the ESTIA accommodation scheme on the islands by November 2021[711], these have gradually given way to the new Closed-Controlled island facilities in 2021[712], as the exclusive form of first-line reception starting 2021. The first such Center was inaugurated in Samos in September 2021, in an isolated are in the region of Zervou, and already within two months of its operation the facility's resemblance with a prison, with residents being subject to disproportionate and severe measures of control and movement restrictions tantamount to *de facto* detention measures for some, were evident.[713] As noted by MsF in September 2021, the new facility *"is a dystopian nightmare that contributes to [refugees'] isolation and their further re-traumatisation".*[714] Three months following the facility's inauguration, in December 2021, the Court of Syros confirmed the unlawful character of the prohibition of exit imposed by the Greek state on residents of the facility, in case brought forth by GCR.[715] The Closed-Controlled Centers of **Leros** and **Kos** were respectively operationalised in November 2021.[716] The relevant facilities in **Lesvos** and **Chios** have yet to become operational as of the time of writing of this report.

As of 31 December 2021, 3,508 persons remained on the Eastern Aegean islands, of whom 106 were in detention in police cells and the Pre-Removal Detention Centre (PRDC) of Kos. The nominal capacity of reception facilities reached 14,981 places, which includes the RIC of Chios, the temporary Mavrovouni camp, the Closed-Controlled Centre's of Samos, Kos and Leros and other accommodation facilities, including shelters for UAM. The nominal capacity of the Chios RIC and the Closed-Controlled

709 Summary of information provided by the RIS on 11 February 2021.

710 ECRE, "Greece: Well-run PIKPA Camp Evicted while Situation on Islands and Mainland Continue to Deteriorate", 6 November 2020, available at: https://bit.ly/3hwbbQo; Ministry of Migration and Asylum, "Termination of the temporary hosting site of PIKPA Leros" ("Τερματισμός λειτουργίας προσωρινής δομής φιλοξενίας ΠΙΚΠΑ Λέρου"), 27 November 2020, available in Greek at: https://bit.ly/2SSrMnb; Oxfam & GCR, "Closure of model camp on Greek islands amidst horrific living conditions is cause for concern", 21 April 2021, available at: https://bit.ly/33Ns54W.

711 As per the Ministry's call for proposals for the ESTIA scheme for 2021, no new applications for the (a) Regional Unit of Lesvos, (b) Regional Units of Evros, Rodopi and Xanthi, (c) Regional Unit of Chios, (d) Regional Unit of Samos, (e) the Municipality of Leros and (f) the Municipality of Kos will be accepted under the programme. Furthermore, the remaining aprtaments operating under the scheme in Lesvos and Chios are eligible for renewed funding only up to 30 November 2021, after which they will cease to operate. Ministry of Migration and Asylum, Call for proposals for the ESTIA 2021 programme with the title "ESTIA 2021": Accommodation scheme for international protection applicants, 30 November 2020, available in Greek at: https://bit.ly/3fm9ZfW, 11, 13.

712 Amongst others, see AMNA, "The RIC of Kara Tepe was closed – N. Mitarakis: an important step in the national effort to decongest the islands" ("Έκλεισε το ΚΥΤ του Καρά Τεπέ - Ν. Μηταράκης: Σημαντικό βήμα στην εθνική προσπάθεια αποσυμφόρησης των νησιών"), 7 May 2021, available in Greek at: https://bit.ly/3eTMM5s, and astraparis, "An end to "ESTIA" on Chios and Lesvos, all refugees in closed centers" ("Τέλος το «Εστία» σε Χίο και Λέσβο, όλοι οι πρόσφυγες στα κλειστά κέντρα"), 30 November 2020, available in Greek at: https://bit.ly/3yePnyG.

713 GCR, "The new Closed Controlled Facility in Samos: An isolated "modern prison"?", November 2021, available in Greek at: https://bit.ly/38d1Z0N.

714 efsyn, "Medecins sans Frontieres: the new facility in Samos is a dystopian nightmare", 18 September 2021, available (Greek) at: https://bit.ly/3iPSWEW.

715 GCR, "The Administrative Court of Syros ruled unlawful the measure of prohibiting the exit of an Afghan asylum seeker from the new Closed Controlled Access Facility of Samos (CCF Samos)", 22 December 2022, available at: https://bit.ly/3qMfOtv.

716 MoMA, "New Closed Controlled Center in Leros" and "New Closed-Controlled Cetner in Kos", 27 November 2021, available (Greek) at: https://bit.ly/36APk7w and https://bit.ly/38eyXxN.

Centre's was 6,374, while 1,353 persons were residing there. Another 1,863 persons were residing in the temporary Mavrovouni camp, which had a nominal capacity of 8,000 places.[717]

More precisely, the figures reported by the National Coordination Centre for Border Control, Immigration and Asylum, under the Ministry of Citizen Protection, were as follows:

Accommodation on the Eastern Aegean islands: 31 December 2021								
Island	RICs & Closed-Controlled Centers		MoMA		UAM accommodation		Other facilities	
	Nominal capacity	Occupancy (%)	Nominal capacity	Occupancy	Nominal capacity	Occupancy	Nominal capacity	Occupancy
Lesvos	8,000	1,863 (21%)	-	-	168	159	352	0
Chios	1,014	445 (44%)	-	-	18	10	-	-
Samos	2,040	398 (19.5%)	-	-	17	14	-	-
Leros	1,780	29 (1.6%)	-	-	-	-	-	-
Kos	1,540	481 (31%)	-	-	-	-	-	-
Others	-	-	3	52	-	-	-	-
Total	**14,374**	**3,216**	**52**	**3**	**203**	**183**	**352**	**0**

Source: National Coordination Centre for Border Control, Immigration and Asylum, *Situational Picture in the Eastern Aegean 31.12*, 1 January 2022, available in Greek at: https://bit.ly/3wu5s57.

2. Conditions in reception facilities

Indicators: Conditions in Reception Facilities

1. Are there instances of asylum seekers not having access to reception accommodation because of a shortage of places? ☐ Yes ☒ No
2. What is the average length of stay of asylum seekers in the reception centres? Varies
3. Are unaccompanied children ever accommodated with adults in practice? ☒ Yes ☐ No

Article 55(1) IPA provides that material reception conditions must provide asylum seekers with an adequate standard of living that guarantees their subsistence and promotes their physical and mental health, based on the respect of human dignity.

However, no mechanism for the monitoring and oversight of the level of the reception conditions, including the possibility to lodge a complaint regarding conditions in reception facilities, has been established, contrary to the obligations under Article 28 of the recast Reception Conditions Directive. Thus, no designated body is in place to oversee reception conditions, and no possibility to lodge a complaint against conditions in reception facilities exists in Greece.[718]

2.1. Conditions in temporary accommodation facilities on the mainland

A total of 32 mainland camps, most of which were created in 2015-2016 as temporary accommodation facilities in order to address urgent reception needs on the mainland, following the imposition of border

717 National Coordination Centre for Border Control, Immigration and Asylum, *Situational Picture in the Eastern Aegean 31.12*, 1 January 2022, available (Greek) at: https://bit.ly/3wu5s57.

718 See for example: FRA, Current migration situation in the EU: Oversight of reception facilities, September 2017, available at: http://bit.ly/2xObtYA, 2.

restrictions were operating in December 2020.[719] However, following the continued drop in arrivals in 2021 (roughly 42% drop compared to 2020),[720] which coincides with the exponential increase of the number of reports and allegations regarding pushbacks at the borders, since March 2020,[721] these temporary accommodation facilities have been reduced to 25 by December 2021.[722]

These developments come after a June 2020 announcement by the MoMA that 60 mainland facilities, consisting of hotels used as emergency accommodation under the Filoxenia programme on the mainland, would be closed by the end of 2020. As noted at the time by the Minister, "henceforth in 2020 there is a negative trend [with respect to arrivals] compared to the previous year. In conjunction with the speeding-up of the asylum procedure, this allows us to discuss about the closure of facilities within 2020, instead of the creation of new ones"[723], while in another statement it was also noted that the process was also *inter alia* made possible by "the systematic departure of those who are no longer entitled to hospitality from the [accommodation] sites",[724] By 7 January 2021, the Filoxenia programme was officially terminated, pending the transfer of the last 130 beneficiaries to other accommodation facilities.[725]

Regarding conditions in the mainland camps, these vary across facilities, as different types of accommodation and services are offered at each site. Therefore, notwithstanding the fact that camps are never suitable for long-term accommodation, compliance with the standards of the recast Reception Conditions Directive should be assessed against the situation prevailing in each camp.

Overall, even if conditions in the mainland have been generally reported as better compared to those on the island RICs,[726] challenges regarding their remoteness and their residents' accessibility to rights and services continued being reported throughout 2021.[727] Indicatively, out of the 25 mainland camps that were operational at the start of December, 5 still lacked public transportation, even though distances from the specific facilities to services that can be necessary (e.g. Citizen Service Centers and ATMs) ranged from 2 km to 31.9 km, while the average distance of all mainland camps from such services ranged from 6.42 km to 12.86 km.[728] The same gaps continue in the first two months of 2022.[729]

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719 IOM, Supporting the Greek Authorities in Managing the National Reception System for Asylum Seekers and Vulnerable Migrants (SMS): Factsheets, December 2021, available at: https://bit.ly/36YGhx1.

720 UNHCR data portal, available at: https://bit.ly/3JXA7ep.

721 As noted by UNHCR in June 2020 "Such [pushback] allegations have increased since March and reports indicate that several groups of people may have been summarily returned after reaching Greek territory". UNHCR, "UNHCR calls on Greece to investigate pushbacks at sea and land borders with Turkey", 12 June 2020, available at: https://bit.ly/3tZ01Gt. Amongst many others, also see Arsis et. al., "Joint Statement on push backs practises in Greece", 1 February 2021, available at: https://bit.ly/3tWOTdc.

722 IOM, Supporting the Greek Authorities in Managing the National Reception System for Asylum Seekers and Vulnerable Migrants (SMS), December 2021, available at: https://bit.ly/3L4TFhN.

723 MoMa, "Guarding of the borders, decreased arrivals and the speeding up of the asylum procedure allow us to close 60 of the 92 facilities on the mainland by the end of the year" ("Η φύλαξη των συνόρων, οι μειωμένες ροές και η επιτάχυνση των διαδικασιών ασύλου μας επιτρέπουν να κλείσουμε τις 60 από τις 92 δομές στην ενδοχώρα μέχρι το τέλος του έτους"), 10 June 2020, available in Greek at: https://bit.ly/3uZ4NoC.

724 Mitarakis.gr, "The first 8 hospitality sites for asylum seekers on the mainland have been closed. 59 more to follow by the end of the year" ("Εκλεισαν οι 8 πρώτες δομές φιλοξενίας αιτούντων άσυλο στην ενδοχώρα. Ακολουθούν άλλες 59 έως το τέλος του έτους"), 14 August 2020, available in Greek at: https://bit.ly/3eUfuDm.

725 MoMA, "Completion of the Filoxenia programme for asylum seekers in hotels" ("Ολοκλήρωση του προγράμματος Φιλοξενίας Αιτούντων Άσυλο σε ξενοδοχεία"), 7 January 2021, available in Greek at: https://bit.ly/3wfctn3.

726 For instance, UNHCR, *Greece Update No.16: Lesvos*, 9 March 2021, available at: https://bit.ly/3opJQkl.

727 For instance, U.S. Embassy & Consulate in Greece, "Country Reports on Human Rights Practices 2020: Greece", 30 March 2021, available at: https://bit.ly/3oCmF6F.

728 IOM, Supporting the Greek Authorities in Managing the National Reception System for Asylum Seekers and Vulnerable Migrants (SMS), December 2021, available at: https://bit.ly/3L4TFhN.

729 IOM, Supporting the Greek Authorities in Managing the National Reception System for Asylum Seekers and Vulnerable Migrants (SMS), February 2022, available at: https://bit.ly/3Ngz4J6.

Moreover, the disproportionate restrictions imposed on camps and more broadly refugee-hosting facilities, in the context of measures aimed at limiting the spread of the COVID-19 pandemic, further compounded the already limited access of the children living in mainland camps to education, not least due to the aforementioned lack of secured transportation. As noted in a joint letter issued by 33 civil society organisations, including GCR, "[i]n some places the issues observed have to do with inconsistent interpretation of COVID-19 related movement restriction policies by the Greek authorities, which ends up discriminating against children who, as a result, are not being allowed to leave these camps [in order to attend school]".[730]

Regarding housing arrangements, with very few exceptions (e.g. 8 tents in all of the mainland camps), there has been a significant reduction in the emergency units used to address accommodation needs, which were mostly covered through containers, apartment/rooms and shelters by December 2021. This also due to the significant decrease in the number of people hosted in the camps which were all operation below their capacity by December 2021, with the sole exception of Eleonas camp in Athens (109.23% occupancy),.[731] At the same time, however, more than 2,800 unregistered persons continued residing in the mainland camps. As far as GCR is aware, this includes persons whose asylum applications have not yet been registered, beneficiaries of international protection and persons with rejected asylum applications, thus highlighting a significantly underreported issue that is closely linked to the access to reception conditions, integration policies and prospects, and the persistent application of the "third safe country" (STC) concept by the Greek Asylum Service, which has *inter alia* led an increasing number of asylum applicants in a state of legal limbo.[732]

Living conditions in the camps remain unsuitable. By way of illustration, out of 22 people residing in mainland camps interviewed by GCR, Diotima Centre and IRC between mid-November 2021 and 1 March 2022, 10 described the living conditions in the camps as "very bad", 8 as "Bad" and 4 as "neither good nor bad". Moreover, in 68% of the cases respondents stated that they do not feel safe in the camp, 60% stated they felt forced to share accommodation with people they did not know and/or with whom they did not wish to be jointly accommodated, 64% that the place they lived in was not clean, 50% that they could not easily reach necessary services (e.g. hospitals) outside of the camp and 60% that they did not have a chance to get to know the Greek society or meet Greek people, due to their accommodation.[733]

Moreover, the MoMA decided to interrupt the provision of food to residents of the camps that were no longer in the asylum procedure since October 2021, as a means to force them out of the accommodation. As noted by 26 civil society organisations in October 2021, of those affected "25% are women (including pregnant women), single-headed families, 40% children, chronic patients, and patients with special medical and nutritional conditions. In some places, food is not even provided to those put in quarantine due to COVID 19".[734] By November 2021, this food crisis was affecting 60% of

730 Open letter: "All children have the right to go to school. Do not take that away from them", 9 March 2021, available at: https://bit.ly/3yhWB4V.

731 IOM, Supporting the Greek Authorities in Managing the National Reception System for Asylum Seekers and Vulnerable Migrants (SMS), December 2021, *op.cit.*

732 Based on the number of inadmissibility decisions issued in 2021 on the basis of the STC, this population could exceed 6,000 persons in 2021, highlighting a 126% increase from 2020 (223% inadmissibility decisions compared to 2020). For more, see RSA, *The Greek asylum procedure in figures: most asylum seekers continue to qualify for international protection in 2021*, 10 March 2022, available at: https://bit.ly/3iwrNGV.

733 Data collected through a joint questionnaire prepared by GCR, Diotima Centre and IRC in the context of the joint project prepared by GCR, Diotima Centre and IRC, under the joint project "Do the human right thing– Raising our Voice for Refugee Rights". The project is implemented under the Active citizens fund program, which is supported through a € 12m grant from Iceland, Liechtenstein and Norway as part of the EEA Grants 2014 -2021, and is operated in Greece by the Bodossaki Foundation in consortium with SolidarityNow. As of 1 March 2022, 188 such questionnaires have been collected, albeit only 22 were filled by people specifically residing in mainland camps.

734 Joint Statement by 26 NGOs, "Are you eligible to eat?", 18 October 2021, available at: https://bit.ly/3LovDyr.

all mainland camp residents,[735] many of whom were beneficiaries of international protection who continue to be forced to stay and/or return to camps in 2021 due to a lack of alternatives as well. In several cases known to GCR, some of them stayed even after having completed the sole available large-scale integration programme (Helios) in Greece.

Moreover, the Greek government's decision to reduce the time beneficiaries of international protection are allowed stay in accommodation designated for asylum seekers, exacerbated the risk of homeless and destitution faced by refugees in Greece, not least due to the ongoing lack of a comprehensive integration strategy and concrete measures.[736] As already noted by UNHCR in June 2020, just days following the decision's entry into force, "[m]any of those affected are vulnerable, including but not only most staying in ESTIA accommodation. Their effective inclusion in national systems offering services and for cash or in-kind support has not been possible so far. The situation is aggravated by the COVID-19 pandemic".[737]

During the 2020-2021 winter, conditions were also reported as highly substandard, as several mainland camps, including Schisto, Eleonas and the old Malakasa camp were covered by snow during adverse weather conditions in February 2021, and hundreds of persons, and particularly those living in tents at the time, were unable to warm themselves, not least, due to reported electricity shortages in several mainland camps.[738] In the old Malakasa camp near Athens, even though tents were fully replaced by containers, these were reportedly not equipped with showers and toilets, forcing many, including families with small children, to walk into the snow in order to access common facilities/lavatories, and leaving many refugees in fear for the health of their new-borns, due to the lack of electricity amid freezing temperatures.[739] As of October 2021, electricity shortages at least in Ritsona camp, continued to create concerns on the possibility of residents to access heating for yet another winter.[740]

By April 2021, it was also reported that works had commenced on the construction of 2.5 to 3-meter concrete walls and/or fences around the open (COVID-19 restrictions notwithstanding) mainland camps of Ritsona, Diavata and Nea Kavala, raising questions for the camp's employees, who were reportedly not informed of the initiative, but also "discomfort to refugees who have for years been living in isolation, outside the urban fabric".[741] As noted by a single woman refugee from Afghanistan residing in the mainland camp of Diavata in May 2021, *"At night, when I look behind the camp's barbed wire fences, I realise who different my life here is from the rest […] I can only observe the beauty of the city lights from*

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735 *Inter alia* see Joint Statement by 27 NGOs, "NGOs raise alarm at growing hunger amongst refugees and asylum seekers in Greece", 25 November 2021, available at: https://bit.ly/3iLj1Fe.

736 Amongst others, see Joint Press Release of 74 organizations, "Refugees in Greece: risk of homelessness and destitution for thousands during winter", December 2020, available at: https://bit.ly/33TXZwE; IRC, "Over two thousand refugees in Greece at risk of homelessness as support programme closes, warns IRC", 5 March 2021, available at: https://bit.ly/3oqF1Hu.

737 Euronews, "Thousands of migrants face eviction in Greece sparking fears over homelessness", 2 June 2020, available at: https://bit.ly/2SZa6Xb.

738 In.gr., "The snow is not pleasant when you are living in a tent – "Medea" buried the refugee camps ("Το χιόνι δεν είναι ευχάριστο όταν μένεις σε σκηνή – Η «Μήδεια» έθαψε τους προσφυγικούς καταυλισμούς"), 16 February 2021, available at: https://bit.ly/3fmDFJI.

739 Efsyn, "Last minute improvisations for the refugees in Eleonas" ("Αυτοσχεδιασμοί της τελευταίας στιγμής για τους πρόσφυγες στον Ελαιώνα"), 16 February 2021, available in Greek at: https://bit.ly/3wfWTrf.

740 GCR, Diotima Centre and IRC, *Homeless and Hopeless: an assessment of the housing situation of asylum applicants and beneficiaries of international protection in Greece*, January 2022, available at: https://bit.ly/3tTuCsm, 9.

741 Alterthess, "New fence in the Diavata camp raises questions" ("Νέος φράχτης στο καμπ των Διαβατών προκαλεί ερωτήματα"), 21 April 2021, available in Greek at: https://bit.ly/2Rs9Gbl. Also see Eidiseis.gr, "Three meter wall surrounds the hospitality center of Nea Kavala" ("Τείχος τριών μέτρων κυκλώνει τη δομή φιλοξενίας Νέας Καβάλας "), 22 April 2021, availabl in Greek at: https://bit.ly/3wiwE3h and Efsyn, "Walls of shame in refugee facilities" ("Τείχη της ντροπής σε προσφυγικές δομές"), 23 April 2021, available in Greek at: https://bit.ly/2S1IHTV.

afar, without even knowing for how long I have to stay here".[742] This came close to a month after the MoMA issued a public call for tenders for the construction of fencing and the necessary infrastructure aimed at enhancing security in Migrant Accommodation Structures.[743]

On this note, it should be recalled that camps are not *per se* suitable for long-term accommodation as "camps can have significant negative impacts over the longer term for all concerned. Living in camps can engender dependency and weaken the ability of refugees to manage their own lives, which perpetuates the trauma of displacement and creates barriers to solutions, whatever form they take. In some contexts, camps may increase critical protection risks, including sexual and gender-based violence (SGBV) and child protection concerns."[744]

In a number of cases, asylum seekers and refugees residing in mainland camps continued to protest against substandard living conditions, their ongoing exclusion from the Greek society, and the new policy of excluding those not eligible for reception conditions from the provision of food, amidst severe delays in the distribution of cash assistance. Indicatively, in October 2021, residents of **Nea Kavala** camp protested by obstructing entry to the camp, while calling to for food not to be cut. As stated *"[o]ur children go to school without having eaten; is this humanitarian?"*.[745] Small tensions were reported in April, amid a protest in **Skaramangas** camp which was scheduled to close without, reportedly, the residents being informed of where or if they would be transferred ad how their housing needs would be met after the camp's closure.[746] In November, refugees in **Elaionas** camp also protested, calling for the site to not be closed and for procedures to be speeded-up. As stated, by a woman from Somalia, *"The municipality wants to transfer us from here, but where can we go? We have children that go to school, we have people that work in the city. Why do they want to remove us from here and where can we go?".*[747] In the same month, residents of **Oinofyta** camp barred entry to the camp for at least two days, protesting for the ongoing rejections of asylum claims lodged by Kurdish nationals, on account of the Greek Asylum Service's persistent application of the "safe third country" concept in the case of Turkey. As *inter alia* stated, *"We have no other solution […] For three months they are not providing us cash assistance, the situation is very difficult. But the most important issue is that for the past two-three months approximately 150 Kurdish nationals from Syria, amongst who families, women and children, had their asylum applications rejected. We explained in the asylum interview our situation in Turkey. It is not safe at all"*.[748]

Measures taken in the context of the COVID-19 pandemic

Accommodation facilities on the mainland in which COVID-19 cases were identified in 2020, were put in quarantine for 14 days and all residents, i.e. COVID-19 cases and residents which have not been identified as such, were not allowed to exit the facility. COVID-19 cases have been confirmed, followed by a 14-day quarantine in Ritsona (Evoia region) accommodation facility (camp), Malakasa (Attica region) accommodation facility (camp) and Koutsohero (Larisa region) accommodation facility (camp)

742 Solomon, "We call it modernisation" – The facilities for refugees on the islands and the mainland are closed", 10 May 2021, available (Greek) at: https://bit.ly/372ij3X.

743 MoMA, Conducting a public tender according to article 27 of law 4412/2016, through the National System of Electronic Public Procurement (ESIDIS), for the assignment of an Agreement - Framework of the project "Fencing works and installation of security infrastructure" in the facilities of the mainland", 31 March 2021, available in Greek at: https://bit.ly/3op9p59.

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

745 alter thess, "Ten days without food – Refugee protest in Nea Kavala", 13 October 2021, available (Greek) at: https://bit.ly/3JLctlW.

746 Efsyn, "Refugee Protest in Skaramangas", 12 April 2021, available (Greek) at: https://bit.ly/3qE9XpW.

747 Euronews, "Migrant protest in Elaionas – they call for the accommodation facility to not be closed", 4 November 2021, available (Greek) at: https://bit.ly/3La4CP8.

748 Efsyn, "Oinofyta: The refugee facility is closed – Protest on the mass rejection of Kurds", 24 November 2021, available (Greek) at: https://bit.ly/3JIAaeD.

in the beginning of April 2020 and in a hotel used for the accommodation of applicants in Kranidi (Peloponnese) in late April 2020.[749] Since then, the lockdown in Ritsona, Malakasa and Koutsohero has been successively prolonged up until 7 June 2020, contrary to the lockdown on the general population which has been ended on 4 May 2020.[750] As reported, the "management of COVID-19 outbreaks in camps and facilities by the Greek authorities follows a different protocol compared to the one used in cases of outbreaks in other enclosed population groups. The Greek government protocol for managing an outbreak in a refugee camp, known as the 'Agnodiki Plan', details that the facility should be quarantined and all cases (confirmed and suspected) are isolated and treated in situ. In similar cases of outbreaks in enclosed population groups (such as nursing homes or private haemodialysis centres) vulnerable individuals were immediately moved from the site to safe accommodation, while all confirmed and suspected cases were isolated off-site in a separate facility".[751]

By 26 October 2020, an estimated 800 asylum seekers living in camps had been reportedly found positive with Covid-19.[752] Meanwhile, only a few dozen vaccinations had taken place in the mainland camps of Malakasa, Schisto and Elaionas by June 2021,[753] which at the time accommodated close to 7,000 persons. By October 2021, the number of vaccinations in accommodation facilities for refugees was reported at 20% according to the Minister of Health, but these data were quickly challenged *inter alia* by medical organisations involved in the vaccination of refugees and migrants, such as MdM, that claimed the percentage was no more than 2%.[754] As far as GCR can be aware, an estimated 30-35% of camp residents may have been vaccinated by January 2022, though in lack of regularly published official data, this needs to be further checked.

Lastly, as already discussed, since March 2020, asylum seekers residing in RICs and mainland camps have continued to be subject to a further and disproportionate restriction of their movement, in the context of measures aimed at countering the spread of the COVID-19 pandemic. Namely, as per the latest relevant Joint Ministerial Decision in March 2022,[755] which largely repeats the wording of previous such Decisions, exit from the facilities was only allowed between 7am-9pm, only for family members or representatives of a group, and only in order *"to meet essential needs*".[756]

2.2. Conditions on the Eastern Aegean islands

The situation on the islands has been widely documented and remains extremely alarming, despite the gradual decrease in the levels of overcrowding since 2020 and the lack of overcrowding by the end of 2021.

Between January and December 2021 a total of 13,753 persons from the islands of **Lesvos**, **Samos**, **Chios**, **Kos** and **Leros** were able to leave the islands, while another 726 were transferred to the mainland from other islands.[757] By the end of December 2021, 3,216 asylum seekers and refugees

749 See inter alia Papadatos-Anagnostopoulos D, Kourahanis N, Makridou E, Exclusion of refugees by the national strategy in response to COVID-19, Κέντρο Έρευνας και Εκπαίδευσης στη Δημόσια Υγεία, την Πολιτική Υγείας και την Πρωτοβάθμια Φροντίδα Υγείας, 2020, available at: https://bit.ly/3cLvcwY, 20.

750 Joint Ministerial Decision No Δ1α/Γ.Π.οικ.26792/24.4.2020; Joint Ministerial Decision Δ1α/Γ.Π.οικ.28597/6.5.2020; Joint Ministerial Decision No Δ1α/Γ.Π.οικ. 31690/21.5.2020.

751 Lancet-Migration, Carruthers E., Veizis A., Kondilis E., Orcutt M., Situational brief: Asylum seekers, refugees & migrants in Greece during covid-19, 27 May 2020, available at: https://bit.ly/2zRUFGS.

752 Liberal, "Ν. Μηταράκης: 800 κρούσματα του ιού στους μετανάστες - Αφορά το 1% των αιτούντων άσυλο", 26 October 2020, available in Greek at: https://bit.ly/3nvi5GJ.

753 Solomon, "Muddy waters with regards to the vaccinations of refugees and migrants", 6 July 2021, available (Greek) at: https://bit.ly/3IT7hv9.

754 efsyn, "Starting a race for the vaccination of refugees and migrants", 1 October 2021, available (Greek) at: https://bit.ly/3JRIZCX.

755 Annex II, JMD Δ1α/ΓΠ.οικ. 17567, Gov. Gazette 1454/B/25-03-2022, available at: https://bit.ly/3NxeOmL.

756 Annex II, JMD Δ1α/ΓΠ.οικ. 81558, Gov. Gazette 6290/29-12-2021, available at: https://bit.ly/3Djivb8.

757 MoMA, Briefing Notes: International Protection, Annex A, December 2021, available (Greek) at: https://bit.ly/3wEaJar.

were living in facilities with a designated capacity of 14,374, more than half of whom in the temporary facility in **Mavrovouni**, Lesvos (1,863).[758] Yet despite available capacity conditions remain unfit for purpose.

Similarly to mainland camps, there was a lack of access to heating during the winter on the islands in early 2021 in the RIC of Chios and Mavrovouni. Even if heating devices had been secured in the latter camp, insufficient and/or unstable power supplies made it impossible for residents to use them.[759] By the end of the year, this had yet to be resolved, exposing the residents of Mavrovouni, who still lived in tents to experience yet another winter with severe shortages in electricity and heating, after the MoMA failed to renew the electricity generator maintenance contract that had expired in September.[760] As noted in December 2021,[761] "[m]any Mavrovouni residents report that they still only have electricity for 1-2 hours during the morning and 1-2 hours during the night. The lack of electricity and thus lighting is also causing protection risks, particularly for women. Women in Mavrovouni report sexual harassment and assaults on a regular basis, especially during the night due to inadequate lighting and slow response by the police".

Conditions are largely described as inadequate, dangerous, with dire consequences on asylum seekers' mental health, while a number of fatal events have been reported. In May 2021, the body of a young Somali refugee was found with bite marks and surrounded by rodents in his tent, after the man had passed away.[762] As noted at the time by the Director of Intersos Hellas "[p]eople are exposed daily to rats, garbage and violence. In the island hospitals children are frequently accepted with marks from rat bites. It is shameful and frightening to have to live in such conditions, when in reality this isn't necessary".[763]

As highlighted in research carried by IRC between 2018-2020 on the islands of Lesvos, Samos and Chios, with the examination of more than 900 records of patients received by IRC, movement restrictions in the camps, particularly following the lockdowns imposed in the context of the COVID-19 pandemic, led to "a marked deterioration in the mental health of people in the camps. The research found an alarming spike in the number of people who disclosed psychotic symptoms, jumping from one in seven (14%) to almost one in four (24%). There was also a sharp rise in people reporting symptoms of PTSD, which climbed from close to half (47%) of people beforehand to almost two in three people (63%)"[764], while asylum seekers increasingly reported suicidal thoughts, and one in five had already attempted to take their lives due to the impact of prolonged containment.[765]

In March 2020, a 6-year-old child was killed by a fire that broke out in Moria RIC, Lesvos.[766]

Following a number of recommendations to the Greek authorities regarding the living conditions on the islands issued in previous years,[767] similar recommendations have been addressed in 2021 *inter alia*

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758 National Coordination Centre for Border Control, Immigration and Asylum, *Situational Picture in the Eastern Aegean 31.12*, 1 January 2022, available in Greek at: https://bit.ly/3DhoHjy.

759 GCR & Oxfam, Lesbos Bulletin: Update on the EU response in Lesbos, by the Greek Council for Refugees & Oxfam, 15 February 2021, available at: https://bit.ly/3e0NsFO, 2.

760 GCR & Oxfam, Lesbos Bulletin: Update on the EU response in Lesbos, by the Greek Council for Refugees & Oxfam, 1 December 2021, available at: https://bit.ly/36yc2wL.

761 *Ibid.*

762 The Guardian, "A scene out of the middle ages': Dead refugee found surrounded by rats at Greek camp", 7 May 2021, available at: https://bit.ly/3NnNMy1.

763 Avgi, "Guardian / «Scenes out of the middle ages in Greece with a dead refugee surrounded by rats", 7 May 2021, available (Greek) at: https://bit.ly/35e2ars.

764 IRC, *The Cruelty of Containment: The Mental Health Toll of the EU's 'Hotspot' Approach on the Greek Islands*, December 2020, available at: https://bit.ly/3nwb0pf.

765 IRC, *The Cruelty of Containment*, op.cit., 14-15.

766 Efsyn.gr, Ένα νεκρό παιδί από τη φωτιά στη Μόρια, 16 March 2020, available at: https://bit.ly/3bPkzsk.

767 AIDA, Country Report Greece, 2017 Update, March 2018, 131-133.

by the Council of Europe Commissioner for Human Rights and civil society organisations working in the field of human rights and humanitarian assistance[768].

On 12 May 2021, in a letter addressed to the Minister for Citizens' Protection, the Minister of Migration and Asylum, and the Minister of Shipping and Island Policy of Greece, the CoE Commissioner for Human Rights, while urging the Greek authorities "to put an end to pushback operations at both the land and sea borders with Turkey", also stressed that:

> "[A]ction to improve the lingering substandard living conditions in the Reception and Identification Centres must not be delayed and that all appropriate standards must be met, and overcrowding prevented. With the new reception facilities reportedly set to operate as closed centres, the Commissioner is concerned that this will lead to large-scale and long-term deprivation of liberty. She urges the Greek authorities to reconsider the closed nature of these centres, in order to ensure that the regime applicable to these facilities safeguards the freedom of movement of their residents, in line with the relevant Council of Europe standards. Finally, the Commissioner reiterates that the policy of containment of refugees, asylum seekers and migrants on the Aegean islands lies at the heart of many of the long-standing problems Greece has experienced in protecting the rights of these persons"[769]

In October 2021, a month following the operationalisation of the **Samos** Closed Controlled facility, in a joint briefing, 29 NGOs also stressed that:

> "The new model, designed to keep refugees out of sight and out of mind, sees asylum seekers and refugees housed in prison-like centres in remote areas. It creates an environment that strips people of their agency, decimates their mental health, and prevents them from interacting with and integrating into local communities. Authorities are also building walls around camps on the mainland, to similar effect."[770]
>
> Moreover, as reported, "[t]he services inside the Samos MPRIC are also insufficient. Over one month after it was inaugurated, there are still no state-appointed (EODY) doctors in the medical centre to treat people -other than an army doctor who is there on weekdays from 8.00 to 15.00 only- and no ambulance. There is no protected section for single women, which raises significant safety concerns, with many reporting they feel unsafe. Other elements also highlight the gap between what the MRPIC is to provide in principle, and what is delivered in practice. This ranges from smaller issues that beneficiaries have shared, such as the reality that there are basketball courts, yet no balls, kitchenettes inside the housing units, yet no cooking equipment, to the harsher reality that the site does not afford protection from the weather and winter elements. For instance, the rains of 15 October flooded the camp, forcing residents to wade through high pools of water whenever exiting their containers."[771]

As further stressed in a report published by MSF in June 2021:

> "The impact of the hotspot containment policy on people's physical and mental health is a humanitarian crisis with devastating consequences. Since 2016, chronic overcrowding, security issues, and a lack of access to adequate healthcare, sanitation, and food have contributed to at least 21 deaths, including a six-month-old baby who died of dehydration. The Mavrovouni temporary facility built following the destruction of Moria remains well below adequate

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768 Joint Statement: Greece: Move Asylum Seekers, Migrants to Safety, Immediate Hotspot Decongestion Needed to Address COVID-19, 24 March 2020, available at: https://bit.ly/3uYSLf6.

769 Council of Europe, "Greek authorities should investigate allegations of pushbacks and ill-treatment of migrants, ensure an enabling environment for NGOs and improve reception conditions", 12 May 2021, available at: https://bit.ly/3NEygOG.

770 Joint NGO Briefing on the situation in Greece, 27 October 2021, available at: https://bit.ly/3DpWJSO.

771 *ibid*

standards. Residents continue to live in a make-shift camp, exposed to harsh weather conditions, in a site reported to have lead contamination. Just like Moria RIC, the sanitation in Mavrovouni is grossly inadequate, as are its safety precautions.

The persistent deficiencies in providing basic reception conditions, coupled with the procedures in place to implement the EU-Turkey Statement, are clearly harming people seeking protection in Europe. According to European Fundamental Rights Agency, "the processing of asylum claims in facilities at borders, particularly when these facilities are in relatively remote locations, brings along built-in deficiencies and experience in Greece shows, this approach creates fundamental rights challenges that appear almost unsurmountable." The high-security detention-like conditions in the RICs cannot provide asylum seekers with a safe environment. The highly visible police presence, the official communications delivered by loudspeaker, the fencing and razor wire, all serve to worsen the pervasive sense of fear and exacerbate existing vulnerabilities. People lack a sense of privacy, respect, care or dignity, with long-term consequences for their health and well-being".[772]

Moreover, a number of cases with regards the situation on the Greek Islands have been examined before international jurisdictional bodies and respectively temporary protection has been granted.

Inter alia, in May 2019, in response to a collective complaint brought before the Committee by ICJ, and ECRE, with the support of GCR, the European Committee on Social Rights exceptionally decided to indicate immediate measures to Greece to protect the rights of migrant children and to prevent serious and irreparable injury or harm to the children concerned, including damage to their physical and mental health, and to their safety, by *inter alia* removing them from detention and from Reception and Identification Centres (RICs) at the borders.

In December 2019, in a case supported by GCR, the European Court of Human Rights (ECtHR), under Rule 39 of the Rules of Court, granted interim measures to five unaccompanied teenagers, asylum seekers, who had been living for many months in the Reception and Identification Centre (RIC) and in the "jungle" of Samos. The interim measures indicated to the Greek authorities their timely transfer to a centre for unaccompanied minors and to ensure that their reception conditions were compatible with Article 3 of the Convention (prohibition of torture and inhuman and degrading treatment) and the applicants' particular status.[773]

Moreover, in three cases of vulnerable applicants living on the Greek Islands under a geographical restriction, supported by Equal Rights Beyond Borders, the European Court of Human Rights ordered the Greek Authorities to provide reception conditions in line with Art. 3. These included the case of a pregnant woman and persons with medical conditions during the Covid-19 pandemic.[774]

The ECtHR granted interim measures in an April 2020 case concerning several vulnerable individuals in the RIC of **Moria**, to ensure their immediate placement in appropriate reception conditions.[775]

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772 MsF, *Constructing Crisis at Europe's Borders: The EU plan to intensify its dangerous hotspot approach on Greek islands*, June 2021, available at: https://bit.ly/3tVzwFg, 16-17

773 GCR, The European Court of Human Rights provides interim measures to unaccompanied minors living in the RIC and the "jungle" of Samos island, 30 December 2019, available at: https://bit.ly/2GYQY2p.

774 Equal Rights Beyond Border, Application No. 15192/20 - M.A. v. Greece, 26/03/2020, Vial evacuation COVID-19; Application No. 15782/20 - M.A. v. Greece, 07/04/2020 Vial evacuation COVID-19; Application No. 59841/19 - A.R. v. Greece, 21/11/2019 SGBV-evacuation Kos – Lifting of Geographical Restriction, available at: https://www.equal-rights.org/greece.

775 ECtHR, *E.I. v. Greece*, Application No 16080/20, Order of 16 April 2020. See further RSA, 'Evacuation of overcrowded island camps a legal imperative', 21 April 2020, available at: https://bit.ly/3fbQdDi

In May 2020, in a case supported by METAdrasi, the ECtHR granted interim measures for a Syrian family in the RIC of Samos with a 10-month-old baby girl who is suffering from severe bronchiolitis. Doctors recommended improvements in the girl's living conditions and gave her special medication that requires the use of a rechargeable device. However, the use of this device was impossible, as the family lived in inhumane conditions in a tent that they had bought for themselves, in an open space next to the RIC. In addition, due to the fact that they had not been registered by the Regional Asylum Office of Samos, despite almost 4 months passing since their arrival in Greece, they were deprived of access to free medical care, when they did not even have the means to get the necessary medicines for the little girl[776].

In September 2020, in case supported by RSA, the ECtHR indicated that the Government of Greece should protect the life and physical integrity of two vulnerable asylum seekers held in the new emergency facility in Kara Tepe set up on Lesvos following the destruction of the Moria camp in early September 2020. The case concerned two asylum seekers who had their geographical restriction on Lesvos lifted due to their identification by the Reception and Identification Service (RIS) as vulnerable persons on 17 July 2020. Despite the prior decision of the Greek authorities to allow their transfer to appropriate conditions on the mainland, the applicants were still confined on the island in the aftermath of the Moria fires in dire conditions, following the Greek government's announcement of a general prohibition on departures from Lesvos. The ECtHR indicated interim measures under Rule 39 of the Rules of Court "take all necessary measures to safeguard the applicants' life and limb in accordance with Articles 2 and 3 of the Convention, in view of the particular circumstances and the applicants' vulnerability."[777]

However, and despite the repeated calls by international and national human rights bodies to address the increasingly desperate situation of refugees and migrants in reception centres in the Aegean islands and the increasing number of Courts' Decisions dealing with the situation on the Islands, the situation on the Greek Islands remained dangerous and persons there were exposed to significant protection risks throughout 2021 as well.

By 15 August 2021, and despite for example the Decision of the European Committee on Social Rights indicating immediate measures and inter alia ordering the Greek Authorities to ensure that migrant children in RICs are provided with immediate access to age-appropriate shelters,[778] some 6,600 refugees and asylum-seekers continued residing on the Aegean islands, the majority of whom were from Afghanistan (48%), Syria (13%) and DRC (10%). Women accounted for 21% of the population, and children for 29% of whom nearly 7 out of 10 were younger than 12 years old. Approximately 14% of the children were unaccompanied or separated, among them, most came from Afghanistan.[779] Out of the total number of asylum seekers and refugees remaining on the islands at the end of 2020, 7,093 were residing in the RICs of **Samos**, **Chios**, **Leros** and **Kos**, with a total nominal capacity of 3,338 accommodation places, while 7,172 persons were residing in the temporary camp of **Mavrovouni**, **Lesvos**.[780] By 31 December 2021, 131 unaccompanied minors still remained in RICs,[781] but the available data does not allow to identify the extent to which this concerned the islands and/or the RIC of **Evros**.

776 METAdrasi, "The European Court of Human Rights grants interim measures in favour of a family from Syria", 28 May 2021, available at: https://bit.ly/2S18uvu.

777 RSA, "European Court of Human Rights orders Greece to safeguard asylum seekers' life and limb on Lesvos", 24 September 2020, available at: https://bit.ly/3uXUp0D.

778 European Committee of Social Rights, Idem.

779 UNHCR, Aegean Islands Weekly Snapshot, 9-15 August 2021, available at: https://bit.ly/3JUG78d.

780 General Secretariat for Information and Communication, National Situational Picture Regarding the Islands at Eastern Aegean Sea (31/12/2020), 1 January 2021, available at: https://bit.ly/3bAvSXG.

781 EKKA, *Situation Update: Unaccompanied Children (UAC) in Greece*, 31 December 2021, available at: https://bit.ly/3NtWye7.

Measures taken in the context of the COVID-19 pandemic

On 22 March 2020 and within the framework of measures taken against the spread of COVID-19 and a Joint Ministerial Decision, a number of measures were taken regarding the islands' RICs facilities. In accordance with said JMD, *inter alia* since 22 March 2020, there has been a lockdown in the islands' RICs facilities and annexes of these facilities. Residents of these facilities were restricted within the perimeter of the Centre and exit is not allowed with the exception of one representative of each family or group of residents who is allowed to exit the facility (between 7 am and 7 pm) in order to visit the closest urban centre to cover basic needs. No more than 100 persons per hour could exit the facility for this purpose if public transport was not available.[782] For the same period, all visits or activities inside the RICs not related to the accommodation, food provision and medical care of RIC residents, are only permitted following authorization of the RIC management. For the provision of legal services, access shall also be granted following authorization from the RIC management and in a specific area, where this is feasible. Special health units were also established in order to treat any case of COVID-19 and to conduct health screening for all RIC staff.[783]

The restriction of the movement of persons residing in the island RICs was successively prolonged up to 3 June 2020,[784] contrary to the lockdown on the general population which ended on 4 May 2020. Since then, these disproportionate restrictions have continued being renewed on a regular basis, with the most recent decision being issued in March 2022. As already mentioned, said decision, which covers all refugee hosting facilities, provides that exit from the facilities is only allowed between 7am-9pm, only for family members or representatives of a group, and only in order *"to meet essential needs*" [785].

As noted by MSF in June: "*There are significant gaps in access to adequate and timely healthcare for people held on the Greek islands. This may lead to otherwise manageable medical and mental health conditions deteriorating, becoming more severe and potentially chronic. The COVID-19 pandemic should have been the final straw to abandon cramped hotspots. Instead, the pandemic has amplified the suffering of migrants subjected to a chaotic COVID-19 outbreak response and harsh lockdowns in poor living conditions, with little to no access to water, hygiene, or essential services. Measures taken have dangerously conflated public health and migration control agendas*." [786]

Additionally, as mentioned in Reception and identification procedures on the islands, since late March-April 2020 newly arrived persons on the Greek Islands, have been subject to a 14 days quarantine outside of the RIC facilities, prior to their transfer to RICs, which caused challenges due to limited suitable facilities for isolating new arrivals on the islands. Particular concerns arose on Lesvos, where newly arrived persons are quarantined in the Megala Therma facility, from where 13 asylum seekers, among whom were pregnant women and families with children, were reportedly forcibly removed and illegally sent back to Turkey at the end of February, after being beaten with batons and stripped of their belongings[787].

782 JMD No. Δ1α/ΓΠ.οικ. 20030, Gov. Gazette B' 985/22-3-2020.

783 UNHCR, Help-Greece, About Coronavirus, available at: https://help.unhcr.org/greece/coronavirus/#Restrictions.

784 JMD No Δ1Α/ΓΠ.οικ.29105/2020, Gov. Gazette B' 1771/9-5-2020; JMD No Δ1α/ΓΠ.οικ. 20030/2020, Gov. Gazette B' 985/22-3-2020.

785 Annex II, JMD Δ1α/ΓΠ.οικ. 17567, Gov. Gazette 1454/B/25-03-2022, available at: https://bit.ly/3NxeOmL.

786 MsF, Constructing Crisis at Europe's Borders: The EU plan to intensify its dangerous hotspot approach on Greek islands, June 2021, available at: https://bit.ly/3tVzwFg, 2.

787 GCR & Oxfam, Lesbos Bulletin: April 2021, 21 April 2021, available at: https://bit.ly/2SUxV29, p.3, refers to Aegean Boat Report, "Small Children Left Drifting In Life Rafts In The Aegean Sea!", 22 February 2021, available at: https://bit.ly/3wzapHi; EU Observer, "Afghan asylum family beaten in Greece, set adrift at sea", 25 February 2021, available at: https://bit.ly/3dAA1ew; The Guardian, "'We were left in the sea': asylum seekers forced off Lesbos", 19 March 2021, available at: https://bit.ly/3mq5JyM.

As also noted by MsF, "[t]he designated COVID-19 quarantine sites for new arrivals have become de-facto detention centres. As of mid-January 2021, more than 500 people arriving to the north coast of Lesvos have been confined in the Megala Therma quarantine site, often for weeks at a time, in grossly undignified and inhumane conditions. Our teams provide general healthcare on-site once a week. They have witnessed a very serious and systematic neglect in the provision of essential services, protection and proper access to specialist healthcare. There have also been deeply concerning allegations of asylum seekers being taken from Melaga Therma and returned to Turkey". [788]

2.3. Destitution

Destitution and homelessness still remain matters of concern, despite the efforts made in order to increase reception capacity in Greece (see Types of Accommodation). As stated by UNHCR in February 2020, "Housing options and services to cater for the present population are scarce countrywide".[789] This remains valid in 2021.

The number of applicants who face homelessness is not known, as no official data are published on the matter. Yet organisations have continued to report cases of applicants reaching Greece's mainland camps in search of a shelter, without any previous referral from authorities, while many continue living in tents and makeshift shelters. As reported in April 2020 by RSA, "Throughout last year, the refugee camp in Malakasa, has been extensively used by homeless refugees to find emergency shelter – most of them newcomers from the Evros region. As of February 2020, near 250 people resided in common areas and makes-shift shelters in dire conditions and more than half of the camp's population were not registered as residents by the Ministry of Migration and Asylum"[790].

Throughout the year, GCR's Social Unit also continued to receive requests from applicants to support them in finding accommodation. Up to November 2020, more than 700 new requests for accommodation (close to 900 persons in total) were received by GCR. The vast majority concerned the cities of Athens (48%) and Thessaloniki (31%), and to the largest extent (roughly 94% of requests) concerned asylum seekers, many of whom unregistered and/or with police notes, all of whom were registered as homeless by GCR's services[791].

The IPA, in force since January 2020, imposed a 6-month restriction to asylum seekers for accessing the labour market (see Access to Labour). Asylum seekers are thus exposed to a situation of potential destitution and homelessness. This should be taken into consideration, as during this period asylum seekers are exclusively dependent on benefits and scarce reception options.

Moreover, as mentioned above, living conditions on the Eastern Aegean islands do not meet the minimum standards of the recast Reception Conditions Directive and thus asylum seekers living there are exposed to deplorable conditions, frequently left homeless and without access to decent housing or basic services.[792] Overcrowding also occurs in mainland sites. Given the poor conditions and the protection risks present in some of these sites, homelessness and destitution cannot be excluded by the sole fact that an applicant remains in one of these sites.

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788 MsF, Constructing Crisis at Europe's Borders: The EU plan to intensify its dangerous hotspot approach on Greek islands, June 2021, available at: https://bit.ly/3tVzwFg, 2.

789 UNHCR, Factsheet, Greece: 1-29 February 2020.

790 RSA, "In this place, we have to help ourselves!" – Malakasa Camp, 19 April 2020, available at: https://bit.ly/3eVyOA1.

791 Data does not include persons in-between locations, who lack uninterrupted access to stable accommodation. Also see, GCR, "Staying at home" or "staying on the streets"; GCR PR on homelessness amid the pandemic" ("«Μένουμε σπίτι» ή «Μένουμε στο δρόμο»; ΔΤ του ΕΣΠ για την αστεγία υπό συνθήκες κορονοϊού"), 16 April 2020, available in Greek at: https://bit.ly/3fmc0bS.

792 For instance, see ethnos, 'Samos: Hundreds of homeless migrants sleep in the streets', 17 October 2019, available at: https://bit.ly/2OsBw2m.

Persons identified as vulnerable also face destitution risks. For instance, despite significant improvements with respect to broader aspects of UAM protection, as of 30 April 2021, an estimated 853 unaccompanied minors were still reported as homeless and/or living in informal/insecure housing conditions, while 102 were still reported as living in the RICs[793]. The number of UAM estimated as homeless and/or living in precarious conditions by the end of 2021 is not available, as relevant estimates have stopped being published. Nevertheless, between April and December 2021, the National Emergency Response Mechanism aimed at tracing UAM in precarious conditions registered more than 1,500 new and unique requests for accommodation for UAM,[794] highlighting an ongoing, albeit underreported issue.

As further highlighted by data collected (through a questionnaire) in the context of an ongoing research carried by GCR, Diotima Centre and IRC, which covers 188 asylum seekers and refugees between mid-November and 1 March 2022, 20% (the majority beneficiaries of international protection) reported being homeless and/or without a stable place of residence. An additional 7.5% were at imminent risk of being exposed to similar living conditions, after recognition of their status.[795]

In any event, in order for the Greek authorities' compliance with their obligations relating to reception conditions to be assessed, the number of available reception places that are in line with the standards of the recast Reception Conditions Directive should be assessed against the total number of persons with pending asylum applications, i.e. 3,069 applications pending registration, 31,787 applications pending at first instance and 5,258 appeals pending before different Appeals Committees, at the end of 2021. [796]

2.4. Racist violence

Situations such as the one giving rise to the condemnation of Greece in *Sakir v. Greece* continue to occur, with examples drawn from a case on **Leros** in spring 2020, where an asylum-seeking victim of crime who complained to the police about assault and bodily injury with racist bias by police officers had his complaint set aside and found himself subject to a criminal prosecution and subsequent conviction under a hearing raising fairness concerns.[797]

The Racist Violence Recording Network (RVRN) coordinated by UNHCR and the Greek National Commission for Human Rights, witnessed an increasing number of xenophobic and racist incidents in 2019 and early 2020, targeting the transfers of asylum-seekers to reception facilities on the mainland, newly arrived refugees and migrants, as well as staff of international organizations and NGOs, members of civil society and journalists, due to their association with the defence of the rights of refugees, on the Islands and in Evros. As noted by the RVRN, in March 2020, "such targeted attacks have escalated with physical assaults on staff providing services to refugees, arsons in facilities used for shelter and for services to refugees, NGO vehicles and blocking of the transfer or the disembarkation of new arrivals with the parallel use of racist comments".[798]

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793 EKKA, Situation Update: Unaccompanied Children (UAC) in Greece, 30 April 2021, available at: https://bit.ly/3tZxCjo.

794 EKKA, *Situation Update: Unaccompanied Children (UAC) in Greece*, 31 December 2021, available at: https://bit.ly/3NtWye7.

795 The research takes place under the joint project "Do the human *right thing*–Raising our Voice for Refugee Rights". The project is implemented under the Active citizens fund program, which is supported through a € 12m grant from Iceland, Liechtenstein and Norway as part of the EEA Grants 2014 -2021, and is operated in Greece by the Bodossaki Foundation in consortium with SolidarityNow.

796 MoMA, Briefing Notes: International Protection, Annex A, December 2021, available (Greek) at: https://bit.ly/3wEaJar.

797 RSA, *Submission in Sakir v. Greece*, July 2020, available at: https://bit.ly/331Tmkh.

798 RVRN, 'Racist Violence Recording Network expresses concern over xenophobic reactions against refugees', 11 November 2019, available at: https://bit.ly/3963YPt.

In 2020, the Network recorded a further increase in incidents of racist violence against refugees, migrants but also human rights defenders who were targeted due to their affiliation with the above-mentioned groups. In 2019, the incidents against these groups were 51, while in 2020 they amounted to 74. The periodic intensification of these incidents is inextricably linked to the institutional targeting of refugees, migrants, and supporters. At the same time, as noted by RVRN, "the restriction of movement for refugees in public spaces, in the context of measures adopted against the pandemic, combined with reduced flows, seems to contribute to the invisibility of the specific target group and to the reduction of recorded incidents against them […] indicat[ing] that in 2020 the Networks recordings are, more than ever, the tip of the iceberg".[799]

C. Employment and education

1. Access to the labour market

Indicators: Access to the Labour Market

1. Does the law allow for access to the labour market for asylum seekers? ☒ Yes ☐ No
   - ❖ If yes, when do asylum seekers have access the labour market? 6 months
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

Up to the end of 2019, asylum seekers had access to the labour market as employees or service or work providers from the moment an asylum application had been formally lodged and they had obtained an asylum seeker's card.[800] Applicants who had not yet completed the full registration and lodged their application (i.e. applicants who were pre-registered), did not have access to the labour market. As noted in Registration, the average time period between pre-registration and full registration across mainland Greece (registration via Skype) was 44 days in 2019.[801] Relevant data on the time between pre- and full registration for 2020 are not available up to the time of writing.[802]

Following the entry into force of the IPA on 1 of January 2020, a 6-month time limit for asylum seekers' access to the labour market has been introduced. This right is granted if no first instance decision has been taken by the Asylum Service within 6 months of the lodging of the application, through no fault of the applicant.[803] The right is automatically withdrawn upon issuance of a negative decision which is not subject to an automatically suspensive appeal.[804]

The new law specifies that access to employment shall be "effective".[805] As observed, in 2018, by the Commissioner for Human Rights of the Council of Europe, access to the labour market is seriously

799 RVRN, Annual Report 2020, 5 May 2021, available at: https://bit.ly/3tY6xgG.
800 Article 71 L 4375/2016, as previously in force; Article 15 L 4540/2018.
801 Information provided by the Greek Asylum Service on 17 February 2020.
802 Information provided by the Office of Analysis and Studies of the Ministry of Migration and Asylum on 31 March 2021.
803 Article 53(1) IPA; Article 71 L 4375/2016, as amended by Article 116(10) IPA.
804 Article 53(2) IPA.
805 Article 53(1) IPA.

hampered by the economic conditions prevailing in Greece, the high unemployment rate, further obstacles posed by competition with Greek-speaking employees, and administrative obstacle in order to obtain necessary document, which may lead to undeclared employment with severe repercussions on the enjoyment of basic social rights.[806] These findings remain valid, amid a minimal decrease in the unemployment rate in Greece from16.8% in Q4 2019 to 16.2% in Q4 2020. Higher unemployment rates were reported for persons aged up to 29 years old (29.6% for age group 25-29, 34.3% for age group 20-24 and 44.7% for age group 15-19), while overall the highest unemployment rate was recorded amongst women (19.9% as opposed to 13.3% for men).[807]

Difficulties in accessing the labour market continued being marked for applicants residing in mainland camps and/or informal accommodation[808]. As of the end of 2021, less than 50% of the resident adult population (9,707 out of 15,793) had managed to obtain an AFM, and even less of the residents above 15 years of age had managed to obtain an unemployment card from OAED (9.97%).[809] Relevant data for those residing under the ESTIA II accommodation scheme have not been published in the project's updates issued by the MoMA since February 2021.[810]

In addition, both asylum seekers and beneficiaries of international protection have continued to face significant obstacles in opening bank accounts, including those dedicated for the payment of salaries, which are a precondition for payment in the private sector.[811] The four major banks in Greece have repeatedly refused to open bank accounts to asylum seekers, even in cases where a certification of recruitment is submitted by the employer. "In fact, this policy offends against the spirit and the letter of the law, excluding thus the asylum seekers from the labour market. At the same time, employers willing to recruit asylum seekers are discouraged because of this significant barrier or, even when hiring them, face the risk of penalties", as highlighted by the civil society organisation Generation 2.0.[812]

By December 2020, only 3% of eligible residents of ESTIA II had managed to open a bank account, highlighting the magnitude of the challenges applicants and beneficiaries face in accessing the labour market. The situation was again more pronounced for asylum seekers (2% with a bank account), when compared to recognised refugees (6% with bank account)[813], though the difference is practically negligible and even more concerning for the latter, *inter alia* considering the severely restricted time (1 month) during which they can remain in reception-based accommodation post-recognition, following the 2020 legislative amendments[814], and that they need a bank account, in order to be able to access the sole accessible rent subsidy, under the Helios II integration programme. Relevant statistics are not published since the MoMA is in charge of issuing the updates on ESTIA II. Nevertheless, out of the aforementioned 188 asylum seekers and refugees interviewed by GCR, Diotima Centre and IRC as of 1 March 2022, access to bank accounts seems to remain an ongoing barrier, as 62% of them did not have a bank account.[815]

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806 Council of Europe, *Report of the Commissioner for Human Rights of the Council of Europe Dunja Mijatović following her visit to Greece from 25 to 29 June 2018*, CommDH(2018)24, 6 November 2018, available at: https://bit.ly/2IwG4EG, paras 54-55.

807 Hellenic Statistical Authority, *Labor force survey: Fourth quarter 2020 (Έρευνα εργατικού δυναμικού: Δ΄ τρίμηνο 2020)*, 24 March 2021, available in Greek at: https://bit.ly/2QwjFfs.

808 See AIDA, Country Report for Greece: 2019 update

809 IOM, Supporting the Greek Authorities in Managing the National Reception System for Asylum Seekers and Vulnerable Migrants (SMS), December 2021, available at: https://bit.ly/3L4TFhN.

810 ESTIA updates can be found (in Greek) on the webpage of the MoMA, under "Fact Sheet για το Πρόγραμμα ESTIA 2021" at: https://bit.ly/3tKppTG.

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

812 Generation 2.0, 'When the Greek banks deprive asylum seekers of their right to work', 16 January 2019, available at: https://bit.ly/2TVwTCV.

813 UNHCR, Population breakdown in ESTIA II Accommodation Scheme (as of 28 December 2020), *op.cit.* Data on residents of mainalnd camps/sites is not available.

814 Article 114 IPA, as amended by article 111 L.4674/2020 in March 2020.

815 The data have been collected through a questionnaire drafted as part of an ongoing joint research carried by GCR, Diotima Centre and IRC in the context of the joint project "Do the human *right thing*–Raising our

Lastly, applicants' access to the labour market has continued being hindered by obstacles connected with the temporary social security number (PAAYPA, see healthcare), which is a requirement for employment, albeit to a reduced rate compared to 2020. As highlighted by HumanRights360 in June 2020, "access to healthcare and to the labor market is nearly impossible due to the severe delays in acquiring a PAAYPA. The framework under which PAAYPA is granted remains vague, while the transition from AMKA to PAAYPA proved particularly time-consuming (already in many cases it reaches a year!) and hindered even more access of this population to the labor market and to healthcare".[816]

As further noted by the Greek National Commission for Human Rights in September 2020, "in practice, it is ascertained that asylum seekers cannot benefit from the right to work, as the documents of ERGANI have not yet been adapted so that PAAYPA holders can be included, while due the coronavirus and the difficulty in renewing international protection applicants' cards, employers are reluctant to employ staff with an expired card".[817]

As regards vocational training, Article 17(1) L 4540/2018 provides that applicants can have access to vocational training programmes under the same conditions and prerequisites as foreseen for Greek nationals. The same is reiterated in Article 54(1) IPA. However, the condition of enrolment "under the same conditions and prerequisites as foreseen for Greek nationals" does not take into consideration the significantly different position of asylum seekers, and in particular the fact that they may not be in a position to provide the necessary documentation.[818] Article 17(2) L 4540/2018, provides that the conditions for the assessment of applicants' skills who do not have the necessary documentation will be set by a Joint Ministerial Decision. The same is reiterated in Article 54(2) IPA. As far as GCR is aware such a decision had not been issued by the end of 2021.

In April and May 2021, UNHCR conducted a pilot registration of the educational background and professional skills of asylum applicants and beneficiaries of international protection residing in the islands of Lesvos, Chios, Samos, Kos, Leros, Rhodes and Tilos in April and May 2021. The exercise, which was based on individuals' declarations with respect to their educational background and skills, highlights a significant range of skills amongst the population of concern. The pilot scheme participants resulted to have skills in 20 different sectors, including in the fields of trade, engineering, manufacturing and social work. Only a fraction of participants (7%) stated they had no previous occupations or skills. Likewise, in what concerned their educational background, the majority (78%) of those interviewed had at least some level of formal education, including from a university institution (8%).[819]

2. Access to education

Indicators: Access to Education

1. Does the law provide for access to education for asylum-seeking children? ☒ Yes ☐ No
2. Are children able to access education in practice? Depending on location, though access has been severely impacted during the pandemic

Voice for Refugee Rights". The project is implemented under the Active citizens fund program, which is supported through a € 12m grant from Iceland, Liechtenstein and Norway as part of the EEA Grants 2014 - 2021, and is operated in Greece by the Bodossaki Foundation in consortium with SolidarityNow.

816 HumanRights360, Υπόμνημα για την ακρόαση φορέων στο πλαίσιο του Γ΄ Τμήματος της Εθνικής Επιτροπής για τα Δικαιώματα του Ανθρώπου (ΕΕΔΑ) για ζητήματα μεταναστών και προσφύγων, June 2020, available in Greek at: https://bit.ly/3eYSpiW, 3.

817 GNCHR, *Annual Report on the Refugee and Migration Issue: Part B*, September 2020, available in Greek at: https://bit.ly/3fugGfW, 124.

818 GCR, *Observations on the Draft Law transposing the Reception Directive*, 31 October 2016, available in Greek at: https://goo.gl/MBRqno.

819 UNHCR, *The talent behind the numbers: Introducing refugees on the Greek islands*, June 2021, available at: https://bit.ly/36vDwTS.

According to Article 51 IPA, asylum-seeking children are required to attend primary and secondary school under the public education system under similar conditions as Greek nationals. Contrary to the previous provision,[820] the IPA does not mention education as a right but as an obligation. Facilitation is provided in case of incomplete documentation, as long as no removal measure against minors or their parents is actually enforced. Access to secondary education shall not be withheld for the sole reason that the child has reached the age of maturity. Registration is to take place no longer than 3 months from the identification of the child, while non-compliance on behalf of the applicants, on account of a potential *"unwillingness to be included in the education system"* is subject to the reduction of material reception conditions and to the imposition of the administrative sanctions foreseen for Greek citizens to the adult members of the minor's family.[821]

A Ministerial Decision issued in September 2016, which was repealed in October 2016 by a Joint Ministerial Decision, established a programme of afternoon preparatory classes (*Δομές Υποδοχής και Εκπαίδευσης Προσφύγων*, DYEP) for all school-aged children aged 4 to 15.[822] The programme is implemented in public schools neighbouring camps or places of residence, with the location and operationalisation of the afternoon preparatory classes being subject to the yearly issuance of a Joint Ministerial Decision (exceptionally a Decision by the Minister of Education and as of 2019 a Decision by the Deputy Minister of Education). Such decisions have been respectively issued for each school year in January and November 2017, August 2018, October 2019, August 2020, and September 2021 for school years 2016-2017, up to 2021-2022.

Children aged between 6-15 years, living in dispersed urban settings (such as ESTIA accommodation, squats, apartments, hotels, and reception centres for asylum seekers and unaccompanied children), may go to schools near their place of residence, to enrol in the morning classes alongside Greek children, at schools that will be identified by the Ministry. This is done with the aim of ensuring a balanced distribution of children across selected schools, as well as across preparatory classes for migrant and refugee children where Greek is taught as a second language.[823]

Although the refugee education programme implemented by the Ministry of Education is highly welcome, the school attendance rate should be reinforced, while special action should be taken in order for children remaining on the islands to be guaranteed access to education.

In October 2019, the estimated number of refugee and migrant children in Greece was 37,000, among whom 4,686 were unaccompanied. Out of the number of children present in Greece, it was estimated that only a third (12,800) of refugee and migrant children of school age (4-17 years old) were enrolled in formal education during the school year 2018-2019. The rate of school attendance was higher for those children living in apartments and for unaccompanied children benefitting from reception conditions (67%).[824]

For the school year of 2020-2021, conflicting data provided by the Ministry of Education, seem either to highlight a 32.52% decrease in the number of children enrolled to education compared to the aforementioned 2019 estimates, or a 12.67% increase in the number of children enrolled to education compared to the same estimates. Namely, as per the response of the Deputy Minister of Education to

820 Article 13 L 4540/2018.
821 Article 51(2) IPA.
822 Joint Ministerial Decision 180647/ΓΔ4/2016, GG 3502/2016/B/31-10-2016, available in Greek at: https://bit.ly/36W3cDn.
823 Ministry of Education, *Q&A for access to education for refugee children*, 1 February 2017, available at: http://bit.ly/2maIzAv.
824 UNICEF, Refugee and migrant children in Greece as of 31 October 2019, available at: https://uni.cf/2Sloe92.

a Parliamentary question in March 2021,[825] there were 8,637 children enrolled to education, while as per an April 2021 reply of the Ministry to relevant findings of the Greek Ombudsman (see further bellow), there were 14,423 children enrolled to education by 21 February 2021[826]. In both cases, reference is made to the same "My school" database, albeit in the latter case, it is specified that due to reasons *inter alia* stemming from the mobility of the specific population (e.g. due to change of status or a transfer decision), relevant "accurate quantitative data are not guaranteed"[827].

In either case, the number of children enrolled to education for the school year 2020-2021 remained well below the number of 20,000 school-aged (aged 4-17) children provided in the Ministry's April 2021 reply[828]. Moreover, because of the lack of available, broken-down data, it remains uncertain whether this number includes all refugee and asylum-seeking children present in Greece at the time of the reply, or if it only regards beneficiaries of international protection, as the reply's wording ("refugees") seems to imply. Either way, by the end of 2020, a total of 44,000 refugee and migrant children were estimated to be in Greece[829], which could indicate an even wider gap between the number of refugee and migrant children present in Greece and the number of those enrolled to education.

Furthermore, in 2020, children's' access to education was further challenged by a number of factors, also related to the Covid-19 pandemic, which led to record levels of exclusion of refugee children from the Greek system of education.[830] As noted by 33 civil society organisations in March 2021, with respect to children accommodated in mainland camps, "[i]n some places the issues observed have to do with inconsistent interpretation of COVID-19 related movement restriction policies by the Greek authorities, which ends up discriminating against children who, as a result, are not being allowed to leave these camps [in order to attend school]. At the same time, during the lockdowns, due to the lack of necessary technical infrastructure for online learning at the camps, refugee and asylum-seeking children are further excluded from the education process".[831] The lack of transportation, understaffing of reception classes and negativity and/or reported reluctance by some local communities, as well as refugee families, to the potential of children attending school, were also amongst reported factors hindering refugee children's access to education for the school year of 2020-2021.[832] Particularly in what concerns mainland camps, even though slightly more than 62% of school-aged children living in the camps were formally enrolled to education (6,472 out of 10,431 children), only 14.2% (or 1,483) were actually able to attend it, as per findings of the Greek Ombudsman in March 2021.[833]

As noted by the Ombudsman in March 2021, "[t]he number of children [living in] facilities of the Ministry of Migration and Asylum and [in] RICs that are enrolled to school is dramatically far apart from their actual attendance"[834].

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825 RSA, *Excluded and segregated: the vanishing education of refugee children in Greece*, 13 April 2021, available at: https://bit.ly/3ozTZuY.

826 Ministry of Education and Religious Affairs, "Reply with respect to the findings regarding the educational integration of children residing in facilities and RICs of the Ministry of Migration & Asylum", 21 April 2021, available in Greek at: https://bit.ly/3yAoDc1, 3.

827 *Ibid,* 2

828 *Ibid*, 2.

829 UNICEF, *Refugee and Migrant Response in Europe: Humanitarian Situation Report No. 38*, 28 January 2021, available at: https://bit.ly/3fjMjdi, 3.

830 For more, RSA, *Excluded and segregated*, op.cit.

831 Open letter: "All children have the right to go to school. Do not take that away from them", 9 March 2021, available at: https://bit.ly/3yhWB4V.

832 For more Greek Ombudsman, Educational integration of children living in facilities and RICs of the Ministry of Migration & Asylum, 11 March 2021, available in Greek at: https://bit.ly/3ounIWc

833 Greek Ombudsman, Educational integration of children living in facilities and RICs of the Ministry of Migration & Asylum, 11 March 2021, available in Greek at: https://bit.ly/3ounIWc, 12.

834 Greek Ombudsman, Educational integration of children living in facilities and RICs of the Ministry of Migration & Asylum, 11 March 2021, available in Greek at: https://bit.ly/3ounIWc, 12.

On the **Eastern Aegean islands**, where children have to remain for prolonged periods under a geographical restriction together with their parents or until an accommodation place is found in the case of unaccompanied children, the vast majority remained without access to formal education in 2020 as well. Indicatively, out of a total of 2,090 school-aged children living in the RICs by January 2021, only 178 (8.5%) were enrolled in school, out of whom only 7 (0.3%) had actually been able to attend it, primarily due to being accommodated in the urban fabric, as opposed to the RIC, as pointed out in the findings of the Greek Ombudsman in March 2021.[835]

The school year 2021-2022 was marked by improvements, with 95% of all refugee children being enrolled to school, as per data issued by the Ministry of Education. As highlighted by UNICEF in April 2022, 16,417 children with a refugee and migrant background were included in the country's system of education in the school year 2021-2022, marking a 35% increase compared to the previous year. Of these, however, only 75% (12,285) were actually attending school in March 2022,[836] highlighting a concerning degree of drop outs, which was exacerbated due to the difficult living conditions of refugee children and the gap that was created after the transition of the ESTIA cash-based assistance programme to the state. As noted in a joint GCR-Save the Children briefing in March 2022, "[m]any children, especially those in secondary school, drop out of school to find work (mostly in agriculture) and support their families, or they had to take care of their younger siblings for the parents to be able to find work. In addition, rejections of asylum applications are creating despair and a lack of hope for a better future, leading to families deprioritizing schooling".[837]

Other challenges were also observed in the school year 2021-2022. For instance, two weeks after the start of the school year, children in 16 sites did not attend school, while additional issues hindering children's access to education continued to be reported:[838]

- In Epirus, there were still issues of transportation as the camps (Agia Eleni, Filippiada) are far away from the schools and Refugee Education Coordinators (RECs) had not yet been appointed by 4 October 2021. Lack of transportation was also reported in the first months of 2022 for children residing in the areas of Drama, Lesvos and Kavala.
- In Central Macedonia, low enrolment rates were recorded in Nea Kavala and nearby area of Kilkis, Axioupoli, Polikastro. Five Parents' association from the area published a letter, articulating concerns about the inclusion of refugee students in regular schools. In addition, as of 27 September 2021, no transportation for primary school had been arranged and DYEP teachers had not been appointed. In Veroia, the camp manager did not allow children to exit the camp to go to school due to a COVID-19 cases rise although schools were open and local students attended school, an issue finally resolved on 27 September 2021. In Kleidi camp a REC had not yet been placed on 27 September 2021.
- In Attica, especially in Inofita, Andravida, Malakasa and Nea Malakasa, there was a lack of teachers in schools and half of the primary school children did not have access to transportation to schools. A lack of places in secondary education as well as school vaccinations delays were also reported.
- On the islands, especially in Samos, children from the camp enrolled in ZEP classes but were not attending them by October 2021. As of 4 October, there was also no free transportation provided to children between the new camp and the town of Vathy. In Lesvos, as of 7 October, an "education area" was still not available. In Kos and Leros refugee students are waiting for teachers and in Leros a REC was appointed only on 16 October 2021.

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835 Greek Ombudsman, Educational integration of children living in facilities and RICs of the Ministry of Migration & Asylum, 11 March 2021, available in Greek at: https://bit.ly/3ounIWc, 9.

836 Kathimerini, "Schools: More refugee students this year", 5 April 2022, available (Greek): https://bit.ly/3EzQxZk.

837 GCR & Save the Children, *Greece: Children on the move (January-March 2022 update)*, 31 March 2022, available at: https://bit.ly/3EUST5a, 10.

838 GCR & SCI, Greece: Children on the move (September – October 2021 update), available at: https://bit.ly/3NrVcjL.

D. Health care

Indicators: Health Care

1. Is access to emergency healthcare for asylum seekers guaranteed in national legislation?
   ☒ Yes ☐ No
2. Do asylum seekers have adequate access to health care in practice?
   ☐ Yes ☒ Limited ☒ No
3. Is specialised treatment for victims of torture or traumatised asylum seekers available in practice? ☐ Yes ☐ Limited ☒ No
4. If material conditions are reduced or withdrawn, are asylum seekers still given access to health care? ☒ Yes ☐ Limited ☐ No

L 4368/2016, which provides free access to public health services and pharmaceutical treatment for persons without social insurance and vulnerable social groups[839] is also applicable for asylum seekers and members of their families.[840] However, in spite of the favourable legal framework, actual access to health care services has been consistently hindered in practice by significant shortages of resources and capacity for both foreigners and the local population, as the public health sector is under extreme pressure and lacks the capacity to cover all the needs for health care services. A 2019 research documents the impact of the ten years of financial crisis and the austerity measures on the Greek public Health System.[841]

Furthermore, challenges in accessing healthcare due to the lack of interpreters and cultural mediators in the majority of public healthcare facilities (hospitals, social clinics etc.) also continued to persist in 2021. In addition to the limited capacity of the public Health system, applicants' access to healthcare was further hindered as far back as 2016,[842] due to the reported "generalised refusal of the competent public servants to provide asylum seekers with an AMKA" [843] (i.e. social security number), which up to the entry into force of article 55 IPA served as the *de facto* requirement for accessing the public healthcare system. This was further aggravated following a Circular issued on 11 July 2019, which in practice revoked asylum seekers' access to the AMKA. As noted by Amnesty International in October 2019, "the administrative obstacles faced by many asylum seekers and unaccompanied children in issuing an AMKA have significantly deteriorated following 11 July 2019, when the Ministry of Labour revoked the circular which regulated the issuance of AMKA to non-Greek citizens. Following the circular's revocation, no procedure was put in place for the issuance of AMKA to asylum seekers and unaccompanied minors".[844]

Article 55 of the IPA, introduced a new a Foreigner's Temporary Insurance and Health Coverage Number (*Προσωρινός Αριθμός Ασφάλισης και Υγειονομικής Περίθαλψης Αλλοδαπού*, PAAYPA), replacing the previous Social Security Number (AMKA). PAAYPA is to be issued to asylum seekers together with their asylum seeker's card.[845] With this number, asylum seekers are entitled free of charge to access the necessary health, pharmaceutical and hospital care, including the necessary psychiatric

839 Article 33 L 4368/2016.
840 Article 17(2) L. 4540/18 refering to art. 33 L. 4368/16
841 Amnesty International, *Greece: resuscitation required – the Greek health system after a decade of austerity*, April 2020, available at: https://bit.ly/3cAKeG0.
842 SolidarityNow, "Issues with the issuance of AMKA to international protection applicants", 10 November 2016, available (in Greek) at: https://bit.ly/3bgttja.
843 Joint Agency Briefing Paper, Transitioning to a Government-run Refugee and Migrant Response in Greece: A joint NGO roadmap for more fair and humane policies, December 2017, available at: https://bit.ly/2S3yiVn, 12.
844 Amnesty International, "Greece must immediately secure the free access of asylum seekers, unaccompanied minors, and children of undocumented migrants to the public healthcare system", 14 October 2019, available (in Greek) at: https://bit.ly/372T4sz.
845 Article 55(2) IPA.

care where appropriate. The PAAYPA is deactivated if the applicant loses the right to remain on the territory.[846] Said provisions of the IPA entered into force on 1 November 2019. However, the necessary mechanism for their implementation was not activated until the start of 2020.

In a welcome development, the publication of the Joint Ministerial Decision for the issuance of the PAAYPA was issued on 31 January 2020,[847] officially triggering the mechanism. The activation of the PAAYPA number was announced in April 2020.[848] Acquisition of the PAAYPA by its beneficiaries (i.e. applicants) was recorded as slow up to the end of the year. Indicatively, by 7 December 2020, out of the 14,392 asylum applicants residing in the ESTIA II accommodation scheme, only 35% (approx. 5,037) had acquired the PAAYPA.[849] It needs to be pointed out that another 39% (approx. 5,612) of asylum seekers residing in ESTIA II were recorded as holding an AMKA during the same time[850], potentially due to having arrived in Greece before the issuance of the July 2019 Circular, which, nevertheless still means that 36% of beneficiaries did not have access to Greece's healthcare system, apart from in emergency cases. By the end of the year (31 December), the number of PAAYPA and/or AMKA holders in ESTIA II (asylum seekers & beneficiaries of international protection) was recorded at 45%, highlighting the ongoing challenges[851]. Relevant data for residents of the camps are not available, at least, to GCR's awareness.

Furthermore, throughout 2020 challenges were also observed due to the automatic extension of documents, amid measures aimed at restricting the spread of the COVID-19 pandemic, i.e. the suspension of GAS services towards the public. This created delays in the ability of applicants to receive and/or renew their PAAYPA during the foreseen renewal of their documents, since no similar automatic extension of the PAAYPA was foreseen. Delays with the renewal of the PAAYPA were also observed in 2021.

By February 2021, even though challenges persist, the issue of PAAYPA seemed to have been almost completely solved as far as GCR is aware, with 80% of eligible beneficiaries holding a PAAYPA and efforts being made to cover the rest of the population. Nevertheless, as access to PAAYPA is *inter alia* dependent on the full registration of a claim, and considering ongoing relevant delays particularly on the mainland, the extent to which and the time it takes for unregistered asylum seekers or applicants with police notes and/or only an initial registration of their claim to enjoy access to Greece's healthcare system should be further assessed.

GCR is also aware of a limited number of cases who have remained without either an AMKA or a PAAYPA for up to 2 years or more, as they had arrived in Greece during the gap that followed the issuance of the 2019 Circular and seem to have fallen through the cracks, also due to the aforementioned challenges that ensued in the context of the pandemic.

Indicatively, in a case handled by GCR's Social Unit, the beneficiary, a vulnerable applicant with a chronic and serious health conditions and holder of an active asylum seeker's card since October 2019, had been unable to obtain a PAAYPA by March 2021 and as a result has been unable to access the necessary medication for his condition, as prescribed by his doctor. Following multiple yet unfruitful attempts to resolve the issue by referring the case to the competent service (GAS), GCR's social worker intervened to the Ombudsperson requesting their intervention. In the relevant March 2021

846 Article 55(2) IPA.
847 Joint Ministerial Decision 717/2020, Gov. Gazette 199/B/31-1-2020.
848 Skai.gr, Προσωρινός αριθμός ασφάλισης - περίθαλψης: Από σήμερα σε όλους τους αιτούντες άσυλο, 1 April 2020, available at: https://bit.ly/3cjTyh4.
849 UNHCR, Population breakdown in ESTIA II Accommodation Scheme (as of 7 December 2020), 12 December 2020, available at: https://bit.ly/2RM76NA.
850 *Ibid.*
851 UNHCR, *Fact Sheet: Greece (1-31 December 2020)*, 27 January 2021, available at: https://bit.ly/34nI7Te.

intervention[852], the Ombudsperson *inter alia* recalls their previously submitted proposal to the GAS to "move forward with the necessary arrangements…for the extension of the validity of PAAYPA for all active cards up to 31/3/2021 – and obviously, until the [expiry] of each potential subsequent extension…", while also recalling the institution's proposal to also enable this for "potential applicants that have not received the PAAYPA, even though they have a valid card". As noted by the Ombudsperson, "[s]uch a holistic regulation of the issue seems to be able resolve the serious obstacles in accessing healthcare services that arise in various individual cases of applicants".

In 2020, a seeming and welcome increase in the medical/ staff in the RICs was observed. Throughout 2020, though presumably during different time intervals depending on location, a total of 113 doctors were present in the island RICs, namely 4 in the RIC of Kos, 4 in the RIC of Leros, 5 in the Evros RIC, 3 in the RIC of Samos and 6 in the RIC of Chios. Another 17 doctors were present in the temporary Mavrovouni RIC, which is, however, 27 doctors less than the number of doctors that had been present in the Moria RIC during the year (44), and until the latter's destruction in September 2020. Nevertheless, challenges remain, particularly with respect to residents' access to mental healthcare services[853], amid a recorded growing mental health crisis because of prolonged containment.[854]

As stated by the Minster of Migration and Asylum in a February 2021 interview, refugees and migrants in Greece would be vaccinated against COVID-19 in accordance with their age.[855] However, as of May 2021, information on when the vaccination of asylum seekers and refugees living in camps and RICs will start remain unavailable.[856] By the end of October 2021, it was estimated that slightly less than 25% of the population residing in reception facilities had been vaccinated.[857]
Lastly, in a positive development in November 2021, a procedure for issuing a temporary AMKA (PAMKA) for accessing vaccines was introduced for people in vulnerable conditions (e.g. homeless) that lack any type of social security number, irrespective of their legal status,[858] albeit the extent to which undocumented people have been able to issue the PAMKA and get vaccinated are unavailable as far as GCR is aware.

E. Special reception needs of vulnerable groups

Indicators: Special Reception Needs

1. Is there an assessment of special reception needs of vulnerable persons in practice?
☐ Yes ☒ In some cases ☐ No

The law provides that, when applying the provisions on reception conditions, the competent authorities shall take into account the specific situation of vulnerable persons such as minors, unaccompanied or not, direct relatives of victims of shipwrecks (parents and siblings), disabled people, elderly people, pregnant women, single parents with minor children, persons with serious illnesses, persons with cognitive or mental disability and persons who have been subjected to torture, rape or other serious forms of psychological, physical or sexual violence, victims of female genital mutilation and victims of human trafficking.[859] The assessment of the vulnerability of persons entering irregularly into the territory

852 Greek Ombudsperson, Letter to the GAS on "The non-issuance of PAAYPA to an applicant of international protection with a serious health condition", 26 March 2021, protocol no. 294463/16706/2021.
853 For instance, GCR & Oxfam, Lesbos Bulletin (April 2021), 21 April 2021, available at: https://bit.ly/3wyyD3N.
854 For more International Rescue Committee. (2020). *The Cruelty of Containment: The Mental Health Toll of the EU's 'Hotspot' Approach on the Greek Islands*. https://bit.ly/2XWKyJA.
855 Capital, "N. Mitarakis: refugees and migrants will be normally vaccinated against the coronavirus" ("Ν. Μηταράκης: Θα εμβολιαστούν κανονικά κατά του κορονοϊού πρόσφυγες και μετανάστες"), 15 February 2021, available in Greek at: https://bit.ly/3fLRMbM.
856 As per information shared through the Greek advocacy working group on 26 May 2021.
857 Data provided during the Health working group of 27 October 2021.
858 JMD 5160/2021, Gov. Gazette 5247/B/12-11-2021.
859 Article 58(1) IPA.

takes place within the framework of the Reception and Identification Procedure and, since the entry into force of the IPA, on 1 January 2020, it is no longer connected to the assessment of the asylum application.[860]

Under the reception and identification procedure, upon arrival, the Head of the RIC "shall refer persons belonging to vulnerable groups to the competent social support and protection institution."[861]

However, shortages in the Identification of vulnerabilities, together with a critical lack of suitable reception places for vulnerable applicants on the islands (see Types of Accommodation) prevents vulnerable persons from enjoying special reception conditions. A report published by MSF highlights alarming levels of mental health problems among asylum applicants on the Greek islands, including self-harming and suicidal acts among children. According to MSF, the indefinite detention, sense of limbo and systematic violence further traumatised people seeking protection. The Estia scheme on Samos, which had offered safe apartments to vulnerable applicants in the past, including victims of sexual and gender-based violence, was discontinued. Due to a lack of alternative accommodation, even sexually abused persons stayed in tents in a separate section of Vathy camp, where the alleged perpetrators also stayed. On Lesvos, following the closure of the Kara Tepe site, a model facility offering dignified accommodation in prefabricated containers, vulnerable persons were transferred to Mavrovouni tent camp. Owing to the reduced numbers of alternatives to camps on both islands, there are significant difficulties in finding dignified accommodation even for persons with serious health issues, as reported by MSF.[862]

1. Reception of unaccompanied children

Following the establishment of the Special Secretary for Unaccompanied Minors (SSUM) under the MoMA in February 2020,[863] and the entry into force of L. 4756/2020 in November of the same year, the SSUM has become the competent authority for the protection of UAM, including the accommodation of UAM, while EKKA, under the supervision of the Directorate for the Protection of Children and Families of the Ministry of Labor and Social Affairs remains responsible for the representation of UAM, including through the guardianship provided under L. 4554/2018.[864] As far as GCR is aware, the handover of activities (e.g. referrals) in the context of accommodation for UAM had been fully handed over to the office of the Special Secretary by the end of 2020.

Ongoing progress regarding the reception capacity for unaccompanied children

As of 31 December 2021, there were at least 2,225 unaccompanied and separated children in Greece and a total of 2,478 dedicated accommodation places in shelters and the Semi-Independent Living (SILs) facilities, highlighting a positive change, compared to previous years.[865] In a further welcome development, in April 2021 Greece launched a National Emergency Response Mechanism aimed at tracing UAM in precarious conditions and providing them with access to necessary protection. The National Mechanism is operated by the SSUM, in collaboration with UNHCR (expert support) and NGOs Arsis, METAdrasi and the Network for Children's Rights (operational/field support). The Mechanism also includes a 24/7 telephone hotline for identifying and tracing children in need, which is available in six languages. The hotline provides guidance to children, citizens, local and public authorities on

860 Article 58(2) IPA, citing Article 39 IPA.
861 Article 39(4)(d) IPA.
862 MSF, Constructing Crisis at Europe's Borders: The EU plan to intensify its dangerous hotspot approach on Greek islands, June 2021, available at: https://bit.ly/3tVzwFg; FRA, Migration: Key fundamental rights concerns - Bulletin 2 – 2021, September 2021, available at: https://bit.ly/3LopAcY.
863 Article 1(3) P.D.18/2020, Gov. Gazette 34/A/19-2-2020.
864 Articles 13 & 14 L.4756/2020.
865 EKKA, *Situation Update: Unaccompanied Children (UAC) in Greece*, 31 December 2021, available at: https://bit.ly/3NtWye7.

steps and actions to be taken from the point of identification of an unaccompanied child until his/her timely inclusion in emergency accommodation.[866] Between April and December 2021, the hotline received 1,586 unique calls for accommodation for UAM in precarious conditions.[867] Though data on the number of UAM estimated to be living in insecure and/or precarious conditions have stopped being issued, this may provide an indication of the ongoing level of needs.

The total number of referrals of unaccompanied children received by SSUM in 2021 was 4,748, marking a 21% decrease when compared to the same period in 2020 (6,006). At the same time, the number of long-term accommodation spaces, specifically designated for unaccompanied minors, continued to increase, reaching a total of 2,478 places by year's end, as opposed to 1,715 by the end of 2020 (approx. 44% increase) [868]. Of the 4,748 UAM that were referred to accommodation, 4,435 were boys, the majority of whom were above the age of 12 (98%), and 313 were girls, most of whom (85%) were older than 12 years old.[869]

The average waiting period for the placement of unaccompanied minors residing in and/or outside of island RICs to suitable accommodation places for UAMs was 7.4 days in December 2021. The relevant period for UAM in "protective custody" or in the RIC of **Fylakio**, Evros, was 4.7 days. The average time for the placement of UAM in a shelter was 4.1 days in December 2021.[870] In all cases, this amounts to further and highly welcome development with regards to the time it takes for identified UAM to access dedicated accommodation places.

Q 2021	No. of referrals for accommodation	No. of referrals that were addressed*
Q1	955	1,147
Q2	1,147	1,537
Q3	1,279	1,663
Q4	1,367	1,236
Total	**4,748**	**5,583**

Source: Special Secretary for the Protection of Unaccompanied Minors. Data received on 11 March 2022. *The divergence between the number of referrals and those addressed regards placements that were made in 2021, based on referrals made during the previous year.

Nevertheless, challenges regarding the proper identification of UAM upon arrival, and as a consequence cases where UAM have been accommodated alongside the adult population have continued to be observed in 2021, at least on the islands.[871] Furthermore, despite significant improvements following the abolition of "protective custody" by law in 2020, GCR continued to identify UAM in detention up to December 2021, primarily in Athens,[872] albeit this seems to be the exception.

866 UNHCR, "Greece launches national tracing and protection mechanism for unaccompanied children in precarious conditions", 6 April 2021, available at: https://bit.ly/3uBRICI.

867 EKKA, *Situation Update: Unaccompanied Children (UAC) in Greece*, 31 December 2021, available at: https://bit.ly/3NtWye7.

868 AIDA, Country Report for Greece: 2020 Update.

869 Information provided by Special Secretariat for Reception of the Ministry of Migration and Asylum on 11 March 2022.

870 *Ibid.*

871 GCR & Oxfam, Lesbos Bulletin: Update on the EU response in Lesbos, by the Greek Council for Refugees & Oxfam, June 2021, available at: https://bit.ly/3NrSBGD.

872 GCR & SCI, Greece: Children on the move (September – October 2021 update), available at: https://bit.ly/3NrVcjL and Children on the move (November-December 2021 update), available at: https://bit.ly/3IK6mx0.

The lack of appropriate care, including accommodation for unaccompanied children, in Greece has been repeatedly raised by human rights bodies.[873] Among others in 2019, in the context of his visit to the Lesvos, the UN High Commissioner for Refugees stated he was "very worried about children, especially children travelling alone…[who] are the most exposed to violence and exploitation",[874] while Human Rights Watch inter alia noted that "the lack of prompt transfers [from the islands] put vulnerable people, including people with invisible disabilities and children, at higher risk of abuse and violation of their rights".[875]

In November 2018, ECRE and ICJ, with the support of GCR lodged a collective complaint before the European Committee for Social Rights of the Council of Europe with regards the situation of *inter alia* unaccompanied children in Greece.[876] In response to the complaint, In May 2019, the Committee on Social Rights exceptionally decided to indicate immediate measures to Greece to protect the rights of migrant children and to prevent serious and irreparable injury or harm to the children concerned, including damage to their physical and mental health, and to their safety, by inter alia removing them from detention and from Reception and Identification Centres (RICs) at the borders.[877]

Furthermore, in December 2019, in a case represented by GCR, in cooperation with ASGI, Still I Rise and Doctors Without Borders, the European Court of Human Rights (ECtHR), under Rule 39 of the Rules of Court, granted interim measures to five unaccompanied teenagers, asylum seekers, who had been living for many months in the Reception and Identification Centre (RIC) and in the "jungle" of Samos. The interim measures indicated to the Greek authorities their timely transfer to a centre for unaccompanied minors and to ensure that their reception conditions are compatible with Article 3 of the Convention (prohibition of torture and inhuman and degrading treatment) and the applicants' particular status.[878]

In March 2020, a number of EU Member States accepted to relocate about 1,600 unaccompanied children from Greece.[879] Despite the fact that the number of children to be relocated remains significantly low, compared to the number of unaccompanied children present in Greece (3,776 children as of 15 April 2021[880]), this is a welcome initiative and tangible display of responsibility sharing that facilitates UAM's access to durable solutions.

The first relocation under the scheme took place on 15 April 2020, with the first 12 UAM being relocated from Greece to Luxemburg, after previously having stayed for months in the overcrowded, unsuitable and unsafe RICs of Lesvos, Samos, and Chios. As noted by the Regional Director of IOM at the time *"[t]he importance of this crucial initiative is amplified now due to the challenges we are all facing from*

873 For instance, see UNHCR, 'Lone children face insecurity on the Greek islands', 14 October 2019, available at: https://bit.ly/36XQ6pf.

874 Euronews, 'U.N. refugees chief urges Greece to improve 'miserable' camp conditions', 27 November 2019, available at: https://bit.ly/2vWsjt3.

875 HRW, 'Human Rights Watch Submission to the United Nations Committee against Torture on Greece', 4 July 2019, available at: https://bit.ly/2S5ewch.

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

877 European Committee of Social Rights, Decision on admissibility and on immediate measures in the case International Commission of Jurists (ICJ) and European Council for Refugees and Exiles (ECRE) v. Greece, Complaint No. 173/2018, 23 May 2019, available at: https://bit.ly/39clrGj.

878 GCR, The European Court of Human Rights provides interim measures to unaccompanied minors living in the RIC and the "jungle" of Samos island, 30 December 2019, available at: https://bit.ly/2GYQY2p.

879 EU Commissioner for Home Affairs, Intervention (via video conference) in European Parliament LIBE Committee on the situation at the Union's external borders in Greece, 2 April 2020, available at: https://bit.ly/3adzSKl.

880 EKKA, *Situation Update: Unaccompanied Children (UAC) in Greece*, 15 April 2021, available at: https://bit.ly/3vpPEMR [last accessed 28 April 2021].

COVID-19. Relocation of vulnerable children especially at a time of heightened hardship, sends a strong message of European solidarity and we hope to see this expand soon"[881].

By December 2021, a total of 1,093 UAM, amongst whom 93% boys and 7% girls, had been relocated to other EU member states, most of them to Germany and France, followed by Portugal and Finland. The relocation scheme has been extended until March 2022, in an attempt to meet the total number of pledges made by Member States.[882]

Types of accommodation for unaccompanied children

Out of the total number of available places for unaccompanied children in Greece at the end of 2021 (i) 1,990 were in 71 shelters for unaccompanied children; and (ii) 488 places were in 121 Supported Independent Living apartments for unaccompanied children over the age of 16.[883] Moreover, in December 2021 18 UAM were accommodated in facilities dedicated to relocation, 60 in emergency accommodation facilities, 131 in Reception and Identification Centers and 61 in Open Reception Centers.[884]

Shelters for unaccompanied children: long-term and short-term accommodation facilities for unaccompanied children (shelters) are managed primarily by civil society entities and charities as well as by and with the support of IOM.

Shelters as of December 2021			
Organisation	Shelter	Region	Municipality
APOSTOLI	ESTIA	Attica	Agios Dimitrios
ARSIS	ELLI	Eastern Macedonia & Thrace	Evros
ARSIS	FRIXOS	Eastern Macedonia & Thrace	Evros
ARSIS	MAKRINITSA	Thessaly	Volos
ARSIS	METAKSOURGEIO	Attica	Athens
ARSIS	ORAIOKASTRO	Central Macedonia	Oreokastro
ARSIS	PYLAIA	Central Macedonia	Pylaia-Chortiatis
ARSIS	TAGARADES	Central Macedonia	Thermi
ARSIS	TO SPITI TIS ARSIS	Central Macedonia	Oreokastro
DIMOS VOIOU	PENTALOFOS	Western Macedonia	Voios
EKFRASI	INOI	Attica	Athens
EKFRASI	SPORADON	Attica	Athens

881 IOM, UNHCR & UNICEF, "UN agencies welcome first relocation of unaccompanied children from Greece", 15 April 2020, available at: https://bit.ly/2Pv0BNY.
882 GCR & SCI, Children on the move (November-December 2021 update), available at: https://bit.ly/3IK6mx0.
883 EKKA, Situation Update: Unaccompanied Children (UAC) in Greece, 31 December 2021, available at: https://bit.ly/3NtWye7.
884 Ibid.

FAROS	ATHENS	Attica	Athens
FAROS ELPIDAS	PETRALONA	Attica	Athens
HAMOGELO	KABALA	Eastern Macedonia & Thrace	Kavala
HELLENIC RED CROSS	Alkibiadou A	Attica	Athens
HELLENIC RED CROSS	Alkibiadou B	Attica	Athens
HELLENIC RED CROSS	Alkibiadou C	Attica	Athens
HELLENIC RED CROSS	Kalavryta	Western Greece	Kalavryta
HELLENIC RED CROSS	Volos	Thessaly	Volos
ICSD	Ioannina	Epirus	Ioannina
ICSD	IGOUMENITSA	Epirus	IGOUMENITSA
ICSD	FRONTIZO	Epirus	Ioannina
ICSD	IOANNINA	Epirus	Ioannina
ILIAKTIDA	ERESOS	Northern Aegean	Lesvos
ILIAKTIDA	LIMANAKI	Northern Aegean	Lesvos
ILIAKTIDA	ALYSIDA	Northern Aegean	Lesvos
ILIAKTIDA	VOSTANI	Northern Aegean	Lesvos
ILIAKTIDA	SKRA	Northern Aegean	Lesvos
ILIAKTIDA	SOURADA	Northern Aegean	Lesvos
ILIAKTIDA	KALLITHEA	Attica	Kallithea
IOM	CHALANDRI	Attica	Chalandri
IOM	ILION	Attica	Ilion
IOM	KYPSELI I	Attica	Athens
IOM	KYPSELI II	Attica	Athens
IOM	PATRA	Western Greece	Patra
IOM	THESSALONIKI	Central Macedonia	Thessaloniki
KEAN	KARITSA	Thessaly	Agia
Koinoniko EKAB	PEIRAIAS	Attica	Peiraias
Koinoniko EKAB	PENTELI	Attica	Penteli
Koinoniko EKAB	KOZANI	Western Macedonia	Kozani
Koinoniko EKAB	LARISA	Thessaly	Larisa
Koinoniko EKAB	A.G. PANTELEIMON	Attica	Athens
Koinoniko EKAB	K. PATISIA	Attica	Athens
MEDIN	ANATOLI	Attica	Athens

MEDIN	IRIDA	Attica	Athens
MEDIN	NEA ESTIA	Attica	Athens
METADRASI	ATHENS	Attica	Glyfada
METADRASI	CHIOS	Northern Aegean	Chios
METADRASI	SAMOS	Northern Aegean	Samos
NOSTOS	TEEN SPIRIT I	Attica	Peiraias
NOSTOS TEEN SPIRIT II	TEEN SPIRIT II	Attica	Vyronas
SMAN ATHENS	STATHMOS EFIVON	Attica	Athens
SMAN ATHENS	HOUSE 2	Attica	Nea Ionia
SYNYPARXIS	ASPROPYRGOS	Attica	Aspropyrgos
SYNYPARXIS	DERIGNY	Attica	Athens
SYNYPARXIS	NIKAIA	Attica	Nikaia
SYNYPARXIS	OREOKASTRO	Central Macedonia	Oreokastro
SYNYPARXIS	THIRAS	Attica	Athens
THE HOME PROJECT	DAPHNE	Attica	Athens
THE HOME PROJECT	LITTLE PUGAD	Attica	Athens
THE HOME PROJECT	NISOS	Attica	Athens
THE HOME PROJECT	ORION	Attica	Athens
THE HOME PROJECT	PUGAD	Attica	Athens
THE HOME PROJECT	SHAPIRO FAMILY	Attica	Athens
THE HOME PROJECT	SOCRATES	Attica	Athens
THE HOME PROJECT	THISEAS	Attica	Athens
THE HOME PROJECT	YUWA	Attica	Athens
YCE	AGIOS ATHANASIOS	Epirus	Zagori
ZEUXIS	FOIBOS	Attica	Peiraias
ZEUXIS	OIKOS	Attica	Athens

Source: Information provided by Special Secretary for the Protection of Unaccompanied Minors of the Ministry of Migration and Asylum on 11 March 2022.

Supported Independent Living: "Supported Independent Living for unaccompanied minors" is an alternative housing arrangement for unaccompanied children aged 16 to 18 launched in 2018. The programme includes housing and a series of services (education, health etc.) and aims to enable the smooth coming of age and integration to Greek society.[885]

SILs as of December 2021		
Organisation	Region	Municipality

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

ARSIS - DIAPLOUS	Eastern Macedonia	Drama
ARSIS - DIAPLOUS	Eastern Macedonia	Kavala
ARSIS - DIAPLOUS	Central Macedonia	Thessaloniki
ARSIS - DIAPLOUS	Epirus	Ioannina
ARSIS - PYLI	Central Macedonia	Thessaloniki
ARSIS - PYLI	Central Macedonia	Ampelokipi-Menemeni
ARSIS - PYLI	Central Macedonia	Neapoli-Sykies
ARSIS - PYLI	Epirus	Ioannina
ARSIS - PYLI	Western Macedonia	Kozani
EKFRASI	Attica	Athens
ICSD	Attica	Athens
ILIAKTIDA	Northern Aegean	Mytilene
IRC	Attica	Athens
KEAN	Attica	Athens
KOINONIKO EKAB	Attica	Athens
METAdrasi	Attica	Athens
METAdrasi	Attica	Chaidari
METAdrasi	Attica	Peristeri
METAdrasi	Attica	Agioi Anargyroi - Kamatero
METAdrasi	Central Macedonia	Thessaloniki
METAdrasi	Peloponnese	Kalamata
NOSTOS	Attica	Athens
NOSTOS	Attica	Galatsi
NOSTOS	Attica	Egaleo
PRAKSIS	Attica	Athens
PRAKSIS	Attica	Galatsi
SolidarityNow	Attica	Athens
SolidarityNow	Central Macedonia	Thessaloniki
SolidarityNow	Attica	Galatsi

Source: Information provided by Special Secretary for the Protection of Unaccompanied Minors of the Ministry of Migration and Asylum on 11 March 2022.

F. Information for asylum seekers and access to reception centres

1. Provision of information on reception

According to Article 43(1) IPA, the competent authorities shall inform the applicant, within 15 days after the lodging of the application for international protection, of his or her rights and the obligations with which he or she must comply relating to reception conditions, by providing an informative leaflet in a language that the applicant understands. This material must provide information on the existing reception conditions, including health care, as well as on the organisations that provide assistance to asylum seekers.[886] If the applicant does not understand any of the languages in which the information

886 Article 43(2) IPA.

material is published or if the applicant is illiterate, the information must be provided orally, with the assistance of an interpreter.[887]

A number of actors are providing information to newly arrived persons on the islands and the mainland. However, as also mentioned in Provision of Information on the Procedure, access to comprehensive information remains a matter of concern, especially in the context of asylum, due to the expanded set of obligations and penalties that can be imposed on applicants based on the IPA.

In any event, information on reception should take into account the actual available reception capacity, the availability and accessibility of referral pathways to reception facilities and other services and the legal obligations imposed on the applicants, i.e. mainly restrictions on movement imposed in the context of the COVID-19 pandemic and the obligation to remain on a given island for those subject to EU-Turkey statement.

2. Access to reception centres by third parties

Indicators: Access to Reception Centres

1. Do family members, legal advisers, UNHCR and/or NGOs have access to reception centres?
   ☒ Yes ☐ With limitations ☐ No

According to Article 56 (2)(b) IPA, asylum seekers in reception facilities have the right to be in contact with relatives, legal advisors, representatives of UNHCR and other certified organisations. These shall have unlimited access to reception centres and other housing facilities in order to assist applicants. The Director of the Centre may extend access to other persons as well. Limitations to such access may be imposed only on grounds relating to the security of the premises and of the applicants.

With the exception of NGOs that are operational within a site and enrolled to the registry of NGOs of the MoMA, access to temporary accommodation Centres, Reception and Identification Centres and the new Closed-Controlled Centres is subject to prior official authorization at the central level, while the Director of each facility may define more specifics terms and conditions for each relevant visit (e.g. time of visit).

E. Differential treatment of specific nationalities in reception

No generalised differential treatment on the basis of nationality has been reported in 2021. Furthermore, implementation of the so-called “pilot project” by the police, which resulted in the detention upon arrival of so-called ‘low-refugee profile’ applicants (i.e. nationals and/or previous residents from countries with less than 25% average recognition rates throughout the EU),[888] has not been observed throughout the year both in the case of **Lesvos** (where it was implemented up-to the destruction of Moria RIC) and **Kos**. Nevertheless, in the case of **Kos**, this seems to have been fully replaced by the detention, upon arrival, of the majority of newcomers, which remained in effect throughout the largest part of the year.

887 Article 43(3) IPA.

888 Inter alia see GCR & SCI, Borderlines of Despair: First-line reception of asylum seekers at the Greek borders, 25 May 2018, available at: https://bit.ly/397zY5M; HIAS, Locked up without rights: Nationality-based detention in the Moria refugee camp, December 2019, available at: https://bit.ly/381UiFG.

Detention of Asylum Seekers

A. General

Indicators: General Information on Detention[889]	
1. Total number of asylum seekers detained in pre-removal centres in 2021:	6,447
2. Number of asylum seekers in administrative detention at the end of 2021:	1,344 [890]
3. Number of pre-removal detention centres:	8[891]
4. Total capacity of pre-removal detention centres:	2,900

The IPA, in force since 1 January 2020, introduced extensive provisions on the detention of asylum seekers and lower significant guarantees for the imposition of detention measures against asylum applicants,[892] threatening to undermine the principle that detention of asylum seekers should only be applied exceptionally and as a measure of last resort.

The amendments introduced by IPA with regards the detention of asylum seekers include:

- **The possibility of detaining asylum seekers even when they apply for international protection when not detained, on the basis of an extensive list of grounds justifying detention.[893]**

  Art. 46(2) IPA provides that an asylum seeker who has already applied for asylum at liberty may be detained:

  (a) in order to determine or verify his or her identity or nationality or origin;
  (b) in order to determine those elements on which the application for international protection is based which could not be obtained in the absence of detention, in particular when there is a risk of absconding of the applicant;
  (c) when there is a risk of national security or public order;
  (d) when there is a significant risk of absconding within the meaning of Art. 2(n) of Regulation (EU) 604/2013 and in order to ensure the implementation of the transfer procedure in accordance with the Dublin Regulation;
  (f) in order to decide, in the context of a procedure, on the applicant's right to enter the territory;

- **The extension of the maximum time limits for the detention of asylum seekers.**

  According to Article 46 (5) IPA, the detention of an asylum seeker can be imposed for an initial period up to 50 days and it may be successively prolonged up a maximum time period of 18 months. Furthermore, according to Art. 46(5), the detention period in view of removal (return/deportation etc) is not calculated in the total time, and thus the total detention period of a third country national within the migration context may reach 36 months (18 months while the asylum procedure + 18 months in view of removal).

  The possibility to extend the period of detention of asylum seekers up to 18 months, raises serious concerns as of its compliance with the obligation as a rule to impose asylum detention

889 Information provided by the Directorate of the Hellenic Police, 8 March 2022.
890 Total number of asylum seekers under administrative detention in pre-removal detection centers and in other detention facilities such as police stations.
891 The operation of one out of eight PRDCs (Lesvos) was suspended during 2020 and 2021.
892 UN High Commissioner for Refugees (UNHCR), "UNHCR urges Greece to Strengthen Safeguards in Draft Asylum Law," 24 October 2019, available at: https://bit.ly/2IzauTV.
893 Article 46(2) IPA.

"only for as short a period as possible" and to effectuate asylum procedures with "due diligence" in virtue of Article 9 Directive 2013/33/EU.

- **The abolition of the safeguard to impose the detention of an asylum seeker only upon a prior recommendation of the Asylum Service.**

  The IPA provided that the detention of an asylum seeker could only be imposed following a prior relevant recommendation of the Asylum Service, with the exception of cases that detention was ordered on public order grounds, in which the detention could be ordered directly by the Police Director. Art. 46(4) IPA abolished the requirement of a recommendation issued by the Asylum Service and provides that the detention of an asylum seeker on any ground is imposed directly by the Police upon prior information of the Asylum Service. As the Asylum Service is the only authority that may assess the need of detention based on the specific elements of the application and substantiate the grounds for detention as required by law, said amendment raises concerns *inter alia* as of the respect of the obligation for an individual assessment and the principle of proportionality before the detention of an asylum applicant.

In May 2020, further amendments were introduced to the legal framework of detention.[894] As noted by UNHCR regarding the May 2020 amendment "the combination of reduced procedural safeguards with provisions related to the detention of asylum seekers and to the detention of those under forced return procedures, compromises the credibility of the system and is of high concern to UNHCR. L. 4686/2020 further extends the practice of detention, which is essentially turned into the rule while it should be the exception, both for asylum seekers and those under return. For the latter it should be noted that they may not have had an effective access to the asylum process or may have gone through an asylum process with reduced procedural safeguards".[895]

More precisely, on May 2020, five months after the entry into force of L. 4636/2019, L. 4686/2020 has introduced new amendments to the IPA, regarding the detention of asylum seekers and their rights while in detention. Moreover L. 4686/2020 introduced a new type of "closed" facilities and amended relevant provision of L. 3907/2011 with regards pre-removal detention.

As of the detention of asylum seekers and their rights while in detention L. 4686/2020:

- further accelerates the procedure for asylum seekers in detention by providing that in the case of a second instance Appeal, a decision should be issued in 10 days (instead of 20 days pursuant to the initial version), art. 46(9) IPA as amended by L. 4686/2020.

- provides the possibility first instance asylum decisions to be communicated to detainees by the police, which may significantly underestimate the right of asylum seekers in detention to appeal against the decision, art. 82(4) IPA as amended by L. 4686/2020. According to said provision there is no obligation the Decision to be communicated with the presence of an interpreter and only a written information is provided to the detainee with regards the content of the decision and the possibility to submit an appeal. Thus detainees may not be in the position to understand the content and the legal importance of the document and *a fortiori* the procedure which they have to follow in order to submit an Appeal. In this way, detained asylum seekers risk to be improperly informed about their rights, the examination of their asylum application to be terminated and to remain in pre-removal detention in view of return, without their asylum application having been properly assessed.

894 L. 4686/2020, Gov. Gazette A' 96/12.05.2020.

895 UNHCR, UNHCR's Intervention at the hearing for actors to the Standing Committee of Public Administration, Public Order and Justice of the Hellenic Parliament regarding the Draft Law on the Improvement of Migration Legislation, available at: https://bit.ly/3uv0Oj7.

- foresees that the right to remain in the country is terminated by the time that the second instance decision is issued and not by the time that second instance decision is communicated to the Applicant, Art. 104(1) IPA as amended by L. 4686/2020. On the basis of this amendment police authorities consider that a person against whom a second instance negative decision on his/her asylum application can be lawfully arrested and detained in view of removal, irrespectively of the communication of the decision. Consequently, failed asylum seekers are in risk of being detained in view of removal without knowing the existence of the second instance asylum decision and without having the possibility to effectively challenge it in accordance with the law.

- provides that "in case that the Appeal [against a second instance decision] is rejected, the applicant […] is detained in a Pre-removal Facility, up until his/her removal is completed or his/her application to be finally accepted. The submission of a subsequent application and/or application for annulment and/or application for suspension does not imply ipso facto the lift of the detention", art. 92(4) IPA as amended by L. 4686/2020. Including in national legislation a legally binding provision foreseeing that in case that the appeal is rejected, the applicant "is detained in a Pre-removal Detention Facility" is not in line with EU standards with regards the imposition of detention measures. A person whose application for asylum has been rejected is a third country national in irregular situation and thus his/her case is regulated by EU Return directive, which *inter alia* provides that detention is imposed only as last resort and in case that alternatives to detention cannot be applied. Moreover, the issue of whether detention measure will remain in force following the submission of legal remedies against a second instance asylum decision (application for annulment/application for suspension) is an issue closely linked with the reasonable prospect of effectuating the removal of the detainee and cannot be regulated *in abstracto* by law.[896]

L. 4686/2020 also introduced a new type of "closed" facility. Article 30(4) L. 4686/2020 amending article 8(4) L.4375/2016 foresees the establishment of the so called "Closed Temporary Reception Facilities" for asylum seekers against whom a detention decision has been issued and the "Islands' Closed Controlled Facilities", for asylum seekers, persons under a removal procedure and persons under geographical limitation. The provision does not specify further information, such as the general operation of such centers, the reasons for placing third country nationals in such facilities, the possibility of and procedures for entry and exit, general conditions, the maximum period of stay etc and up today such centers have not yet been established.[897] Following protests from local communities, the creation of such detention facilities in the Aegean islands was suspended at first but the new Closed Controlled Access Center of **Samos** started operating during 2021,[898] and two new closed controlled structures for migrants were inaugurated in **Leros** and **Kos**.[899]

Moreover, L. 4686/2020 introduced a radical amendment of the relevant provision with regard to pre-removal detention of third country nationals, Art. 30 L. 3907/2011, which reverse the rule that migration detention is only applied exceptionally, as a last resort and under the conditions that alternatives to detention cannot be applied, contrary *inter alia* to Art. 15 of the Return Directive. According to the new version of Art. 30(1) L. 3907/2011:

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896 CJEU, Kadzoev, C-357/09 PPU, para. 64, "As is apparent from Article 15(1) and (5) of Directive 2008/115, the detention of a person for the purpose of removal may only be maintained as long as the removal arrangements are in progress and must be executed with due diligence, provided that it is necessary to ensure successful removal".

897 See *inter alia* UN High Commissioner for Refugees (UNHCR), UNHCR Comments on the Draft Law "Improvement of Migration Legislation, amendment of provisions of Laws 4636/2019 (A' 169), 4375/2016 (A' 51), 4251/2014 (A' 80) and other Provisions", 12 June 2020, available at: https://bit.ly/39RD7tl , p. 9.

898 Reuters, Greece opens new migrant holding camp on island amid tougher policy, available at: https://reut.rs/36z4wkU.

899 Kathimerini, Page turns as new centers open on Leros, Kos, available at: https://bit.ly/3CWFvfC.

"Third country nationals subject to return procedures […] are placed in detention in order to prepare the return and carry out the removal process. In case that the competent police officer considers that:

a) there is no risk of absconding **or**
b) the third-country national concerned is cooperative and does not hamper the preparation of return or the removal process **or**
c) there are no national security grounds,

other less coercive measures are applied as those provided in para. 3 of Art. 22, if considered effective"

In August 2021, a draft bill reforming the deportation and returns procedures, was tabled in Parliament and voted upon in early September 2021. The new law further extends *inter alia* the possibility of the Authorities to circumvent the guarantees of the Return Directive, including those regarding the potential imposition of detention measures.[900] More precisely, the new law provides the possibility of a deportation decision to be issued against rejected asylum seekers, based on the provisions of the national legislation on deportation (L. 3386/2005) and not on those of L. 3907/11 transposing EU Return Directive 2008/115/EC. Said exceptions are not in line with Article 2 para. 2(a) of the Return Directive defining the Directive scope.[901]

Despite the fact that no readmission to Turkey has been implemented for more than two years,[902] and for the time being no reasonable prospect of readmission to Turkey exists, third country nationals, including asylum seekers rejected as inadmissible on the basis of safe third country concept, remain detained for prolonged periods reaching several months, and in some cases, for periods exceeding a year. Moreover, Greek Authorities have not taken any measure to release Afghan citizens in detention[903] despite the rapid deterioration in the security and human rights situation in their country of origin since August 2021 onward and the fact that returns to Afghanistan has been suspended.[904]

Moreover, most people arriving in **Kos** are being held in detention upon arrival and in certain cases both asylum and RIS's procedures were initiated while the newcomers were still in quarantine. Up until July 2021, detention upon arrival was imposed to all newcomers, with the exception of persons with obvious vulnerabilities. Since October 2021, it seems that a new practice is being applied whereby the police releases individuals after twelve months without further prerequisites instead of holding them in detention for 18 months which is the maximum in law. Also, in Kos the majority of the applicants who received a negative second instance decisions and refused to voluntarily depart from Greece within 10 days were arrested and transferred to PRDC KOS for the purpose of pre-removal detention. In case they agreed to voluntary departure, they were obliged to leave RIC, under the order of RIC's Director and relevant guidelines from First Reception upon notification of the second instance decision. There have been several cases of detainees, who were released upon notification of the second instance decision providing a deadline of departure and who have been arrested again after the deadline expired due to the prohibition of leaving Kos.

Finally, at the end of 2021 residents of the new Closed Controlled Access Centre of **Samos** (KEDN of Samos) without a valid asylum seeker's card, were subject to a 'prohibition of exit' measure applied

900 L. 4825/2021 "*Reform of Deportation and Return procedures of third country nationals etc.*"

901 See UNHCR, UNHCR intervention during the hearing of actors on the Draft Law for the reform of deportation and return procedures, 31 August 2021, available at: https://bit.ly/3N6W50u; see also Commission Recommendation (EU) 2017/2338 of 16 November 2017 establishing a common 'Return Handbook' to be used by Member States' competent authorities when carrying out return-related tasks, Annex "Return Handbook", available at: https://bit.ly/3FA3dzW, 97: "even if – after final rejection of the asylum application - they become again "illegally staying", they must not be excluded from the scope of the Directive […]".

902 Ministry for Migration and Asylum, *Factsheet July 2021, «removals within the framework of the EU-Turkey Statement have not been implemented since March 2020*», https://bit.ly/3lvS76h, 11.

903 According to information provided by the Directorate of the Hellenic Police on 8 March 2022, during 2021 there have been 1328 return decisions as well as 874 return decision imposing detention on Afghan citizens.

904 Information provided by the Directorate of the Hellenic Police, 8 March 2022.

without any written decision to be communicated to the persons in question. The Administrative Court of Syros confirmed on 17 December 2021 that said measure amounts to arbitrary detention and characterized the prohibition to exit the camp as unlawful.[905]

1. Statistics on detention

At the end of 2021, the total number of third-country nationals detained in pre-removal detention centres countrywide was 2,335.[906] Out of these, 1,309 persons (56.05%) were asylum seekers.[907] An additional 380 third-country nationals were detained in police stations or other facilities countrywide by the end of the year, out of which, 35 persons (9.21 %) were asylum seekers. Furthermore, the total number of unaccompanied children in pre-removal detention centres countrywide was 22 at the end of 2021, and the number of unaccompanied children in other detention facilities such as police stations was 2.[908]

1.1. Detention in pre-removal centres

The number of asylum seekers detained in pre-removal detention facilities in Greece slightly decreased in 2021, as well as the total number of third country nationals under administrative detention.

Administrative detention: 2016-2021						
	2016	2017	2018	2019	2020	2021
Number of asylum seekers detained	4,072	9,534	18,204	23,348	10,130	6,447
Total number of persons detained	14,864	25,810	31,126	30,007	14,993	12,020

Source: Directorate of the Hellenic Police, 21 January 2017; 29 January 2018; 23 January 2019; 8 February 2020, 11 February 2021, 8 March 2022.

The number of persons who remained in pre-removal detention facilities was 2,335 at the end of 2021, out of which 1,309 were asylum seekers.[909]

The breakdown of detained asylum seekers and the total population of detainees per pre-removal centre is as follows: [910]

Breakdown of asylum seekers detained by pre-removal centre in 2021				
	Detention throughout 2021		Detention at the end of 2021	
	Asylum seekers	Total population	Asylum seekers	Total population
Amygdaleza	1,826	4,384	254	667
Tavros (Petrou Ralli)	152	1,003	32	84
Corinth	2,246	2,484	695	891
Paranesti, Drama	452	528	195	288
Xanthi	740	786	125	210

905 GCR, 'Παράνομο έκρινε το Διοικητικό Πρωτοδικείο Σύρου το μέτρο απαγόρευσης εξόδου σε Αφγανό αιτούντα άσυλο από την νέα Κλειστή Ελεγχόμενη Δομή (Κ.Ε.Δ.) Ζερβού Σάμου', available in Greek at: https://bit.ly/3Jyvjg8.

906 Unaccompanied minors are also included.

907 Information provided by the Directorate of the Hellenic Police, 8 March 2022.

908 *Ibid*.

909 Information provided by the Directorate of the Hellenic Police, 11 February 2021.

910 Unaccompanied minors included.

Fylakio, Orestiada	469	2,146	0	104
Lesvos	0	0	0	0
Kos	562	689	8	91
Total	**6,447**	**12,020**	**1,309**	**2,335**

Source: Directorate of the Hellenic Police 8 March 2022.

The breakdown of unaccompanied children under administrative detention per pre-removal centre is as follows:

Breakdown of unaccompanied minors under detention by pre-removal centre in 2020		
	Detentions throughout 2021	In detention at the end of 2021
Amygdaleza	311	22
Tavros (Petrou Ralli)	0	0
Corinth	19	0
Paranesti, Drama	15	0
Xanthi	8	0
Fylakio, Orestiada	0	0
Lesvos	0	0
Kos	10	0
Total	**363**	**22**

Source: Directorate of the Hellenic Police 8 March 2022.

Although the number of persons detained during the past few years has significantly increased in proportion to the number of the arrivals,[911] this has not been mirrored by a corresponding increase in the number of forced returns. 20,219 detention orders were issued in 2021 compared to 27,515 in 2020. The number of forced returns decreased to 3,276 on 2021 from 3,660 in 2020.[912] It is also to be mentioned that out of the 3,276 detainees who were forcibly returned, 2,655 were Albanian nationals. These findings corroborate that immigration detention is not only linked with human rights violations but also fails to effectively contribute to return.

There were 7 active pre-removal detention centres in Greece at the end of 2021. This includes five centres on the mainland (**Amygdaleza**, **Tavros**, **Corinth**, **Xanthi**, **Paranesti**, **Fylakio**) and one on the islands (**Kos**). Lesvos pre-removal detention center has temporarily suspended its operation. The total pre-removal detention capacity is 2,900 places.[913] A new pre-removal detention centre established in **Samos** in 2017 is not yet operational.

In 2021, a total of 119 persons were returned to the Eastern Aegean islands after being apprehended outside their assigned island, up from 282 in 2020:

911 According to UNHCR the total number of arrivals by land and sea was 15,696 in 2020 and 9,157 in 2021. Information available at: https://bit.ly/3t8i3GD

912 Ombudsman, *Return of third-country nationals*, Special Report 2018, available at https://bit.ly/3bv0GYm; Information provided by the Directorate of the Hellenic Police, 8 February 2020, 11 February 2021 and 8 March 2022.

913 Information provided by the Directorate of the Hellenic Police, 8 March 2022.

Returns to the islands due to non-compliance with a geographical restriction: 2020						
Lesvos	Chios	Samos	Kos	Leros	Rhodes	**Total**
32	6	11	44	26	0	**119**

Source: Directorate of the Hellenic Police 11 February 2021.

The number of persons lodging an asylum application from detention in 2021 was not made available. The number of first instance decisions on applications submitted from detention issued by the Asylum Service in 2021 is not available.

1.2. Detention in police stations and holding facilities

In addition to the above figures, there were 380 persons, of whom 35 were asylum seekers, detained in several other detention facilities countrywide such as police stations, border guard stations etc at the end of 2021.[914]

Furthermore, as stated above, at the end of 2021, the total number of unaccompanied children in detention in several detention facilities countrywide was 22.[915]

As the ECtHR has found, these facilities are not in line with Art. 3 ECHR's guarantees given "the nature of police stations per se, which are places designed to accommodate people for a short time only".[916]

B. Legal framework of detention

1. Grounds for detention

Indicators: Grounds for Detention

1. In practice, are most asylum seekers detained
   - ❖ on the territory: ☒ Yes ☐ No
   - ❖ at the border: ☐ Yes ☒ No
2. Are asylum seekers detained in practice during the Dublin procedure?[917]
   ☐ Frequently ☒ Rarely ☐ Never
3. Are asylum seekers detained during a regular procedure in practice?
   ☒ Frequently ☐ Rarely ☐ Never

1.1. Asylum detention

According to Article 46 IPA, an asylum seeker shall not be detained on the sole reason of seeking international protection or having entered and/or stayed in the country irregularly.[918] However as

914 Information provided by the Directorate of the Hellenic Police, 8 March 2022.
915 *Ibid*.
916 *H.A. and Others v. Greece*, application no. 19951/16, 28 February 2019; *S.Z. v. Greece*, application no. 66702/13, 21 June 2018, para. 40.
917 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.
918 Article 46(1) IPA.

mentioned above IPA foresees the possibility to detain asylum seekers who have already applied for asylum while at liberty.

Moreover, an asylum seeker may remain in detention if he or she is already detained for the purpose of removal when he or she makes an application for international protection, and subject to a new detention order following an individualised assessment. In this case the asylum seeker may be kept in detention for one of the following 5 grounds:[919]

(a) in order to determine his or her identity or nationality;
(b) in order to determine those elements on which the application for international protection is based which could not be obtained otherwise, in particular when there is a risk of absconding of the applicant;
(c) when it is ascertained on the basis of objective criteria, including that he or she already had the opportunity to access the asylum procedure, that there are reasonable grounds to believe that the applicant is making the application for international protection merely in order to delay or frustrate the enforcement of a return decision, if it is probable that the enforcement of such a measure can be affected;
(d) when he or she constitutes a danger for national security or public order;
(e) when there is a serious risk of absconding of the applicant, in order to ensure the enforcement of a transfer decision according to the Dublin III Regulation.

For the establishment of a risk of absconding for the purposes of detaining asylum seekers on grounds (b) and (e), the law refers to the definition of "risk of absconding" in pre-removal detention.[920] The relevant provision of national law includes a non-exhaustive list of objective criteria which may be used as a basis for determining the existence of such a risk, namely where a person:[921]

- Does not comply with an obligation of voluntary departure;
- Has explicit declared that he or she will not comply with the return decision;
- Is in possession of forged documents;
- Has provided false information to the authorities;
- Has been convicted of a criminal offence or is undergoing prosecution, or there are serious indications that he or she has or will commit a criminal offence;
- Does not possess travel documents or other identity documents;
- Has previously absconded; and
- Does not comply with an entry ban.

The fact that national legislation includes a non-exhaustive and indicative list of such criteria and thus other criteria not explicitly defined by law can also be used for determining the existence of the "risk of absconding", is not in line with the relevant provision of the EU law providing that said objective criteria "*must be defined by law*".[922]

Article 46(2)(3) IPA also provided that such a detention measure should be applied exceptionally, after an individual assessment and only as a measure of last resort where no alternative measures can be applied.

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919 Article 46(3) IPA
920 Article 18(g) L 3907/2011, cited by Art. 46(2-b) and 46(3-b) IPA.
921 Article 18(g)(a)-(h) L 3907/2011.
922 Article 3(7) Directive 2008/115/EC; see also *mutandis mutandis* CJEU, C-528/15, *Al Chodor*, 15 March 2017, para. 47, "Article 2 (n), in conjunction with Article 28 (2) of the Dublin III Regulation, has the meaning that it requires the Member States to lay down, by means of a binding provision of general application, the objective criteria on the basis of which it is assumed that there is a risk of absconding of the applicant being subjected to a transfer procedure. The absence of such a provision renders Article 28 (2) of that regulation inapplicable".

As noted above, a detention order under IPA is issued following prior information by the Head of the Asylum Service. However, the final decision on the detention lies with the Police. The number of information notes made by the Asylum Service in 2021 is not available.

1.1.1. Detention of asylum seekers applying at liberty

The IPA provides for the possibility of detaining asylum seekers even when they apply for international protection when not detained, on the basis of any of the grounds provided by article 8 of the Directive 2013/33/EU. According to such grounds an applicant may be detained only:

(a) in order to determine or verify his or her identity or nationality;

(b) in order to determine those elements on which the application for international protection is based which could not be obtained in the absence of detention, in particular when there is a risk of absconding of the applicant;

(c) in order to decide, in the context of a procedure, on the applicant's right to enter the territory;

(d) when he or she is detained subject to a return procedure under Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals (9), in order to prepare the return and/or carry out the removal process, and the Member State concerned can substantiate on the basis of objective criteria, including that he or she already had the opportunity to access the asylum procedure, that there are reasonable grounds to believe that he or she is making the application for international protection merely in order to delay or frustrate the enforcement of the return decision;

(e) when protection of national security or public order so requires;

(f) in accordance with Article 28 of Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (10).

Up until the end of 2021 asylum seekers, who have applied for asylum at liberty in one of the Eastern Aegean islands and were subject to a geographical restriction, were detained as a rule if arrested outside the assigned area in order to be transferred back to that island. In these cases, a detention order was imposed contrary to the guarantees provided by law for administrative detention and without their asylum seeker legal status being taken into consideration: the detention order was unlawfully issued based on L 3907/2011 and/or L 3386/2005, which refers to the deportation of irregularly staying third-country nationals to their country of origin, as these legal frameworks are not applied to asylum seekers. As it was also the case in previous years, in a case supported by GCR, the Administrative Court of Piraeus ordered the release from detention of a man from Syria, who was detained for the purpose of his transfer back to Samos on the basis that, *inter alia*, he is an asylum applicant and could not be detained for return purposes.[923]

1.1.2. The interpretation of the legal grounds for detention in practice

There is a lack of a comprehensive individualised procedure for each detention case, despite the relevant legal obligation to do so. This is of particular concern with regard to the proper application of the lawful detention grounds provided by national legislation, as the particular circumstances of each

[923] Administrative Court of Piraeus, Decision 23/2021.

case are not duly taken into consideration. Furthermore, the terms, the conditions and the legal grounds for the lawful imposition of a detention measure seem to be misinterpreted in some cases. These cases include the following:

Detention on public order or national security grounds

As repeatedly reported in previous years, public order grounds are used in an excessive and unjustified manner, both in the framework of pre-removal detention and detention of asylum seekers.[924] This continues to be the case. The Return Directive does not cover detention on public order grounds,[925] and thus the relevant Greek provision on pre-removal detention – Article 30(1)(c) L 3907/2011 – is an incorrect transposition of EU law. For both detainees subject to removal and asylum seekers, detention on public order grounds is usually not properly justified.

The authorities issue detention orders without prior examination of whether the "applicant's individual conduct represents a genuine, present and sufficiently serious threat", in line with the case of law of the Council of State and the CJEU.[926] This is particularly the case where these grounds are based solely on a prior prosecution for a minor offence, even if no conviction has ensued, or in cases where the person has been released by the competent Criminal Court after the suspension of custodial sentences. The Ombudsman has once again in 2019 criticised this practice.[927] In a case supported by GCR in 2021, the Administrative Court of Athens accepted objections against the detention of a Syrian national who was administratively detained in Tavros pre-removal detention center (Athens), on the grounds that, *inter alia*, he was accused with criminal charges. The Court declared, *inter alia*, that the nature of the attributed crime was of low importance and considering his personal circumstances he cannot be considered as a threat for public order. Thus the court ordered his release from detention.[928]

In addition, detention on national security or public order grounds has been also ordered for reasons of irregular entry into the territory, contrary to Article 31 of the Refugee Convention and the prohibition on detaining asylum seekers on account of their irregular entry or presence under Article 46(1) IPA. For instance, in a case supported by GCR, an Afghan asylum seeker remained in administrative detention for reasons of public order related to the fact that he entered illegally in the country. The Administrative Court of Athens accepted objections against the detention of the applicant, claiming that the sole fact of the irregular entrance in the country does not allow detention on public order grounds.[929]

Moreover, a further consequence of the events that unfolded after 28 February 2020, was the decision by certain prosecutors to criminally charge migrants with illegal entry into the country according to the provisions of Law 3386/2005. More precisely, between 28 February and 14 March 2020, the single-member Misdemeanours Court in Orestiada sentenced 103 persons to imprisonment under the above-mentioned regulation. The CPT expressed serious misgivings about the way in which these cases were conducted and asked the Greek authorities to ensure that all Public Prosecutors and Misdemeanour Courts are fully cognisant of Greece's international legal obligations.[930] However, in a case supported by GCR the Administrative Court of Athens rejected objections against detention of an Afghan applicant, who was sentenced to imprisonment for irregular entry and remained in criminal detention for a period of one year and in administrative detention for a period of eleven months. The Court asserted that he

924 Ombudsman, *Return of third-country nationals*, Special Report 2018, available at: https://bit.ly/37jgpGz, 17.
925 European Commission, *Return Handbook*, 27 September 2017, available at: http://bit.ly/2nITCQ, 78-79.
926 CJEU, Case C-601/15 PPU *J.N.*, Judgment of 15 February 2016, paras 65-67. See e.g. Council of State, Decisions 427/2009, 1127/2009 and 2414/2008, which highlight that a mere reference to a criminal conviction does not suffice for the determination of a threat to national security or public order.
927 Ombudsman, *Return of third-country nationals etc., idem.*
928 Administrative Court of Athens, Decision AP 19/2021.
929 Administrative Court of Athens, Decision AP 2150/2021.
930 Council of Europe's anti-torture Committee calls on Greece to reform its immigration detention system and stop pushbacks, available at: https://bit.ly/2Slm255.

can be considered as a threat of public order on the basis of his conviction as well as that there was a risk of absconding.[931]

Furthermore, as the Ombudsman has highlighted on the practice of imposing detention on public order grounds solely based on a prior conviction by which custodial measures have been suspended, the mere suspensive effect of the sentence granted by the competent Criminal Court proves that the person is not considered a threat to public order, while his administrative detention on public order grounds raises questions of misuse of power on behalf of the police.[932]

Detention of applicants considered to apply merely in order to delay or prevent return

Applicants subject to the JMD designating Turkey as a safe third country together with applicants submitting a subsequent asylum application were systematically detained on the basis that "there are reasonable grounds to believe that the application is submitted merely in order to delay or prevent the enforcement of the return decision". The detention order and the recommendation of the Asylum service issued in such detention cases are lacking proper justification. Instead, they simply repeat part of the relevant legal provision, without due consideration to objective criteria or individual circumstances. For instance, in a case supported by GCR, the Administrative Court of Athens ordered the release of an Afghan asylum seeker after his subsequent application had been considered admissible by the Autonomous Asylum Unit of Amygdaleza. He had been previously detained on the basis that there are reasonable grounds to believe that he applied for international protection to delay or prevent the enforcement of the return decision.[933]

It should also be noted that, as stated before, since a number of persons are immediately detained upon arrival , it is clear that these asylum seekers have not "already had the opportunity to access the asylum procedure" while at liberty, as required by the law.

1.2. Detention without legal basis or *de facto* detention

Apart from detention of asylum seekers under IPA and pre-removal detention under L 3386/2005 and L 3907/2011, detention without legal basis in national law or *de facto* detention measures are being applied for immigration purposes. These cases include the following:

1.2.1. Detention in the "closed-controlled centre" (KEDN) of Samos

At the end of 2021, residents in the new EU-funded 'Closed Controlled Access Center' in Samos without a valid asylum seeker's card were barred from leaving the camp. The practice was applied to individuals who have had their cards withdrawn as a result of unsuccessful asylum applications or newcomers yet to be issued with a card. According to unofficial estimates, in early December 2021 around 100 of the approximately 450 residents have been prevented from leaving the prison-like premises for more than two weeks, in violation of their right to liberty.[934]

931 Administrative Court of Athens, Decision AP1985/2021.
932 GCR, *2018 Detention Report*, available at: https://bit.ly/2vrq; and Ombudsman, *Return of third-country nationals etc., idem.*
933 Administrative Court of Athens, Decision AP119/2022.
934 Amnesty International, Greece: Asylum seekers being illegally detained in new EU-funded camp, 2 December 2021, available at: https://bit.ly/3N1GobH.

In a case of an Afghan national residing in KEDN of **Samos** supported by GCR, the Administrative Court of Syros concluded that the restriction of movement amounts to arbitrary detention and considered the exit ban from the camp unlawful.[935]

1.2.2. Detention of newly arrived persons under quarantine

Greek authorities maintain an automatic quarantine policy for asylum seekers arriving on the **Eastern Aegean islands, thereby detaining them for a** two-week quarantine period–regardless of their vaccination status or COVID-19 infection status –in order to prevent the potential spread of coronavirus. During this quarantine period, asylum seekers are typically escorted by police to a guarded quarantine facility which they cannot leave, amounting to an arbitrary deprivation of liberty and de-facto detention. The detainees are not registered as asylum seekers by Greek authorities until after the quarantine and they are not served with an administrative detention order. As a result, they are not entitled to procedural safeguards–such as a legal avenue to challenge improper quarantine procedures or conditions.[936]

Other forms of de facto detention such as detention pending transfer to RIC, de facto detention in RIC, de facto detention in transit zones, detention of recognised refugees and detention in the case of alleged push backs continue to occur during 2021 according to GCR's knowledge.[937]

2. Alternatives to detention

Indicators: Alternatives to Detention	
1. Which alternatives to detention have been laid down in the law?	☒ Reporting duties ☒ Surrendering documents ☒ Financial guarantee ☒ Residence restrictions
2. Are alternatives to detention used in practice?	☐ Yes ☒ No

Articles 46(2) and 46 (3) IPA require authorities to examine and apply alternatives to detention before resorting to detention of an asylum seeker. A non-exhaustive list of alternatives to detention provided by national legislation, both for third-country nationals under removal procedures and asylum seekers, is mentioned in Article 22(3) L 3907/2011. Regular reporting to the authorities and an obligation to reside at a specific area are included on this list. The possibility of a financial guarantee as an alternative to detention is also foreseen in the law, provided that a Joint Decision of the Minister of Finance and the Minister of Public Order will be issued with regard to the determination of the amount of such financial guarantee.[938] However, such a Joint Ministerial Decision is still pending since 2011. In any event, alternatives to detention are systematically neither examined nor applied in practice. As noted by UNHCR in May 2019 "there is no consideration of alternative measures to detention". [939]

IPA repealed the condition of a prior recommendation on the continuation or termination of detention from the Asylum Service (article 46(4) IPA) requiring solely the notification ('ενημέρωση') from the

935 GCR, Παράνομο έκρινε το Διοικητικό Πρωτοδικείο Σύρου το μέτρο απαγόρευσης εξόδου σε Αφγανό αιτούντα άσυλο από την νέα Κλειστή Ελεγχόμενη Δομή (Κ.Ε.Δ.) Ζερβού Σάμου, available in Greek at: https://bit.ly/3Jyvjg8.

936 Equal Rights beyond borders, REPORT OF THE SPECIAL RAPPORTEUR ON THE HUMAN RIGHTS OF MIGRANTS HUMAN RIGHTS VIOLATIONS AT INTERNATIONAL BORDERS: TRENDS, PREVENTION AND ACCOUNTABILITY, available at: https://bit.ly/3JAt8IY.

937 AIDA, Report on Greece, 2020 Update.

938 Article 22(3) L 3907/2011.

939 UNHCR, "Recommendations by the Office of the United Nations High Commissioner for Refugees (UNHCR) concerning the execution of judgments by the European Court of Human Rights (ECtHR) in the cases of M.S.S. v. Belgium and Greece (Application No. 30696/09, Grand Chamber judgment of 21 January 2011) and of Rahimi v. Greece (Application No. 8687/08, Chamber judgment of 05 April 2011)", 15 May 2019, page 5.

Asylum Service. Under the previous legislation said condition was provided. However, when issuing recommendations on the continuation or termination of detention of an asylum seeker,[940] the Asylum Service tended to use standardised recommendations, stating that detention should be prolonged "if it is judged that alternative measures may not apply". Thus, the Asylum Service did not proceed to any assessment and it was up to the Police to decide on the implementation of alternatives to detention.

The geographical restriction on the islands

As regards the "geographical restriction" on the islands, i.e. the obligation to remain on the island of arrival, imposed systematically to newly arrived persons subject to the EU-Turkey statement (see General), after the initial issuance of a detention order, the legal nature of the measure has to be assessed by taking into account the "concrete situation" of the persons and "a whole range of criteria such as the type, duration, effects and manner of implementation of the measure."[941] In any event, it should be mentioned that the measure is:

(a) Not examined and applied before ordering detention;[942]
(b) Not limited to cases where a detention ground exists;[943]
(c) Applied indiscriminately, without a proportionality test, for an indefinite period (without a maximum time limit to be provided by law) and without an effective legal remedy to be in place.

As has been observed, a national practice systematically imposing an alternative to detention "would suggest that the system is arbitrary and not tailored to the individual circumstances" of the persons concerned.[944]

Non-compliance with the geographical restriction leads to the re-detention of persons arrested outside their assigned island with a view to be transferred back. Persons returned either remain detained or, if released, often face harsh living conditions due to overcrowded reception facilities on the islands.

3. Detention of vulnerable applicants

Indicators: Detention of Vulnerable Applicants

1. Are unaccompanied asylum-seeking children detained in practice?
   ☒ Frequently ☐ Rarely ☐ Never
   - ❖ If frequently or rarely, are they only detained in border/transit zones? ☐ Yes ☒ No
2. Are asylum seeking children in families detained in practice?
   ☒ Frequently ☐ Rarely ☐ Never

National legislation provides a number of guarantees with regard to the detention of vulnerable persons, yet does not prohibit their detention. According to Article 48 IPA women should be detained separately

940 Article 46(3) L 4375/2016.
941 See *inter alia* ECtHR, *Guzzardi v. Italy*, Application No 7367/76, Judgment of 6 November 1980, para 92-93.
942 UN Commission on Human Rights, *Report of the Working Group on Arbitrary Detention. Addendum: report on the visit of the Working Group to the United Kingdom on the issue of immigrants and asylum seekers*, 18 December 1998, E/CN.4/1999/63/Add.3, available at: http://bit.ly/2kFs5LN, para 33: "Alternative and non-custodial measures, such as reporting requirements, should always be considered before resorting to detention".
943 FRA, *Fundamental rights: challenges and achievements in 2012*, available at: http://bit.ly/2EHr0k7, 52.
944 UNHCR, *Guidelines on the Applicable Criteria and Standards relating to the Detention of Asylum-Seekers and Alternatives to Detention*, 2012, available at: http://bit.ly/2mJk3Uh, 43.

from men[945], the privacy of families in detention should be duly respected[946], and the detention of minors should be a last resort measure and be carried out separately from adults[947]. Moreover, according to the law, "the vulnerability of applicants… shall be taken into account when deciding to detain or to prolong detention."[948]

More generally, Greek authorities have the positive obligation to provide special care to applicants belonging to vulnerable groups (see Special Reception Needs).[949] However, persons belonging to vulnerable groups are detained in practice, without a proper identification of vulnerability and individualised assessment prior to the issuance of a detention order. In 2021 GCR has supported various cases of vulnerable persons in detention whose vulnerability had not been taken into account.

These include:

- A citizen from the Democratic Republic of Congo who was hospitalized for a period of ten days in a psychiatric clinic after he attempted to commit suicide in the detention facility. He was released after GCR submitted objections against his detention to the Administrative Court of Piraeus. [950]
- Three single women originating from Somalia, victims of sexual violence, who were detained in PRDC of Amygdaleza for two months.
- An asylum seeker originating from Cameroon, victim of torture and sexual abuse, was detained in a police station for a period of three months after being hospitalised for a period of one month.[951] After the submission of Objections against detention by GCR the Administrative Court of Athens ordered his release considering his serious mental disorder.
- An asylum seeker originating from Iran who was detained in a police station. After the submission of Objections against detention by GCR the Administrative Court of Athens ordered his release considering his vulnerable situation, the fact that he was identified as a victim of torture and the effect of the detention conditions on his mental health.[952]

Moreover, victims of torture have been placed in detention on the islands. In the case *M.A. v. Greece*, the person was kept in the RIC of Moria for one more month and was subsequently placed in detention, on the basis that his asylum claim had been rejected at second instance, despite an order of interim measures set by the ECtHR on 6 May 2020 to guarantee the applicant living conditions compliant with Article 3 ECHR, "having regard to his state of health and to provide the applicant with adequate healthcare compatible with his state of health."[953]

3.1. Detention of unaccompanied children

Following criticism by international bodies and civil society actors as well as several decisions of the ECtHR, L. 4760/2020 entered into force on 11 December 2020, the possibility to detain unaccompanied children under the pretext of 'protective custody' has been abolished. [954] Other legal provisions that allow the detention of unaccompanied children are still in force.[955]

945 Article 48(4) IPA.
946 Article 48(3) IPA.
947 Article 48(2) IPA.
948 Article 48(1) IPA.
949 Article 60 L 4636/2019
950 Administrative Court of Piraeus, Decision AP260/2021.
951 Administrative Court of Athens, AP873/2021
952 Administrative Court of Athens, Decision AP695/2021.
953 ECtHR, *M.A. v. Greece*, App No 18179/20, Order of 6 May 2020: Information provided by RSA, 4 January 2021.
954 Gov. Gazette A' 247/11-12-2020, L. 4760/2020.
955 Article 48(2) IPA, article 118 of the Presidential Decree 141/1991 regarding "protective custody' of unaccompanied minors, L.3907/2011.

Since the start of the implementation of the new legislation, unaccompanied children as a rule do not remain in administrative detention and they are transferred to reception facilities. However, even in 20201 a small number of unaccompanied children, as corroborated by the official statistics has been placed in detention, in most of the cases for very short periods. At the end of 2021, 22 unaccompanied children (22) were detained at the end of 2021, in most cases for very short periods and in total, 363 unaccompanied children were kept in PRDCs countrywide during 2021.[956]

Detention following wrong age assessment

As mentioned above (Guarantees for vulnerable groups), until August 2020, two Ministerial Decisions were providing for the age assessment procedure of unaccompanied children:

- Ministerial Decision 92490/2013 laid down the age assessment procedure in the context of reception and identification procedures and
- Joint Ministerial Decision 1982/2016 provided for an age assessment procedure for persons seeking international protection before the Asylum Service,[957] as well as persons whose case was still pending before the authorities of the "old procedure".[958]

On 13 August 2020 the Joint Ministerial Decision 9889/2020 entered into force. [959] It sets out a common age assessment procedure both in the context of reception and identification procedures and the asylum procedure. However, the scope of the JMD 9889/2020, as was the case with the previous ones, does not extend to age assessment of unaccompanied children under the responsibility of the Hellenic Police. In practice, children under the responsibility of police authorities are as a rule deprived of any age assessment guarantees set out in the relevant Ministerial Decision, and systematically undergo medical examinations consisting of left-hand X-ray, panoramic dental X-ray and dental examination in case their age is disputed. In addition to the limited reliability and highly invasive nature of the method used, it should be noted that no remedy is in place to challenge the outcome of that procedure.

As the noted by The Working Group on Arbitrary Detention "these provisions are not being applied in practice. At present, the police reportedly rely primarily on X-ray and dental examinations under the third step of the age-assessment procedure. Persons claiming to be children are not generally represented or informed of their rights in a language that they understand during the assessment. […] Minors are thus being detained unnecessarily owing to inaccurate assessment procedures, and are treated as and detained with adults. The Working Group recommends that the authorities consistently apply the guarantees outlined above, particularly the presumption that a person is a child unless the contrary can be proven. The Working Group reiterates the Greek Ombudsman's call to the Government in 2018 to put a complete end to all administrative detention of migrants under the age of 18 years." [960]

A number of cases of unaccompanied children detained as adults were identified by GCR during 2021. In a case supported by GCR, a 16-year old unaccompanied boy from Afghanistan was arrested and detained in Korinthos PRDC as an adult for more than 2 months until he was place in an accommodation facility.

956 Information provided by the Directorate of the Hellenic Police, 8 March 2022.
957 Joint Ministerial Decision 1982/2016, Gov. Gazette B'335/16-2-2016.
958 Article 22(A)11 JMD 1982/2016, citing Article 34(1) PD 113/2013 and Article 12(4) PD 114/2010
959 Joint Ministerial Decision 9889/2020, Gov. Gazette 3390/B/13-8-2020.
960 Human Rights Council, Visit to Greece. Report of the Working Group on Arbitrary Detention, A/HRC/45/16/Add.1, 29 July 2020, available at: https://bit.ly/3dPiHSX , para. 74 &76.

3.2. Detention of families

Despite the constant case law of the ECtHR with regard to the detention of families in the context of migration control,[961] families with children are in practice detained. Among others, GCR has supported cases throughout 2021 of single-parent families, families with minor children or families where one member remained detained. For instance, there have been cases of families which remained detained for periods exceeding one month following a shipwreck before they were transferred to open accommodation facilities.

4. Duration of detention

Indicators: Duration of Detention	
1. What is the maximum detention period set in the law (incl. extensions):	
❖ Asylum detention	18 months
❖ Pre-removal detention	18 months
❖ "Protective custody"	None
2. In practice, how long in average are asylum seekers detained?	3-6 months

4.1. Duration of asylum detention

IPA has laid down an initial 50-day duration for asylum detention, which can be further prolonged with 50-days, with a maximum up to 18 months, notwithstanding previous periods spent in pre-removal detention.[962]

In practice, the time limit of detention is considered to start running from the moment an asylum application is formally lodged with the competent Regional Asylum Office or Asylum Unit rather than the moment the person is detained. As delays are reported systematically in relation to the registration of asylum applications from detention, i.e. from the time that the detainee expresses the will to apply for asylum up to the registration of the application (see Registration), the period that asylum seekers spent in detention was *de facto* longer.

Beyond setting out maximum time limits, the law has provided further guarantees with regard to the detention period. Thus detention "shall be imposed for the minimum necessary period of time" and "delays in administrative procedures that cannot be attributed to the applicant shall not justify the prolongation of detention."[963] Moreover, as the law provides "the detention of an applicant constitutes a reason for the acceleration of the asylum procedure, taking into account possible shortages in adequate premises and the difficulties in ensuring decent living conditions for detainees". However, GCR has documented cases where the procedure was not carried out with due diligence and detention was prolonged precisely because of the delays of the administration, especially after the outbreak of COVID-19.

It should also be mentioned that time limits governing the detention of asylum seekers differ from those provided for the detention of third-country nationals in view of removal. In relation to pre-removal detention, national legislation transposing the Returns Directive provides a maximum detention period that cannot exceed 6 months,[964] with the possibility of an exceptional extension not exceeding twelve months, in cases of lack of cooperation by the third-country national concerned, or delays in obtaining

961 See for example ECtHR, *Mahmundi and Others v. Greece,* Application No 14902/10, Judgment of 31 July 2012.
962 Article 46(5)(b) IPA.
963 Article 46(5)(a) IPA.
964 Article 30(5) L 3907/2011.

the necessary documentation from third countries.[965]

Following changes in legislation and practice, it is evident that detention lasts for prolonged periods, risking sometimes to reach maximum time limits. For instance, out of 2,335 persons detained at the end of 2021, 700 had been detained for periods exceeding six months. Moreover, out of 1,309 asylum seekers detained at the end of 2021, 411 had also been detained for periods more than six months.[966]

C. Detention conditions

1. Place of detention

Indicators: Place of Detention

1. Does the law allow for asylum seekers to be detained in prisons for the purpose of the asylum procedure (i.e. not as a result of criminal charges)? ☐ Yes ☒ No

2. If so, are asylum seekers ever detained in practice in prisons for the purpose of the asylum procedure? ☐ Yes ☒ No

1.1. Pre-removal detention centres

According to Article 47(1) L 4636/2019, asylum seekers are detained in detention areas as provided in Article 31 L 3907/2011, which refers to pre-removal detention centres established in accordance with the provisions of the Returns Directive. Therefore, asylum seekers are also detained in pre-removal detention centres together with third-country nationals under removal procedures. Despite the fact that pre-removal detention centres have been operating since 2012, they were officially established through Joint Ministerial Decisions in January 2015.[967]

Seven pre-removal detention centres were active at the end of 2021. The PRDC of Lesvos, has temporarily suspended its operation due to extended damages following the widespread fire of September 2020. The total pre-removal detention capacity is 4,599 places. A ninth pre-removal centre has been legally established on **Samos** but was not yet operational as of March 2022. According to information provided to GCR by the Hellenic Police, the capacity of the pre-removal detention facilities is as follows:

Capacity of pre-removal detention centres[968]		
Centre	Region	Capacity
Amygdaleza	Attica	800
Tavros (Petrou Ralli)	Attica	150
Corinth	Peloponnese	768
Paranesti, Drama	Thrace	300
Xanthi	Thrace	210

965 Article 30(6) L 3907/2011.
966 Information provided by the Directorate of the Hellenic Police, 11 February 2021.
967 Joint Ministerial Decision 8038/23/22-ιγ on the creation and functioning of Pre-removal Centres of Detention of Foreigners, and their regulations, Gov. Gazette 118/B/21-1-2015, available at: http://bit.ly/2kTWzKX.
968 According to the information provided by the Directorate of Hellenic Police, 11 February 2021.

Fylakio, Orestiada	Thrace	232
Lesvos	Eastern Aegean	0
Kos	Dodecanese	440
Samos	Eastern Aegean	0
Total		2,900

The functioning of these pre-removal facilities has been prolonged until 31 December 2022 under a Joint Ministerial Decision issued at the end of 2018.[969] According to this Decision, the estimated budged for the functioning of the pre-removal detention centres is €80,799,488.

1.2. Police stations

Apart from the aforementioned pre-removal facilities, the law does not expressly rule out detention of asylum seekers in criminal detention facilities.[970] Despite commitments from the Greek authorities to phase out detention in police stations and other holding facilities, third-country nationals including asylum seekers and unaccompanied children were also detained in police stations and special holding facilities during 2021. As confirmed by the Directorate of the Hellenic Police, there were 380 persons in administrative detention at the end of 2021 in facilities other than pre-removal centres, of whom 35 were asylum seekers.[971]

As stated in Grounds for Detention, detention is also *de facto* applied at the RIC of **Fylakio**.

2. Conditions in detention facilities

Indicators: Conditions in Detention Facilities			
1. Do detainees have access to health care in practice?	☐ Yes	☒ Limited	☐ No
❖ If yes, is it limited to emergency health care?[972]	☒ Yes		☐ No

The law sets out certain special guarantees on detention conditions for asylum seekers. Notably, the authorities must make efforts to ensure that detainees have necessary medical care, and their right to legal representation should be guaranteed.[973] In any event, according to the law, "difficulties in ensuring decent living conditions... shall be taken into account when deciding to detain or to prolong detention."[974]

However, as it has been consistently reported by a range of actors, that detention conditions for third-country nationals, including asylum seekers, do not meet the basic standards in Greece.

969 Joint Ministerial Decision 8038/23/22-πζ/, Gov. Gazette B' 5906/31.12.2018.
970 Article 46 IPA.
971 Information provided by the Directorate of the Hellenic Police, 11 February 2021.
972 Medical doctors, when available, are not daily present in all centres. However, in case of emergency, detainees are transferred to public hospitals.
973 Article 47 (7) IPA
974 Article 46(2) and 46(3) IPA

2.1. Conditions in pre-removal centres

2.1.1. Physical conditions and activities

According to the law, detained asylum seekers shall have outdoor access.[975] Women and men shall be detained separately,[976] unaccompanied children shall be held separately from adults,[977] and families shall be held together to ensure family unity.[978] Moreover, the possibility to engage in leisure activities shall be granted to children.[979]

GCR regularly visits the pre-removal facilities depending on needs and availability of resources. According to GCR findings, as corroborated by national and international bodies, conditions in pre-removal detention facilities vary to a great extent and in many cases fail to meet standards.

Overall detention conditions in pre-removal detention facilities (PRDFs) remain substandard, despite some good practices, which have been adopted in some pre-removal detention facilities (such as allowing detainees to use their mobile phones). Major concerns include a carceral, prison-like design, the lack of sufficient hygiene and non-food items, including clothes and shoes, clean mattresses and clean blankets, the lack of recreational activities, and overcrowding persisting in some facilities. The provision of medical services in PRDFs remains critical, as the available resources remain inadequate with respect to observed needs.[980] In March 2020, CPT acknowledged after its visit that regrettably, once again, far too many of the places being used to detain migrants offered conditions of detention which are an affront to human dignity.[981] The precise observations for each PRDF, included on the previous AIDA report, are still valid.[982]

In June 2021, the Greek Ombudsman pointed in particular to the following main issues:[983]

- Overcrowding in detention, especially in police stations,
- Lack of doctors, nurses, psychologists and social workers,
- Total lack of interpretation services,
- Lack of entertaining activities,
- Poor structures, hygiene conditions and lack of light and heating,
- Inadequate cleaning,
- Lack of clothing,
- Lack or limited possibility of access open air spaces.

Poor detention conditions have often been invoked by appeal lawyers during detention reviews, as the court must decide not only on the necessity of detention, but also on its compatibility with certain human rights conditions. The Greek administrative courts have been very reluctant to accept arguments based on the poor detention conditions. In most cases, these arguments have been rejected as 'vague and

975 Article 44(3) IPA
976 Article 48(4) IPA
977 Article 48(2) IPA
978 Articles 48(3) IPA.
979 Article 48(2) IPA.
980 Global Detention Project/Greek Council for Refugees, Joint Submission to the Working Group on Arbitrary Detention in Preparation for its Mission to Greece in December 2019, October 2019, available at: https://bit.ly/3cqZplk.
981 Council of Europe's anti-torture Committee calls on Greece to reform its immigration detention system and stop pushbacks, available at: https://bit.ly/39ZNL1h. See also, CPT, Report to the Greek Governmenton the visit to Greece carried out by the European Committee for the Prevention of Torture and Inhumanor Degrading Treatment or Punishment (CPT)from 13 to 17 March 2020, CPT/Inf (2020) 35, Strasbourg 19 November 2020, available at: https://rm.coe.int/1680a06a86.
982 AIDA, Report on Greece, 2019 Update, 195-197.
983 These major problems were also pointed out by the Greek Ombudsman in June 2021, available at: https://bit.ly/3CVzZtM.

inadmissible', with the justification that 'direct medical care can be provided […] there is an area available for physical activity and by its nature it is not only intended for short stay'. In other cases, the conditions of detention are not examined at all.[984]

According to GCR's experience, detention conditions remained the same as those described above in 2021.

2.1.2. Health care in detention

The law states that the authorities shall make efforts to guarantee access to health care for detained asylum seekers.[985] Since 2017, the responsibility for the provision of medical services in pre-removal detention centres was transferred to the Ministry of Health, and in particular the Health Unit SA (*Ανώνυμη Εταιρεία Μονάδων Υγείας*, AEMY), a public limited company under the supervision of Ministry of Health.[986]

However, substantial medical staff shortage has been observed in PRDFs already since the previous years. The CPT has long urged the Greek authorities to improve the provision of health-care services in all immigration detention facilities where persons are held for periods of more than a day or two. The general lack of medical screening upon arrival and of access to health care have been compounded by the severe shortage of resources, including staffing resources, and the complete lack of integrated management of health-care services; combined with the lack of hygiene and appalling detention conditions, the Committee considered that they even presented a public health risk.

Official statistics demonstrate that the situation has not improved in 2021 and that pre-removal centres continue to face a substantial medical staff shortage. At the end of 2021, there were only six doctors in total in the detention centres on the mainland (2 in **Amygdaleza**, 1 in **Tavros**, 1 in **Korinthos**, 1 in **Fylakio** and 1 in **Paranesti**). Moreover in Kos PRDC, i.e. where persons are detained *inter alia* in order to be subject to readmission within the framework of the EU-Turkey Statement, there was no doctor.[987]

According to the official data, the coverage (in percentage) of the required staff in 2021 was as follows:

<table>
<tr><th>Provision of medical/health care</th><th>Provision of phycological care</th><th>Provision of social support services</th><th>Provision of interpretation services</th></tr>
<tr><td>Doctors: 33.33%</td><td>Physiatrists: 0%</td><td rowspan="4">Social workers: 0%</td><td rowspan="4">Interpreters: 0%</td></tr>
<tr><td>Nurses: 48.78%</td><td rowspan="3">Phycologists: 0%</td></tr>
<tr><td>Health visitors: 25%</td></tr>
<tr><td>Administrators: 54.55%</td></tr>
</table>

Source: Information provided by the Directorate of the Hellenic Police, 8 March 2022.

More precisely, at the end of 2021, the number of AEMY staff present on each pre-removal detention centre was as follows:

Category	Amygdaleza	Tavros	Corinth	Paranesti	Xanthi	Kos	Fylakio
Doctors	2	1	1	1	0	0	1

984 OXFAM. GCR, Detention as the default, November 2021, available at: https://bit.ly/3wpTmtW.
985 Article 48 (1) IPA.
986 Article 47(1) IPA.
987 Information provided by the Directorate of the Hellenic Police, 11 February 2021.

Psychiatrists	0	0	0	0	0	0	0
Nurses	3	3	3	3	3	2	3
Interpreters	0	0	0	0	0	0	0
Psychologists	0	0	0	0	0	0	0
Social workers	0	0	0	0	0	0	0
Health visitors	1	1	0	0	1	0	0
Administrators	1	0	1	0	0	0	1

Source: Information provided by the Directorate of the Hellenic Police, 8 March 2022.

2.2. Conditions in police stations and other facilities

In 2021, GCR visited more than 30 police stations and special holding facilities were third-country nationals were detained:

- **Attica:** police stations *inter alia* in Athens International Airport, Agios Panteleimonas, Vyronas, Piraeus, Syntagma, Drapetsona, Kalithea, Neo Iraklio, Pefki, Kypseli, Pagrati, Penteli, Chaidari, Glifada, Ampelokipoi, Cholargos, Omonoia. Egaleo, Exarheia, Kolonos, Galatsi
- **Northern Greece:** police stations *inter alia* in Transfer Directorate (*Μεταγωγών*), Thermi, Agiou Athanasiou, Raidestou;
- **Eastern Aegean islands:** police stations *inter alia* on Rhodes, Leros, Lesvos, Chios and Samos.

Police stations are by nature "totally unsuitable" for detaining persons for longer than 24 hours.[988] However, they are constantly used for prolonged migration detention. As mentioned above and according to the official data there were 380 persons in administrative detention at the end of 2021 in facilities other than pre-removal centres, of whom 35 were asylum seekers.[989] According to GCR findings, detainees in police stations live in substandard conditions as a rule, i.e. no outdoor access, poor sanitary conditions, lack of sufficient natural light, no provision of clothing or sanitary products, insufficient food, no interpretation services and no medical services; the provision of medical services by AEMY concerns only pre-removal detention centres and does not cover persons detained in police stations.

Similarly, CPT, following its visit in Greece in 2018 repeated that the detention facilities in most of the police stations are totally unsuitable for holding persons for periods exceeding 24 hours.[990] Despite this, police stations throughout Greece are still being used for holding irregular migrants for prolonged periods. GCR has supported several cases in 2020 in which migrants remained in detention for several days, even months: A citizen of Iran in detention in Pefki and Rafina police stations for one year; a Yezidi man in detention in Kallithea police station for six months; a man of Syrian origin in detention in Agios Panteleimonas, Pagrati and Kipseli police stations for five months; a person from Afghanistan in detention in Neo Iraklio police station for a period of six months.

Special mention should be made of the detention facilities of the Aliens Directorate of **Thessaloniki** (*Μεταγωγών*). Although the facility is a former factory warehouse, completely inadequate for detention,

988 CPT, *Report on the visit to Greece from 13 to 18 April and 19 to 25 July 2016*, CPT/Inf (2017) 25, 26 September 2017, available at: https://bit.ly/2g4Y9bU, 6.

989 Information provided by the Directorate of the Hellenic Police, 11 February 2021.

990 CPT, Report on the visit to Greece, from 10 to 19 April 2018, CPT/Inf (2019) 4, 19 February 2019, available at: https://bit.ly/2T0peQb, para 84

it continues to be used systematically for detaining a significant number of persons for prolonged periods.[991]

The ECtHR has consistently held that prolonged detention in police stations *per se* is not in line with guarantees provided under Article 3 ECHR.[992] In June 2018, it found a violation of Article 3 ECHR in *S.Z. v. Greece* concerning a Syrian applicant detained for 52 days in a police station in **Athens**.[993] In February 2019, it found a violation of Article 3 ECHR due to the conditions of "protective custody" of unaccompanied children in different police stations in Northern Greece such as **Axioupoli** and **Polykastro**.[994] In June 2019, the Court found that the conditions of the detention of 3 unaccompanied minors under the pretext of protective custody for 24 days, 35 days and 8 days at **Polikastro** police station, **Igoumentisa** port police station and **Filiatra** police station and Agios Stefanos police station and the cell of the Police Directorate of Athens respectively, were not in line with Art. 3 ECHR.[995]

3. Access to detention facilities

Indicators: Access to Detention Facilities

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

According to the law, UNHCR and organisations working on its behalf have access to detainees.[996] Family members, lawyers and NGOs also have the right to visit and communicate with detained asylum seekers. Their access may be restricted for objective reasons of safety or public order or the sound management of detention facilities, as long as it is not rendered impossible or unduly difficult.[997]

In practice, NGOs' capacity to access detainees is limited due to human and financial resource constraints. Moreover, after the outbreak of the pandemic, access to pre-removal detention centers was often restricted by the police due to the application of strict quarantine measures. Family members' access is also restricted due to limited visiting hours and the remote location of some detention facilities.

Another major practical barrier to asylum seekers' communication with NGOs is that they do not have access to free phone calls. Therefore, access *inter alia* with NGOs is limited in case they do not have the financial means to buy a telephone card. While some detention centres (**Amygdaleza**, **Corinth**, **Xanthi**, **Paranesti**, **Kos**) have adopted a good practice in allowing people to use their mobile phones, others such as **Tavros** and all police stations prohibit the use of mobile phones.

991 Ombudsman, *Συνηγορος του Πολίτη, Εθνικός Μηχανισμός Πρόληψης των Βασανιστηρίων & της Κακομεταχείρισης - Ετήσια Ειδική Έκθεση OPCAT 2017*, 46.
992 ECtHR, *Ahmade v. Greece*, Application No 50520/09, Judgment of 25 September 2012, para 101.
993 ECtHR, *S.Z. v. Greece*, Application No 66702/13, Judgment of 21 June 2018, para 40.
994 ECtHR, *H.A. and others v. Greece*, Application No 19951/16, Judgment of 28 February 2019, EDAL, available at: https://bit.ly/2FCoVFP.
995 Sh.D. and Others v. Greece, Austria, Croatia, Hungary, North Macedonia, Serbia and Slovenia (application no. 14165/16).
996 Article 47(4) L 4636/2019.
997 Article 47(5) L 4636/2019.

D. Procedural safeguards

1. Judicial review of the detention order

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

1.1. Automatic judicial review

L 4375/2016 introduced a procedure for automatic judicial review of the decisions ordering or prolonging the detention of an asylum seeker. IPA also provides for an ex-officio judicial control of the detention decision of asylum seekers. The procedure is largely based on the procedure already in place for the automatic judicial review of the extension of detention of third-country nationals in view of return under L 3907/2011.[998]

Article 46(5-b) IPA reads as follows:

"In case of prolongation of detention, the order for the prolongation of detention shall be transmitted to the President of the Administrative Court of First Instance, or the judge appointed thereby, who is territorially competent for the applicant's place of detention and who decides on the legality of the detention measure and issues immediately his decision, in a brief record."

In addition to concerns expressed in previous years as to the effectiveness of this procedure,[999] statistics on the outcome of *ex officio* judicial scrutiny confirm that the procedure is highly problematic and illustrate the rudimentary and ineffective way in which this judicial review takes place.

***Ex officio* review of detention by the Administrative Courts: 2021**		
	under asylum provisions (Article 46 IPA)	under pre-removal provisions (Article 30 L 3907/2011)
Detention orders transmitted	6,557	1,978
Approval of detention order	6,526	1,908
No approval of detention order	31	27
Abstention from decision*	0	41

Source: Administrative Court of Athens, Information provided on 3 March 2022. * "Abstention from decision" in IPA (art. 46 par. 5b) cases concerns detention orders transmitted after the expiry of the time limit. For L 3907/2011 cases, according to its interpretation of the law, the Court examines the lawfulness of detention only if detention is prolonged beyond 6 months. Therefore, if detention is prolonged after an initial 3 months up to 6 months, the Court abstains from issuing a decision.

1.2. Objections against detention

Apart from the automatic judicial review procedure, asylum seekers may challenge detention through "objections against detention" before the Administrative Court,[1000] which is the only legal remedy

998 Article 30(3) L 3907/2011.

999 UN Human Rights Council, *Report of the Special Rapporteur on the human rights of migrants, Addendum: Mission to Greece*, 18 April 2013, A/HRC/23/46/Add.4, available at: http://bit.ly/2kZ7D8R, para 57.

1000 Article 46(6) IPA, citing Article 76(3)-(4) L 3386/2005.

provided by national legislation to this end. Objections against detention are not examined by a court composition but solely by the President of the Administrative Court, whose decision is non-appealable.

However, in practice the ability for detained persons to challenge their detention is severely restricted due to "gaps in the provision of interpretation and legal aid, resulting in the lack of access to judicial remedies against the detention decisions".[1001]

Over the years the ECtHR has found that the objections remedy is not accessible in practice.[1002] In February 2019, the Court found a violation of Article 5(4) ECHR, emphasising that the detention orders were only written in Greek and included general and vague references regarding the legal avenues available to the applicants to challenge their detention. Furthermore, the applicants were not in a position to understand the legal aspects of their case and they did not appear to have access to lawyers on the island. In this connection, the Court noted that the Greek government had also not specified which refugee-assisting NGOs were available.[1003]

In another judgment issued in October 2019, the Court also found a violation of Art. 5(4) as the decision, which indicated the possibility of lodging an appeal, was written in Greek; It was not certain that the applicants, who had no legal assistance in either camp, had sufficient legal knowledge to understand the content of the information brochure distributed by the authorities, and especially the material relating to the various remedies available under domestic law. The Court also noted that the information brochure in question referred in a general way to an "administrative court", without specifying which one. However, there was no administrative court on the island of Chios, where the applicants were detained, and the nearest one was on the island of Mytilene. Even assuming that the remedies were effective, the Court did not see how the applicants could have exercised them. Having regard also to the findings of other international bodies, the Court considered that, in the circumstances of the case, the remedies in question had not been accessible to the applicants.[1004]

Moreover, the ECtHR has found on various occasions the objections procedure to be an ineffective remedy, contrary to Article 5(4) ECHR,[1005] as the lawfulness per se of the detention, including detention conditions, was not examined in that framework. In order to bring national law in line with ECHR standards, legislation was amended in 2010. However, the ECtHR has found in a number of cases that, despite the amendment of the Greek law, the lawfulness of applicants' detention had not been examined in a manner equivalent to the standards required by Article 5(4) ECHR,[1006] and "the applicant did not have the benefit of an examination of the lawfulness of his detention to an extent sufficient to reflect the possibilities offered by the amended version" of the law.[1007] This case law of the ECtHR illustrates that the amendment of national legislation cannot itself guarantee an effective legal remedy in order to challenge immigration detention, including the detention of asylum seekers.

As far as the judicial review of detention conditions is concerned, based on the cases supported by GCR, it seems that courts tend either not to take complaints into consideration or to reject them as

1001 UNWGAD, idem.
1002 ECtHR, J.R. and Others v. Greece, Application No 22696/16, Judgment of 25 January 2018, para 99.
1003 ECtHR, O.S.A. v. Greece, Application No 39065/16, Judgment of 21 March 2019.
1004 ECHR, Kaak v. Greece, Application No 34215/16, Judgment of 3 October 2019.
1005 See e.g. ECtHR, *Rahimi v. Greece* Application No 8687/08, Judgment of 5 April 2011; *R.U. v. Greece* Application No 2237/08, Judgment of 7 June 2011; *C.D. v. Greece*, Application No 33468/10, Judgment of 19 March 2014.
1006 ECtHR, *R.T. v. Greece*, Application no 5124/11, Judgment of 11 February 2016; *Mahammad and others v. Greece*, Application No 48352/12, January 15 January 2015; *MD v. Greece*, Application No 60622/11, Judgment of 13 November 2014; *Housein v. Greece*, Application No 71825/11, Judgment of 24 October 2013. In the case *F.H. v. Greece*, Application No 78456/11, Judgment of 31 July 2014, the Court found a violation of Article 3 combined with Article 13, due to lack of an effective remedy in the Greek context in order to control detention conditions.
1007 ECtHR, *S.Z. v. Greece*, Application No 66702/13, Judgment of 21 June 2018, para 72.

unfounded, even against the backdrop of numerous reports on substandard conditions of detention in Greece, brought to their attention. This is even the case of persons who are detained for prolonged periods in police station or totally inadequate police facilities.

Moreover, based on the cases supported by GCR, it also seems that the objections procedure may also be marred by a lack of legal security and predictability, which is aggravated by the fact that no appeal stage is provided in order to harmonise and/or correct the decisions of the Administrative Courts. GCR has supported a number of cases where the relevant Administrative Courts' decisions were contradictory, even though the facts were substantially the same.

For example, despite the halt on removals to Turkey since March 2020, the rulings of the Administrative Courts concerning pre-removal detention, made no assessment of the clear obstacles to a reasonable prospect of the individuals' removal to Turkey.[1008] The failure of Administrative Courts to engage with the reasonable prospect test is reflected in subsequent case law dismissing objections against detention. In an example of cases where courts have engaged with the reasonable prospect of removal, on the basis of explicit evidence of the suspension of readmissions to Turkey, the Administrative Court of Athens nevertheless upheld detention on 14 March 2022 on the ground that "despite the suspension of readmissions by the Turkish authorities, such a temporary suspension may be lifted at any time in the near future".[1009] However, the Administrative Court of Rhodes ruled in a number of decisions that there was no prospect of removal to Turkey considering the suspension of returns as well as the individual situation of the detainees, thereby ordering their release.[1010]

In addition, the case law of Administrative Courts in 2021 failed to take into account potential risks to the well-being of individuals on account of the COVID-19 pandemic. Courts have dismissed alleged risks of exposure to inappropriate detention conditions and of contracting COVID-19 in detention as unsubstantiated,[1011] without any assessment whatsoever of the conditions prevailing in pre-removal centres and their preparedness to prevent the spread of the COVID-19 pandemic. In other cases, courts have entirely disregarded the appellant's submissions relating to COVID-19 risks in detention.[1012]

In 2021, only 2,803 objections against detention were submitted to the competent Administrative Courts across the country compared to a total of 12,020 detention orders issued by national authorities.[1013] This illustrates the difficult access to an effective review of detention orders.

2. Legal assistance for review of detention

Indicators: Legal Assistance for Review of Detention

1. Does the law provide for access to free legal assistance for the review of detention?
   ☒ Yes ☐ No
2. Do asylum seekers have effective access to free legal assistance in practice?
   ☐ Yes ☒ No

Article 46(7) IPA provides that "detainees who are applicants for international protection shall be entitled to free legal assistance and representation to challenge the detention order..."

1008 Administrative Court of Piraeus Decision 415/2021, Administrative Court of Korinthos Decision Π4017/2021, Administrative Court of Athens Decisions 1392/2020, 1393/2021,
1009 Administrative Court of Athens, Decision AP410/2022
1010 Administrative Court of Rhodes, Decisions AP136/2021, AP405/2021, AP514/2021 and AP515/2021.
1011 Administrative Court of Athens, Decisions 1985/2021, 1043/2021 and 1401/2021.
1012 Information based on cases followed by the Greek Council for Refugees.
1013 Source: Administrative Court of Athens, Information provided on 3 March 2022

In practice, no free legal aid system has been set up to challenge his or her detention. Free legal assistance for detained asylum seekers provided by NGOs cannot sufficiently address the needs and in any event cannot exempt the Greek authorities from their obligation to provide free legal assistance and representation to asylum seekers in detention, as foreseen by the recast Reception Conditions Directive.[1014] This continued to be the case in 2021, where only two to three NGOs were providing free legal assistance to detainees with limited resources and less than 10 lawyers in total focusing on detention countrywide.

CPT findings from 2018 confirm that "the information provided was insufficient – particularly concerning their (legal) situation[…] there was an almost total lack of available interpretation services in all the establishments visited […] access to a lawyer often remained theoretical and illusory for those who did not have the financial means to pay for the services of a lawyer […] As a result, detainees' ability to raise objections against their detention or deportation decisions or to lodge an appeal against their deportation was conditional on them being able to access a lawyer"[1015]. This situation remained unchanged during 2021.

As mentioned above in two 2019 ECtHR judgments, by taking into consideration inter alia the lack of legal aid to challenge the detention order the Court found a violation of Art 5(4).[1016] This was also the case in another Court's judgment in 2021.[1017]

E. Differential treatment of specific nationalities in detention

Specific nationalities, i.e Syrians non subject to the EU-Turkey Statement and Somalians, previously non subject to detention as their return was not feasible, after the issuance of the new JMD 42799/2021 designating Turkey as a safe third country for asylum-seekers originating from Syria, Afghanistan, Bangladesh, Pakistan and Somalia, face the risk of detention. Additionally, if they lodge an asylum application under custody, their detention can be prolonged as it is considered that they applied for asylum in order to avoid their return to Turkey.

1014 Article 9(6) recast Reception Conditions Directive.
1015 CPT, *Report on the visit to Greece from 10 to 19 April 2018*, CPT/Inf (2019) 4, 19 February 2019, paras 78-80.
1016 ECtHR, *O.S.A. v. Greece*, Application No 39065/16, Judgment of 21 March 2019; ECtHR, *Kaak v. Greece*, Application No 34215/16, Judgment of 3 October 2019.
1017 ECtHR, AFFAIRE E.K. c. GRÈCE, ECLI:CE:ECHR:2021:0114JUD007370013 , 15 January 2021, available at: https://bit.ly/35iB2HP.

Content of International Protection

A. Status and residence

1. Residence permit

Indicators: Residence Permit

1. What is the duration of residence permits granted to beneficiaries of protection?
   - ❖ Refugee status: 3 years
   - ❖ Subsidiary protection: 1 year renewable for a period of 2 years
   - ❖ Humanitarian Protection procedure[1018]: No longer available through the asylum

Individuals recognised as refugees are granted a 3-year residence permit *("ADET")*, which can be renewed after a decision of the Head of the Regional Asylum Office.[1019] However, following the entry into force of the IPA, beneficiaries of subsidiary protection no longer have the right to receive a 3-year permit. They obtain a 1-year residence permit, renewable for a period of 2 years.[1020]

Residence permits are usually delivered at least 4-5 months after the communication of the positive decision granting international protection and the submission of the special ID decision and photos to the Aliens Police Directorate ("*Διεύθυνση Αλλοδαπών*") or the competent passport office by the beneficiaries. Until the issuance of the residence permits, applicants hold the asylum seeker card and are considered asylum seekers by ERGANI (ΕΡΓΑΝΗ) the Information System of the Ministry of Employment.[1021] In practice this means that they face the same legal restrictions to access the labour market as asylum seekers even though they are beneficiaries of international protection not being able to be self-employed.[1022]

In 2021, according to the practice followed by certain RAOs, such as the RAO of Lesvos, the issuance of the special ID Decision (Απόφαση ΑΔΕΤ) was subject to requirements, which were not laid down by the IPA, such as an employment contract with a duration of at least 6 months and a tax declaration from the previous financial year and lease agreement.

Moreover, many persons, who travelled to the Attica region, after being granted international protection on the Eastern Aegean Islands, did not have access to the RAOs, unless they submitted a proof of their new address in Attica. That was in many cases impossible given that many persons were homeless or did not have a permanent accommodation. Thus, they could not proceed with the issuance of the "ADET decision" on the ground that "the RAO was not competent".[1023]

The same report noted that "In the cases of beneficiaries returned from other European countries in recent months, persons await the renewal or reissuance of their ADET and have not been issued any

1018 According to Art. 2 par. 2L. 4825/2021: "The competent authorities on a case by case basis can at any time grant a residence permit for reasons of compassion, humanitarian or other reasons, to a third country national, who resides illegally in the Greek Territory, according to article 19A of law 4251/2014. In case of issuance of the above residence permit, no return decision is issued. If the return decision has already been issued, then it is revoked or suspended for a period equal to the period of validity of the above permit." This article has never been enforced in practice. The humanitarian protection (Article 67 L.4375/2016) was abolished according to Article 61 (e) L.4686/2020; this provision is applied to all decisions granting humanitarian protection published from 1.1.2020 onwards.

1019 Article 24 IPA.

1020 *Ibid.*

1021 See website of the Ministry of Employment: https://bit.ly/3KZj7oE.

1022 Article 53 IPA & Article 27 IPA.

1023 See also RSA and Stiftung Pro Asyl, Beneficiaries of international protection in Greece Access to documents and socio-economic rights, March 2021, available at: https://bit.ly/3v8ASKp, para.7-8.

other documentation pending the delivery of the ADET. Importantly, the start date of validity of the ADET corresponds to the date of issuance of the ADET Decision by the Asylum Service, not the issuance of the ADET itself. This creates serious risks for holders of subsidiary protection whose ADET has a one-year validity period given that the ADET issued to them are often close to expiry and need to be immediately renewed due to the delays described above. On account of the substantial backlog of cases before the Aliens Police Directorate of Attica, beneficiaries of international protection who do not hold a valid ADET upon return to Greece are liable to face particularly lengthy waiting times for the issuance and/or renewal of their ADET, without which they cannot access social benefits, health care and the labour market."[1024]

An application for renewal should be submitted no later than 30 calendar days before the expiry of the residence permit. The mere delay in the application for renewal, without any justification, could not lead to the rejection of the application. However, this is valid only for recognized refugees, as the new law abolished the said guarantee for beneficiaries of subsidiary protection.[1025] Moreover, in the case of delay in the application for renewal, a fine of EUR 100 is imposed. The authority responsible for the procedure of imposing the fine shall be determined by a joint decision of the Ministers of Immigration, Asylum and Finance.[1026] In practice, this fine has not been imposed yet.

Since 2017, the application for renewal is submitted via email to the Asylum Service and then the renewal decision is notified to the applicant also via email. Accordingly, bearing in mind that legal aid is not provided at this stage, technologically illiterate beneficiaries of international protection can face obstacles while applying for the renewal of their permit.

As far as GCR is aware, long waiting periods are observed in a number of cases of renewal, which can reach 9 months in practice due to the high number of applicants. Due to COVID-19, the backlog the waiting period, in some cases is over a year. During this procedure the Legal Unit of the Asylum Service processes criminal record checks on the beneficiaries of international protection, which may lead to the Withdrawal of their protection status. Pending the issuance of a new residence permit, beneficiaries of international protection are granted a certificate of application (*βεβαίωση κατάστασης αιτήματος*) which is valid for three months. For the issuance of this certificate, the renewal application must have been uploaded to the electronic system of "ALKYONI" (ΑΛΚΥΟΝΗ). According to GCR's observations, the Asylum Unit for Beneficiaries of International Protection could upload the application up to four months after the initial submission of the renewal application. In practice, beneficiaries whose residence permit has expired and who hold this document while awaiting the renewal of their residence permit have faced obstacles in accessing services such as social welfare, healthcare and labour market. As far as GCR is aware, public services such as the Manpower Employment Organization (OAED), are reluctant to accept this certificate of application (*βεβαίωση κατάστασης αιτήματος*), because the document lacks a photo or a watermark and any relevant legal provisions allowing the document to be accepted. This certificate is providing the beneficiaries with less rights (e.g. right to access labour market, social welfare, public healthcare, etc.) than the certificate of art. 8 L.4251/2014 that is issued for immigrants. In fact, beneficiaries of international protection holding these certificate are only protected from detention and have access to no rights at all pending their residence permit renewals. GCR has filed various complaints before the Greek Ombudsperson concerning the aforementioned shortcomings, however only a few decisions were issued.

The Asylum Service shared no data for the year 2021 concerning the total number of applications for renewal and the respective positive decisions.

1024 RSA and Stiftung Pro Asyl, *Idem,* para. 12-14.
1025 Article 24(1) IPA.
1026 Article 17 L.4825/2021.

For those granted international protection under the "old procedure" prescribed by Presidential Decree 114/2010, the renewal procedure is conducted by the Aliens Police Directorate (*Διεύθυνση Αλλοδαπών*). Within the framework of this procedure, the drafting of a legal document for the renewal application is required. Based on available Country of Origin Information (COI), the application must demonstrate that reasons of persecution still exist. The decision used to be issued after a period of more than a year. In 2021, 892 applications for renewal were submitted before the Aliens Police Directorate. Out of those, 706 were positive, 88 were rejected and 98 are still pending.[1027] In practice, since January 2019 very few decisions have been issued. At first the delay was due to the resignation of the Secretary General of the Ministry of Citizen Protection. Then the delay was caused by the multiple election procedures and the final reason was the size of the administrative files of beneficiaries and the fact the files are available only in hard copy and not digitally. Due to these delays, a large number of beneficiaries of international protection, for over a year, have no access to the labour market, social security, social welfare and sometimes healthcare, thus facing destitution and homelessness.

In January 2020, GCR and other organizations sent a letter of complaint to the Secretary General of the Ministry of Citizen Protection, but the issue has yet to be resolved by the time of writing.

2. Civil registration

According to Article 20(1) L 344/1976, the birth of a child must be declared within 10 days to the Registry Office of the municipality where the child was born.[1028] The required documents for this declaration are: a doctor's or midwife's verification of the birth; and the residence permit of at least one of the parents. A deferred statement is accepted by the registrar but the parent must pay a fee of up to €100 in such a case.[1029]

As for the birth registration, beneficiaries of international protection have reported to GCR that if they do not have and cannot obtain a certified marriage certificate from their country of origin, the child is declared without a father's name. Lately, the Asylum Service started -in very few cases- issuing family status certificates. Another difficulty is the fact that according to Greek Legislation the father's first name cannot be used as the child's surname. This is a very common mistake that a lot of mothers do and interferes with the procedure of name-giving ("*ονοματοδοσία*") of the child, especially when the child's father is not residing in Greece. In these cases, it is hard to prove that the person that signed the authorization to the mother for the name-giving is the declared father of the child in the birth certificate and, since the name-giving is one of the essential rights of a legal guardian, a court must decide for the removal of the parental responsibility of the parent not residing in Greece, in order for the other parent to be able to proceed alone to the name-giving. With the new Ministerial Decision 9169 ΕΞ 2022-10.3.2022, the name-giving (ονοματοδοσία) could be done electronically through Greek government's official webpage.[1030]

A marriage must be declared within 40 days at the Registry Office of the municipality where it took place; otherwise the spouses must pay a fee of up to €100.[1031] In order to get legally married in Greece, the parties must provide a birth certificate and a certificate of celibacy from their countries of origin.[1032] For recognised **refugees**, due to the disruption of ties with their country of origin, the Ministry of Interiors has issued general orders to the municipalities to substitute the abovementioned documents with an affidavit of the interested party.[1033] However, **asylum seekers** and beneficiaries of **subsidiary protection** are still required to present such documentation which is extremely difficult to obtain, and

1027 Statistics provided by the Headquarters of the Hellenic Police, 25.2.2022.
1028 L 344/1976 on Civil Registration Acts, Official Gazette 143/A/11.6.1976.
1029 Article 49 L 344/1976.
1030 Ministerial Decision 9169 ΕΞ 2022-10.3.2022 (Official Gazette B' 1210/16-03-2022).
1031 Article 29 L 344/1976.
1032 Article 1(3) PD 391/1982.
1033 See e.g. Ministry of Interior, General Orders to municipalities 4127/13.7.81, 4953/6.10.81 and 137/15.11.82.

face obstacles which undermine the effective enjoyment of the right to marriage and the right to family life.

Civil registration affects the enjoyment of certain rights of beneficiaries of international protection. For instance, a birth certificate or a marriage certificate are required to prove family ties in order to be recognised as a family member of a beneficiary of international protection and to be granted a similar residence permit according to Article 24 IPA (see Status and Rights of Family Members).

In practice, the main difficulties faced by beneficiaries with regard to civil registration are the language barrier and the absence of interpreters at the Registration Offices of the municipalities. This lack leads to errors in birth or marriage certificates, which are difficult to correct and require a court order.

3. Long-term residence

Indicators: Long-Term Residence	
Number of long-term residence permits issued to beneficiaries in 2021:	Not available

According to Article 89 of the Immigration Code, third-country nationals are eligible for long-term residence if they have resided in Greece lawfully for 5 consecutive years before the application is filed. For beneficiaries of international protection, the calculation of the 5-year residence period includes half of the period between the lodging of the asylum application and the grant of protection, or the full period if the asylum procedure exceeded 18 months.[1034] Absence periods are not taken into account for the determination of the 5-year period, provided that they do not exceed 6 consecutive months and 10 months in total, within the 5-year period.[1035] A fee of €150 is also required.[1036]

To be granted long-term resident status, beneficiaries of international protection must also fulfil the following conditions:[1037]

- Sufficient income to cover their needs and the needs of their family and is earned without recourse to the country's social assistance system. This income cannot be lower than the annual income of an employee on minimum wage, pursuant to national laws, increased by 10% for all the sponsored family members, also taking into account any amounts from regular unemployment benefits. The contributions of family members are also taken into account for the calculation of the income;
- Full health insurance, providing all the benefits provided for the equivalent category of insured nationals, which also covers their family members;
- Fulfilment of the conditions indicating integration into Greek society, *inter alia* "good knowledge of the Greek language, knowledge of elements of Greek history and Greek civilisation".[1038]

Despite the Ombudsman's successful intervention in 2018,[1039] the Greek Police is still reluctant to renew travel documents of beneficiaries of international protection (of the 'old' procedure) that had been granted "long-term residence permits", on the grounds that "they are not holders of "ADET" and, therefore, "they have a different status".

The Council of Europe's Commissioner of Human Rights noted that, as far as it provides foreign citizens with five years or more of legal residence with the possibility to secure a long-term residence permit,

1034 Article 89(2) L 4251/2014 (Immigration Code).
1035 Article 89(3) Immigration Code.
1036 Article 132(2) Immigration Code, as amended by Article 38 L 4546/2018.
1037 Article 89(1) Immigration Code.
1038 Article 90(2)(a) Immigration Code.
1039 Greek Ombudsperson, Ορθή εφαρμογή της νομοθεσίας για τα διαβατήρια αναγνωρισμένων προσφύγων, κατόχων αδειών διαμονής «επί μακρόν διαμένοντος, available in Greek at: https://bit.ly/2Qhwj1m.

Greek law complies with relevant recommendations. However, the Commissioner recommended that the entire asylum procedure period be taken into account, as opposed to half of the period between the lodging of the asylum application and the granting of protection as provided in legislation. In addition, the Commissioner highlighted "that access to long-term residence is complicated by additional requirements, including sufficient income to cover the applicants' needs and those of their family, full health insurance covering all family members, and good knowledge of the Greek language, knowledge of elements of Greek history and Greek civilisation". Moreover, contrary to the Commissioner's recommendations, Greek law does not provide clear legal exemptions to enable a variety of vulnerable groups to meet the requirements".[1040] These finding are also valid for 2021. The renewal of long-term residence permit is now available only electronically through the special website of the Ministry of Asylum and migration (portal.immigration.gov.gr).[1041]

4. Naturalisation

Indicators: Naturalisation	
1. What is the waiting period for obtaining citizenship?	
❖ Refugee status	7 years
❖ Subsidiary protection	7 years
2. Number of citizenship grants in 2021:	Not available[1042]

4.1. Conditions for citizenship

The Citizenship Code[1043] has been subject to numerous amendments during the last years.[1044] Prior to the amendment of March 2020,[1045] refugees could apply for citizenship under the conditions that *inter alia* they reside lawfully in Greece for a period of 3 years. The amended legislation has increased this period to 7 years,[1046] similarly to the time period required for foreigners residing in Greece on other grounds (migration law) despite the legal obligation under article 34 of the Geneva Convention 1951 to "facilitate the assimilation and naturalization of refugees" and "in particular make every effort to expedite naturalization proceedings". The aforementioned amendment does not apply to refugees who had already submitted an application for naturalisation that was still pending by the time that L. 4674/2020 entered into force.[1047] In 2021, some legislative changes were introduced by L. 4873/2021.[1048] Even if these changes do not refer specifically to beneficiaries of international protection, they also resulted affected by the change in the procedure, in particular due to the fact that exams would entail a written test, resulting extremely hard for every applicant including beneficiaries of international protection.

More precisely, according to the Citizenship Code[1049], citizenship may be granted to a foreigner who:

(a) Has reached the age of majority by the time of the submission of the declaration of naturalisation;

1040 Council of Europe Commissioner for Human Rights, *Report of the Commissioner for Human Rights of the Council of Europe Dunja Mijatović following her visit to Greece from 25 to 29 June 2018*, CommDH(2018)24, 6 November 2018, paras 72-73.
1041 Ministerial Decision 374365/2021 (Official Gazette 5242/B/12-11-2021).
1042 Ministry of Interior Statistics availiable in Greek at: https://bit.ly/3qJAW3k.
1043 L. 3284/2004, Gov. Gazette A' 217/10-11-2004
1044 See *inter alia* Law 4604/2019 (Gov. Gazette 50/A/26-03-2019), Law 4674/2020 (Gov. Gazette 53/A/11-03-2020), Law 4735/2020 (Gov. Gazette A' 197/12-10-2020)
1045 L. 4674/2020.
1046 Article 5(1)(d) Code of Citizenship as amended by L. 4674/2020.
1047 Ministry of Interior, Circular No 151/2020, 25 May 2020, available in Greek at: https://bit.ly/3sDV5pG, 8.
1048 L.4873/2021 Gov. Gazette A 248/16.12.2021.
1049 Article 5(1) Citizenship Code.

(b) Has not been irrevocably convicted of a number of crimes committed intentionally in the last 10 years, with a sentence of at least one year or at least 6 months regardless of the time of the issuance of the conviction decision. Conviction for illegal entry in the country does not obstruct the naturalisation procedure.

(c) Has no pending deportation procedure or any other issues with regards to his or her status of residence;

(d) Has lawfully resided in Greece for 7 continuous years before the submission of the application. (As mentioned above, in March 2020, the possibility of recognised refugees to apply for citizenship under the conditions of a 3 years lawful residence in the country has been abolished);

(e) Hold one of the categories of residence permits foreseen in the Citizenship Code, *inter alia* long-term residence permit, residence permit granted to recognised refugees or subsidiary protection beneficiaries, or second-generation residence permit. More categories of permits were added in 2018.[1050]

Applicants should also have:

(1) sufficient knowledge of the Greek language;
(2) be normally integrated in the economic and social life of the country.

According to the new law, supporting documents proving the economic independence of the applicant must be submitted in the application.[1051] Additionally, the above-mentioned law provides that the applicant is not examined through an interview regarding his/hers financial independence, yet the examiner of each case is responsible for issuing the decision taking under consideration only the provided documents.[1052] It is worth mentioning that according to Ministerial decision No 29845/16-4-2021, applicants for and beneficiaries of international protection, who have submitted their application before 31-3-2021 are required to submit documents proving their economic independence and social life for the last 5 years before their application.[1053]

and (3) be able to actively participate in political life (i.e. be familiar with the political institutions of the Hellenic Republic, knowledge of Greek political history).[1054]

A book with information on Greek history, civilisation, geography etc. is issued by the Ministry of Interior and dedicated to foreigners willing to apply for naturalisation.[1055] Simplified instructions on the acquisition of Greek citizenship was also released by the Ministry of Interior.[1056]

However, the acquisition of citizenship requires a demanding examination procedure in practice. Wide disparities have been observed between Naturalisation Committees as to the depth and level of difficulty of examinations. Against that backdrop, the Ministry of Interior issued a Circular on 12 December 2017 to harmonise naturalisation examinations.[1057]

1050 Article 5(1)(e) Citizenship Code, as amended by Ministerial Decision 130181/6353/2018, Gov. Gazette B/3142/02.04.2018.
1051 Article 37 L.4873/2021.
1052 Article 38 L.4873/2021.
1053 Ministerial Decision 29845/16.4.2021 Gov.Gazette 1652/B/22.4.2021.
1054 Article 5A (1) Citizenship Code.
1055 Ministry of Interior, Directorate of Citizenship, *Greece as a Second Homeland: Book of information on Greek history, geography and civilisation*, available in Greek at: https://bit.ly/3tFepUP
1056 Ministry of Interior, *Simplified instructions on the acquisition of Greek citizenship*, available at: https://bit.ly/2TCz35h.
1057 Ministry of Interior, Circular No 3 of 12 December 2017 on "instructions relating to the conduct of interviews", 27/2017, available in Greek at: http://bit.ly/2FhKHjI.

Law 4604/2019 brought several changes to the Citizenship Code. The examination procedure is no longer oral. Candidates have to prove their familiarity with Greek history and culture through a written test.[1058] They must answer correctly 20 out of 30 written questions from a pool of 300 questions[1059]. The sufficient knowledge of the Greek language is also tested through a language test.[1060]

However, the aforementioned provisions regarding the examination procedure of Article 5A[1061] of Citizenship Code as amended by L.4604/2019 were suspended for six months, namely from the entry into force of L. 4674/2020 on 11 March 2020 until 11 September 2020.[1062] The suspension of the said provisions, that were actually never applied, is due to the fact that a Ministerial Decision regulating the requirements of the language exams and other issues relating to the organisation and the content of the said exams was not issued[1063].

Furthermore, Article 5A of Citizenship Code, as amended by L.4604/2019, was recently replaced by Article 3 L. 4735/2020. According to the Article 18 L. 4735/2020, Articles 3, 5 and 6 L.4735/2020 that replace respectively Articles 5A, 6 and 7 of the Citizenship Code came into force on 1 April 2021[1064]. A pool of questions for the acquisition of the newly introduced Certificate of Adequacy of Knowledge for Naturalization (*Πιστοποιητικό Επάρκειας Γνώσεων για Πολιτογράφηση (ΠΕΓΠ))* [1065] and information on the respective exams were posted on the webpage of the Ministry of Interior[1066]. Moreover, a decision regulating and providing more details on the procedure of the exams was published on the 15 April 2021 and was abolished by a Ministerial Decision 71728/8.10.2021.[1067] Furthermore on February 2022, a circular was issued providing more details on the procedure of the exams**.**[1068]

4.2. Naturalisation procedure

A fee of €100 is required for the submission of the application for **refugees**. In the case of beneficiaries of **subsidiary protection**, the fee has been reduced in 2019 from €700 to €550.[1069] A €200 fee is required for a re-examination of the case[1070]. In addition to this, every third-country-national who wishes to obtain the Greek Citizenship must participate in a written exam that requires an exam fee of 150 euros.[1071]

The naturalisation procedure requires a statement to be submitted before the Municipal Authority of the place of permanent residence, and an application for naturalisation to the authorities of the Prefecture.[1072] The statement for naturalisation is submitted to the Mayor of the city of permanent residence, in the presence of two Greek citizens acting as witnesses. After having collected all the

1058 Article 5A (3) Citizenship Code as amended by Article 32 L.4604/2019.
1059 Ministry of Interior, Circular No 38788/2018, 26 July 2018, available in Greek at: https://bit.ly/2utnJye.
1060 Article 5A Citizenship Code as amended by Article 32 L.4604/2019.
1061 Article 5A (3),(4), (5), (6) Citizenship Code as amended by Article 32 L.4604/2019.
1062 See article 39 L. 4674/2020 and Circular of the Ministry of Interior, No 151/25-05-2020, available in Greek at: https://bit.ly/3sDV5pG
1063 Circular of the Ministry of Interior, No 151/25-05-2020.
1064 For more information on the new Law, see also Generation 2.0, Naturalization becomes a "privilege" for a few, 10/09/2020, available at https://bit.ly/3avpiBj and Generation 2.0, Generation 2.0 RED on the new naturalization law, 20/10/2020, available at: https://bit.ly/3xc2mR3.
1065 General Secretariat of Citizenship available at: https://bit.ly/3s9ln31.
1066 General Secretariat of Citizenship available at: https://bit.ly/3sCYd5k.
1067 Decision 28881/2021, Gov. Gazette 1535/B/15-4-2021, Defining specific elements of Article 7(1) Code of Citizenship, available in Greek at: https://bit.ly/3ausH37
1068 Circular No 81-4/02/2022, Ministry of Interior Prot.No: Φ 130181/6929 available in Greek at: https://bit.ly/3wMsSmz.
1069 Article 6 (3) (g) Citizenship Code as amended by Article 33 L. 4604/2019.
1070 *Ibid.*
1071 Article 2 par.2 Ministerial Decision 28881 – Gov. Gazette B' 1535/15.04.2021.
1072 Article 6 (1) Citizenship Code.

required documents, the applicant must submit an application before the Decentralised Administration competent Prefecture.

Where the requisite formal conditions of Article 5 of the Citizenship Code, such as age or minimum prior residence, are not met, the Secretary-General of the Decentralised Administration issues a negative decision. An appeal can be lodged before the Minister of Interior, within 30 days of the notification of the rejection decision.

When the required conditions are met, the Regional Citizenship Directorate seeks, on its own motion, a certificate of criminal record for judicial use and a certificate of non-deportation, and addresses, through the police authority of the applicant's place of residence, a question to the competent security services of the Ministry of Citizen Protection if there are public or national security reasons to reject the application. Security services are required to provide an answer within 4 months. Failure to send an opinion in a timely manner does not prevent the issuance of the Minister's decision. If this deadline is missed, the naturalisation application will be forwarded to the Naturalisation Committee and will be processed without this opinion.

The applicant is invited for an examination he/she must undergo a written test under the procedure introduced by L.4604/2019. In addition to the examination, the applicant must go through a new form of interview, which will last about half an hour and be conducted by a three-member committee. The three-member committees, according to the provisions of par. 7 of article 7 of the Greek Citizenship Code, as in force, is composed of employees of the General Secretariat of Citizenship of higher education, with at least five years of experience in citizenship matters. Each three-member committee should be composed of two employees working for the Regional Citizenship Directorate (Headquarters or Department) who keeps the file and an employee belonging to another Regional Citizenship Directorate or the Central Citizenship Directorate, who will participate in the interview through teleconference. The Head of each Regional Directorate, according to his territorial competence, determines the total number of employees of his Directorate that will participate in the three-member committees, depending on the number of serving employees who meet the formal requirements provided by law. The General Directorate of Citizenship, taking into account the above-mentioned data, determines the exact number and composition of the three-member committees that will conduct the interviews per Regional Directorate for the next month in the whole territory, notifying the relevant name lists to the Heads of Citizenship.[1073] This Committee will determine the adequate integration of each applicant in the economic and social life of the country based on specific rules, common standards and a unified methodology, compiled by the National Transparency Authority (NAC), in the form of a multi-page Practical Interview Guide. The procedure of the interview is described in detail in the 738/2022 Ministerial Decision.[1074]

In case of a positive recommendation, the Minister of Interior will issue a decision granting the applicant Greek citizenship, which will be also published in the Government Gazette. With the aim of simplifying and accelerating the procedure, a Ministerial Decision was issued in May 2019.[1075] It provides that the naturalisation decision will be issued by the Regional Citizenship Directorates and the files will no longer be sent to the Central Citizenship Directorate of the Ministry of Interior. This should reduce the waiting period for the issuance of a positive naturalisation decision by 9-12 months.[1076]

1073 Article 1 Ministerial Decision 738/2022 Gov. Gazette B 121/19.1.2022.
1074 Ministerial Decision 738/2022 Gov. Gazette B 121/19.1.2022.
1075 Ministerial Decision 34226/06.05.2019, published in the Government Gazette B´1603/10.05.2019.
1076 Ministry of Interiors, First Conclusions with regards the transfer of the competence to sign a naturalization decision from the Minister of Interiors to the Prefectural Directorates of Naturalization, 27 June 2019, available in Greek at: https://bit.ly/2vSb2RN.

Greek citizenship is acquired following the oath of the person, within a year from the publication of the decision. Persons with disabilities can take the oath in their house or via teleconference.[1077] If the oath is not taken during this period, the decision is revoked.

In case of a negative recommendation of the Naturalisation Committee, an appeal can be lodged within 15 days. A decision of the Minister of Interior will be issued, in case that the appeal is accepted. In case of rejection of the appeal, an application for annulment (*αίτηση ακύρωσης*) can been lodged before the Administrative Court of Appeals within 60 days of the notification of that decision.

The procedure remains extremely slow. As noted by the Council of Europe's Commissioner for Human Rights: "The naturalisation procedure is reportedly very lengthy, lasting in average 1,494 days due to a considerable backlog pending since 2010".[1078] In January 2020, the issue of delays in the naturalization procedure has been brought up before the Parliament through a parliamentary question submitted by the main opposition party.[1079]

According to the official statistics of the Ministry of Interior, in 2019 a total of 1,882 foreigners were granted citizenship by way of naturalisation,[1080] compared to 2,528 foreigners in 2018 and 3,483 in 2017. This number is not limited to beneficiaries of international protection. Apart from naturalisation of foreign nationals (*αλλογενείς*), in 2019, Greece also granted citizenship to 1,117 non-nationals of Greek origin (*ομογενείς*), 12,868 second-generation children i.e. foreign children born in Greece or successfully completing school in Greece, 382 persons through "citizenship determination procedure (birth/ recognition etc) and 585 "unmarried/minor children of parents recently acquiring Greek citizenship".[1081]

The authorities provided no similar data for the years 2020 and 2021.

As mentioned above, Articles 5A, 6 and 7 of Citizenship Code, as amended by L.4604/2019, were recently replaced by Articles 3, 5 and 6 L. 4735/2020. The new articles 5A, 6 and 7 of the Citizenship Code came into force in 1 April 2021.

5. Cessation and review of protection status

Indicators: Cessation

1. Is a personal interview of the beneficiary in most cases conducted in practice in the cessation procedure? ☒ Yes ☐ No
2. Does the law provide for an appeal against the first instance decision in the cessation procedure? ☒ Yes ☐ No
3. Do beneficiaries have access to free legal assistance at first instance in practice? ☐ Yes ☐ With difficulty ☒ No

Cessation of international protection is governed by Articles 11 and 16 of IPA.

1077 Article 9(5) Citizenship Code.
1078 Council of Europe Commissioner for Human Rights, Report of the Commissioner for Human Rights of the Council of Europe Dunja Mijatović following her visit to Greece from 25 to 29 June 2018, CommDH(2018)24, 6 November 2018, available at: https://bit.ly/2Opvm05, para 74
1079 Parliamentary Question, Delays in the naturalization procedure for adults and second-generation children, 7 January 2020, available in Greek at: https://bit.ly/2wGB6Q9 (in Greek).
1080 General Secretariat for Citizenship, Central Citizenship Directorate, Statistics and IIS management Department, Acquisitions of Greek Citizenship by category and Regional Citizenship Directorates in 2019, posted in 19/11/200, available at https://bit.ly/3tEXNNd.
1081 *Ibid.*

Refugee status ceases where the person:[1082]

1. Voluntarily re-avails him or herself of the protection of the country of origin;
2. Voluntarily re-acquires the nationality he or she has previously lost;
3. Has obtained a new nationality and benefits from that country's protection;
4. Has voluntarily re-established him or herself in the country he or she fled or outside which he or she has resided for fear of persecution;
5. May no longer deny the protection of the country of origin or habitual residence where the conditions leading to his or her recognition as a refugee have ceased to exist. The change of circumstances must be substantial and durable,[1083] and cessation is without prejudice to compelling reasons arising from past persecution for denying the protection of that country.[1084]

Cessation on the basis of changed circumstances also applies to **subsidiary protection** beneficiaries under the same conditions.[1085]

Where cessation proceedings are initiated, the beneficiary is informed at least 15 days before the review of the criteria for international protection and may submit his or her views on why protection should not be withdrawn.[1086]

Where the person appeals the decision, contrary to the Asylum Procedure, the Appeals Committee is required to hold an oral hearing of the beneficiary in cessation cases.[1087]

6. Withdrawal of protection status

Indicators: Withdrawal

1. Is a personal interview of the beneficiary in most cases conducted in practice in the withdrawal procedure? ☒ Yes ☐ No

2. Does the law provide for an appeal against the withdrawal decision? ☒ Yes ☐ No

3. Do beneficiaries have access to free legal assistance at first instance in practice? ☐ Yes ☐ With difficulty ☒ No

Withdrawal of **refugee status** is provided under Article 14 of the IPA, where the person:

(a) Ceases to be a refugee according to Article 11 of the IPA
(b) Should have been excluded from refugee status according to Article 12 of the IPA;
(c) The use of false or withheld information, including the use of false documents, was decisive in the grant of refugee status;
(d) Is reasonably considered to represent a threat to national security; or
(e) Constitutes a threat to society following a final conviction for a particularly serious crime.

The Asylum Service issued a Circular on 26 January 2018, detailing the application of the ground relating to threat to society following a final conviction for a particularly serious crime.[1088]

According to the practice followed since the mid-2020, the Police places arbitrarily beneficiaries of international protection under administrative detention on public order grounds and then asks from the

1082 Article 11(1) IPA.
1083 Article 11(2) IPA.
1084 Article 11(3) IPA.
1085 Article 16 IPA.
1086 Article 91 IPA
1087 Article 97(3) IPA.
1088 Asylum Service, Circular 1/2018 of 26 January 2018, available in Greek at: http://bit.ly/2rPEkhb.

Asylum Service to revoke their status on the ground that they face criminal charges, regardless of the nature and the stage of the attributed illegal act. Thus, recognized refugees and beneficiaries of subsidiary protection remain arbitrarily detained until the Asylum Service finally replies to the Police if there are grounds to examine the revocation of the status of international protection. However, the detention of beneficiaries of international protection is illegal as it is not prescribed within the national legislation (See: General).

It is noted that in case of revocation, individuals have the right to submit an administrative appeal within 30 days and in case of rejection, they may lodge an Application for Annulment before the competent Administrative Court within 30 days. Moreover, according to article 94 (4) IPA, if an appeal is submitted against a decision of revocation of Article 14 IPA the residence permit is returned to the appellant.

Moreover, in December 2020 the Appeals Committee started scheduling the examination of appeals submitted in the years 2016-2018 against decisions of revocation issued by the Hellenic Police in the framework of the so called “old procedure”. It is noted that those individuals have no access to the labor market or national health care system since their residence permits were revoked. GCR has filed a complaint to the Greek Ombudsman for two similar cases of status revocation within the old procedure.

In 2017 a stateless refugee applied for the renewal of her residence permit. A year later, in 2018 a non-renewal decision / revocation was issued. The rejection decision mentioned that she had 3 forgery convictions (while she had only one conviction that she had already mentioned in the interview and the others concerned other people with different father and mother names father, and her own criminal record did not even mention them). GCR filed an appeal in 2018 and continued to support the case. Three years later in May 2021 the appeal was finally examined. The 11th Committee accepted GCR’s appeal and annulled the decision of the Hellenic Police Headquarters issuing a positive decision through protocol nr. 118468/9.7.2021. According to the decision “The present Committee does not ignore the inaccurate statements about the number of convictions, however, in view of the applicant's educational level and fragile mental health at the relevant time, it concludes that these inaccuracies are due to a misunderstanding". All in all “the nature and gravity of the offenses committed by the applicant in conjunction with her personality do not in any way constitute a danger to society as a whole". The Committee did not recognise the wrongful decision of the Police Headquarters, annulling the decisions for completely other reasons. The decision had no retroactive effect and left a four-year gap in her residence permit, not allowing her to apply for the Greek citizenship through the naturalization procedure since her stay in the country is not considered legal and permanent for the years 2017-2021.

Under Article 19 of the IPA, **subsidiary protection** may be withdrawn where it is established that the person should have been excluded or has provided false information, or omitted information, decisive to the grant of protection.

The procedure described in Cessation is applicable to withdrawal cases.

On 12 April 2021 the Asylum Service issued a new circular providing clarifications on the procedure regarding the provision of an opinion on the grounds of exclusion and revocation of the status of international protection prescribed by article 91 IPA, as well as the renewal of residence permits (art. 24 IPA).[1089]

According to a document presented by the Ministry of Asylum and Migration during parliamentary control on 17 February 2022, the Asylum Service revoked 19 international protection statuses in 2021,

[1089] Ministry of Migration and Asylum, 3716/12-4-21, “Διευκρινίσεις – ορισμός διαδικασίας σχετικά με την παροχή γνώμης περί συνδρομής ή μη συνδρομής λόγων αποκλεισμού, την ανάκληση καθεστώτος διεθνούς προστασίας του αρ. 91 ν.4636/2019, καθώς και την ανανέωση των αδειών διαμονής του αρ. 24 ν.4636/2019, μετά τη θέση σε ισχύ του ΠΔ 106/2020”, available in Greek at:https://bit.ly/3niHX8J

out of which 17 concerned refugee status and 2 were subsidiary protection statuses. In 14 out 19 cases, the international protection status was revoked due to public security reasons.[1090] In addition to this, 6 revocation decisions were issued by the Headquarters of the Hellenic Police ("old procedure").[1091]

B. Family reunification

1. Criteria and conditions

Indicators: Family Reunification

1. Is there a waiting period before a beneficiary can apply for family reunification? ☐ Yes ☒ No
   - ❖ If yes, what is the waiting period?
2. Does the law set a maximum time limit for submitting a family reunification application? For preferential treatment regarding material conditions ☒ Yes ☐ No
   - ❖ If yes, what is the time limit? No time limit - After the period of 3 months the law further requires the possession of social security and a sufficient income to be proven
3. Does the law set a minimum income requirement? ☒ Yes ☐ No After the period of 3 months

According to PD 131/2006 transposing the Family Reunification Directive, as supplemented by PD 167/2008 and amended by PD 113/2013, only recognised **refugees** have the right to apply for reunification with family members who are third-country nationals, if they are in their home country or in another country outside the EU.

As per Article 13 PD 131/2006, "family members" include:

(a) Spouses;
(b) Unmarried minor children;
(c) Unmarried adult children with serious health problems which render them incapable to support themselves;
(d) Parents, where the beneficiary solemnly declares that he or she has been living with them and taking care of them before leaving his or her country of origin, and that they no longer have other family members to care for and support them;
(e) Unmarried partners with whom the applicant has a stable relationship, which is proven mainly by the existence of a child or previous cohabitation, or any other appropriate means of proof.
(f) If the refugee is an unaccompanied minor, he or she has the right to be reunited with his or her parents if he or she does not have any other adult relatives in Greece.

If a recognised refugee requests reunification with his or her spouse and/or dependent children, within 3 months from the deliverance of the decision granting him or her refugee status, the documents required with the application are:[1092]

(a) A recent family status certificate, birth certificate or other document officially translated into Greek and certified by a competent Greek authority, proving the family bond and/or the age of family members; and
(b) A certified copy of the travel documents of the family members.

However, if the applicant cannot provide these certificates, the authorities take into consideration other appropriate evidence.

1090 Ministry of Asylum and Migration 97157/17.2.2022 "Θ Έ Μ Α: Κοινοβουλευτικός Έλεγχος ΣΧΕΤΙΚΆ: Η υπ' αριθμ. Πρωτ. 2608/24-1-2022 Ερώτηση, available in Greek: https://bit.ly/3D4TKPw.
1091 Information provided by the Headquarters of the Hellenic Police, 25 February 2022.
1092 Article 14(1) PD 131/2006.

On the other hand, if the refugee is an adult and the application refers to his or her parents and/or the application is not filed within 3 months from recognition, apart from the documents mentioned above, further documentation is needed:[1093]

(c) Full Social Security Certificate, i.e. certificate from a public social security institution, proving the applicant's full social security coverage; or

(d) Tax declaration proving the applicant's fixed, regular and adequate annual personal income, which is not provided by the Greek social welfare system, and which amounts to no less than the annual income of an unskilled worker – in practice about €8,500 – plus 20% for the spouse and 15% for each parent and child with which he or she wishes to be reunited;

(e) A certified contract for the purchase of a residence, or a residence lease contract attested by the tax office, or other certified document proving that the applicant has sufficient accommodation to meet the accommodation needs of his or her family.

The Asylum Service has interpreted this article of P.D. 131/2006 in a pro-refugee light. Either a full social security certificate or tax declaration proving sufficient income is required (not both of them). On the contrary, the Aliens Police Directorate, i.e. in cases of recognized applicants under the "old procedure" (PD 114/2010) requires both certificates after the three months of recognition. Another difference is that Asylum Service starts counting the 3-month period from the deliverance of the recognition decision. On the contrary, for the Aliens Police Directorate this deadline starts from the issuance of this decision that in most of these cases took place more than 3 months before the deliverance of the decision. In practice, the Aliens Police Directorate is demanding from refugees to apply for family reunification before they even know that they are recognized as refugees.

The abovementioned additional documents are not required in case of an unaccompanied child recognised as refugee, applying for family reunification after the 3-month period after recognition.[1094]

If the application for family reunification is rejected, the applicants have 10 days to submit an appeal before the competent administrative authorities.[1095] It is worth mentioning that there is no provision for free legal aid for this appeal. In case the appeal is rejected, applicants have the right to lodge an Application for Annulment before the competent Administrative Court of First Instance.[1096] If the family members enter Greece, they must within a month upon their arrival to submit in person an application for the issuance of a residence permit.[1097]

In practice, the family reunification procedure is extremely lengthy and complicated. It lasts at least three years, and requires constant legal assistance and support. Specifically, the procedure includes, *inter alia*, communication and cooperation with the competent Greek Embassies, interviews with both the refugee and his/her family members, DNA testing where requested, as well as legal representation before the competent Administrative Court in case of rejection. It is worth mentioning that only urgent DNA tests are conducted, in violation of the Joint Ministerial Decision 47094/2018, due to the fact that there is no way for the required administrative fee to be paid since such electronic fee does not exist ("e-paravolo").

In November 2019, GCR represented a recognised refugee before the First Instance Administrative Court of Athens. On 9 September 2020, the Court annulled the decision of the Hellenic Police rejecting the application for family reunification[1098]. More precisely, in 2012, the applicant had applied for asylum

1093 Article 14(3) PD 131/2006, citing Article 14(1)(d).
1094 Article 14(3) PD 131/2006, citing Article 14(1)(d).
1095 Article 12 (1) P.D.131/2006.
1096 Article 46 (1) P.D. 18/1989.
1097 Article 15 (2) P.D. 131/2006.
1098 Administrative Court of 1st Instance of Athens, Decision 493/2020

and in 2016 he had been granted refugee status in Greece due to his persecution for political reasons. In 2016, he submitted an application for family reunification with his three children and his wife at the Alien's Department of Attica. Upon notification of a 1st instance rejection in 2018, he submitted an appeal, which was also rejected due to (a) the alleged lack of competence of the officer of the Greek Embassy who had ratified the documents proving his family link and (b) the alleged late submission of his application for family reunification. In the application for annulment it was argued that the rejection was not based neither on an individualized assessment, nor on a reasoned judgment. Moreover, it was argued that the three-month deadline had been calculated not from the notification of the recognition decision, but from the date of issuance of the decision. Thus, the deadline could not start before the applicant was even aware that he had been granted the refugee status. It was also argued that the aforementioned rejection was violating the relevant national and European laws on refugee family reunification, and international law on human rights. In light of the above, the Court annulled the decision of the Police and ordered the competent administrative authority to re-examine the application for family reunification. In December 2020, the latter accepted the application for family reunification. However, the family was still not reunited at the end of March 2021; the competent Greek Embassy seems unwilling to issue the reunification visas, and states that the visas will be issued when the "time is ripe". As of March 2022, his family members were still not issued family reunification visas, and the competent Greek Embassy announced it would not examine the cases of the refugee children since they reached the age of majority during the ongoing court proceedings.

Refugees who apply for family reunification face serious obstacles which render the effective exercise of the right to family reunification impossible in practice. Lengthy procedures, administrative obstacles as regards the issuance of visas even in cases where the application for family reunification has been accepted, the requirement of documents which are difficult to obtain by refugees, and lack of information on the possibility of family reunification, the three-month deadline and the available remedies are reported among others.[1099]

The Council of Europe Commissioner for Human Rights notes that these administrative obstacles result in a short number of beneficiaries of international protection being able to initiate a family reunification procedure. Moreover, the deficiencies in the family reunification procedure sometimes result in families trying to reunite through dangerous irregular routes.[1100]

In 2019, 266 applications for family reunification were submitted before the Asylum Service. The Asylum Service took 22 positive decisions, 2 partially positive decisions and 29 negative decisions.[1101] The Asylum Service due to the nature of this procedure cannot specify the time needed for a decision to be issued.[1102] This information was not provided by the Asylum Service for the year 2021. However, only one family member arrived in Greece from the old procedure.[1103]

In February 2018, in a case supported by GCR, the Administrative Court of Athens annulled a decision rejecting the application for family reunification submitted by a refugee before the Aliens Police Directorate of Attica. The Court found that the rejection of the application had been issued in breach of the relevant legal framework.[1104] In November 2019, the Aliens Police Directorate issued again a negative decision on the same case. Following this decision, in January 2019 GCR's Legal Unit applied

1099 See e.g. Pro Asyl and Refugee Support Aegean, *Rights and effective protection exist only on paper: The precarious existence of beneficiaries of international protection in Greece*, 30 June 2017, available at: http://bit.ly/2FkN0i9, 26-27.

1100 Council of Europe Commissioner for Human Rights, *Report of the Commissioner for Human Rights of the Council of Europe Dunja Mijatović following her visit to Greece from 25 to 29 June 2018*, CommDH(2018)24, 6 November 2018, paras 68-69.

1101 Information provided by the Asylum Service, 17 February 2020.

1102 Information provided by the Asylum Service, 17 February 2020.

1103 Information provided by the Headquarters of the Hellenic Police, 25 February 2022

1104 Administrative Court of Athens, Decision 59/2018; GCR, 'Πρώτη απόφαση διοικητικών δικαστηρίων για οικογενειακή επανένωση πρόσφυγα', 8 February 2018, available in Greek at: http://bit.ly/2FhY5EE.

again for the annulment of this second negative Decision of the Aliens Police Directorate, before the Administrative Court of Athens. The Decision of the Court was still pending in April 2022.

A long awaited Joint Ministerial Decision was issued in August 2018 on the requirements regarding the issuance of visas for family members in the context of family reunification with refugees.[1105] Among other provisions, this Decision sets out a DNA test procedure in order to prove family links and foresees interviews of the family members by the competent Greek Consulate. The entire procedure is described in detail in the relevant handbook of the Ministry of Foreign Affairs.[1106] According to the Ministerial Decision, the refugee must pay €120 per DNA sample but until today the electronic fee (e-paravolo) is not available and thus the payment of the fee is not possible. In addition, the DNA kit must be sent from the Forensic Science Department (Διεύθυνση Εγκληματολογικών Ερευνών) that will conduct the test, to the Greek Consulate in the diplomatic pouch of the Ministry of Foreign Affairs. This is a procedure which can be proven lengthy. Moreover, there is no legal provision for family reunification where the refugee family members cannot issue travel documents, since the Greek Authorities continue to deny the issuance of laissez-passer for family reunifications and the Greek Ministry of foreign affairs has stated that it is not competent to issue one- way- travel documents. Thus, family reunifications for stateless persons are impossible in practice.

In November 2019, GCR supported the first case on a DNA test Procedure in Greece. Although an initial positive decision for family reunification was issued, a DNA test has been ordered due to the doubts on the family link expressed by the competent Greek Consulate. In this case, there was no Greek Embassy in the country of origin and the family members had to present themselves at the Greek Embassy appointed as competent for the issuance of the visas, located in another country. However, during the DNA test procedure the visas of the refugee his family members for that country expired. Hence, they had to stay in that country for more than three months, waiting for the procedure to be finalized. In February 2020 the visas were finally issued. However, the family members that arrived in Greece were not able to apply in person within one month upon their arrival, due to COVID-19 measures. The competent RAO made an exception due to *force majeure* and granted them residence permit as family members of a recognized refugee.

In June 2020 GCR lodged two applications for the annulment of negative decisions issued by the competent Greek Consulate against the Greek Ministry of Foreign Affairs. The Competent Greek Consulate ignored the positive family reunification decision that had already been issued by the Asylum Service an decided to conduct a family reunification interview without the request of the Asylum Service, in violation of the Joint Ministerial Decision 47094/2018 for family reunifications. It further omitted to conduct a DNA test as requested by the beneficiary of international protection The court date for the two applications is set on April 2022.

Refugee family members who enter Greece after a successful family reunification cannot apply for the renewal of their residence permit if they reach the age of majority (18).[1107] P.D. 131/2006 provides for a special one-year residence permit until they reach the age of 21.[1108] However, they still need a valid residence permit in order to apply for the said one-year residence permit before the competent Decentralized Administration of their place of residence.

In December 2020, GCR represented two cases regarding that issue. The Headquarters of the Hellenic Police rejected the applications for renewal of the residence permit of four refugee family members who had entered Greece after positive family reunification decisions, on the grounds that “they reached the

1105 JMD 47094/2018, Gov. Gazette B/3678/28.08.2018.
1106 Ministry of Foreign Affairs, *Immigration Code Handbook*, 2019, available in Greek at: https://bit.ly/2BYHS3p, 123-127.
1107 Article 2 IPA.
1108 Article 11 (1) P.D. 131/2006.

age of majority". In the first case, the refugee family member was placed in administrative detention when he was invited to the Aliens Directorate of Attica and was released the same day, after he asked for international protection. In the second case, GCR has filed a complaint to the Greek Ombudsman In 2021, GCR represented a similar case: a 17.5-year-old-refugee arrived in Greece through family reunification and was issued a residence-permit valid for six months until the age of 18, in violation of art. 15 par.2 P.D.131/2006 that requires the residence permit to be valid for at a least a year. The Headquarters of the Hellenic Police denied to renew her residence permit until the age of 21, claiming that they had no competence to do so. GCR filed a complaint to the Greek Ombudsman for the above-mentioned case. Eventually, in March 2022, her residence permit was renewed by the Aliens Department of Attica. However, no relevant decision was issued.

There is no available data concerning the total number of applications for visas submitted before Greek Consulates following a positive family reunification decision during 2021.

2. Status and rights of family members

According to Article 23 and Article 24 of IPA, family members of the beneficiary of international protection who do not individually qualify for such protection are entitled to a renewable residence permit, which must have the same duration as that of the beneficiary.

However, if the family has been formed after entry into Greece, the law requires the spouse to hold a valid residence permit at the time of entry into marriage in order to obtain a family member residence permit.[1109] This requirement is difficult to meet in practice and may undermine the right to family life, since one must already have a residence permit in order to qualify for a residence permit as a family member of a refugee. Moreover, after the implementation of the IPA, underage beneficiaries of international protection can no longer apply for the issuance of residence permit for their non-refugee parent.

C. Movement and mobility

1. Freedom of movement

According to Article 34 IPA, beneficiaries of international protection enjoy the right to free movement under the same conditions as other legally residing third-country nationals. No difference in treatment is reported between different international protection beneficiaries.

2. Travel documents

Ministerial Decision 1139/2019[1110] that regulated the procedures to issue travel documents for beneficiaries of international protection was abolished and replaced by Joint Ministerial Decision 10302/2020[1111] which came into force on 30 May 2020.

Recognised **refugees**, upon a request submitted to the competent authority, are entitled to a travel document (*titre de voyage*), regardless of the country in which they have been recognised as refugees in accordance with the model set out in Annex to the 1951 Refugee Convention.[1112] This travel document allows beneficiaries of refugee status to travel abroad, except their origin country, unless

1109 Article 24(4) IPA.
1110 Ministerial Decision 1139/2019, Gov. Gazette 4736/B/20.12.2019, available in Greek at: https://bit.ly/3dDfiYI
1111 Joint Ministerial Decision 10302/2020, Gov. Gazette 2036/B/30-5-2020, available in Greek at: https://bit.ly/2P71hc8.
1112 Article 25(1) IPA

compelling reasons of national security or public order exist. The abovementioned travel document is issued from the Passport Directorate of the Hellenic Police Headquarters,[1113] subject to a fee of approximately 84 € for the adults and 73 € for the minors. These travel documents are valid for 5 years for adults and 3 years for minors and can be renewed.[1114]

The same applies to beneficiaries of **subsidiary protection or family members of beneficiaries of international protection**, if they are unable to obtain a national passport, unless compelling reasons of national security or public order exist.[1115] In practice, beneficiaries of subsidiary protection must present to the Greek authorities verification from the diplomatic authorities of their country of origin, certifying their inability to obtain a national passport. This prerequisite is extremely onerous, as beneficiaries of subsidiary protection may also fear persecution or ill-treatment from their country of origin. Furthermore, the issuance of this verification lies upon the discretion of the diplomatic authorities of their country of origin and depends on the policy of each country. The travel documents issued for beneficiaries of subsidiary protection are valid for 3 years and can be renewed.[1116]

JMD 10302/2020 provides that the Alien's Directorates is the only competent authority for the issuance of travel documents[1117]. In practice, after their recognition beneficiaries of international protection must scan all the required documents (including the electronic administrative fee) and send them by email to the competent Alien's Directorate in order to book an appointment for the submission of their applications in person. After the travel document is issued, they must regularly check the website of the Asylum Service for their scheduled deliverance appointment.[1118] If they miss that appointment they must book another one through the electronic platform of the Ministry of Migration; that appointment may be scheduled months after the missed one.

According to both Ministerial Decisions, travel documents should not be issued to refugees convicted for falsification and use of false travel documents. Travel documents cannot be issued for five years following the conviction, or for ten years in case of a felony.[1119]

The same Ministerial Decision regulates the issuance of travel documents for minors accompanied by one of their parents who exercises on his/her own the parental care of the child, but does not possess documents establishing the parental care of the child. More precisely travel documents for the minor can be issued upon submission of a declaration on oath before the District Court or a Notary when the following conditions are met:

- the minor is granted refugee status and is present in Greece with one of his/her parent;
- this parent is also exercising the parental care due to facts or legal acts previously registered in the country of origin, and
- this parent does not possess documents proving that he/she is exclusively exercising the parental care.

This long-awaited Ministerial Decision 1139/2019 simplified the procedure for the issuance of travel documents for minors of single-headed families. The Joint Ministerial Decision 10302/2020 has exactly the same provision on this matter. However, this provision does not apply to cases where the parent is exercising the sole parental custody due to facts or legal acts registered in a country other than the country of their origin. In this case, if no supporting documents can be provided, travel documents for

1113 Article 25(2) IPA
1114 Article 7(1) MD 1139/2019 (in force until 29/05/2020) and Article 6(1) JMD 10302/2020 (in force since 30/05/2020).
1115 Article 25(4) IPA.
1116 Article 7(2) MD 1139/2019 and Article 6(2) JMD 10302/2020.
1117 Article 3 JMD 10302.
1118 Ministry of Migration and Asylum, Information on travel documents at: https://bit.ly/2Pd4kQe.
1119 Article 1(2) MD 1139/2019 and Article 1(2) JMD 10302/2020.

the minor can be requested by the single parent under the condition that the parental care/responsibility has been assigned to him/her on the basis of a decision of a Greek court.[1120]

The waiting period for the issuance of travel documents can prove lengthy and may exceed 1 year in some cases, as far as GCR is aware. Measures against COVID-19 seem to have slowed down the issuance and particularly the deliverance of travel documents.

In May 2019, the Asylum Service started the process of electronic renewal of travel documents. The application for renewal of travel documents is submitted via e-mail and further supporting documents must be sent to the Asylum Service via post. The application is completed with the receipt of the required supporting documents from the applicants. Therefore, the time for processing the application by the Asylum Service depends on the time of sending and receiving all required supporting documents[1121]. From the time of receipt of these documents, the average time for the issuance of a travel document renewal decision is one and a half (1.5) months.

There is no available data concerning the applications submitted for the renewal of Travel Documents and the positive decisions taken by the Asylum Service during 2021.

D. Housing

Indicators: Housing	
1. For how long are beneficiaries entitled to stay in ESTIA accommodation?	1 month
2. Number of beneficiaries staying in ESTIA as of 31 December 2020	6,199[1122]

According to Article 30 IPA, beneficiaries of international protection should enjoy the same rights as Greek citizens and receive the necessary social assistance, according to the terms applicable to Greek citizens. However, administrative and bureaucratic barriers, lack of state-organised actions in order to address their particular situation, non-effective implementation of the law, and the impact of economic crisis prevent international protection holders from the enjoyment of their rights, which in some cases may also constitute a violation of the of principle of equal treatment enshrined in L.3304/2005, transposing Directives 2000/43/EU and 2000/78/EU.

In 2021, 16,588 2020 people were granted international protection at first instance, down from 34,321 in 2020,17,355 in 2019, 15,192 in 2018 and 10,351 in 2017.[1123] As noted by UNHCR, "[t]here is a pressing need to support refugees to lead a normal life, go to school, get healthcare and earn a living. This requires key documents that allow access to services and national schemes, enable refugees to work and help their eventual integration in the host communities […] UNHCR advocates for refugees to be included in practice in the national social solidarity schemes, as for example the Social Solidarity Income and the Rental Allowance Scheme. While eligible, many are excluded because they cannot fulfil the technical requirements, as for example owning a house, or having a lease in their name".[1124] In any event, the impact of the financial crisis on the welfare system in Greece, the overall integration strategy and the Covid-19 pandemic should be also taken into consideration when assessing the ability of beneficiaries to live a dignified life in Greece.

1120 Articles 1(6) and 1(7) JMD 1032/2020.
1121 Ministry of Migration and Asylum, Information on travel documents at: https://bit.ly/2Pd4kQe
1122 UNHCR, Greece Factsheet, December 2020, available at: https://bit.ly/3pgdgjN. Ministry of Asylum and Immigration announced that from 16 April 2022, the places of the housing program "ESTIA II" will be reduced to 10,000 from 27,000.
1123 Information provided by the Asylum Service, 31 March 2021 and 17 February 2020; Asylum Service, *Statistical data*, December 2018.
1124 UNHCR, *Greece Fact Sheet*, 1-31 January 2019.

Moreover, a number of measures restricting the access of recognized beneficiaries of international protection to social benefits and accommodation were announced in March 2020. As stated by the Minister for Migration and Asylum, "our aim is to grant asylum to those entitled within 2-3 months and from then on we cut any benefits and accommodation, as all this works as a pull factor […] Greece is cutting these benefits. Anyone after the recognition of the asylum status is responsible for himself".[1125]

Indeed, an amendment to the asylum legislation in early March 2020 states that "after the issuance of the decision granting the status of international protection, material reception conditions in form of cash or in kind are interrupted. Said beneficiaries residing in accommodation facilities, including hotels and apartments have the obligation to leave them, in a 30-days period since the communication of the decision granting international protection". Unaccompanied children have the legal obligation to leave the facilities within 30 days of reaching the age of majority. Special categories of beneficiaries for whom the provision of benefits or deadline to leave the facility is extended, and "in particular persons with a serious health condition", may be foreseen by a ministerial Decision.[1126]

There is a serious information gap on the issue of the access of beneficiaries of international protection to housing. A recent research found that 18 out of 64 beneficiaries of international protection are homeless or in precarious housing conditions, 14 out of 64 are at an immediate risk of being homeless (living in ESTIA or camp after their recognition).[1127] A total of 32 out of 64, i.e. 50% of all beneficiaries of international protection live in precarious housing conditions

In general terms and according to the law beneficiaries of international protection have access to accommodation under the conditions and limitations applicable to third-country nationals residing legally in the country.[1128]

As has been mentioned, there is limited accommodation for homeless people in Greece and no shelters are dedicated to recognised refugees or beneficiaries of subsidiary protection. There is no provision for financial support for living costs. In Athens, for example, there are only four shelters for homeless people, including Greek citizens and third-country nationals lawfully on the territory. At these shelters, beneficiaries of international protection can apply for accommodation, but it is extremely difficult to be admitted given that these shelters are always overcrowded and constantly receiving new applications for housing.

According to GCR's experience, those in need of shelter who lack the financial resources to rent a house remain homeless or reside in abandoned houses or overcrowded apartments, which are on many occasions sublet.

Return of beneficiaries of international protection to Greece

Upon arrival at Athens International Airport, returnees are only provided with a police note (*ενημερωτικο σημειωμα*) written in Greek, directing them to the Regional Asylum Office of Attica.

1125 Protothema.gr, End of the benefits to refuges according to Mitarakis, 7 March 2020, available in Greek at: https://bit.ly/2IwvE51.

1126 Article 114 L. 4636/2019, as amended by Article 111 L. 4674/2020. Said ministerial Decision, has been issued on 7 April 2020 (JMD No 13348, Gov. Gazzetta B' 1190/7-4-2020).

1127 Information gathered through a joint questionnaire prepared by GCR, Diotima Centre and IRC, under the joint project "Do the human *right thing*–Raising our Voice for Refugee Rights". The project is implemented under the Active citizens fund program, which is supported through a € 12m grant from Iceland, Liechtensteinand Norway as part of the EEA Grants 2014 -2021, and is operated in Greece by the Bodossaki Foundation in consortium with SolidarityNow. As of the time of writing, the data is based on a total of 188 questionnaires, out of which 64 were filled by beneficiaries of international protection residing in Greece.

1128 Article 33 IPA.

Several courts in countries such as Germany, the Netherlands and Belgium have halted returns of beneficiaries of international protection to Greece.[1129] However, courts in countries such as Switzerland and Norway have maintained the view that conditions for beneficiaries do not infringe the prohibition on inhuman and degrading treatment.[1130]

On 21 January 2021, the Higher Administrative Court (OVG) of the state of North Rhine-Westphalia has ruled that two beneficiaries of international protection in Greece, an Eritrean national and a Syrian national of Palestinian origin, cannot be sent back from Germany because of a "serious risk of inhumane and degrading treatment." The Court held that if the two refugees were returned to Greece they would face "extreme material hardship", they would be unable to find accommodation in reception facilities or homeless shelters and would have difficulty accessing the labour market. [1131]

Moreover, on 19 April 2021, the Higher Administrative Court of the state of Lower Saxony ruled that two Syrian sisters who were recognized as refugees in Greece could be returned there because there was a serious risk that their most basic needs ("bed, bread, soap") could not be met.[1132]

On 28 July 2021, the Council of State of the Netherlands published two rulings (202005934/1 and 202006295/1) concerning the return to Greece of Syrian nationals granted international protection in Greece. In both cases, after receiving international protection in Greece the applicants travelled to the Netherlands, where they applied again for protection. The Secretary of State declared their applications inadmissible as the applicants were already beneficiaries of protection in another Member State. The applicants unsuccessfully appealed against these decisions to the District Court of The Hague. The Council of State considered previous caselaw, which indicated difficulties in accessing accommodation, health care and employment but nevertheless, beneficiaries of international protection could be returned to Greece. However, due to new developments indicated by the Greek AIDA report including *inter alia* a significant decrease in the length of time that beneficiaries can remain in the reception for asylum applicants after obtaining their status and before finding independent accommodation, the Council of State found that in practice, Greece cannot ensure that beneficiaires of international protection will be able to meet their main basic needs. In that regard, it held that the Secretary of State failed to properly justify its reliance on the principle of interstate trust with respect to Greece. Additionally, it failed to justify its finding that the living conditions that beneficiaries of international protection face upon return to Greece do not reach the threshold of severity stipulated by the CJEU's judgment in Ibrahim. The decision was annulled and remitted to the Secretary of State for reconsideration.[1133]

1129 (Germany) Higher Administrative Court of North-Rhine Westphalia, Decision 11 A 1564/20.A, 21 January 2021; Higher Administrative Court of Lower Saxony, 10 LB 245/20, 19 April 2021; Higher Administrative Court of Bremen, 1 LB 371/21, 16 November 2021; (Netherlands) Council of State, 202005934/1/V3, 28 July 2021; (Belgium) Council of Alien Law Litigation, 259 385, 13 August 2021; Decision 261 291, 28 September 2021.

1130 (Switzerland) Federal Administrative Court, Decision D-4359/2021, 8 October 2021; (Norway) District Court of Oslo, Decision 21-063000TVI-TOSL/04, 1 November 2021.

1131 See also Infomigrants, German court rules that refugees cannot be deported to Greece, 27 January 2021, available at: https://bit.ly/3n74jK4 , ECRE, Greece: Unknown NGO to Receive Substantial EU Funds, Government Admits Lead Contamination in Moria 2.0, German Court Suspends Returns, 29 January 2021, available at: https://bit.ly/3dCL8Vt and OVG, In Griechenland anerkannte Schutzberechtigte dürfen derzeit nicht rücküberstellt warden, 26 January 2021, available in German at : https://bit.ly/3auaVgy.

1132 Niedersachsen oberverwaltungsgericht, 19 April 2021, In Griechenland anerkannte Flüchtlinge dürfen derzeit nicht dorthin rücküberstellt warden, available in German at: https://bit.ly/3eopXWj.

1133 Decision 202006295/1/V3 and decision 202005934/1/V3, Netherlands, The: Council of State (Raad van State), 28 July 2021, available at: https://bit.ly/3DnZ40A.

E. Employment and education

1. Access to the labour market

Article 27 IPA provides for full and automatic access to the labour market for recognised refugees and subsidiary protection beneficiaries under the same conditions as nationals, without any obligation to obtain a work permit.

However, as mentioned in Reception Conditions: Access to the Labour Market, high unemployment rates and further obstacles that might be posed by competition with Greek-speaking employees, prevent the integration of beneficiaries into the labour market. Third-country nationals remain over-represented in the relevant unemployment statistical data. As found in research from 2018 "[t]hose few who manage to find a job are usually employed in the informal economy, which deprives them of access to social security, and subjects them to further precariousness and vulnerability. Henceforth, the vast majority of international protection beneficiaries and applicants rely on food, non-food item and financial assistance distributions to meet their basic needs. This often forces them into dangerous income generating activities, and extends the need for emergency services, increases the risk of exploitation, and hinders their integration prospects."[1134]

Due to the abovementioned shortcomings, many beneficiaries of international protection work as irregular peddlers, since it is very difficult to obtain the special work permit required for this profession. Hence, they risk to be fined and jailed. In a case handled by GCR in October 2020 the First Instance Administrative court of Piraeus ruled that the fine of € 5,000 imposed on a recognised refugee who was working as a street vendor was exorbitant and it had to be adjusted to € 200 due to the amendment of the relative legislation.[1135]

The National Integration Strategy[1136] provides for several actions to improve access to employment for beneficiaries of international protection. These include a pilot vocational training program for 8,000 recognized refugees in Attica and Central Macedonia in collaboration with the Ministry of Labor and an employment program in the agricultural sector for 8,000 refugees in collaboration with the Ministry of Agricultural Development. However, these actions have yet to be implemented.[1137]

Similar to asylum seekers, beneficiaries of international protection face obstacles in the issuance of Tax Registration Number (AFM), which hinder their access to the labour market and registration with the Unemployment Office of OAED. According to GCR's experience, issuance of an AFM is riddled by severe delays. The procedure for competent Tax Offices to verify refugees' personal data through the Asylum Service takes approximately 2 months. In case of a professional (*εταιρικό*) AFM, the procedure takes more than 3.5 months and requires the assistance of an accountant. Moreover, individuals wishing to register with a Tax Office (*Διεύθυνση Οικονομικών Υποθέσεων*, (DOY) with a view to obtaining AFM are required to certify their residence address through a certificate from a reception centre, an electricity bill or a copy of a rental contract in their name. Accordingly, beneficiaries of international protection who do not hold a residence certificate and/or are homeless are unable to obtain AFM. As a result, they cannot submit a tax declaration or obtain a tax clearance certificate.[1138]

1134 ELIAMEP, *Refugee Integration in Mainland Greece: Prospects and Challenges*, March 2018, available at: https://bit.ly/2T5untb, 3.

1135 Decision on file with the author.

1136 Statement of the Secretary General for Migration Policy at the presentation of the National Integration Strategy, see Ministry for Migration Policy, Press release: Presentation of the "National Integration Strategy", 17 January 2019.

1137 CNN, 'Στα «χαρτιά» η εθνική στρατηγική για την ένταξη των μεταναστών', 30 September 2019, available in Greek at: https://bit.ly/2W03do0.

1138 RSA and Pro Asyl, *Idem*, para. 15-16.

There is a lack of information on the employment of beneficiaries of international protection. A recent research found that only 14 out of 64 beneficiaries of international protection were working at the time of the research and only 23 out of 64 were able to work during the last six months.[1139]

Pending the issuance of a new residence permit, beneficiaries of international protection are granted a certificate of application (*βεβαίωση κατάστασης αιτήματος*) which is valid for three months. In practice this certificate is not allowing them to access the labour market and many of them are losing their jobs as soon as their residence permit expires. Furthermore, according to GCR experience, recently recognised beneficiaries of international protection, are considered by the electronic system ERGANI (*ΕΡΓΑΝΗ)* as asylum seekers pending the issuance of their first residence permit, since they still hold their asylum seekers card. This malpractice has prevented beneficiaries of international protection from accessing employment until they are served their residence permit. This is contrary to Art. 27 of IPA as they should be able to access the labour market freely from the first day of their recognition.

2. Access to education

Children beneficiaries of international protection have an obligation to study at primary and secondary education institutions of the public education system, under the same conditions as nationals.[1140] Similar to Reception Conditions: Access to Education, the new L. 4636/2019 refers not to a right to education but to a duty on beneficiaries of international protection.

Adult beneficiaries are entitled to access the education system and training programmes under the same conditions as legally residing third-country nationals.[1141] The number of children beneficiaries of international protection enrolled in formal education is not known. However, the total number of asylum-seeking and refugee children enrolled is 11,700 (see Reception Conditions: Access to Education).[1142]

A number of Greek language classes are provided by universities, civil society organisations and centres for vocational training. However, as noted by UNHCR, "Most refugees do not benefit from language courses or integration programmes in Greece".[1143] A pilot programme of Greek language courses funded by the Asylum, Migration and Integration Fund (AMIF) announced in January 2018 was included in the HELIOS project and has been implemented since June 2019 by IOM and its partners.[1144] Moreover, the Municipality of Athens regularly organizes Greek language courses for adult immigrants, as well as IT seminars, for, among others, adult refugees.[1145]

As of March 2022, the D.O.A.T.A.P – Hellenic National Academic Recognition and Information Center (Hellenic NARIC) the official body of the Hellenic Republic for the academic recognition of titles and qualifications awarded by foreign Higher Education Institutions has not provided any exceptions from its extremely strict requirements for the recognition of university degrees of beneficiaries of international protection. The following requirements must be met and submitted: a legally certified copy of High

1139 Information gathered through a joint questionnaire prepared by GCR, Diotima Centre and IRC, under the joint project "Do the human right thing–Raising our Voice for Refugee Rights". The project is implemented under the Active citizens fund program, which is supported through a € 12m grant from Iceland, Liechtenstein and Norway as part of the EEA Grants 2014 -2021, and is operated in Greece by the Bodossaki Foundation in consortium with SolidarityNow. As of the time of writing, the data is based on a total of 188 questionnaires, out of which 64 were filled by beneficiaries of international protection residing in Greece.

1140 Article 28(1) IPA.

1141 Article 28(2) IPA.

1142 UNICEF, *Refugee and migrant children in Greece as of 31 January 2019*, available at: https://uni.cf/2SH2pz4.

1143 in.gr, "Υπατη Αρμοστεία ΟΗΕ για πρόσφυγες: Δίκαιη απονομή ασύλου, όχι μόνο γρήγορη', 6 May 2020, https://bit.ly/2LazMJf

1144 IOM, *Hellenic Integration Support for Beneficiaries of International Protection (HELIOS)*, available at: https://bit.ly/3d9OJbp.

1145 City of Athens, 'Εκπαιδευτικά Προγράμματα', available in Greek at: https://www.cityofathens.gr/node/2545.

School Diploma and translation in Greek legally certified copy of the degree to be recognised and its official translation in Greek; a legally certified copy of the official transcript of records (grades from all subjects and from all the years of study, signed and stamped by the University, stating the date of award) and its official translation in Greek , University Certificate.[1146] These requirements are impossible to be met by the vast majority of beneficiaries of international protection. Thus, most of them cannot continue their education in their field of studies.

F. Social welfare

The law provides access to social welfare for beneficiaries of international protection without drawing any distinction between refugees and beneficiaries of subsidiary protection. Beneficiaries of international protection should enjoy the same rights and receive the necessary social assistance according to the terms that apply to nationals, without discrimination.[1147]

Types of social benefits

Not all beneficiaries have access to social rights and welfare benefits. In practice, difficulties in access to rights stem from bureaucratic barriers, which make no provision to accommodate the inability of beneficiaries to submit certain documents such as family status documents, birth certificates or diplomas, or even the refusal of civil servants to grant them the benefits provided, contrary to the principle of equal treatment as provided by Greek and EU law.[1148]

Family allowance: Family allowance is provided to families that can demonstrate 5 years of permanent, uninterrupted and legal stay in Greece[1149]. As a result, the majority of beneficiaries of international protection are excluded from this benefit.

Single mother allowance: The allowance for single mothers is provided to those who can provide proof of their family situation e.g. divorce, death certificate, birth certificate. With no access to the authorities of their country, many mothers are excluded because they cannot provide the necessary documents.

Single child allowance: The single child support allowance replaced the pre-existing family allowance and is provided explicitly to refugees or beneficiaries of subsidiary protection.[1150]

Birth allowance: The newly established birth allowance is granted to any mother who is legally and permanently residing in Greece and amounts to €2,000 for every child born in Greece. Third country nationals are entitled to receive this allowance if they can demonstrate 12 years of permanent stay in Greece. Exceptionally for the births that will take place in the years 2020-2023 the allowance will be granted to any mother – third country national, who has been permanently residing in Greece since 2012. The permanent stay is proved with the submission of tax declarations. Hence, the vast majority of beneficiaries of international protection are practically excluded from this benefit.[1151]

1146 DOATAP website available at: https://e-doatap.doatap.gr/?lang=en.
1147 Articles 29 and 30 IPA.
1148 Pro Asyl and Refugee Support Aegean, *Rights and effective protection exist only on paper: The precarious existence of beneficiaries of international protection in Greece*, 30 June 2017, 22-24; ELIAMEP, *Refugee Integration in Mainland Greece: Prospects and Challenges*, March 2018, 4-5.
1149 Article 3(6) Law 4472/2017, inserted by Article 17 Law 4659/2020. Residence is established based on the submission of tax declarations within the requisite deadlines
1150 Article 214 L. 4512/2018, as amended by Article 15 L. 4659/2020.
1151 Articles 1 and 7 L. 4659/2020.

Student allowance: Furthermore, beneficiaries of international protection are excluded by law from the social allowance granted to students, which amounts to €1,000 annually. According to the law, this allowance is provided only to Greek nationals and EU citizens.[1152]

Disability benefits: Beneficiaries of international protection with disabilities also face great difficulties in their efforts to access welfare benefits. First, they have to be examined by the Disability Accreditation Centre to assess whether their disability is at a level above 67%, in order to be eligible for the Severe Disability Allowance.[1153] Even if this is successfully done, there are often significant delays in the procedure.

The **guaranteed minimum income** (*ελάχιστο εγγυημένο εισόδημα*),[1154] formerly known as Social Solidarity Income (*Κοινωνικό Επίδομα Αλληλεγγύης "*ΚΕΑ", established in February 2017 as a new welfare programme regulated by Law 4389/20169).[1155] The guaranteed minimum income is €200 per month for each household, plus €100 per month for each additional adult of the household and €50 per month for each additional child of the household, was intended to temporarily support people who live below the poverty line in the current humanitarian crisis, including beneficiaries of international protection.[1156]

Unfortunately, except for the "guaranteed minimum income", there are no other effective allowances in practice. There is no provision of state social support for vulnerable cases of beneficiaries such as victims of torture. The only psychosocial and legal support addressed to the identification and rehabilitation of torture victims in Greece is offered by three NGOs, GCR, Day Centre Babel and MSF, which means that the continuity of the programme depends on funding.

Uninsured retiree benefit: Finally, retired beneficiaries of international protection, in principle have the right to the Social Solidarity Benefit of Uninsured Retirees.[1157] However, the requirement of 15 years of permanent residence in Greece in practice excludes from this benefit seniors who are newly recognised beneficiaries. The period spent in Greece as an asylum seeker is not calculated towards the 15-year period, since legally the application for international protection is not considered as a residence permit.

The granting of social assistance is not conditioned on residence in a specific place.

G. Health care

Free access to health care for beneficiaries of international protection is provided under the same conditions as for nationals,[1158] pursuant to L 4368/2016. The new International Protection Act has not changed the relevant provisions. Despite the favourable legal framework, actual access to health care services is hindered in practice by significant shortages of resources and capacity for both foreigners and the local population, as a result of the austerity policies followed in Greece, as well as the lack of adequate cultural mediators. "The public health sector, which has been severely affected by successive austerity measures, is under extreme pressure and lacks the capacity to cover all the needs for health care services, be it of the local population or of migrants".[1159] Moreover, administrative obstacles with

1152 Article 10 L 3220/2004.
1153 JMD Γ4α/Φ. 225/161, Official Gazette 108/B/15.2.1989.
1154 Article 29(2) L. 4659/2020, Official Gazette A' 21/3.2.2020.
1155 Article 235 L 4389/2016. See also ΚΕΑ, 'Πληροφορίες για το ΚΕΑ', available in Greek at: http://bit.ly/2HcB6XT.
1156 ΟΡΕΚΑ, Ελάχιστο Εγγυημένο Εισόδημα (ΚΕΑ),available at: https://bit.ly/3chQsdD.
1157 Article 93 L 4387/2016.
1158 Article 31(2) IPA.
1159 Council of Europe, *Report by Commissioner for Human Rights Dunja Mijatovic following her visit to Greece from 25 to 29 June 2018*, CommDH(2018)24, 6 November 2018, para 40.

regard to the issuance of a Social Security Number (AMKA) also impede access to health care. In addition, according to GCR's experience, beneficiaries of international protection under the "old" system who possess the "old" residence permit in the form of a "booklet", have encountered problems in the issuance of AMKA, as this old residence permit contains a number written in a different format than the new residence permits. Hence, the employees at the Citizen Service Centre (ΚΕΠ) did not know how to process the issuance of AMKA. Finally, it has been clarified that this will happen at the offices of the Single Social Security Entity (ΕΦΚΑ).

Lastly a new Ministerial Decision that came into effect on 16 March 2022 provides that the prescription of medicines, therapeutic operations and diagnostic examinations for patients without health insurance will be possible, only by doctors of public hospitals and Primary Health Care structures.[1160] This Ministerial Decision will affect the vast majority of beneficiaries of international protection, since most of them do not have health insurance and will therefore no longer be able to visit private doctors .

As regards COVID-19 vaccination, beneficiaries of international protection are entitled to vaccines similarly to Greek citizen, provided that they have a social security number (AMKA) and that they are registered into the Greek tax statement system (TAXISNET). There are no statistics available on the number of beneficiaries of international protection that have been vaccinated so far.

[1160] Ministerial Decision 12184/2022 Gov. Gazette 899/B/28.2.2022.

ANNEX I – Transposition of the CEAS in national legislation

The following section contains an overview of incompatibilities in transposition of the CEAS in national legislation:

Directive	Provision	Domestic law provision	Non-transposition or incorrect transposition
Directive 2011/95/EU Recast Qualification Directive	-	-	-
Directive 2013/32/EU Recast Asylum Procedures Directive	28(1)	Article 81(1) IPA	The Directive requires Member States to ensure that the determining authority can either discontinue the procedure or, in case it is satisfied on the basis of available evidence that the claim is unfounded, to issue a rejection decision. Article 81(1) IPA only provides that, in the case of implicit withdrawal, the determining authority shall reject an application as unfounded after adequate examination. Accordingly, (i) it does not permit the Asylum Service to discontinue the procedure, and (ii) does not clearly condition the issuance of a negative decision on the authority being satisfied on the basis of available evidence that the claim is unfounded. The provision has therefore incorrectly transposed the Directive. NOTE: Article 81 (1) of the IPA has been amended by Article 13(1) of L. 4686/2020, Gov. Gazette A 96/12 May 2020. The May 2020 amendment provides for the possibility of discontinuing the procedure in case of an implicit withdrawal and if an adequate examination of the substance of the Application is not possible.
	31(8)	Article 83(9) IPA	The IPA exceeds the permissible grounds for applying the accelerated procedure, given that it foresees as grounds for using the procedure cases where the applicant (i) refuses to comply with the obligation to be fingerprinted under domestic legislation, or (ii) is a vulnerable person or a person in need of special procedural guarantees who receives adequate support. Article 31(8) of the Directive does not allow for vulnerability or need of special procedural guarantees to be deemed *per se* a reason for subjecting an applicant to the accelerated procedure. It should be recalled that the accelerated procedure under the IPA entails shorter deadlines and a derogation from automatic suspensive effect of appeals. NOTE: Article 61 L. 4686/2020, Gov. Gazette A 96/12 May 2020 abolished the vulnerability/special procedural guarantees as a ground for applying the accelerated procedure.

	32(2)	Article 88(2) IPA Article 78(9) IPA Article 97 IPA	Under the Directive, Member States may only consider an application as manifestly unfounded where one of the grounds laid down in Article 31(8) apply. The IPA has transposed this provision in Article 88(2) IPA, which includes all ten of those grounds. However, Article 78 (9) IPA adds that "failure to comply with the obligation to cooperate with the competent authorities… in particular non-communication with the authorities and non-cooperation in the establishment of the necessary elements of the claim" constitutes a ground for deeming the application manifestly unfounded pursuant to Article 88(2). Moreover, Article 97 IPA provides that in case that the Applicant does not comply with the obligation to present himself/herself before the Appeals Committee on the day of the examination of the Appeal, the Appeal is rejected as manifestly unfounded. Articles 78(9) and 97 IPA introduce additional grounds on which an application can be considered as manifestly unfounded grounds beyond the boundaries set by Article 32(2) of the Directive. NOTE: Article 78(9) IPA has been amended by Article 11(3) L. 4686/2020, Gov. Gazette A 96/12 May 2020. According to the amendment introduced the "failure of the applicant to comply with the obligation to cooperate with the authorities" is considered as a ground for considering that the application has been implicitly withdrawn. However, according to Article 17(1) L. 4686/2020, added an additional ground for considering an application as manifestly unfounded in Article 88(2) IPA. In accordance with said amendment, an application can be considered as manifestly unfounded in case that "the applicant has grossly not complied with his/her obligation to cooperate with the authorities". This is also a ground beyond Article 32(2) of the Directive.
	38 (2)	Article 86(1) IPA	Article 86(1)(f) IPA, with regards the safe third country concept, provides that transit through a third country may be considered as such a "connection" in conjunction with specific circumstances, on the basis of which it would be reasonable for that person to go to that country. In *LH* the CJEU ruled that "the transit of the applicant from a third country cannot constitute as such a valid ground in order to be considered that the applicant could reasonably return in this country", C-564/18 (19 March 2020), which sheds doubts on the compatibility of the provision with Article 38(2) of the Directive. Moreover, contrary to Article 38(2) of the Directive, national law does not foresee the methodology to be followed by the authorities in order to assess whether a country qualifies as a "safe third country" for an individual applicant.
	46(6)(a)	104(2)(c)	The IPA provides that appeals against decisions declaring an application manifestly unfounded are never automatically suspensive, even where they are based on the applicant not applying as soon as possible. This is contrary to the Directive, which states that appeals against manifestly unfounded applications based on Article 32(2) in conjunction with Article 31(8)(h) have automatic suspensive effect. NOTE: Article 104(2) IPA has been amended by Article 26(2) L. 4686/2020. Subparagraph (c) of Article 104(2) IPA is not included in the amended provision.

Directive 2013/33/EU Recast Reception Conditions Directive	20(4)	Article 57(4) IPA	The IPA allows for the withdrawal of material reception conditions where the applicant seriously breaches the house rules of reception centres or demonstrates violent conduct. Such a measure is not permitted by the Directive, as clarified by the CJEU in *Haqbin*.