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Asylum Information  
Database

Asylum Information Database

# National Country Report

# Greece



## ACKNOWLEDGMENTS

The updated report was written by Spyros Koulocheris, Attorney at Law, Head of Legal Research at the Greek Council for Refugees, assisted by Matthias Verheyen, social scientist, and Myrsini Paspali, sociologist. The recent report has been further updated by the information received from the Greek Asylum Service

The report was edited by ECRE.

**The information in this report is up-to-date as of 31 July 2014.**

## The AIDA project

The AIDA project is jointly coordinated by the European Council on Refugees and Exiles (ECRE), Forum Réfugiés-Cosi, Irish Refugee Council and the Hungarian Helsinki Committee. It aims to provide up-to date information on asylum practice in 14 EU Member States (AT, BE, BG, DE, FR, GR, HU, IE, IT, MT, NL, PL, SE, UK) which is easily accessible to the media, researchers, advocates, legal practitioners and the general public through the dedicated website [www.asylumineurope.org](http://www.asylumineurope.org). Furthermore the project seeks to promote the implementation and transposition of EU asylum legislation reflecting the highest possible standards of protection in line with international refugee and human rights law and based on best practice.



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## Statistics

**Table 1: Applications and granting of protection status at first and second instance**

	Total applicants in 2013	Refugee status	Subsidiary protection	Humanitarian Protection	Rejections (in-merit and admissibility)	Refugee rate	Subsidiary Protection rate	Humanitarian Protection rate	Rejection rate
	A	B	C	D	E	B/(B+C+D+E)%	C/(B+C+D+E)%	D/(B+C+D+E)%	E/(B+C+D+E)%
<b>Total numbers</b>	8225	580	395	425	15570	3%	2%	3%	92%
<i>Breakdown by countries of origin of the total numbers</i>									
<b>Pakistan</b>	1360	25	15	25	5270	0.4%	0.2%	0.4%	99%
<b>Afghanistan</b>	1225	85	145	65	990	7%	11%	5%	77%
<b>Bangladesh</b>	730	10	5	10	2300	0	0%	0%	99%
<b>Albania</b>	580	0	0	25	775	0%	0%	3%	97%
<b>Georgia</b>	535	5	5	40	1130	0%	0%	3%	96%
<b>Syria</b>	485	75	100	0	75	30%	40%	0%	30%
<b>Egypt</b>	310	20	10	0	305	6%	3%	0%	91%
<b>Nigeria</b>	255	25	5	25	590	4%	1%	4%	91%
<b>Iran</b>	185	40	0	25	120	22%	0%	14%	65%
<b>China</b>	175	5	0	0	445	1%	0%	0%	99%
<i>Others<sup>1</sup></i>									
<b>Democratic Republic of Congo</b>	155	0	0	0	70	0%	0%	0%	100%
<b>Eritrea</b>	155	40	5	0	70	36%	0%	0%	64%

Source: Eurostat, extracted 9 July 2014

<sup>1</sup> Other main countries of origin of asylum seekers in the EU.

**Table 2: Detection of irregular border crossings at the border crossing points of the Eastern Mediterranean route (Greece, Bulgaria, Cyprus) in 2013**

2013	Number	Percentage
<b>Total number of detections</b>	<b>24799</b>	
<b>LAND</b>	<b>12968</b>	<b>52,3%</b>
<i>Top 3 countries of origin</i>		
Afghanistan	7366	29,7%
Syria	2049	8,3%
Algeria	493	2%
<b>SEA</b>	<b>11831</b>	<b>47,7%</b>
Syria	5361	2,2%
Afghanistan	4080	16,5%
Eritrea	552	2,2%

Source: Frontex p.31; [http://frontex.europa.eu/assets/Publications/Risk\\_Analysis/Annual\\_Risk\\_Analysis\\_2014.pdf](http://frontex.europa.eu/assets/Publications/Risk_Analysis/Annual_Risk_Analysis_2014.pdf)

**Table 3: Gender/age breakdown of the total numbers of applicants in 2013**

2013	Number	Percentage
<b>Total number of applicants</b>	<b>8225</b>	
<b>Men</b>	<b>6470</b>	<b>79%</b>
<b>Women</b>	<b>1755</b>	<b>21%</b>
<b>Unaccompanied children</b>	<b>325</b>	<b>4%</b>

Source: Eurostat, extracted 9 July 2014

**Table 4: Comparison between first instance and appeal decision rates in 2013**

	First instance		Appeal	
	Number	Percentage	Number	Percentage
<b>Total number of decisions</b>	13080		3900	
<b>Positive decisions</b>				
<b>Total</b>	500	3,8%	910	23%
<i>Refugee Status</i>	255	1,9%	325	1%
<i>Subsidiary protection</i>	175	1,4%	220	1%
<i>Hum/comp protection</i>	70	0,6%	365	1%
<b>Negative decision</b>	12580	96,1%	2990	77%

Source: Eurostat, extracted 9 July 2014

## Overview of the legal framework

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

Title in English	Original Title	Abbreviation	Weblink
<p>Presidential Decree 220/2007 <i>on the transposition into the Greek legislation of Council Directive 2003/9/EC from January 27, 2003 laying down minimum standards for the reception of asylum seekers</i></p> <p>Relevant: Instruction 2/2012</p>	<p>Προεδρικό Διάταγμα 220/2007</p> <p>Εγκύκλιος 2/2012</p>	<p>P.D. 220/2007</p> <p>Instruction 2/2012</p>	<p><a href="http://www.refworld.org/docid/49676abb2.html">http://www.refworld.org/docid/49676abb2.html</a> ( in English )</p> <p><a href="http://www.synigoros.gr/resources/docs/egkyklios2.pdf">http://www.synigoros.gr/resources/docs/egkyklios2.pdf</a> ( in Greek )</p>
<p>Presidential Decree 96/2008 of 25 July 2008 <i>Adaptation of Greek legislation to the provisions of Directive 2004/83/EC of the Council of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted</i></p>	<p>Προεδρικό Διάταγμα 96/2008</p>	<p>P.D. 96/2008</p>	<p><a href="http://www.refworld.org/docid/4c5272fc2.html">http://www.refworld.org/docid/4c5272fc2.html</a> ( in English )</p>
<p>Presidential Decree 90/2008, <i>Adaptation of the Greek legislation to the provisions of Council Directive 2005/85/EC of 1 December 2005 on minimum standards on procedures in Member States for granting and withdrawing refugee status<sup>2</sup></i></p>	<p>Προεδρικό Διάταγμα 90/2008</p>	<p>P.D. 90/2008</p>	<p><a href="http://emn.ypes.gr/media/17801/p.d.%2090-2008_en.pdf">http://emn.ypes.gr/media/17801/p.d.%2090-2008_en.pdf</a> (in English )</p>
<p>Presidential Decree 114/2010 <i>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</i></p>	<p>Προεδρικό Διάταγμα 114/2010</p>	<p>P.D. 114/2010</p>	<p><a href="http://www.refworld.org/docid/4cfdfadf2.html">http://www.refworld.org/docid/4cfdfadf2.html</a> (in English )</p>

<sup>2</sup> Although Asylum Service claims that this P.D. had been abrogated by P.D. 114/2014 there are still negative decisions on international protection under P.D. 90/2008 recently served to asylum seekers.



<p>Law 3907/2011 on the establishment of an Asylum Service and a First Reception Service, <i>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.</i></p> <p>Relevant : Instruction 37/2011 Law 4058/2012 Instruction 41/2012</p>	<p>Νόμος 3907/2011</p> <p>Εγκύκλιος 37/2011 Νόμος 4058/2012 Εγκύκλιος 41/2012</p>	<p>Law 3907/2011</p> <p>Instruction 37/2011 Law 4058/2012 Instruction 41/2012</p>	<p><a href="http://www.refworld.org/docid/4da6ee7e2.html">http://www.refworld.org/docid/4da6ee7e2.html</a> (in English )</p> <p>Instruction 37/2011 : <a href="http://www.synigoros.gr/resources/docs/egkyklios37.pdf">http://www.synigoros.gr/resources/docs/egkyklios37.pdf</a> ( in Greek ) Law 4058/2012 : <a href="http://dide.fth.sch.gr/lo ws/n4058_2012.pdf">http://dide.fth.sch.gr/lo ws/n4058_2012.pdf</a> (in Greek ) Instruction 41/2012: <a href="http://www.synigoros.gr/resources/docs/egkyklios41.pdf">http://www.synigoros.gr/resources/docs/egkyklios41.pdf</a> ( in Greek )</p>
<p>DECISION n. 7001/2/1454-h of 26 January 2012 , General rules for the operation of the Regional Initial Reception Services</p>	<p>Γενικός Κανονισμός Λειτουργίας Περιφερειακών Υπηρεσιών Πρώτης Υποδοχής, 26 Ιανουαρίου 2012.</p>	<p>DECISION n. 7001/2/1454-h of 26 January 2012</p>	<p><a href="http://www.refworld.org/docid/4f33bace2.html">http://www.refworld.org/docid/4f33bace2.html</a> ( in English )</p>
<p>Presidential Decree 116/2012</p>	<p>Προεδρικό Διάταγμα 116/2012</p>	<p>P.D. 116/2012</p>	<p><a href="http://www.ethemis.gr/p-d-1162012-eos-12-mines-i-kratise-ton-etounon/">http://www.ethemis.gr/p-d-1162012-eos-12-mines-i-kratise-ton-etounon/</a> ( in Greek )</p>
<p>Presidential Decree 104/2012</p>	<p>Προεδρικό Διάταγμα 104/2012</p>	<p>P.D. 104/2012</p>	<p><a href="http://www.synigoros.gr/resources/docs/pd104-12.pdf">http://www.synigoros.gr/resources/docs/pd104-12.pdf</a> ( in Greek )</p>
<p>Presidential Decree 102/2012</p>	<p>Προεδρικό Διάταγμα 102/2012</p>	<p>P.D. 102/2012</p>	<p><a href="http://www.synigoros.gr/resources/docs/pd102-12.pdf">http://www.synigoros.gr/resources/docs/pd102-12.pdf</a> ( in Greek )</p>
<p>Presidential Decree 113/2013</p>	<p>Προεδρικό Διάταγμα 113/2013</p>	<p>P.D. 113/2013</p>	<p><a href="http://www.synigoros.gr/resources/docs/pd113.pdf">http://www.synigoros.gr/resources/docs/pd113.pdf</a> (in Greek)</p> <p><a href="http://www.refworld.org/docid/525e84ae4.html">http://www.refworld.org/docid/525e84ae4.html</a> (in English)</p>
<p>Presidential Decree 141/2013</p>	<p>Προεδρικό Διάταγμα 141/2013</p>	<p>P.D. 141/2013</p>	<p><a href="http://www.synigoros.gr/resources/docs/p-d-141_2013.pdf">http://www.synigoros.gr/resources/docs/p-d-141_2013.pdf</a> (in Greek)</p>
<p>Decision of the Minister of Public Order and Protection of Citizen n.334/2014 "Regulation of Appeals Authority</p>	<p>Υπ'αρ.334/2014 του Υπουργού Δημόσιας Τάξης και Προστασίας του Πολίτη «Κανονισμός της Αρχής Προσφυγών»</p>	<p>DECISION n.334/2014</p>	<p><a href="http://goo.gl/lxJ0kS">http://goo.gl/lxJ0kS</a></p>
<p>Decision n.3966/2014 of the Director of Asylum Service of the Ministry of Public Order and Protection of Citizen of the validity of I D cards of the applicants for international protection</p>	<p>Απόφαση Δ/ντριας Υπηρεσίας Ασύλου με αρ. οικ. 3966/09.05.2014 - Διάρκεια ισχύος δελτίων αιτούντων</p>	<p>DECISION n.3966/2014</p>	<p><a href="http://www.synigoros.gr/resources/docs/diarkeia-deltion-dprostasia.pdf">http://www.synigoros.gr/resources/docs/diarkeia-deltion-dprostasia.pdf</a></p>

	διεθνή προστασία		
Law 4249/2014	Νόμος 4249/2014 «Αναδιάρθρωση της Ελληνικής Αστυνομίας ...και άλλες διατάξεις»	Law 4249/2014	<a href="http://www.et.gr/docs-nph/search/pdfViewerForm.html?args=5C7QrtC22wEc63YDhn5AeXdtvSoClrL8WgmdbhWqV47tI9LGdkF53Ulx942CdyqxSQYNuqAGCF0fB9HI6qSYtMQEkEHLwnFqmgJSA5WIsLuV-nRwO1oKqSe4BIOTS pEWYhszF8P8UqWbzFijPvdagVkWgvmRxe gQQmuoSrA3iZJwUIZ CtD_WMMZwZ9d">http://www.et.gr/docs-nph/search/pdfViewerForm.html?args=5C7QrtC22wEc63YDhn5AeXdtvSoClrL8WgmdbhWqV47tI9LGdkF53Ulx942CdyqxSQYNuqAGCF0fB9HI6qSYtMQEkEHLwnFqmgJSA5WIsLuV-nRwO1oKqSe4BIOTS pEWYhszF8P8UqWbzFijPvdagVkWgvmRxe gQQmuoSrA3iZJwUIZ CtD_WMMZwZ9d</a>
Presidential Decree 133/2013"Amendment of provisions of Law 3907/2011 on the establishment of the Asylum Service and the 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	Προεδρικό Διάταγμα 133/2013	P.D. 133/2013	<a href="http://www.unhcr.gr/no_cache/prostasia/nomiki-prostasia/o-nomostin-ellada/nomothesia-gia-to-asylo.html?cid=799&amp;did=2017&amp;sechash=d36f09f6">http://www.unhcr.gr/no_cache/prostasia/nomiki-prostasia/o-nomostin-ellada/nomothesia-gia-to-asylo.html?cid=799&amp;did=2017&amp;sechash=d36f09f6</a>
Ministerial Decision 3377 "Rules of the Asylum Service"(Official Gazette B'1386/6.6.2013)	Υπουργική Απόφαση 3377 (ΦΕΚ B'1386/6.6.2013)	Ministerial Decision n. 3377/2013	<a href="http://www.et.gr/docs-nph/search/pdfViewerForm.html?args=5C7QrtC22wEaosRGzKxO6XdtvSoClrL8aRmGcrk2DyYfP1Rf9veiteJInJ48_97uHrMts-zFzeyCiBSQOpYnTy36MacmUFCx2ppFvBej56Mmc8Qdb8ZfRjQZnslAdk8Lv_e6czmhEemBNmZCMxLMta51inJgBN2MwEDLvef2IFeta2GdP8VHpgMNA4aJ5ZBV">http://www.et.gr/docs-nph/search/pdfViewerForm.html?args=5C7QrtC22wEaosRGzKxO6XdtvSoClrL8aRmGcrk2DyYfP1Rf9veiteJInJ48_97uHrMts-zFzeyCiBSQOpYnTy36MacmUFCx2ppFvBej56Mmc8Qdb8ZfRjQZnslAdk8Lv_e6czmhEemBNmZCMxLMta51inJgBN2MwEDLvef2IFeta2GdP8VHpgMNA4aJ5ZBV</a>

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

***The report was previously updated in December 2013.***

- The Directors of First Reception Centres (FRC-Screening Centres) can decide on the retention of the aliens staying at the FRC. A Regulation on the Appeals Authority under the Asylum Service was in force until January 2014.
- The validity of ID cards for asylum seekers is four months, except for those coming from Albania, Bangladesh, Egypt, Georgia and Pakistan. The validity of their ID cards is 45 days.
- According to a Decision of the Minister of Public Order and the Protection of Citizen which endorsed Legal Opinion no. 44/2014 of the Legal Council of the State, after the 18-month maximum detention period under EU law, a new detention order can be issued without time limit if the alien does not cooperate with the authorities to get repatriated.

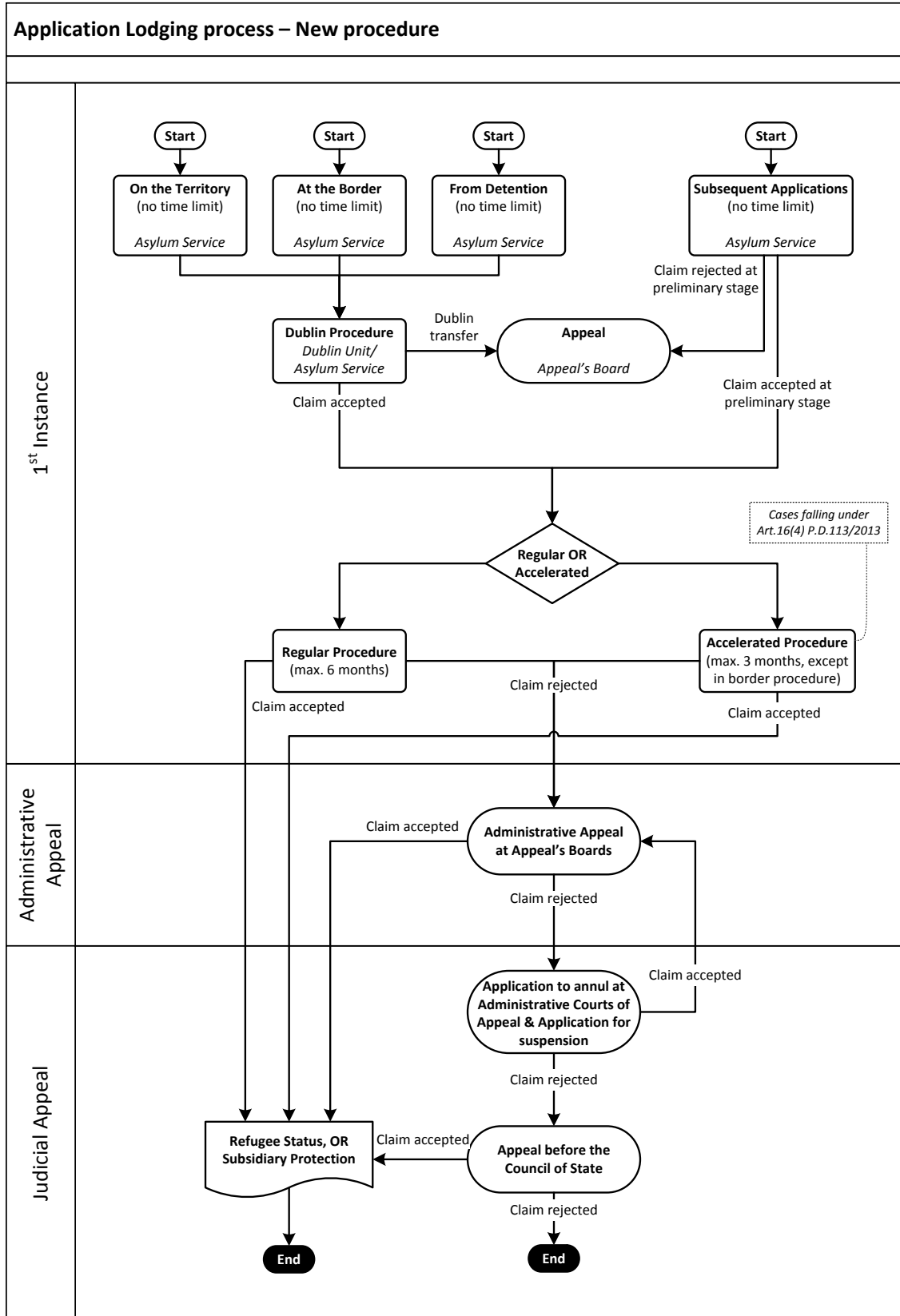
The Greek Council for Refugees lodged the first appeal against the “endless detention duration”. The Athens Administrative Court of First Instance ruled on 23 May 2014 (Decision 2255/23.5.2014) that indefinite detention (in the form of compulsory stay in a detention centre as defined by the Legal Council of the State Opinion 44/2014) is unlawful. As a consequence, an Afghan Refugee that had already been in detention for 18 months was released.

- Some decisions at second instance have stopped returns from Greece to Bulgaria under the Dublin Regulation. Nevertheless, during the last few months there has been an increasing number of decisions of first instance and some of second instance deciding on returns to Bulgaria under Dublin, even for Victims of Torture.
- Since September 2013 there are decisions rendered by the Secretary General of the Ministry, which do not renew subsidiary protection or status on humanitarian grounds. In the frame of these decisions, the Secretary examines, on a discretionary basis, the substance of the decision to grant subsidiary protection or humanitarian status. Pending the Secretary General's processing of their application for the renewal of their subsidiary protection or humanitarian status (which takes over six months), as well as the subsequent Appeal Committee's examination of the appeal against these negative decisions, the concerned individuals lose their right to work and do not have access to any medical treatment.

# Asylum Procedure

## A. General

### 1. Flow chart



## 2. Types of procedures

### Indicators:

Which types of procedures exist in your country? Tick the box:

- regular procedure:                   yes                    no
- border procedure:                    yes                    no
- admissibility procedure:            yes                    no
- accelerated procedure (labelled as such in national law): yes  no
- Accelerated examination (“fast-tracking” certain case caseloads as part of regular procedure):  
  yes                    no
- Prioritised examination (application likely to be well-founded or vulnerable applicant as part of regular procedure):                yes                    no
- Dublin Procedure                      yes                    no
- others:

Are any of the procedures that are foreseen in national legislation, not being applied in practice? If so, which one(s)? There are no procedures foreseen by law that are not being applied in practice.

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

Under the Old Procedure:

Stage of the procedure	Competent authority in EN	Competent authority in original language (GR)
Application at the border	Greek Police	Ελληνική Αστυνομία
Application on the territory	Greek Police	Ελληνική Αστυνομία
Dublin (responsibility assessment)	Greek Police	Ελληνική Αστυνομία
Refugee status determination	General Secretary of the Ministry of Public Order (regular procedure)/Territorially Competent Police Director/The police Directors of the Aliens Directorate of Athens and Thessaloniki and the Police Director of the Athens International Airport (accelerated procedure/inadmissible applications)	Ο Γενικός Γραμματέας Δημόσιας Τάξης και Προστασίας του Πολίτη/ Ο οικείος Αστυνομικός Διευθυντής, οι Αστυνομικοί Διευθυντές των Διευθύνσεων Αλλοδαπών Αττικής, Θεσσαλονίκης και ο Διευθυντής Αστυνομίας Αερολιμένα Αθηνών.
Appeal procedures : -First appeal -second (onward) appeal	-Appeals Board -Administrative Court of Appeals	-Επιτροπές Προσφυγών -Διοικητικό Εφετείο
Subsequent application (admissibility)	Territorially competent Police Director or the Director of the Alien’s Directorate of Athens and Thessaloniki or the Director of the Athens Airport Police Directorate	Ο οικείος Αστυνομικός Διευθυντής, οι Αστυνομικοί Διευθυντές των Διευθύνσεων Αλλοδαπών Αττικής, Θεσσαλονίκης και ο Διευθυντής Αστυνομίας Αερολιμένα Αθηνών.

*Under The New Procedure:*

Stage of the procedure	Competent authority in EN	Competent authority in original language (GR)
Application at the border	Asylum Service	Υπηρεσία Ασύλου
Application on the territory	Asylum Service	Υπηρεσία Ασύλου
Dublin (responsibility assessment)	Asylum Service	Υπηρεσία Ασύλου
Refugee status determination	Asylum Service	Υπηρεσία Ασύλου
Appeal procedures : -First appeal -second (onward) appeal	-Appeals Board -Administrative Court of Appeals	-Επιτροπές Προσφυγών -Διοικητικό Εφετείο
Subsequent application (admissibility)	Asylum Service	Υπηρεσία Ασύλου

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

*Under the Old Procedure:*

Name in English	Number of staff	Ministry responsible	Is there any political interference possible by the responsible Minister with the decision-making in individual cases by the first instance authority?
Greek Police	Not available	Ministry of Public Order and Citizen's Protection	Not known

*Under the New Procedure:*

Name in English	Number of staff	Ministry responsible	Is there any political interference possible by the responsible Minister with the decision-making in individual cases by the first instance authority?
Asylum Service	185 <sup>3</sup>	Ministry of Public Order and Citizen's Protection	Not known <sup>4</sup>

<sup>3</sup> According to the Asylum Service the total number is 185 persons out of which 157 are currently active, the remainder are absent due to maternity or parental leave or have been seconded to First Reception Centre.

<sup>4</sup> According to the Asylum Service there is no political interference by the responsible Minister of Public Order and Citizen's Protection.

## 5. Short overview of the asylum procedure

A new legal framework reforming the asylum system was adopted in 2011 with Law 3907/11 (hereinafter 'Law 3907'), creating an Asylum Service, a First Reception Service and an Appeals Board. Due to delays in the establishment of this new Asylum Service, the asylum procedure has been in a transitional phase regulated by Presidential Decree 114/2010 (hereinafter '**PD 114**'). With the opening of the first office of the new Asylum Service on June 7<sup>th</sup> 2013 in Athens and the immediate adoption of Presidential Decree 113/2013 on June 13<sup>th</sup> 2013 (hereinafter '**PD 113**') the transitional phase officially came to an end. As of that date, Greece operates a twofold regime for applications for international protection, whereby:

- (1) applications lodged before 7 June 2013 fall within the scope of PD 114 (hereinafter "**Old Procedure**")
- (2) applications lodged after 7 June 2013 fall within the scope of PD 113 (hereinafter "**New Procedure**").

The core change brought about by the new procedure relates to the authorities competent for handling the asylum procedure. Specifically, under the Old Procedure, the police authorities were responsible for receiving and registering applications for international protection whereas under the New Procedure this function is performed by the Asylum Service. Claims that were lodged under the Old Procedure and are still pending remain under the jurisdiction of the police. A number of other substantive changes to the asylum procedure were also brought about by PD 113; these will be explicitly referred to in the relevant sections of the present report and the distinctions between the two procedures will be specifically drawn.

### *Application for international protection:*

According to the new legal framework, applicants for international protection can lodge a claim at entry points, at the border or in the territory before the Asylum Service offices or Asylum Service teams visiting detention centres, in written or oral form. They may also in any other way request not to be deported to a country on grounds of fear of persecution for reasons of race, religion, nationality, membership of a particular social group or political opinion according to the Geneva Convention or the risk of suffering serious harm according to Article 15 P.D. 96/2008 (O.G A' 152) The Central Office of the Asylum service is in Athens. At the moment five Regional Asylum Offices and three Asylum Units are operational.<sup>5</sup>

The Regional Asylum Office of Attica started operations on 7 June 2013 and has registered (until 30 June 2014) 7,157 applications, out of which 661 were submitted by applicants who were in administrative detention, on remand or incarcerated.

The regional Asylum Service of Northern Evros started operations on 11 July 2013 and has registered 327 applications of aliens who were under administrative detention.

The Regional Asylum Office of Southern Evros started operations on 29 July 2013 and has registered 620 applications, out of which 340 were submitted by applicants who were in administrative detention, on remand or incarcerated.

The Regional Asylum Service of Lesbos started operations on 15 October 2013 and registered 98 applications, out of which 27 were submitted by applicants in administrative detention.

The Regional Asylum Service of Rhodes started operations on 2 January 2014 and has registered 245 applications, out of which 2 were submitted by applicants who were in administrative detention.

The Asylum Unit of Amygdaleza started operations on 11 September 2013 and has registered 375 applications of aliens who were under administrative detention.

The Asylum Unit of Thessaloniki started operations on 20 January 2014 and has registered 79 applications of aliens who were under administrative detention, on remand or incarcerated.

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<sup>5</sup> Information provided by the Asylum Service.

The Asylum Unit of Patras started operations on 1.6.2014 and has registered 7 applications of aliens who were under administrative detention, on remand or incarcerated.

The access to Asylum Service in Athens is problematic. Only a limited number of aliens (40-60) can lodge an asylum application at the Athens Asylum Service per day. The rest Offices work on the referrals of the asylum demands by detainees.

The police authorities / Asylum Service (as the case may be) are responsible for examining applications for international protection at first instance and are also responsible for carrying out Dublin procedures.

Applications for international protection shall be examined within the accelerated procedure when they are considered to be manifestly unfounded or when the applicant is a national of a safe country of origin or comes from a safe third country. The accelerated procedure also applies in case the applications for international protection are lodged at the border or at transit zones of ports or airports.

*Appeal:*

According to Article 25 of Presidential Decree 113/2013, "the applicant has the right to lodge an administrative appeal before the Appeals Authority :

- a. Against the decision rejecting the application for international protection as unfounded with the regular procedure or revoking this status, Against the decision rejecting the application for international protection as unfounded with regular procedure or revoking this status, within 30days from the notification of this decision. The same deadline shall apply if the applicant is granted subsidiary protection status, where the applicant considers that they are entitled to refugee status.
- b. Against the decision rejecting the application for international protection with the accelerated procedure, or declaring it inadmissible, according to Articles par. 4 and 18 respectively, within fifteen days from the notification of this decision (including subsequent applications which were found to be inadmissible). The appeal against the decision rejecting an application for international protection inadmissible pursuant to Article 18 (b) is also directed against the relevant act of transfer, pursuant to the relevant provisions of Council Regulation 343/2003.
- c. Against the decision rejecting an application for international protection lodged in correctional institutions or other areas of administrative detention, within ten days upon the notification of this decision.
- d. Against the decision rejecting an application for international protection in case of Article 24 (border procedures) or lodged in First Reception facilities, within three days upon the notification of this decision.

The same deadlines apply also in the case of applicants who lodged their application with the Hellenic Police authorities.

In all these cases the appeal before the Appeals Boards of the old procedure or the Appeals Authority of the New Procedure has automatic suspensive effect.

The asylum seeker and the Ministry of Citizen Protection have the right to apply for the annulment of the decision of the Appeals Board before the Administrative Court of Appeals. The latter appeal has no automatic suspensive effect. Only by interim measures before the same court can the appellant demand the suspension of deportation. It is at the discretion of the court to decide on suspension of deportation. The appellant can also ask for the appeal of the Appeals Court decision by a writ of error before the Council of the State. This appeal does not have an automatic suspensive effect.

The Director of First Reception Centres (FRC-Screening Centres) can decide on the retention of the aliens staying at the FRC. A Regulation on the Appeals Authority under the Asylum Service was in force till January 2014. The validity of the ID cards of asylum seekers is four months, except for asylum seekers coming from Albania, Bangladesh, Egypt, Georgia and Pakistan. The validity of their cards is



45 days. According to a Decision of the Minister of Public Order and the Protection of Citizen which endorsed Legal Opinion no 44/2014 of the Legal Council of the State,<sup>6</sup> after the 18-month maximum detention period under EU law, a new detention order can be issued (without time limitation) if the alien does not cooperate with the authorities to be repatriated.

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<sup>6</sup> Greek refugee Council, [Indefinite detention: a direct infringement of national, European and international law](#), 8 April 2014.

## B. Procedures

### 1. Registration of the Asylum Application

#### Indicators :

- Are specific time limits laid down in law for asylum seekers to lodge their application?  
 Yes       No
- Are there any reports (NGO reports, media, testimonies, etc) of people refused entry at the border and returned without examination of their protection needs?       Yes    No

#### A. Under the Old Procedure:

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

- the Asylum Departments of the Aliens' Directorates of Attica (Athens) and of Thessaloniki,
- the Security Departments of the National Airports, and
- the Sub-directorates and Security Departments belonging to the Police Directorates across the country (there are 53 Directorates).

These authorities still examine applications lodged before 7 June 2013

#### *Registration problems:*

Registration of asylum applications under the Old Procedure in Greece has been highly problematic in practice due to obstacles in relation to access to the asylum procedure which have been highlighted for over 10 years. Although in theory applicants could lodge an application to local authorities, those authorities reportedly refused to register applications and directed applicants to attempt to submit their applications at the Attica Aliens Directorate in Athens (Petrou Ralli). In a report published in July 2012, Greek NGOs claimed that "access to the asylum procedure is almost impossible in Attica".<sup>7</sup> A number of other reports have documented the difficulties in lodging an application for international protection both generally in Greece and more specifically in Athens.<sup>8</sup>

The 36,183 pending asylum claims<sup>9</sup> falling under the scope of the Old Procedure are being handled by police staff that lack specialised training<sup>10</sup> and are insufficient in number, although the exact number of staff is not known. Police staff competency issues have not been adequately addressed despite provisions in the Greek Action Plan on additional training of personnel responsible for the first and second instance procedure. Inability to access the competent police authorities remains an issue for the pending cases despite the fact that police workload for asylum claims has diminished given that there are no new claims being registered with them since June 2013<sup>11</sup>.

<sup>7</sup> 14 Greek NGOs, [Report of the Campaign for the Access to Asylum in Attica Area](#), July 2012.

<sup>8</sup> See, Amnesty International, *Greece: The end of the road for refugees, asylum-seekers and migrants*, 20 December 2012, EUR 25/011/2012, p.5; Human Rights Watch, [World Report 2012: European Union](#), January 2012.

<sup>9</sup> [UNHCR 2012 Refugee Statistics](#).

<sup>10</sup> ECRE and ICJ, [Second Joint Submission of the International Commission of Jurists \(ICJ\) and of the European Council on Refugees and Exiles \(ECRE\) to the Committee of Ministers of the Council of Europe in the case of M.S.S. v. Belgium and Greece \(Application no. 30696/09\) and related cases](#) (hereinafter, ECRE and ICJ second submission on M.S.S. v. Belgium and Greece), February 2013, p. 19. See also, 14 Greek NGOs, [Report of the Campaign for the Access to Asylum in Attica Area](#), July 2012.

<sup>11</sup> The Greek Ombudsman, *Response to the Proposals of the Greek Ombudsman on Alien Detention Centres*, 31st July, 2013

*Serving of decisions:*

An obstacle faced by asylum seekers under the Old Procedure was the requirement to provide an address in Greece. This is impossible to fulfil for many applicants, given the difficulties asylum seekers face in securing accommodation. Consequently, it becomes increasingly difficult for the authorities to notify asylum seekers of developments in their case and for them to meet deadlines for important procedural steps such as the lodging of an appeal.

Under the New Procedure, the Asylum Service claims it registers the applications of asylum seekers even if they do not provide a home address. If the applicant cannot be reached on the phone in order to be notified that their decision is issued, then Article 7 par. 2 of Presidential Decree 113/2013 comes into play. This provision states that "If the applicant fails to comply or if he/she cannot be found through the means referred to in par. 1, the notification shall be performed at the latest the next time the applicant appears for the renewal of his/her Card by the competent authorities."

*Pink card:*

Asylum seekers who managed to apply for asylum under the Old Procedure were provided with the special asylum seeker's card, the so-called "pink card". This card is still valid for the cases pending under the Old procedure. However, delays in its renewal have been reported, exposing asylum seekers at risk of detention and removal from the country.

*Asylum claims filed at the airport:*

In relation to applications filed at the airport, UNHCR had not found particular registration barriers, although applicants could be detained for a maximum period of up to four weeks, during which they were being interviewed. This procedure has been characterised by the same absence of procedural guarantees as those applicable at other entry points: interpretation services have generally not been available and legal and procedural counselling and assistance has not been accessible. Such lack of procedural guarantees illustrates yet another gap in the implementation of the reform of the asylum system targeted by the Greek Action Plan which expressly foresees the provision of interpretation services and legal assistance for asylum seekers. If a decision wasn't reached within the four week maximum detention period, applicants were released and allowed to enter the territory, subject to a requirement to report to PetrouRalli. In these cases, however, they were confronted with the same difficulties as other applicants at PetrouRalli, including the difficulty of providing an address as a condition for registering their asylum application. Only the people who are able to provide the authorities with an official address can receive a "pink card". It is fortunate that as of June 7<sup>th</sup> 2013, no applications are registered at the airport any longer; people held at the airport due to illegal entry are transferred to the Asylum Service for their application for international protection (see below).

B. Under the New Procedure:

Under the New Procedure, applications for international protection are received and registered by the Asylum Service, which is composed of the Central Asylum Service, based in Athens, and the Asylum Service Regional Offices.

The opening of the new Asylum Service on June 7<sup>th</sup> 2013 is certainly a positive step in reforming the asylum system in Greece. The registration, examination and first-instance decision-making of asylum applications are now under the jurisdiction of an independent and civil service and no longer under the auspices of the police. Nevertheless, the fact that since the opening of the first Asylum Service in June 2013.

Under the New Procedure <sup>12</sup> at the moment five (5) Regional Asylum Offices and three (3) Asylum Units are operational:

The Regional Asylum Office of Attica started operations on 7 June 2013 and has registered (until 30 June 2014) 7,157 applications, out of which 661 were submitted by applicants who were in administrative detention, on remand or incarcerated.

The regional Asylum Service of Northern Evros started operations on 11 July 2013 and has registered 327 applications of aliens who were under administrative detention.

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The Asylum Unit of Amygdaleza started operations on 11 September 2013 and has registered 375 applications of aliens who were under administrative detention.

The Asylum Unit of Thessaloniki started operations on 20 January 2014 and has registered 79 applications of aliens who were under administrative detention, on remand or incarcerated.

The Asylum Unit of Patras started operations on 1.6.2014 and has registered 7 applications of aliens who were under administrative detention, on remand or incarcerated.

Article 1.3 of Law 3907/201115 provides that "Regional Asylum Offices will be set up in Attica, Thessaloniki, Alexandroupolis, Orestiada, Ioannina, Volos, Patras, Heraklion, Lesbos, Chios, Samos, Leros and Rhodes."

#### *Registration problems:*

According to the new legal framework, an asylum seeker is the alien or stateless person who declares in written or oral form before any Greek authority at entry points of the Greek State or inland, that they request asylum or subsidiary protection or who in any other way ask not to be deported to a country on grounds of fear of persecution for reasons of race, religion, nationality, membership of a particular social group or political opinion according to the Geneva Convention or the risk of suffering serious harm according to Article 15 P.D. 96/2008 (O.G A' 152) (Article 2d, PD 113). Required for the filing of an asylum claim is the appearance in person before the authorities; an application by proxy is not provided for. The law continues to state that if the application is submitted before a non-competent authority, the authority is obliged to notify promptly the competent receiving authority and to refer the applicant to it (Article 4(5), PD 113)

This provision is problematic in practice, as the person who has claimed asylum before a non-competent authority does not have his claim officially registered and therefore is not protected from deportation until they manage to appear in person before the competent authority.

The Greek Council of Refugees filed for interim measures to the European Court on Human Rights for clarification in respect of this provision.

For those asylum seekers who do appear at the Asylum Service (which is the competent authority) for filing an asylum claim, in practice, due to heavy workload, they usually do not manage to register their claim on the same day. The Greek Council of Refugees has cases where the Asylum Service employee gives the asylum seeker an unofficial paper with a number indicating the date in which they should go back or a priority number; this does not qualify as an asylum application and therefore puts the person at great risk, as they are deprived of the protection granted to asylum seekers that have filed a claim and may consequently be arrested in the street and detained in view of deportation. At 7 o'clock in the morning an employee of the Service choose 40 persons at maximum from a queue of 140 persons.

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<sup>12</sup> Information provided by the Asylum Service.

The access to the (new) Asylum Service in Athens is problematic. An estimated number of 130-140 people arrive at the entrance of the Asylum Service in Athens every day in order to seek asylum. Approximately only 30 persons are chosen to be granted access, based on the availability of the daily changing and limited pool of interpreters. Those, who are not granted access, do not receive any documents, proving that they have come to apply for asylum. Their status as illegal migrants in turn puts them at a risk of being arrested by the police. There is no provision of care or priority for people coming to the Asylum Service in Athens from other areas of Greece.

For a wider access to the asylum procedure EASO proposes as a measure to be considered to “increase the current number of total staff of the Asylum Service and the number of Regional Asylum Offices, as foreseen in Law 3907/2011.”<sup>13</sup>

On 5 December 2013, a meeting between NGOs and the Asylum Service in Athens was organised, during which the Asylum Service admitted that it provided merely five positive recommendations for detained asylum seekers to be released from detention. According to Greek asylum law, a recommendation from the Asylum Service is needed for detained asylum seekers to be released. It is estimated that the Asylum Service receives about 50 new applications for asylum per week from detainees, which are transmitted from the Department of Deportations to the Asylum Service.

During to the above-mentioned meeting, an official from the Asylum Service mentioned that in some cases detainees had expressed their will (while they were detained) to submit an application for asylum, but they were finally deported.

According to the Asylum Service, they have been staffed either with newly appointed civil servants or by civil servants seconded or permanently transferred to the Asylum Service from other offices in the public sector. Still according to the Asylum Service efforts have been made with regard to the training of caseworkers.<sup>14</sup> Moreover, the Unit on Training, Quality Assurance and Documentation of the Asylum Service has adopted a quality management system, which includes:

- the centralization of quality assurance and audit in the Unit on Training, Quality Assurance and Documentation, supported and assisted by affiliated UNHCR staff;
- the drafting and issuing of Standard Operation Procedures (SOPs) for the use of all case workers and administrative staff throughout the Service;
- effective communication and coordination between the Unit on Training, Quality Assurance and Documentation and UNHCR on all matters touching upon quality assurance;
- establishment of a COI Unit (under the Unit on Training, Quality Assurance and Documentation), staffed partly by UNHCR affiliated staff and partly by staff members of the Service;
- the gradual strengthening of the Service’s quality management function with a view to taking over all such responsibilities from the UNHCR in the future;
- the appointment of coordinators of teams of case workers in the Regional Asylum Office of Attica with a view to them acting, *inter alia*, as mentors for their less experienced colleagues and thus ensure uniformity of standards;
- periodic review of decisions issued and attendance of UNHCR affiliated staff and staff of the competent Unit to interviews conducted by caseworkers;

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<sup>13</sup> EASO Operating Plan for Greece, [Interim Assessment of Implementation](#), Valletta Harbour, 28 July 2014, p. 6/17.

<sup>14</sup> All caseworkers of the Asylum Service have received the following training: a) International Human Rights Law and Introduction to International Refugee Law by UNHCR affiliated staff; b) EASO Training Curriculum module “Inclusion”; c) EASO Training Curriculum module “Interview Techniques”; d) EASO Training Curriculum module “Country of Origin Information”, d) “Drafting and Decision Making” by UNHCR affiliated staff and former members of the Appeals Committees established under Presidential Decree 114/2010, e) “The Dublin Regulation” by staff of the Dublin Unit. Moreover, 38 case-workers have been trained in the EASO Training Curriculum module “Exclusion”.

- individualized face-to-face feedback sessions between staff of the competent Unit and case workers concerning the quality of their decisions and interviews with asylum seekers, with the aim of providing guidance for the management of the workload.

*Serving of decisions:*

The requirement to provide an address in Greece described above applies to the New Procedure as well. However, the new Asylum Service makes an effort to tackle the problem; their practice is to call the asylum seekers on the phone and ask them to present themselves at the Service in order for the decision to be served. In that respect, the Asylum Service shows good faith. Problems arise, however, when the person cannot be reached on the phone. It is still unclear what happens in these cases.

*Asylum Seeker's card:*

Those who apply under the New Procedure to the Asylum Service are given a new special asylum seeker's card, valid for 4 months except for asylum seekers coming from Albania, Bangladesh, Egypt, Georgia and Pakistan. The validity of their cards is 45 days and they are renewed until the issuance of the final decision on the asylum application. This new card does not replace the pink card issued by the Greek police under the Old Procedure for the pending cases falling under the latter's jurisdiction, but is given to those lodging an asylum application with the Asylum Service.

*Asylum claims at the airport:*

A special procedure applies for people who want to file for an asylum application but are held at the Athens International Airport due to illegal entry. In these cases, registration of the claim is no longer handled by police staff in the airport, but the airport's Security department notifies the Asylum Service in Athens and the person is transferred to the Asylum Service where they make their claim under the New Procedure. This transfer takes place within a few days and the Asylum Service issues a decision within 28 days.

Asylum seekers transferred back to Greece under the Dublin Regulation and entering Greece via the Athens airport are also transferred to the Asylum Service where they file their claim; the time frame for the decision is issued at 3 months. In practice, however, Dublin transfers to Greece have been largely suspended in light of the European Court for Human Rights *M.S.S. v. Belgium and Greece* ruling.

C. Common to both old and new procedures:

The law does not set a time limit for lodging an asylum application.<sup>15</sup>

*Registration points & First Reception Services (screening centres):*

In order to enhance registration of asylum claims, the Greek Action Plan foresees the creation of asylum applications registration points within Security Stations at the Greek borders (Eastern Aegean islands, Evros region) on the assumption that interpreters will be available promptly and that the Security Stations will be supported by more staff. The aim of these new registration points is to operate as rapid response teams by performing first reception operations on the spot.

A smooth operation of such registration points would enhance registration of asylum applications and improve first reception conditions. The First Reception Service (hereinafter 'FRS') in the Evros region received its first guests on 19 March 2013. After the initial maximum stay of 25 days in the FRS, asylum seekers and those held for deportation are transferred to detention centres in the Evros region. So far, Syrian nationals are released.

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<sup>15</sup> Cf. P.D. 90/2008, Article 6: "Requests are not dismissed merely on the ground that they have not been submitted the soonest possible".

Further, the Greek Action Plan on Asylum provides that, upon entry, the First Reception Service, established by Law 3907, shall *inter alia* provide for the immediate sustenance needs of migrants, provide information to migrants, operate screening procedures in order to identify vulnerable groups and offer medical and psychosocial care. As of September 2013 the only FRC in operation is at Fylakio (Evros region) . Perhaps owing to the shift of inflow patterns from the land to the sea borders since the enhanced land border guarding with the building of the 10.5km fence in the Evros region in August 2012<sup>16</sup>, a quasi-First Reception Service has been operating in the island of Lesbos, called Screening Centre until the creation of the FRS there envisaged by Law 3907. Its capacity is 98 people; new arrivals are placed there and a registration and nationality screening procedure is carried out. The length of stay is maximum 25 days after which they are either served a police notice for their departure from the country within 30 days or, based on criteria that remain vague<sup>17</sup>, a place is sought for them at the Detention Centres.

Within the above-mentioned Screening Centre in Lesbos, a First Reception Mobile Unit operates since 13 October 2013. This has been envisaged in the Greek Action Plan and its operation is a welcome development. According to UNHCR's observations, the procedures followed in case of arrest after illegal entry in the Evros region involve a large number of cases the issuance of deportation orders without any prior assessment of the person's individual situation.<sup>18</sup> Such deportation orders are frequently accompanied by detention orders.<sup>19</sup> The length of detention is largely based on the feasibility of deportation, which itself is determined by the results of nationality assessments undertaken by Frontex, which are regularly used by Greek officials as the basis for their administrative processes. It has been observed that the nationalities with extended detention periods may be liable to return to Turkey pursuant to the readmission agreement between Turkey and Greece. UNHCR is aware of a number of cases of return of third-country nationals from Greece to Turkey during 2010 under the readmission agreement. It is noteworthy in this connection that Turkey, which maintains the geographical reservation to the 1951 Refugee Convention and does not accept responsibility for refugees from outside Europe, has in the recent past removed people onwards to its neighbouring countries.

For detained asylum seekers the waiting period before the registration of the application after the asylum request is submitted can be over one month.

According to EASO, "the First Reception Service is currently staffed with 43 employees in the whole country. According to the Ministerial decisions establishing the FRS structures, a total number of 108 staff members was foreseen. The FRC of the First Reception Service and the two Mobile Units are the competent authorities for the screening procedure of all migrants arriving without travel documents. The FRC in Fylakio-Evros is operational since 15 March 2013. The second FRC is currently built up in Lesbos Island and planned to be operational in autumn 2014, while a third FRC is planned to be built up and operate in the Attiki region by 2015. Two Mobile Units are operational in Samos and Chios Islands."<sup>20</sup>

#### *Push-Backs:*

One of the major obstacles in the access to the asylum procedure relates to the informal forced returns (push-backs) faced by a large number of third-country nationals taking place from the Greek territorial

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<sup>16</sup> UNCHR, [Syrians in Greece: Protection Considerations and UNHCR Recommendations](#), 17 April 2013.

<sup>17</sup> Greek Council of Refugees, *Field Mission in Lesbos Island* during 29/10/2013- 31/10/2013. The report is published on the [website](#) of GCR.

<sup>18</sup> United Nations High Commissioner for Refugees- Office in Greece, [Contribution to the dialogue on migration and asylum](#), May 2012 and Amnesty International, [Greece: The end of the road for refugees, asylum-seekers and migrants](#), 20 December 2012, EUR 25/011/2012, p.5.

<sup>19</sup> Amnesty International, [Asylum-seekers and migrants in Greece hounded by police operations and right-wing extremists](#), 20 December 2012.

<sup>20</sup> EASO Operating Plan for Greece, Interim Assessment of Implementation, Valetta Harbour, 28 July 2014, p12/17 <http://easo.europa.eu/wp-content/uploads/Interim-assessment-on-the-implementation-of-the-EASO-Operating-Plan-for-Greece.pdf>

borders, the Greek islands and the Greek land borders. Pro Asyl recently released the results of a large-scale investigation they conducted entitled *Pushed Back: Systematic Human Rights Violations against Refugees in the Aegean Sea and at the Greek-Turkish Land Border* according to which it was found that push-backs systematically occur from Greek sea and land borders by way of forcing, and even threatening, people to return to Turkish borders. By engaging in such practices, Greece could be contributing to the violation of the principle of non-*refoulement*, the cornerstone of international refugee protection.

The vast majority of those affected are Syrians, Afghans, Somalis and Eritreans, *prima facie* persons in need of international protection.

The NGO Pro Asyl published a report on 7 November 2013 in which it concluded that “illegal push-backs from Greek sea and land borders occur systematically. Push-backs take place from Greek territorial waters, the Greek islands and from the land border. The majority of the victims are refugees from Syria – men, women, children, babies, and people suffering from severe illness - trying to enter Europe to seek international protection or to reunite with their families who live in Germany, Sweden, the United Kingdom and various other European countries. According to the interviewees’ eyewitness accounts, it can be estimated that over 2,000 persons were pushed back, given the composition of the groups they travelled with. Special Forces officers (with their faces covered) are accused of ill-treating refugees upon apprehension, detaining them arbitrarily without any registration on Greek soil and then deporting them back to Turkey, in breach of international law. Special units of the Greek coastguard abandon refugees in Turkish territorial waters without consideration for their safety. The majority of the interviewees claimed that they had been ill-treated. In the cases of those who were pushed back from the island of Farmakonisi, the severity of the reported ill-treatment towards nine male Syrian refugees could amount to torture.<sup>21</sup> After a preliminary investigation led by the Prosecutor of the Piraeus’ Marine Court, the case was considered to be “manifestly unfounded in substance” with regards to Articles 306 (exposure to risk), 277 (causing a shipwreck), 278 (causing a shipwreck by negligence) and 308 (bodily harm) of the (Greek) Penal Code. The file was therefore archived, which was criticised by a number of human rights organisations providing legal support to the victims in this case.<sup>22</sup>

In many cases, the report mentions, refugees were arbitrarily detained for some hours, without access to the outside world and without any food or water. In all cases, push-back victims were not officially registered by the competent authorities, nor were they asked for any personal details apart from their nationality. All victims reported not being given the opportunity to request international protection (access to asylum barred) or to challenge their illegal removal<sup>23</sup>. Further, ill-treatment seems to be the norm in these cases, with a report of nine male Syrians describing treatment that could amount to torture.

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<sup>21</sup> ICJ and ECRE, [Third Joint Submission of the International Commission of Jurists \(ICJ\) and of the European Council on Refugees and Exiles \(ECRE\) to the Committee of Ministers of the Council of Europe in the case of M.S.S. v. Belgium and Greece \(Application no. 30696/09\) and related cases](#), May 2014.

<sup>22</sup> Group of lawyers for the rights of migrants and refugees, [Background briefing on the investigation into the farmakonisi boat wreck of 20.1.2014](#), 31 July 2014.

<sup>23</sup> Pro Asyl, [Pushed Back: Systematic Human Rights Violations against Refugees in the Aegean Sea and at the Greek-Turkish Land Border](#), 7th November 2013.



## 2. Regular procedure

### General (scope, time limits)

#### Indicators:

- Time limit set in law for the determining authority to make a decision on the asylum application at first instance (in months): 6
- Are detailed reasons for the rejection at first instance of an asylum application shared with the applicant in writing?  Yes

As of 31<sup>st</sup> December 2013, the number of cases for which no final decision (including at first appeal) was taken one year after the asylum application was registered: Not available

#### A. Under the old procedure:

Up until June 7<sup>th</sup> 2013, asylum applications have been registered and examined by the police authorities. From this date onwards, new claims are registered with the new Asylum Service. Nevertheless, the tens of thousands of applications filed before June 7<sup>th</sup> which are still pending continue to fall under the jurisdiction of the police. This raises serious concerns with regards to the proper handling of the pending cases, as criticisms for police staff in charge of asylum applications abound. In a report, the NGO AITIMA claimed that “the Police are inadequate to handle asylum cases. They are a mechanism dealing with the deportation of illegal aliens and they don’t have the background to deal with or protect asylum seekers. Moreover, most of the Greek Policemen lack necessary knowledge concerning aliens and many harbour negative feelings toward them. Therefore, Police often act in a discriminatory manner against migrants. Arbitrariness is very common and there have also been cases of Police brutality against asylum seekers.”<sup>24</sup>

#### Time frame:

According to Article 17, PD114, a first instance decision on the asylum application must be taken by the Ministry of Citizen Protection, within six months when the regular procedure is followed. When the examination cannot be concluded within this maximum period, which is often the case in practice, asylum seekers have the right to receive, upon their request, information from the authorities competent to examine their asylum application on the time-frame within which the decision on their application is to be expected. Such information shall not constitute an obligation for those authorities vis-à-vis the asylum seeker concerned to take a decision within a specific time-frame. Indeed, delays of more than 1 year in the issuing of first instance decisions have been reported lately due to understaffing and heavy workload. The General Secretary of the Ministry of Public Order decides at first instance under the regular procedure.

#### Applications examined by priority under the regular procedure:

When an application may reasonably be considered to be well-founded or when the applicant belongs to a vulnerable group, as provided in Article 17 of P.D. 220/2007 (O.G. A’ 251), the asylum application shall be examined by priority, in accordance with the basic principles and guarantees described in this Article. The following categories of asylum seekers are considered to be vulnerable according to Article 17 of P.D. 220/2007: unaccompanied children, disabled people, elderly people, pregnant women, single parents with minor children, as well as persons who have been subjected to tortures, rape or other serious forms of psychological, physical or sexual violence.

<sup>24</sup> European Network for Technical Cooperation on the application of the Dublin II Regulation, [National Report on Greece](#), p. 13.

*Manifestly unfounded claims:*

Decisions of manifestly unfounded applications are taken by the territorially Competent Police Director or the Police Directors of the Aliens Directorate of Athens and Thessaloniki or the Police Director of the Athens International Airport after examination under the accelerated procedure.

*B. Under the New Procedure:*

Applications falling under the scope of the New Procedure shall be registered to and examined by the new Asylum Service which is an independent, civil service. According to Article 16, PD 113, claims shall be examined the soonest possible and, in any case, no later than 6 months after the filing of the application when the regular procedure is followed. In cases where no decision is issued within the maximum time limit of 6 months, the asylum seeker has the right to request information from the asylum service offices on the time frame within which a decision is expected to be issued. This shall not constitute an obligation on the part of the asylum services to take a decision within a specific time limit. Although the new provision of PD 113 stating that the examination of applications shall be completed 'the soonest possible' is a welcome change, the express possibility that this time frame may not be observed leaves the possibility for the non-observance of the expedient examination of asylum applications.

As of 30 June 2014, 9,672 applications for international protection have been filed with the Asylum Service. Of these applications, at the same date, 3,156 were still pending, 760 applications received a decision granting refugee status, 324 a decision granting subsidiary protection status, 4,051 applications received a negative decision, and 1,540 cases had otherwise been closed (inadmissible applications, decisions to discontinue the examination of the case, explicit withdrawal of the application). The average time for issuing a decision in the first instance is 79 days.<sup>25</sup>

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

In practice, the Greek Council for Refugees (GCR) has observed that decisions rejecting the asylum claim are issued within 3 months.

*Applications examined by priority under the regular procedure:*

Article 16 (3) of PD 113 expands the number of cases examined by priority under the regular procedure. Those now falling under this category include vulnerable groups (as defined in article 17, Presidential Decree 220/2007), people submitting a claim while in detention or in First Reception Services, people subject to the Dublin Regulation, those whose claim is thought to be well-founded, those whose claim is characterized as manifestly unfounded, people posing danger to the national security or public order and those who submit a subsequent application.

*C. Common to both old and new procedures:*

Asylum applications lodged by unaccompanied children shall always be examined by priority and according to the regular procedure. The officials conducting interviews with unaccompanied children and making recommendations on their application for international protection shall have the necessary knowledge of the special needs of children and conduct the interview in such a way as to make it fully understandable, taking account, in particular, of the child's age. In practice, this is not always applied; for example, at sea and land entry points there are no experienced staff members available to respond to the needs of unaccompanied children and vulnerable persons in general.<sup>26</sup> Furthermore, the law does

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<sup>25</sup> Information provided by the Asylum Service.

<sup>26</sup> CPT, [Report to the Government of Greece 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 19 to 27 January 2011](#), CPT/Inf(2012)1, Strasbourg, 10 January 2012, par.42.

not provide for a similar provision with regards to the automatic application of the regular procedure to other categories of vulnerable asylum seekers.

In practice, unaccompanied minors, disabled people, elderly people, pregnant women, single parents with minor children, as well as persons who have been subjected to torture, rape or other serious forms of psychological, physical or sexual violence cannot any more have access to the asylum procedure after being referred by an NGO. However, the lack of screening for persons belonging to vulnerable groups, coupled with the fact that in practice these people are detained upon reception in centres with other migrants and asylum seekers, instead of in special reception centres for vulnerable groups as the Greek Action Plan foresees, renders access to the asylum procedure very difficult even for these people.<sup>27</sup> The Asylum Service claims that irrespective of whether an applicant is referred by an NGO, the registration of asylum-seekers belonging to a vulnerable group is prioritised. To this end, the Regional Asylum Office of Attica, which registers the largest number of applicants, assigns a number of registration slots on a daily basis to vulnerable cases.

In practice, the Secretary General of the Ministry of Public Order decides every two years, after an application had been lodged by an asylum seeker, on the renewal of subsidiary protection status or status on humanitarian grounds. Since September 2013 there are decisions rendered by the Secretary General of the Ministry, which do not renew decisions on granting subsidiary protection or status on humanitarian grounds. In the frame of these decisions, the Secretary General examines, on a discretionary basis, the substance of the decision to grant subsidiary protection or humanitarian status. There is a possibility of appeal within 30 days from the receipt of the decision before the Appeals Committees. Pending the Secretary General's processing of their application for renewal of their subsidiary protection or their humanitarian status (which takes over six months), as well as the Committees' examination of the appeal, the concerned individuals lose their right to work and do not have access to any medical treatment.

## Appeal

### Indicators:

- Does the law provide for an appeal against the first instance decision in the regular procedure:
  - Yes       No
  - o if yes, is the appeal       judicial       administrative
  - o If yes, is it suspensive       Yes       No
- Average processing time for the appeal body to make a decision: 45 days<sup>28</sup>

### A. Under the Old Procedure:

According to Article 25 (PD 114), each Appeal Board shall summon the appellant, who shall be informed at least five days in advance and in a language that they understand of the place and date of the examination of their appeal as well as of their right to appear before the Board in person, alone or with their lawyer or other counsellor, to state orally, with the assistance of an interpreter, their arguments and to give clarifications or present any additional elements. The decision of the Appeals Board shall be served to the appellant according to the provisions of Article 7 (PD114) and shall be notified to the Minister of the Citizen Protection. Only in exceptional cases, the Appeals Board can

<sup>27</sup> Amnesty International, [Greece: The end of the road for refugees, asylum-seekers and migrants](#), 20 December 2012, EUR 25/011/2012.

<sup>28</sup> Information provided by the Asylum Service.

circumvent the interview and order the examination of the appeal based only upon examination of the file.

A very disturbing phenomenon has been observed by the Greek Council for Refugees. Three cases have been reported according to which the applicant appeared before the Appeal Board for the interview under the Old Procedure and was arrested by police officers who have been somehow informed of the interview date. This raises serious concerns with regards to the role the Appeal's Boards play and their relationship with the police. The whole purpose of the creation of these Boards has been the independence of the asylum system decision making bodies from the police; cases such as these question the proper functioning of the Boards.

#### B. *Under the New Procedure:*

Under PD 113 (26) (4), the procedure before the Appeals Board is taking place in written form and is examined solely based on the information of the file. The Board has the discretion to invite the appellant at an interview when doubts arise with regards to the quality of the first instance interview, or where the appellant has submitted serious new information or where the case is particularly complex.

The issue of the autonomy of the Appeals Committee to call for a hearing without the prior proposal of the expert-rapporteur was put forward to the State Legal Council, an Executive body whose legal opinions are binding on all public administrations, including the Asylum Service and the Appeals Authority. The Legal Council, in its Opinion 339/2013 of 22 October 2013, ruled that according to Greek administrative law, a "hearing is not obligatory for the cases examining applications for international protection including refugee status recognition or the grant of subsidiary protection."<sup>29</sup>

This is an unfortunate development: in order to present the asylum seekers' case as thoroughly as possible, the drafting of the documents to be submitted for the appeal against a first instance decision must be carried out by Greek lawyers. Given, however, that representation by a lawyer is not obligatory for filing an appeal at the Appeal's Board, those asylum seekers that do not manage to have access to a lawyer will probably end up with a compromised file. The lack of an opportunity to present their case orally and in person, coupled with a compromised file, greatly undermines the appeal procedure. The inherent language barriers faced by most asylum seekers make the interview all the more essential, as body language and personal narration of their case at their own pace are usually an invaluable source of crucial information.

The problem is that the personnel working on first instance examination is not experienced in the asylum field. Because of austerity measures, the State could not recruit new staff. Therefore, it cannot provide staff specialized in asylum. Instead, the government deployed lawyers/political scientists from other departments and assigned them the duty to examine applications in the new asylum service. The State has provided them with brief training on the asylum procedure. However, such brief training is not sufficient to compensate for the lack of actual experience of the asylum field. This affects the quality of the first-instance examination. For this reason a thorough second-instance examination including a hearing is more than necessary.<sup>30</sup>

Presidential Decree 113/2013 and Ministerial Decision 334/2014 give powers to the Director of the Appeals Authority that were not provided under the corresponding framework law "*loi cadre*". Among other aspects, Article 25 par. 5 of Presidential Decree 113/2013 gives the Director power to decide on the admissibility of appeals after the expiry of the deadline prescribed by P.D. 113/2013. It lowers the number of cases that can be handled by each member of a Committee and forbids Committees to ask for a hearing of the applicant unless it is proposed by the expert-rapporteur. These are restrictions that impact the autonomy of the second instance of the asylum procedure. The Greek Council for Refugees

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<sup>29</sup> ICJ and ECRE, [Third Joint Submission of the International Commission of Jurists \(ICJ\) and of the European Council on Refugees and Exiles \(ECRE\) to the Committee of Ministers of the Council of Europe in the case of M.S.S. v. Belgium and Greece \(Application no. 30696/09\) and related cases](#), May 2014.

<sup>30</sup> *Ibid.*

submitted a request for annulment of this Presidential Decree before the Council of State. The hearing will take place on 7 October 2014.

*C. Under the Old Procedure:*

According to the law,<sup>31</sup> applicants shall have the right to appeal before the Appeals Board, which was established by the Presidential Decree 114, against the following first instance decisions:

- a. a decision rejecting their application for international protection or withdrawing such status within thirty (30) calendar days after the day of serving of the decision;
- b. a decision considering their application for international protection as manifestly unfounded or as inadmissible, according to Articles 17 paragraph 3 and 18 (PD 114) respectively within fifteen (15) calendar days after the day of serving of the decision;
- c. a decision rejecting their application for international protection in the cases of the accelerated procedure described in Article 24 within ten (10) calendar days after the day of serving of the decision;
- d. a decision rejecting their subsequent asylum application during the preliminary examination stage; and
- e. within fifteen (15) calendar days after the day of serving of the decision.

Quasi similar provisions are provided under the New Procedure:

- a. Against the decision rejecting the application for international protection as unfounded with normal procedure or revoking this status, within thirty (30) days from the notification of this decision. The same deadline shall apply if the applicant is granted subsidiary protection status, where the applicant considers that he/she is entitled to refugee status.
- b. Against the decision rejecting the application for international protection with the accelerated procedure, or as inadmissible, according to Articles par. 4 and 18 respectively, within fifteen (15) days from the notification of this decision (including subsequent applications which were found to be inadmissible). The appeal against the decision rejecting an application for international protection inadmissible pursuant to Article 18 (b) is also directed against the relevant act of transfer pursuant to the relevant provisions of Council Regulation 343/2003.
- c. Against the decision rejecting an application for international protection lodged in correctional institutions or other areas of administrative detention, within ten (10) days upon the notification of this decision.
- d. Against the decision rejecting an application for international protection in cases of article 24 (border procedures) or lodged in First Reception facilities, within three (3) days upon the notification of this decision.

*Suspensive effect/ pink card:*

By law, during the time-limit for lodging an appeal and, after an appeal has been lodged, until such time as the Appeal Board at the Old Procedure issues its decision, all measures of removal of the applicant shall be suspended. The special asylum seekers' card ('pink card') shall be withdrawn and issued again when an appeal is lodged. This card will be valid for six months in the regular procedure<sup>32</sup> and for three months in all other cases (when the accelerated procedure is followed).<sup>33</sup>

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<sup>31</sup> Article 25, P.D 114/10.

<sup>32</sup> Article 25 par. 1 (a), P.D 114/10.

<sup>33</sup> Article 25 paragraph 1 P.D. 114/10.

The practice of reissuing the pink card differs depending on the location. When an asylum claim is rejected by the Aliens' Directorate office in Athens, usually an appeal is prepared on the spot (containing only basic information on the applicant and the case) and the pink card is automatically renewed. However, in most of the other locations registering and processing asylum claims, there is no such automatic appeal, but the applicant must submit one within the time limits specified by law (30, 15 or 10 days, see section appeal below). In these cases, the following obstacles have been observed:

- a. The applicants are not informed of their rights with regards to an appeal in a language they understand resulting in them missing the deadlines for the appeal.
- b. Due to lack of interpreters and severe understaffing, the applicants may lack access to the appeal process, as they may present themselves to the authorities for filing an appeal but there may not be anyone available to receive the claims.

*Appeal Boards under the Old Procedure:*

Twenty- Appeals Boards, under the responsibility of the Ministry of Citizen Protection, were established under Article 26 PD 114 and have started working. All 20 Appeals Boards working under the Old Procedure are located in Athens.

Each Committee consists of:

- a. a civil servant from the Ministry of Interior, Decentralization and e-Governance or from the Ministry of Justice, Transparency and Human Rights with a university degree having graduated from a Law School. This person is the chair of the Appeals Committee,
- b. a representative of the UNHCR, and
- c. a jurist specialised in refugee law and human rights law.

The Ministry staff members, who are members of the Boards and their substitutes, shall be appointed by the competent Minister (Ministry of Interior or Ministry of Justice). The above mentioned third member of the Appeal Boards shall be chosen from a relevant experts list established under the responsibility of the National Commission for Human Rights according to its regulation<sup>34</sup>. Lawyers appointed as members of the Appeal Board shall abstain from any legal action on behalf of third country nationals on immigration or international protection matters and shall not represent such clients before the authorities during the procedure at both first instance and appeal. In case the second and third members of the Appeal Boards, or their substitutes do not attend the meetings of the Appeal Board for any reason, save cases of *force majeure*, for three consecutive meetings, despite having been duly invited, they shall be replaced by civil servants holding a University degree from the Ministry of Interior, Decentralization and e-Governance or from the Ministry of Justice, Transparency and Human Rights.

The chair and the members of the Appeal Boards are full-time employees.<sup>35</sup> Each Appeal Board is provided with support by a secretariat consisting of 5 staff members composed of duly qualified staff from the Ministry for the Protection of the Citizen in a full-time capacity.

By law, the Appeal Boards should rule on appeals against decisions in Article 25 par. 1 (a) PD 114 within six months (when the regular procedure is followed) and for all other appeals within three months, from the date the appeal was lodged. They shall operate on the basis of the rules of procedure laid down in a decision to be taken by the Minister of the Citizen Protection.

The smooth operation of the Appeals Boards was temporarily suspended in May 2013 for a month due to issues with the professional licenses of the members and recent allegations with regards to abusive

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<sup>34</sup> Ministerial Decision Y139/2000, Regulation of the National Committee on Human Rights (in Greek).

<sup>35</sup> The members of the Appeal Committee shall receive an indemnity according to the provisions of Article 17 paragraph 2 (c) of law 3205/2003 (O. G. A 297). The indemnity for the representatives of the United Nations High Commissioner for Refugees shall be disbursed to this agency.

employment contracts. Since their reopening, no legal obstacles have been observed. However, given that the establishment of these Boards is fairly recent and that a temporary suspension of their operations has already taken place, concerns are raised with regards to their satisfactory function.

#### *Appeals Authority in the New Procedure*

Under Law 3907/2011, 19 Appeal Committees were set up which were competent to examine appeals lodged against negative decisions issued by the Asylum Service in the first instance. They started operating on 1-7-2013 and their term of office ended on 30-06-2014. Currently, the Ministerial Decision on the establishment of the new Appeal Committees is still pending.

Each Appeal Committee has three members: the chair who is appointed by the Minister of Public Order and Citizen Protection, selected from a list submitted by the Greek National Commission for Human Rights (hereafter GNCHR). The same procedure applies also for one of the two members. The third member is recommended by UNHCR. There are expert-rapporteurs (civil servants) who prepare the case files before they are examined by the Appeal Committees and who also draft a recommendation regarding the asylum case concerning both substantive issues (whether the applicant should be granted international protection), which is not binding, and procedural issues (whether the applicant should be invited for an interview), which is binding. Furthermore, there is a Secretariat to assist the Appeal Committees. On 24 March 2014, Law No. 4249/2014 modified the rules of composition of the Appeals Authority in two significant respects in the New Procedure. First, it reduced the mandate of the Appeals Committees' members from two to one year, renewable. Second, it obliges GNCHR ( Greek National Commission for Human Rights to provide "at least twice as many candidates as needed to staff the committees". Should GNCHR fail to provide the said list within the given time, or should it fail to provide the requested number of candidates, the list shall be established and communicated to the Minister by the Appeals Authority within 10 days from a new request to the Appeals Authority. In case the Appeals Authority is unable, for whatever reason, to comply with the time limit or number of candidates required for the list, the UNHCR members of the Committees will be appointed by the Minister, based on the same criteria applicable to the members of the Committees from the National Commission for Human Rights.<sup>36</sup>

#### *Judicial Appeal:*

A decision rejecting the administrative appeal at the Appeal's Boards under the Old Procedure sets a specified time-frame of no more than ninety days for the applicant's departure from the Greek territory. The asylum seeker as well as the Minister of the Citizen Protection shall have the right to request the annulment of the decision of the Appeals Board, before the Administrative Court of Appeals.

The filing of such request does not automatically suspend the measures of removal of the applicant taken with the rejection of the appeal at the Appeal's Boards. Moreover, access to judicial review (on points of law) before this Administrative Court of Appeals is limited by a number of practical and legal obstacles, which undermine the effectiveness of the remedy. These include:

- Complicated procedural rules for submitting applications for annulment of negative decisions of the Appeal Boards. The applications must be well substantiated, written in Greek and registered by a lawyer.
- Court decisions on a request for temporary suspension of execution of the challenged decision may take 10 days to 4 months, leaving the applicant without protection against deportation during that time; it is up to the applicant to request this suspension.

Although free legal aid should be provided according to the law, the system does not function in practice, as there are gaps in coverage of expenses and huge delays in paying the lawyers for their

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<sup>36</sup> ICJ and ECRE, [Third Joint Submission of the International Commission of Jurists \(ICJ\) and of the European Council on Refugees and Exiles \(ECRE\) to the Committee of Ministers of the Council of Europe in the case of M.S.S. v. Belgium and Greece \(Application no. 30696/09\) and related cases](#), May 2014.



work under legal aid. As a result, relatively few lawyers are willing to be included in the free legal aid list of the Lawyers' Associations.

Under the New Procedure the Appeals Committees do not have the competence to set a time limit by the end of which the rejected applicant must leave the country.

### Personal Interview

#### Indicators:

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

#### A. Under the old procedure:

According to the law, before a decision is taken at first instance by the Ministry of the Citizen Protection, a personal interview should be conducted with the applicant by an official with the rank of officer of the Police Department, competent to examine, appointed to this purpose. The official recommends the decision to the Ministry of Citizen Protection after having completed a report of the interview. The interview should take place with the assistance of an interpreter who is able to ensure adequate communication.<sup>37</sup>

Prior to the interview, the applicant should be given, upon their request, a reasonable amount of time in order to sufficiently prepare themselves and to consult a legal or other counsellor who will assist them during the procedure. The reasonable amount of time is at the discretion of the police officer who has the authority to examine the asylum application and conducts the interview and, including the prolongations, must not exceed two months. No criteria on the reasonable amount of time are given by the law.

In practice most of the interviews are postponed several times well over two months, due to lack of police officers or interpreters in the Aliens Police Directorate. The Greek Council for Refugees has witnessed instances where the interview has been postponed without renewal of the pink card. This puts applicants at risk of missing their deadlines and not appearing at the interview and consequently of being considered that they have silently withdrawn from the asylum claim according to the provisions of Article 14 PD 114. There have also been cases where the pink card is renewed but with no reference to the postponement of the interview. This results in the authorities taking the pink card the next time that the applicant appears before them.

The official who conducts the interview recommends the decision after having completed a relevant report to the Determining Authority, namely the Secretary General of the Ministry of Public Order (regular procedure)/ Territorially Competent Police Director/The police Directors of the Aliens

<sup>37</sup> According to the law the applicants must be allowed to confirm the facts stated in the application and to provide explanations, particularly as regards their exact identity data, the reasons for which they do not hold a passport or other official travel document, the exact itinerary they followed before entering the Greek territory and the reasons which forced them to leave their country of origin, or in the case of stateless persons the country of former habitual residence, and for seeking protection.



Directorate of Athens and Thessaloniki and the Police Director of the Athens International Airport (accelerated procedure/inadmissible applications) (hereinafter the 'Determining Authority').

*Omission of the personal interview:*

According to the law,<sup>38</sup> the personal interview may be omitted where:

- a. the Determining Authority is able to take a positive decision on the basis of available evidence, or
- b. it is not practically feasible, in particular where the applicant is unfit or unable to be interviewed due to enduring circumstances beyond their control. Such inability must be certified by a relevant medical or psychological certificate from a public hospital.

In practice the applicants themselves or usually their legal advisor, if they had any, must get such a certificate. Certificates by NGOs providing psychological support have not been accepted neither by officials at first instance interview nor by the Appeal Boards.

According to the law, the recommendation drafted by the official of the Police Department shall also include the opinion of the representative of UNHCR or of the organisation cooperating with UNHCR, if this person was present during the interview. The said recommendation shall, where applicable, also include a proposal for examining the asylum application as a manifestly unfounded application. In case the decision of the Determining Authority diverges from the above-mentioned opinion of the representative of the UNHCR or of the organisation cooperating with UNHCR and rejects the application, it shall be specifically reasoned. When the applicant or, where applicable, a family member of the applicant is not provided with the opportunity of a personal interview because of the fact that they are unfit or unable to be interviewed as mentioned above, the Determining Authority shall "make reasonable efforts", as referred to at the law in order to provide them with the possibility to submit further supplementary information.

The law provides that even if a personal interview is omitted, the determining authority can still make a decision on the application, but should explain the reasons for omitting the interview. The personal interview shall take place without the presence of the applicant's family members unless the competent official of the Police Department considers their presence necessary. The personal interview shall take place under conditions which ensure appropriate confidentiality.

B. *Under the new procedure:*

Asylum claims under the New Procedure are registered with the new Asylum Service. The day the asylum seeker present themselves at the Asylum Service, an administrative employee of the office registers the claim for international protection and sets the date of the interview, usually 2 weeks later. The interview on the designated day takes place at the premises of the Asylum Service and is conducted by one interviewer. Where necessary, arrangements are made for an interpreter to be present.

The New Procedure envisages audio/video recording of the personal interview. As of April 2014 all interviews are audio-recorded..

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<sup>38</sup> Article 10 (P.D. 114/10).

### C. Common to both old and new procedures:

#### *Presence of UNHCR/other organisation:*

By law, a representative of UNHCR or of an organisation cooperating with UNHCR, may be present during the interview and allowed to ask questions to the applicant. A legal advisor of the applicant may also be present and intervene when appropriate during the interview. The UNHCR office in Athens should be informed in time of the planning of interviews and the names of the applicants.

Nevertheless, under the Old Procedure, in practice, there have been instances where the UNHCR office has not been informed, thus greatly compromising the quality of the interview. The legal advisors of the applicant are not informed of the planning of the interviews.

#### *Special Guarantees:*

According to the law, if the interview concerns a female applicant, special efforts should be made so that the interview is conducted by a specialised female interviewer and that a female interpreter is present. If this is not possible, the relevant reasons should be stated in the report. A separate interview should be conducted with every adult family member. When children are concerned, the personal interview should be conducted taking into consideration their maturity and psychological consequences of their traumatic experiences.

If there are strong indications during the interview that the applicant has been subjected to torture, they shall be referred to a specialised medical centre, or a doctor or a psychologist of a public hospital, who shall make a report on the existence of injuries that could be the result of maltreatment or of indications of torture.

In practice, however, even applicants who mention that they are victims of torture are not referred to a specialised centre during the first instance personal interview under the Old Procedure. On the other hand, under the Old Procedure, their interview is postponed if they so request, in order to submit the above mentioned report. Under the New Procedure, the postponement is given only once. The Appeal Boards of the Old Procedure do not always make such referrals.

According to the Asylum Service, since that there are no specialized state institutions for alleged torture victims to be referred to, under the new Procedure, applicants who claim during the registration of their application that they have been torture victims are referred by the Asylum Service to NGOs which have developed this kind of expertise. Moreover, caseworkers can refer an applicant to these NGOs if they consider it necessary for decision making purposes. However, during the past few months, due to lack of funding, these NGOs are unable to document torture victims. Thus, the Asylum Service has stopped issuing referrals until further notice. Nevertheless, according to available information, there is one NGO named Met- Action (Metadrasi in Greek) which certifies if somebody is victim of torture according to the principles of the Istanbul Protocol, as well as the project "Prometheus", run until September 2014 by the Greek Council for Refugees and Babel Day Centre, which provides rehabilitation for victims of Torture. A recent decision of the Appeals Authority recognizing a victim of torture as a refugee refers to a document provided by the project "Prometheus", which played a crucial role to the above mentioned decision.

The above mentioned guarantees shall, according to the law, also apply during the interviews with regards to the appeals procedure as well as during any necessary supplementary examination, which takes place in case doubts have arisen or more explicit information about the examined case is needed.

With regards to special trends in practice, it is observed that detainees who have exhausted the 18 month detention maximum are interviewed by priority.

#### *Training/Interpretation:*

The law provides that the person conducting the interviews should have sufficient knowledge and skills and be trained on the special needs of vulnerable applicants. The law also envisages that an interpreter of a language "reasonably supposed to be understood" by the applicant be present. In practice,

however, there are serious problems with the interpreters. Apart from frequent postponement of interviews due to the lack of interpreters as mentioned above, under the Old Procedure the quality of these services is very often compromised. For example, GCR has reported poor knowledge of English of interpreters in the Xanthi police academy, as well as allegations of interpreters asking for money from detainees in return for their services.<sup>39</sup>

*Report/Transcript:*

According to the law, a written report, but not an exact transcript should be presented to the applicant at the end of the interview in order for them to approve and sign it. To this end, the applicant should be assisted by the interpreter who also signs the report. When an applicant does not approve the report, it does not prevent the authority from making a decision on the case. The law provides that applicants shall have the right to receive, at any time, copy of the report of the personal interview.

Lawyers for the Greek Council of Refugees report certain issues with regards to the transcript of interviews. For first instance, for interviews under the Old Procedure (conducted by the police) the main issue is that there is no longer a secretary responsible for writing down the content of the interview; this task is left to the interviewer (police officer) leaving plenty of room for mistakes. Usually, due to time pressure, the interviewer will paraphrase or interpret the words of the interviewee, missing crucial details or even missing the point that the asylum seeker is trying to make.

Under the new procedure, the caseworker writes a full transcript of the interview. Before the interviews started to be audio-recorded, the caseworker would read back the full transcript to the applicant in order for them to approve its content and sign it. Ever since the audio-recording came into play, the caseworker still writes a full transcript of the interview, but it is not read back to the applicant. The applicant may at any time request a copy of the transcript, a copy of the audio file or both.

First instance interviews conducted by the Asylum Service under the new procedure reportedly operate more smoothly. Under the New Procedure, the NGO Met-Action (Meta-Drasi in Greek) provides interpretation services to the Asylum Service in all stages of the procedure. Interpretation services are provided via physical presence of interpreters (Regional Asylum Office of Attica) or via teleconferencing in the other Regional Asylum Offices or Units, although occasionally there is physical presence in these cases as well. No activity – except the renewal of the applicant's card –takes place without interpretation. The languages in which interpretation is available are :Arabic, Kurmanji, Sorani ,Turkish, English, Sinhalam, Swahili, French, Lingalam Spanish, Urdu, Punjabi, Hindi, Pashto, Farsi, Dari, Bengali, Georgian, Russian, Romanian, Ukrainian, Mandarin Chinese, Albanian, Amharic, Tigrinha, Somali. Interpretation in all the above languages is not available on a daily basis for all Regional Asylum Offices or Units, given that the number of interpreters available for each language varies.<sup>40</sup> It has to be mentioned that the availability and the number of the interpreters play a crucial role for the access to the Regional Asylum Office of Attica.

The quality of asylum interviews under the Old Procedure in Greece have been repeatedly criticised by NGOs, as well as by UNHCR, the Parliamentary Assembly of the Council of Europe.<sup>41</sup> Even though UNHCR recognised some progress in 2012 in the quality of the interviews, it also highlights that “the asylum procedure was, for many years, characterized by a lack of essential procedural guarantees, including a lack of qualified interpretation during interviews, poor quality of interviews and interview records”.<sup>42</sup>

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<sup>39</sup> See Greek Council for Refugees, [Thrace Report – October 2012](#), p. 4.

<sup>40</sup> Information provided by the Asylum Service.

<sup>41</sup> See Parliamentary Assembly of the Council of Europe, Migration and asylum: mounting tensions in the Eastern Mediterranean, Report, Committee on Migration, Refugees and Displaced Persons, 23 January 2013, para. 36.; UNHCR Greece, [Contribution to the dialogue on migration and asylum](#), May 2012 ; Greek Ombudsman, [Findings after the 16.11.2010 visit in situ of the Ombudsman to the Attica Aliens Police Directorate in PetrouRalli, Athens](#), 25 January 2011,( in Greek).

<sup>42</sup> UNHCR Greece, [Contribution to the dialogue on migration and asylum](#), May 2012.

## Legal assistance

### Indicators:

- Do asylum seekers have access to free legal assistance at first instance in the regular procedure in practice?  
 Yes       not always/with difficulty       No
- Do asylum seekers have access to free legal assistance in the appeal procedure against a negative decision?  
 Yes       not always/with difficulty       No
- In the first instance procedure, does free legal assistance cover:  
 representation during the personal interview     legal advice     both     Not applicable
- In the appeal against a negative decision, does free legal assistance cover  
 representation in courts       legal advice     both     Not applicable

According to the law, asylum seekers have the right to consult, at their own cost, a lawyer or other legal advisor on matters relating to their asylum application. In the case of an appeal before the Court, the applicant shall be provided with free legal assistance according to the procedure laid down in law 3226/2004 (O. G. A 24). Lawyers who represent asylum seekers shall have access to the information in the applicant's file, except in some circumstances related to national security, if this information is relevant to the examination of the asylum application.

Other advisors, mainly NGOs who assist the applicant shall have access to the applicant's file, if this information is relevant to the assistance provided. Given the fact that legal counsellors from NGOs in practice provide legal assistance to the applicants there was no opportunity to see the difference between the two above-mentioned provisions of the law.<sup>43</sup>

Lawyers who represent asylum seekers and other counsellors who assist them shall have access to closed areas, such as detention facilities and transit zones, for the purpose of consulting with the asylum seekers in specially arranged premises within such closed areas. The authorities competent to receive or examine an asylum application may only limit the possibility of these persons' access to closed areas where such limitation is deemed objectively necessary for the security, public order or administrative management of the area, or in order to ensure an efficient examination of the asylum application, provided that access by the lawyer or legal counsellor is not thereby severely limited or rendered impossible.

The law provides that lawyers and other counsellors shall have the right to represent the asylum seekers at all stages of the asylum procedure. The lawyer representing the asylum seeker or the counsellor assisting may be present during the personal interview together with the asylum seeker. The absence of a lawyer or a counsellor shall not prevent the personal interview from taking place.

According to the law, legal aid is provided only for lodging an Appeal and representing the case before the Administrative Court of Appeal (see chapter *Appeal*). It is provided upon the applicant's request and two criteria must be fulfilled: (a) the application must be founded and (b) the applicant's financial inability

<sup>43</sup>

It should be noted that the law provides that the Determining Authority may, in a reasoned decision, forbid the disclosure of the source of the information if it considers that such disclosure of sources may jeopardise national security, the international relations of Greece, the security or the necessary secrecy in the actions of the organisations or person(s) providing the information. The access to this confidential information or sources is, in any case, possible to the Administrative Court of Appeal, the court competent to examine a request for the annulment of a decision by the Determining Authority provided in Article 29 (P.D 114/10).

to pay for legal services must be established. The counsellor's choice is made according to a list created by the relevant Bar Association.<sup>44</sup>

There are a number of obstacles in having access to free legal aid. In order for the request to legal aid to be examined, the asylum seeker must submit an application to the court signed by a lawyer, so s/he must pay one for this service or find a lawyer that will work on this pro bono. In addition, there is no choice of lawyer, as the available ones are only those designated in the lists of the Bar Associations. Furthermore, the low remuneration accorded to lawyers in asylum cases under legal aid, and huge delays in paying them for their work results in only a very small number of lawyers willing to take up such cases. This creates a shortage in the availability but also the quality of legal aid services.

In practice free legal assistance and representation is provided by NGOs through European Refugee Fund (ERF) funding which is limited vis-à-vis the number and the needs of asylum seekers. Although the Greek Government alleges that it provides sufficient free legal aid through ERF-funding, the previous funding ended in April 30<sup>th</sup> 2013 and an announcement on the launching of the next call for ERF funding took place on the 4<sup>th</sup> June 2013. Although the new funding covered the gap retrospectively, nevertheless, during this period NGO funding had been suspended and uncertainty over when and whether the new Call for Proposals would take place resulted in the suspension of legal aid.

### 3. Dublin

#### Indicators:<sup>45</sup>

- Number of outgoing requests in the previous year: 1916
- Number of incoming requests in the previous year: 98
- Number of outgoing transfers carried out effectively in 2014 (until 31<sup>st</sup> May 2014): 807
- Number of incoming transfers carried out effectively in 2014 (until 31<sup>st</sup> May 2014): 2

#### Procedure

#### Indicator:

- If another EU Member State accepts responsibility for the asylum applicant, how long does it take in practice (on average) before the applicant is transferred to the responsible Member State? 4-6 months

#### A. Transfers to Greece from another Member State:

EURODAC is being rigorously applied in Greece. The cases of transferring back asylum seekers from another Member State to Greece are extremely rare because all EU Member States have stopped Dublin transfers to Greece as a result of the *M.S.S. v Greece and Belgium* case.<sup>46</sup> In the rare case where a Dublin return does occur, the asylum application before June 7<sup>th</sup> 2013 took place in the airport where the asylum seekers were kept in detention. Since June, in these rare cases the returnee is transferred to the Asylum Service where the claim is filed.

<sup>44</sup> Law No. 3226/2004.

<sup>45</sup> Figures provided by the Asylum Service.

<sup>46</sup> European Court of Human Rights, *M.S.S. v. Belgium and Greece*, Application No. 30696/09, Judgment of 21 January 2011.

The airport of Athens is the main receiving point of Dublin II returnees and, as such, plays an important role in the assessment of the implementation of *M.S.S. v Belgium and Greece*.<sup>47</sup>

While the Greek Council for Refugees has not witnessed significant improvements in the detention centre of Athens' airport,<sup>36</sup> the NGO AITIMA has reported that "asylum seekers transferred to Greece from another Member State who apply for asylum in Greece for the first time are detained for the time needed for their fingerprints to be processed and checked. [...] The time of detention which was from one to four days in the past, has currently decreased to a couple of hours, but if transfers from other Member States resume, then the time of detention will increase again".<sup>48</sup>

The only national legal provisions which contemplate detention of asylum seekers are Articles 13(2) and (3) of Presidential Decree 114/2013. However, as highlighted by the NGO AITIMA, these provisions are not applicable to asylum seekers returned to Greece under the Dublin Regulation. Such provisions apply to asylum seekers arriving in groups through the border and not to those returned under Dublin. AITIMA reports that "the Greek authorities do not apply the procedure prescribed in Article 13(3)", i.e. they do not issue the relevant detention order in cases of asylum seekers transferred to Greece under the Dublin Regulation. When asked about this detention the Police say that asylum seekers are not in detention, but under surveillance.<sup>49</sup>

Dublin returnees who have never previously lodged an asylum application in Greece will have their application examined according to the regular asylum procedure upon return to Greece.<sup>50</sup>

The Asylum Service has reported on a few cases, in which Switzerland and Belgium have sent asylum seekers back to Greece in the period of 2013 – exact numbers are, however, not available at this moment.

#### B. Transfers from Greece to another Member State:

In line with article 17 of the Dublin Regulation<sup>51</sup>, where an asylum application has been lodged in Greece and the authorities consider that another Member State is responsible for examining the application, Greece shall within 3 months of the date on which the application was lodged call upon the other Member State to take charge of the applicant. Failure to do so within this three month period results in rendering Greece responsible for examining the asylum application.

According to the Asylum Service the transfers are concluded within 2-3 months after a Member State has accepted the "take charge request" sent out by the Greek Dublin Unit.

#### *Family reunification:*

In practice there are a lot of deviations from the above-mentioned provision. The majority of outgoing claims under the Dublin Regulation take place in the context of family reunification.

The most frequent case is where an entire family has applied for asylum in Greece and at some point (well beyond the three month period) one or more members leave for another Member State from where they request for their family members to follow on the grounds of family reunification. Under the Dublin Regulation these claimants should be sent back to Greece but after the *MSS v Belgium & Greece* case these returns have ceased. Although the receiving Member State is not obliged to accept the family members from Greece, in practice it invokes the Regulation's sovereignty and humanitarian clauses and notifies Greece of its acceptance. There is no data available.

One Issue with outgoing claims on the side of Greece has to do with the fact that upon acceptance by another Member State to receive an asylum seeker from Greece there is a deadline for the return to be carried out that the Greek Ministry must meet. Due to understaffing of the Dublin department of the

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<sup>47</sup> ECtHR, [Case of M.S.S. v. Greece and Belgium](#), 21 January 2011.

<sup>48</sup> GCR, [Report of GCR mission to Symi](#), September 2012, p. 3-4.

<sup>49</sup> *Ibid.*

<sup>50</sup> See European Network for Technical Cooperation on the application of the Dublin II Regulation, [Dublin II Regulation National Report Greece](#), 30 October 2012, at p. 15.

<sup>51</sup> Council Regulation (EC) No 343/2003

Ministry, however, it is often the case that this deadline is not met; constant follow-up by the claimants' lawyers is necessary to ensure the timely execution of the outgoing Dublin transfer.

*Unaccompanied children:*

Serious problems arise in the cases of unaccompanied children whose family members are in another Member State. The system of appointing a guardian for minors is dysfunctional; in practice the Police informs the juvenile Prosecutor who acts as guardian of the child but little more is done; the guardian does not engage in any action as guardian but merely assumes the role in paper.

Unacceptable delays take place for the actual transfer of unaccompanied children to another Member State where the family reunification claim has been accepted due to severe shortage of guardians.

*Delays:*

When an asylum claim is rejected in Greece subject to a Dublin transfer, issues arise in practice with regards to the time lapsing between the rejection and the actual transfer. Usually it takes 4-5 months for the applicant to be transferred to the responsible State, although the Greek Council of Refugees has had cases under the Old Procedure where delays reached 9 months. According to the information given by the Asylum Service, when an applicant is detained and another Member State accepts "the take-charge request" sent out by the Greek Dublin Unit on the basis of family reunification, the Asylum Service notifies the Hellenic Police authorities and revokes detention in case it had previously recommended it.

*Modality of transfer:*

Transfers to the responsible Member State take place by airplane. A problem that has been observed by the Greek Council of Refugees has to do with the fact that transferees are usually not taken to the airplane but are instead left to find their own way to the airport and in the aircraft. This puts them at risk of missing their flight and consequently of being exposed of further serious delays. Dubliners" pay on their expenses for the flight tickets because the refusal of the competent authorities claiming lack of money. According to the Asylum Service, applicants who are to travel by plane to another Member State in the framework of the "Dublin Regulation" are picked up by the Hellenic Police from their house or from a location close by and are driven to the airport. The police officer escorts the applicants to the check-in counter. Once the boarding passes are issued, the escorting officer hands in the boarding passes, the laissez-passer and the applicant's international protection card to a police officer at the airport. The latter escorts the applicant to the aircraft, hands in the required documents to the captain of the aircraft and the applicants boards the aircraft.

Although the applicants have to cover their own travel expenses due to budgetary restraints of the Asylum Service, the latter informed that the sum of 60,000 euros for travel costs for Dublin transfers has been approved and an open call for tenders from travel agencies has been advertised.

In 2012, many asylum seekers were directly returned to Greece from the Italian border outside the scope of the Dublin II Regulation.<sup>52</sup> A report by the Greek Council for Refugees and Pro Asyl indicated that "in the majority of cases at the Italian sea ports, people in need of international protection and unaccompanied children who are detected and apprehended in the Italian ports and in the southern coasts of Italy, are either refused entry to the Italian territory or are readmitted back to Greece, without being granted any access to international protection, to any sort of registration of their claim,

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52 On returns from Italy to Greece see Human Rights Watch, [Turned away. Summary Returns of Unaccompanied Migrant Children and Adult Asylum Seekers from Italy to Greece](#), January 2013.



identification and individual evaluation of their case and/or vulnerability".<sup>53</sup> Similar concerns have been raised with regard to the Bulgarian/ Greek border.<sup>54</sup>

## Appeal

### Indicators:

- Does the law provide for an appeal against the decision in the Dublin procedure:
  - Yes       No
  - o if yes, is the appeal       judicial       administrative
  - o If yes, is it suspensive       Yes       No
- Average processing time for the appeal body to make a decision:

According to Article 25 par.1(b) of Presidential Decree 113/2014, an applicant may lodge an appeal against a decision rejecting an application as inadmissible in the first instance on the ground of the Dublin Regulation. Such appeal concerns also the transfer decision, which is incorporated in the inadmissibility decision in relation to the Dublin procedure.

There have been 21 cases in which the applications for international protection were declared inadmissible in the first instance (because Bulgaria had accepted the responsibility for the examination of the application), were appealed against and the Appeal Committee concerned referred them back to the first instance. With regard to the applicants whose cases were not referred back to the first instance, it needs to be noted that only one transfer has taken place. The remainder have either absconded or their transfer is still pending.<sup>55</sup>

## Personal Interview

### Indicators:

- Is a personal interview of the of the asylum seeker conducted in most cases in practice in the Dublin procedure?       Yes       No

Under the Dublin procedure, a personal interview is required. The whole procedure takes place as in the regular procedure. There are no mentioned cases, in practice, of asylum seekers who were not personally interviewed on the application of the Dublin procedure. However personal interviews in cases relating to outgoing requests for transfer of asylum seekers are less detailed and much more concise. During the last few months there has been an increasing number of decisions of second instance returning people to Bulgaria under Dublin. These decided for return to Bulgaria even when the persons were found to be victims of torture. On the other hand, there have been decisions at second instance on non-return to Bulgaria.

<sup>53</sup> Greek Council for Refugees and Pro Asyl, [Human Cargo. Arbitrary Readmissions from the Italian Sea Ports to Greece](#), July 2012, p.4.

<sup>54</sup> See also the report of Medici per i Diritti Humani Unsafe Harbours. Report on the readmissions to Greece from Italian ports and the violations of the migrants' basic human rights ([Full report](#) in Italian. [Summary](#) of the report in English), 28 November 2013.

<sup>55</sup> Information provided by the Asylum Service.



## Legal assistance

### Indicators:

- Do asylum seekers have access to free legal assistance at the first instance in the Dublin procedure in practice?  Yes  not always/with difficulty  No
- Do asylum seekers have access to free legal assistance in the appeal procedure against a Dublin decision?  Yes  always/with difficulty  No

Free legal assistance and representation with regard to the Dublin procedure until a decision on the application of the Dublin Regulation is taken by the Ministry of the Citizens Protection is not guaranteed under the law. Access to free legal assistance and representation in the context of a Dublin procedure takes place under the same conditions as is described above with regard to legal assistance in the context of the regular procedure. The same problems and obstacles described in the relevant section under the regular procedure exist in the context of Dublin procedures, as well. The Dublin Unit in the Ministry of Public Order and Citizen's Protection, now working in the Asylum Service responsible for "Dubliners", is extremely understaffed. Although the Police should prepare the files for family reunification and be in contact with the Dublin Unit, in practice the files of those asylum seekers who are in contact with NGOs like GCR are entirely prepared by the NGOs.

According to the Asylum Service, the case-files of the applicants are communicated by the authorities competent for the registration of asylum applications (i.e. the Hellenic Police authorities or the Regional Asylum Offices) to the Dublin Unit. Moreover, the Dublin Unit does not consider itself responsible for preparing the case-files, as the applicants bear the responsibility of submitting to the Asylum Service all documents required in order for the Dublin Unit to establish a "take charge request" (e.g. copy of the asylum applicant's card belonging to the spouse who is present in another member state). The Asylum Service furthermore claims that the registration staff of the Asylum Service has been instructed to inform applicants who state that they want to be reunited with a family member in another Member State of the need for the timely submission of the relevant documents.

## Suspension of transfers

### Indicator:

- Are Dublin transfers systematically suspended as a matter of policy or as a matter of jurisprudence to one or more countries?  Yes  No

To our knowledge, there are four decisions of the Appeals Board (procedure at second instance)<sup>56</sup> stating that an asylum seeker cannot be transferred to Bulgaria. The first three cases had legal support by the Ecumenical Refugees Program and the fourth one by the Greek Council for Refugees. All other cases have been decided in the sense that even for victims of torture their return is deemed to be safe.

## 4. Admissibility procedures

Presidential Decree 113/2013 provides for a separate admissibility procedure only the case of subsequent applications. However, according to article 18 of Presidential Decree 113/2013: "The Determining Authority shall reject as inadmissible, with a relevant act, an application for international protection if:

<sup>56</sup> 95/000190454/ of 21 March 2014 of the 17<sup>th</sup> Appeals Board, 95/000188424/ of 11 February 2014 of the 11<sup>th</sup> Appeals Board, 95/000186004/ of 29 November 2013 of the 2<sup>nd</sup> Appeals Board and 95/000187586/ of 21 January 2014.

- a. Another EU member state has granted the applicant international protection status; or
- b. Another EU member state or a state bounded by Council Regulation 343/2003 has taken responsibility to examine the relevant application, pursuant to this Regulation; or
- c. The Applicant enjoys adequate protection by a country which is not an EU member state and is considered as a first country of asylum for him/her in the meaning of Article 19; or
- d. The competent examination authorities judge that a country is considered a safe third country for the applicant, according to article 20; or
- e. The application constitutes a subsequent application and the preliminary examination has not revealed new substantial elements, in accordance with Article 23 par. 2; or
- f. A member of the applicant's family has submitted a separate application, although the member has, in accordance with Article 4, already agreed to include their case as part of an application made on their behalf and there are no facts which justify a separate application."

In accordance with the above, until 30 June 2013, 795 applications were found to be inadmissible under Article 18 of Presidential Decree 113/2013.<sup>57</sup>

## 5. Border procedure (border and transit zones)

### General (scope, time-limits)

#### Indicators:

- Do border authorities receive written instructions on the referral of asylum seekers to the competent authorities?  Yes  No
- Are there any reports (NGO reports, media, testimonies, etc) of people refused entry at the border and returned without examination of their protection needs?  Yes  No
- Can an application made at the border be examined in substance during a border procedure?  Yes  No

#### A. Under the old procedure:

According to Article 24 PD 114, where applications for international protection are lodged at the border or at transit zones of sea ports or airports, the accelerated procedure, as described in Article 17 PD 114 must be applied. This means that the applicants enjoy the guarantees provided for in Article 11 paragraph 1 as well as all guarantees provided for in Article 8 which includes communication in language the asylum seekers are reasonably supposed to be able to understand in terms of interpretation services, legal assistance offered by UNCHR or other organisations, information about the asylum procedure, free of charge provision of asylum seeker's special card - and Article 12 (see Regular Procedure) PD114 on the guarantees provided to unaccompanied minors.

However, if no decision on the asylum application is taken within four weeks, the applicant must be allowed to enter the territory of Greece in order for their application to be examined according to the regular asylum procedure. According to the third paragraph of Article 24 (PD 114), in the event that the accelerated procedure cannot be practically applied at the border or in a transit zone of sea ports or

<sup>57</sup> Information provided by the Asylum Service.

airports, in particular due to the arrival of a large number of persons lodging applications for international protection, the accelerated procedure may be used in other locations that are in the proximity of the border or transit zone, where these persons are accommodated.

In practice, the border procedure is rarely applied and almost all applications lodged at the border are examined according to the accelerated procedure.

*B. Under the new procedure:*

According to PD 113, if a decision on an application filed at the borders or at airport and port transit zones is not reached within 28 days, the applicant is allowed entry to the Greek territory in order for their claim to be examined according to the New Procedure.

According to the Asylum Service, in practice Article 24 of Presidential Decree 113/2013 applies only in the case of transit zones in the airports. On 16 November 2013, a Police Circular (Prot. No. 71778/13/1766605) was communicated to all Police Authorities of the country informing them, *inter alia*, on the procedure to be followed when an alien who is detained (including in transit zones) wishes to apply for international protection.

*C. Common to both old and new procedures:*

In practice, it appears difficult to lodge an asylum claim outside Athens due to various reasons. Border authorities frequently refuse to register asylum applications and refuse entry, or remove persons arriving irregularly. Crucially, Greece lacks solid arrangements at points of entry at the border to ensure that people seeking international protection can be identified. The only First Reception Service is at Fylakio, Evros region despite the Greek Action Plan's provisions for the opening of a total of four FRCs.<sup>58</sup>

Of the 79 migrants and refugees Amnesty International interviewed between March and May 2013, 28 described at least 39 separate instances of collective expulsions from Greece to Turkey, which they claimed to have experienced themselves between August 2012 and May 2013. Seven interviewees claimed they were pushed back more than once. 26 instances concerned push-backs across the land border with Turkey and 13 concerned push-backs on the Aegean. The number of alleged push-backs reported by this small sample size still works out an average of roughly one such incident a week. The alarming number of testimonies collected by Amnesty International alleging collective expulsion suggests that these practices are regularly employed by Greek border guards and coastguards. In April 2013 UNHCR also reported that in Greece “[s]ome testimonies of Syrians received by UNHCR make reference to informal forced returns (push-backs) or attempted informal returns to Turkey.” In response to a query by Amnesty International, Frontex also wrote on 6 June 2013 that since 2012, Frontex Headquarters had received 18 reports of alleged violations of fundamental rights, which included “unofficial returns (“push-backs”) involving groups of migrants (up to ten people) or single individuals that had allegedly been returned to Turkey by the Hellenic Police.” Frontex informed Amnesty International that it had raised such allegations with the Greek authorities in writing on three separate occasions and received a response denying that such push-backs had taken place.<sup>59</sup>

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<sup>58</sup> According to the Greek Action Plan, First Reception Services are planned to operate in Fylakio, Karoti, Mytilene (Lesvos) and Attica region.

<sup>59</sup> Amnesty International, [Frontier Europe. Human Rights Abuses on Greece's border with Turkey](#), July 2013.

Interpretation, legal advice<sup>60</sup> or other forms of assistance or procedural counselling are scarce at the border. Only a handful of structures are, periodically, in place which could provide such assistance, for instance under an EU-funded project<sup>61</sup>, or other NGO activities.<sup>62</sup> At sea and land entry points, there is no experienced staff<sup>63</sup> available to respond to the needs of vulnerable persons such as unaccompanied children or traumatised individuals and as a result in most of the cases these persons are left helpless or do not receive the necessary attention, which discourages them from going on with the asylum procedure. According to the Asylum Service, only interpreters certified by Met-Action are used in all stages of the asylum procedure (from the registration of the application to the notification of the second instance decision).

Specifically on the issue of interpretation, it has been reported that in practice, as it is the case for the personal interviews conducted at the border, due to lack of interpreters in the police stations, fellow-detainees are being regularly used as interpreters resulting in inaccurate registration of personal details including age. GCR has witnessed cases where Turkish interpreters are being used for Kurdish asylum seekers.

Finally, the lack of information about the possibility to apply for international protection has been reported at the border, which obviously constitutes an important obstacle to access to the procedure.<sup>64</sup>

## Appeal

### Indicators:

- Does the law provide for an appeal against a decision taken in a border procedure?
  - Yes       No
  - o if yes, is the appeal       judicial       administrative
  - o If yes, is it suspensive?  Yes       No

Under both the old and the new procedure the time limit for lodging an appeal against a negative decision, issued in accordance with Article 24 of Presidential Decree 113/2013, is three days. According to the information provided by the Asylum Service, there have been cases where the procedure in both instances was not concluded within 28 days and where the applicant was released by the airport

<sup>60</sup> “Nonetheless, the Working Group found that in numerous instances the accused did not enjoy this right in practice. Most detainees indicated that they did not have a lawyer because they could not afford it. Very few were aware of the right to free legal assistance. Moreover, a number of detainees who had chosen to engage a lawyer at their own expense complained that the lawyers simply took their money and did not follow up on their cases. Information leaflets on the rights of detainees found in detention facilities are very vague and refer only to the right of any detainee to contact a lawyer. They do not refer to the right to free legal assistance.

United Nations Working Group on Arbitrary Detention, [Working Group on Arbitrary Detention statement upon the conclusion of its mission to Greece \(21 - 31 January 2013\)](#), 31 January 2013.

<sup>61</sup> See for example the project under the European Refugee Fund setting up a centre for adolescents by the Society for the Care of Minors in Athens, which included the provision of legal advice as well as psycho-social support.

<sup>62</sup> Some of these activities are being funded through grants under the European Economic Area Agreement (EEA). EEA grants funding the NGOs in Greece for running reception centres and offering services to vulnerable asylum seekers, especially unaccompanied children. For further information see [here](#).

<sup>63</sup> CPT, [Report to the Government of Greece 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 19 to 27 January 2011](#), CPT/Inf(2012)1, Strasbourg, 10 January 2012, par.42.

<sup>64</sup> See for instance Greek Council for Refugees, [GCR Mission Leros – Agathonissi – Kos \(22 September 2012 – 24 September 2012\)](#) documenting the case of a group of Syrians in Leros who were first detained for 20 days on Farmakonisi and then transferred to the Police Department of Leros, without having been informed about the asylum procedure or their legal status and rights.

authorities and subsequently presented themselves to the Regional Asylum Office of Attica in order to be issued with the international protection applicant's card.

According to the law, where the border procedure is applied and where an application of international protection is rejected and a deportation order is issued whose enforcement is suspended pending a judicial review before the Administrative Court of Appeal, the asylum seeker shall be allowed to enter Greece without any passport control until a judgment on the annulment appeal is taken by the Administrative Court of Appeal. The asylum seeker is then obliged to present themselves, as soon as possible, to the authority territorially competent to examine asylum applications in order to state, in practice quite difficult, their place of residence and to have the special asylum seeker's card issued. There is no information as to whether this Article is applied in practice and in which areas, as asylum seekers are automatically detained upon entry in Greece and can lodge an asylum claim from detention. In case they are not detained, they are held at the First Reception Service centre for the maximum period of 25 days and are then detained at detention centres.

### Personal Interview

#### Indicators:

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

The personal interview takes place at the borders according to the same rules as described under the regular procedure. However, the main problem in the procedure at the border is that there is serious lack of interpreters which also results in detainees not being informed in a language they understand.<sup>65</sup> Sometimes, under the Old Procedure another asylum seeker or detainee of the same nationality - presumed to speak the same language of the asylum seeker- would be assigned the role of the interpreter . A mission of the Greek Council for Refugees in the Thrace region in October 2012 found evidence of such practice for instance in the Xanthi police academy and reported poor knowledge of Greek or English of those "interpreters".<sup>66</sup> The same practice was found in Lesbos, where the Greek Council for Refugees noted in particular the lack of interpreters for Arabic and Farsi in the Mytilene Police Department.<sup>67</sup>

### Legal assistance

#### Indicators:

- Do asylum seekers have access to free legal assistance at first instance in the border procedure in practice?  Yes  not always/with difficulty  No
- Do asylum seekers have access to free legal assistance in the appeal procedure against a decision taken under a border procedure?  Yes  not always/with difficulty  No

<sup>65</sup> *Idem*, par.43 and [ECRE and ICJ second submission on M.S.S. v. Belgium and Greece](#), at p. 16.

<sup>66</sup> The mission furthermore received allegations of "interpreters" asking for money or other material compensation from the detainees they assist. See Greek Council for Refugees, [Thrace Report – October 2012](#), p. 4.

<sup>67</sup> See Greek Council for Refugees, [Mission report Lesbos \(31/12/2012 – 3/11/2012\)](#), p.2.

The law does not provide for free legal assistance in the border procedure. In practice, legal aid is provided only by NGOs, according to their capacity and in the locations in which they operate.

## 6. Accelerated procedures

### *General (scope, grounds for accelerated procedures, time limits)*

According to Article 17 (3) of the PD 114, applications for international protection shall be examined in the accelerated procedure when they are manifestly unfounded or when the applicant is a national of a safe country of origin or comes from a safe third country.

The examination of asylum applications is conducted by a police officer under the Old Procedure and by an Asylum Service employee under the New Procedure and shall be concluded within three months when the accelerated procedure is applied. An application shall be considered to be manifestly unfounded when the applicant:

- a. invokes reasons that are manifestly irrelevant to refugee or subsidiary protection status  
OR
- b. has filed the application for abusive reasons or intentionally tried to mislead authorities.

Not meeting the three month deadline has no consequences. Indeed, the backlog of pending cases remains quite heavy although reducing it is one of the aims foreseen in the Greek Action Plan.

In practice, sometimes asylum applications have been examined in the accelerated procedure under the Old Procedure even if they should have been examined with the regular procedure and vice-versa. The Greek Council for Refugees has had many cases where applications of people from Afghanistan, Somalia and even Syria are being processed according to the accelerated procedure even though it is obvious that these people may be in need of international protection, thus greatly compromising their rights. Under the Old Procedure, in both accelerated and border procedures the authority who is responsible for taking the first instance decision is the Territorially Competent Police Director/The police Directors of the Aliens Directorate of Athens and Thessaloniki and the Police Director of the Athens International Airport (accelerated procedure/inadmissible applications). The Asylum Service is in charge of taking first instance decisions under the New Procedure for both regular and accelerated procedures. At the time of writing this report no detailed statistics were available indicating the percentage of cases that has been examined in an accelerated procedure.

There are cases of victims of torture, rape or other serious forms of psychological, physical or sexual violence whose applications are examined under the accelerated procedure under the Old Procedure.<sup>68</sup>

As of 30 June 2014, under the New Procedure, out of 4,051 negative decisions, only 665 were issued under the accelerated procedure. These concerned 154 nationals of Georgia, 153 nationals of Albania, 133 nationals of Pakistan, 47 nationals of Bangladesh 27 nationals of Morocco, 26 nationals of China, 21 nationals of Egypt, 14 nationals of Senegal, 9 nationals of Algeria, 7 nationals each of Armenia, Indonesia and Moldova, 6 nationals of Sri Lanka, 5 nationals each of Ghana, India, Comoros Island and Nigeria, 4 nationals each of Afghanistan and Russia, 2 nationals each of Guinea, Dominican Republic, Iraq, Cuba, Burkina Faso and Sierra Leone, 1 national each of Ethiopia, Vietnam, Gambia, Cameroon, Kenya, DR Congo, Liberia, Mauritania, Ukraine, Paraguay, Rwanda, Serbia, Sudan Tanzania and Philippines.<sup>69</sup>

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<sup>68</sup> Maieutics, [Handbook](#), 2012, p.47.

<sup>69</sup> Information provided by the Asylum Service.

## Appeal

### Indicators:

- Does the law provide for an appeal against a decision taken in an accelerated procedure?  
 Yes       No
  - o if yes, is the appeal:       judicial       administrative
  - o If yes, is it suspensive?       Yes       No

Applicants appealing under the accelerated procedure face the same problems as under the regular procedure.

The only difference concerns the different time limits for lodging the appeal as these are provided in article 25 of PD 114 and PD 113 i.e. 15 calendar days after the negative decision was taken.

## Personal Interview

### Indicators:

- Is a personal interview of of the asylum seeker conducted in most cases in practice in an accelerated procedure?       Yes       No
  - o If yes, is the personal interview limited to questions relating to nationality, identity and travel route?       Yes       No
  - o If so, are interpreters available in practice, for interviews?       Yes       No
- Are interviews ever conducted through video conferencing?       Frequently       Rarely       Never

There are almost no differences between the regular and the accelerated procedure in the first instance. The only differences are: a) the time limit for the lodging of an appeal if a negative decision has been issued under the accelerated procedure (15 instead of 30 days) and b) the non possibility of a personal interview in the second instance.

## Legal assistance

### Indicators:

- Do asylum seekers have access to free legal assistance at first instance in accelerated procedures in practice?       Yes       not always/with difficulty       No
- Do asylum seekers have access to free legal assistance in the appeal procedure against a decision taken under an accelerated procedure?       Yes       not always/with difficulty       No

In the accelerated procedure free legal assistance and representation is only provided under the law with regard to the appeal against the decision of the Appeals Board before the Administrative Court of Appeals. However in practice it is insufficient as is the case under the regular procedure.



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

### Indicators:

- Is sufficient information provided to asylum seekers on the procedures in practice?  Yes  not always/with difficulty  No
- Is sufficient information provided to asylum seekers on their rights and obligations in practice?  Yes  not always/with difficulty  No
- Do asylum seekers located at the border have effective access to NGOs and UNHCR if they wish so in practice?  Yes  not always/with difficulty  No
- Do asylum seekers in detention centres have effective access to NGOs and UNHCR if they wish so in practice?  Yes  not always/with difficulty  No
- 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  not always/with difficulty  No

### Access to information

Asylum-seekers arriving at the Greek borders, including land, air and sea borders, when they get arrested generally have no access to information (neither in written or oral form) about the asylum procedure, including on how to apply for asylum or (re-)register their asylum application.

Although an information leaflet has been published by the Asylum Service in several languages (see below), translation and interpretation is generally not available at land, air or sea borders. This prevents effective communication between asylum-seekers and border or other officials, thereby impeding access to the procedure, and the provision by the officials of relevant information, in languages that both parties, in other words, both the authorities and the asylum seeker would be able to fully and not only reasonably, as the law requires, understand. Exceptionally, interpretation services in certain languages have been available in the Evros region, near the border between Greece and Turkey, in the context of the operation conducted by Frontex Rapid Border Intervention Teams (RABITs) between November 2010 and March 2011<sup>70</sup> and currently in the context of the Poseidon operation<sup>71</sup> that replaced the RABIT operation. However, these interpretation services are aimed at ascertaining information for the purpose of the Frontex operation, specifically regarding nationalities and travel routes. According to UNHCR, these interpretation services have not focused on ascertaining whether those people intercepted are seeking asylum, or on providing them with relevant information on that subject. UNHCR has observed that few people explicitly request asylum in the Evros border area and this is also the experience of GCR.

With regards to information on the Dublin procedure, there is a question in the asylum registration form. A positive development is that the new Asylum Service informs asylum seekers of the Dublin procedure by way of a separate leaflet describing the conditions and procedure, also available on internet.

The leaflets for asylum seekers and unaccompanied children foreseen in art 4(3) of the recast Dublin Regulation are not provided to Asylum seekers. A booklet on the rights of asylum seekers and not specifically directed to child asylum seekers, available in several languages, is distributed in Athens' Asylum Service.

According to the information given by the Asylum Service, the Asylum Service has published the information leaflet for asylum seekers "Basic Information for People Seeking International Protection in Greece" in the following languages: Greek, English, Albanian, Amharic, Arabic, French, Georgian, Spanish, Chinese (Mandarin), Sorani, Moldavian, Bengali, Dari, Ukrainian, Urdu, Russian, Swahili, Turkish, Farsi and Hindi. This leaflet describes all stages of the procedures and the rights of the

<sup>70</sup> See European Commission, Press Release, [Frontex and the RABIT operation at the Greek-Turkish border](#), Memo/11/130, 2 March 2011.

<sup>71</sup> See FRONTEX, [RABIT operation 2010 ends, replaced by JO operation Poseidon](#).



applicants, it is available in all Regional Asylum Offices and Units and is given to all applicants who are registered. In the Asylum Office of Attica it is also given to all aliens who present themselves but who are not registered on the same day due to the limited capacity of the Office.

#### *Access to UNHCR and NGOS:*

When they do apply for asylum in the Evros region, they face a number of legal and practical impediments. These include prolonged detention, frequently in deplorable conditions, which is used for a significant proportion of persons arriving irregularly. Lack of legal assistance and the absence of effective communication with people outside the detention centre in general and with their potential lawyers specifically, has a deterrent effect on potential asylum seekers.

Specifically, although UNHCR is not denied access to the borders where asylum seekers are held, nevertheless, given that all police stations in the country may be used in practice as detention centres, asylum seekers have no effective access to UNHCR due to the widespread diaspora of these *de facto* detention centres around the country.

Access by NGOs is also reportedly problematic; during field missions run by the Greek Council for Refugees (GCR) lawyers between 17-19 June 2013 and 11-13 September 2013, there has been no access to the detention centre in Komotini and only partial access was given to Paranesti detention centre (both are located in the North of Greece close to the Turkish and Bulgarian borders). Therefore, no effective access can be said to be granted to NGOs. In addition, NGOs operate in specific regions of the country where there are large numbers of asylum seekers and where there are established detention centres. The fact the all police stations are potential detention centres renders asylum seekers held there with no effective access to NGO services.

Finally, with regards to asylum seekers being able to communicate with NGOs, a major practical barrier is the fact that they must have the means to pay for telephone calls (mainly money to purchase telephone cards) which they are unable to do in most cases.

## D. Subsequent applications

### *Indicators:*

- Is a removal order suspended during the examination of a first subsequent application?
  - o At first instance  Yes  No
  - o At the appeal stage  Yes  No
- Is a removal order suspended during the examination of a second, third, subsequent application?
  - o At first instance  Yes  No
  - o At the appeal stage  Yes  No

According to Article 23 PD 114 and PD 113, where the applicant for international protection lodges a subsequent asylum application, the authorities competent to examine the application, namely the General Police Directorates of the Greek regions and the Security Departments of the Police Directorates of International Airports of Athens and Thessaloniki for applications under the scope of the Old Procedure and the Asylum Service for applications under the New Procedure, examine the elements of the subsequent application in conjunction with the elements of the previous application or appeal. The law sets no time limit for lodging a subsequent application; the very purpose of it is to allow for another examination of the case whenever new elements arise

Subsequent applications of rejected asylum claims examined under the Old Procedure are filed with the Asylum Service (and not the police) so long as the decision rejecting the claim is final and the 60 days deadline for filing an appeal has expired. All subsequent applications filed after the 7<sup>th</sup> of June of 2013 are lodged before the Regional Asylum Offices or Units.

*Preliminary examination:*

A subsequent application shall be subject first to a preliminary examination based on the information provided in the file and without an interview during which it is examined whether new circumstances have arisen or whether the applicant has provided new, substantial elements. At this stage, the decision on the subsequent asylum application must be taken by the territorially competent Police Director or the Director of the Aliens' Directorate of Athens and Thessaloniki or the Director of the Athens Airport Police Directorate (under the Old Procedure) or by the Asylum Service (under the New Procedure). The above mentioned competent authorities shall ensure that applicants whose application is being considered according to the previous paragraph enjoy the guarantees provided in Article 8 PD 114 and PD 113. After this preliminary examination if it is approved it is referred to the regular procedure.

*Suspension of removal order:*

Until a final decision is taken on the preliminary examination, all pending measures of deportation or removal with regard to the applicants who have lodged a subsequent asylum application must be suspended. If, following the preliminary examination referred to in Article 23 paragraph 2, new elements or findings arise or are presented which significantly add to the likelihood of granting the applicant international protection, the application shall be further examined in conformity with Chapter B of the PD 114 and PD 113 and a new pink card is issued.

The procedure referred to in Article 23 may also be applicable in the case of a family member of the applicant who lodges an asylum application after they have, in accordance with Article 4 paragraph 2 PD 114, consented to have their case dealt with as part of an asylum application made on their behalf. In this case, the preliminary examination referred to above will consist of examining whether there are facts which justify a separate asylum application by the dependant. Any further lodging of a similar subsequent asylum application shall be examined by the territorially competent Police Director or the Director of the Aliens' Directorate of Athens and Thessaloniki or the Director of the Athens Airport Police Directorate according to the provisions of the Administrative Procedure Code<sup>72</sup> on abusive applications.

Substantiated subsequent applications in the Athens Aliens Police Directorate according to the experience of the Greek Council for Refugees (GRC) pass the preliminary examination described above. It has to be noted, however, that no legal assistance is available in the preliminary examination.

*Difference between the New and Old Procedures:*

According to Article 23 par.1 of Presidential Decree 113/2013, "An applicant for international protection who lodges a subsequent application must present the final decision of his/her previous application. The competent examining authorities shall examine the details of the subsequent application in conjunction with the information of the initial application and/or the appeal."

Problems have been observed in relation to this new requirement. In a recent enquiry to the Asylum Service by lawyers of the GCR, the Asylum Service informed GCR that where the asylum seeker does not have the final decision, the Asylum Service shall request the decision with the whole file from the General Police Directorate at Petrou Ralli. Once it is ascertained that the decision rejecting the claim is final, the applicant shall be invited for registration of the subsequent claim.<sup>73</sup>

Because of the problems caused by the fact that asylum seekers do not have the final decision and cannot therefore submit them, the Asylum Service decided recently to proceed with the registration of subsequent application and to assume itself the responsibility of requesting the case file of the previous application from the Hellenic Police authorities.

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<sup>72</sup> The Administrative Procedure Code is the set of laws regulating the judicial procedure before the Administrative Courts.

<sup>73</sup> GCR has had a case where the applicant submitted the final decision along with the subsequent application and yet the Asylum Service still sought the file from the Police Directorate, refused to receive the application with the attached documents, did not register the claim and did not issue the paper with the protocol number bearing the Asylum Service's stamp which would constitute proof of a pending asylum claim and thus protect the person from a possible detention.

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

### 1. Special Procedural guarantees

#### Indicators:

- Is there a specific identification mechanism in place to systematically identify vulnerable asylum seekers?     Yes     No     Yes, but only for some categories
- Are there special procedural arrangements/guarantees for vulnerable people?     Yes     No     Yes, but only for some categories

According to the law, the asylum authorities and local administrations shall make sure that special treatment is provided to applicants belonging to vulnerable groups such as disabled people, elderly people, pregnant women, single parents with minor children and persons who have been subjected to torture, rape or other serious forms of psychological, physical or sexual violence. The authorities competent to receive and accommodate or to receive and examine an application for asylum, shall ensure that persons who have been subjected to torture, rape or other serious acts of violence are referred to a specialised unit, namely, one of the NGOs META-Action (META-DRASI in Greek), GCR or BABEL -the last two working together under the project "Prometheus" in order to receive support and the necessary treatment of psychological and physical injuries caused by the aforementioned acts.<sup>74</sup> This referral should preferably take place before the interview on the examination on the substance of the asylum application.

In practice, very few cases are dealt with properly and in accordance with the law. Currently, there are no public health structures specialised in working with or assisting torture survivors.

In the case of unaccompanied children, the first screening and registration usually takes place at the borders, by the police. In most cases, no interpreters are available.<sup>75</sup>

According to the law (PD 114, Articles 11 paragraph 13 and 11 paragraph 14) if there are strong indications during the [eligibility] interview [at first instance] that the applicant has been subjected to torture, they shall be referred to a specialized medical centre, or a doctor or a psychologist of a public hospital, who shall make a report on existence or not of injuries, maltreatment or indications of torture. The above mentioned guarantee according to the law shall also apply during the examination of appeals and during any supplementary examination. Medical and psychosocial support for asylum seekers is also expressly provided for in the Greek Action Plan.

In practice, however, such referrals take place at the Appeals Board of the Old Procedure or at the first instance of the New Procedure, if the members are not convinced about the tortures the victim had suffered, or if the torture survivor is in such psychological situation that they cannot give enough information to the Board.

Greek law foresees an identification and referral system based on Articles 17 and 20 of the Presidential Decree 220/2007 which transpose respectively Articles 17 and 20 of Council Directive 2003/9/EC laying down minimum standards for the reception of asylum seekers.

Furthermore, Article 11 paragraph 2 of Law 3907 concerning screening centres states that: "the Head of the Centre of Unit shall, upon recommendation of the head of the medical screening and psychosocial support cell, refer persons belonging to vulnerable groups to the competent body of social support or protection. For the purposes of the present, vulnerable groups are: victims of torture, rape or other

<sup>74</sup> Article 20 PD 220/2007.

<sup>75</sup> UNHCR, France Terre d'Asile, Save the Children and PRAKSIS, [Protection Children on the Move: Addressing protection needs through reception, counselling and referral and enhancing cooperation in Greece, Italy and France](#), July 2012.

serious forms of psychological, physical or sexual violence.” These groups are not subjected to any accelerated procedure after they are identified as such in the Screening Centre.

According to Article 11 paragraph 5 “In the cases mentioned in paragraphs 2 and 3 above, the referral note to the competent authority shall be issued within fifteen days, at the latest, from the admission of the third-country national to first reception procedures. In exceptional circumstances, the period of admission to the verification and separation procedures may be extended, if reasoned, for another ten days maximum. If the delay in verification is due to wrongful or improper conduct of the person subjected to first reception procedures, this person shall be considered as refusing to cooperate for the preparation of his return and shall be transferred in view of his/her removal, deportation or return. Time limits and procedures of this article shall only apply in the context of the operation of the First Reception Centres.”

Law 3907 cannot be applied yet, because there are no screening centres. In practice referrals are done by NGOs working in the field or in the few reception centres.

In practice, torture survivors were referred in the past to the Medical Rehabilitation Centre for Victims of Torture (MRCVT), when it used to work as an NGO on such issues. A decision by the Council of State has recently reflected doubts concerning the probative value of medico-legal reports by MRCVT.<sup>76</sup> Currently, torture survivors are referred to “Meta-action (META-drasi in Greek”, an NGO providing *inter alia* legal-medical reports. However, these reports are also considered to lack probative value, pursuant to the abovementioned Council of State decision. According to the Asylum Service, under the new Procedure, given that there are no specialized state institutions for alleged torture victims to be referred to applicants who claim during the registration of their application that they have been torture victims are referred by the Asylum Service to NGOs which have developed this kind of expertise. Moreover, caseworkers can refer an applicant to these NGOs if they consider it necessary for decision-making purposes. However, during the past few months, due to lack of funding, these NGOs were unable to document torture victims. Thus, the Asylum Service has stopped issuing referrals until further notice. Nevertheless, according to information available to GCR, there is one NGO named Met- Action (Metadrasi in Greek) which certifies if somebody is victim of torture according to the principles of Istanbul Protocol, as well as the project “Prometheus”, run until September 2014 by the Greek Council for Refugees and Babel Day Centre, which provides also rehabilitation for victims of Torture. It has to be mentioned that a relatively recent decision of the Appeals Authority recognizing a victim of torture as a refugee refers to a document provided by the project “Prometheus”, which played a crucial role to the above mentioned decision.

## 2. Use of medical reports

### Indicators:

- Does the legislation provide for the possibility of a medical report in support of the applicant's statements regarding past persecution or serious harm?  
 Yes       Yes, but not in all cases       No
- Are medical reports taken into account when assessing the credibility of the applicant's statements?       Yes       No

According to the law, if there are strong indications during the interview that the applicant has been subjected to torture, they shall be referred to a specialised medical centre, or a doctor or a psychologist of a public hospital, who shall make a report on the existence of injuries that could be the result of maltreatment or of indications of torture. There are no concrete criteria for carrying out a medical

<sup>76</sup> Council of State Decision No. 1482/2011.

examination. The officials conducting the interview must be well- trained in order to be able to identify the 'strong indications' provided for by the law. To this end, special training seminars on survivors of torture were offered to interviewers in the new Asylum Service; the impact of those trainings remains to be seen. However, no training on this issue has been offered to staff examining claims under the Old Procedure, compromising the treatment given to the thousands of pending asylum applications.

In practice, even when applicants mention that they are victims of torture they are still not referred to a specialised centre during the first instance personal interview. Nevertheless, their interview is postponed if they ask for it, in order to submit the above mentioned report. The Appeal Boards do not always make such referrals.

The above mentioned guarantees shall also apply during the interviews with regards to the appeals procedure as well as during any necessary supplementary examination, which takes place in case that doubts have arisen or more explicit information about the examined case is needed. According to Article 10 PD 114 the personal interview may be omitted where:

- a. the Determining Authority, namely the Secretary General of Public Order of the Ministry of Citizen Protection, is able to take a positive decision on the basis of available evidence, or
- b. it is not feasible, in particular where the applicant is unfit or unable to be interviewed owing to enduring circumstances beyond their control. Such inability must be certified by a relevant medical or psychological certificate from a public hospital.

In practice, the applicants themselves or usually their legal counsellor, if they had one, must get such a certificate. Certificates by NGOs providing psychological support have not yet been accepted either by officials at first instance interview or by the Appeal Boards.

The medical examination and report is provided for free by the above mentioned NGO Metadrasi working if/when there is a project running as long as it is funded by EU projects for this purpose. There is no provision by the law on the typology of medical reports. The medical reports provided by Metadrasi (the only one at the moment providing legal-medical reports) are based on the methodology laid down in the Istanbul Protocol (Manual on Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment). However, in a Council of State decision<sup>77</sup> it has been ruled that the medico-legal reports of METADRASI, which is not a public organization, lack the necessary State authority and therefore cannot be considered as proof of torture. This leaves torture survivors in a limbo, as there are no public health structures specialised in assisting them and certifying their status and the established NGO METADRASI which provides such assistance and certification is considered non- authoritative and thus is not of use when it comes to proving their status.

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

#### *Indicators:*

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

According to the law asylum applications lodged by unaccompanied children must always be examined by priority and according to the regular procedure. The Police officials or the Asylum Service (as the case may be) conducting interviews with unaccompanied children and making recommendations for the

<sup>77</sup> Council of State Decision No. 1482/2011.

decision on their application for international protection must have the necessary knowledge of the special needs of children and conduct the interview in a child-sensitive manner taking account, in particular, of the child's age in order to ensure that the child fully understands the questions and the process as such.

In practice, unaccompanied children crossing the borders of Greece are systematically treated as irregular migrants and therefore detained, without any information on the reasons of their detention and its possible length (see detention).<sup>78</sup>

According to information given by the Asylum Service to Greek Council for Refugees staff, and to two cases handled by GCR now before the Court, there have been cases of unaccompanied children that were not granted any kind of international protection at second instance..

#### *Age assessment:*

As of the 29<sup>th</sup> October 2013, an age assessment procedure for young people is established for the first time in Greece with a Ministerial Decision of the Ministry of Health (Official Gazette B' 2745/ 29-10-2013).<sup>79</sup> According to this, the determination of the age of a child shall be conducted by a team of medical doctors. The macroscopic characteristics of the child such physical appearance shall constitute the first indicators of age assessment. If a decision cannot be taken based on these characteristics, a psychologist and a social worker shall examine the cognitive, behavioural and psychological development of the person.

Only as a last resort, the Ministerial Decision states, shall the examinee be referred to a state medical institution for medical examinations by means of dental x- rays and x-rays of the left wrist.

This is a very positive development since up until now the police officers or the Asylum Service (as the case may have been) could use medical examinations to determine the age of unaccompanied children, but this was not an obligation. The method mostly used was dental x-rays which can be subject to a considerable margin of error and are therefore unreliable. It remains to be seen how the new procedure is implemented, but in any case, the ground is set for a proper age assessment of children.

#### *Procedural guarantees:*

Procedural guarantees related to the age assessment provided in the law include:

- the obligation for the child to be properly informed in a language they understand about the medical examinations itself and its consequences, including refusal to undergo the tests;
- the obligation to receive the consent of the child or their guardians to carry out the examinations;
- the guarantee that a negative decision cannot be based solely on refusal to undergo the age assessment
- the benefit of the doubt, both pending the results and in case the results are not conclusive

The fact that an unaccompanied child has refused to undergo such a medical examination shall not prevent the Determining Authority, (namely, for cases under the Old Procedure, the General Secretary of the Ministry of Public Order (regular procedure)/ the Territorially Competent Police Director/ the police Directors of the Aliens Directorate of Athens and Thessaloniki (accelerated procedure) and for cases under the New Procedure, the Asylum Service) from taking a decision on the asylum application.

In practice, the Greek Council for Refugees notes that “despite the provision, responsible services, procedures or even the types of appropriate exams are yet to be designated”<sup>80</sup> and in reality most children whose age is disputed do not go through an age assessment. Some children even claim to be

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<sup>78</sup> Greek Council for Refugees, [Submission to the General Discussion \(DGD\) on the Rights of Migrant Children, 28 September 2012: Immigration Detention of Children](#).

<sup>79</sup> This only applies at the First Reception Service. The Asylum Service informed the author that it has taken the initiative to propose to the Ministry of Health to expand the scope of the Ministerial Decision.

<sup>80</sup> Greek Council for Refugees, *opus cite*.



adults in order to be released faster from detention. This leads to many children being treated like adults, either because they declare so or because they are registered as such.<sup>81</sup> It has been reported that younger children are usually officially registered to be a couple of years older than what they claim, while teenagers are likely to be registered as adults.

When there is one, the determination of the age is made by the doctors who work in the detention centres with cooperation of NGOs and after an interview with specialised staff, where possible.

#### *Appointment of a guardian:*

According to the law, when an application is lodged by an unaccompanied child, the Public Prosecutor must appoint a guardian for the child concerned in accordance with Article 19, paragraph 1 of Presidential Decree 220/2007.<sup>82</sup> There is no specific time limit within which the guardian must be appointed. The competent Prosecutor is designated as temporary legal guardian, and should then propose a permanent guardian to be appointed by the Court. There are no specific requirements to act as a guardian.

In practice, the system is truly dysfunctional as prosecutors and the court's office do not have the resources to handle the number of cases referred to them and because there is no institution or body in place that prosecutors can refer to in order to appoint permanent guardians. In some cases, the permanent guardianship is transferred to directors of the reception centres or state social workers. In a report, UNHCR and Praksis note that it "seems that the procedures followed in order to ensure the representation and protection of unaccompanied children depends on the discretion of the prosecutor and on the supporting services that the prosecutor may have at his or her disposal (such as NGOs, social services)".<sup>83</sup> The Greek Government itself admits that the guardianship system has not reached yet a satisfying efficiency level.

The law requires that in every case, the best interests of the child must be a primary consideration when implementing the provisions of this Article. In practice the Police informs the juvenile Prosecutor who acts as guardian of the child. Little more than that is done and the guardian does not engage in any action as guardian; in fact, the same Prosecutor usually formally acts as guardian for many children.

## F. The safe country concepts

### *Indicators:*

- Does national legislation allow for the use of safe country of origin concept in the asylum procedure?  Yes  No
- Does national legislation allow for the use of safe third country concept in the asylum procedure?  Yes  No
- Does national legislation allow for the use of first country of asylum concept in the asylum procedure?  Yes  No
- Is there a list of safe countries of origin?  Yes  No
- Is the safe country of origin concept used in practice?  Yes  No
- Is the safe third country concept used in practice?  Yes  No

<sup>81</sup> UNHCR, France Terre d'Asile, Save the Children and PRAKSIS, [Protection Children on the Move: Addressing protection needs through reception, counselling and referral and enhancing cooperation in Greece, Italy and France](#), July 2012.

<sup>82</sup> Article 12 Presidential Decree 114/10.

<sup>83</sup> UNHCR, *opus cite*.

According to Article 20 PD 114 and PD 113, a country shall be considered as a *safe third country* for a specific applicant when all the following conditions are fulfilled:

- a. the applicant's life and liberty are not threatened on account of race, religion, nationality, membership of a particular social group or political opinion;
- b. the country respects the principle of non-*refoulement* in accordance with the 1951 Geneva Refugee Convention;
- c. the applicant is not at risk of suffering serious harm as described in Article 15 of Presidential Decree 96/2008 on the entitlement of subsidiary protection (implementing Art 15 Council Directive 2004/83/EC on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted)<sup>84</sup>;
- d. the prohibition of removal, in violation of the right to freedom from torture and cruel, inhuman or degrading treatment as laid down in international law, is respected;
- e. the possibility exists to request refugee status and, if found to be a refugee, to receive protection in accordance with the Geneva Convention;
- f. The applicant has a link with the third country concerned which would reasonably allow them to move to that country.

The fulfilment of these conditions must be examined in each individual case and for each applicant separately. When implementing a decision solely based on this Article, the authorities competent to examine an application, namely the Greek Police or the Asylum Service (as the case may be), must inform the applicant accordingly and must provide them with a document informing the authorities of the third country that the application has not been examined in substance. Where the third country does not permit the applicant to enter its territory, the asylum application must be examined in substance by the authorities competent to receive and examine the asylum application (the Greek Police/ Asylum Service).

In practice, to the knowledge of the author, Greece has had no such cases so far, therefore these legal provisions have not been subject to interpretation.

According to Article 21 PD 114 and PD 113, paragraph 1, *safe countries of origin* are:

- a. those included in the common list of safe countries of origin adopted by the Council of the EU
- b. third countries, other than those included in the EU common list, which are included in the national list of safe countries of origin adopted and updated, for the purpose of the examination of an application for international protection, by the Central Authority, namely the Alien's Directorate of the Greek Police Headquarters on the basis of an evaluation according to the provisions of Article 23 paragraphs 3 and 4 Presidential Decree 114/10. Such evaluation shall take into account information from other Member States and international organisations, such as UNHCR and the Council of Europe.

The national list of countries may also include specific parts of a country, if these fulfil the conditions of Article 23 paragraphs 3 and 4 Presidential Decree 114/10. Such evaluation must be carried out on an annual basis taking into account changes occurring in each country. The national list of countries of origin must be notified by the Central Authority to the European Commission.

A third country may be considered according to Article 21 paragraph 2 PD 114 and PD 113 as a safe country of origin for a particular applicant only if, upon examination of the asylum application, it is confirmed that the applicant:

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<sup>84</sup> Serious harm consists of: death penalty or execution/torture or inhuman or degrading treatment or punishment of an applicant in the country of origin/serious and individual threat to a civilian's life or person by reason of indiscriminate violence in situations of international or internal armed conflict.



- a. has the nationality of that country or is a stateless person and was formerly 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 their particular circumstances in terms of their qualification as a refugee in accordance with the present provisions (of Presidential Decree 114/2010)

The Central Authority has never had any national list of safe countries nor was an EU common list of safe countries of origin adopted. Therefore, the provision relating to the national list and EU common list of safe countries of origin have not been applied in practice to date and therefore there had been no reference or interpretation of the above mentioned provision of the law in the decision-making practice as such. Such an adoption seems not to be envisaged in the future. There is no official national list of safe countries.

## G. Treatment of specific nationalities

According to a Decision of the Director of the Asylum Service issued in May 2014, asylum seekers from Albania, Bangladesh, Egypt, Georgia and Pakistan are provided with an ID card valid for 45 days, while those of other nationalities receive an ID-card valid for 4 months.

Asylum seekers from Bangladesh, Pakistan and Georgia are usually examined under the accelerated procedure. It often happens that even nationals of Syria or Somalia or other countries in political/humanitarian crisis get examined under the accelerated procedure under the Old Procedure.

*Treatment of asylum seekers from Syria:*

In 2012 and the first quarter of 2013, 9.203 arrests of Syrians were reported for irregular entry<sup>85</sup>. During the same time period, only 420 asylum claims were lodged by Syrians<sup>86</sup>, 43% of which are still pending.

In September 2013 alone, 2,377 persons were detained on the Turkish-Bulgarian border; of these 1,635 were Syrian.<sup>87</sup> In 2013, Greek authorities arrested more than 8,000 Syrian refugees for illegally entering the country.

Greece rejected 150 asylum applications from Syrians last year and rendered a positive decision on only two applications, the UN refugee agency said, while thousands of people fled a conflict costing 70,000 lives.<sup>88</sup>

The same trend does not apply at the Appeal's Boards, which have not rejected a single asylum application by a Syrian national on appeal during their two and a half years of operation. Therefore, there are no reported Syrians whose asylum application is rejected with a final decision.

Upon entry in Greece, Syrian asylum seekers face the same problems as those faced by all third country nationals entering the territory illegally. Entry points lack the basic reception mechanisms which would provide for their basic needs, ensure appropriate identification and provision of information in language they understand. Instead, Syrian asylum seekers are detained in completely inadequate conditions which fall far short of international human rights standards especially because they are overcrowded<sup>89</sup>. In fact, the European Parliament, in a motion for a Resolution on 20 May 2013,

<sup>85</sup> UNHCR, [Syria Press Conference: The humanitarian situation in the region is dramatic - UNHCR calls for the protection of Syrians who arrive in Greece](#), 17 April 2013.

<sup>86</sup> Aggregated statistics from Eurostat, extracted on 25 September 2013.

<sup>87</sup> Irin, [MIGRATION: Migrants, asylum seekers re-route to avoid Greece](#), 10 October 2013.

<sup>88</sup> Reuters, [EU commissioner criticizes Greece for refusing Syrians asylum](#), 14 May 2014.

<sup>89</sup> UNCHR, [Syrians in Greece: Protection Considerations and UNHCR Recommendations](#), 17 April 2013.

mentions that 'Syrian refugees crossing the Turkish- Greek border face arrest and unacceptable conditions'.<sup>90</sup>

More recently, UNHCR received information that around 150 Syrian refugees, among them many women and children, were being held in police custody in Northern Greece (Evros region) and were later taken on police vans to an unknown destination. UNHCR has sought clarifications on the fate of these refugees<sup>91</sup> whose whereabouts it has not been able to trace. Furthermore, UNHCR highlighted that Greece is obligated under Law 3907 to refer all newly arriving third-country nationals to the First Reception Centre for registration and screening purposes.

Administrative detention orders for the purpose of removal are systematically issued for third country nationals entering Greece illegally upon their arrest at the borders or in the territory. According to UNHCR, until recently the measure of administrative detention was being imposed systematically and for extended time periods to Syrian nationals as well, despite the *de facto* inability of deportation in their case. Additionally, administrative detention was being applied indiscriminately without individual examination or sufficient and specific reasoning, as required by international and national legislation for every measure of deprivation of liberty.

Upon their release, Syrian nationals were provided with a police note instructing them to leave Greece within a deadline of six months following which they could be subject to renewed arrest and detention.

After the intervention of UNHCR, the Hellenic Police issued a circular order suspending the execution of administrative orders for the detention, expulsion and return of Syrian nationals not in possession of valid documents and ordering the release of Syrians already in detention. Nevertheless, UNHCR has received testimonies according to which informal forced returns (push-backs) or attempted informal returns to Turkey have taken place.

Further, there is currently a six- month suspension on all return orders of Syrians with the possibility of renewal for six-month periods until the crisis comes to an end.<sup>92</sup> During these six- month suspension periods, there will be no provision of rights in relation to housing, work and healthcare. Therefore, these orders are in breach of Greece's international obligations, namely Article 3 ECHR, Article 3 of the UN Convention against Torture and Article 7 of ICCPR.

A major problem faced by a large number of Syrians relates to the informal forced returns (push-backs) taking place from the Greek territorial borders, the Greek islands and the Greek land borders. Pro-Asyl recently released the results of a large-scale investigation they conducted entitled *Pushed Back: Systematic Human Rights Violations against Refugees in the Aegean Sea and at the Greek-Turkish Land Border* according to which it was found that push-backs systematically occur from Greek sea and land borders by way of forcing, and even threatening, people to return to Turkish borders. By engaging in such practices, Greece could be contributing to the violation of the principle of *non-refoulement*, the cornerstone of international refugee protection.

The vast majority of those affected are Syrian refugees trying to enter Europe to seek international protection and to reunite with their families who live in various European countries.

In many cases, either on coast guard boats, islands or in informal detention places in Evros, refugees were arbitrarily detained for some hours, without access to the outside world and without any food or water. In all cases, push-back victims were not officially registered by the competent authorities, nor were they asked for any personal details apart from their nationality. All victims reported not being given

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<sup>90</sup> EP Motion for a Resolution, 20 May 2013.

<sup>91</sup> UNHCR, [UNHCR Seeks Clarifications on the Fate of Syrian Refugees in Evros](#), Press release, 13 November, 2013.

<sup>92</sup> ECRE Weekly Bulletin of 19 April 2013, [Greece urged to improve its treatment of Syrian refugees](#).

the opportunity to request international protection (access to asylum barred) or to challenge their illegal removal.<sup>93</sup>

According to another equally disturbing report this time by the daily Greek newspaper *Efimerida ton Syntakton*, another group of 65 asylum-seekers, mostly Syrians, were violently pushed-back by Greek authorities at Evros river while trying to enter Greece. According to the report, the group was hiding in a forest near Orestiada before being found by the police who took them to a local police station and later at night transferred them to the riverbank, where some men in covered faces started beating them before embarking them on inflatable boats to Turkey.<sup>94</sup>

In relation to applicants from Syria:

575 individuals have applied for international protection (394 men, 156 women, 25 unaccompanied children). Of these: 161 applicants were granted refugee status; 79 applicants were granted subsidiary protection; 2 applications were rejected; 70 applications were declared inadmissible (Dublin cases); 20 individuals withdrew their application. In 32 cases a decision to discontinue the examination of the application was issued, while 211 cases are still pending.<sup>95</sup>

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<sup>93</sup> Pro Asyl, [Pushed Back: Systematic Human Rights Violations against Refugees in the Aegean Sea and at the Greek-Turkish Land Border](#), 7 November, 2013.

<sup>94</sup> Efimerida ton Syntakton, [New Testimony for Violent Push-Backs of Refugees](#), 26th November, 2013 (in Greek).

<sup>95</sup> Figures provided by the Asylum Service.

## Reception Conditions

### A. Access and forms of reception conditions

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

##### Indicators:

- Are asylum seekers entitled to material reception conditions according to national legislation :
  - o During the accelerated procedure?  
 Yes                       Yes, but limited to reduced material conditions                       No
  - o During border procedures:  
 Yes                       Yes, but limited to reduced material conditions                       No
  - o During the regular procedure:  
 Yes                       Yes, but limited to reduced material conditions                       No
  - o during the Dublin procedure:  
 Yes                       Yes, but limited to reduced material conditions                       No
  - o During the appeal procedure (first appeal and onward appeal):  
 Yes                       Yes, but limited to reduced material conditions                       No
  - o In case of a subsequent application:  
 Yes                       Yes, but limited to reduced material conditions                       No
- Is there a requirement in the law that only asylum seekers who lack resources are entitled to material reception conditions?  Yes                       No

In Greece, in practice, asylum seekers, including those transferred back to Greece or waiting for a transfer to another EU Member State under the Dublin Regulation, in general do not benefit from any material support, notwithstanding the legal obligation of the State to provide accommodation and minimum financial assistance laid down in legislation. Many asylum seekers, including children are homeless or living in sub-standard accommodation.

Article 12 of the Presidential Decree 220/2007 furthermore requires the authorities competent to receive and accommodate asylum seekers, namely the Services of the Ministry of health and Social Solidarity to take adequate measures in order to ensure that material reception conditions are available to applicants for asylum. These conditions must provide applicants with a standard of living adequate for their health, capable of ensuring their subsistence and to protect their fundamental rights. According to Article 17 Presidential Decree 220/2007, the above mentioned standard of living must also be provided to persons who have special needs as well as to persons who are in detention.

In case of asylum seekers with a degree of disability of over 67%, certified by an assessment of the relevant Health Committee, the Ministry for Health and Social Solidarity must provide them with a disability benefit for the duration of the examination of their asylum application and if the accommodation of these persons in Accommodation Centres is not feasible. This benefit must be paid by the competent services of the Prefecture where the applicant resides. Prefectures are self-governing sub-units of the government divided according to certain geographical boundaries. There are 54 Prefectures, or Sub-Units in Greece.

According to the Asylum Service, all applicants who are registered are asked whether they are in need of accommodation. If yes, The Asylum Service communicates the applicant's request for accommodation to the National Centre for Social Solidarity, the competent authority for the allocation of applicants to the existing reception centre/facilities.

The Regional Asylum Office of Attica, which has registered by far the largest number of applicants, has communicated 1,149 accommodation requests:

- 233 requests concerned unaccompanied minors (230 minors were allocated).
- 110 requests concerned single-parent families (87 were allocated).
- 42 requests concerned families (27 were allocated).
- 764 requests concerned adults (224 were allocated).

*Conditions for material reception conditions:*

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

The criteria and evidence to be used for assessing whether the applicant has sufficient means and any other relevant necessary detail, as well as the amount of the financial assistance and the pocket money set in Article 1 point (p) Presidential Decree 220/2007 shall be in accordance with the provisions of legislative decree 57/73 (O. G. A'- 149 – measures for the social protection of the financially weak groups and abolishment of the law concerning the poverty state) and the decisions issued on the basis of this authorisation. It is foreseen by the Greek Action Plan that the task of the First Reception Service (FRS) envisaged by Law 3907 is, among other things, to ensure that accommodation, food and medical services provided to asylum seekers adheres to a defined set of quality criteria.

The FRC (First Reception Center) which actually is a Screening Center and not a Reception Center for asylum seekers, is responsible for the retention of third country nationals arrested at the borders due to irregular entry in Greece and their accommodation in conditions that guarantee respect to human dignity and migrants' rights according to Greece's international commitments. FRS is self-standing, directly accountable to the Minister of Public Order and Citizen's Protection, headed by a Director (Special Secretary status) in charge, appointed by the Minister after public invitation, for a three-year term.<sup>96</sup> Asylum seekers who had been irregularly residing in Greece and had sought asylum as detainees are detained in Detention Centres until they are deported when they are not recognized as refugees, whereas foreigners entering Greece irregularly -including those aiming to apply for asylum- are directed to the First Reception Centres, which are located close to the borders for the necessary screening procedures in line with Law 3907/2011.<sup>97</sup> The maximum time of retention in FRCs is 25 days. After that period of time there are the following options: a) Syrians are generally released b) all people who have sought asylum get detained in detention centres until the end of the asylum procedure c) children get detained until a place in a reception centre for children is found d) some people who are not asylum seekers are released (especially if detention centres are full) e) some people get detained. Therefore, irregular migrants can be released whereas asylum seekers are in all cases detained until a final positive decision granting international protection.

Renovating and increasing capacity of accommodation facilities for asylum seekers is foreseen in the Greek Action Plan and is considered key to the effective operation of the new asylum system in Greece. The action specifically includes the operation of accommodation structures with particular attention to unaccompanied children. Indeed, the first FRC at Evros region envisaged in the Greek Action Plan has started to and the second FRC in Mitilini Island has been constructed and its operation will begin as soon as the Ministerial Decision is issued. This is certainly a positive step with regards to the

<sup>96</sup> European Migration Network, [Greece – Annual Policy Report 2012](#), English version, March 2013, p. 17.

<sup>97</sup> European Migration Network, [Greece – Annual Policy Report 2012](#), English version, March 2013, p. 46.

improvement of reception conditions; nevertheless, the operation of, so far, only one FRC compared to a total of four envisaged in the Action Plan falls far short of meeting the reception needs of asylum seekers.

In this context, Greece's tightening of border controls in the Evros border, including the completion of a 10.5km fence on December 2012 forcing people to resort to more and more dangerous routes, is an unfortunate development.<sup>98</sup> The results of considerably diminishing the crossings at the Evros border are hindered by the increase of arrivals of migrants and asylum seekers on the Greek islands bordering Turkey through a more perilous and life-threatening route that migrants have turned to following the closing of the Evros border. Amnesty International has stated that "the fence is inconsistent with, and will lead to the violation of, the right to seek and enjoy asylum from persecution, since it will prevent people who are seeking international protection from reaching Greece."<sup>99</sup>

At the time of writing this report, there were in total 1006 reception places/beds available for asylum seekers in Greece, while 15,928 asylum applications were lodged in 2009, 10,273 during 2010, 9,311 in 2011 and 9,577 in 2012.<sup>100</sup> As Nils Muižnieks, Commissioner for Human Rights of the Council of Europe notes: "this situation leaves a large number of asylum seekers homeless and destitute and renders them particularly vulnerable to manifestations of intolerance and racist violence."<sup>101</sup> Racist hate crimes are on the rise at an alarming rate in Greece. The impunity of perpetrators and even the discouragement of victims by the police to file an official complaint leave victims stuck between a rock and a hard place.<sup>102</sup> They are left homeless and at an increased risk of being subjected to xenophobic violence. UNHCR went further than Nils Muižnieks and qualified the situation as a "humanitarian crisis".<sup>103</sup>

The Greek Council for Refugees carried out a survey with operators of reception centres<sup>104</sup> for asylum seekers in 2014. Even though the response rate was very low, some statements and conclusions from the survey provide an idea of the insight and perspectives of the officials of these centres with regard to the Greek asylum system. Other results of the questionnaire will be mentioned sporadically in the report.

Asked about the legal entitlement of asylum seekers to material reception conditions throughout the different stages of their application process, some organizations referred to the law (L. 3907/2011) which entitles refugees to services such as emergency medical treatment, food, and living conditions. Since these entitlements are only applicable to those having lodged an asylum claim, irregular migrants are excluded from the benefits granted by law and are socially marginalized due to the impossibility of self-sustainment through legal means. Some of the reception centres' operators stated, however, that they provide services on a humanitarian basis also to those migrants without papers and underlined that unaccompanied children are entitled to receive material conditions until they turn 18.

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<sup>98</sup> Amnesty International, Press Release, [Refugees dying on dangerous routes to asylum in Europe](#), 20 March 2013.

<sup>99</sup> GCR, [Report of GCR mission to Symi](#), September 2012, p. 3-4.

<sup>100</sup> Source: Hellenic Police, available [here](#).

<sup>101</sup> Council of Europe: Commissioner for Human Rights, [Report by Nils Muižnieks Commissioner for Human Rights of the Council of Europe following his visit to Greece from 28 January to 1 February 2013](#), 16 April 2013, CommDH(2013)6, p. 5.

<sup>102</sup> See for instance Human Rights Watch, [Hate on the Streets. Xenophobic Violence in Greece](#), July 2012, p. 78-87.

<sup>103</sup> UNHCR, *Contribution to the dialogue on migration and asylum*, May 2012.

<sup>104</sup> GCR sent a questionnaire to 15 reception centres in Greece and received responses by 11 of them on general information such as accommodation capacity, personnel employed and services provided etc. Only 4 reception centres answered the more detailed questions of the questionnaire on service provision, legal obligations, government funding, etc. These centres are LAVRIO-RED CROSS (hereinafter LAVRIO), MISSION-ATHENS ARCHDIOCESE (hereinafter ARCHDIOCESE), STEGI-PRAKSIS (hereinafter PRAKSIS) and ANOGIA, EIN (hereinafter ANOGIA).



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

## **2. Forms and levels of material reception conditions**

### *Indicators:*

- Amount of the financial allowance/vouchers granted to asylum seekers on 31/12/2012 (per month, in original currency and in euros): Not applicable. Small amounts are given ad hoc- no standard amount

To date, contrary to what is stipulated in the law, the vast majority of asylum seekers still do not receive adequate reception conditions in Greece.

According to Presidential Decree 220/2007 asylum seekers cannot stay in reception centres for longer than one year. During their stay in reception centres, families should be housed in the same place. Also the minor children of applicants or applicants who are minors should be lodged with their parents or with the adult family member responsible for them while respecting their specific needs with the aim of respecting their family life. Moreover, while providing accommodation to the applicant, the competent authorities, namely the department of Social Perception and Solidarity of the Ministry of Labour, shall take, to the extent possible, all adequate measures to keep the applicant's family that is present on the Greek territory together, with the applicant's consent. After one year, applicants must be given support in finding an adequate private place of living.

Each accommodation centre shall operate on the basis of its internal regulation establishing the "house rules". Housing in accommodation centres must ensure the protection of private life and access to adequate medical and health services. One of the ways in which the Greek Action Plan aims at improving reception conditions is through the provision of social, psychological, medical and pharmaceutical care, giving emphasis to vulnerable cases. To that end, the employment of an adequate number of various experts such as doctors, psychologists and social workers is envisaged. Further, the authorities competent to receive and accommodate asylum seekers, namely the Services of the Ministry of Health and Social Solidarity and the persons responsible for the management of accommodation centres must ensure that the right to family life and to personal security are protected within those centres. They also must ensure that applicants have access to relatives, legal advisors, non-governmental organisations and representatives of the UNHCR. Staff working in accommodation centres must be adequately trained through seminars offered by the UNHCR, the Ministry for Health and Social Solidarity or other specialised organisations. Staff shall be bound by the confidentiality principle in relation to any personal information they obtain in the course of, or on the occasion of, their work in the accommodation centres. Legal advisors or lawyers and representatives of the UNHCR must have unlimited access to accommodation centres and other housing facilities in order to assist applicants. The Director of the centre may grant access to other persons as well. Limitations to such access may be imposed only on grounds relating to the security of the accommodation centres and housing facilities and of the applicants themselves.

In almost all the centres, there is a group of experts composed by at least a lawyer, a psychologist and a social worker. In some cases, a centre's personnel also includes professionals such as a logotherapist, a medical assistant, a nurse, a pathologist, a job consultant and an interpreters.

The Greek Action Plan provides for the safe and timely transportation of unaccompanied minors from entry points to accommodation structures. In addition, the Central Authority shall make sure that the transfer of asylum applicants from one accommodation centre to another takes place only when necessary. In case asylum seekers are being transferred to another accommodation centre, the Services of the Ministry of Health and Social Solidarity, authorities competent to receive and accommodate, must ensure that applicants are able to inform their legal counsellors of the transfer and of their new address. Applicants whose application is finally rejected or who receive a deportation order shall be obliged to leave the accommodation centre within maximum 30 calendar days. Exceptionally, the above mentioned Services may provide accommodation in a hotel or another suitable place if it is not possible to house an applicant in an accommodation centre for reasons of capacity and the applicant is neither detained nor restricted in a border post. However, in all cases, the basic needs of the applicant must be covered.

There is no financial allowance in practice to cover the living expenses of asylum-seekers in Greece. Reports suggest that significant numbers of asylum-seekers, including persons transferred back to Greece under the Dublin Regulation mainly before the *M.S.S. v. Greece and Belgium* judgement are left unassisted, homeless or end up in overpriced and overcrowded shared rooms.<sup>105</sup> People who are not accommodated in accommodation centres also face serious obstacles in gaining access to services including health care and education, among others.

There are fifteen reception centres in Greece: Agioi Anargiroi (70)<sup>106</sup>, Anogia (25), Arsis Refugees Shelter (12 families & 8 single parent families), Doctors of the World Athens (70), Makrinitza Volos Arsis (30), Mission Athens Archdiocese (20), Oreokastro Arsis (30), Red Cross Lavrio (320), Society of Minors Care Isavron (18), Praksis Athens Segi Program (65), Volos Agria (30), Hospitality Nostos (70), Future Nostos Moshato, Arsis Alexandroupoli (22) and also apartments in Athens, Thessaloniki and Lesbos.

Most of these fifteen reception centres that currently exist in Greece are run by NGOs, and depend on funding, mainly from the European Refugee Fund. Disbursement of this funding in Greece is very slow. In the absence of secure funding, the level of services delivered to the few asylum seekers provided with a space in one of the centres is equally low, including, for example, for referrals to hospitals and schools. As many asylum seekers are forced to sleep rough, they are unable to comply with the obligation to provide an address to the Police Directorate which also can prevent them from receiving notification of decisions taken on their asylum application, and from meeting procedural deadlines. The absence of legal aid further aggravates this situation. People who are not accommodated in reception centres also face serious obstacles in gaining access to services including health care and education, among others. At times, the authorities evacuate locations where third-country nationals, including asylum seekers, reside as squatters, because of conditions that pose a risk to public health. However, in case of such evictions, no measures are taken to accommodate them elsewhere. In central Athens, in 2009 and 2010, dozens of such sites were emptied and sealed in police operations. Those who had been living there were evicted and left homeless. Among them were asylum seekers, including families with young children. Another more recent police operation, in 2012, called Xenios Zeus had as a result that during its first six months of operation, 77,526 migrants were brought to Police Departments for data control and 4.435 of them got arrested for staying in Greece “sans papiers”, among them many asylum seekers and unaccompanied children.<sup>107</sup>

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<sup>105</sup> For further information see also the reports of missions recently conducted by the Greek Council for Refugees in Lesbos, Thrace, Leros, Agathonissi and Kos. See Greek Council for Refugees, [Mission report Lesbos \(31/12/2012 – 3/11/2012\)](#); [Thrace Report – October 2012](#); [GCR Mission Leros – Agathonissi – Kos \(22 September 2012 – 24 September 2012\)](#).

<sup>106</sup> The numbers in brackets present the maximum accommodation capacity and most frequently also the current occupancy rate in total numbers, since the centres often work to capacity. Where no numbers are provided, the GCR was not able to obtain any information regarding the occupancy rate.

<sup>107</sup> Kathimerini, [The Results of Operation Xenios Zeus of the Last 6 Months have been Published](#), 6 February 2013 (in Greek).



An 'Action Plan'<sup>108</sup> was presented by Greece to the European Commission in August 2010 and was regularly updated since. During the informal EU Justice and Home Affairs Council meeting of January 2013<sup>109</sup> the latest version of the Greek Action Plan was presented. The action plan foresees an increase in reception places, as well as some specialised facilities for children, all of which would be welcome measures if adopted and implemented in practice. Initial EU emergency funding have contributed to some extent to construction and refurbishment costs, but considerable additional resources are required to ensure the on-going effective management, staffing and maintenance of such facilities. There are also indications that significantly more time will be required before the building of the new centres can start. Entitlements to the properties identified must be secured and construction tenders prepared before the building of additional reception places can begin. Even with the additional capacity of the proposed new and refurbished centres, the total reception capacity will still fall far short of the actual needs, should the number of asylum applications remain at current levels. Thus asylum seekers in Greece continue to face a high risk of homelessness, destitution and other conditions that hinder or render impossible the effective lodging of an asylum application.

Asylum seekers are not required to contribute to the cost of reception. Theoretically, there are no social benefits that nationals have that are unavailable to asylum seekers (except the priority to find a job).

### 3. Types of accommodation

#### Indicators:

- Number of places in all the reception centres (both permanent and for first arrivals): 1006
- Type of accommodation most frequently used in a regular procedure :  
 Reception centre     Hotel/hostel     Emergency shelter     private housing     other (please explain)
- Type of accommodation most frequently used in an accelerated procedure :  
 Reception centre     Hotel/hostel     Emergency shelter     private housing     other (please explain)
- Number of places in private accommodation: N/A
- Number of reception centres: 17
- Are there any problems of overcrowding in the reception centres?     Yes     No
- Are there instances of asylum seekers not having access to reception accommodation because of a shortage of places?     Yes     No
- What is, if available, the average length of stay of asylum seekers in the reception centres? It depends on the reception centre.
- Are unaccompanied children ever accommodated with adults in practice?     Yes     No

At the time of writing this report, there were in total about 1,000 reception places available for asylum-seekers in Greece, whereas 16,000 asylum applications were lodged in 2009, 10,273 during 2010, 9,311 in 2011 and 9,577 in 2012. However, asylum-seekers in Greece, including those transferred back to Greece or waiting for a transfer to another EU Member State under the Dublin Regulation, in most cases have in practice no material support, notwithstanding the legal obligation of the State to provide accommodation and minimum financial assistance laid down in legislation.

<sup>108</sup> European Commission, Press Release, [Joint statement by Mr Christos Papoutsis, Minister of Citizen Protection of Greece and Cecilia Malmström, European Commissioner in charge of Home Affairs: Greece and the Commission agree to enhance cooperation on reforming the Greek asylum system](#), Memo 10/450, 27 September 2010.

<sup>109</sup> Irish Presidency of the Council of the European Union, [Discussion Paper – Session II \(Home Affairs\) Greek National Action Plan on Asylum and Migration Management](#), Informal Justice and Home Affairs Ministers' Meeting Dublin 17 - 18 January 2013.

The Athens Asylum Service reported in mid-January 2014 to the Greek Refugee Council that 475 asylum seekers above 18 years of age and 283 children are currently hosted in reception centres. 320 asylum seekers – however, none of whom under the age of 18 – are hosted in the reception centre in Lavrion (near Athens). The reception facilities in Konitsa and Agiasos are currently not accommodating any asylum seekers.<sup>110</sup>

In Greece, there are fifteen centres open to asylum seekers and unaccompanied children, designed to accommodate altogether as a whole – approximately 1006 people, according to the responses received to the Greek Council for Refugees' Questionnaire.<sup>111</sup> In view of the number of registered asylum seekers as well as the unknown number of persons in need of international protection but who are not registered as such for a variety of reasons on Greek territory, the number of available places falls short of the actual needs (See Forms and levels of material reception conditions). The Ministry provides rooms to vulnerable groups on an ad hoc basis, meaning that the capacity is not fixed, but there is an effort to provide accommodation when specific needs arise. Still, however, as mentioned above, the numbers of accommodation places do not reflect the needs on the ground.

The following structures are hosting particular categories of asylum seekers:

- Unaccompanied children: Agioi Anargiroi, Anogia, Markinitza Volos, Mission Athens Achdiocese, Oreokastro, Society of Minors Care Isavron, Volos Agria, Future Nostos Moshato, Arsis Alexandroupoli.
- Single parent families, single women, single men, families: Agioi Anargiroi, Arsis Refugees Shelter, Doctors of the World Athens, Red Cross Lavrio, Praksis Athens Stegi Program, Hospitality Nostos, Future Nostos, Arsis Alexandroupoli.

The involvement of external service providers (NGOs and others) in the operation of the reception facilities is regulated on a case-by-case basis, depending on the provisions of the individual Programme Agreement concluded between the external service provider and the Division of Social Perception and Solidarity, Department for the Protection of Refugees and Asylum Seekers at the Ministry of Labour, Social Security and Welfare. By virtue of Ministerial Decision 93510/28-07-2011 (GG B 2016/2011) coordination of the third parties involved in the system for managing accommodation was assigned by the Ministry of Health to the National Centre for Social Solidarity (today at Ministry of Labour, Social Security and Welfare).<sup>112</sup>

Aggravating the accommodation problem, the authorities at times evacuate sites where third-country nationals reside as squatters raising concerns of public health. Nevertheless, where this takes place, no alternatives to accommodation are given, leaving hundreds of people, including many asylum seekers with families, destitute and homeless.

Returning to the findings of the survey conducted by the GCR, it is noteworthy that opinions on what services are to be provided by law or not are highly divergent. While all the four institutions which answered the survey named accommodation, food and clothing as legal entitlements of refugees, only some operators provide also particular services such as social services, legal assistance and access to education and financial assistance, either because they consider their provision as a legal obligation or on a voluntary basis.

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<sup>110</sup> Information up-to-date as of January 2014.

<sup>111</sup> GCR sent a questionnaire to 15 reception centres in Greece and received responses by 11 of them on general information such as accommodation capacity, personnel employed and services provided etc. Only 4 reception centres answered the more detailed questions of the questionnaire on service provision, legal obligations, government funding, etc. These centres are LAVRIO-RED CROSS (hereinafter LAVRIO), MISSION-ATHENS ARCHDIOCESE (hereinafter ARCHDIOCESE), STEGI-PRAKSIS (hereinafter PRAKSIS) and ANOGIA, EIN (hereinafter ANOGIA).

<sup>112</sup> Greek Ministry of Interior, [European Migration Network, Second Focussed Study 2013, The Organisation of Reception Facilities for Asylum Seekers in the different Member States](#), 2013, p. 13

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

Especially alarming is the fact that when they were asked about the average and maximum stay at their facilities, reception centres mentioned that people often stay 18 months and even longer. Alternatively, those asylum seekers could be children which have to be accompanied until they turn 18 or adult asylum seekers who stay in the facilities voluntarily, because they have no other place to go.

#### 4. Conditions in reception facilities

According to the information received in response to the questionnaire that was sent by the Greek Refugee Council to the reception centres in Greece,<sup>113</sup> food service is provided three times per day in nine centres (Ag. Anargiroi, Anogia, Arsis Refugee Shelter, Doctors of the World, Makrinitza Volos, Mission Archdiocese, Oreokastro, Red Cross, Society of Minors Care Isavron). In Praksis Stegi Program, these services are provided by donations. For the rest of the centres, there are no data.

As far as it concerns sanitary articles, most of the centres provide bedding and toiletries and some of them also clothes, milk and baby products.

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

ARCHDIOCESE and ANOGIA let unaccompanied children leave the centre, but they must return at a certain time in the evening and are not allowed to stay outside overnight. Some of the centres provide transportation reimbursement in form of public transport tickets or taxi services in special situations (Praksis Stegi Program, Oreokastro Arsis, Arsis Refugee Shelter, Ag. Anargiroi).

Also, some of the centres declared that there are allowances for personal expenses: 21 Euros per day in Anargiroi and in 2 Euros in Anogia are distributed.

Concerning visitors' access, there are two centres which deny access to visitors (Archdiocese and Society of Minors). Oreokastro stated that there may be a possibility for visitors' accommodation. For the rest of the centres there is no specific data.

When asked about possible problems in the reception centres PRAKSIS, ARCHDIOCESE and ANOGIA declared that there were no issues related to reception conditions.<sup>114</sup> LAVRIO mentioned a hunger strike

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<sup>113</sup> GCR sent a questionnaire to 15 reception centres in Greece and received responses by 11 of them on general information such as accommodation capacity, personnel employed and services provided etc. Only 4 reception centres answered the more detailed questions of the questionnaire on service provision, legal obligations, government funding, etc. These centres are LAVRIO-RED CROSS (hereinafter LAVRIO), MISSION-ATHENS ARCHDIOCESE (hereinafter ARCHDIOCESE), STEGI-PRAKSIS (hereinafter PRAKSIS) and ANOGIA, EIN (hereinafter ANOGIA).

<sup>114</sup> ARCHDIOCESE answered however "not recently", which might indicate that there had been problems a longer time ago.

that was taking place. PRAKSIS, ARCHDIOCESE and LAVRIO said that the number of employees in their centre is not sufficient and that staff is not adequately trained.

## 5. Reduction or withdrawal of reception conditions

### Indicators:

- Does the legislation provide for the possibility to reduce material reception conditions?  
 Yes       No
- Does the legislation provide for the possibility to withdraw material reception conditions?  
 Yes       No

According to Article 15 of Presidential Decree 220/2007, implementing Article 16 of Council Directive 2003/9/EC laying down minimum standards for the reception of asylum seekers, the Aliens Police Directorate (hereinafter the 'Central Authority') in cooperation with the services of the Ministry of Health and Social Solidarity may reduce or withdraw reception conditions in the following instances:

- a. the asylum seeker abandons the place of stay indicated by the Central Authority without informing that authority or, where required, without obtaining permission,
- b. does not comply with the obligation of declaring information or does not respond to a request to provide information or does not attend the personal interview within the deadline or
- c. has already submitted an asylum application in the country or
- d. has concealed their recourses and takes advantage of the material reception conditions in an illegitimate way.

There is no information if these provisions of the law are in practice applied. There are no cases according to the available information of such practices.

## 6. Access to reception centres by third parties

### Indicators:

- Do family members, legal advisers, UNHCR and/or NGOs have access to reception centres?  
 Yes       with limitations       No

According to Art 13 paragraph 7 Presidential Decree 220/2007 legal advisers or lawyers and representatives of the UNHCR shall have unlimited access to accommodation (reception centres) and other housing facilities in order to assist applicants. The Director of the centre may extend access to other persons, too. Limitations to such access may be imposed only on grounds relating to the security of the accommodation centres and housing facilities and of the applicants themselves.

In practice, lawyers, as well as NGOs, friends or family members have had access to reception centres, because all of them are operated by NGO's

## 7. Addressing special reception needs of vulnerable persons

### Indicators:

- Is there an assessment of special reception needs of vulnerable persons in practice?  Yes  No

Due to large number of asylum seekers and the extremely limited number of in total 1006 beds in the reception centres NGOs which usually take care of the accommodation of the asylum seekers give priority to vulnerable persons.

It should be mentioned that despite the legal safeguards in relation to the treatment of unaccompanied children, Amnesty International has observed that unaccompanied children or those separated from their families are being systematically detained for extended time periods until a place becomes available at a reception centre. In the detention centre for unaccompanied boys in Amygdaleza, in August 2012 children were being detained in substandard conditions. Further, in detention centres in Athens and Evros, children were being detained together with adults and/or they have been registered as adults.<sup>115</sup>

As mentioned above in section E relating to asylum procedures the Greek law foresees an identification and referral system based on Articles 17 and 20 of the Presidential Decree 220/2007 which transpose respectively Articles 17 and 20 of Council Directive 2003/9/EC laying down minimum standards for the reception of asylum seekers.

Article 20 states that: “the competent authorities to receive and accommodate or to receive and examine an application for asylum shall ensure that persons who have been subjected to torture, rape or other serious acts of violence are referred to specialized unit in order to receive support and the necessary treatment of the wounds caused by aforementioned acts.”

Furthermore, Article 11 paragraph 2 of Law 3907 concerning screening centres states that: “the Head of the Centre of Unit shall, upon recommendation of the head of the medical screening and psychosocial support cell, refer persons belonging to vulnerable groups to the competent body of social support or protection. For the purposes of the present, vulnerable groups are: victims of torture, rape or other serious forms of psychological, physical or sexual violence.”

According to Article 11 paragraph 5 “In the cases mentioned in paragraphs 2 and 3 above, the referral note to the competent authority shall be issued within fifteen days, at the latest, from the admission of the third-country national to first reception procedures. In exceptional circumstances, the period of admission to the verification and separation procedures may be extended, if reasoned, for another ten days maximum. If the delay in verification is due to wrongful or improper conduct of the person subjected to first reception procedures, this person shall be considered as refusing to cooperate for the preparation of his return and shall be transferred in view of his/her removal, deportation or return. Time limits and procedures of this article shall only apply in the context of the operation of the First Reception Centres.”

The abovementioned Law 3907 cannot be applied yet, because there are no screening centres. In practice referrals are done by NGOs working in the field or in the few reception centres.

In practice torture survivors were referred in the past to the Medical Rehabilitation Centre for Victims of Torture (MRCVT), when it used to work as an NGO on such issues, and now are referred to “Metadrasi”, an NGO providing *inter alia* legal-medical reports. They are also referred to “Babel” and GCR working together under the project “Prometheus” for their rehabilitation. “Babel” implements a mental health programme financed by the Ministry of Public Health. Both Metadrasi and Babel offer their services only in Athens.

In practice, NGOs manage the accommodation centres and choose which people to accommodate based on vulnerability. All vulnerable groups and not only unaccompanied children are given priority.

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<sup>115</sup> Amnesty International, Greece: [The end of the road for refugees, asylum-seekers and migrants](#), 20 December 2012, EUR 25/011/2012.

## 8. Provision of information

According to Article 3 of the Presidential Decree 220/07, the authorities competent to receive and examine an application for asylum, namely the General Police Directorates of the Greek regions and the Security Departments of the Police Directorates of International Airports of Athens and Thessaloniki (Old Procedure) and the Asylum Service (New Procedure), must inform the applicant immediately and in any case within 15 calendar days, providing them with information material in a language that they understand. Leaflets, which are in the website of the Ministry of Public Order as well, rarely are distributed to them mainly describe the asylum procedure, the rights and obligations of the applicant, with special emphasis on the applicant's obligation to cooperate with the authorities and to be at the disposal of the competent authorities throughout the asylum procedure, as well as the consequences of not complying with these obligations. These leaflets are written in 18 languages. Information orally is given to them.

This material must also provide information on the existing reception conditions, including health and medical care, as well as on the operation of UNHCR in Greece and other organisations that provide assistance and legal counselling to asylum applicants. The Greek Action Plan also foresees the provision of information in a systematic manner to new arrivals at 5 locations, namely, Orestiada, Alexandroupoli, Samos, Lesbos, and Chios. This is envisaged as necessary action upon reception, pending the establishment of the First Reception Services.

In practice, however, the few brochures delivered do not include all the necessary information.

If the applicant does not understand any of the languages in which the information material is published or if the applicant is illiterate, the information must be provided orally, with the assistance of an interpreter. A relevant record shall, in such case be kept in the applicant's file.

## 9. Freedom of movement

Without prejudice to Article 6 paragraph 5 Presidential Decree 220/07 - according to which the stay of the asylum seekers may be limited at a specific area for reasons of public interest, public order or if necessary with regards to the fast and effective completion of the asylum procedure, applicants may move freely within the territory or within the area assigned to them by the Central Authority and choose their place of residence. This happens in practice too. The assigned area cannot affect their private life and must allow them sufficient scope so as to enjoy access to all benefits under this Decree (P.D 220/07). In any case, applicants must immediately inform the authorities competent to receive and examine their application, namely, the Greek police, of any change in their address. No previous authorisation is needed for changing the place of residence. ARCHDIOCESE highlighted that a legal document and a pending asylum application are necessary for this.

## B. Employment and education

### 1. Access to the labour market

*Indicators:*

- Does the legislation allow for access to the labour market for asylum seekers?  Yes  No
- If applicable, what is the time limit after which asylum seekers can access the labour market: No time limit; access is granted immediately after the registration of the asylum application.
- Are there restrictions to access employment in practice?  Yes  No



As soon as asylum seekers are provided with their “red card”, they can immediately take a work permit.

Applicants have access to the labour market under the conditions laid down in Article 4 paragraph 1 (c) of the Presidential Decree 189/1998. Specifically, they need to apply to the Ministry of Labour provided they have a valid asylum seekers’ ‘pink card’ and provided that the labour market for the specific profession has been researched by the Manpower Employment Organization (OAED) and no interest has been demonstrated by a Greek citizen, an EU citizen, or a recognised refugee. Applicants who want to work and fulfil these criteria shall receive a temporary work permit according to Article 4 paragraphs 2 and 3 of the Presidential Decree 189/1998. This temporary work permit is not subject to any fee and expires 30 days after the expiry of the pink card. Further, it is not to be withdrawn during the examination of an applicant’s appeal, until a negative decision on the appeal is served.

This priority given to Greek and EU citizens makes it exceptionally difficult for asylum seekers to find employment. This restriction is aggravated in the current context of financial crisis and xenophobia in Greece resulting in a large number of asylum seekers being subjected to extreme poverty due to lack of any financial means. There have been cases where an employer may be requesting to employ a specific asylum seeker but due to this restriction prioritizing Greek and EU citizens, the work permit may not be renewed, posing obstacles to both employers and potential employees. Indeed, even if an asylum seeker does get a job, they may not manage to obtain the work permit.

As a consequence, asylum seekers may resort to illegal employment, which has severe repercussions, mainly the lack of certain basic social rights which in turn subjects them to further poverty.

In case applicants find employment while residing in an accommodation centre, they must inform the Director of the centre. The law does not provide for consequences in case they do not inform the Director. In practice, the time of stay in these centres is very short and there are no instances known where an asylum seeker has found employment while staying there.

According to the answers to the questionnaire of four centres (Agioli Anargiroi, Arsis Refugees Shelter, Makrinitza and Agria in Volos) there is assistance to job orientation/search or consultancy in some of the centres and only the Red Cross in Lavrio provides assistance for applying for working permits.<sup>116</sup>

The Asylum Service informed the author of this report that it proposed to the Ministry of Labour amendments to the relevant legislative framework. According to the same information, the Ministry of Labour has responded positively to the Service’s request. Until now no change or amendment to the law in this direction has been made .

## 2. Access to education

### Indicators:

- Does the legislation provide for access to education for asylum seeking children?  Yes  No
- Are children able to access education in practice?  Yes  No

According to Article 9 Presidential Decree 220/2007 the minor children of applicants and applicants who are minors have access to the education system under similar conditions as Greek nationals as long as there is no pending enforceable removal measure against them or their parents. Children of citizens of a third country can enrol at public schools with incomplete documentation if they are:

<sup>116</sup> GCR sent a questionnaire to 15 reception centres in Greece and received responses by 11 of them on general information such as accommodation capacity, personnel employed and services provided etc. Only 4 reception centres answered the more detailed questionnaire on service provision, legal obligations and government funding etc.

- a. granted refugee status by the Greek state,
- b. come from regions where the situation is dangerous,
- c. have filed an asylum claim and
- d. are third country nationals residing in Greece, even if their legal residence has not been settled yet.

No preparatory classes are provided for children of asylum seekers.

Some of the centres provide a certain number of courses such as Greek lessons (Volos Agria, Agioi Anargiroi, Anogia, Arsis Refugee Shelter, Doctors of the World, Makrinitza, Mission, Oreokastro Arsis, Red Cross), English lessons (Volos Agria, Oreokastro Arsis), and computer lessons (Volos Agria).

Access to the education system shall not be postponed for more than three months from the date of reception of the asylum application by the child or the child's parents. This period may be extended to one year where specific language education is provided in order to facilitate access to the education system. Where access to the education system is not possible due to the specific situation of the child, appropriate measures, in accordance with existing legislation, can be taken.

It has been observed that some schools are reluctant to enrol children when the documents submitted by the parents do not prove the biological parental relationship or the guardianship.

Access to secondary education shall not be withheld for the sole reason that the child has reached the age of maturity.

In practice, except of *ad hoc* difficulties, there have been issues neither with children of asylum seekers nor with adults attending school. In some cases directors of schools deny to register pupils because of ignorance of the legal frame. Such obstacles can be overpassed by interventions of NGO's. Children have problems to attend school because of language barriers. Usually they attend school in neighbourhoods where classes are in majority aliens, which is a difficult task for teachers who have to teach to children with different level of speaking and writing Greek.

## C. Health care

### Indicators:

- Is access to emergency health care for asylum seekers guaranteed in national legislation?  
 Yes       No
- In practice, do asylum seekers have adequate access to health care?  
 Yes       with limitations       No
- Is specialised treatment for victims of torture or traumatised asylum seekers available in practice?  
 Yes       Yes, to a limited extent       No
- If material reception conditions are reduced/ withdrawn are asylum seekers still given access to health care?  
 Yes       No

According to Article 14 Presidential Decree 220/07 applicants shall receive free of charge the necessary health, pharmaceutical and hospital care, on condition that they have no health insurance and are financially weak. According to the law such health care must include:

- a. Clinical and medical examinations in public hospitals, health centres or regional medical centres.
- b. Medication provided on prescription by a medical doctor serving in one of the above at (a) mentioned institutions and acknowledged by their director.



- c. Hospital assistance in public hospitals, hospitalization at a class C room.

In all cases, emergency health care, in other words, first aid must be and is provided to applicants free of charge. It is provided in practice.

Applicants who have special needs according to Article 17 Presidential Decree 220/07 shall receive special medical assistance. Social Care Services for children, if necessary, shall ensure that they receive appropriate mental health care and qualified counselling.

In practice very few NGOs provide such support, which therefore can be provided to only a few children. PRAKSIS and ARCHDIOCESE claimed not being aware of any such programs assisting children with special needs or asylum seekers once they become 18.

PRAKIS and ARCHDIOCESE declared that asylum seekers are eligible to healthcare. ANOGIA provides free healthcare from public institutions and covers medical expenses by private doctors.

## Detention of Asylum Seekers

### A. General

#### *Indicators:*

- Total number of asylum seekers detained in the previous year (including those detained in the course of the asylum procedure and those who applied for asylum from detention): N/A
- Number of asylum seekers detained or an estimation at the end of the previous year (specify if it is an estimation): Not available
- Number of detention centres: Not available
- Total capacity: 10,357

Asylum seekers being detained in Greece must be held in special facilities (detention centres), as provided by Law 3907. In practice, there are three types of facilities holding immigrant detainees in Greece: detention centres, pre-removal centres and any police station that has a detention facility.

Pre-removal centres are special facilities designed to detain third country nationals awaiting deportation. However, the five pre-removal centres in operation, namely those in Amygdaleza, Komotini, Xanthi, Corinth and Paranesti, are being systematically used for detaining asylum seekers.

The number of police stations being used as detention centres is not known, as all police stations can potentially be used as such.

The official capacity of detention centres in Greece is reported to be 10,357. However, the actual number of asylum seekers in detention up until 28<sup>th</sup> September 2013 is not known; the Minister of Public Order and Citizen Protection expressly stated that the number of third country nationals in detention throughout the country cannot be calculated due to the constant change of numbers of detainees.<sup>117</sup>

The Greek Council for Refugees and the Greek Ombudsman have reported overcrowding in the detention centres of Petrou Ralli, Amygdaleza and Corinth<sup>118</sup> as well as in various detention cells of police stations. The detention for up to 18 months in police station cells which are designed for maximum detention length of a few days is a particular problem, especially in conditions of overcrowding, which is usually the case.

The situation has worsened since August 2012 with operation Xenios Zeus, a police 'sweep' operation whose objective have been (a) pushing back illegal immigrants from the Evros border and sealing the borders and (b) sending irregularly staying immigrants back to their countries of origin.

The size of the operation is demonstrated by the fact that 2,500 officers in the Evros region and 2,000 in Athens participated. The Xenios Zeus operation led to the widespread detention of migrants in different parts of the country. Between August 2012 and February 2013, the police forcibly took almost 85,000 foreigners to police stations for immigration status verification based on little more than their appearance. No more than 6% were found to be in Greece unlawfully.<sup>119</sup> Specifically, according to a statement by the Greek Police on 8<sup>th</sup> April 2013, out of the total number of arrested people, only 5,175 were found to be in breach of immigration laws. This obvious disproportion between the arrests and those found to be in breach of the law raises serious concerns with regards to the legality of the operation. Reportedly, a large number of those arrested en masse and brought in for questioning are of Asian, African and North African origin. This discriminatory practice indicates that four out of five persons intercepted have been subjected to this treatment arbitrarily and based on their perceived ethnicity. Those found without papers are placed in administrative detention, in overcrowded detention facilities either at the

<sup>117</sup> Reply to the Parliamentary question on statistical information with regards to the capacity of detention centres posed by SYRIZA to the Ministry of Public Order and Citizen Protection, 28<sup>th</sup> September, 2013.

<sup>118</sup> The Greek Ombudsman, Field mission in the detention centres of Amygdaleza and Korinth and in the detention spaces of PetrouRalli, May 29<sup>th</sup>, 2013.

<sup>119</sup> On the Xenios Zeus Operation, see for instance Human Rights Watch, [Unwelcome Guests: Greek Police Abuses of Migrants in Greece](#), June 2013.

Attica Aliens Police Directorate, or other temporary detention facilities in Athens or northern Greece. The UN Special Rapporteur on the human rights of migrants, François Crépeau, reported, after a nine day visit from 25 November to 3 December 2012, that he deeply regretted “the Greek Government’s new policy of systematically detaining everyone they detect irregularly entering the Greek territory, including unaccompanied children and families. I also regret the “sweep operations” in the context of operation “Xenios Zeus”, which have led to widespread detention of migrants in different parts of the country, many of whom have lived and worked in Greece for years.<sup>120</sup> Besides the ongoing police operation called Xenios Zeus, another police practice is on force, the so called operations of “Special Action”, which include targeted ethnicity-based arrests of individuals (many of them are from sub-Saharan Africa, in particular from Somalia), who are typically arrested in areas prominent for drug trafficking. Arrest warrants neither include the place of arrest nor any crimes committed.

To make matters worse, among those arrested were many asylum seekers and unaccompanied children.<sup>121</sup> No screening for asylum seekers and people seeking international protection had been made. The police often transferred those individuals that did possess documents, to a police station where they detained them for hours pending verification of their legal status. This lengthy and intrusive procedure amounts to arbitrary and discriminatory deprivation of liberty.

## B. Grounds for detention

### Indicators:

- In practice, are are most asylum seekers detained
  - o on the territory:  Yes  No
  - o at the border:  Yes  No
- Are asylum seekers detained in practice during the Dublin procedure?
  Frequently  Rarely  Never
- Are asylum seekers detained during a regular procedure?
  Frequently  Rarely  Never
- Are unaccompanied asylum-seeking children detained?
  Frequently  Rarely  Never
  - o If frequently or rarely, are they only detained in border/transit zones?  Yes  No
- Are asylum seeking children in families detained?  Frequently  Rarely  Never
- What is the maximum detention period set in the legislation (inc extensions): 18 months
- In practice, how long in average are asylum seekers detained? 18 months

By law, according to Article 13 PD114, a third-country national or stateless person who applies for international protection shall not be held in detention for the sole reason that they entered and remain illegally in the country. The law further states that detention of applicants for international protection in appropriate facilities is exceptionally allowed when alternatives to detention cannot be applied for one of the following reasons:

- a. the applicant does not possess or has destroyed their travel documents and it is necessary to determine the identity, the circumstances of entry and the nationality of the applicant, in particular in case of massive illegal entry of asylum applicants.
- b. the applicant is a danger for national security or public order, the reasons being detailed in the detention order.

<sup>120</sup> GCR, [Report of GCR mission to Symi](#), September 2012, p. 3-4.

<sup>121</sup> Kathimerini, [The Results of Operation Xenios Zeus of the Last 6 Months have been Published](#), 6 February 2013 (in Greek).

- c. detention is considered necessary for the speedy and effective completion of the asylum procedure.

According to article 12 of Presidential Decree 113/2013:

“1. An alien or stateless person who applies for international protection shall not be held in detention for the sole reason that he/she has submitted an application for international protection, and that he/she entered and stays illegally in the country.

2. An alien or stateless person who submits an application for international protection while in detention shall remain in detention, if this has been imposed pursuant to the applicable law.

If detained according to the relevant provisions of Law 3386/2005 and Law 3907/2011 (under administrative detention in order to be deported), exceptionally and if it is judged that alternative measures may not apply, as the ones mentioned in article 22 par. 3 of Law 3907/2011, the alien or stateless person shall remain in detention for one of the following reasons:

- a. For the determination of the actual data of his /her identity or origin, or
- b. If he/she constitutes a danger for national security or public order, according to the reasoned judgment of the police authority, or
- c. If detention is deemed necessary for the prompt and effective completion of the examination of his/her application, including applications submitted within Regional First Reception Services. In this case, the examination authorities shall take the necessary measures for the prompt completion of the procedure (...)

The detention order is issued by the respective Police Director and, in the cases of the General Police Directorates of Attica and Thessaloniki, by the competent Police Director for alien's issues and shall include a complete and comprehensive reasoning. In cases (a) and (c) of paragraph 2 of this Article the detention order is issued upon a proposal of the Head of the respective examination authority. In case (b) the Head of the competent Regional Asylum Office or the Director of the Appeals Authority is informed, and shall take steps to ensure the prioritized examination of the application or the appeal.

In the Asylum Service's interpretation of the above provisions, it is understood that, even if the Asylum Service proposes the continuation of detention of an asylum applicant who is already detained, the final decision lies with the Hellenic Police authorities. Furthermore, the Asylum Service claims that, if it proposes the continuation of detention of an asylum applicant, it follows-up on those cases closely and in the event the reasons for which it proposed the continuation of the detention are no longer valid, it revokes its initial proposal. However, an asylum applicant who is detained may be released by the Hellenic Police authorities without any relevant recommendation on the part of the Asylum Service or even if the Asylum Service has previously recommended the continuation of his/her detention, given that the Hellenic Police is the competent authority to decide upon detention of an asylum applicant.

In practice, irregular migrants and asylum seekers in Greece are systematically detained when apprehended at the border or without proper documents on the territory. The decision that orders the detention is neither taken after individual examination of the applicant nor is it justified, as article 30 of Law 3907 requires. Migrants and asylum seekers are initially held in police or border guards' stations and should then be transferred to specific detention facilities if a return order is issued or if the person is being prosecuted for illegal entry. However, it happens that people are held in police stations for the full duration of their detention.

Asylum seekers whose transfer to another Member State is pending under the Dublin procedure are also reportedly detained.

The provisions governing the maximum length of time by which asylum seekers' detention can be extended have changed. It used to be the case that, in accordance with Article 13 in PD114, the maximum duration of asylum seekers' detention was of up to 90 days and, “If the applicant has been detained earlier in view of an administrative deportation order, the total detention time cannot exceed 180 days”. As of October 2012, detention can be further prolonged by up to 12 months (amounting to a

total detention length of 18 months) by a police administrative decision. This change was brought about by Presidential Decree 116/2012, published in the Greek Government Gazette on 19 October 2012 and is incorporated in PD 113 as well. Applicants detained for the above mentioned reasons are allowed to appeal and submit objections against their detention according to Article 76 paragraph 3 of law 3386/2005, a remedy which in practice cannot be considered as successfully effective. In fact, the UN Special Rapporteur on the human rights of Migrants in his recent report on the situation in Greece criticised the lack of effective judicial review with regard to immigration-related detention in particular in view of the lack of access to an interpreter and legal assistance as well as the scope of the review.<sup>122</sup>

As a result, asylum seekers awaiting a decision on their asylum application in Greece may be detained up to 18 months. Up until August 2013, the practice was to detain people for the 12 month period; from August 2013 this has changed and now it is reported that the practice is to exhaust the 18 month period without any individual examination of the applicant or a review of the detention decision during this time period. The prospect of being detained for so long under appalling conditions may deter asylum seekers from submitting a claim for international protection, especially in view of the authorities' practice of detaining for extended time periods those that lodge a claim while in detention. Indeed, the Greek Ombudsman has reported that systematic detention coupled with the extension of the detention period amounts to the adoption by the State of deterring practices which twist the whole institution of asylum.<sup>123</sup> In light of this, the Greek Council for Refugees has submitted two applications to annul the prolongation of detention to 18 months by Presidential Decree 116/2012 and Presidential Decree 113/ 2013 before the Greek Council of State; the hearing of both of them was fixed for 13 May 2014.

To worsen the situation, the State Legal Council Opinion 44/2014 endorsed "indefinite detention" after the 18 month maximum detention period allowed by the Returns Directive (in the form of compulsory stay in a detention centre) until the detainee cooperates with the Authorities for their "voluntary" (sic) repatriation.

The Greek Council for Refugees lodged the first appeal against the "endless detention duration". The Court ruled on 23 May 2014 (Decision 2255/23.5.2014) that indefinite detention ( in the form of compulsory stay in a detention centre as defined by the State Legal Council Opinion 44/2014) is unlawful. As a consequence, an Afghan Refugee that had already been in detention for 18 months was released.<sup>124</sup>

It is also worth highlighting a recent decision of the criminal court of first instance of Igoumenitsa in Greece, according to which a group of migrants who had escaped from a Greek detention centre were acquitted because the conditions of detention were judged as inhuman and in breach of Article 3 ECHR.<sup>125</sup>

One of the most serious problems with regards to detention is the fact that it takes place systematically, instead of only in the cases provided for by law, even in those cases where deportation is not feasible

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<sup>122</sup> "Although migrants may present objections to their detention (Law 3386/2005, art.76.3 and Law 3907/2011, art.76.2), this is not automatic and does not provide for a direct review of the lawfulness of the detention. Moreover, objections need to be submitted in writing and in Greek. Access to an interpreter and lawyer is not guaranteed, which makes objection to the detention decision virtually impossible, particularly as detention and deportation orders are written in Greek". Furthermore the UN Special Rapporteur also considers the automatic judicial review as introduced by Law 3907/2011 not sufficient as it "regulates the extension of detention only and not the detention per se. The Special Rapporteur was also informed that the review is undertaken automatically, with no reference to the specificities of each case, and the fact that expulsion of a migrant has not yet been possible constitutes reason enough for the judge to extend the detention". See United Nations Human Rights Council, [Report of the Special Rapporteur on the human rights of migrants, François Crépeau. Mission to Greece](#), 17 April 2013, at p. 13.

<sup>123</sup> The Greek Ombudsman, Field mission in the detention centres of Amygdleza and Korinth and in the detention spaces of PetrouRalli, May 29<sup>th</sup>, 2013

<sup>124</sup> Infomobile, [LESVOS: VOICES FROM INSIDE MORIA – THE NEW PAGANI OF TROIKA](#), 30 June 2014.

<sup>125</sup> Criminal Court of first instance of Igoumenitsa, [Judgement of 2 October 2012](#) (in Greek).

(due to issues like the non-cooperation of the relevant consulate authorities, undefined nationality or de facto inability to return due to large-scale humanitarian crisis in the country of origin). The Greek Council of Refugees has reported that Syrians are being detained despite the de facto inability to deport them back to Syria. This takes place in violation of the principle of proportionality which must be satisfied for every measure of deprivation of liberty.

The law does not explicitly mention alternatives to detention. In case, however, an administrative detention is necessary, the principle of proportionality requires it to be the last resort, permissible only for the shortest period of time and that alternatives to detention should be sought whenever possible. Such alternatives include regular visits of the individual to the authorities and an obligation to reside at a specific area. The UN Working Group on Arbitrary Detention during its mission to Greece for the period 21-31 January 2013<sup>126</sup> stated that non-application of alternatives to detention, the lack of effective judicial review and the excessive length of such detention may render the detention of an individual arbitrary.

Furthermore, the automatic detention ordered by the police of asylum seekers at the borders in practice, often for extended periods of time, is contrary to Article 24 Presidential D114 which states that in cases where an asylum claim is lodged at the border, the accelerated procedure is followed according to which if no decision is taken within 4 weeks, the asylum seeker may enter the Greek territory and have their claim examined.

Despite provisions for the adoption of special measures for vulnerable groups, so far, vulnerable people, including unaccompanied children, are systematically detained in the same conditions as other migrants and asylum seekers. In January 2013, the Greek government announced that women, unaccompanied children and people with health problems should not be detained anymore and should be accommodated instead in two open reception centres. However those centres have yet to be built.<sup>127</sup>

In the case of children, detention is being imposed systematically, as opposed to as a last resort, due to shortage of places in reception centres. The Greek Ombudsman has reported the refusal of the police to screen children whose age is obvious to the naked eye with the justification that the scientific methods for age assessment are vague<sup>128</sup>. This stance is contrary to the benefit of the doubt principle which must be interpreted in favour of the child.

Apart from systematic detention for extended time periods, Amnesty International has reported that children have been found to be held together with adults in substandard conditions.<sup>129</sup> More recently, the European Court of Human Rights ruled in *Housein v Greece*<sup>130</sup>, a case concerning an unaccompanied child from Afghanistan who was arrested and detained for illegal entry, that Greece violated his right to liberty due to his automatic detention for nearly 2 months in an adult detention centre.

Although in relation to the detention of women there seems to be a separation with men, the fact that women are often detained with their children is problematic, as these are cases which should be hosted in reception centres.

The Greek Council for Refugees reports a problematic situation in relation to people with health problems. Specifically, the lack of initial health screening for new arrivals, combined with lengthy

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<sup>126</sup> United Nations Working Group on Arbitrary Detention, [Working Group on Arbitrary Detention statement upon the conclusion of its mission to Greece \(21 - 31 January 2013\)](#), 31 January 2013.

<sup>127</sup> Council of Europe: Commissioner for Human Rights, [Report by Nils Muižnieks Commissioner for Human Rights of the Council of Europe following his visit to Greece from 28 January to 1 February 2013](#), 16 April 2013, CommDH(2013)6, para. 145.

<sup>128</sup> The Greek Ombudsman, Field mission in the detention centres of Amygdleza and Korinth and in the detention spaces of PetrouRalli, May 29<sup>th</sup>, 2013

<sup>129</sup> Amnesty International, [Greece: The end of the road for refugees, asylum-seekers and migrants](#), 20 December 2012, EUR 25/011/2012

<sup>130</sup> ECtHR, Application no. 71825/11, 24 October 2013.

detention periods and coupled with no re-examination of the detention order throughout the detention period creates a hazardous situation for detainees. People have been reported by Greek Council for Refugees to develop mental disorders while in detention and due to this lack of re-examination of the order they are never classified as vulnerable and therefore any chance they have to be treated as such is being lost.

Diabetic people in need of special treatment and diet are also systematically not classified properly resulting in severe risks as in their case not receiving a specific diet and not being routinely visited by a doctor can be life- threatening.

Furthermore, a new legislative provision introduced in 2012 establishes the rule that the health status of a person can be used as a ground for *de facto* detention of migrants and asylum seekers, including obligatory control of migrants and asylum seekers for a number of diseases such as HIV. This was issued on the basis of a decision of the Ministry of Health and Social Solidarity (G.I. 39a/02-04-2012) and was repealed in July 2013.

The Asylum Service claims that it makes every effort to address any issues concerning the speedy registration and examination of applications of aliens under administrative detention so as to minimize the period of time beneficiaries of international protection remain detained.

### C. Detention conditions

#### Indicators:

- Does the law allow detaining asylum seekers in prisons for the purpose of the asylum procedure (i.e. not as a result of criminal charges)?  Yes  No
- If so, are asylum seekers ever detained in practice in prisons for the purpose of the asylum procedures?  Yes  No
- Do detainees have access to health care in practice?  Yes  No
  - o If yes, is it limited to emergency health care?  Yes, to a limited extent (it depends on whether NGO are granted access to the detention centres)
- Is access to detention centres allowed to
  - o Lawyers:  Yes  Yes, but with some limitations  No
  - o NGOs:  Yes  Yes, but with some limitations  No
  - o UNHCR:  Yes  Yes, but with some limitations  No
  - o Family members:  Yes  Yes, but with some limitations  No

The law sets out certain special guarantees on detention conditions in cases where applicants for international protection are being detained. Specifically, the competent authorities to receive or examine asylum applications, namely the Greek police or the Asylum Service (as the case may be), without prejudice to the international and national legislation on detention, must ensure the following:

- a. women are detained in a place separate from men.
- b. detention of children must be avoided. Children separated from their families and unaccompanied minors shall be detained only for the time necessary until their safe referral to adequate centres for accommodation of children.
- c. detention of women in an advanced state of pregnancy or who have recently given birth.
- d. detainees must be provided with the necessary medical care.
- e. the right of detainees to legal representation is fully guaranteed.
- f. detainees are informed of the reasons and the duration of their detention.



Despite these legal safeguards, it is widely reported that the detention centres in Greece, including those for asylum-seekers, fall short of international and European standards. UNHCR has systematically documented this in field visits and other reports on this subject are available<sup>131</sup>. The Council of Europe Commissioner for Human Rights noted in his report on his recent visit to Greece that between 2009 and 2012, the European Court on Human Rights issued 11 judgments against Greece related to violation of article 3 of the European Convention on human Rights (prohibition of torture or inhuman or degrading treatment or punishment) with regards to migrants' detention conditions.<sup>132</sup> The appalling detention conditions in Greece have also been illustrated by a recent decision of the criminal court of first instance of Igoumenitsa, Greece, according to which a group of 17 migrants who escaped from a Greek detention centre were acquitted on the grounds that the conditions of detention were judged as inhuman and in breach of Article 3 ECHR.<sup>133</sup>

The Committee for the Prevention of Torture of the Council of Europe (CPT) noted in the report on their last visit in 2011 that the design of detention centres in Greece do not respect the CPT standards and have not respected them at least since 1997.<sup>134</sup> The CPT noted lack of privacy, the lack of maintenance of the building, poor lighting and ventilation, hygiene issues, lack of information, or inappropriate food. The Committee noted that the situation was "further aggravated by the overcrowding prevalent in most facilities". Finally the report highlights that "the CPT acknowledges the challenges faced by the Greek authorities in coping with the constant influx of irregular migrants. However, the conditions in which irregular migrants are held would appear to be a deliberate policy by the authorities in order to deliver a clear message that only persons with the necessary identity papers should attempt to enter Greece. Certainly this is the impression formed by successive CPT delegations ever since their visit in September 2005".

More recently, The European Court of Human Rights ruled that Greece was in violation of article 3 of the European Convention of Human Rights (inhumane and degrading treatment) for detaining a Sudanese national for 15 days in 2 police stations under conditions of overcrowding, with no opportunity to walk outside, in cells that were devoid of natural light and lacked adjoining showers.<sup>135</sup>

In a revolt against the very poor detention conditions and the prolonged detention periods, people detained at the detention centre in Amygdaleza started a riot on 10<sup>th</sup> August 2013 in protest of the treatment they were receiving. Amnesty International reports that police guards cut off the electricity in two of the containers used as sleeping areas after the migrants started using the air conditioning; some were hit and verbally abused by police<sup>136</sup>.

Although Greek law provides for proper conditions for persons deprived of their liberty, the UN Working Group on Arbitrary Detention found in January 2013 that in practice in most detention facilities the conditions fall far below international human rights standards. It was specifically observed that irregular migrants were mixed in with criminal detainees and that detention may take place for months in police holding cells and border guard stations designed for a maximum stay of 24 hours.<sup>137</sup> This takes place

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<sup>131</sup> United Nations High Commissioner for Refugees- Office in Greece, [Contribution to the dialogue on migration and asylum](#), May 2012; European Commission, Press Release, [Statement of Cecilia Malmström, European Commissioner for Home Affairs, following the judgement of the European Court of Human Rights on the transfer of asylum seekers under the EU Dublin Regulation](#), Memo 11/35, Brussels, 21 January 2011. For an overview of European Court of Human Rights' [judgments on detention conditions](#) in Greece.

<sup>132</sup> Council of Europe: Commissioner for Human Rights, [Report by Nils Muižnieks Commissioner for Human Rights of the Council of Europe following his visit to Greece from 28 January to 1 February 2013](#), 16 April 2013, CommDH(2013)6.

<sup>133</sup> See Criminal Court of first instance of Igoumenitsa, [Judgement of 2 October 2012](#) (in Greek).

<sup>134</sup> CPT, [Report to the Government of Greece 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 19 to 27 January 2011](#), CPT/Inf(2012)1, Strasbourg, 10 January 2012, par. 11.

<sup>135</sup> European Court on Human Rights, [Horshill v. Greece](#), (application no. 70427/11), 1 August 2013.

<sup>136</sup> Amnesty International, [Greece: Systematic and Prolonged Detention of Irregular Migrants and Asylum-Seekers Provokes Riot](#), 13<sup>th</sup> August, 2013

<sup>137</sup> United Nations Working Group on Arbitrary Detention, [Working Group on Arbitrary Detention statement upon the conclusion of its mission to Greece \(21 - 31 January 2013\)](#), 31 January 2013.

systematically, in violation of article 31, Law 3907, which expressly prohibits the mixed detention of administrative with criminal law detainees and/or convicted persons.

A rise to the number of detainees has contributed to the already severe issue of overcrowding and poor conditions in migration detention facilities. It is reported by the Greek police that in Corinth, the number of detainees rose from 700 in October 2012 to 1000 in May 2013 and the number of detainees in Amygdaleza has tripled between September 2012 and March 2013. Police and border guard stations have worsened since the entry into force, in summer 2009, of the Presidential Decree 81/2009 dealing with the administrative detention of irregular migrants. This law extended the maximum detention period of detention from three months to six or in some cases to an additional period of twelve months, which has led to an increase in the number of persons detained. The further extension of the detention period to 18 months<sup>138</sup> only exacerbates the problem. This deterioration of the situation with regard to detention is significantly more evident at border locations (Evros in particular), but similar bad conditions are observed in many urban settings, particularly in Athens (Athens Aliens Directorate) detention facilities – Petrou Ralli, Athens International Airport and the numerous police stations where asylum seekers and irregular migrants are being detained. The Greek Ombudsman recently reported the excess in capacity of police station cells designed to hold a few people only for a few days. Media reports were released in March 2013 exposing the police station of Drapetsona which was found to hold for months 100 people in a space of 70 m<sup>2</sup>.

The lack of adequate bedding, of items for personal hygiene (such as soaps), and the poor quality of food are reported to dramatically add to the very poor detention conditions.<sup>139</sup> The organization *Doctors without Borders* (MSF) has highlighted problems in relation to detention conditions and detention facilities in the Greek islands and Northern Greece. Sanitary conditions are substandard, as maintenance, cleaning services and distribution of personal hygiene items are completely or almost non-existent. In some facilities there is no or insufficient provision of hot water. In the pre-removal centre in Komotini, malfunctioning hygiene facilities have not been repaired for almost a year. As a result, waste from the toilets on the first floor is flooding the bathrooms on the ground floor, contaminating the area and making more than three-quarters of the latrines and showers unusable. Limited access to sanitary facilities is a problem for migrants detained in Feres border police station in Evros and in a number of police stations visited by MSF teams, as people are locked in cells most of the time without direct access to the latrines or shower areas. Many detained migrants have no or limited access to the outdoors. In the detention facilities in Evros and Komotini, where MSF teams worked in recent months, migrants were allowed in the yard for a maximum of one hour in the morning and one hour in the afternoon. In the regular police stations visited by MSF teams, detainees spent several months at a time – in some cases for as long as 17 months – inside the cells area with no access to the outdoors. The lack of natural light, ventilation and heating is a serious problem in many detention facilities, particularly in regular police stations, where people detained in cells often have no access to natural light and fresh air. Overcrowding, exposure to cold and a poor diet also have an impact on the health of detained migrants.<sup>140</sup>

In addition, the Greek Ombudsman has received complaints by detainees in Corinth for ill-treatment by the police.<sup>141</sup>

The Council of Europe's Human Rights Commissioner noted in his report following his visit in January and February 2013 that the lack of access to adequate health care in the police run detention facilities

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<sup>138</sup> Presidential Decree 116/ 2012.

<sup>139</sup> Amnesty International, *Greece: Systematic and Prolonged Detention of Irregular Migrants and Asylum-Seekers Provokes Riot*, 13<sup>th</sup> August, 2013.

<sup>140</sup> MSF Report. *Invisible Suffering. Prolonged and systematic detention of migrants and asylum seekers in substandard conditions in Greece. MSF Operations in Immigration Detention Facilities In Greece 2008-2014.*

<sup>141</sup> The Greek Ombudsman, *Field mission in the detention centres of Amygdaleza and Korinth and in the detention spaces of PetrouRalli, May 29<sup>th</sup>, 2013.*

was an important issue.<sup>142</sup> He noted that even though the Ministry of Public Order is aware of it, “a lack of funds hinders the implementation of any regular health care programme”.

The organization *Doctors without Borders* has highlighted the following problems in relation to medical care in detention facilities in the Greek islands and Northern Greece:<sup>143</sup> inability to continue current health interventions, lack of initial health screening for newcomer detainees, obstacles in the connection with public health authorities and transfer of responsibility to police officers for the evaluation of medical cases.

In many detention facilities – particularly in regular police stations and in the pre-removal centre in Komotini – physical conditions are extremely poor. Overcrowding, substandard hygiene conditions, inadequate heating, not enough hot water and a lack of ventilation are all factors that contribute to the outbreak and spread of respiratory, gastrointestinal and dermatological diseases. In 2013-14, MSF’s medical data shows that the most common complaints were upper respiratory tract infections (24.7%); gastrointestinal disorders (14.7%); musculoskeletal problems (13.7%); skin diseases (8.5%); and dental problems (7.9%). The recurrent scabies outbreaks observed in many detention facilities are indicative of the substandard conditions, as the spread of the disease is directly linked to poor sanitary conditions. During 2013 alone, MSF teams had to carry out two separate scabies control interventions in most of the detention facilities where they worked. In some detention facilities, MSF also observed the unacceptable practice of distributing a single razor to be shared by more than one person, putting those in detention at risk of the transmitting infections such as HIV, hepatitis B and hepatitis C.

The health risks to which detained migrants and asylum seekers are exposed are related not only to the substandard detention conditions, but also to the lack of medical screening available. The majority of the detained migrants and asylum seekers are not new arrivals, but were detained on the mainland or trying to leave Greece. Therefore, most have not passed through the newly established ‘first reception’ system, which includes a medical assessment process. As a result of the absence of initial medical assessments, MSF teams have identified people in detention with serious chronic and communicable diseases, such as tuberculosis, some of whom had interrupted their treatment. Not only were these people detained in conditions harmful to their health for lengthy periods of time, but no measures were taken to protect other detainees from possible disease transmission.

Medical services have been available for limited periods of time and only in the larger detention centres, through the implementation of EU-funded projects by the Hellenic Centre for Disease Control and Prevention (HCDCP), through subcontracted civil society organisations. Moreover, the Ministry of Public Order and Citizen Protection has implemented EU-funded projects for limited periods of time employing psychologists in some immigration detention facilities.

Where there are no medical staff present in detention facilities – which is always the case in regular police stations – detained migrants depend exclusively on police staff. In essence this means that policemen have to take on duties of a medical nature and decide who needs medical attention, how urgent the medical problem is, and arrange for referrals to health facilities. As police staff lack the necessary expertise to identify and follow up on health conditions, there is a high risk of serious medical cases being neglected.<sup>144</sup>

Further, the Greek Ombudsman has reported complaints of non-referral of detainees in need to the hospital. The case of the Afghan detainee held for 11 months in Corinth who had repeatedly expressed suffering from horrible pain but whose transfer to the hospital had been delayed resulting in his death on 27<sup>th</sup> July 2013 is a tragic illustration of the problem.

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<sup>142</sup> Council of Europe: Commissioner for Human Rights, [Report by Nils Muižnieks Commissioner for Human Rights of the Council of Europe following his visit to Greece from 28 January to 1 February 2013](#), 16 April 2013, CommDH(2013)6, para. 144.

<sup>143</sup> *Medecins sans Frontiers*, Letter to the Minister of Public Order and Citizen Protection dated 4<sup>th</sup> February 2013.

<sup>144</sup> MSF Report. *Invisible Suffering. Prolonged and systematic detention of migrants and asylum seekers in substandard conditions in Greece. MSF Operations in Immigration Detention Facilities In Greece 2008-2014.*

For detained migrants and asylum seekers, the lack of information and communication with the outside world are factors that exacerbate their psychological distress. In addition, detention contributes to the suffering of patients who have already been through traumatic experiences. It is indicative that 36% of the patients seeking psychological support during MSF's most recent response reported previous exposure to violence. Detention exacerbates pre-existing symptoms, hinders the healing process, and contributes to further trauma and psychological distress. It is not uncommon for desperate migrants to go on hunger strike, to self-harm and even to attempt suicide.

The lack of interpreters and the limited provision of information regarding their rights is another major cause of frustration, anxiety and tension for the detained migrants. In most detention facilities for migrants, even in the larger ones, there is no permanent presence of interpreters or intercultural mediators, with the exception of interpreters hired for the needs of specific EU-funded projects and for limited periods of time. In the centres of Komotini and Xanthi, near the Evros region, the Greek Council for Refugees found that "interpreters are not provided [and that], as a result, communication ranges from impossible to particularly difficult. Basic communication is carried out with the help of detainees that speak Greek".<sup>145</sup>

One particularly large group is that of unaccompanied children, who are detained alongside adults for lengthy periods of time, sometimes even when registered as children. Also victims of torture or mentally ill detainees stay detained even when their condition is assessed.

The UN Working Group on Arbitrary Detention found, after its January visit to Greece, that unaccompanied minors "are often not properly registered and are systematically detained". It "note[d] with concern that the current national legislation does not provide for a statutory prohibition of the detention of these minors. In the course of its visit, the Working Group found that, due to the limited capacity of existing reception facilities, unaccompanied minors often remain in detention for prolonged periods of time, awaiting an opening in such facilities."

The UN Special Rapporteur on the human rights of migrants found that "unaccompanied or separated migrant children are often released from detention, without any particular status, and without the appointment of a guardian, even though the public prosecutor is supposed to appoint guardians to all unaccompanied children. [He] met migrant children who lived in abandoned buildings or under highway overpasses, without any proper status and without any institutional support apart from the action of some civil society organisations."

A delegation of Green MEPs which visited the Amygdaleza centre on November 2012 found "at Amygdaleza detention centre [...] detained unaccompanied minors. [...] [They] were shocked by the easy admittance of the continuing practice of deportation of unaccompanied minors."

Amnesty International reported that "[t]he Amygdaleza immigration detention centre for unaccompanied male children was holding children in substandard conditions for up to three months in August 2012 because of the insufficient number of places in reception centres.

Amnesty International visited centres in Athens and Evros where children were being detained with adults and/or were registered as adults".

In a recent report on unaccompanied children arrested by the police authorities in Orestiada, the Greek Council for Refugees found that the "actual number of children entering the Greek territory through this specific prefecture cannot be estimated [because] [m]any families are separated while crossing the borders one way or the other, while there are high numbers of children found dead either from drowning in the Evros river or from hypothermia. Most of their bodies remain unclaimed."

In its mission to Lesbos in October 2013, the GCR found two unaccompanied children from Afghanistan who had not revealed their age as they believed that they would be released sooner this way. The delegation was told by the Head of State Security and Aliens that "age-minority is registered as per

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<sup>145</sup> GCR, [Report of GCR mission to Symi](#), September 2012, p. 3-4.

detainees' statement and it is confirmed based on the personal criteria and experience of the applicable police employees. As they are not correctly informed, children state false data and are registered as adults". In Symi (Rhodes), the GCR "identified unaccompanied minors among detainees that purported to be adults. They were thoroughly informed of the procedure followed in the case of unaccompanied minors [...]. Eventually, there were overall ten (10) minors that wished to declare their exact age and be transferred to an appropriate hosting facility".<sup>146</sup>

During MSF's missions in 2013-14, the teams identified more than 100 young people who were most probably children wrongly registered as adults. Several had documentation from their country of origin proving their age, although this had been disregarded by the police.<sup>147</sup>

Crucially, on two recent field missions at the detention centres of Komotini and Paranesti which took place in 17-19<sup>th</sup> June and 11-13<sup>th</sup> September 2013, the Greek Council for Refugees team reported that no information was provided to detained asylum seekers with regards to the new asylum system. This has severe negative consequences especially to asylum seekers in detention prior to June 2013 who may have been informed of the old asylum system and who may, upon release, be misinformed as to the procedure. Moreover, in more recent missions which took place in the island of Samos in 15-18<sup>th</sup> October 2013, and in the island of Lesbos in 29-31<sup>th</sup> October 2013, the Greek Council for Refugees team reported similar findings.<sup>148</sup>

Issues of great concern are the overall lack of information for detainees on the duration of detention, their rights in detention, the inability of detainees to communicate with the outside world and their limited ability to access legal aid (not least because the resources of NGOs providing legal aid are overstretched). The Greek Council for Refugees has had no access to Komotini detention centre in a field mission which took place in June and September 2013 and was given only partial access to the detention centre in Paranesti in June 2013 further obstructing the already problematic access to legal aid. In addition, the fact that any police station can potentially be used as a detention centre, coupled with the remoteness of many of these police stations renders NGO access to detainees held there practically impossible.

The UN reported in January 2013 that few detainees are aware of their right to legal assistance and, in numerous instances, do not enjoy this right without payment.<sup>149</sup> Information leaflets on the rights of detainees found in detention facilities have been found to be very vague and to refer only to the right of detainees to contact a lawyer, but not to the right to free legal assistance. In those circumstances, lodging an asylum application while in detention is almost impossible. UNHCR and the Greek Ombudsman have also received a number of reports of police violence, insults or degrading and inhuman treatment suffered by persons in detention.

Evros saw a dramatic increase in the number of irregular arrivals between 2010 and 2012. According to figures provided by the local police authorities, the number of arrivals reached 34,000 persons, compared to almost 9,000 persons in the same period in 2009. In addition, as many as 44 persons have been officially registered as having died while attempting to reach the Greek side of the Evros River in the first 10 months of 2010. The actual number of persons drowned is believed to be higher.

During its visit to Evros in October 2010, UNHCR observed a severe deterioration of the detention situation for new arrivals in Greece due to overcrowding of existing detention centres. Men, women and children were crammed together with little space, in dire hygiene conditions and without access to open

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<sup>146</sup> GCR, [Report of GCR mission to Symi](#), September 2012, p. 3-4.

<sup>147</sup> MSF Report. Invisible Suffering. Prolonged and systematic detention of migrants and asylum seekers in substandard conditions in Greece. MSF Operations in Immigration Detention Facilities in Greece 2008-2014.

<sup>148</sup> GCR. Mission to Samos, October 2013 and GCR Mission to Lesbos, October 2013.

<sup>149</sup> See UN News Centre, [Greece must improve detention conditions for migrants – UN experts](#), 31 January 2013.

air. Essential services such as information to persons in detention, language interpretation and legal counselling on the asylum procedure were completely absent.<sup>150</sup> Access to medical treatment or care was very limited. The situation was particularly serious for persons with special needs, such as unaccompanied and/or separated children and single women with small children. UNHCR called for urgent measures to address the detention conditions and the lack of functioning screening procedures, including for persons in need of international protection. UNHCR had characterised the current situation at the borders as a humanitarian crisis.<sup>151</sup>

The inflow trend has dramatically changed since August 2012 with the building of a 10.5km fence at the border aimed at obstructing the entrance of third country nationals to Greece. Indicative of this trend are the 1.623 arrests on the ground of illegal entry in the islands of Lesbos, Samos, Chios and the Dodecanese during the first trimester of 2013, as opposed to 118 such arrests during the same period in 2012<sup>152</sup>. It is interesting that the respective numbers for the Evros region are 206 arrests in 2013 as opposed to 7,646 in 2012. This sudden shift of inflow has put a heavy burden to the sea borders and greatly compromises the treatment people seeking international protection (including vulnerable groups) received. The lack of any operating First Reception Service in these islands has led to the exceeding of the capacity of detention centres in the region and the severe deterioration of detention conditions. According to a Decision of the Minister of Public Order and the Protection of Citizens which endorsed Legal Opinion no 44/2014 of the Legal Council of the State after the maximum 18 months detention a new detention order in the form of restriction measure can be issued without time limit if the aliens does not cooperate with the authorities to get repatriated. According to the Law, such decisions should be implemented by the Authorities. Nevertheless, the Athens First Instance Court in its first decision on the judicial review of the detention order decided that indefinite detention is illegal. Four decisions of the Komotini First Instance Court decided that the Court has no competence in deciding on restriction measures, as it is the case with the measure of indefinite detention.

#### D. Procedural safeguards and judicial review of the detention order

##### *Indicators:*

- Is there an automatic review of the lawfulness of detention?  Yes  No

A detention order is issued when someone lodges an asylum claim where the conditions of Article 13 (2) PD 114 apply, namely where:

- a. the applicant does not possess or has destroyed their travel documents and it is necessary to determine the identity, the circumstances of entry and the nationality of the applicant, in particular in case of massive illegal entry of asylum applicants.
- b. the applicant is a danger for national security or public order, the reasons being detailed in the detention order.
- c. detention is considered necessary for the speedy and effective completion of the asylum procedure.

In practice, asylum seekers are routinely detained until their claim for international protection is examined. By law, there is no automatic judicial review of the detention order. The law does not provide for a proper judicial review of these detention orders.

<sup>150</sup> UNHCR, [Submission by the United Nations High Commissioner for Refugees for the Office of the High Commissioner for Human Rights' Compilation Report – Universal Periodic Review: Greece](#), November 2010, p. 8.

<sup>151</sup> *Idem.*

<sup>152</sup> UNHCR, *Syrians in Greece: Protection Issues and UNCHR Proposals*, April 2013.



In order to contest a detention decision, the Greek legal framework provides for a special legal remedy before the administrative courts, called "objection against detention". This legal remedy is a 'judicial act' and as such it is problematic as it is not issued by court composition and is not subject to an appeal. It has been in all decisions against Greece judged by the European Court on human Rights (ECtHR) as a non-effective remedy on the grounds that it excludes control of the lawfulness of the detention in question. The judge is entitled to consider only if there is a risk of absconding or if the detainee constitutes a risk for national security. In fact, in the recent case of *Housein v Greece*,<sup>153</sup> the ECtHR ruled that an unaccompanied child from Afghanistan who was arrested and detained in an adult detention centre for illegal entry was deprived of his right to an effective review of the lawfulness of the detention order.

In 2010 there has been an amendment to the relevant law which has entered into force on 1st January 2011. The new legislation explicitly entitles the judicial authorities to extend their control to the "lawfulness of detention". Nevertheless, the amendment has not yet produced its full effect. Thus the control of the lawfulness of detention remains in a great extent illusory.

The routine and in most cases arbitrary detention of asylum seekers, coupled with the lack of effective judicial review of the lawfulness of these detention orders creates a very problematic situation for most people seeking international protection in Greece.

There are decision of courts refusing the release from compulsory stay in a detention centre of mentally ill detainees or of persons who are victims of torture.

## E. Legal assistance

### Indicators:

- Does the law provide for access to free legal assistance for the review of detention?  
 Yes       No
- Do asylum seekers have effective access to free legal assistance in practice?       Yes  No

Under the Greek legislation (Presidential Decree 90/2008) free legal assistance provided for by the State under the Greek legal aid system covers only the representation at the administrative court.

However, in practice detention centres are located in remote areas, a fact which is undermining effective access of asylum seekers in detention to a lawyer. Moreover, lawyers can only access detention centres if they have the name of their clients, which is only the case if they have been appointed as their lawyer. However there have been reports about lawyers refused access to a detention facility even if they had the name of the asylum seeker they wanted to visit as the director of the centre claimed that the asylum seeker concerned was not in their custody. Also the CPT has reported that access to lawyers for detainees in Greece is problematic in practice.<sup>154</sup> Legal aid clinics have only been used in Greece in cases of implementation of EU funded programmes on a case by case basis.

<sup>153</sup> ECtHR, [Case of Housein v. Greece](#), 23 October 2013.

<sup>154</sup> "The Working Group notes that this situation also affects the proper preparation for the trial, given that a defendant who has a lawyer cannot communicate with him or her in private." See United Nations Working Group on Arbitrary Detention, available at: [Working Group on Arbitrary Detention statement upon the conclusion of its mission to Greece \(21 - 31 January 2013\)](#) 31 January 2013.