

With Greece

Recommendations for refugee protection



THE AIRE CENTRE
Advice on Individual Rights in Europe



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Cover picture: Informal camp, Piraeus port.



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GLOSSARY

Acquis	Accumulated legislation and jurisprudence constituting the body of European Union law.
Asylum seeker(s) or applicant(s)	Person(s) seeking international protection, whether recognition as a refugee or subsidiary protection beneficiary.
Dublin system	System governed by Regulation (EU) No 604/2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application.
EU-Turkey deal	Statement of Heads of State or Government of 18 March 2016 on actions to address the refugee and migration crisis, including the return of all persons irregularly entering Greece after 20 March 2016 to Turkey.
Exceptional border procedure	Expedient version of the border procedure, governed by Article 60(4) of Law 4375/2016 and applicable in exceptional circumstances on the basis of a Ministerial Decision.
New procedure	Asylum procedure before the Asylum Service, formerly governed by PD 113/2013, now replaced by Law 4375/2016, applicable to claims lodged after 7 June 2013.
Old procedure	Asylum procedure before the Greek Police, governed by Presidential Decree 114/2010, applicable to claims lodged before 7 June 2013.
Pre-registration	Special procedure launched on 6 June 2016 by the Asylum Service, assisted by UNHCR and EASO, to conduct an initial registration of asylum applications (“making”), before conducting a full registration of asylum applications (“lodging”).
Police note	Document issued by police authorities to certify the date of irregular entry into Greek territory, accompanied by an order to leave the territory. Deadlines for leaving the country differ depending on nationality or practice in the location of issuance of the note.
Reception and Identification Centre	Formerly First Reception Centre, closed centre in border areas where entrants are identified and referred to asylum or return proceedings. Six such centres exist in Fylakio, Lesbos, Chios, Samos, Leros and Kos .
Relocation	Emergency scheme set up by Council Decisions (EU) 2015/1523 of 14 September 2015 and 2015/1601 of 22 September 2015 for the transfer of asylum seekers from Greece and Italy to other Member States.
Relocation camp	Reception centre dedicated to asylum seekers eligible for relocation to other Member States. One such centre exists in Lagkadikia .

LIST OF ABBREVIATIONS

AIDA	Asylum Information Database
AIRE	Advice on Individual Rights in Europe
AMIF	Asylum, Migration and Integration Fund
ASGI	Association for Juridical Studies on Immigration (Italy)
BÜMA	Confirmation of having reported as an asylum seeker Bescheinigung über die Meldung als Asylsuchender (Germany)
CCBE	Council of Bars and Law Societies of Europe
CEAR	Spanish Commission for Aid to Refugees (Spain)
CEAS	Common European Asylum System
CJEU	Court of Justice of the European Union
COREPER	Permanent Representatives Committee, Council configuration
DAV	German Bar Association Deutscher Anwaltverein
EASO	European Asylum Support Office
ECHR	European Convention on Human Rights
ECtHR	European Court of Human Rights
ECRE	European Council on Refugees and Exiles
EDAL	European Database of Asylum Law
EESC	European Economic and Social Committee
EKKA	National Centre for Social Solidarity Εθνικό Κέντρο Κοινωνικής Αλληλεγγύης
ELENA	European Legal Network on Asylum
EPIM	European Programme for Integration and Migration
EU	European Union
Eurostat	European Commission Directorate-General for Statistics
FARR	Network of Refugee Support Groups (Sweden)
FYROM	Former Yugoslav Republic of Macedonia
HIAS	Hebrew Immigrant Aid Society
IPSN	Tool for Identification of Persons with Special Needs
JLI	Joint Learning Initiative
L	Law
LGBTI	Lesbian, gay, bisexual, transsexual and intersex
NGO(s)	Non-governmental organisation(s)
PD	Presidential Decree
PTSD	Post-traumatic stress disorder
UNHCR	United Nations High Commissioner for Refugees



Informal camp, Piraeus port

INTRODUCTION

The response of the European Union (EU) to the large-scale arrival of refugees, and resulting transformation of the asylum landscape in Greece, have prompted unprecedented levels of international focus on the country. Though by no means a new subject of debate for Europe in the area of asylum, over the past year Greece has become a peculiar space of interaction between local and international actors at all levels, ranging from asylum authorities to non-governmental organisations (NGOs) and volunteers. Within this context, numerous monitoring visits have been conducted by a wide array of EU institutions, international bodies and NGOs, with a view to documenting conditions of reception and detention in islands and the mainland, as well as organisational issues relating to the Greek asylum system. Recent material has been made available among others by the European Parliament,¹ the European Economic and Social Committee (EESC),² the Council of Europe,³ the United Nations Special Rapporteur on the Human Rights of Migrants,⁴ Amnesty International,⁵ Human Rights Watch,⁶ ProAsyl,⁷ the Italian Association for Juridical Studies on Immigration (ASGI),⁸ the Spanish Commission for Aid to Refugees (CEAR),⁹ the Swedish Network of Refugee Support Groups (FARR),¹⁰ the Council of Bars and Law Societies in Europe (CCBE) and

¹ European Parliament, 'MEPs visit Greece to assess migration situation', 20 May 2016, available at: <https://goo.gl/ZlQJVj>.

² EESC, *Fact-finding missions on the situation of refugees, as seen by civil society organisations: Mission report Greece*, 16-18 December 2015, available at: <http://goo.gl/9kEaQi>.

³ Council of Europe Special Representative of the Secretary General on migration and refugees, *Report of the fact-finding mission to Greece and FYROM 7-11 March 2016*, SG/Inf(2016)18, 26 April 2016.

⁴ UN Special Rapporteur on the human rights of migrants, 'Follow up country visit to Greece', 16 May 2016, available at: <http://goo.gl/P8Vsqw>.

⁵ Amnesty International, *Trapped in Greece: An avoidable refugee crisis*, EUR 25/3778/2016, 18 April 2016, available at: <https://goo.gl/cUjVbx>.

⁶ Human Rights Watch, 'Greece: Asylum seekers locked up', 14 April 2016, available at: <https://goo.gl/gfM3JG>; 'Greece: Refugee hotspots unsafe, unsanitary', 19 May 2016, available at: <https://goo.gl/1IDVu1>.

⁷ ProAsyl, 'Griechenland: Katastrophale Bedingungen in offiziellen Unterkünften', 20 April 2016, available in German at: <https://goo.gl/rHRwEh>; 'Hotspots in der Ägäis: Zonen des Elends und der Rechtlosigkeit', 17 June 2016, available in German at: <https://goo.gl/SzYHJX>.

⁸ ASGI, *Idomeni, un'analisi jurídica sui diritti negati ai migranti*, 13 April 2016, available in Italian at: <http://goo.gl/t7pzu9>.

⁹ CEAR, *Lesbos: Zona cero del derecho de asilo*, 6 April 2016, available in Spanish at: <http://goo.gl/DaAcbk>.

¹⁰ FARR, 'EU:s avtal med Turkiet - rapport från Grekland', 20 April 2016, available in Swedish at: <http://goo.gl/78u2Mw>.

German Bar Association (DAV),¹¹ while the Bar Association of Athens has also conducted monitoring missions in the camps in Attica, the region surrounding Athens.¹² The situation on the islands is also studied by the Greek Council for Refugees in collaboration with other organisations, as part of broader monitoring of the implementation of the “hotspot” approach in Greece and Italy.¹³

However, systemic challenges to access to asylum stemming from procedural barriers or gaps in the provision of information or legal assistance have been less reported on. Against this backdrop, the aim of the joint visit conducted by The AIRE Centre and ECRE between **28 May and 6 June 2016** was to cover issues which may not have received equal attention to date, as well as to conduct a needs assessment for NGOs and practitioners working in the field, which would enable effective and sustainable support to the Greek asylum system. This report contains observations and recommendations on the basis of findings from several meetings with key stakeholders present in Greece during the time of the joint visit. In this respect, the report does not present with an exhaustive analysis of the situation in the field. The delegation was in Northern Greece from 28 to 30 May, and in Attica and Lesvos from 31 May to 6 June. During this time, we were able to meet with Greek authorities (Asylum Service in Athens and Thessaloniki; Reception and Identification Service; General Secretariat for Reception at the Ministry of Interior; Secretariat-General of the Hellenic Parliament; National Rapporteur for Trafficking in Human Beings at the Ministry of Foreign Affairs), the United Nations High Commissioner for Refugees (UNHCR) and non-governmental organisations (Greek Council for Refugees; Metadrasi; Greek Forum of Refugees; Iliaktida, PRAKSIS; Save the Children; Doctors of the World, Dutch Council for Refugees, Northern Lights Aid, Hebrew Immigrant Aid Society). Our observations include findings of site visits to 13 refugee accommodation sites across the country. This includes official sites (Diavata, Oraiakastro, Softex, Thessaloniki Port, Lagkadikia near Thessaloniki) and unofficial sites (EKO and Hotel Hara near Polykastro) in Northern Greece, as well as official camps (Schisto, Elliniko)¹⁴ and unofficial sites (City Plaza, Piraeus Port) in Attica, the Moria ‘hotspot and the NGO centre of Mantamados on Lesvos.

Primary data gathered from interviews and observation of the sites visited is complemented by desk research on the situation of asylum in Greece, with emphasis on the AIDA Country Report on Greece. To that end, the report also makes reference to authoritative sources of information on the asylum and reception system.

The report is structured into three chapters, covering:

- ❖ **Chapter I:** An overview of the recent transformation of the Greek asylum system, stemming from the closure of borders and the EU-Turkey deal to the amendment of the legislative framework on asylum;
- ❖ **Chapter II:** Challenges to access to asylum related to procedural complexity, namely in the context of the cumbersome process of registration in the mainland, as well as the slow implementation of the Dublin Regulation and relocation as legal channels from Greece to other countries;
- ❖ **Chapter III:** Gaps and problems related to the provision of information and legal assistance to those seeking asylum in Greece.

¹¹ In the context of the Project “European Lawyers in Lesvos” led by CCBE and DAV, weekly reports will be published by European lawyers at: <http://www.europeanlawyersinlesvos.eu/>.

¹² Bar Association of Athens, *Announcement of Commission on Refugees and Migrants*, 19 April 2016, available in Greek at: <http://goo.gl/QZjdyA>.

¹³ See the Project “Strengthening NGO Involvement and capacities around EU ‘hotspots’ developments”, a joint initiative of the Dutch Council for Refugees, ECRE, Greek Council for Refugees, Italian Council for Refugees and ProAsyl. For first observations, see Aspasia Papadopoulou, ‘The Lesvos hotspot: refugees stuck on the island’, 17 June 2016, available at: <http://goo.gl/ycQzzq>.

¹⁴ Note, however, that Elliniko is considered an unofficial settlement as of 14 June: <http://goo.gl/AGJvys>.

I. DESTINATION REACHED? TRANSFORMING THE GREEK ASYLUM SYSTEM

International involvement from monitoring bodies and an EU-led reform agenda are not new features in the Greek asylum system. The Greek Action Plan for Asylum Reform and Migration Management presented in August 2010,¹⁵ or the rulings of the European Court of Human Rights (ECtHR) in *M.S.S. v. Belgium and Greece*¹⁶ and the Court of Justice of the European Union (CJEU) in *N.S. v. Secretary of State for the Home Department*,¹⁷ have opened up long-standing debates on the situation of asylum seekers in the country. This trend is no less visible today, as recent developments in Europe's response to the arrival of refugees have pushed for new reforms of the Greek asylum system. At the same time, the current context has triggered a tendency by many to view challenges through a crisis-driven lens, often in isolation from systemic problems in the Greek context.

1. The mainland: from transit to containment

Throughout 2015, Greece was marked by a fast-paced transit of high numbers of refugees and migrants entering its territory *en route* to Northern or Central European countries. Out of nearly a million entrants,¹⁸ only 1.5% claimed asylum in Greece,¹⁹ while the rest travelled onwards so long as neighbouring countries along the Western Balkan route allowed transit. At the end of February 2016, this “wave through” approach came to an end following a regional agreement between police authorities of a coalition of EU Member States (Austria, Slovenia, Croatia) and non-EU countries (Former Yugoslav Republic of Macedonia [FYROM], Serbia),²⁰ and the closure of the Greek-FYROM border in Idomeni. The turning point in Europe's management of the “refugee crisis” was confirmed by the European Council shortly after that: “irregular flows of migrants along the Western Balkans route have now come to an end.”²¹

Greece's shift from an approach of short-term assistance in transit to long-term responsibility for refugees has had two major consequences. On one hand, the end of the “wave through” triggered imminent risks of a humanitarian disaster unfolding throughout the country. An emergency action plan prepared in early March 2016 by the Greek authorities aimed to make provisions for the accommodation of 100,000 refugees and migrants. 50,000 would be hosted in reception facilities, while another 50,000 were to be accommodated in hotels and other structures near the country's main cities.²² In practice, however, several reports have depicted the dire living conditions facing

¹⁵ For an overview, see European Commission, *Staff Working Document on the assessment of the implementation of the Greek Action Plan on Asylum and Migration management*, SWD(2014) 316, 6 October 2014.

¹⁶ Application No 30696/09, Judgment of 21 January 2011.

¹⁷ Joined Cases C-411/10 and C-493/10, Judgment of 21 December 2011.

¹⁸ The Greek Police reported 911,471 interceptions for irregular entry and stay in 2015, over half of which were recorded in Lesbos: Hellenic Police, *Intercepted third-country nationals for irregular entry and stay 2015*, available in Greek at: <http://goo.gl/dHarjA>.

¹⁹ Asylum Service, *Asylum Statistics 2015*, available at: <http://goo.gl/7NRcbl>. 13,197 applications were lodged in 2015.

²⁰ Joint Statement of the Heads of Police Services from the meeting held in Zagreb, Croatia on 18 February 2016, available at: <http://goo.gl/hDzxYo>.

²¹ European Council, *Meeting of the EU Heads of State or Government (Brussels, 7 March 2016) Statement*, available at: <http://bit.ly/1RxLZ46>, para 2. This draft statement agreed by the Committee of Permanent Representatives (COREPER) initially included a sentence stating “this route is now closed”, which was removed from the final version: see SN 26/16.

²² In.gr, ‘Σχέδιο έκτακτης ανάγκης για φιλοξενία 100.000 προσφύγων στην Ελλάδα’, 1 March 2016, available in Greek at: <http://bit.ly/1nfdp6K>.

those 'trapped' in Greek camps in a state of destitution,²³ while the EU has mobilised €83 million in financial assistance, funding 8 international organisations to improve humanitarian conditions.²⁴

On the other hand, the closure of the Western Balkan route has translated into a critically higher demand for the asylum process, as this is the only solution for well over 50,000 refugees and migrants scattered throughout the country,²⁵ either to stay in Greece or to legally move onwards.²⁶ Together with the impact of the EU-Turkey statement of 18 March 2016 (hereafter "EU-Turkey deal"),²⁷ discussed below, the ever-higher number of persons in a situation of prolonged stay in Greece has required sizeable investments in administrative and human resources to boost the capacity of the Asylum Service to process the tens of thousands of asylum applications, compared to a total 9,640 claims processed in 2015.²⁸ Already in the first quarter of 2016, the Asylum Service has processed 2,140 applications,²⁹ and another 2,016 in May 2016 alone.³⁰ In the first five months of 2016, 13,583 claims were lodged in Greece.³¹

The renewed workload of Greek asylum authorities in handling asylum claims in the territory is coupled with political impetus for preparing to receive incoming Dublin transfers after a hiatus of over 5 years. The European Commission announced in September 2015 its intention "to prioritise the normalisation of the situation [in Greece] and a return to the Dublin system", through an unequivocal commitment to "restoring normalcy and taking all measures in Greece needed so that Dublin transfers to Greece can be reinstated within six months".³² A Recommendation to Greece was adopted on 10 February 2016,³³ setting out urgent measures that should be implemented by Greece in the areas of reception capacity, living conditions, access to the asylum procedure, appeals and staffing of authorities, with a view to the possible resumption of some Dublin transfers. The Commission issued a second Recommendation on concrete measures to be taken before resuming Dublin transfers in June 2016,³⁴ while acknowledging that such a move could impose undue pressure on the Greek asylum system given the number of persons currently in the country. At the same time, a proposal to recast the Dublin Regulation is expected in the longer term to impose much greater responsibility on Greece compared to the current rules.³⁵

²³ See e.g. Amnesty International, *Trapped in Greece: An avoidable refugee crisis*, 18 April 2016, EUR 25/3778/2016; ProAsyl, 'Greece: Catastrophic conditions in official camps', 20 April 2016, available in German at: <https://goo.gl/TeP2gh>.

²⁴ European Commission, 'EU provides €83 million to improve conditions for refugees in Greece', IP/16/1447, 19 April 2016. These organisations are: UNHCR, International Federation of the Red Cross, Danish Refugee Council, International Rescue Committee, Save the Children, Oxfam, Arbeiter-Samariter-Bund and Doctors of the World.

²⁵ Coordinator of Management of Refugee Crisis, *Summary statement of refugee flows 31 May 2016*, available at: <http://goo.gl/6EQEVj>. 13,583 asylum applications have been lodged this year as of May 2016, surpassing the number of claims registered in Sweden or the Netherlands: Asylum Service, *Asylum Statistics May 2016*, available in Greek at: <http://goo.gl/yV445o>.

²⁶ During our visit, we encountered children the barriers at Moria who told us they had been in the centre for 3 months and more and had family in other EU countries but no one had done any work with them to find their families and initiate Dublin III requests.

²⁷ European Council, *EU-Turkey statement*, 18 March 2016, available at: <http://goo.gl/reBVOt>.

²⁸ Eurostat, *First instance decisions Annual aggregated data*, [migr_asydcfsta](http://goo.gl/migr_asydcfsta).

²⁹ Eurostat, *First instance decisions Quarterly data*, [migr_asydcfstq](http://goo.gl/migr_asydcfstq).

³⁰ Asylum Service, *Asylum Statistics May 2016*, available in Greek at: <http://goo.gl/yV445o>. Statistics for first instance decisions in April are not made available.

³¹ *Ibid.*

³² European Commission, *Managing the refugee crisis: immediate operational, budgetary and legal measures under the European Agenda on Migration*, COM(2015) 490, 23 September 2015, 11-12.

³³ European Commission, *Recommendation addressed to the Hellenic Republic on the urgent measures to be taken by Greece in view of the resumption of transfers under Regulation (EU) No. 604/2013*, C(2016) 871, 10 February 2016.

³⁴ European Commission, *Recommendation addressed to the Hellenic Republic on the specific urgent measures to be taken by Greece in view of the resumption of transfers under Regulation (EU) No. 604/2013*, C(2016) 2805, 15 June 2016.

³⁵ European Commission, *Proposal for a [Dublin Regulation] (recast)*, COM(2016) 270, 4 May 2016.

Given the persisting deficiencies in the Greek asylum system, including continuing obstacles to access to the asylum procedure, severely poor reception conditions and risks of arbitrary detention, any prospect for reinstating transfers of asylum seekers to Greece under the Dublin Regulation would be at the very least premature.³⁶ Yet the mere intention of the Commission to include Dublin returns to the political agenda seems to have reinvigorated Member States' interest in resuming transfers. Hungary has already issued, although not implemented, decisions to that effect,³⁷ in anticipation of an EU-wide recommendation to bring Greece 'back to Dublin'.³⁸

2. The islands: returns and the EU-Turkey deal

Following the closure of the route *out of* Greece in February 2016, the EU's close engagement with Turkey soon led to an agreement aimed at closing the route *to* Greece. The so-called "EU-Turkey deal",³⁹ a statement agreed on 18 March 2016 with dubious legal effects⁴⁰ but undeniable political ramifications, principally entailed the return of all persons irregularly entering the Greek islands after 20 March 2016 to Turkey.⁴¹ As far as asylum seekers are concerned, this would only be possible insofar as Turkey could be deemed a "first country of asylum" or a "safe third country" in their individual case.⁴²

Amid speculation on the necessary legal amendments to allow for the implementation of the EU-Turkey deal by the beginning of April, Greece hastily adopted a law amending the organisation of the asylum and migration institutions and its asylum procedure (hereafter "L 4375/2016") on 3 April 2016.⁴³ It should be highlighted that the concepts of "first country of asylum" and "safe third country", though adapted by the law,⁴⁴ pre-existed its adoption.⁴⁵

A central feature of the law vis-à-vis the practical application of the measures agreed in the EU-Turkey deal was the introduction of an exceptionally truncated regime applicable in the border procedure in cases of emergency (hereafter "exceptional border procedure"). As per Article 60(4) L 4375/2016, which entered directly into force in contrast with other provisions on the asylum procedure, the Ministries of Interior and Defence may activate exceptional measures in cases of large numbers of arrivals lodging asylum applications at the border,⁴⁶ which include:

- The possibility for police authorities and unarmed soldiers to conduct the registration of asylum applications;⁴⁷

³⁶ See the discussion in ECRE, *Comments on the European Commission Recommendation relating to the reinstatement of Dublin transfers to Greece*, February 2016, available at: <http://bit.ly/1OzZ1fn>.

³⁷ See AIDA, 'Hungary: Decisions reinstating Dublin transfers to Greece', 12 May 2016, available at: <http://goo.gl/mWaB0U>; Hungarian Government, 'No one can be sent back to Hungary', 26 May 2016, available at: <http://goo.gl/gXzl3F>. Until the end of May, 8 persons were in detention pending a transfer to Greece, out of whom 7 appealed against the transfer decisions: Information provided by the Hungarian Helsinki Committee, June 2016.

³⁸ At the time of writing, Dublin transfers from Hungary to Greece have not yet taken place and the asylum seekers concerned remain in a state of limbo.

³⁹ European Council, *EU-Turkey statement*, 18 March 2016, available at: <http://goo.gl/reBVOt>.

⁴⁰ See Steve Peers, 'The final EU/Turkey refugee deal: a legal assessment', EU Law Analysis Blog, 18 March 2016; Maarten den Heijer and Thomas Spijkerboer, 'Is the EU-Turkey refugee and migration deal a treaty?', EU Law Analysis Blog, 7 April 2016; European Parliament, 'Visa liberalisation for Turkey: EU criteria must be met, say MEPs', 20160509IPR26368, 10 May 2016.

⁴¹ The deal comprises several additional commitments from both EU and Turkey.

⁴² The concepts are defined in Articles 35 and 38 of Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (recast) (hereafter "recast Asylum Procedures Directive"), OJ 2013 L180/60.

⁴³ Law 4375/2016, Official Gazette 51/A/3-4-2016, available at: <http://goo.gl/xkdhWo>.

⁴⁴ Articles 55-56 L 4375/2016.

⁴⁵ Articles 19-20 Presidential Decree (PD) 113/2013. Only the "first country of asylum" principle has been amended in the new law.

⁴⁶ No definition of "large numbers of arrivals" is provided in L 4375/2016.

⁴⁷ Article 60(4)(a) L 4375/2016.

- The possibility for European Asylum Support Office (EASO) officials and interpreters to assist the Greek authorities in registration and the conduct of interviews;⁴⁸
- An expedient version of the border procedure which lasts no more than 14 days at first and second instance. This entails a 1-day deadline for asylum seekers to prepare for the interview and a maximum 3-day deadline for lodging an appeal.⁴⁹

The exceptional border procedure cannot be applied to vulnerable asylum seekers and to persons falling within the family provisions of the Dublin III Regulation.⁵⁰ Vulnerable groups – discussed in [Chapter II, Section 3](#) of this report – are generously defined in the Greek legal framework,⁵¹ as they include unaccompanied children, disabled or severely ill persons, elderly, pregnant women or new mothers, single parents with minor children, victims of torture, rape or other serious forms of psychological, physical or sexual violence or exploitation, persons suffering from post-traumatic stress disorder (PTSD) such as shipwreck survivors or relatives of victims, and victims of trafficking. It is important to note, however, that the vulnerability criteria do not cover the group of young men aged 18 to 24 who comprise a large proportion of the population and are specifically protected under the United Nations definition of “youth”.⁵² This issue has been raised by a number of legal practitioners and especially during our visit to Lesbos.

The legality of “first country of asylum” and “safe third country” concepts vis-à-vis Turkey has become a highly controversial question for policymakers and practitioners.⁵³ Two months into the implementation of the EU-Turkey deal, the application of the concepts remains highly uncertain. While less than one third of first instance decisions of the Asylum Service have dismissed applications as inadmissible on “safe third country” grounds, whereas the rest have been referred to the regular procedure, as many as 70 rulings of the Appeals Committees have rebutted this presumption and overturned the related first instance decisions,⁵⁴ while 2 have upheld the first instance inadmissibility decisions and led to a request for interim measures before the European Court of Human Rights in one case; the request was rejected by the Court.⁵⁵ The legality of the EU-Turkey deal itself has been challenged before the General Court of the European Union,⁵⁶ and it seems likely that the CJEU will be asked to interpret the notion of “safe third country” or “first country of asylum” under EU law to determine whether it may be applied to the EU’s neighbouring countries.

⁴⁸ Article 60(4)(b) L 4375/2016.

⁴⁹ Article 60(4)(c)-(e) L 4375/2016.

⁵⁰ Article 60(4)(στ) L 4375/2016, citing Articles 8-11 Dublin III Regulation and the definition of vulnerable groups in Article 14(8) L 4375/2016.

⁵¹ The definition is broader than that of Article 21 of Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection (recast) (hereafter “recast Reception Conditions Directive”), *OJ* 2013 L180/96, which does not explicitly mention persons suffering from PTSD.

⁵² United Nations Educational, Scientific and Cultural Organisation, ‘What do we mean by youth?’, available at: <http://goo.gl/M7ndC>.

⁵³ See among others ECRE and Dutch Council for Refugees, *Desk research on application of a safe third country and a first country of asylum concepts to Turkey*, May 2016, available at: <http://goo.gl/c1Freh>; NOAS, *Seeking asylum in Turkey*, April 2016, available at: <http://goo.gl/7di3Jg>; ProAsyl, *Legal opinion on admissibility of Turkey as a “safe third country”*, March 2016, available at: <http://goo.gl/EVvuce>. Contrast Council of the European Union, *Justice and Home Affairs Council 20 May 2016*, available at: <http://goo.gl/IQqZ0B>; European Commission, Letter to the Greek General Secretary of Population and Social Cohesion, 5 May 2016, available at: <http://goo.gl/CX7Lky>.

⁵⁴ Greek Council for Refugees, ‘Ελπιδοφόρος η έκδοση της πρώτης θετικής απόφασης των Επιτροπών Προσφυγών επί του παραδεκτού του αιτήματος ασύλου υπηκόου Συρίας, μετά τη Συμφωνία ΕΕ – Τουρκίας’, 22 May 2016, available at: <http://goo.gl/j2E3VF>; ProAsyl, ‘Appeals Committee on Lesbos stops deportations to Turkey’, 1 June 2016, available at: <https://goo.gl/mbvXVI>. See also European Commission, *Second Report on the progress made in the implementation of the EU-Turkey statement*, COM(2016) 349, 15 June 2016, 6.

⁵⁵ ProAsyl, ‘EU-Turkey Deal: deportation of homosexual Syrian threatened by ISIS looming’, 3 June 2016, available at: <https://goo.gl/WdIT5A>.

⁵⁶ General Court of the European Union, Cases T-192/16, T-193/16 and T-257/16 *NF v European Council*, notified on 31 May 2016 and 2 June 2016.

3. Other components of the Greek asylum reform

Though often seen as the legislative product of the EU-Turkey deal, L 4375/2016 brought about a much broader overhaul of the Greek asylum system than the aforementioned provisions.⁵⁷ Among other elements, pertaining to the reorganisation of the Asylum Service and the Ministry of Interior, the law transposed the recast Asylum Procedures Directive with a view to replacing the provisions of PD 113/2013 (“new procedure”), and introduced an important regularisation process for cases under PD 114/2010 (“old procedure”).⁵⁸ The latter enables asylum seekers who have had asylum claims pending for over 5 years to automatically receive a 2-year residence permit on humanitarian grounds unless they wish to continue their asylum procedure, thereby bringing about a welcome regularisation framework for the backlog of 18,500 cases pending under the “old procedure”.⁵⁹ This process has begun and a few thousand cases have already been granted humanitarian status,⁶⁰ but it may be that a number of asylum seekers under the “old procedure” intend to request that their asylum procedure be completed in order to receive an appropriate protection status rather than obtaining a humanitarian permit.⁶¹

For the purposes of this report, several changes entering into force in the “new procedure” as of June 2016 are of interest, including: free legal assistance for appeals before the Appeals Committees, the modalities of which will be spelt out in a forthcoming Ministerial Decision;⁶² circumscribed grounds for detention of asylum seekers, in line with the recast Reception Conditions Directive;⁶³ and improved time-limits for appeals against negative decisions for asylum seekers in detention or in Reception and Identification Centres.⁶⁴ More importantly, the law entails modifications to the registration process, which now enable the authorities either to conduct a full registration of the applicant or, where “for whatever reason a full registration is not possible” («για οποιονδήποτε λόγο, δεν είναι δυνατή η πλήρης καταγραφή») on the basis of a decision of the Director of the Asylum Service, to proceed to a simple registration of basic personal details within a maximum of 3 days. The full registration is then to be conducted as a matter of priority, and only then is the asylum application considered to be lodged.⁶⁵ The registration provision seems to be based on an interpretation of the conceptual distinction between “making” and “lodging” an asylum application drawn in the recast Asylum Procedures Directive,⁶⁶ yet fails to transpose the maximum time-limit of 3 working days – extendable to 10 in case of large numbers of applications – for completing registration.⁶⁷ In the view of the authors, the notion of “registration” in Article 6 of the Directive should be interpreted as the act by which a claim is lodged and the examination procedure begins, to be in accordance with the objective of “ensuring effective access to the examination procedure” in Recital 26 and the principle of effectiveness and right to good administration in Article 41 of the Charter. This is confirmed by

⁵⁷ AIDA, ‘Greece: Asylum reform in the wake of the EU-Turkey deal’, 4 April 2016, available at: <http://goo.gl/V02z3l>; Greek Council for Refugees, *Observations on Law 4375/2016*, 11 April 2016, available in Greek at: <http://goo.gl/0h7VIM>.

⁵⁸ For an analysis of the “old procedure”, see AIDA Country Report Greece: Fourth Update, November 2015.

⁵⁹ Hellenic Parliament, Explanatory Report to L 4375/2016, available in Greek at: <http://goo.gl/RGbrKD>. See also Greek Forum of Refugees, ‘Οι ξεχασμένοι του ασύλου’, 29 February 2016, available in Greek at: <http://goo.gl/k175gQ>; *Asylum policies and practices impairing access to international protection in Greece*, July 2016, available at: <http://goo.gl/WDSkB4>.

⁶⁰ Information provided by the Asylum Service, 11 July 2016.

⁶¹ Information provided by the Greek Forum of Refugees, Athens, 4 June 2016.

⁶² Article 44(3) L 4375/2016.

⁶³ Article 46 L 4375/2016. Note, however, the issue of detention in Reception and Identification Centres.

⁶⁴ Article 61 L 4375/2016.

⁶⁵ Article 36(1) L 4375/2016. Contrast Article 4(1) PD 113/2013, which only guaranteed access to the procedure.

⁶⁶ Article 6(1) and Recital 26 recast Asylum Procedures Directive.

⁶⁷ Article 6(1) and (5) recast Asylum Procedures Directive.

practice in the transposition of the Directive in countries such as France, where the authorities must conduct the full registration of applications within 3 working days.⁶⁸

At the same time, only shortly after the entry into force of L 4375/2016, a modification of the provisions dealing with the appeals procedure has been made through an amendment tabled to a different legislative bill, as is frequent practice in the Greek legislative procedure.⁶⁹ This amendment, which was preceded by an announcement of these changes by the European Commission,⁷⁰ was initially rejected by the Parliament for being submitted too late in the procedure, but was then urgently reintroduced into the bill. The law, L 4399/2016,⁷¹ introduces a restructuring of the Appeals Committees to comprise of two judges of administrative courts and a member designated by UNHCR, instead of three members selected by a Selection Committee,⁷² and a narrowing down of possibilities for appellants to request a hearing, as the previous possibility to obtain a hearing by submitting a request at least 2 days before was removed.⁷³ It also amends the exceptional border procedure under Article 60(4) L 4375/2016 to allow EASO officials to conduct interviews of applicants with a view, arguably, to clarifying the agency's role, whereas the previous framework only enabled EASO to assist the Asylum Service.

Summary: Article 36(1) L 4375/2016 is incompatible with, *inter alia*, Articles 18, 24 and 41 of the EU Charter and Article 6 of the recast Asylum Procedures Directive, as it fails to transpose the maximum time-limit of 3 working days – extendable to 10 in case of large numbers of applications – for completing registration of an application for international protection.

Recommendation: The AIRE Centre and ECRE stress the importance of bringing national legislation in compliance with the EU asylum *acquis* and the EU Charter.

⁶⁸ Article L741-1 French Code on Entry and Residence of Aliens. This point was litigated before the Administrative Tribunal of Paris in 2016. For a case summary, see: <http://goo.gl/6M27xg>.

⁶⁹ Draft Law "Legal framework for the establishment of regimes for Strengthening Private Investments for the regional and economic development of the country – Establishment of Development Council and other provisions", 2 June 2016. See the first amendment No 495/24 14.6.2016 at: <http://goo.gl/tbLvoA>, and the subsequent version No 496/25 15.6.2016 at: <http://goo.gl/r7eq0W>. See also European Commission, *Second Report on the progress made in the implementation of the EU-Turkey statement*, COM(2016) 349, 15 June 2016, 4.

⁷⁰ European Commission, *Second Report on the progress made in the implementation of the EU-Turkey statement*, COM(2016) 349, 15 June 2016, 4.

⁷¹ Official Gazette 117/A/22-6-2016.

⁷² Article 5(2) L 4375/2016.

⁷³ See AIDA, 'Greece: Appeal rules amended after rebuttal of Turkey's safety', 17 June 2016, available at: <http://goo.gl/Nxqhx9>.

II. BARRIERS TO ASYLUM THROUGH PROCEDURAL COMPLEXITY

1. Lodging applications through layers of procedure

In the mainland, refugees face severe obstacles even before the start of their asylum procedure in legal terms, as delays and increasing hurdles seem to become both practically and formally entrenched in the asylum system. The legal distinction between making and formally lodging an asylum application, drawn in L 4375/2016, in practice entails a number of procedural layers before refugees may access protection in practice.

Appointment for registration with the Asylum Service

As of July 2014, a person wishing to seek asylum has to obtain an appointment with the Asylum Service to register an application either via prior communication through Skype, or through direct referral for vulnerable groups.⁷⁴ The Skype process of appointments is managed by the central authority of the Asylum Service in Athens, and is available only for limited hours per week for each language.⁷⁵ In practice, a reported number asylum seekers has repeatedly tried to reach the Skype service without success. The severe deficiencies vis-à-vis access to the procedure through this medium, already well documented by Greek authorities and organisations,⁷⁶ were confirmed by discussions with refugees, UNHCR, NGOs and the Asylum Service, the latter acknowledging expected difficulties given the increased number of persons applying for asylum.

In parallel, UNHCR, EASO and organisations such as the [Greek Council for Refugees](#), [Arsis](#) and [PRAKSIS](#) may refer vulnerable persons directly to the Asylum Service for registration appointments.⁷⁷ For the purposes of such referrals, this category is narrowly defined and mostly concerns those with serious illness or health emergencies. In practice, referred cases face considerable delays in obtaining an appointment.⁷⁸ For example, the Regional Asylum Office of Thessaloniki held a list of 200 such referrals at the end of May 2016, and was in the process of prioritising cases which would receive an appointment.⁷⁹ In light of this, the channels for accessing the Asylum Service with a view to submitting an asylum application render access to protection extremely difficult in practice. However, attempts to remedy these gaps through initial direct contact between authorities and related agencies, and potential applicants appear to have exacerbated rather than resolved procedural complexity.

The role of EASO in asylum registration

Prior to the closure of the Greek-FYROM border, at a time when relocation appeared an unpopular solution, EASO had started a process of collecting personal details from people staying in the Piraeus port, the camps in Elaionas, Elliniko and other areas in the mainland, which led to a list of persons to be transmitted to the Asylum Service for registration appointments.⁸⁰ During our visit to the EKO

⁷⁴ AIDA Country Report Greece: Fourth Update, November 2015, 25-26.

⁷⁵ For example, apart from the relocation scheme, Farsi/Dari speakers have 3 hour slots per week and Arabic speakers have 2 per week, while more hours are available for relocation candidates: Asylum Service, *Programme for registration of applications for international protection*, 28 March 2016, available in Greek at: <http://goo.gl/FU9mY9>. Note the latest schedule for appointments applicable as of 28 June 2016: <http://goo.gl/IVwtAm>.

⁷⁶ See e.g. Asylum Service, 'Διαμαρτυρία έξω από την Υπηρεσία Ασύλου', cited in AIDA, 'Greece: Syrian refugees protesting outside the Asylum Service', 15 May 2015, available at: <http://goo.gl/wAINAw>; Greek Council for Refugees, 'Αδυναμία πρόσβασης στο άσυλο', 19 April 2016, available in Greek at: <http://goo.gl/y7L9CH>.

⁷⁷ Article 51(6) L 4375/2016 provides that asylum applications of vulnerable persons may be registered and examined as a matter of priority.

⁷⁸ Information provided by Praksis, Athens, 3 June 2016.

⁷⁹ Information provided by the Asylum Service, Thessaloniki, 30 May 2016.

⁸⁰ Information provided by the Asylum Service, Athens, 31 May 2016; UNHCR, Athens, 1 June 2016.

makeshift camp near Polykastro, we were shown a business card of the EASO Hotspot Support Centre,⁸¹ containing an email and a phone number. The objective of these missions could be described as identifying relocation candidates, given that EASO has only been present in sites hosting the eligible nationalities; it has not been present in the Schisto camp, where only Afghan and some Iranian nationals are accommodated.

However, this process did not lead to any prioritisation of cases vis-à-vis access to asylum. Those who were approached by EASO and told to expect a call from the Asylum Service were never contacted for an appointment, according to testimonies.⁸² Refugees and refugee-assisting organisations were also unable to comprehend the exact role of EASO and the aim of this identification exercise. One Syrian refugee, whose details were taken by EASO in Piraeus, has been waiting in the EKO camp for over two and a half months to be contacted and, after following up through text messages, has only been told to wait longer. This is only one example of the practical impact of EASO operations in the mainland, which seem to have exacerbated confusion and uncertainty amongst refugees as to their interlocutors and the procedural steps awaiting them, as discussed in [Chapter III, Section 1](#). Nevertheless, the overall contribution of EASO to activities on the islands remains to be seen and is not covered in this report.

The new pre-registration process

In order to circumvent the cumbersome process facing persons seeking international protection in the mainland, the Asylum Service announced the launch of a pre-registration process starting at the end of May 2016, with support from UNHCR and EASO.⁸³ The objective of the process is to enable a first registration of basic personal details of prospective applicants (“making” of the application), following which they will be notified of a date of appointment with the Asylum Service for their full registration (“lodging” of the application) without needing to go through the process of obtaining appointments via Skype. The time lag between the two steps was estimated at an average period of one year in a Decision of the Asylum Service Director published on 31 May 2016.⁸⁴

This programme was formally launched on 8 June 2016 and will last until July,⁸⁵ after, expectedly, some degree of adaptation and re-design.⁸⁶ Firstly, whereas UNHCR staff have obtained security clearance in order to participate operationally in pre-registration activities together with the Asylum Service, EASO’s role will be limited to provision of information.⁸⁷ Support from NGOs such as PRAKSIS and Save the Children complements the effort of the authorities.

Secondly, instead of Mobile Units travelling to all camps in order to pre-register residents as originally planned, the Asylum Service and UNHCR are conducting the pre-registration exercise in dedicated camps in the mainland, which are operating as “pre-registration hubs”. Written information provided to refugees is silent – for reasons of security according to the Asylum Service – as to which camps are

⁸¹ On the “hotspot” concept, see European Commission, *Explanatory note on the “Hotspot” approach*, July 2015, available at: <http://bit.ly/1N46jcT>.

⁸² Information provided by UNHCR, Athens, 1 June 2016 and corroborated by information from volunteers, Polykastro, 29 May 2016. Note that the Asylum Service in Athens stated that several hundred cases have been treated and registration appointments have been given.

⁸³ Asylum Service, UNHCR and EASO, ‘The registration of asylum seekers residing in open reception centres in the mainland will begin in the next few weeks’, 16 May 2016, available at: <http://goo.gl/Y7jdiT>.

⁸⁴ Recital 7 Asylum Service Director Decision oik. 8097/2016, Official Gazette 1542/B-31-5-2016.

⁸⁵ See Asylum Service, UNHCR and EASO, ‘The pre-registration of asylum seekers in the mainland is starting today’, 8 June 2016, available at: <http://goo.gl/b8AE5q>.

⁸⁶ For the section below: Information provided by the Asylum Service, Athens, 31 May 2016; UNHCR, Athens, 1 June 2016; Save the Children, Athens, 2 June 2016.

⁸⁷ *Ibid.*



to have such a role,⁸⁸ yet during our visit to “Elliniko I”, special tents had been set up in a protected area to host the procedure.

Priority is awarded on a ‘first come, first served’ basis, as evidenced by the date of issuance of police notes (στηρεσιακό σημείωμα) upon entry into the Greek territory. According to NGOs, there has not been any indication of prioritisation of vulnerable groups in this process, while the Asylum Service indicated that vulnerable persons are prioritised. In essence, prospective asylum seekers on the mainland are therefore to be:

- Identified by the focal points and provide their personal details and police note;
- Notified of the date of their transport to the pre-registration hub which happens the very next day;
- Transported to the pre-registration hub and pre-registered, after which they receive an asylum seeker permit which guarantees them almost all rights guaranteed to registered applicants;
- Notified by text message of the date of their appointment with the Asylum Service;⁸⁹ and
- Appear directly before the Asylum Service for their full registration.

The pre-registration programme therefore appears to raise a number of challenges, as it seems to introduce additional procedural layers to an already cumbersome mechanism for accessing the Greek asylum system. Whilst efficient implementation by the authorities and UNHCR could ensure rapid completion of the process, the procedural steps and notifications involved – and the corollary official documents for those – run the risk of creating more confusion among asylum seekers rather than completing their registration in a timely manner.⁹⁰ Though much will depend on the quality of information provided ahead of and during pre-registration, the complexity of the programme from the outset could prove a significant challenge to its operation in practice. Practice has shown, however,

⁸⁸ Asylum Service *et al.*, *Pre-registration step by step*, available at: <http://goo.gl/66ejNB>.

⁸⁹ UNHCR, ‘Over 15,500 asylum-seekers pre-registered on mainland Greece’, 1 July 2016, available at: <http://goo.gl/9nU3rW>.

⁹⁰ This seems to be implied in the Asylum Service Director Decision οικ. 8097/2016, Official Gazette 1542/B-31-5-2016, which provides for a period of validity of one year for the permits issued to pre-registered persons, as opposed to 6 months for asylum seeker permits issued to registered applicants.

that the authorities have been able to conduct the process at a significantly fast pace, with over 15,500 persons pre-registered by the end of June.⁹¹

At the same time, the pre-registration procedure does not contain any concrete deadline by which an asylum application should be formally registered by the Asylum Service. This seems partly due to the incorrect transposition of Article 6 of the recast Asylum Procedures Directive by Article 36(1) L 4375/2016, which does not lay down a time-limit for the completion of registration with a view to lodging an application. However, the lack of a clear deadline could also acknowledge the possibility of significant time lags between pre-registration and registration, as is currently the case for some categories of applicants who manage to obtain appointments with the Asylum Service via Skype.⁹² Failure to observe the obligation to swiftly register asylum applications within a maximum of 10 working days would infringe the recast Asylum Procedures Directive as well as the right to asylum under Article 18 of the EU Charter.⁹³ This has also been observed in other European countries,⁹⁴ and could open up avenues for legal action similar to recent litigation in countries such as France.⁹⁵

More importantly, the procedural complexity regarding access to asylum needs to be viewed in the context of the limitations posed by the country's financial situation. Despite ongoing steps to increase the authorities' staffing,⁹⁶ more sustainable investments in the administrative resources of the Asylum Service will ensure that Greek authorities have sufficient capacity to swiftly register claims, thereby increasing efficiency overall. Even after the completion of the pre-registration programme, a crucial question remains the fate of asylum seekers after their claims have been lodged, bearing mind an already rising backlog of 10,217 applications as of the end of May 2016.⁹⁷ Large-scale registration without a parallel robust expansion of national asylum authorities might create a new backlog similar to the pending 18,500 claims under the "old procedure",⁹⁸ as warned by refugee communities.⁹⁹

Summary: While an efficient implementation of the pre-registration procedure by the authorities and UNHCR could ensure rapid completion of the process, procedural steps and notifications – and the corollary official documents for those – run the risk of creating more confusion among asylum seekers rather than completing their registration in a timely manner. Practice has shown, however, that the authorities have been able to conduct the process at a significantly fast pace, with over 15,500 persons pre-registered by the end of June 2016.

⁹¹ UNHCR, 'Over 15,500 asylum-seekers pre-registered on mainland Greece', 1 July 2016, available at: <http://goo.gl/9nU3rW>.

⁹² In Thessaloniki, Albanian nationals who access the Skype system in May are given registration appointments for August: Information provided by the Asylum Service, Thessaloniki, 30 May 2016.

⁹³ Article 6(5) recast Asylum Procedures Directive. On the Charter, see ECRE and Dutch Council for Refugees, *The application of the Charter of Fundamental Rights of the European Union to asylum procedural law*, October 2014.

⁹⁴ In Germany, asylum seekers have received a "confirmation of having reported as an asylum seeker" (BÜMA) and have reportedly waited for several weeks up to months before being registered: AIDA Country Report Germany: Fourth Update, November 2015, 15.

⁹⁵ See e.g. AIDA, 'France: Authorities under court order to register asylum applications', 25 April 2016, available at: <http://goo.gl/SzfrTg>. See also the EDAL case-summaries at: <http://goo.gl/6M27xg>.

⁹⁶ The Asylum Service reported 328 officials at the end of June 2016, compared to 300 at the end of September 2015: Asylum Service, *Συμπλήρωση των τριών πρώτων χρόνων λειτουργίας της Υπηρεσίας Ασύλου*, 30 June 2016, available in Greek at: <http://goo.gl/y3EyqJ>; AIDA Country Report Greece: Fourth Update, November 2015, 20. Note that the European Commission mentions 370 officials on 15 June 2016: Recital 14 Commission Recommendation C(2016) 3805 of 15 June 2016.

⁹⁷ Asylum Service, *Asylum Statistics May 2016*, available in Greek at: <http://goo.gl/yV445o>. At the end of April 2016, 7,945 claims were pending.

⁹⁸ Hellenic Parliament, Explanatory Report to L 4375/2016, available in Greek at: <http://goo.gl/RGbrKD>. See also Greek Forum of Refugees, 'Οι ξεχασμένοι του ασύλου', 29 February 2016, available in Greek at: <http://goo.gl/k175gQ>.

⁹⁹ Information provided by the Greek Forum of Refugees, Athens, 4 June 2016.

A positive feature of the pre-registration programme is that the nature of data collected will allow for designing an efficient lodging process, as it will provide detailed information on vulnerable persons and will allow for their prioritisation and other protective actions.

Recommendation: The AIRE Centre and ECRE urge for streamlined and straightforward procedures within the existing pre-registration programme with a view to simplifying registration of asylum seekers, together with robust expansion of capacity for the Asylum Service to register and process applications.

2. The identification of specific vulnerabilities

The concept of vulnerability has a wide array of procedural implications for the individual asylum seeker both in the islands and the mainland. As discussed above, Article 14(8) L 4375/2016 sets out an extensive list of categories of vulnerable groups warranting stronger procedural guarantees. As far as the islands are concerned, the law exempts vulnerable applicants from the exceptional border procedure.¹⁰⁰ In practice, this welcome exemption means that these persons forgo the admissibility assessment of their claims altogether. Conversely, Article 50(2) L 4375/2016 protects certain vulnerable groups in need of special procedural guarantees, namely victims of torture or serious physical or sexual violence, from truncated determination processes by requiring their applications to be examined always under the regular procedure. At the same time, vulnerable persons may benefit from the aforementioned channels of direct referral by organisations to the Asylum Service for registration, thereby avoiding the severe obstacles to access faced by the majority of prospective applicants in the mainland.

In practice, however, a necessary prerequisite for the effective implementation of these guarantees is the timely identification of vulnerabilities by those coming into contact with persons arriving on the islands or residing in the mainland, particularly concerning non-visible vulnerabilities. In that regard, the tool for Identification of Persons with Special Needs (IPSN)¹⁰¹ developed by EASO does not seem to be used by NGOs such as Doctors of the World, and has not been presented to them.¹⁰² The need for such identification, and the particular challenges associated, were encountered during our visit in respect of the following selected groups.¹⁰³

Victims of torture

At the time of writing, there is no funded state or non-governmental mechanism to provide medical certification of torture victims.¹⁰⁴ Identification was until recently conducted on a project by project basis by NGOs, accredited by the Greek state to deliver official certification of victims of torture, which can also be conducted by Greek public hospitals. An example of such an NGO is *Metadrasi* or, before that, the *Medical Rehabilitation Centre for Victims of Torture*.¹⁰⁵ However, despite the fact that these particular projects are currently unfunded and have stopped, it has been reported that potential victims of torture are still being referred there by the authorities.¹⁰⁶

For the moment, medical professionals such as Doctors of the World have developed internal tools, which they have shared with the National Centre for Social Solidarity (EKKA), focusing particularly on reception needs. They often produce documents identifying signs of torture, which may be used to refer vulnerable cases for transfer from Reception and Identification Centres to open structures, or be

¹⁰⁰ Article 60(4)(στ) L 4375/2016.

¹⁰¹ See the website of the IPSN at: <https://goo.gl/4X49FE>.

¹⁰² See Information provided by Doctors of the World, Athens, 1 June 2016.

¹⁰³ The situation of persons with disabilities and LGBTI groups, while discussed, is not covered in this report.

¹⁰⁴ Information provided by *Metadrasi*, Athens, 31 May 2016; Doctors of the World, Athens, 1 June 2016.

¹⁰⁵ AIDA Country Report Greece: Fourth Update, November 2015, 67.

¹⁰⁶ Information provided by *Metadrasi*, Athens, 31 May 2016; Doctors of the World, Athens, 1 June 2016.

included in the file of the asylum seeker to substantiate his or her claim,¹⁰⁷ yet this remains an *ad hoc* practice.

The above findings mean that, at present, apart from public hospitals, access to which is inhibited for many of those in need,¹⁰⁸ there is currently no other organisation officially certifying victims of torture in Greece. The structural gap in the identification of torture victims is likely to persist, given that the authorities have not announced any plan to sustainably contract organisations for this service.¹⁰⁹

Beyond the availability of financial support for the conduct of identification and certification procedures, the probative value of certification reports relating to victims of torture remains doubtful in the asylum procedure. The Asylum Service has explained that admissible reports must be restricted to the identification of medical signs of torture and exclude any personal account of the individual or legal assessment of international protection needs.¹¹⁰ However, the medical reports issued by Metadrasi followed the guidelines of the Istanbul Protocol,¹¹¹ weighing up the personal account of the individual against medical evidence.

Victims of trafficking

The identification of victims of trafficking, or the early identification of potential victims of trafficking, poses an even greater difficulty in the asylum process. Though trafficking is mentioned among the categories of vulnerabilities listed in Article 14(8) L 4375/2016, targeted amendments proposed by the National Rapporteur on Trafficking in Human Beings during the negotiation of the new legislative framework vis-à-vis the identification of victims in the asylum process were not taken up in the final version.¹¹² As a result, no further reference is made to issues of trafficking in the Greek asylum framework, in contrast with stronger procedural linkages between trafficking and asylum in countries such as the Netherlands.¹¹³

On the level of authorities initially coming into contact with newly arriving persons, the Reception and Identification Service noted that training on identification of potential victims of trafficking would not lead to workable results given the rapid transit of people and the limited solutions available to them post-identification.¹¹⁴ For their part, Asylum Service caseworkers explained that trafficking-related knowledge is provided as part of broader training on vulnerable groups, noting that its relevance depends on the geographical regions and countries of origin caseworkers deal with.¹¹⁵ Nevertheless, the authors wish to stress that the importance of prevention as well as protection of victims or potential victims of trafficking in human beings is not a geography-dependent priority and needs to be emphasised as a legal obligation provided in the EU and the Council of Europe legal realms, both of which provide concrete provisions which are binding on Greece.¹¹⁶

¹⁰⁷ Information provided by Doctors of the World, Athens, 1 June 2016.

¹⁰⁸ Greek public hospitals can certify victims of torture. However, access of refugees and asylum seekers to public hospitals is impeded by shortage in health professionals as well as language barriers, given the unavailability of interpreters in hospitals.

¹⁰⁹ *Ibid.*

¹¹⁰ Information provided by the Asylum Service, Athens, 31 May 2016; Metadrasi, Athens, 31 May 2016.

¹¹¹ AIDA Country Report Greece: Fourth Update, November 2015, 67.

¹¹² Information provided by the National Rapporteur on Trafficking in Human Beings, Athens, 2 June 2016. The amendment proposed the involvement of the National Rapporteur in the identification of victims of trafficking. WHERE? In the asylum procedure?

¹¹³ See AIDA Country Report Netherlands: Fourth Update, November 2015, 42, detailing a 3-month reflection period during which the individual may consider whether to lodge an asylum application or cooperate with the authorities in pursuing the perpetrator of trafficking. Health care, accommodation and legal support are available to the person during this period.

¹¹⁴ Information provided by the Reception and Identification Service, Athens, 1 June 2016.

¹¹⁵ Information provided by the Asylum Service, Athens, 31 May 2016.

¹¹⁶ See Article 18 Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing trafficking in human beings and protecting its victims (Anti-Trafficking Directive), OJ 2011 L101/1 and Article 10 Council of Europe Convention on Action Against Trafficking in Human Beings, seen

Timely and effective identification of victims or potential victims of trafficking in Greece therefore seems to be impeded by both legal and practical obstacles. Questions related to policy priorities may also be connected thereto. As greater emphasis is understandably placed on meeting dire accommodation and subsistence needs for a high number of refugees as a matter of urgency, vulnerability to trafficking – as with victims of torture – runs the risk of being overlooked or not treated by way of priority in the design of reception strategies.¹¹⁷ Against that backdrop, data collection on cases of trafficking is not systematically and meaningfully conducted, while training provided to professionals has remained very limited so far and at risk of being overlooked by authorities dealing with asylum seekers.¹¹⁸ Yet preparedness of Greek structures with regard to identifying trafficking is a pressing need in view of increasing media reports of sexual exploitation across the country,¹¹⁹ which were also corroborated during our visits to Polykastro and Elliniko.

Summary: As greater emphasis is understandably placed on meeting dire accommodation and subsistence needs for a high number of refugees as a matter of urgency, vulnerability to trafficking runs the risk of being overlooked or not treated by way of priority in the design of asylum and reception strategies.

Recommendation: Processes for timely and effective identification of vulnerable groups such as victims of torture, victims of trafficking, children or LGBTI persons should be mainstreamed in the asylum and reception system with a view to providing workable and sustainable structures for tracking vulnerabilities.

Recommendation: Significant investment in funding is needed for organisations competent to identify and medically certify victims of torture, as well as training of first contact professionals to ensure preparedness in dealing with trafficking cases.

3. Legal routes onwards: Dublin and relocation

Family reunification through the Dublin Regulation

The primary way for people to move from Greece to other European countries is provided by the family unity clauses of the Dublin III Regulation.¹²⁰ Greece's use of the Dublin procedure has been one of the more successful EU-wide vis-à-vis the number of outgoing requests resulting in effective transfers.¹²¹ Last year, the Asylum Service issued 1,117 outgoing Dublin requests to other countries and carried out 847 transfers, mainly addressed to Germany, Sweden and Switzerland.¹²² These figures seem to indicate a satisfactory application of the family reunification channel of the Regulation on the part of Greece, in line with observations from the Lesvos Bar Association and NGOs such as

in the light of ECtHR, *Rantsev v Cyprus and Russia*, Application No 25965/04, Judgment of 7 January 2010.

¹¹⁷ Information provided by the National Rapporteur on Trafficking in Human Beings, Athens, 2 June 2016.

¹¹⁸ *Ibid.*

¹¹⁹ See e.g. in.gr, 'Human Trafficking: η βάρια σκιά πάνω από το προσφυγικό', 4 March 2016, available in Greek at: <http://goo.gl/uGJrgJ>; Proto Thema, 'Ναρκωτικά, πορνεία και trafficking στην Ειδομένη', 17 May 2016, available at: <http://goo.gl/39ZvqW>.

¹²⁰ Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or stateless person (recast), *OJ* 2013 L180/31.

¹²¹ Greece had a 75.8% ratio of outgoing transfers per requests in 2015, compared to 4.4% in Germany or 4.5% in France: Eurostat, *Outgoing Dublin requests*, [migr_dubro](#); *Outgoing Dublin transfers*, [migr_dubto](#).

¹²² *Ibid.* Figures for 2016 are not available.

Metadrasi to the effect that no substantial obstacles have been encountered with regard to the issuance of outgoing Dublin requests.¹²³

Despite those efforts, however, the Dublin procedure remains a cumbersome and slow solution for refugees seeking channels out of Greece. The Dublin procedure is handled by the Dublin Unit in Athens, thereby delimitating the role of Regional Asylum Offices to registration of Dublin cases and notification of decisions to applicants. Even in relation to registration, however, issues of capacity may pose substantial barriers to effective access to family reunification channels. In its current form, the Regional Asylum Office of Thessaloniki, competent for the regions of Thessaly, Epirus, Western and Central Macedonia,¹²⁴ can register on average 15-18 Dublin cases per day.¹²⁵

NGOs such as PRAKSIS and Save the Children have also stressed the length of the Dublin procedure, which lasts on average one year but may often take 15-18 months for children reuniting with family members, as a central challenge to those seeking legal routes to other countries.¹²⁶ On Lesbos, organisations referred to a duration of 3-6 months for Dublin procedures.¹²⁷ Obstacles to swift family reunification may relate to onerous requirements such as DNA tests on the part of receiving states,¹²⁸ where the role of local organisations and practitioners is crucial to securing efficiency in the processing of incoming Dublin requests and transfers. To that end, a Dublin “take charge”¹²⁹ request template has been prepared by legal practitioners of the European Legal Network of Asylum (ELENA) with a view to assisting legal representatives in submitting the necessary information to the Asylum Service to substantiate a request to another Member State. This also builds on relevant litigation from countries such as the United Kingdom which could provide useful guidance to practitioners with a view to enforcing family unity under the European Convention on Human Rights in the Dublin process.¹³⁰ These efforts could be strengthened and complemented by corresponding legal support in receiving Member States. By way of example, legal practitioners in destination countries could be assisted through direct contacts with Greek lawyers or similar templates by ELENA, with a view to facilitating positive responses to “take charge” requests issued by Greece.

Relocation

The relocation scheme is applicable to persons entering Greece from 16 September 2015 to 19 March 2016, as the entry into force of commitments agreed in the EU-Turkey statement is *de facto* considered as a cut-off date for relocation.¹³¹ In the view of the Asylum Service, this temporal limitation would not impede the fulfilment of the relocation quota of 66,400 applicants set out in the Relocation Decisions,¹³² given the number of people having already entered the mainland before that date.¹³³ This could be less likely to happen given the recent exclusion of Iraqi nationals from the relocation scheme.¹³⁴

¹²³ Information provided by the Metadrasi, Athens, 31 May 2016; Lesbos Bar Association, Lesbos, 4 June 2016.

¹²⁴ As at 31 May 2016, this means over 29,000 persons in camps: Coordinator of Management of Refugee Crisis, *Summary statement of refugee flows 31 May 2016*, available at: <http://goo.gl/6EQEVj>.

¹²⁵ Information provided by the Asylum Service, Thessaloniki, 30 May 2016.

¹²⁶ Information provided by Praksis, Athens, 3 June 2016; Save the Children, Athens, 2 June 2016.

¹²⁷ Information provided by Iliaktida, Lesbos, 3 June 2016.

¹²⁸ Information provided by Metadrasi, Athens, 31 May 2016.

¹²⁹ On the meaning of “take charge”, see Article 18(1)(a) Dublin III Regulation.

¹³⁰ See UK Upper Tribunal, *R (ZAT) v Secretary of State for the Home Department* [2016] UKUT 61 (IAC), Judgment of 29 January 2016. See also ECRE/ELENA, *Information Note on family reunification for beneficiaries of international protection in Europe*, June 2016, available at: <http://goo.gl/n2vo9H>.

¹³¹ Information provided by the Asylum Service, Athens, 31 May 2016.

¹³² Council Decisions (EU) 2015/1523 and 2015/1601 of 14 and 22 September 2015 establishing provisional measures in the area of international protection for the benefit of Italy and Greece, OJ 2015 L239/146 and L248/80.

¹³³ Information provided by the Asylum Service, Athens, 31 May 2016.

¹³⁴ The average EU recognition rate for Iraqi nationals has fell to 73.2% in the first quarter of 2016, thereby excluding this nationality from the scope of relocation: Eurostat, *First instance decisions*, [migr_asydecfstq](http://ec.europa.eu/eurostat/tgm/table.do?tab=table&init=1&language=en&plugin=1).

Similar to the Dublin procedure, the relocation procedure is handled by a dedicated unit in Athens. Regional offices therefore register cases and transmit them to the Relocation Unit.¹³⁵ Capacity to register relocation cases has, however, increased in places such as Thessaloniki. Compared to an average of 20 cases per day in March, the Regional Asylum Office of Thessaloniki is now able to register approximately 50-55 relocation cases per day.¹³⁶

As of 27 June 2016, only 1,858 persons out of a target of 66,400 had been relocated from Greece from the beginning of the relocation scheme.¹³⁷ In this context, absent or unjustified grounds for rejecting relocation requests have also been raised as a problem in the implementation of the scheme by the European Commission.¹³⁸ The Asylum Service has, however, explained that it cannot follow up on rejections of relocation requests to challenge other countries' decisions, due to the overall design of the relocation scheme and the sovereign right each Member State to refuse to relocate asylum seekers.¹³⁹ Where relocation is refused by the applicant, he or she continues within the initial asylum procedure but is no longer eligible to apply for relocation.¹⁴⁰

Summary: Greece's use of the Dublin procedure has been one of the more successful EU-wide in terms of safeguarding family unity. However, obstacles to swift family reunification may relate to onerous requirements on the part of receiving states or delays in the procedure. Similarly in the context of relocation, absent or unjustified grounds for rejecting relocation requests have also been raised as a problem in the implementation of the scheme, while the Asylum Service cannot follow up on rejections of relocation requests to challenge other countries' decisions, due to the overall design of the relocation scheme and the sovereign right of each Member State to refuse to relocate asylum seekers.

Recommendation: The AIRE Centre and ECRE urge Member States to comply with their obligations under the Dublin Regulation, namely as regards family unity and the best interests of children, and engage in the relocation scheme in good faith, in order for asylum seekers in Greece to benefit from effective legal channels onwards.

Recommendation: The role of advocacy and legal support from NGOs and practitioners in receiving countries, as well as their coordination with practitioners in Greece, is critical to ensuring reinforcement of these legal channels with a view to their effective operation and should be duly acknowledged by Member States.

The Asylum Service noted that pre-registered Iraqis would not be excluded from relocation, though it remains to be seen how these cases will be received by other Member States.

¹³⁵ Information provided by the Asylum Service, Thessaloniki, 30 May 2016.

¹³⁶ *Ibid.*

¹³⁷ European Commission, *State of play of relocation scheme*, 27 June 2016, available at: <http://goo.gl/ug1GrM>.

¹³⁸ European Commission, *Third Report on Relocation and Resettlement*, COM(2016) 360, 18 May 2016, 3, referring specifically to the Czech Republic, Estonia and Bulgaria, while Poland has *de facto* suspended the application of the scheme.

¹³⁹ Information provided by the Asylum Service, Athens, 31 May 2016.

¹⁴⁰ *Ibid.*

III. EXPLAINING AND ASSISTING: ACCESS TO INFORMATION AND LEGAL AID

1. Unlocking the right to information

The right to information may appear as one of the more straightforward elements of the EU asylum *acquis*,¹⁴¹ yet the Greek context presents a critical illustration of its implementation on the ground. Article 41(1)(a) L 4375/2016 sets out the right of asylum seekers to information by requiring authorities to provide them with information on the procedure to be followed in a language which they understand and in due time for them to be able to exercise their rights. The provision is complemented by reference to telephone or automated means as possible ways of providing information to applicants.

Perhaps inadvertently, the multi-actor and multi-media interaction in responses to the plight of refugees in Greece has created a polyphony of information, where fragments of procedural and practical information may be given by the Asylum Service, EASO, UNHCR, Greek, European or international non-governmental organisations, as well as independent legal practitioners and volunteer groups. The uneasy interplay of these communication strands has created severe problems of confusion, frustration and misrepresentation for refugees, rendering the asylum process unduly complex for both applicants and authorities.

Who is responsible?

The respective roles of different actors are often unclear among them and likely to create organisational gaps. A notable example was witnessed in the area of site management, as the division of roles between different Greek authorities and other stakeholders has not always been clear in several accommodation sites on the mainland. For example, in the context of the relocation camp of Lagkadikia, which falls under UNHCR's agreement with the authorities for the provision of accommodation to asylum seekers,¹⁴² during our visit NGOs noted that this is a camp managed by UNHCR, while UNHCR representatives based there stated that the function of the Office there is a supporting role to the work of the authorities.¹⁴³ The UNHCR Athens Office has explained UNHCR's role in Lagkadikia as one of "co-management" under the management of the Ministry of Interior,¹⁴⁴ which will be further clarified in a memorandum of understanding under finalisation with the Ministry of Interior. Another example concerns the division of responsibilities between Greek authorities and EASO with regard to who is responsible for the personal interview in the context of the admissibility procedure conducted on the islands,¹⁴⁵ prior to the latest amendment of L 4375/2016 by L 4399/2016.

Confusion also persists with regard to the more general distinction between "official" and "unofficial" accommodation sites in Greece. Until 13 June 2016,¹⁴⁶ the Elliniko complex near Athens, including the old airport, a hockey stadium and a baseball stadium, was considered an official accommodation

¹⁴¹ Article 12(1)(a) recast Asylum Procedures Directive; Article 4 Dublin III Regulation.

¹⁴² See to that effect European Commission, 'Joint Declaration on the support to Greece for the development of the hotspot / relocation scheme as well as for developing asylum reception capacity', STATEMENT/15/6309, 14 December 2015.

¹⁴³ Information provided by UNHCR, Lagkadikia, 29 May 2016. Contrast ERT, 'Ο Γ. Μουζάλας μιλά για την Ύπαιτη Αρμοστέια το ΟΗΕ', 30 May 2016, available in Greek at: <https://goo.gl/TEFoJh>.

¹⁴⁴ Information provided by UNHCR, Athens, 1 June 2016.

¹⁴⁵ Information provided by UNHCR, Athens, 1 June 2016. Note that L 4399/2016 has explicitly clarified the possibility for EASO officials to conduct the interview.

¹⁴⁶ Coordinator of Management of Refugee Crisis, *Summary statement of refugee flows 13 June 2016*, available at: <http://goo.gl/KJqCSq>.

centre by the authorities, yet as of 14 June 2016 all three sites are described as unofficial settlements.¹⁴⁷

The Ministry of Interior, responsible for asylum and migration policies in Greece, has undergone a substantial reorganisation under L 4375/2016, including the adaptation of the former General Secretariat of Population into a General Secretariat of Migration Policy and the creation of a new General Secretariat of Reception. This restructuring should be a step towards simplification of the division of responsibilities in the area of migration. As far as management of and access to reception centres is concerned, the newly established General Secretariat of Reception,¹⁴⁸ which is now responsible for the Reception and Identification Service,¹⁴⁹ should be the centralised contact point for international organisations, non-governmental organisations and other interested parties to enter the centres.¹⁵⁰ The General Secretariat of Reception will set up a dedicated contact address (ggyp@ypes.gr) handling authorisations to access reception centres.¹⁵¹ To that end, the Secretariat will also establish a registry of local and international non-governmental organisations for the purpose of authorising entry to reception centres and identifying opportunities for cooperation to meet identified needs, namely in the area of training.¹⁵²

Different roles and responsibilities between Greek and international authorities appear even less clear to refugees, leading them to incorrect perceptions of their interlocutors. Examples encountered during the visit included assumptions of EASO as an asylum authority, of the Greek Council for Refugees as an asylum authority, or confusion of Asylum Service officials for UNHCR. Clear division of responsibilities between official (Asylum Service, EASO, UNHCR) and non-governmental actors both in the framework of their operation and in their communication with refugees therefore seems to be the central challenge in the mainland, as well as the islands. It will also be important for the smooth implementation of the pre-registration programme, as discussed below.

Modes and content of information

Many of the information gaps encountered in the mainland relate to the way in which different actors convey information to refugees. Particular emphasis is placed on written information, provided through leaflets or billboards in some of the camps, with Moria being a striking exception during our visit. A number of different leaflets addressed to those wishing to access the procedure have been prepared by Greek authorities and EASO,¹⁵³ among other actors.¹⁵⁴ These leaflets often use different terms to describe the same procedure, which may be confusing to those not familiar with the process: on eligibility for relocation, EASO informs people that they must be “in clear need of international protection” and lists the eligible nationalities, while the Asylum Service only refers to the fact that a person “can join the relocation program on grounds of specific nationality e.g. Syria.” In Idomeni, on the other hand, refugees were given an official leaflet by the Ministry of Interior whose translation in

¹⁴⁷ Coordinator of Management of Refugee Crisis, *Summary statement of refugee flows 14 June 2016*, available at: <http://goo.gl/AGJvys>.

¹⁴⁸ Article 26(1) L 4375/2016.

¹⁴⁹ Article 26(2) L 4375/2016.

¹⁵⁰ Information provided by the General Secretariat of Reception, Ministry of Interior, Athens, 1 June 2016.

¹⁵¹ *Ibid.*

¹⁵² See Article 27(2)(e)(dd) L 4375/2016, under the responsibility of the Directorate of Reception within the General Secretariat of Reception.

¹⁵³ See e.g. Asylum Service, *Information on the asylum procedure for those who came from Turkey before March 20th, 2016 and are in open reception centres*, available at: <http://goo.gl/bafNmk>; Ministry of Maritime Affairs, *Information leaflet of the Greek state for refugees & migrants sheltering at the port of Piraeus*, available at: <http://goo.gl/OpSY7N>; EASO, *Relocation of applicants for international protection*, available at: <https://goo.gl/QJuaSI>.

¹⁵⁴ Organisations such as Advocates Abroad, an organisation founded in February 2016, have also produced and distributed leaflets explaining the Greek asylum procedure: <http://goo.gl/v6fcnO>.



Billboards in Elliniko II camp

Farsi was explained by refugee communities to be incorrect.¹⁵⁵ Inconsistencies may also occur in orally provided information, given the use of different interpreters by different actors who may not be sufficiently qualified or provide consistent interpretation. While Greek authorities, UNHCR and other actors rely on interpretation services provided by Metadrasi, EASO staff are assisted by their own interpreters. Issues relating to EASO’s non-coverage of specific languages or dialects have been reported in the mainland.¹⁵⁶

For their part, refugee communities have explained that written information generally tends to be neglected by people, as they may not always understand that a billboard or leaflet is addressed to them.¹⁵⁷ A stark illustration of this during our visit was the “Elliniko II” camp, which is set up in the lounge of the abandoned airport of Athens, hosting mostly Afghan nationals. Despite a number of leaflets and contact details of legal aid providers such as the Greek Council for Refugees or Arsis near the bathrooms, residents were unaware of the asylum procedure or of ways to contact lawyers. NGOs have also reported that these billboards are now outdated.¹⁵⁸ The limited efficiency of written information has also been flagged by non-governmental actors,¹⁵⁹ while officials at the Asylum Service also agreed that direct contact between providers and recipients of information is a more effective mode of communication.¹⁶⁰

Equally crucial to providing reliable information to refugees is the role of cultural mediators according to refugee communities.¹⁶¹ Communities explained that there is more likelihood in people absorbing information when it is conveyed by a person or community of trust such as a cultural mediator.¹⁶² In light of this, the absence of institutional relations between Greek authorities and refugee communities in the mainland was flagged as a regrettable gap in the information process. Though L 4375/2016 now provides that the Directorate of Social Integration at the Directorate-General of Migration Policy

155 For a copy of the leaflet, see [Annex II](#). Information provided by the Greek Forum of Refugees, Athens, 4 June 2016. As explained by the Afghan community, the information in the leaflet “did not make sense”.
 156 Information provided by Metadrasi, Athens, 31 May 2016.
 157 Information provided by the Greek Forum of Refugees, Athens, 4 June 2016.
 158 Information provided by Save the Children, Athens, 2 June 2016.
 159 Information provided by Save the Children, Polykastro, 28 May 2016.
 160 Information provided by the Asylum Service, Thessaloniki, 30 May 2016.
 161 Information provided by the Greek Forum of Refugees, Athens, 4 June 2016.
 162 *Ibid.*

under the Ministry of Interior is responsible for establishing a registry of cultural mediators,¹⁶³ no role is set out for them in the asylum process, in contrast with other Member States.¹⁶⁴ In practice, communities are only enlisted to act as mediators in order to respond to specific requests by the authorities, in what they described as a “firefighting policy”.¹⁶⁵ Cultural mediation is also a task that often remains difficult for non-governmental organisations to incorporate in funding applications, insofar as grantors may not be fully acquainted with the role of mediators in the asylum process.

Content-related issues also arise in the context of information provision. Several official information providers have reportedly provided inaccurate information on the procedure, not least relating to relocation. By way of example, refugees were at times informed that they may be transferred to the United Kingdom under the relocation scheme, or told that Afghanistan is one of the eligible nationalities.¹⁶⁶ Information is also provided by independent groups or organisations which may not be sufficiently acquainted with the Greek legal framework.

At times, the information provided by the main actors has not taken into account the practical dimension of access to asylum in Greece.¹⁶⁷ UNHCR explained that their staff have continued to advise refugees to book registration appointments via Skype, though explaining the evident practical obstacles thereto. In other cases, information lacks sufficient detail so as to be easily comprehensible to addressees. Another example was the set of leaflets on the pre-registration procedure issued by the Asylum Service, UNHCR and EASO, which did not inform potential asylum seekers of the exact places to which they would be transferred in order to be pre-registered, for reasons of security as explained by the Asylum Service. More importantly, none of the 9 leaflets produced by the aforementioned actors to inform those undergoing pre-registration explained that prioritisation of prospective applicants is based on the date of entry into Greek territory, and thus why police notes – requested in the leaflets – are relevant in the process.¹⁶⁸

Summary: The respective roles of different actors are often unclear among them and appear even less clear to refugees, leading them to incorrect perceptions of their interlocutors. Many of the information gaps encountered in the mainland relate to over-reliance on written general information, as well as the provision of information by actors who may not be sufficiently acquainted with the Greek legal framework.

Recommendation: ECRE and The AIRE Centre deem that holistic, practical and intelligible information should be provided by persons adequately qualified, trained and acquainted with the Greek legal framework, through modes conducive to comprehensible communication between refugees and authorities. This should imply provision of information in simple, concise terms, with sufficient explanation for the reasons behind different procedural steps. Information provision should allow for institutional involvement of cultural mediators from trusted communities where appropriate, to ensure that questions and concerns may be communicated and explained accurately. Information must be understood as a continuous process whose aim is to reduce uncertainty for all parties involved. Written information should be complementary to, rather than substituting, oral information in this context.

¹⁶³ Article 31(3)(b)(cc) L 4375/2016.

¹⁶⁴ See for instance Italy, where Article 3(1) PD 21/2015 expressly recognises the role of cultural mediators in the expression of an asylum application. For more information on the role of mediators in Italy, see AIDA Country Report Italy: Fourth Update, December 2015.

¹⁶⁵ Information provided by the Greek Forum of Refugees, Athens, 4 June 2016.

¹⁶⁶ Information provided by the Asylum Service, Athens, 31 May 2016. The United Kingdom has not opted into the relocation scheme, while Afghanistan is not among the eligible nationalities under the Relocation Decisions given that the average EU recognition rate for Afghan nationals is below 75%.

¹⁶⁷ Information provided by Metadrasi, Athens, 31 May 2016; Praxis, Athens, 3 June 2016.

¹⁶⁸ Asylum Service, *Pre-registration*, different leaflets available at: <http://goo.gl/W8ofvY>.

Capitalising on the efficiency of new technologies through the development of partnerships between humanitarian aid organisations, lawyers and tech companies, may provide alternative means of addressing gaps in capacity and resources with regards to information provision.

2. Who is helping? The right to legal assistance

Whereas the international, multi-actor approach to the plight of refugees in Greece has triggered risks of greater uncertainty by creating several layers of information provision, access to legal assistance for refugees has been turned into a conundrum. The paramount importance of legal assistance and representation from qualified legal practitioners in a complex asylum process has been acknowledged by all actors approached in Greece.¹⁶⁹ The degree of competition on who may best provide such services has, however, created serious problems for legal assistance and hinders effective access to protection for those who need it the most.

Legal assistance to asylum seekers has been the underlying mission of a number of practitioners and non-governmental organisations for decades in Greece, as is the case in any national asylum system. Capacity to provide such a service lies with professionals qualified to provide legal assistance and representation in the domestic legal system, while the quality of that service depends upon experience in and knowledge of asylum law, administrative law and beyond. In light of this, efforts to ensure effective legal assistance and representation for those navigating the asylum procedure in Greece – be they prospective, pre-registered or formally registered applicants – are inextricably linked to supporting existing legal structures in the country. In order to ensure quality legal assistance and representation, actors such as UNHCR or Save the Children have funded local organisations such as the Greek Council for Refugees, the Ecumenical Refugee Programme, Metadrasi, Arsis or PRAKSIS to offer *pro bono* legal assistance, albeit on specific areas.¹⁷⁰ Specifically with regard to unaccompanied children, the European Programme for Integration and Migration (EPIM) has provided funding to PRAKSIS for legal, psychological and social support, and to Metadrasi for the continuation and expansion of its Guardianship Network.¹⁷¹ The model used by local aid organisations such as Iliaktida, who have partnered with qualified lawyers in order to prepare asylum cases and identify vulnerable young people in their care, was reported to work effectively on a regional level.

The current capacity of these organisations remains extremely limited vis-à-vis the needs of persons seeking asylum in Greece. On Lesbos, for example, legal assistance to asylum seekers was only provided by two lawyers from Metadrasi, one from the Greek Council for Refugees and one from ProAsyl at the time of our visit.¹⁷² Several other Greek qualified lawyers are also providing services free of charge, amidst a general confusion over role distribution and responsibilities on the island.¹⁷³ Furthermore, the function of “Protection Officer”, seen in many organisations present on the islands or other affected regions, has also been reported as ambiguous. The latter professionals are generally unable to undertake substantial legal action before the Greek courts and have been seen to sometimes inhibit or increase the work of the few, overworked and sometimes “professionally burnt out” Greek qualified practising lawyers or staff of Greek authorities.¹⁷⁴

¹⁶⁹ On the different concepts, see ECRE and Dutch Council for Refugees, *The application of the EU Charter of Fundamental Rights in asylum procedural law*, October 2014.

¹⁷⁰ Information provided by Metadrasi, Athens, 31 May 2016; Greek Council for Refugees, Athens, 2 June 2016.

¹⁷¹ EPIM, *Supporting unaccompanied and separated children and youth in Greece*, June 2016, available at: <http://goo.gl/IEBc7Y>. For the Guardianship Network established by Metadrasi, see: www.epitropeia.org.

¹⁷² Information provided by UNHCR, Athens, 1 June 2016; Save the Children, Athens, 2 June 2016. For example, UNHCR currently funds 4 lawyers at the Greek Council for Refugees for detention cases and 6 lawyers at the Ecumenical Refugee Programme for Dublin cases.

¹⁷³ Information provided by the Lesbos Bar Association, Lesbos, 4 June 2016.

¹⁷⁴ Information provided by Metadrasi, Athens, 31 May 2016; Greek Council for Refugees, Athens, 2 June 2016.

Different initiatives from practitioners, NGOs and volunteer groups have opted for direct contact with refugees in the mainland and on the islands, without necessarily connecting people to legal representatives competent and qualified to handle their case and, where necessary, represent them before administrative authorities or courts. Beyond the lack of capacity to represent clients in Greece, necessary training in Greek law is often absent from such initiatives, thereby running the risk of compromising the quality of advice and information provided to refugees. Training opportunities and knowledge resources to enhance the capacity of local practitioners could be explored on the basis of identified needs, which could include advanced training on elements of European and international refugee law, procedures before European Courts or the interplay between Greek law and the EU asylum *acquis*.¹⁷⁵ The role of case-law resources such as the European Database of Asylum Law (EDAL) or comprehensive databases of country-related information¹⁷⁶ can also be important in assisting qualified lawyers. Non-Greek practitioners could also contribute to the work of legal representatives by collecting factual information on the cases of represented clients where such a need arises. In any event, investment in legal aid should complement the Greek government's effort to promote effective protection and have qualified Greek practitioners as its primary focus in order to be credible and sustainable. The potential of Bar Associations across the country as a resource of practitioners must also be taken into consideration in this process.

In that respect, it is worth noting that a state-funded legal aid system is to be set up for asylum seekers to benefit from free legal assistance only in appeals before the Appeals Committees, as per the new legal framework transposing the recast Asylum Procedures Directive. A draft Ministerial Decision, outlining the modalities of legal aid,¹⁷⁷ has been prepared in consultation with UNHCR, NGOs and the Bar Association of Athens with a view to implementing a national legal aid system in the coming months. The Decision aims for the Asylum Service to establish a registry of legal practitioners, who will be eligible to receive funding for legal aid on the basis of qualifications,¹⁷⁸ while a call for proposal under the Asylum, Migration and Integration Fund (AMIF) National Programme has also been issued by the Asylum Service on legal assistance and representation.¹⁷⁹ UNHCR will contribute to the needs of legal assistance and representation for the asylum seekers for the forthcoming months and as a bridge to the provision of the relevant services through the Asylum Service under the AMIF National Programme. Legal assistance will be provided through partners mainly to all the applicants in the appeals procedures regarding both the examination of the admissibility as well as the merits of the application in order to ensure that the relevant safeguards are observed. Accordingly, in the longer term, a sustainable approach to supporting legal aid for asylum cases in Greece should be possible to combine with and complement the system of state-provided legal assistance for appeals.¹⁸⁰

Summary: International legal information or assistance initiatives from practitioners, NGOs and volunteers have tried to bridge the gap in legal assistance, representation and state-provided legal aid by opting for direct contact with refugees. Regrettably some initiatives do not always ensure capacity for legal representation in Greece and may run the risk of compromising the quality of advice and information provided to refugees, thereby further decreasing their chances of obtaining effective international protection.

¹⁷⁵ See for instance discrepancies between L 4375/2016 and the recast Asylum Procedures Directive in the area of registration or the border procedure.

¹⁷⁶ This could include www.refworld.org, www.ecoi.net, or AIDA.

¹⁷⁷ Article 44(3) L 4375/2016.

¹⁷⁸ Information provided by UNHCR, Athens, 1 June 2016; Metadrasi, Athens, 31 May 2016.

¹⁷⁹ See Asylum Service, *Call for proposals for the action: Legal assistance and representation*, HOME/E1/AMIF Greece – CCI: 2014GR65AMNP001, 9 June 2016, available in Greek at: <http://goo.gl/B1TcLk>. To reiterate, until this scheme is operational, UNHCR is providing legal assistance through partners.

¹⁸⁰ See generally ECRE and Dutch Council for Refugees, *The application of the Charter of Fundamental Rights of the European Union to asylum procedural law*, October 2014, 57 et seq.

Recommendation: Targeted support should be provided to existing, qualified Greek non-governmental organisations and Greek qualified practitioners providing legal assistance, also likely to be involved in the forthcoming state-funded legal aid scheme for appeals. Ways to enhance capacity of these local practitioners could be explored on the basis of identified needs, for example through information resources, training or case support.

Recommendation: Such support should ensure that all unaccompanied children have access to specialist legal assistance and representation of qualified legal representatives from initial identification and throughout the duration of their minority.

CONCLUSIONS & RECOMMENDATIONS

1. Access to asylum in Greece encounters challenges related to increasing complexity and additional layers of procedure. While a comprehensive plan of action is needed to enable those staying in the mainland to enter the asylum procedure, and the authorities have been able to conduct the pre-registration process at a significantly fast pace, with over 15,500 persons pre-registered by the end of June 2016, there is a risk of a new backlog of asylum claims in the absence of credible investment in capacity.

The AIRE Centre and ECRE stress the need for streamlined and straightforward procedures within the existing pre-registration programme, with a view to simplifying registration of asylum seekers, together with robust expansion of capacity for the Asylum Service to register and process applications.

2. Processes for timely and effective identification of vulnerable groups such as victims of torture, victims of trafficking, children and LGBTI persons should be mainstreamed in the asylum and reception system with a view to providing workable and sustainable structures for tracking vulnerabilities.

The AIRE Centre and ECRE highlight the need for significant investment in funding organisations competent to identify and medically certify victims of torture, as well as in training of first contact professionals to ensure preparedness in dealing with trafficking cases.

3. Legal routes to other European countries remain very narrowly accessible to asylum seekers in Greece. The main obstacles to rapid and effective implementation of the family reunification provisions of the Dublin Regulation and of the relocation scheme are closely connected to procedural or other barriers introduced by receiving Member States.

The AIRE Centre and ECRE stress the need for Member States to comply with their obligations under the Dublin Regulation, namely regarding family unity and the best interests of children, and to engage in the relocation scheme in good faith, in order for asylum seekers in Greece to benefit from effective legal channels onwards. The role of advocacy and legal support from NGOs and practitioners in receiving countries is critical to ensuring reinforcement of these legal channels with a view to their effective operation.

4. Over-reliance of the authorities, EASO and UNHCR on providing written information such as leaflets and billboards may prevent effective communication between interlocutors in the asylum process, thereby exacerbating frustration among refugees navigating a highly complex asylum procedure.

The AIRE Centre and ECRE urge for simple, clear information, designed in consultation with asylum seekers and refugees whenever possible, and using communication methods most helpful to asylum seekers. Information must be understood as a continuous process whose aim is to reduce uncertainty for all parties involved. The role of cultural mediators should be more actively explored in this context, bearing in mind the need for information to be provided by persons qualified and acquainted with the Greek legal framework.

5. International legal information or assistance initiatives from practitioners, NGOs and volunteers have tried to bridge the gap in legal assistance, representation and state-provided legal aid by opting for direct contact with refugees. These initiatives do not always support the development of capacity for legal representation in Greece by Greek organisations. They may thus run the risk of compromising the quality of advice and information provided to refugees.

Effective and sustainable legal aid and assistance to asylum seekers can only be achieved if existing Greek structures are strengthened through funding and capacity development. The paramount importance of localisation has been globally reiterated as a humanitarian principle in external support.¹⁸¹

The AIRE Centre and ECRE recommend targeted support to qualified Greek non-governmental organisations and practitioners providing legal assistance and representation, and also likely to be involved in the forthcoming state-funded and run legal aid scheme for appeals. Ways to enhance capacity of these local practitioners could be explored on the basis of needs identified by the practitioners themselves, for example through information resources, training or case support. Legal information should only be provided by other actors where the recipients of information can be referred to qualified local legal assistance and representation providers.

Legal assistance support should also ensure that all unaccompanied children have access to specialist legal assistance and representation of qualified legal representatives from initial identification and throughout the duration of their minority.

¹⁸¹ For an overview, see World Humanitarian Summit, *Chair's Summary: Standing up for humanity: Committing to action*, 24 May 2016, available at: <https://goo.gl/DOoDOy>.

ANNEX I – LIST OF INTERLOCUTORS

Name and Organisation	Date	Location
Greek authorities		
Regional Asylum Office Thessaloniki, Asylum Service	30 May 2016	Thessaloniki
Central Service and Regional Asylum Office Attica, Asylum Service	31 May 2016	Athens
Secretariat-General, Hellenic Parliament	31 May 2016	Athens
General Secretariat for Reception, Ministry of Interior	1 Jun 2016	Athens
Reception and Identification Service, Ministry of Interior	1 Jun 2016	Athens
National Rapporteur on Trafficking, Ministry of Foreign Affairs	2 Jun 2016	Athens
United Nations High Commissioner for Refugees		
Coordinator for Central Macedonia, Greece	29 May 2016	Lagkadikea
International Office Greece	1 Jun 2016	Athens
Non-governmental organisations and practitioners		
Greek Council for Refugees	2 Jun 2016	Athens
Metadrasi	31 May 2016	Athens
PRAKSIS	3 Jun 2016	Athens
Greek Forum of Refugees	4 Jun 2016	Athens
Lesvos Bar Association	3 Jun 2016	Lesvos
Iliaktida	3 Jun 2016	Lesvos
Save the Children	28 May 2016	Polykastro
Save the Children	2 Jun 2016	Athens
Doctors of the World	1 Jun 2016	Athens
Dutch Council for Refugees	4 Jun 2016	Athens
Northern Lights Aid	29 May 2016	Hara Hotel
Hebrew Immigrant Aid Society	4 Jun 2016	Lesvos

ANNEX II – MINISTRY OF INTERIOR LEAFLET FOR IDOMENI

Farsi version:



ΕΛΛΗΝΙΚΗ ΔΗΜΟΚΡΑΤΙΑ

یونانی جمهوری
سیاست وزارت مهاجرت

شما در یونان، که در آن شما مهمانان است. شما موظف به پیروی از قوانین و دستورالعمل دولت یونانی
مرزها، نه مسئولیت دولت یونان است، و بسته خواهد ماند. حل و فصل حاضر هیچ یک از نیازهای اولیه
خود را برآورده نمی کنند. آنها باید فررا و هماهنگ، تحت مسئولیت مقامات یونان، به حرکت به ساختارهای
دولتی یونان به عنوان حل و فصل حاضر به تبع را متوقف خواهد کرد.

دولت یونان به شما شانس خود را در سائل های موقتهمان نوازی، هتل ها، اردوگاه ها و تسهیلات دیگر
زندگی می کنند، در مناطق مختلف کشور می دهد.

این سایت باز اما محافظت و به منظور امن است کنترل می شود. وجود دارد به شما خواهد شد تمام ابزار
لازم برای زندگی خود را ارائه: محصولات غذایی، مراقبت های پزشکی، لباس و لوازم آرایشی.

در طول اقامت خود در این مکان هتل به شما اجازه خروج و حرکت آزادانه، با تعهد، یا این حال، بازگشت
به این منطقه که در آن شما در یک زمان خاص اقامت و اطاعت از قوانین، در حین این صورت شما حق
خود را از دست بدهند اقامت.

همچنین شما می خواهد تعهد به ثبت نداشته باشند. در یک زمان کوتاه از ورود اولیه خود را به مرکز، به شما
خواهد شد توسط مقامات یونانی در اطلاع از حقوق خود را در مورد پناهنده‌گی در یونان و امکان برای
و اطلاعات کسانی که واجد شرایط برای عضویت در برنامه اسکان مجدد در یک کشور دیگر است. اروپا
در روند الحاق به خانواده یا دیگر اعضای خانواده خود را در کشورهای عضو اتحادیه اروپا.

همچنین شما می خواهد به شما داده می شود، تسهیل توانایی خود را، هر دو حقوقی و مالی، به بازگشت به
کشور خود را از مجاد در صورت وجود تضاد پناهنده‌گی شما در یونان را رد و یا اگر شما می خواهید

لطفاً مطابق دستورالعمل ها و سفارشات از مقامات که در تماس با شما می آیند تا شما را از روند انتقال
تدریجی خود را در مسکونی