

Input by civil society to the 2021 EASO Asylum Report

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C o l l e a g u e s ,

The production of the *EASO Asylum Report 2021* is currently underway. The annual [Asylum Report series](#) present a comprehensive overview of developments in the field of asylum at the regional and national levels.

The report includes information and perspectives from various stakeholders, including experts from EU+ countries, civil society organisations, UNHCR and researchers. To this end, we invite you, our partners from civil society, academia and research institutions, to share with us your reporting on developments in asylum law, policy or practice in 2020 (and early 2021) by topic as presented in the online survey.

Please note that the EASO Asylum Report does not seek to describe national systems in detail but rather to present key developments of the past year, including improvements and challenges which remain. Your input can cover practices of a specific EU+ country or the EU as a whole. You can complete all or only some of the sections.

All submissions are publicly accessible. For transparency, 2021 contributions will be published on the EASO webpage. Contributions to the 2020 EASO Asylum Report by civil society organisations can be accessed [here](#), under 'Acknowledgements'. All contributions should be appropriately referenced. You may include links to supporting material, such as analytical studies, articles, reports, websites, press releases or position papers. If your organisation does not produce any publications, please make reference to other published materials, such as joint statements issued with other organisations. Some sources of information may be in a language other than English. In this case, please cite the original language and, if possible, provide one to two sentences describing the key messages in English.

The content of the EASO Asylum Report is subject to terms of reference and volume limitations. Contributions from civil society organisations feed into EASO's work in multiple ways and inform reports and analyses beyond the Asylum Report.

Your input matters to us and will be much appreciated!

Nina Gregori - *EASO Executive Director*

*Please complete the online survey and submit your contribution to the 2021 EASO Asylum Report by **Thursday, 25 February 2021**.*

Instructions

Before completing the survey, please review the list of topics and types of information that should be included in your submission.

For each response, only include the following type of information:

- New developments and improvements in 2020 and new or remaining challenges; and
- Changes in policies or practices, transposition of legislation or institutional changes during 2020.

Please ensure that your responses remain within the scope of each section.

Contributions by topic

1. Access to territory and access to asylum procedures (including first arrival to territory and registration, arrival at the border, application of the non-refoulement principle, the right to first response (shelter, food, medical treatment) and issues regarding border guards)

Since early 2020, allegations of push back practices both at the Greek Turkish land border in Evros Region and at the Greek Turkish sea borders (Aegean sea) have been significantly increased. Despite the fact that as underlined by major human rights bodies such as allegation/reports are “credible” (see UNCHR, 21 August 2020; CPT 2020), no proper investigation has been conducted by the Greek Authorities, which deny such allegations as “fake news”. An indicative list of public statements and other materials of national and international human rights bodies includes:

- Council of Europe, Commissioner for Human Rights, Time to immediately act and to address humanitarian and protection needs of people trapped between Turkey and Greece, 3 March 2020
- UN Special Rapporteur on the Right to Migrants, Greece: Rights violations against asylum seekers at Turkey-Greece border must stop, 23 March 2020
- EU Commissioner for Home Affairs, Intervention in European Parliament LIBE Committee on the situation at the Union’s external borders in Greece, 2 April 2020
- IOM, IOM Alarmed over Reports of Pushbacks from Greece at EU Border with Turkey, 10 June 2020
- UNHCR, UNHCR calls on Greece to investigate pushbacks at sea and land borders with Turkey, 12 June 2020
- Greek National Commission for Human Rights, Statement with regards the alleged push back practices, 9 July 2020,
- UNHCR, UNHCR concerned by pushback reports, calls for protection of refugees and asylum-seekers, 21 August 2020
- Council of Europe, Report to the Greek Government on the visit to Greece carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 13 to 17 March 2020, CPT/Inf (2020) 35, 19 November 2020, paras. 53 seq.

Moreover in November 2020, the European Commission has called for an extraordinary Frontex Management Board meeting, as a reaction to reports of complicity of the European Border and Coast Guard Agency (Frontex) in alleged pushback operations in Greece. Inter alia, in the Conclusion of the Management Board’s meeting on 20-21 January 2021, it is mentioned that further inquiry is needed with regards five of the examined incidents. Moreover as reported, OLAF, the EU Anti-Fraud Office, has launched an investigation over Frontex.

The Greek Council of Refugees (GCR) has initiated a number of penal procedures before domestic Courts, with regards alleged pushbacks incidents over the past years. However up until today, such legal actions have not come to a result by the end of 2020 and in one case has been rejected, following a narrow assessment of the evidences and on the grounds of general assumption that the Greek Authorities do not proceed to such refolement operations.

Severe overcrowding persisting in Samos (capacity of Samos Reception and Identification Center on 22/2 /2021: 648; occupancy: 3432 persons) and in Chios islands (capacity of Chios RIC on 22/2/2021: 1014; occupancy: 1700 persons) , inadequate reception conditions in Lesvos temporary reception camp, created after Moria fire and a practice of automatic detention upon arrival of all newly arrived persons in Kos island since January 2020, has a significant impact on the provision of first response to newly arrived persons.

2. Access to information and legal assistance (including counselling and representation)

Due to the complexity of the procedure and changing legislation (national legislation on asylum has been amended by L. 4636/2019, entry into force 1.1.2020 and L. 4686/2020 of May 2020) and practice, as well as bureaucratic hurdles, access to comprehensible information remains a matter of concern. Given that legal aid is provided by law only for appeal procedures and remains limited in practice, applicants often have to navigate the complex asylum system on their own, without sufficient information.

For those detained, due to the lack of sufficient interpretation services provided in detention facilities, access to information is even more limited. As observed in the preliminary findings of the UN Working Group on Arbitrary Detention, published in December 2019, following the group's visit to Greece, "no information is provided by the police to the detainees on their right to apply for international protection or the procedural stages; such information is only provided by non-government actors. No further information appears to be provided regarding the detention time limits. In addition, both the original detention decisions and their reviews following ex-officio review by the judicial authorities are only drafted in Greek. Most PRDCs do not have interpretation services for most languages, and when interpreters exist, they do not undertake the interpretation of all procedural steps, documents and everyday issues, especially taking into consideration the high number of detainees in many PRDCs". The findings of the UWGAD remain valid for 2020. The lack of sufficient interpretation services and the lack of information for those detained, are also corroborated by the CPT most recent Report on Greece, following the visit of the delegation in March 2020 (CPT 2020).

No state-funded free legal aid is provided at first instance, nor is there an obligation to provide it in law. Free legal assistance and counselling to asylum seekers at first instance is only provided by a number of civil society organisations. The scope of these services remains severely limited, taking into consideration the number of applicants in Greece and the needs throughout the whole asylum procedure – including registration of the application, first and second instance, judicial review.

The capacity of the state-provided second instance legal aid scheme remained critical during 2020 and free legal aid services at second instance under these scheme were not available or were significantly limited during the year, as for example in Lesbos island (see Legal actors express serious concerns regarding the lack of state free legal aid for asylum applicants in Lesbos, 21 January 2021, <https://www.gcr.gr/en/news/press-releases-announcements/item/1591-legal-actors-express-serious-concerns-regarding-the-lack-of-state-free-legal-aid-for-asylum-applicants-in-lesvos>). To this regard it should be noted, given the new legislation on asylum -entry into force as of 1.1.2020, (L. 4636/2019)- and the requirements introduced for lodging and for the examination of a second instance Appeal, the limited provision of free legal assistance in practice poses insurmountable obstacles in accessing second instance procedure (see below).

During the year GCR has received complaints with regards the effective operation of the state-provided free legal aid scheme which include absence of communication with the appointed lawyers, delays in responding to the applicants whether their application for the appointment of lawyer was accepted, poor or wrong information regarding pending proceedings before Appeals Authority and/or the applicants obligation - particularly during the Covid pandemic.

A call of interest in order to supplement the Registry was published by the Ministry of Migration and Asylum, in September 2020 providing for 95 additional positions, nonetheless candidates were to be selected and appointed according to the date of their application while qualifications prescribed were limited to a good knowledge of English and being a member of a lawyers Bar Association.

3. Provision of interpretation services (e.g. introduction of innovative methods for interpretation, increase/decrease in the number of languages available, change in qualifications required for interpreters)

Insufficient interpretation services while the asylum procedure have been observed during 2020. In several cases, the fact that asylum claims remain pending for extended periods/are rescheduled with significant delays, is attributed- amongst others- to limited interpretation services. The same applies for the delays in registration of asylum claims even of detainees.

Similarly, in the scope of state- provided legal aid, timely access to interpretation services, is not always granted especially in cases where the short deadlines of the border procedure are to be met.

The lack of interpreters of rare languages is also an issue of concern. During the first trimester of 2020, the RAO of Lesbos rejected several cases of detainees, who were asked to be examined in languages they did not understand adequately. Their requests have been rejected on the grounds that they did not cooperate with the authorities. GCR undertook the case of one of the people, who could only speak Wolof but not French and was succinctly rejected because he could not establish communication with the interpreter in French. The case has been rejected also by the Appeals Authority and an application for the annulment of the decision is currently pending before the competent Administrative Court.

Another issue relates to the interpretation telecommunication system that is used on the islands. Due to lack of a sufficient number of interpreters capable to cover the needs of all languages in all the locations, a telecommunication system is being used, where the applicant is in one location and the interpreter is in a distant location and is offering their services remotely. In case of double interpretation there can be two interpreters in remote locations. Technical problems with this interpretation telecommunication system have led in many cases to the cancellation of asylum interviews. Moreover the application of such a telecommunication system where the asylum seeker has no direct contact with the interpreter-s leads to the questioning of the quality of the interpretation.

4. Dublin procedures (including the organisational framework, practical developments, suspension of transfers to selected countries, detention in the framework of Dublin procedures)

Several obstacles and practices hindering or undermining the effective enjoyment of the right to family reunification within the framework of the Dublin procedure persist:

- In the absence of original personal documents, Member States often require expensive and time-consuming alternatives for proving family links. Spain, the United Kingdom and Germany, in the absence of proper documentation, regularly asks applicants for a DNA test, which costs approximately €500 per person. During 2020, a DNA test was used in more than 100 cases of family reunification to prove family links.
- Documents nearly always need to be translated at the applicants' expense, although most Member States accept translations into English.
- Without legal assistance it is nearly impossible for asylum seekers to meet these obligations, let alone within the deadlines. As state-funded legal aid is not provided for first instance procedures, applicants must rely on the limited legal support provided by NGOs.
- The severe lack of Guardians, especially on the Greek islands, results in children not having representation and/or support for lodging their family reunification applications.
- Some Member States reject family reunification cases based on a questionable interpretation of the 'best interest of the child', or when they do not consider the child to be 'unaccompanied'.
- Sometimes cases are rejected on a technicality, such as when member states do not consider the best interest assessment form to be valid because it was completed by a professional not officially appointed by the unaccompanied minor or the Public Prosecutor for Minors.
- Increasingly, Member States, mostly Scandinavian countries and Austria, reject cases because the age assessments have not been conducted according to the receiving country's methods.
- A lack of answers and timely information has been among the biggest challenges faced by asylum seekers when applying for family reunification.
- Member states' rejection letters usually provide insufficient or no reasoning, and most of the time, the rejection is based on the formal rules rather than the substantial rules and binding criteria laid down in the Regulation (such as family unity and the best interests of the child). This means that a number of rejections have been based on missing documentation, bearing no explanation for why the lack of this particular document prevents acceptance of the case.
- During the pandemic, it has been particularly difficult for applicants to meet deadlines or provide the necessary documentation. However, Member States have showed no flexibility, and deadlines were not extended.
- With regards to family reunification requests from Greece to Germany, in some cases the 3-months deadline from when a person first expresses their will to seek international protection, expired, because of the pandemic. Specifically, applicants who arrived to Greece during the time the GAS was closed to the public (March – May 2020) could not register their claims, and since deadlines were not extended, the deadline passed without having the possibility to communicate their case and send their request in time.
- The pandemic overturned the scheduling of transfers from Greece to other member states throughout 2020. Nearly all EU countries temporarily suspended Dublin transfers. From March to July 2020, no transfers took place from Greece to other Member States, with the exception of two group transfers (73 persons in May and 29 persons in June).
- During the second half of 2020, due to Covid 19 measures, flights to other member states were significantly limited. Delays were also reported; before the pandemic, the average time for a transfer was 3-4 months after receiving a positive decision from the other Member State.
- However, during 2020, due to a number of Covid 19 related restraints, such as extended backlogs, limitations on the number of people arriving by plane in the territory of member states, limited flights, flights being cancelled (as is the case with flights to Germany, Austria and Italy) and restrictions from the airline companies, transfers when available, took place right before the 6 months (from the positive decision) was due to expire.

5. Special procedures (including border procedures, procedures in transit zones, accelerated procedures, admissibility procedures, prioritised procedures or any special procedure for selected caseloads)

Two types of border procedures are provided by national legislation. The first will be cited here as “normal border procedure” and the second as “fast-track border procedure”. In the second case, many of the rights of asylum seekers are severely restricted (see below).

In the “normal border procedure”, where applications for international protection are submitted in transit zones of ports or airports, asylum seekers enjoy the same rights and guarantees with those whose applications are lodged in the mainland. However, deadlines are shorter. Where no decision is taken within 28 days, asylum seekers are allowed entry into the Greek territory for their application to be examined according to the provisions concerning the Regular Procedure. During this 28-day period, applicants remain in de facto detention.

A “fast-track border procedure” is foreseen by the law on asylum (L. 4636/2019), in force since 1 January 2020. Article 90(3) L. 4636/2019 largely repeats the provision of Article 60(4) L. 4375/201 but as opposed to the previous provision the L. 4636/2019 does not refer to the fast track border procedure as a procedure applied by way of exception. In practice it is applicable to those arrived on the Greek Eastern Aegean islands.

The main features of the fast-track border procedure under the L. 4636/2019 provides among others that: (a) The registration of asylum applications, the notification of decisions and other procedural documents, as well as the receipt of appeals, may be conducted by staff of the Hellenic Police or the Armed Forces, if police staff is not sufficient; (b) The interview of asylum seekers may also be conducted by personnel deployed by EASO. However, Article 90(3) also introduced the possibility, “in particularly urgent circumstances”, the interview to be conducted by trained personnel of the Hellenic Police or the Armed Forces, as opposed to the strict limitation to registration activities under the previous L. 4375/2016; (c) The asylum procedure shall be concluded in a short time period. This may result in the underestimation of the procedural guarantees provided by the international, European and national legal framework, including the right to be assisted by a lawyer.

In practice the fast-track border procedure has been variably implemented depending on the profile and nationality of the asylum seekers concerned.

Within the framework of that procedure: Applications by Syrian asylum seekers are examined on admissibility on the basis of the Safe; Third Country concept; Applications by non-Syrian asylum seekers are examined only on the merits;

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

Exempted categories from the fast-track border procedure under the L. 4636/2019

As opposed to the previous legislation, the L. 4636/2019 repeals the exception of persons belonging to vulnerable groups and applicants falling under Dublin Regulation from the fast-track border procedure. The L. 4636/2019 extends the list of cases that can be examined under the accelerated procedures. Article 83(7) L. 4636/2019 repeats the list provided in L.4375/2016 and also adds the following cases which are examined under the accelerated procedure: the applicant submitted a subsequent application; the applicant entered the country “illegally” (sic) or he/she prolongs “illegally” his/her stay and without good reason, he/she did not present himself/herself to the authorities or he/she did not submit an asylum application as soon as possible, given the circumstances of his/her entrance; the applicant may be considered on serious grounds as a threat to the public order or national security; the applicant is a person belonging to a vulnerable group under the conditions that he/she receives appropriate support in accordance with the provisions with regards “Applicants in need of special procedural guarantees”. According to Art. 83(4) L. 4636/2019 the examination of an application under the accelerated procedure must be concluded within 20 days, subject to the

possibility of a 10-day exception. Since the entry into force of the L. 4636/2019, the time limit for lodging an appeal against a decision in the accelerated procedure is 20 days, as opposed to 30 days under the regular procedure.

6. Reception of applicants for international protection (including information on reception capacities – increase/decrease/stable, material reception conditions - housing, food, clothing and financial support, contingency planning in reception, access to the labour market and vocational training, medical care, schooling and education, residence and freedom of movement)

A marked decrease of the population in the island RICs was observed throughout 2020, which coupled with the expanded capacity of the temporary site in Mavrovouni, Lesvos (10,000 places), when compared to the capacity of the former Moria RIC (2,840 places), gives the impression of improvements in the Greek system of first-line reception. Namely, from 38,423 persons being accommodated in island RICs with an official capacity of 6,178 places at the end of 2019 (621% above capacity), at the end of 2020 there were 14,265 persons residing in island RICs with a capacity of 13,338 (107% above capacity).

However, reception conditions remain well below acceptable EU standards, particularly in the temporary Mavrovouni RIC, which is not fit for purpose and remains exposed to adverse weather conditions, and the RICs of Samos and Chios, which at the end of 2020 still operated at more than five times and more than twice their respective capacities. The safety of the residents of the RICs also remains a matter of concern. As noted by UNHCR in early January 2021, “most of the roughly 19,100 asylum-seekers at the reception and identification centres and the Mavrovouni site on the Greek Aegean Islands as of 3 January must cope with difficult living conditions and are exposed to various security risks, including gender-based violence” (UNHCR, Greece Update no.13, 8 January 2021, <https://bit.ly/2P6FEse>, p.3).

A significant improvement has been observed with respect to housing arrangements for Unaccompanied Minors (henceforth UM), with the number of dedicated long-term accommodation places for UM further increasing from 1,286, at the end of 2019, to 1,715 at the end of 2020 (33% increase). This has also resulted in a marked decrease in the number of UAM residing for long periods of time in unsuitable RICs on the islands and the mainland, from 1,809 at the end of 2019, to 127 by the end of 2020. However, the lack of necessary data does not allow for an assessment of the extent to which this welcome improvement has also been impacted by the number of UAM that have reached legal adulthood in the reporting period, at which point they are frequently transferred to other sections of the RICs (or mainland camps) alongside the adult population. At the same time, GCR is aware of at least 60 alleged UM in the RIC of Samos, who by year’s end were still waiting for an age assessment to be conducted, while deprived of material reception conditions, due to administrative delays and the lack of qualified medical staff in the specific facility. As of 31 December 2020, an estimated number of 924 UM were also still living in informal/insecure housing conditions or in conditions of homelessness throughout Greece, being as a consequence exposed to severe risks of abuse and exploitation.

Access to formal education has remained particularly limited on the islands, where even in 2019 less than one in four asylum seeking children had access to school, yet has been further restricted throughout Greece in 2020, amid the COVID-19 pandemic. Even on the Greek mainland, where 73.7% (5,956 out of 8,081) of school-aged children accommodated in Greece’s 32 mainland sites were enrolled to school at the end of 2020, the vast majority remained excluded from public education, as actual access to school was only guaranteed in the case of 4 facilities and occasional access in a total of 9.

Notwithstanding Greece’s financial situation, which poses a challenge of its own, access to the labour market has similarly remained limited throughout 2020. Following the entry into force of L. 4636/2019 on 1 January 2020, applicants are granted access to the labour market six months after lodging their asylum application (article 53). Meanwhile, administrative challenges and delays hinder applicants’ ability to issue necessary documents, such as a tax registration numbers (AFM), which are required in order to be able to access employment. For instance, as of December 2020, out of the 28,356 persons residing in Greece’s 32 mainland sites, less than 33% had obtained a fiscal registration number (AFM).

Lastly, it should be noted that as per a new practice initiated on the island of Kos as of the end of January 2020, applicants are with scarce exceptions detained upon arrival, without undergoing an effective assessment of their potential vulnerabilities, which inter alia results in their deprivation of special reception conditions.

Pandemic: This also impacts on the operation of quarantine and isolation areas in the context of reception, which though available at all border areas as of the end of 2020, lack sufficient medical staff.

7. Detention of applicants for international protection (including detention capacity – increase /decrease/stable, practices regarding detention, grounds for detention, alternatives to detention, time limit for detention)

The amendments of national legislation in November 2019, L. 4636/2019 - (entry into force on 1.1.2020), have significantly limited the guarantees regarding the detention of asylum seekers and has been largely criticized as “undermin[ing] the general legal principle that the detention of asylum-seekers should be exceptional and only be resorted to when necessary to achieve a legitimate purpose”. Further amendments have been introduced by L.4686/2020 in May 2020.

Inter alia, according to the new legislation maximum time limits for the detention of asylum seekers have been significantly increased (up to a total of 36 months - 18 months maximum time limit of the detention of asylum seekers + 18 months of detention in view of return), grounds for detention have been expanded and the possibility of an asylum seeker already applied at liberty to be detained has been introduced. No alternatives to detention are examined or applied by the Greek Authorities.

Moreover, since mid-2020, the practice of the detention of recognized beneficiaries of international protection on alleged public order grounds, has been adopted by the Greek Authorities, despite the fact that their status has not been revoked and their detention does not have a legal basis in national and EU law. A relevant case, supported by GCR is now pending before the European Court of Human Rights.

Impediments in the asylum procedure may disproportionately affect asylum seekers in detention, whose access to information and legal assistance remains limited. Moreover, and contrary to the EU law, free legal aid is not provided by the State to asylum seekers in detention, in order to challenge the detention decision.

Detention conditions remain inadequate in Pre-removal Detention Centers, inter alia due to their carceral - prison-like- design, the lack of sufficient hygiene and non-food items, the lack of recreational activities and the insufficient provision of medical services. Police stations continue to be used for prolonged detention – exceeding months in some cases- of third country nationals, including asylum seekers.

Measures for the decongestion of detention facilities, during the COVID-19 pandemic, have not been adopted, while Authorities do not assess the necessity of the continuation of detention measures, by taking into consideration the suspension of the operation of the Asylum Service, during lockdown periods and the lack of a reasonable or imminent prospect of removal.

In a welcome development, in December 2020, “protective custody” of unaccompanied minors has been abolished (L. 4760/2020). However, the lack of any legal framework regarding the age assessment procedure to be applied by the Greek Police, undermines the effective enjoyment of children rights, for minors detained by the Greek Police following a wrongful registration as adults.

8. Procedures at first instance (including relevant changes in: the authority in charge, organisation of the process, interviews, evidence assessment, determination of international protection status, decisionmaking, timeframes, case management - including backlog management)

The numbers of unregistered refugees remain large, since access to asylum procedures is overwhelmingly difficult and the ineffectiveness of “SKYPE” remains an unresolved issue. After COVID-19 protection measures many challenges have arisen mostly because of the electronic applications put into operation by the Asylum Service and the limited possibility of a number of applicant to access online applications. As reported, for example in Lesvos (December 2020) “the serving of interview invitations, if it takes place at all, is usually done on the day before the interview and often even on the same day, just a few hours before the interview. On several occasions it has also been observed that applicants are pressured into conducting interviews at extremely short notice and in a language other than their native language. As a result, applicants are effectively deprived of their lawful right to prepare properly prior to the interview and to consult a legal or other counselor” (see Report of Legal Organizations on the quality of remote asylum interviews at RAO Lesvos and the conditions they are conducted under, which pose a health risk to asylum seekers and employees, December 2020, <https://www.gcr.gr/en/news/press-releases-announcements/item/1574-report-of-legal-organizations-on-the-quality-of-remote-asylum-interviews-at-rao-lesvos-and-the-conditions-they-are-conducted-under-which-pose-a-health-risk-to-asylum-seekers-and-employees>).

L. 4636/2019 introduced the possibility of a ‘fictitious service’ (πλασματική επίδοση) of first instance decisions. Following the ‘fictitious service’ the decision is considered as communicated and deadlines for lodging an Appeal start. This entails the risk for said deadlines to expire without the Applicant having been actually informed about the issuance of the decision (GCR & Oxfam, Diminished, Derogated, Denied: How the right to asylum in Greece is undermined by the lack of EU responsibility sharing, 2 July 2020). No force majeure reasons should be invoked by the Authorities in order for a Decision to be ‘fictitiously’ serviced (Article 82(3) L. 4636/2019 as amended by L. 4686/2020).

9. Procedures at second instance (including organisation of the process, hearings, written procedures, timeframes, case management - including backlog management)

Recognition rate in second instance remained low in 2020 (5.15%), compared to 5.93% in 2019. L. 4686 /2020, voted in May 2020 has abolished the possibility of referring cases for humanitarian protection. Article 61(e) L. 4686/2020.

Effective access to the second instance procedure has been severely restricted in practice by the successive legislative amendments, L. 4636/2019 – entry into force on 1.1.2020 and L. 4686/2020. As mentioned above, the new law foresees a procedure of ‘fictitious service’ of a first instance decision, which entails the risk for the appeal deadline to expire without the applicant having been promptly informed about the issuance of a first instance negative decision (Article 82(3) L. 4636/2020 as amended by L. 4686/2020). In addition, according to the new law, an appeal against a first instance decision inter alia should be submitted in a written form (in Greek) and mention the “specific grounds” of the appeal. Otherwise, the appeal is rejected as inadmissible without any in-merits examination (Article 93 L. 4636/2019). Given the fact that said requisites can only be fulfilled with the assistance of a lawyer, in conjunction with the aforementioned and significant shortcoming in the provision of free legal assistance under the free legal aid scheme, appeals procedures may be practically non-accessible for the vast majority of applicants. As stated by the UNHCR, with regard to said amendments “[i]n some circumstances, it would be so difficult to appeal against a rejection that the right to an effective remedy enshrined in international and EU law, would be seriously compromised”. (UNHCR, ‘UNHCR urges Greece to strengthen safeguards in draft asylum law’).

L. 4636/2019, has also abolished the automatic suspensive effect for certain appeals, in particular those concerning applications rejected in the accelerated procedure or dismissed as inadmissible under certain grounds (Article 104 L. 4636/2019). As noted by the Greek Ombudsman, “the restriction of the automatic suspensive effect of the Appeal [...] together with the proposed short or even suffocating deadlines, in particular within the framework of the border procedures, and the limited free legal aid in the country entails the risk the right to an effective remedy to be undermined” (Greek Ombudsman, Observation on the draft law of the Ministry for Citizen’s Protection, p. 12).

10. Availability and use of country of origin information (including organisation, methodology, products, databases, fact-finding missions, cooperation between stakeholders)

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11. Vulnerable applicants (including definitions, special reception facilities, identification mechanisms/referrals, procedural standards, provision of information, age assessment, legal guardianship and foster care for unaccompanied and separated children)

According to Articles 39(5)(d) and 58(1) of the of law 4636/2019 (Greek asylum law) relating to reception and identification procedures the following groups are considered as vulnerable groups: children; unaccompanied children; direct relatives of victims of shipwrecks (parents and siblings); disabled persons; elderly; pregnant women; single parents with minor children; victims of trafficking; persons with serious illness; persons with psychological or mental disability and victims of torture, rape or other serious forms of psychological, physical or sexual violence such as victims of female genital mutilation.

According to the law, the Manager of the Reception and Identification Centre, after a justified proposal of the Head of the medical staff of the Centre refer persons belonging to vulnerable groups to the competent public institution for social support or protection. Copies of the medical screening file and of the psychosocial support file shall be sent to the Head of the institution, as per case, where the person is being referred to or resides. In all cases the continuity of the medical treatment followed shall be ensured, where necessary. The finding that one person belongs to a vulnerable group has only the consequence the immediate coverage of his/her special reception needs.

In practice there are significant delays to vulnerability assessments due to a lack of staff and expertise and very often vulnerable applicants fall into cracks. The National Public Health Organization’s medical teams remain understaffed across the islands widening the gap in the process of medical registration, vulnerability assessment as well as primary and mental healthcare.

Regarding age assessment of unaccompanied minors, article 75(3) of Law 4636/2019 provides that the competent authorities may, when in doubt, refer unaccompanied minors for age determination examinations. When such a referral for age determination examinations is considered necessary and throughout this procedure, attention shall be given to the respect of gender-related special characteristics and of cultural particularities.

The provision also sets out guarantees during the procedure: (a) A guardian for the child is appointed who shall undertake all necessary action in order to protect the rights and the best interests of the child, throughout the age determination procedure; (b) Unaccompanied children are informed prior to the examination of their application and in a language which they understand, of the possibility and the procedures to determine their age, of the methods used therefore, the possible consequences of the results of the above mentioned age determination procedures for the examination of the application for international

protection, as well as the consequences of their refusal to undergo this examination; (c) Unaccompanied children or their guardians consent to carry out the procedure for the determination of the age of the children concerned; (d) The decision to reject an application of an unaccompanied child who refused to undergo this age determination procedure shall not be based solely on that refusal; and (e) Until the completion of the age determination procedure, the person who claims to be a minor shall be treated as such.

Ministerial Decision 9889/13.8.2020 lays down the age assessment procedure. In case where there is a doubt as to the age of the third country national, and the person may possibly be a minor, the person is referred for an age assessment.

In 2020 the Special Secretariat for the Protection of Unaccompanied Minors was established. Its mission is to plan, implement and supervise the National Strategy in Greece for the protection of unaccompanied minors.

L. 4554/2018 introduced for the first time a regulatory framework for the guardianship of unaccompanied children in Greek law. However, the Guardianship system is not yet operation by the time of writing and UAMs are deprived by substantial guarantees of an effective guardianship.

12. Content of protection (including access to social security, social assistance, healthcare, housing and other basic services; integration into the labour market; measures to enhance language skills; measures to improve attainment in schooling and/or the education system and/or vocational training)

Provision of documents (residence permit, travel document): International protection beneficiaries are granted residence permit valid for three years renewable (for refugee status beneficiaries) and for one year renewable for 2 more years (for subsidiary protection beneficiaries). In practice, there are significant delays in their issuance. Renewal may also last long, while in the meantime beneficiaries face obstacles in accessing social welfare and security, labour market and other social rights. Residence permit is also issued to their family members for the same period that their residence permit is valid, but with many obstacles in practice depending on the time the family was created. Also, problematic is the case where children of beneficiaries attending 21st year of age who arrived via family reunification procedure, are excluded from renewal of their residence permit (according to article 11 of P.D. 131/2006) and obliged to apply for other type of residence permit under Migration Code. Exclusion that is not followed by any official decision and in many cases (especially where no other provision of Migration Code applies) has as a result to creation of “irregular” children – members of families of beneficiaries of international protection who have been living in Greece for many years and are integrated in the society. Refugee status beneficiaries have the right to issuance of travel documents (TDV) valid for 5 years and beneficiaries of subsidiary protection for only 3 years and only if the last can officially prove their inability to obtain a national passport. A problematic issue is the grant of TDV to minor children of single-parent families where the other parent is not in life or is missing and no official national document can be acquired to prove this fact and the exercise of parental care from the other parent. In such cases, a declaration on oath before the District Court or a Notary must be submitted to legally replace the consent of the missing or deceased parent and where facts or legal acts are registered in a country other than their own and if no supporting documents can be provided, a formal assignation of parental care has to take place on the basis of a decision of a Greek court.

Naturalization: International protection beneficiaries can apply for naturalization if they reside lawfully in Greece for a period of 7 years (period similar to the one required for foreigners residing in Greece on other grounds and contrary to the legal obligation as foreseen in article 34 of the Geneva Convention 1951 regarding facilitation of assimilation of refugees). Naturalisation procedure remains extremely slow.

Family reunification: Only recognized refugees have the right to family reunification. The relative application can be submitted any time, but if submitted within 3 months from the deliverance of the decision of granting refugee status full social security certificate, tax declaration and proof of sufficient accommodation are not required. In practice, it is an extremely lengthy procedure with significant administrative obstacles (issuance of visas, difficulty in obtaining / legalizing documents etc.).

Housing: According to article 33 of L. 4636/2019, beneficiaries of international protection shall have access to accommodation under the same conditions and restrictions applicable to legally residing third-country nationals. Following an amendment to the asylum legislation in early March 2020 (Article 114 L. 4636/2019, as amended by Article 111 L. 4674/2020) states that “after the issuance of the decision granting the status of international protection, material reception conditions in form of cash or in kind are interrupted. Said beneficiaries residing in accommodation facilities, including hotels and apartments have the obligation to leave them, in a 30-days period since the communication of the decision granting international protection”. Unaccompanied minors have the legal obligation to leave the facilities within 30 days of reaching the age of majority.

Employment: Beneficiaries of international protection are entitled to engage in employed or self-employed activities without an obligation to obtain a work permit. In reality, the Greek bureaucracy and its lengthy procedures together with other administrative obstacles may hinder their access to the labour market and registration with the Unemployment Office of OAED.

Education: Children of beneficiaries of international protection have the right to study at primary and secondary education institutions of the public education system, under the same conditions as nationals.

Health care: Free access to health care for beneficiaries of international protection is provided under the same conditions as for nationals. In practice, lack of translators - cultural mediators in the public health sector, hinders effective access in the health care system.

13. Return of former applicants for international protection

According to the official data, a total number of 3,660 forced removals have been implemented during 2020 (the data do not distinguish between former applicants of international protection and third country nationals who have not applied for international protection). Almost 80% of the total number of forced returns concern citizens of Albania (2,909). Moreover and out of the total number of 2020 removals, 139 of those refers to removals that took place within the framework of the Eu-Turkey Statement (readmission to Turkey). Since March 2020, no readmission to Turkey is taking place within the framework of the EU-Turkey Statement, while as noted by the Greek Authorities, they have not received any reply for the requests submitted since June 2020. However and despite the fact that during this period readmission to Turkey is not feasible, detention measures imposed on this grounds have not reviewed by the Greek Authorities. Moreover, applicants whose application has been rejected as inadmissible on the basis of the Third Safe Country concept vis-à-vis Turkey (these concern Syrian applicants on the Greek Islands) have not been examined on the merits pursuant to Art. 38(4) of the Directive 2013/32/EU (Procedural Directive) providing that “[w]here the third country does not permit the applicant to enter its territory, Member States shall ensure that access to a procedure is given in accordance with the basic principles and guarantees described in Chapter II”.

14. Resettlement and humanitarian admission programmes (including EU Joint Resettlement Programme, national resettlement programme (UNHCR), National Humanitarian Admission Programme, private sponsorship programmes/schemes and ad hoc special programmes)

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15. Relocation (ad hoc, emergency relocation; developments in activities organised under national schemes or on a bilateral basis)

In a number of welcome initiatives in 2020, particularly after the fires that burned down the former Moria RIC, on Lesbos, in September, sixteen member states pledged to relocate a total of 1,600 UM from Greece, alongside another 3,600 vulnerable asylum seekers and beneficiaries of international protection. As noted by UNHCR, IOM and UNICEF, “The relocation efforts are humane, concrete demonstrations of European solidarity [...] The agencies noted that there is a need to move beyond one-off relocation exercises and establish more predictable arrangements for relocation within the EU, for longer-term impact” (UN agencies welcome first relocation of unaccompanied children from Greece, 15 April 2020). Not least due to COVID-19-related limitations, as also highlighted by Amnesty International, the implementation of relocations from the Greek islands has been “extremely slow”, with less than half (2,050) of pledges having been fulfilled by 17 December 2020.

Furthermore, notwithstanding the general criteria of eligibility for the ad hoc schemes (e.g. UM, children with medical conditions and vulnerable asylum seekers and beneficiaries of international protection), the particular criteria by which each member state decides on the eligibility of specific applicants remain unknown, inter alia challenging the ability of civil society organizations to assist with the schemes’ implementation and further compounding the anxiety and confusion of potential beneficiaries, as observed by GCR.

16. National jurisprudence on international protection in 2020 (please include a link to the relevant case law and/or submit cases to the [EASO Case Law Database](#))

17. Other important developments in 2020

The outbreak of COVID 19 affected seriously the asylum procedure in Greece: measures have been taken by the Greek State for securing public health that affected the access to the asylum procedure for asylum seekers. The Asylum Service, the Regional Asylum Offices (RAO) and the Autonomous Asylum Units (AAU) have all suspended the reception of public for specific time periods. To respond to this crisis the Greek Asylum Service established an online platform (<https://applications.migration.gov.gr/en/ypiresies-asylou/>) where applicants and their lawyers can apply for several issues. However, concerns have been raised regarding the functioning of this platform and the ability of persons concern to effectively access online services.

References and sources

18. Please provide links to references and sources and/or upload the related material in PDF format

see attached document

19. Feedback or suggestions about the process or format for submissions to the EASO Asylum Report

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Contact details

* Name of organisation

GREEK COUNCIL FOR REFUGEES

Name and title of contact person

MARIA PAPAMINA, Coordinator of GCR Legal Unit

* Email

papamina@gcr.gr

I accept the provisions of the EASO [Legal and Privacy Statements](#)

Useful links

[EASO Asylum Report 2020 \(https://easo.europa.eu/asylum-report-2020\)](https://easo.europa.eu/asylum-report-2020)

[Executive Summary -EASO Asylum Report 2020 \(https://easo.europa.eu/sites/default/files/EASO-Asylum-Report-2020-Executive-Summary.pdf\)](https://easo.europa.eu/sites/default/files/EASO-Asylum-Report-2020-Executive-Summary.pdf)

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[Online database with data and latest asylum trends \(https://easo.europa.eu/asylum-trends-easo-asylum-report-2020\)](https://easo.europa.eu/asylum-trends-easo-asylum-report-2020)

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Contact

ids@easo.europa.eu

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