



Input by civil society organisations to the Asylum Report 2023

Dear Colleagues,

The production of the *Asylum Report 2023* is currently underway. The annual [Asylum Report series](#) presents 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, policies or practices in 2022 (and early 2023) by topic as presented in the online survey.

Please note that the 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, 2022 contributions will be published on the EUAA webpage. For reference, contributions to the 2022 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 Asylum Report is subject to terms of reference and volume limitations. Contributions from civil society organisations feed into EUAA's work in multiple ways and inform reports and analyses beyond the Asylum Report.

Your input matters to us and will be much appreciated!

*Please submit your contribution to the Asylum Report 2023 by **Friday, 3 February 2023**.*





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 2022 and new or remaining challenges; and
- ✓ Changes in policies or practices, transposition of legislation or institutional changes during 2022.

Please ensure that your responses remain within the scope of each section. Do not include information that goes beyond the thematic focus of each section or is not related to recent developments.

Contributions by topic

1. Access to territory and access to the asylum procedure (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 22.8.2022¹, persons who are in the mainland and wish to file an asylum claim without having previously undergone reception and identification procedures should use the Ministry's e-platform (apps.migration.gov.gr/international-protection-registration) to get an appointment for the registration of the application for international protection (initial or subsequent). To this end, they should complete the questionnaire that is provided online at the platform, by providing their basic personal details. Above applicants should present themselves in person on the date of the appointment either in the Reception and Identification Center of Malakasa (Southern Greece) or in the Reception and Identification Center of Diavata (Northern Greece). Both centers are established by PD 77/2022². The above platform does not provide the possibility to register either the applicant's vulnerability or the Dublin cases.

Both reception and asylum authorities operate in the above Reception and Identification Centers and by using a single registration form they register the personal details of the applicants and the reasons they have fled their countries of origin. However, besides the technical problems of accessing the questionnaire of the platform that led to the impossibility of the applicants concerned to register the claim and ask for an appointment at the above centers, its operation is not fully compliant with the EU Procedures Directive. For instance:

¹ Press release, New "appointment booking" platform for subsequent applications launched by the Asylum Service, <https://migration.gov.gr/en/platforma-programmatismos-apodosis-rantevoy-gia-ypovoli-metagenesteris-aitisis-tis-ypiresias-asyloy/>

² Published in the Official Gazette 212 A/17.11.2022, available in Greek, at: <https://www.e-nomothesia.gr/kat-allodapoi/pd-77-2022.html>





- non-compliance with the obligation to register the asylum claim within three days after the filing of the application or in case the full registration of the claim is not possible to proceed with the two steps registration - partial registration and then full registration after 15 days;
- non-compliance with the obligation of the state to provide the asylum seeker's card after the partial registration which in turn restricts the rights of asylum seekers to shelter, food etc.;
- non-compliance with the obligation of the state to provide information to the applicants on the asylum procedure, including but not limited to the type of cases that are examined in the above centers and their right to consult a lawyer.

Further in the Reception and Identification Centers, applicants for international protection are deprived of their personal liberty. Through the management of cases by the legal aid actors and the visits of UNHCR it is observed that:

- Non-vulnerable applicants with claims examined on admissibility grounds (safe country of origin) leave Malakasa after the issuance of the decision by the asylum service (meaning that they are deprived of their personal liberty until the issuance of the decision of the asylum authorities);
- Vulnerable applicants with claims examined on admissibility grounds (safe country of origin) leave Nea Malakasa after the registration of their asylum claim and their personal asylum interview is conducted by asylum offices;
- Non vulnerable applicants with claims examined under the normal/regular procedure (admissibility grounds are not applicable) leave Malakasa after the registration of their asylum claim and their personal asylum interview is conducted by asylum offices.

Equally problematic is the access of the vulnerable applicants who are in the mainland to the asylum procedure. While it is not mentioned on the website of the platform, it seems that vulnerable applicants are allowed to lodge their asylum applications when they show up at the above RICs without an appointment scheduled by the platform. However, the rules and the practice for the immediate lodging of asylum claims at the RICs of Diavata and Malakasa without previous appointment through the online registration are not known. In some cases, persons showing up in Diavata without any legal support are immediately accepted to lodge their application, while in Malakasa they are advised either to register through the online platform and then contact the site management or to contact the site management by email asking for the scheduling of an appointment. Considering that the online platform does not provide for the prioritization of the vulnerable applicants, it was observed that vulnerable applicants who show up at the RIC of Malakasa were immediately registered without having previously submitted an online application through the platform.

Therefore, while, the platform aims in ensuring the access to the asylum procedure of persons being in the mainland through their request to be subjected to reception and identification procedures in the above RICs of Diavata and Malakasa, it does not fulfill all the requirements of the Procedures Directive concerning the access of asylum seekers to the rights that are guaranteed by the EU Asylum Law, especially for the right of access to the asylum procedure and it is not compliant with the basic principle of EU law concerning the transparency of the administrative action.

Regarding the access to the territory, statistical information on the informal forced returns is provided by the Recording Mechanism that operates under the National Commission of Human Rights³. The

³ The Mechanism was launched in January 2023 (see at: <https://www.nchr.gr/en/news/1544-press-release-presentation-of-the-recording-mechanism-of-incidents-of-informal-forced-returns-and-its-first-interim-report.html>)





Mechanism that was founded in September 2021 collected the testimonies of alleged victims in 28 incidents that happened in 2022, while the minimum number of alleged victims in 2022 was 1397⁴. Special conditions are applicable for the access to the territory and to the temporary protection of persons fleeing UA because of the war. The Ministry of Migration and Asylum created a special webpage⁵ that provides information for the access to the territory (for those who are holders of passports, both biometric and non-biometric, for families, when the children are not holders of passports etc). While only those who are in Greece since 26.11.2021 are entitled to the temporary protection status, UA or third country nationals who do not fall in the scope of application of the Directive 2001/55, who have entered Greece before the above date are entitled to file the application for international protection at the Regional Asylum Offices. An internal guidance was issued by Asylum Service that clarifies that asylum applicants who have entered legally in Greece (ie. holding a national passport) are entitled to register their asylum claim without accessing the above online platform (that is available only for applicants who have never undergone reception and identification procedures). Regarding the beneficiaries of temporary protection, despite the easy access they have to their registration and to the issuance of their residence permits that gives them the right to access integration rights, it has been observed that they file asylum claims because they do not want to return to their country of origin when the war will be over, and the country devastated.

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

Article 76 of Law 4939/2022 provides for the right of asylum seekers to legal counselling by lawyers of their choice. The legal counselling includes support for the registration/lodging of the asylum application, the support during the asylum interview, including the drafting of memo that documents the claims of asylum seekers and that is filed with asylum authorities, the lodging of appeal before the Appeals Committees (by lawyer of their choice or by lawyer of the free legal aid system that is implemented by Asylum Service), the drafting of memo to support the appeal before the Committees and the representation before the Courts when the asylum claim is rejected by the administrative authorities. The legal support for cases brought before the Courts includes the draft of the relevant legal document and the support of the case at the hearing. The representation before the asylum authorities and the Courts is documented by authorization that is signed by the applicants before a public authority that certifies their signature.

The access of applicants to legal assistance in the Reception and Identification Services on the mainland (ie. Malakasa, Diavata and Fylakio) is extremely problematic because of the new access control system, applicable to all persons entering and working in the reception facilities operating in Greece under the Ministry of Migration and Asylum⁶. This system is applicable to the beneficiaries hosted in the reception facilities, to the staff working in them, to the staff of international organizations that visit and / or provide services to the beneficiaries, to lawyers who want to meet with their applicants etc. Article 5 of the Presidential Decree 77/2022 provides that the mandate of the Unit of Logistics and Standards of the IT and Communications Infrastructure Directorate is to support the access control

⁴ See, the Interim Report of the Mechanism at:

https://www.nchr.gr/images/pdf/nea_epikairothta/deltia_tupou/2023/Interim_Report_echanism_en.pdf

⁵ Available, in English, in Ukrainian and in Russian at : <https://migration.gov.gr/en/ukraine/>

⁶ See also, The Joint Civil Society Submission to the European Commission on the 2023 Rule of Law Report (January 2023), paragraph 28, at: https://hias.org/wp-content/uploads/Greece-RoL2023_JointSubmission_CS0.pdf





system in the issuance or the cancellation of entry cards that are used to control the entry of NGO staff to all the services of the Ministry. The Ministry of Migration and Asylum has an access control system called YPERION. The YPERION control system also collects fingerprints of people who have submitted a request for international protection and who are residing in the sites. From asylum seekers, also their benefits (e.g. food, clothing, supplies, etc) as well as their movement between the centres and the accommodation facilities are tracked.

The individual card of NGOs members is issued by the Ministry of Migration and Asylum for the staff of NGOs that are registered with the Ministry. Lawyers working with NGOs under job contract (mandated lawyers) are exempted from the registration with the Ministry of Migration and Asylum according to the relevant legal opinion of Athens Bar Association that supports that they have a special status as provided by the Code of Greek Lawyers and therefore they can use only their professional ID card to enter the Closed Controlled Centers. The manual of the Ministry of Migration and Asylum for the implementation of YPERION (it is not public, nor shared officially with the NGOs) regarding the entry-exit procedures at Closed Controlled Centers provides for the special procedure that is applicable to the lawyers who want to enter the Closed Controlled Centers to meet with the applicants who need legal support. The relevant procedures, that provide for the “visitor” card to be used by the lawyers are compliant with the above Legal Opinion of Athens Bar Association. But, the above manual provides for strict rules concerning the access of the lawyers to the sites, including, for example, the requirement to contact by email the site manager to request permission to enter the site. The Head of the Directorate of RICs and of the Closed Controlled Centers of the Ministry of Migration and Asylum supports that lawyers do not have to get registered with the Ministry of Migration and Asylum. No prior permission of the Ministry of Migration and Asylum is required for their entry in the sites to meet with the clients. It has however been observed both at the Closed Controlled Centers on the Islands but also at the RIC of Malakasa (which does not fall in the scope of the above manual for the implementation of the YPERION system as it mentions that it is applicable at the Closed Controlled Centers of the islands) that the site managers are asking the lawyers to present a written authorization signed by their clients to allow them to enter the sites. This practice that it is not described in the above manual, is not compliant with the notion of “representation” as defined in the Greek legal jurisdiction that foresees that the relevant mandate can be provided orally or in written. In this context, the relevant Legal Opinion of Athens Bar Association requested by the members of the Legal Aid Working Group clarifies that the requirement of a written authorization, when the lawyer has not yet met with the client, deprives him of the access to legal support and counselling and violates the relevant right. Because of the obstacles of the entry of the lawyers at the Closed Controlled Centers (operating on the islands of North-Eastern Aegean) and at the Reception and Identification Center of Malakasa (described above), asylum seekers who managed to get an appointment to lodge their asylum application do not have unhindered access to their lawyers. It was observed that the site manager of Malakasa does not answer to the emails of lawyers requesting to enter the site to meet with their clients (even though the lawyers have complied with the rules of the YPERION manual). The site manager further claims that the lawyers are not allowed to enter the site when they have not received an answer to their request to enter the site. In another case the site manager of the Ritsona Controlled Facility of Temporary Accommodation did not allow the lawyer to meet with his clients outside the hours he indicated the lawyer could meet with them. Furthermore, the site manager of the Closed Controlled Center of Samos would not allow the lawyer to enter the site requesting for her registration with the Ministry of Migration and Asylum (as if the lawyer is staff of the NGO, disregarding the special legal status of lawyers) and was asking for a written authorization to be presented as a proof of the representation of the applicants to allow the entry of the lawyer in the site. In addition, the rule of the





prior request for entry in the site filed with the site manager by email, is a serious obstacle for the access of asylum seekers to their lawyers especially when the asylum authorities invite applicants for the asylum interview the day after; in these cases the lawyers cannot comply with the rule of the prior request for entry in the site, thus leaving their clients without legal support.

The above considerations reflect the serious obstacles of the access of asylum applicants to legal aid that is due to:

- Lack of transparency in the administrative action (the manual for the implementation of the YPERION system for the access of the lawyers at all the types of reception facilities is not public nor the Ministry of Migration and Asylum has published the rules that are applicable for the access of the lawyers at all types of reception facilities). While the non-public manual is applicable at the Closed Controlled Centers of the islands, it has been observed that it is also applicable at the RIC of Malakasa,
- The entry rules for the lawyers to have access to the applicants hosted in the closed controlled centers of the islands and at the RIC of Malakasa are not implemented in a uniform way. While the Ministry of Migration and Asylum acknowledges that lawyers should not register with the Ministry to enter the Closed Controlled Centers, the site managers locally request the registration of the lawyers to allow them to enter the reception facility and to meet with the applicants.
- The rule of the Ministry of Migration and Asylum that lawyers should request prior permission to enter the reception facilities disregards the roles and responsibilities and the professional status of lawyers when they provide their services, especially in the cases where the need of the applicants to meet with them is not foreseeable and therefore, there is no time to ask for such prior permission.

As for the provision of information by the asylum authorities, it is observed that while they are available at the site of the Ministry of Migration and Asylum⁷ the relevant links are not connected with the platform for the pre-registration of the asylum claim.

The Joint Civil Society Submission to the European Commission on the 2023 Rule of Law Report (January 2023)⁸ flags the obstacles asylum applicants face for the access to the administrative courts (to challenge the negative decisions issued by the Appeals Committees) and to the Council of State (to challenge the negative decisions issued by the administrative courts). While the application for judicial review can be filed only by lawyer, the remedy remains largely inaccessible in the absence of a free legal assistance scheme. Legal aid may only be requested under the general provisions of Greek law⁹, which are in any event not tailored to asylum seekers and cannot be accessed by them in practice mainly because it is granted only if the legal remedy for which the legal assistance is requested is not considered “manifestly inadmissible” or “manifestly unfounded”¹⁰. Accordingly, as already found by the UN Working Group on Arbitrary Detention, “Inadequate legal aid is provided for challenging a

⁷ <https://migration.gov.gr/en/gas/diadikasia-asyloy/i-aitisi-gia-asylo/> (for the asylum procedure), <https://migration.gov.gr/en/gas/diadikasia-asyloy/i-syntetyxi/> (for the personal interview), <https://migration.gov.gr/en/gas/diadikasia-asyloy/meta-tin-aitisi/> (for the rights and obligations of asylum seekers)

⁸ The document is available at: https://hias.org/wp-content/uploads/Greece-RoL2023_JointSubmission_CSO.pdf. See, paragraph 19.

⁹ Articles 276 and 276A Administrative Procedure Code, L 2717/1999. See also Article 37 PD 18/1989, Gov. Gazette A' 8/9.1.1989

¹⁰ Article 276(5) Administrative Procedure Code.





second instance negative decision on an asylum application, and the capacity of NGOs to file this application is very limited given the number of persons in need of international protection”¹¹. In the first eleven months of 2022, whereas the Appeals Authority issued 16,162 decisions rejecting asylum claims on the merits or on admissibility, no more than 725 judicial review applications (4.5%) were filed with the Administrative Courts¹².

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)

In December 2021 and following the suspension of interpretation services provided to asylum authorities by METAdrasi due to the delays of payment by the Greek state since 22.02.2021¹³, the Ministry of Migration and Asylum (MoMA) launched a tender call for the conclusion of a 4-year contract for the provision of interpretation, tele-interpretation and translation services at the workplaces of the Reception and Identification Service and of the Asylum Service¹⁴. On 22.8.2022 it was decided by the MoMA’s Procurement Department that the contract would be concluded with two actors; METAdrasi and SEPRO TEC TRADUCCION E INTERPRETAION S.L.¹⁵ However, on 7.12.22, MoMA changed the above decision because SEPRO TEC TRADUCCION E INTERPRETAION S.L. did not proceed with signing off the contract within the prescribed deadline¹⁶. Therefore, for the coming 4 years the sole actor assigned with the provision of interpretation services at the Reception and Identification Service and at the Asylum Service is METAdrasi. Up to date, 31.1.2023, though, METAdrasi has not yet started providing interpretation services. Because of the above procedures for some months of 2022 only a limited number of personal interviews were conducted by asylum authorities, that have opted to focus on the registrations of international protection applications and on the conclusion of administrative acts, with the support of EUAA interpreters.

In the Reception and Identification Center of Diavata, the personal interviews of asylum applicants are conducted remotely; the interpreter and the case worker are not in the same room with the applicant. In the beginning of the interview, the case worker states that the interview is conducted remotely for the acceleration of the examination of the asylum application and as a precautionary measure against

¹¹ UN Human Rights Council, Visit to Greece – Report of the Working Group on Arbitrary Detention, A/HRC/45/16/Add.1, 29 July 2020, para 85, <https://bit.ly/3dL8IOU>.

¹² Ministry of Migration and Asylum, Statistical data, November 2022, 16-17, <https://bit.ly/3WMTbTz>.

¹³ See the press release of METAdrasi, at: <https://metadrasi.org/en/suspension-of-interpretation-services/>

¹⁴ The tender is available, in Greek, at: <https://migration.gov.gr/en/diakiryxi-gia-ti-synapsi-symfonias-plaisio-tetraetoys-diarkeias-me-anoikti-diadikasia-meso-esidis-gia-to-ergo-parochi-ypiresion-diermineias-tilediermineias-metafrasis-kai-synafon-2/>

¹⁵ See the decision of the Ministry, in Greek, at: <https://diavgeia.gov.gr/doc/9%CE%97%CE%A9%CE%9846%CE%9C%CE%94%CE%A8%CE%9F-%CE%9C6%CE%A7?inline=true>

¹⁶ See the decision of the Ministry, in Greek, at: <https://diavgeia.gov.gr/doc/%CE%A8%CE%A60%CE%9246%CE%9C%CE%94%CE%A8%CE%9F-%CE%A82%CE%96?inline=true>





Covid-19. However, since 1.5.2022¹⁷, the teleworking, as an alternative method for COVID 19 protection is not applicable. This means that all persons in Greece are served by the public services (including the facilities operating under the Reception and Identification Service) in person. Therefore, there is no legal justification for the remote personal interviews of the asylum procedure, especially considering that the applicants present themselves at the asylum offices upon prescheduled appointments, that ensure that there is no risk of overcrowding.

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

N/A

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

By ministerial decision published in the Official Gazette on 26.11.2022 the list of safe countries of origin was updated; Ukraine was removed while Egypt, Benin and Nepal were added¹⁸. Articles 9 and 10 of the Presidential Decree 77/2022¹⁹ provide for the establishment of specialized units within Asylum Service that examine asylum claims of vulnerable applicants (one Unit in Athens and another one in Thessaloniki) and of applicants from safe countries of origin (one Unit in Thessaloniki).

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)

At the end of 2022 the Ministry closed the ESTIA urban accommodation program²⁰ that was available for vulnerable applicants of international protection, who received specialized psychosocial support.

¹⁷Joint Ministerial Decision Δ1α/ΓΠ.οκ.23983 (Official Gazette B 2137/30.04.2022), available at:

https://www.et.gr/api/DownloadFeksApi/?fek_pdf=20220202137

¹⁸ Ministerial Decision 708368/25.11.22, Official Gazette B' 6012/25.11.2022, available at:

https://www.et.gr/api/DownloadFeksApi/?fek_pdf=20220206012

¹⁹ Available in Greek, at: <https://migration.gov.gr/wp-content/uploads/2022/11/%CE%A0%CE%9477-2022.pdf>

²⁰ The program was running until 2020 by UNHCR. For an overview of the program and of the services provided see at: <http://estia.unhcr.gr/en/home/>. After 2020 the program was handed over to the Greek Government (Ministry of Migration and Asylum) that managed it through partners (see Towards ESTIA II: UNHCR welcomes Greece's commitment to ensure the continuation of flagship reception programme for asylum-seekers, at:





The beneficiaries of the program were transferred to open accommodation sites, often far from their previous place of residence that do not always meet their special needs²¹.

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)

N/A

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, decision-making, timeframes, case management – including backlog management)

N/A

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

In October 2022, the Council of State received a preliminary reference (προδικαστικό ερώτημα)²² by the Administrative Court of Thessaloniki (decision ΑΔ534/2022) regarding the compatibility of provisions enabling Appeals Committee members to process appeals in single-judge composition with the constitutional prohibition on parallel employment of judicial officials and with the rule that Judges exceptionally may participate at collective bodies (συλλογικά όργανα)²³.

<https://www.unhcr.org/gr/en/15985-towards-estia-ii-unhcr-welcomes-greeces-commitment-to-ensure-the-continuation-of-flagship-reception-programme-for-asylum-seekers.html> .

²¹ For the consequences of the closure of ESTIA program on the beneficiaries see, Refugees Support Aegean, A Step Backwards for protection and integration: On the termination of the ESTIA II housing programme for asylum applicants at: <https://rsaegean.org/en/termination-of-the-estia-ii-for-asylum-applicants/> and FENIX, Closure of ESTIA II: thousands of extremely vulnerable asylum seekers to be left without humane and adequate accommodation and proper care, at: <https://www.fenixaid.org/articles/closure-of-estia-ii-thousands-of-extremely-vulnerable-asylum-seekers-to-be-left-without-humane-and-adequate-accommodation-and-proper-care> and ECtHR grants interim measures for an extremely vulnerable applicant whom the Greek authority overlooked for more than one years, at: <https://www.fenixaid.org/articles/ecthr-grants-interim-measures-for-an-extremely-vulnerable-applicant-whom-the-greek-authority-overlooked-for-more-than-one-year> <https://www.fenixaid.org/articles/closure-of-estia-ii-thousands-of-extremely-vulnerable-asylum-seekers-to-be-left-without-humane-and-adequate-accommodation-and-proper-care>

²² Available in Greek, at: <https://antimolia.gr/prodikastiko-erotima-sto-ste-gia-ti-syntagmatikotita-tis-leitourgias-ton-anexartiton-epitropon-prosfygon-arthro-5-par-7-n-4375-2016-y-po-monomeli-synthesi/>

²³ See also on the same topic, at: Rule of Law Backsliding Continues in Greece - Joint Civil Society Submission to the European Commission on the 2023 Rule of Law Report January 2023 - 15. Prohibited employment of judges parallel to judicial functions, at: https://hias.org/wp-content/uploads/Greece-RoL2023_JointSubmission_CS0.pdf





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

N/A

- 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)

Law 4960/2022²⁴ that was adopted in July 2022, provides for the National Guardianship System and the Accommodation Framework for Unaccompanied Minors.

- 12.** Content of protection (including access to social security, social assistance, health care, 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)

While the beneficiaries of international and of temporary protection (mainly from Ukraine) have access to the EU-funded HELIOS integration project²⁵ that ensures their access to integration courses and accommodation and employability support, it has been observed that beneficiaries of temporary protection who file asylum claims become holders of two tax numbers. Specifically, one tax number is provided when they get the temporary protection residence permit and another one when they file the application for international protection (because the system does not identify persons who are already given tax number). Being holder of two types of residence in Greece (ie. the temporary protection residence permit and the asylum seeker's card) that are valid simultaneously and of two tax numbers is confusing, especially for the access to social benefits and allowances and to employment opportunities, considering that the tax number is linked to the residency document. Concerning the access to welfare and social solidarity benefits, the beneficiaries of international protection, except for persons with disabilities, are excluded when at the filing of the relevant application they cannot prove their legal stay in Greece for a minimum number of years²⁶. On the other hand, beneficiaries of temporary protection do not have access to the social benefits and allowances because according to the relevant secondary national legislation they are not entitled to (ie. the type of residence permit they are issued is not provided in the conditions for the access to these benefits²⁷).

²⁴ Published in the Official Gazette 145 A'/22.7.2022, available in English, at: https://migration.gov.gr/wp-content/uploads/2022/12/%CE%9D.4960_EN-1.pdf

²⁵ For details of the project, and on the requirements to access the services, see at: <https://greece.iom.int/hellenic-integration-support-beneficiaries-international-protection-and-temporary-protection-helios>

²⁶ See the site of the Organisation of Welfare Allowances and Social Solidarity (in Greek), at: <https://opeka.gr/>. The site lists all types of welfare allowances and the requirements to get them.

²⁷ Ibid.





13. Return of former applicants for international protection

The refusal of Turkey to take back the international protection applicants whose claim has been rejected as inadmissible based on the concept of the “safe third country” continues. Since 5 March 2020, the returns from Greece to Turkey when implementing the EU-Turkey Statement have been indefinitely suspended. The Greek authorities do not apply the article 38 para. 4 of the EU Directive 2013/32/EU which was transposed in the Greek legislation with the article 91 para. 5 of the Law 4939/2022. Until July 2021, subsequent asylum applications lodged after a final rejection of the initial claim based on the “safe third country” concept were again rejected based on that notion without examination of the asylum claim on the merits²⁸. However, the DG Home Commissioner informed on 12.4.2022 the EU Parliament that according to the Greek Authorities the conditions of article 38 par. 4 of the Asylum Procedures Directive (ie. the third country does not permit the applicant to enter its territory) are met if a period of more than one year has elapsed since the applicant left the safe third country and he/she does not have relations (economic, social etc) with that country during the processing of his/her asylum application. In this case it is considered that there is no link according to which the applicant would be reasonably expected to return to the safe third country. For this guidance, the Greek authorities considered the decision issued by the CJEU on the joined cases C-924/19 PPU and C-925/19 PPU²⁹ on 14.5.2020 and the national jurisprudence of the Council of State (decisions 2347/2017³⁰ and 2348/2017³¹).

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)

N/A

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

N/A

²⁸ See at: RSA, Greece arbitrarily deems Turkey a “safe third country” in flagrant violation of rights, Legal Note, February 2022, at: https://rsaegean.org/wp-content/uploads/2022/02/RSA_STC_LegalNote_EN.pdf

²⁹ Decision available at:

<https://curia.europa.eu/juris/document/document.jsf?jsessionid=192389FEC125907D419DD78985E0C170?text=&docid=226495&pageIndex=0&doclang=EN&mode=lst&dir=&occ=first&part=1&cid=5636>

³⁰ Council of State, Decision No 2347/2017, 22 September 2017, available at:

<https://m.asylumlawdatabase.eu/en/content/greece-council-state-decision-no-23472017-22-september-2017>

³¹ Refworld, Joint decisions 2347/2017 and 2348/2017,

https://www.refworld.org/cases,GRC_CS,5b1935024.html





16. National jurisprudence on international protection in 2022 (please include a link to the relevant case law and/or submit cases to the EUAA Case Law Database)

The decision ΑΔ463/2022³² of the Administrative Tribunal of Thessaloniki allowed the petition for annulment of a Guinean national, whose application for international protection was rejected at second instance on admissibility grounds (ie. related with the procedure that is applicable before the Appeals Committees). More specifically, the Appeals Committee rejected the appeal because the applicant was not represented on the day of the hearing of his case either in person or by his authorized lawyer or through the timely communication of a residence certificate that documents that he is hosted in an open accommodation center. According to the national legislation the above certificate substitutes the obligation of the applicant to present himself before the Appeals Committee on the date of the hearing of his/her case. The Administrative Court accepted the applicant's argument that his representation by the lawyer of the "Free Legal Aid Scheme" of the Asylum Service³³ who was appointed to support him to present his case before the Appeals Committee was inefficient and that he was deprived of substantial legal assistance, in violation of his right to effective remedy as provided in article 47 para. 1 of the EU Charter of Fundamental Rights ("*Everyone whose rights and freedoms guaranteed by the law of the Union are violated has the right to an effective remedy before a tribunal in compliance with the conditions laid down in this Article*"). The Court reached the above conclusion after considering that the applicant was never informed about the appointed lawyer's personal and contact details, that he never communicated with him and that he believed in good faith that the said lawyer would represent him before the Appeals Committee, or that he would send the required residence certificate.

17. Other important developments in 2022

References and sources

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

³² For a summary of the decision in Greek, see ΔΠρΘεσ ΑΔ463/2022: Πλημμελής νομική συνδρομή στο δεύτερο βαθμό σε αιτούντα διεθνή προστασία αλλοδαπό, at: <https://immigration.gr/dprthes-ad463-2022-plimmelis-nomiki-syndromi-sto-deftero-vathmo-se-aitounta-diethni-prostasia-allodapo/>

³³ The Free Legal Aid Scheme of Asylum Service implements article 20 of the Directive 2013/32/EU





Legal Opinions of Athens Bar Association for the registration of lawyers with the Registry of Staff of NGOs and for the access of the lawyers to all the types of reception facilities managed by the Greek Government are attached to the mail.

Answer of the DG Home Commissioner to the EU Parliament on the conditions of application of the safe third country when the applicants are not admitted returning by the third country attached to the email.

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

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