Information on procedural elements and rights of applicants subject to a Dublin transfer to Greece

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About this document

The 'Roadmap for improving the implementation of transfers under the Dublin III Regulation' was endorsed in the meeting of the Strategic Committee on Immigration, Frontiers and Asylum (SCIFA) of the Council of the European Union on 29 November 2022. The roadmap identified a clear need for objective and neutral information on reception and detention conditions and the asylum procedure in all the Member States, which can serve as reference in transfer decisions and that can be used in national courts when the person concerned has exercised his or her right to an effective remedy.

This data collection is based on Article 5 of the regulation on the European Union Agency for Asylum [1] (EUAA). Member States were requested to provide information that reflects both the relevant legal provisions and the practical implementation of these provisions. The scope of the fact sheet is limited to rules and conditions applicable to applicants for international protection as well as other persons that are subject to a transfer under the Dublin III regulation [2].

The European Commission and the EUAA jointly developed the template which served as the basis for this fact sheet. The EUAA gathers and stores the fact sheets and requests Member States to update the information at least one time per year. The relevant national authorities of the Member States provide all the information contained within the fact sheet and are responsible for ensuring that it is accurate and up-to-date.

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(1) Regulation (EU) 2021/2303 of the European Parliament and of the Council of 15 December 2021 on the European Union Agency for Asylum and repealing Regulation (EU) No 439/2010 (OJ L 468, 30.12.2021).

(2) Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (recast) (OJ L 180, 29.6.2013).

European Commission

euaa EUROPEAN UNION AGENCY FOR ASYLUM

1. Access to material reception conditions

1.1 What steps should an applicant complete following a Dublin transfer in order to gain access to accommodation and other material reception conditions in your Member State?

Before a Dublin transfer takes place the Greek Dublin Unit communicates with the First Reception Center in order to arrange for his/her accommodation. Upon arrival at the airport the applicant is informed by the Greek Dublin unit with the assistance of an interpreter about his/her place of residence.

Material reception conditions (food, clothing, Non-Food items (NFI) and a financial allowance for the applicant's basic needs) are provided, upon their registration in one of the accommodation centres.

How long do these steps normally take?

When and how is the applicant provided with information on how to gain access to accommodation and other material reception conditions?

Information on material reception conditions can be provided to the applicant in person by the Reception and Identification Service or by the Asylum Service (upon lodging of asylum application) or by NGOs and International Organizations operating in Greece (e.g. IOM and UNHCR). Relevant information is also available on the website of the Hellenic Ministry for Migration and Asylum.

Depending on the available capacity, as well as the applicant's profile (vulnerability, family profile, spoken language, etc) matching and referral to accommodation can take place within a timeframe that ranges from a few days to a some weeks. It is noted that an accommodation request has to be submitted before the Reception and Identification Service. The request is assessed in terms of eligibility (valid asylum application) and prioritized on the basis of vulnerability and/or special reception needs.

Food and NFIs are provided inside the accommodation centres, immediately upon arrival and registration. Monthly financial allowance is granted to the applicant, approximately 1,5-2 months later.

1.2 What material reception conditions (as per Article 2(g) Directive 2013/33/EU laying down standards for the reception of applicants for international protection (recast) (RCD) are available to applicants for international protection entitled to these in your Member State?

Accommodation for applicants of international protection is provided only in kind, namely in accommodation centres, managed by Reception and Identification Service. Food and NFIs are provided in kind, as well. Financial allowance is provided in the form of cash assistance on a monthly basis.

1.3. How does your Member State ensure that applicants for international protection in your Member State are provided with full access to the material reception conditions as defined in Article 2(g) of RCD in line with Article 17 and 18 of RCD, and, where relevant, more favourable provisions set out in your national legislation?

Applicants are informed about material reception conditions upon their registration and lodging of their application. Applicants that are in need of material reception conditions are referred to accommodation centres, where they also receive food, clothing, hygiene items (in kind), as well as a monthly financial allowance. Accommodation centres are managed by Reception and Identification Service and their operation is aligned with standards and indicators set out by EUAA. Protection of family life is taken into consideration for the matching and placement in accommodation.

The quality level of provisions in the accommodation centres is regularly assessed and activities can be reviewed, if deemed necessary.

Vulnerability assessment, primary health care and psychosocial support and counselling is also offered to applicants in the reception centres by competent staff. Depending on special reception needs, further referral to specialized services can be made.

Access to public health care services is guaranteed for all applicants. More specifically, an individual social security number, necessary for access to health services, is issued automatically along with their asylum cards. All minors are entitled to public schooling. Applicants are entitled to access labour market, six months after the lodging of their application for international protection.

Access to schooling for minors is facilitated by the competent Ministry of Education. Informal educational activities are also provided in the accommodation centres.

Transportation to accommodation centres or from accommodation centres to specialized services is offered upon assessment of special reception needs.

Lastly, interpretation in languages that the applicants understand is available in all accommodation centres.

1.4. Does your Member State apply a policy in line with Article 20.1(c) of reducing or in duly justified exceptional cases withdrawing the access to reception conditions for applicants in cases the applicant lodged a subsequent application?

Yes.

If yes, what material support is provided to persons whose material reception conditions have been reduced or withdrawn in accordance with Article 20(1)(c) in your Member State to ensure a dignified standard of living and access to health care?

In case of abandonment of accommodation, material reception conditions are withdrawn.

Violent behaviour against other applicants or reception staff can also result in reduction of material reception conditions, or transfer to another accommodation centre.

Material reception conditions can be reduced or withdrawn in case the applicant is employed and depending on the amount of the wage.

Access to health care and education is not reduced or withdrawn in any case.

1.5 What health care is an applicant for international protection entitled to in your Member State in line with Article 19 RCD?

All applicants are entitled to free public health care. Primary health care is also available in accommodation centres.

1.6 What steps are taken to ensure that applicants for international protection in your Member State have full/effective access to health care, in line with Article 19 of RCD, and, where relevant, more favourable provisions set out in your national legislation?

Primary health care is available in accommodation centres. Medical screening is performed to all applicants upon their registration in Reception and Identification Centres at the borders and in mainland. Medical referrals to public health care services are made based on the health status of the applicants. Support for medical appointments is also available for those accommodated and in cases of severe vulnerabilities cultural mediation and transportation to health services is also provided.

1.7 Please describe what are the support measures available/provided to persons with special reception needs in your Member State in line with Article 21 RCD (e.g. minors, unaccompanied minors)?

In case of special reception needs, all necessary adjustments regarding accommodation (transfer to a more suitable reception place for protection reasons), or other material provisions, for example meals in case of health issues are foreseen in standardized operational procedures.

Furthermore, individualized support, such as cultural mediation with public services, transportation and facilitation of appointments with health care services, support with registration in public schools or extracurricular activities for minors, etc., can be offered.

As an example, infrastructure and services in Pyrgos accommodation facility were upgraded in order to accommodate only female single parent families, women survivors of gender-based violence and single women at risk.

Other examples include:

- Referral of unaccompanied minors, living in RIS facilities, to the Special Secretariat for the Protection of Unaccompanied Minors, for their transfer to suitable accommodation;

- Referral to specialized services / actors (e.g. more advanced health care, psychosocial support, legal support, safety/police, etc.), especially for victims of trafficking, persons with

serious health conditions including mental health issues, persons who have been subjected to gender-based violence or other forms of violence, etc.

1.8 How does your Member State ensure that applicants for international protection with special reception needs in your Member State are provided with full access to the reception conditions, which cater for their special reception needs, in line with Article 21(1) of RCD, and, where relevant, more favourable provisions set out in your national legislation?

Vulnerability assessment is performed upon the applicant's arrival in the accommodation center. Based on the assessment, specialized counselling and psychosocial support is offered during their stay in accommodation. Referrals to other specialized actors can also be made depending on the needs or the severity of the case.

Reception staff is regularly trained to enhance skills related to vulnerability identification and response.

1.9 How can an applicant for international protection avail themselves of a legal remedy in line with Article 26 RCD, in case they consider that their rights to material reception conditions are not being met in your Member State?

Through NGOs that provide free legal assistance to asylum applicants. Attorneys have access to accommodation centres. Applicants have the possibility to make a formal complaint in any case. In addition, according to art. 118 of Law 4939/2022, the applicant may submit an appeal before the Administrative Court against the decision restricting or withdrawing material reception conditions, according to the Code for Administrative Law Proceedings. In case of appeal, the applicant of international protection may receive free legal aid and representation, according to the terms and conditions of Law 3226/2004.

2. Access to the asylum procedure

2.1 What are the procedural steps that an applicant for international protection transferred to your Member State needs to undertake in order to gain access to the asylum procedure following a Dublin transfer to your Member State?

> The procedural steps depend on the stage at which the international protection procedure before Greece was interrupted. The registration procedure of identified persons, is carried out by the Asylum Service.
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> In general, the Incoming Requests Department of the Dublin Unit, in cooperation with the competent authorities, informs the applicant about the regional asylum office with substantive and territorial competence for the examination of the international protection application. Third country nationals should reach the competent Regional Asylum Office, submitting any document(s) available to him/her, including documentation relevant to the followed Dublin procedure.

How long do these steps normally take?

> It depends on the specific circumstances of each case. Under Art. 88(7) of L.4939/2022 priority is provided for the registration and examination of international protection applications for which responsibility for the examination of the relevant application has been assumed by Regulation (EU) 604/2013 of the European Parliament and of the Council.

Are there any different steps to take for persons whose applications would be considered as subsequent applications? (Location to register, fees, admissibility procedure etc.)

> There are no differences between subsequent and first applications after a Dublin transfer considering the registration location, regarding the access to the asylum procedure.
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> Under Art. 94(10), L.4939/2022, each subsequent application after the first one is subject to a fee amounting to €100 for each applicant. The submission of the fee is a prerequisite for the admissibility of the application.
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> The subsequent applications are examined under Art. 89(1)(e) for “Inadmissible applications”.

How long do these steps normally take?

> The timelines depend on the respective article(s) of L. 4939/2022 under each procedure falls besides Art. 89. In general, detainees are examined with absolute priority, while priority is given to applications registered under Art. 95 “Border procedure” being in a transfer zone; when being accepted from Greece as competent Member State when applying subsequently after a finalised decision [all provisions are referred in Art. 88(7)].

Where can the applicant find this information, or be provided with this information?

Procedural information is provided through leaflets available by the Asylum Service and by accessing the Ministry of Migration and Asylum website (https://migration.gov.gr/).

Specifically for Dublin transfers, the competent department of the National Dublin Unit also provides all relevant personalized information depending on the specifics of the case and the following procedural steps.

2.2 What are the procedural consequences in your Member State of an application for international protection being considered a subsequent application?

Subsequent applications are subject to a preliminary examination, during which the authorities examine whether new substantial elements have arisen or have been presented by the applicant and could not be invoked by the applicant during the examination of her/his previous application for international protection. The preliminary examination of subsequent applications is conducted within 5 days to assess whether new substantial elements have arisen or been submitted by the applicant. According to Art. 94(2) L.4939/2022, the examination takes place within 2 days if the applicant's right to remain on the territory has been withdrawn.

Until a final decision is taken on the preliminary examination, all pending measures of deportation or removal of applicants who have lodged a subsequent asylum application are suspended. Exceptionally, according to Art. 94(9) L.4939/2022, "the right to remain on the territory is not guaranteed to applicants who (a) make a first subsequent application which is deemed inadmissible, solely to delay or frustrate removal, or (b) make a second subsequent application after a final decision dismissing or rejecting the first subsequent application". Any new submission of an identical subsequent application is dismissed as inadmissible. Until the completion of this preliminary procedure, applicants are not provided with an asylum seeker's card.

An appeal against the decision rejecting a subsequent application as inadmissible can be lodged before the Independent Appeals Committees under the Appeals Authority within 5 days of its notification to the applicant.

2.3 Does your Member State avail itself of the possibility under Article 33(2) Directive 2013/32/EU on common procedures for granting and withdrawing international protection (recast) (APD) to consider an application for international protection lodged by an applicant transferred to your country through the Dublin procedure as inadmissible? If so, under which of the grounds listed in this Article?

An application of international protection would be considered as inadmissible under Art. 89, L.4939/2022 if **i)** a third country is found to be first country of asylum; **ii)** Turkey is found being a safe third country, according to Art. 91 and GMD 458568/2021 as amended by GMD 734214/2022, provided that applicants are of Syrian, Afghan, Pakistani, Bangladeshi, or Somali nationality; **iii)** the application is subsequent as described above; **iv)** a family member of an applicant lodges an application after having had consented to

lodge a common application or on his/her behalf, and there are no facts relating to the dependant's situation which justify the separate application.

3. Detention and limitations to the freedom of movement of applicants

3.1 Are there any circumstances under which your Member State an applicant for international protection could be detained on public health grounds (e.g. quarantine), under applicable provisions of national law unrelated to Article 9 RCD?

No.

Applicants of international protection are not detained for public health grounds.

If yes, please describe these different types of circumstances, the legal basis for the detention, duration, conditions (incl. type of facilities), and the legal remedies available to challenge such a decision.

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3.2 How can an applicant challenge a decision to place them in detention according to Articles 8 and 9 RCD?

Articles 8 and 9 recast RCD are incorporated in the provision of Article 50 of the Code of Laws 4939/2022. The applicants of international protection who are detained have the rights of appeal and objections that are foreseen in para. 3 of Article 76 of the law 3386/2005, against the initial detention decision or the decision that prolongs the detention (art. 50 para.6).

3.3 What are the limits set out in national law to the duration that an applicant may be placed in detention according to Article 9 RCD?

The detention of asylum-seekers is imposed for the necessary period of time. Detention is imposed for a time period in which the reasons of detention are still applicable. Detention is imposed for an initial period up to 50 days and it can be extended to 50 more days with a justified decision if the grounds upon which the detention decision is based are still applicable. The maximum detention period cannot exceed the duration that is foreseen in Article 30 of the law 3907/2011/art.15 of the Directive 2008/115 for returns (it may be successively prolonged up to a maximum period of 18 months)

At what intervals does the judicial authority needs to review a detention decision according to Article 9(5) RCD?

In case of prolongation of detention, the order for the prolongation of detention shall be transmitted to the President of the Administrative Court of First Instance, or the judge appointed thereby, who is territorially competent for the applicant's place of detention and who decides on the legality of the detention measure and issues immediately his decision, in a brief record (art. 50 para.5). The time interval for his would be 50 days as stated above in 3.3.

3.4 What types of less coercive (alternative) measure to detention are used in your Member State?

Article 50 (2) and (3) of the Code of Laws require authorities to examine and apply alternatives to detention before resorting to detention of an asylum-seeker. It is up to the Police to decide on the implementation of alternatives to detention.

Please elaborate under which conditions these are generally used and how does your Member State ensure that these less coercive alternative measure to detention are used when they can be applied effectively as per Article 8.2 RCD?

Usually, it is up to the Police to decide on the implementation of the alternatives to detention. Police authorities decide to implement alternatives to detention when they are considered effective and when none of the cases envisaged in paragraph 2 (c-reasons of national security/public order and d-risk of absconding) and paragraph 3 (c-abusively apply to asylum to delay or prevent return, d-reasons of national security/public order and e-risk of absconding) of Article 50 apply.

3.5 What conditions, set out in Article 10 RCD, are provided to applicants whilst in detention (specialised detention facilities, access to open-air space, possibility to communicate with UNHCR or an organisation working on behalf of UNHCR, possibility to communicate and receive visits from family members, legal advisers or counsellors and persons representing NGOs, information on the rules of the facility)?

Article 10 recast RCD has been incorporated in Article 51 of the Code of Laws. According to paragraph one, asylum-seekers are detained in detention areas provided in Article 31 Law 3907/2011, which refers to pre-removal detention centres established in accordance with the provisions of the Return Directive (51 para.1). Applicants of international protection are kept in specialised detention facilities separately from ordinary prisoners and, if possible, separately from third-country nationals that have not lodged an application for international protection (51 para.2). When this is not possible, the competent authorities ensure that the detention conditions fulfil the other requirements envisaged in this Article. Detained applicants have access to open-air spaces (51 para.3). UNHCR representatives and organisations on behalf of UNHCR, have the possibility to communicate and visit applicants in conditions that respect privacy (51 para.4). According to para.5 of Article 51, the competent detention authorities ensure that a) the private life of families is respected b) family members, legal advisers or counsellors have the possibility to communicate with and visit applicants, and the certified public and social actors can have access to detention centres to provide to applicants, and specifically vulnerable persons, legal, medical and psychosocial services in conditions that respect privacy. Limits in accessing the detention facility may be imposed only for reasons that are objectively necessary for the security, public order, or administrative management of the detention facility, provided that access is not thereby severely restricted or rendered impossible. The detained applicants are constantly informed about the rules of the detention centres as well about their rights and obligations in a language they understand. The competent authorities may derogate from this obligation in duly justified cases and for a reasonable period which shall be as short as possible, if the applicant is detained at a border post or in a transit zone, as long as the

procedure envisaged in article 95 (border procedures) is not taking place (51 para.6). Finally, the detention authorities ensure that medical treatment is provided to detained applicants, and that they have the right to legal representation (51 para.7).

4. Available legal remedies and access to legal aid

4.1 At which stages of the asylum procedure does an applicant have the right to legal aid after having been transferred to your Member State?

Please look into the following Articles of Law 4939/2022 [G.G. A -111/2022] that include provisions related to the provision of legal information and legal aid to the applicants:

Article 74 par. 2 point (g):

[....]

2. When submitting an application for international protection, applicants are entitled to be informed in writing, in a language which they understand, in a simple and straightforward manner in order to actually understand the content of the document:

[a) about the procedure to be followed;

b) about their rights;

c) about their duty of cooperation with national authorities at every stage of the procedure and about their responsibilities;

d) about the consequences of breaching their duty to cooperate with national authorities due to non compliance with their obligations. They should be reminded specifically of the consequences of not finding them at the declared place of residence or address, of express or implied withdrawal of their application, of non-appearance at any stage of the proceedings,

e) about their duty of confidentiality and the fact that the information they provide to the authorities during the examination of their application shall not be revealed to the alleged actors of persecution or of serious harm;

f) about the time limits as well as the means at their disposal for fulfilling the obligation to submit the necessary data for substantiating their claims;]

g) about the consequences of their application being rejected and how they may appeal against it, what are the time limits for lodging an appeal, the appellate body and its location, the consequences of failing to observe the time limit for filing the appeal, as well as the possibility and conditions for being granted free legal assistance at proceedings before the Appeals Authority in accordance with the provisions of the Ministerial Decision referred to in Article 7(8) of Law 4375/2016; [...]

4. The applicants shall be entitled to communicate with the United Nations High Commissioner for Refugees or any other certified organisation providing legal, medical and psychological assistance.

Article 76

Provision of information - Legal representation and assistance

1. Applicants have the right to consult, at their own expenses, a lawyer or other counsellor on matters relating to their applications. Unless otherwise specifically provided for, for specific actions, the power granted to a lawyer to represent applicants before the authorities under this Part or the authorisation of a counsellor or other persons must be up to date and given by private document, which requires that the applicant's signature is authenticated. Such signature authentication may also be done by any public authority on presentation of the asylum applicant card. The authorisation document shall be filed in its original form with the competent authorities.
2. Applicants shall be provided, in the context of the procedures in Chapter C, with legal and procedural information, free of charge, on the procedure concerning their case. Besides the provision of information set in the previous sentence, in the event of a negative decision on an application at first instance, applicants, following a relevant request, shall be specifically informed as to the reasons for such a decision and the possibility to appeal against it. The information and updating referred to in the previous subparagraphs may be provided by certified organisations.
3. In procedures before the Appeals Authority, applicants shall be provided, upon request, with free legal assistance under the terms and conditions set in the Ministerial Decision provided for in Article 8(7) of Law 4375/2016. In the cases of an application before a court, applicants may receive free legal assistance under the terms and conditions set in Law 3226/2004 (O.G. A 24), which shall apply accordingly. This free legal assistance and legal aid shall be provided to applicants who are proven to be present in the country.
4. The representing lawyers of applicants as per the provisions of paragraph 1 of this Article shall have access to the information of their file, on the basis of which the decision is being taken or will be taken, without prejudice to Article 71(4), provided that the above information is not related to national security. Other authorised counsellors or persons as per the provisions of paragraph 1 of this Article, who provide assistance to applicants, shall have access to their files' data, under the conditions of the previous subparagraph, if these are relevant to the assistance provided. The Head of the competent Receiving Authority shall, following a reasoned decision, prohibit the disclosure of information or its sources, in the case of classified information related to national security matters, and may, by reasoned decision, prohibit their disclosure if he/she considers that their disclosure may compromise national security, the safety of organizations or persons who provide this information, or the safety of the persons whom this information concern or in case the investigations relating to the examination of applications for international protection by the competent Authorities of Member States or the international relations of Member States are compromised. The aforementioned prohibition must not disproportionately restrict the right of the applicant to representation, legal support and defence. Access to this confidential information or sources is permitted to the Appeals' Authority, in the context of the examination of an appeal,

and to Courts of law competent for the examination of applications for annulment, as provided in Article 108 hereof.

5. The representing lawyers and authorised counsellors under paragraph 1 of this Article shall have access to the Regional Reception and Identification Services under the special conditions of the General Operation Regulation of the Reception and Identification Service. Furthermore, they shall be allowed access to detention facilities and transit zones, in order to communicate with the applicants in a specially arranged area. The access of the aforementioned persons in these areas shall be limited, when this is deemed objectively necessary by the competent authorities for the security, public order or administrative management of the area or the safety of the applicants, provided that the applicant's right to representation and legal assistance is not restricted or impeded, in particular when lawyers' and counsellors' access is excessively restricted or rendered impossible. The representing lawyers and authorised counsellors referred to in paragraph 1 may communicate by teleconference with applicants in a specially adapted space under conditions which ensure the confidentiality required.
6. The representing lawyers or other authorised counsellors referred to in paragraph 1 shall have the right to provide legal assistance to the applicant at all stages of the procedure. Applicants are entitled to attend the personal interview with their lawyer who represents them or the counsellor who provides them with assistance as per paragraph 1 of this Article. The interview shall take place despite the absence of a lawyer or counsellor, unless the lawyer is faced with a force majeure situation, such as a serious illness, which is readily proven by public documents and if such an absence is considered to be an important reason to suspend.
7. The representing lawyers and authorised counsellors referred to in paragraph 1 shall also become automatically procedural representatives and all documents notified under Article 82 hereof may also be sent to them. In particular in cases where the authorised counsellor acts on behalf of an organisation operating in Greece, this organisation shall automatically become a procedural representative as well. The status of procedural representative shall end only by a signed written statement made by the applicant, whose signature needs to be authenticated by a public authority. This statement shall be presented to the authority before which the application has been submitted or the appeal has been lodged.

Regarding the right of applicants that are detained to challenge their decision of detention, see also Article 51 paragraphs 6 and 7 of Law 4939/2022 [G.G.A-111/2022]

"6. Detained applicants shall immediately be informed in writing, in a language which they understand or are reasonably supposed to understand, of the reasons for detention and the procedures laid down in the next subparagraph for challenging the detention order, as well as of the possibility to request free legal assistance and representation in accordance with paragraph 7. Detained applicants, according to the above paragraphs, have the rights to appeal and submit objections as foreseen in paragraphs 3 and subsequent of Article 76 of Law 3386/2005, as in force both against the initial detention order and against the prolongation order. 7. If detainees who are applicants for international protection challenge the detention order and the prolongation order, they

shall be entitled to free legal assistance in accordance with the procedure foreseen in the provisions of Law 3226/2004 (O.G. A 24), which shall apply accordingly."

Specific provision exists regarding the applications for international protection submitted by unaccompanied minors:

"Article 80

(Article 25 of Directive 2013/32/EU)

Applications of unaccompanied minors

1. When an unaccompanied minor lodges an application, the competent Authorities shall take action pursuant to applicable provisions in order to appoint a guardian for the minor. The minor is immediately informed about the identity of the guardian. The guardian represents the minor, ensures that his/her rights are safeguarded during the asylum procedure and that he/she receives adequate legal assistance and representation before the competent Authorities. The guardian or the person exercising a particular guardianship act shall ensure that the unaccompanied minor is duly informed in a timely and adequate manner especially of the meaning and possible consequences of the personal interview, as well as how to be prepared for it. The guardian or the person exercising a particular guardianship act is invited and may attend the minor's interview and may submit questions or make observations to facilitate the procedure. During the personal interview, the presence of the unaccompanied minor may be considered necessary, despite the presence of the guardian or the person exercising a particular guardianship act. If the guardian or the person exercising a particular guardianship act is a lawyer, the applicant cannot be the beneficiary of free legal assistance, pursuant to Article 71(3), first subparagraph. [....]"

See also the provisions of Article 103 and 118. Article 103 par.3: "The non provision of free legal assistance under the terms of article 76, constitutes reason for postponement only if the Appeal Commission assesses, with a specifically reasoned decision on this, that irreparable harm is caused to the applicant and that the success of his appeal is likely".

Article 118 specifically provides the right to free legal assistance and representation in order to bring an appeal before administrative courts:

"Article 118 (Article 26 of Directive 2013/33/EU)

Appeals

1. The applicants affected have a right to bring an appeal before administrative courts, in accordance with the provisions of the Code of Administrative Procedure (Law 2717/1999), against a decision restricting or stopping the provision of reception conditions as stipulated in Article 56 hereof, as well as against decisions taken pursuant to Article 44 hereof.

2. In cases of an appeal before a judicial authority, free legal assistance and representation shall be made available to the applicants under the terms and conditions of Law 3226/2004.”

4.2 Is the legal aid provided free of charge to applicants for international protection or does your Member State apply any form of means testing? If so how is this applied in practice?

According to Articles 76 par.2 legal aid is free of charge only in regard to the right to appeal a decision of first instance. However, applicants (according to the articles 74, 76) have access to legal information provided by the Authorities and legal assistance may be provided by certified nongovernmental organisations.

4.3 What are the deadlines within which your Member State requires that an applicant lodge an appeal with regards to decisions not to grant international protection or not to further examine the application on grounds of inadmissibility?

The deadlines that are required to lodge an appeal against a negative decision or decision on grounds of inadmissibility are provided for, extensively in Article 97 of Law 4939/2022.

Article 97

The right to lodge an appeal

1. The applicant shall have the right to lodge an appeal in accordance with the provisions set in this article and in article 102, before the Appeals Authority:
    a. Against the decision rejecting an application for international protection as unfounded under the regular procedure, as well as against the decision granting subsidiary protection status in so far as it relates to the applicant's non-qualification as a refugee, within thirty (30) days of the date of notification of the decision or of the date it is presumed that the appellant was notified in accordance with para. 5 of article 87.
    b. Against a decision rejecting an application for international protection either under the accelerated procedure in accordance with para 9 of article 88, or as inadmissible in accordance with Article 84, as well as in cases where the appeal is lodged while the appellant is being detained under Article 50, within twenty (20) days of the date of notification of the decision or of the date it is presumed that the appellant was notified in accordance with para 5 of article 87.
    c. Against a decision rejecting an application for international protection in the cases referred to in Article 95 or when the appeal is brought while the appellant is going through a reception and identification procedure, within ten (10) days of the date of notification of the decision or of the date it is presumed that the appellant was notified in accordance with para 4 and 5 of article 87.
    d. against a decision rejecting an asylum application as inadmissible, in accordance with article 89, within twenty (20) days of the date of notification of the decision or of the date it is presumed that the appellant

was notified in accordance with para 5 of article 87. By way of exception, if the appeal is lodged i) against a decision rejecting an application for international protection as inadmissible pursuant to Article 89 para 1(b), the appeal shall be lodged within fifteen (15) days and shall be considered to be directed and against the relevant transfer decision, pursuant to the relevant provisions of Regulation (EU) 604/2013 of the European Parliament and of the Council, ii) against a decision rejecting a subsequent application as inadmissible pursuant to paras 2 and 7 of article 88(1)(e), within five (5) days of the date of notification of the decision.

2. The International Protection Applicant Card, without prejudice to the procedure referred to in article 94 hereof, shall be re-issued in the event of an appeal pursuant to the provisions of para 1 of article 74 as regards the term of the duration of validity. In the event of an appeal after the expiration of the above time limits, the duration of the International Protection Applicant Card shall be reduced as a matter of necessity by the decision referred to in para 1 of article 74 hereof, to fifteen (15) days. In the event of an appeal against a decision that withdraws international protection status, pursuant to Article 96 hereof, the residence permit shall be returned to the appellant.
3. While the appeal is on-going and until the decision on the appeal has been notified, all deportation, re-admission or return measures shall be suspended, subject to the exceptions of Article 110 hereof."
4. In the event that the appeal is rejected, the applicant, with the exception of unaccompanied minors, is being detained in a Pre-removal Detention Center, until his removal is completed or until his application for international protection is accepted following a final decision. The filling of a subsequent application and/or an application for annulment and/or an application to suspend the enforcement of a negative final decision, does not automatically imply the lifting of detention.

4.4 What are the formal requirements when lodging an appeal as referred to in question 4.3?

The formal requirements of lodging an appeal are referred extensively in articles 98 and 99 of Law 4939/2022.

Article 98

Content of the appeal

The appeal shall be lodged by a document indicating: (a) the name, surname, father's name, exact home or residence address of the appellant; (b) the name, surname, father's name, exact home address and work address of the appellant's representative and, if applicable, of the appellant's legal representative and procedural representative; (c) where and when the document was prepared; (d) what is the decision being appealed against; (e) the specific grounds for the appeal. It should also contain a statement concerning the appellant's consent or opposition to the public hearing of his/her case. If no such statement is submitted, the case shall be discussed at a public hearing. If the appeal document does not include the above details, the appeal shall be rejected as inadmissible.

Article 99

Lodging an appeal

1. The appeal shall be lodged with the Regional Asylum Office or the autonomous unit of the Asylum Service, which was the one to deliver the decision being appealed against and shall be signed on pain of inadmissibility by the appellant him/herself or by the appellant's representing lawyer. By way of exception, where the appellant, following a referral decision pursuant to Article 43, resides in a Hosting Centre which is located at a place other than the seat of the Regional Asylum Office or the autonomous unit of the Asylum Service with which the applicant has lodged the application, the appeal shall be lodged with the Head of the Hosting Centre, who will then forward it on the same day by electronic means to the Regional Asylum Office or the autonomous unit of the Asylum Service, which was the one to deliver the decision being appealed against. If the applicant resides in a specific place of residence in accordance with Article 49 (2), the appeal shall be lodged with the nearest Regional Asylum Office or the autonomous unit of the Asylum Service, which shall then send it with electronic means it on the same day to the Regional Asylum Office or autonomous unit of the Asylum Service, which was the one to deliver the decision being appealed against.
2. When lodging the appeal, all the required information which is included in the appeal shall be promptly recorded by the Asylum Service officer in charge of receiving the appeal into the online asylum application; the same procedure is followed for any documents submitted in electronic form.
3. As regards the lodging of the appeal referred to in the previous paragraph, an act shall be drawn up indicating the date of lodging, the full name of the officer who received the appeal, the full name of the appellant and the decision against which the appeal is being lodged. A copy of this act lodging the appeal shall be notified to the appellant upon lodging the appeal. The Receiving Authorities shall forward to the Appeals Authority without delay, and in any case no later than two (2) working days, the electronic file and subsequently the administrative file containing, inter alia, the original copy of the appeal and any attachments thereto. If the electronic asylum application is down, therefore affecting the registration of appeals, then the appeals shall be sent on the same day to the Appeals Authority by electronic means or any other appropriate means.
4. In the event that an appeal is lodged against a decision to withdraw an international protection status, the residence permit shall be returned to the appellant.

4.5 Does your Member State avail itself of the possibility under Article 9(2) APD to make an exception from the right to remain in the Member State pending the examination of the application in case of a request for extradition of the applicant to a third country? If yes, how do the competent authorities of your Member State ensure that a decision to extradite an applicant to a third country pursuant to Article 9(2) APD is taken in accordance with Article 9(3) APD, i.e. it does not result in direct or indirect refoulement, in violation of international and Union requirements?

See the provisions of Article 73 and Article 110 of Law 4939/2022.

Article 73

(Article 9 of Directive 2013/32/EU)

Right of the applicants to remain – Exceptions

1. Applicants shall be allowed to remain in the country until the conclusion of the procedure for the examination of their application at first instance and they shall not be removed in any way.
2. The previous paragraph shall not apply in cases where: a) subsequent application is submitted in accordance to Article 94 hereof; b) the competent authorities either surrender the applicant to another European Union Member State, in application of a European Arrest Warrant in accordance with the provisions of Law 3251/2004 (O.G. A 127), or extradite the applicant to a third country, with the exception of the applicant's country of origin, or to international criminal courts, in accordance with the country's international obligations. This surrender or extradition must not lead to the direct or indirect refoulement of the applicant in breach of Article 33(1) of the Geneva Convention, or to risk of persecution or serious harm in accordance with the relevant provisions of this law, Article 7 of the International Covenant on Civil and Political Rights, Article 3 of the New York international convention against torture, Article 3 of the European Convention on Human Rights, Articles 4 and 19 of the Charter of Fundamental Rights of the European Union, as well as article 5 of the Constitution.
3. The right of the applicant to remain in the country, in accordance with paragraph 1, shall not constitute an entitlement to be issued a residence permit.
4. In the cases referred to in paragraph 2, Article 110 hereof shall apply.

Article 110

The right to remain

1. While the appeal is on-going and until the decision on the appeal has been notified, the applicant shall be allowed to remain in the country. In this case, any decision of expulsion or return of the appellant is suspended.
2. By way of exception from what is provided in paragraph 1, in cases where the appealed decision has rejected the application for international protection with the reasoning that:
   (a) another EU Member State has recognised the applicant as beneficiary of international protection
   (b) another EU Member State that is bound by Regulation 604/2013 of the European Parliament and Council has taken the responsibility to examine the relevant application, in application of the above Regulation.
   (c) the applicant is enjoying sufficient protection by the first country of asylum,
   (d) the examination of the subsequent application did not prove the existence of new substantive elements or is rejected as manifestly unfounded and
   (e) the application for international protection has been rejected under the accelerated procedure with the exception of indent (a) and (h) of Article 88 paragraphs (9) and (10) hereof, then the residence status of the applicant is

examined by the Independent Appeals Committee after a relevant request has been lodged to the Committee in which the applicant explains the reasons why it is impossible to return to his/her country of origin in accordance with Law 3907/2011 and justifying his/her stay in the country. Notwithstanding the aforementioned decision of the Independent Appeals Committee on whether the applicant is to remain in the territory of the country, the applicant shall be entitled to remain there, except in indents (a) and (b) of 88 (9) and (10) hereof. The Independent Appeals Committee or the competent judge, in the case of a single-member composition, shall examine the request in law and in substance and in the light of an individualized judgment, on the basis of objective criteria and in accordance with Articles 20 and 21 of Law 3907/2011, and then rules will not on the request as soon as possible by delivering a decision thereon. If the applicant's request is upheld, it is ordered that the applicant remains in the country and any deportation, re-admission or return measures shall be suspended until a decision on the appeal has been reached. If the application is rejected, the above measures shall be executed. This request shall be examined at a sitting of the Committee, in closed session, without requiring that the applicant is present. Decisions on such applications shall be counted in excess of the total number of cases stipulated in Article 100 (7) which are being assigned per month and per rapporteur.

3. Derogation from the right of residence in accordance with paragraph 1 shall apply only in the cases referred to in Article 95 hereof provided that the applicant is assisted by an interpreter and receives legal assistance as necessary, and is allowed at least one week's time to prepare the application and submit it to the Independent Appeals Committee the arguments in favour of recognising his/her right of residence in the territory of the country pending the outcome of the appeal.
4. In any event, the decision should not lead to direct or indirect refoulement in breach of the State's international and European obligations.

4.6 Does your Member State avail itself of the possibility under Article 9(2) APD to make an exception from the right to remain in the Member State where a person makes subsequent applications as referred to in Article 41 APD?

If yes, how do the competent authorities of your Member State ensure that a decision to return the applicant to a third country does not result in direct or indirect refoulement, in violation of international and Union requirements as per Article 41(1) APD?

The relevant provision does exist in article 94 par.9 of Law 4939/2022.

Article 94 para 9.

Pending the completion of the administrative procedure for examining the subsequent application at the preliminary stage, the enforcement of any measure of expulsion, return or removal of any kind shall be suspended. By way of exception, the preceding subparagraph shall not apply and the applicant shall not be allowed to remain in the country:

(a) if it is a first subsequent application which has been rejected as inadmissible in accordance with paragraphs. 2 or 7, merely in order to delay or obstruct the decision to enforce a removal order,

(b) if it is a second subsequent application, after a final decision has been issued declaring the first subsequent application inadmissible in accordance with par. 2 or 7, or after the final decision rejecting that application as unfounded. Article 110 of this Code shall apply in the cases referred to in the preceding subparagraph.