



Input by civil society to the EASO Annual Report 2016

EASO has started production of the Annual Report on the Situation of Asylum in the European Union 2016, in line with Article 12 (1) of the EASO Regulation. The report aims to provide a comprehensive overview of important asylum-related developments at EU and national level, and the functioning of all key aspects of the Common European Asylum System (CEAS). The report will be finalised by collecting information from EU+ countries, civil-society stakeholders, UNHCR and other relevant sources on main developments in asylum policies and practices of EU+ countries in 2016.

Previous reports can be consulted on EASO's website: <https://www.easo.europa.eu/information-analysis/annual-report>

We would kindly like to ask you to provide your **observations**, - preferably bullet points to facilitate further processing of your input - **on developments in asylum law or practice in 2016 (and early 2017) in the areas listed below, reflecting the usual structure of the report**. Observations may concern national practices of specific EU+ countries or the EU as a whole.

The EASO Annual Report will not describe the national asylum systems in detail but present key developments in 2016, including **improvements and new/remaining concerns**. The topics listed below reflect the structure of chapter 4 of the EASO report on the 'Functioning of the CEAS'. We kindly ask all contributors to provide brief summaries only on those topics/issues that have seen important **improvements/deterioration as well as new concerns or where previous relevant concerns remained in 2016**.

Please bear in mind that the EASO Annual Report is a public document. Therefore, your input should be, whenever possible, supported with references to written sources to ensure transparency. That can be done by providing links to any documents such as position papers, important press releases, studies, comments, input to the other reports, public statements to government programs, etc.

While EASO endeavours to cover all relevant developments and strives to include as many references as possible, the final content of the EASO Annual Report remains bound by its terms of reference and volume. Therefore, while all contributions are gratefully received and recognised, EASO may edit contributions for length and clarity and use the submissions to best serve the objective of the Annual Report: to improve the quality, consistency and effectiveness of the CEAS.

Please provide your input by filling in this document (with attachments if required) and emailing it to ids@easo.europa.eu **AND** consultative-forum@easo.europa.eu **by 20 February 2017**.

Within the areas, please highlight the following **type of information**:

- NEW positive developments; improvements and NEW or remaining matters of concern;
- Changes in policies or practices; transposition of legislation; institutional changes; relevant national jurisprudence.
- Please use the topics listed below as a guide to providing input for each section. **DO NOT** provide information unrelated to relevant new developments.

Fair asylum procedure

While the EU-Turkey statement promises that everyone arriving to Greece get a fair asylum procedure, the question remains- what does that mean in practice?

- One element is an adequate number of trained staff to handle the process, which continues to be a challenge for the Greek Asylum Services as well as European member states providing support through EASO;
- However, an individualized and fair asylum procedure also relies on all individuals having access to legal safeguards including the following:
 - i. impartial and neutral legal information allowing individuals to understand their duties and obligations, rights as well as options;
 - ii. counselling and preparation in advance of interviews; empowering the interviewee to be prepared as well as she/he can be;
 - iii. legal assistance during interviews
 - certain vulnerable groups – such as thousands of unaccompanied children are in need of specific procedural assistance to that take into account their rights and needs
 - iv. legal assistance to ensure the right to appeal - related to the inadmissibility/admissibility decisions on the islands, and for the asylum process on the mainland
- Concerns has been expressed on the change of the composition of the Greek appeals committees. The committees initially overturned several inadmissibility decisions not deeming Turkey a safe third country, thus enabling people to seek asylum in Greece. Shortly after, amendments were made to the asylum law changing the composition of the committees and there remains a lack of clarity around how the new composition will impact the right to a fair asylum procedure.

Legal information must be in line with domestic legislation and procedures, as well as international standards and principles. The processes change frequently in Greece, and varies between locations. With the complex nature of the regulations and frequent changes, Greek authorities should continue to lead on the substance of the information.

- That said, humanitarian actors play an important role improving the way information is communicated and in providing feedback on questions and concerns that arise; as well as highlighting if procedures are not in line with international standards and principles;
- The content of the legal information must be developed and provided according to humanitarian principles of impartiality and neutrality. In reality what by some may be described as sensitive information, for instance *why Syrians are prioritized for interviews before Afghans, or the uncertainty related to the situation upon return to Turkey*, is not being explained;
- The existing information is often contradictory, based on rumours and/or inaccurate, provided in ad-hoc fashion leading vulnerable individuals to make life-altering decisions without appropriate understanding. A more systematised provision of legal information, delivered through audience-appropriate and regular communication sessions, would go some way to rectify this;
- While there are a few actors who have the capacity to answer legal questions in some camps, refugees and migrants continue to express frustration feeling they get a different answer depending on whom they ask;
- The limited information which exists in writing is often drafted in a convoluted and legalistic manner and is not understandable to persons of concern; some information is not provided in writing at all, such as information relating to the inadmissibility procedure or the full appeals process.

Legal information and counselling is an integral part of humanitarian protection response, yet, NRC's assessment is that the right to information remains a clear gap in the humanitarian response in Greece.

What stands out in the humanitarian response in Greece compared to other contexts is the strong presence that legal needs take in the mind of refugees and migrants.

- The population daily expresses how their growing despondency stems from not fully understanding their legal options or why they are treated according to which procedure, e.g.; *should they register to seek family reunification or relocation? What is the purpose of an inadmissibility vs an asylum interview? What are their rights if deemed inadmissible?*
- A widely held opinion among the humanitarian community is that the combination of insufficient legal information relating to asylum process, long waiting periods before interviews [*there are cases of people who have yet to be called for an interview despite having been in Greece since March, and others who have been scheduled for their first interview in March 2017, and no date for the second interview*] and sub-standard humanitarian living conditions contribute to the deteriorating security situation in the sites;
- Humanitarian actors are observing a tangible increase in depression and mental health needs, as illustrated by several suicide attempts and visible self-harming;
- People often end up in situations where they have to make life-altering decisions without sufficient information or understanding. Examples of this include *individuals resorting to harmful survival mechanisms to raise money to leave Greece in an irregular manner, e.g. with smugglers, putting them at risk and without fully understanding what this might entail when it comes to seeking asylum or family reunification in other countries; families turning down relocation to countries in eastern Europe due to rumours regarding their treatment there, without understanding what this will do to their asylum process overall.*

NRC's analysis is that the lack of information feeds into tensions between nationalities, frustration and mental health problems, issues that might be mitigated and lessened by legal information and counselling.

Additional legal needs include providing legal assistance related to

- Accessing individuals in need of legal assistance who live in urban areas, including in squats;
- Family law – e.g. women seeking a divorce but whose asylum claim is linked to that of a violent husband;
- Access to justice –cases of accusations of abuse by police or xenophobic violence;
- Civil documentation – death, marriage, birth;
- Administrative support –tax numbers and permissions related to the right to work;
- Additional assistance to unaccompanied and separated children and other vulnerable individuals;
- Access to services, including education and medical.
- Referral pathways for aspects that may fall outside the capacity and resources for humanitarian organizations, such as Criminal law – security issues in camps that may lead to criminal charges;
- Legal support to access referral pathways for specialist service providers for protection threats, including e.g. GBV.

Detention

Principally, NRC considered its ability to operate at Vial 'Hotspot' is compromised and stopped operating when the hotspot was made into a closed detention centre. The following were the reasons given:

1. As of 20th March, the Vial 'Hotspot' on Chios has changed from an open registration facility into a closed detention centre. This had fundamentally altered the operating environment for NRC at the Hotspot. With the 'Hotspot' now operating as a closed facility and the accompanying closure of the three former open accommodation sites, NRC is unable to work under the new terms. As a police-run detention facility, NRC does not have adequate humanitarian access to the refugees detained there in order to provide protection, respond to their needs and ensure their reception requirements are being met. NRC strongly opposes mandatory detention in this context and believes that it is a wholly unnecessary and disproportionate measure.
2. The current reception conditions at the Vial 'Hotspot' are inadequate, not in line with recognised humanitarian standards and risk causing harm to the refugees. NRC observes that the rapid pace and speed with which this deal has been put into effect has not allowed the responsible Greek authorities adequate time to react and respond to the changes. NRC is especially concerned at the detention of

children and other vulnerable groups at the Vial 'Hotspot' and considers the overall reception conditions to be inappropriate. Since 20th March, over 1100 refugees have arrived, yet it appears no contingency arrangements are in place to safely and decently accommodate further arrivals. NRC is concerned that when the capacity is reached (1200), the refugees and migrants will risk being detained in overcrowded, unsafe and undignified conditions for indeterminate periods of time.

3. The protection needs of refugees arriving in Chios after 20th March have been disregarded and their information needs are not being met. The Agreement references safeguards and makes explicit the expectation that respect of international and European law will frame the implementation arrangements at island level. Yet, NRC has not observed any evidence of these safeguards being applied in practice at the Vial 'Hotspot'. As of today, there is insufficient capacity and support in place to enable refugees to have their asylum claims assessed fairly and thoroughly on an individual basis and in a manner that ensures no harm in the event of readmission to Turkey. NRC is also concerned that the lack of capacity to process asylum claims will result in prolonged detention stay arrangements for the new arrivals and potentially give rise to a situation in which expedited asylum processes will mean quality assessments being denied to those with protection needs. NRC notes that refugees arriving and being hosted at Vial Hotspot are currently not routinely receiving protection information on the rights and procedures to seek asylum.

Publicly available communications:

- **Detention - NRC withdrawing from hotspots**
<https://www.nrc.no/news/2016/march/says-no-to-police-run-detention-facilities/>
<http://reliefweb.int/report/greece/nrc-suspending-activities-chios-hotspot-though-will-maintain-protection-presence>
<https://www.nrc.no/news/2016/april/europe-is-imprisoning-refugee-children/>
- **General situation:**
NRC report with 11 other NGOs on challenges to the system in Greece "six months stranded". This covers points 1-3-4-5-7-8-9-11-14
<https://www.nrc.no/news/2017/january/greece-band-aid-responses-to-political-decisions/>
25 organizations on how EU leaders can save lives:
<https://www.nrc.no/news/2016/dec/eu-leaders-can-save-lives-this-winter/>
- **Protection and situation of vulnerable population:**
NRC/MC study on youth which is relevant to point 11 and 12
<https://www.nrc.no/news/2017/january/dont-forget-us/>
NRC video on Afghans being discriminated under relocation / points 12 and 14: <https://youtu.be/j-DR6sD5yww>
- **EU-Turkey statement and its impact on the ground;** NRC two position pieces on "5 reasons the EU-Turkey deal is [still] a bad idea". This touches upon points 2-5-6-7
<https://www.nrc.no/news/2016/august/five-reasons-why-the-eu-turkey-deal-is-a-disgrace/>
<https://www.nrc.no/news/2016/september/five-reasons-why-the-eu-turkey-deal-still-is-not-a-good-idea/>