

Current Issues of Refugee Protection in Greece

Key Messages

- The start of operation of the new Asylum Service and the new legal framework for the asylum-procedure represents a particularly positive development, which needs to be further supported in order to complete the transition to the long envisaged new, fair and efficient asylum system in Greece.
- For the processing of asylum claims that have been registered by the police, prior to the start of operations of the new asylum-system, and continue to remain the responsibility of the police, including with regard to notifications, renewal of documentation and other related aspects of the management of pending asylum-applications, there is urgent need for corrective measures to be taken.
- The reinforcement of the First Reception Service, namely the establishment of First Reception Centres or the deployment of mobile first reception teams in main border locations of the country, constitutes an indispensable pre-requisite for the first reception of new arrivals, refugees and migrants, in line with applicable international and European standards and in implementing Law 3907/2011. Priority should be given to locations on the Aegean islands, faced with new arrivals by sea.
- The administrative detention of persons seeking international protection, arriving or staying in Greece in an irregular manner, should constitute an exceptional measure of last resort and not a systematic practice.
- The capacity for the reception of asylum seekers and unaccompanied minors in open reception facilities should be considerably increased and follow Standard Operating Procedures. A comprehensive strategy for the reception of asylum-seekers and unaccompanied children is needed, in line with European standards.
- The protection of unaccompanied children should be strengthened, by substantially reinforcing the guardianship system, referrals to special accommodation facilities and the development of a system and procedures for the best interests determination of the child, a guiding principle of the Convention of the Rights of the Child.
- The integration into the Greek society of beneficiaries of international protection should constitute a priority and requires a holistic approach as well as the adoption of measures to support the integration process.
- The effective prevention and combat of racist violence requires the protection of victims and important witnesses of hate crimes, as well as the investigation of the racist motives from the outset of the investigation procedure.

Asylum

Issues:

- The asylum system in Greece was, for years, characterized by chronic deficiencies, such as limited access to the asylum-procedure and registration of asylum-applications, the lack of procedural safeguards, shortcomings in interpretation services, poor quality of asylum interviews, inadequately justified decisions, extremely time-consuming procedures and low recognition rates of refugee status or subsidiary protection (especially at first instance). This situation, in addition to violating international obligations of the country, resulted in refugees being unable or not willing to seek asylum in Greece, while migrants, who had arrived in Greece for purely economic reasons, made use of the asylum procedure, as the only way to temporarily legalize their stay in the country
- With Law 3907/2011, the asylum system in Greece was reformed, establishing a civil Asylum Service as well as a new fair and efficient asylum procedure. Challenges, mostly related to securing the staffing and other resources of the Asylum Service, resulted in consecutive postponements in the start of operations of the new asylum-procedure under the responsibility of the Asylum Service.
- As of 7 June 2013, the Regional Asylum Office of Attica of the new civil Asylum Service has started its operation and the new asylum-procedure, regulated by Presidential Decree 113/2013, has begun being implemented. This signals the «end of an era», and the beginning of a new endeavour, which formed a standing request of UNHCR, non-governmental organisations as well as other actors in Greece and abroad. The political, financial and technical support of the new Asylum Service is a primary concern for the successful continuation, expansion and completion of the transition to the new asylum system, aimed at the fair and efficient identification and protection of those in need of international protection.
- During the transitional period, Appeal Committees (consisting of three voting members) were established in accordance with PD 114/2010, to decide on appeals in asylum-cases, which - during the two and a half years of their operation - marked a qualitative leap in the compliance with procedural safeguards, in the decisions and in the granting of international protection to persons in need of protection. Recently, the number of the Appeals Committees has increased from 10 to 20 in order to accelerate the examination of the backlog of appeals, which are estimated to comprise of some 25.000 active cases. To ensure the efficient and accelerated processing of the backlog of appeals, the Ministry of Public Order and Citizen Protection has completed a review and updating of the physical and electronic files of all pending appeals, realized a clearance and update of the case files.
- The examination of asylum application that are already registered by the police remains under the competence of Police Directorates throughout the country. In order to address the extremely problematic management of asylum-applications pending with the Police, immediate action and corrective interventions are needed.

Recommendations:

- Immediate measures to secure further staffing of the New Asylum Service, in order to allow for the expansion of the capacity to register asylum claims, conduct asylum interviews, assess the claims and issue first instance decisions.
- Start-up of operations of Regional Asylum Offices in other areas of the country (with priority given to Thessaloniki, Evros, and the North Aegean islands) so that

unhindered and efficient access to the asylum-procedure is ensured in larger parts of the territory.

- Adoption of specific measures to facilitate the submission of asylum applications by unaccompanied children accommodated in reception facilities across the country.
- Continued prioritisation of the backlog clearance of long pending appeal cases and strengthened coordination with the Police Directorates, which perform administrative acts and continue to be responsible for notifications and renewal of documentation of asylum seekers, whose applications are pending at second instance.
- Immediate action, both politically and through reinforcement in staff and equipment, of the Police Directorates across the country, particularly the Attica Aliens Directorate at Petrou Ralli, in tasks and procedures related to asylum that remain under the competence of the Police, including the efficient examination at first instance of asylum applications already registered by the Police, the timely periodic renewal of asylum seeker documentation ('pink cards'), the timely and efficient notification of interviews and asylum decisions, the receipt of documents related to pending asylum applications.
- Immediate reinforcement in staff and equipment of the Dublin Unit under the Ministry of Public Order and Citizen Protection, in order to accelerate the procedures for family reunification of asylum seekers with family members located in other EU Member States, with prioritisation of applications of unaccompanied or separated children.
- Strengthen implementation of existing legislative provisions concerning third country nationals, who have lived in Greece for many years, those who lose their legal status due to the economic crisis as well as third country nationals with humanitarian needs, no longer considered as part of the asylum-procedure, in order to alleviate the asylum procedure from manifestly unfounded claims by persons not in need of international protection.

Arrivals, first reception, administrative detention

Issues:

- Greece remains a gateway into the European Union for thousands of refugees and migrants, a fact that creates pressure at the borders, especially Greece's borders with Turkey. Since August 2012, a shift in the patterns of arrivals has been observed from the Greek-Turkish land borders to the sea borders, as a consequence of the strengthened border control in the Evros region. According to the official statistics, during the first five months of 2013, some 3.223 persons were arrested for illegal entry in Lesbos, Samos, Chios and the Dodecanese, compared to only 188 persons arrested on the islands in the first five months of 2012, while –for the same period in the Evros region - there were 342 arrests in 2013 compared to 15.878 arrests in 2012. The highly dangerous passage of persons arriving by sea has been marked by human tragedies, with the most recent incidents in mid-December 2012, when 21 Afghans lost their lives, in mid-March 2013, when 7 Syrians died, as their boat sank in the open sea of Lesbos and in May 2013, when a 6-year old Syrian girl drowned.
- Since March 2013, the First Reception Centre in the country is operating in the Evros region, pursuant to Law 3907/2011 which established a First Reception Service and introduced, for the first time in Greece, an institutional and procedural framework for the first reception of persons who arrive in the country in an irregular manner. Despite

the shortage in staffing and the difficulties in carrying out the necessary referrals to appropriate structures, the operation of the First Reception Centre has signalled a decisive improvement in the registration and screening of new arrivals, as well as in the coverage of their basic needs, including medical and psychological support, as well as in providing new arrivals with information on their rights and obligation in a language they understand.

- To date, however, all other relevant border locations, particularly the islands of Eastern Aegean, facing new arrivals by sea, lack the necessary first reception mechanisms to ensure that basic needs of newly arriving refugees and migrants are addressed, that they are screened, that persons with special needs as well as those who need international protection are identified and that referral to appropriate structures for follow-up according to their profile and needs are undertaken. Instead, administrative detention is systematically applied to persons entering Greece in an irregular manner, without adequately assessing, as required by international, European and national law on measures of deprivation of liberty, in each individual case, applicable detention grounds, necessity and proportionality of the detention measure or alternatives to detention. The administrative detention of third country nationals, including at entry points, often occurs in conditions that fall short of applicable human rights standards, and for this reason, has been criticised as well as, in a number of cases condemned by European judicial institutions.
- Apart from the administrative detention of persons arriving in Greece in an irregular manner, administrative detention is also extensively used in the context of Operation "Xenios Zeus", launched in August 2012, in the cases of third country nationals, arrested in Greece for irregular stay without legal documentation, for the purpose of their removal from the territory. Detention orders, in such cases, are issued systematically, without an assessment and adequate reasoning in each case, as required by international and European legislation. Among those detained in pre-removal detention centres are persons in need of international protection, who could not lodge an asylum application due to limited access to the asylum procedure, as well as third country nationals whose removal cannot be implemented, for humanitarian reasons (such as serious medical conditions) or due to practical difficulties (such as inability to obtain travel documents). In such cases, the legality of prolonged detention (which may reach up to 18 months) is questionable in so far as the purpose of the detention, to secure removal, cannot be achieved.
- The administrative detention of asylum seekers is permissible only as an exceptional measure and on the basis of specific grounds. In many cases these specific grounds do not apply and asylum seekers are being held with a view to the execution of a removal order, while this is not consistent with their status as asylum applicants. In light of the current systematic practice of using administrative detention for irregular entry and stay without adequate procedural guarantees and an assessment of the grounds and need for detention, the prolongation, by law, of the maximum duration of detention of asylum seekers to 18 months is therefore particularly problematic.

Recommendations:

- Strengthening of the First Reception Service with sufficient and adequately trained staff of various disciplines, as foreseen by Law 3907/2011.
- Establishment and operation of First Reception Centres in other border-locations of the country, with priority given to the Northeastern Aegean islands. In the meantime, establishment and staffing of mobile units to cover first reception needs at border-locations, which face increased numbers of arrivals of refugees and migrants.

- Immediate measures for the establishment of (open) reception facilities and social support for asylum seekers and unaccompanied children to ensure effective referrals from First Reception Centres or border-locations, once first reception procedures are completed.
- Implementation of administrative detention as an exceptional measure and as a measure of last resort, particularly in the case of asylum-seekers, in line with the conditions stipulated by law, namely, with detention decisions based on an assessment in each individual case, with adequate justification of the need for detention in each case, in compliance with the principle of proportionality and only if it is necessary to serve the intended purpose, permissible by law, including in the case of removal. Reduction in the length of administrative detention and substantial improvement of detention conditions. UNHCR Guidelines on the detention of asylum seekers may constitute a text of reference for the implementation of the legal framework for administrative detention.
- Border control measures should be implemented in a way in which access to territory and to safety for persons in need of international protection is not impeded and should not result in unofficial returns [push-backs].

Reception of asylum seekers and unaccompanied children

Issues:

- Reception conditions of asylum seekers and unaccompanied children in EU Member States are bindingly determined by European legislation, in the context of the Common European Asylum System. Standards for the reception are now determined by Directive 2013/33/EC of 26 June 2013. In view of the new legal framework of the European Union, Greece will have to transpose this re-cast 'Reception Conditions Directive' into national legislation, modifying PD 220/2007 that is currently in force.
- Non-governmental organizations are currently operating the majority of the existing reception facilities for asylum-seekers and unaccompanied children (open reception structures), under the supervision of the Ministry of Labour, Social Security and Welfare. The total capacity of reception facilities for both asylum seekers and unaccompanied children stands at about 1000 places, which is not sufficient to cover the needs. Based on a Report of the National Centre for Social Solidarity (EKKA), responsible for the management of requests for accommodation in reception facilities and referrals to reception facilities, in 2012, 56% of the requests could be met. Greece has been condemned by the European Court of Human Rights for the serious deficiencies in the reception of asylum seekers, in the cases it decided.
- The operation of reception facilities as well as, generally, the provision of minimum reception conditions for asylum seekers and unaccompanied children, as required by European law, lacks, in UNHCR's view, an adequate institutional framework, including Standard Operating Procedures (SOPs) for reception facilities as well as monitoring and evaluation mechanisms. Moreover, the funding for the operation of reception facilities originates, to a large extent, from EU funds, available under programs with limited duration and time-consuming procedures of approval and disbursement, which negatively affects the sustainability of the structures and the quality of the services provided.

- Access of asylum seekers to legal employment, particularly to work permits, has become extremely difficult, and close to impossible, following a circular of the Ministry of Labour, Social Security and Welfare (of October 2012). The restrictions on access to legal employment further marginalize asylum seekers and limit their ability to be self-reliant.

Recommendations:

- Prioritization of reception of asylum seekers and unaccompanied minors by the State through needs assessment and strategic planning with specific actions and time-frame.
- Based on an agreed national reception strategy, ensure that reception needs are considered as a policy priority, including in the allocation of increased resources, both nationally as well as in the framework of the operation, at national level, of the new single Asylum and Migration Fund, as of 2014.
- Adoption of the draft Standard Operating Procedures (SOPs) for Reception Centres of asylum seekers and unaccompanied children with a view to harmonize the relevant processes in reception structures and to contribute to quality and efficiency of reception services in line with defined standards.
- Increase the capacity of reception facilities for asylum seekers and unaccompanied children.
- Review of the legal framework concerning work permits of asylum-seekers to contribute to their self-reliance.

Protection of unaccompanied children

Issues:

- The existing framework for child protection in Greece, both in terms of legislative provisions and in practice, is inadequate to address the special needs of third country national children who arrive in Greece unaccompanied by a parent or care-giver. When arriving in Greece, unaccompanied children are not accurately or sufficiently identified (including through proper age assessment procedures). Reception capacities for children are insufficient (currently there are 9 special centers for unaccompanied children, with a capacity for approximately 400 persons and no reception facility to cater for the special needs of children below the age of 12). There is no institutionalized procedure for the determination of best interests of the child, a guiding principle of the protection of children according to international standards and Greece's obligations as a signatory of the Convention on the Rights of the Child (CRC). As a result of existing shortcomings in the child protection system of Greece, unaccompanied or separated third country national children remain in administrative detention, often for a long time, in contravention of applicable national and international law.
- Even when children are referred to reception facilities, they often 'abscond', including to the fact that their needs are not effectively addressed.
- For each unaccompanied child the competent authorities inform the competent Public Prosecutor for Children or the First Instance Prosecutor, who acts as the temporary guardian for the child and undertakes the necessary actions for the appointment of a guardian. Given the particular characteristics of unaccompanied children as well as

their numbers, the effective exercise of guardianship functions by temporary or permanent guardians becomes particularly difficult, resulting in children not being able to enjoy the protection and rights enshrined in the Convention on the Rights of the Child.

Recommendations:

- Identification and accurate registration of unaccompanied children and adoption of reliable age assessment procedure.
- Immediate start of consultations of the Working Group on unaccompanied children, established on the initiative of the Ministry of Justice, in order to develop specific proposals for the strengthening, legally and practically, of the institution of guardianship, including of monitoring mechanisms.
- Establishment of a Special Registry for the holistic follow up of every unaccompanied child, in the framework of the National Child Protection Registry and institutionalization of a registry comprising interventions regarding the protection and support of unaccompanied children, best interest assessment as well as specific timeframes for follow-up.
- Immediate increase of the capacity of reception centers in order to cover all children, at least up to their adulthood and avoid their detention in any case.
- Unhindered access to education for unaccompanied children, including establishment of reception classes and support teaching, in line with the principles of multicultural education, especially at schools located near reception facilities, as well as introduction of targeted vocational training programs for children above the age of 16 years old.
- Creation of a Single Coordination Body for the evaluation of the current situation, ensuring effective coordination and cooperation between all the involved stakeholders and proposing appropriate measures for the protection of children in full respect of their rights.

Integration of beneficiaries of international protection

Issues:

- Integration, as one of the durable solutions for refugees, requires adaptation and, in some cases, revision of the national legislative and administrative framework, to enable refugees to enjoyment all rights and access services to which they are entitled to, without discrimination, thereby providing them with the possibility to rebuild their lives, become self-reliant and contribute to the economic and social life of their host countries. The same applies to beneficiaries of subsidiary protection.
- In Greece, there is, to date, no comprehensive plan for the integration of beneficiaries of international protection. The majority of those granted refugee status or subsidiary protection remain unemployed, destitute and many are homeless or live in extremely difficult conditions of social exclusion, with no viable options for to integrate. With the economic crisis the situation has deteriorated and the need for support measures has become even more imperative. The recently adopted Medium Term Fiscal Strategy 2013-2016 (Law 4093/2012) has introduced additional conditions for the enjoyment of a number of rights, negatively affecting refugees and groups with special needs, such

as large families and uninsured elders, without providing for alternative support measures.

- Refugees face a number of problems in the process of family reunification. Refugee families remain separated for several years, due to time-consuming procedures. As regards beneficiaries of subsidiary protection, the current legislative framework excludes this group from the right to family reunification.
- The issuance of travel documents to recognized refugees is excessively delayed.
- Naturalization is the concluding stage of the integration process. The provisions of Law 3838/2010 marked a positive step by implementing, to a large extent, the relevant provisions of applicable international law, in particular Article 34 of the 1951 Convention relating to the Status of Refugees, by envisaging the acceleration of the naturalization process and reducing associated fiscal charges and costs. Significant and in line with international and European standards were also the provisions on the acquisition of Greek citizenship of the children of beneficiaries of international protection, born in Greece or having successfully completed at least six classes of Greek school. In view of the forthcoming review of the naturalization framework, UNHCR would like to highlight the specific characteristics of refugees and the need to support their integration and naturalization.
- The prospect of acquisition of the long term residence status constitutes an important element in the integration of beneficiaries of international protection in the country. It is expected that Greece will incorporate, in its transposition of the EU Directive on the Status of Third-Country Nationals who are Long Term Residents (2011/51/EU), which was amended to extend its scope to beneficiaries of international protection, will consider this group as eligible as 'long term residents' also in Greek law.

Recommendations:

- Inclusion of beneficiaries of international protection in the overall national strategy for the integration of third country nationals, by designing a social policy and targeted programs that take into account the specific needs of the refugee population and address all aspects relevant for integration, including of housing, vocational training, employment and social welfare, with particular attention to groups with special needs.
- Ensure labor market access for beneficiaries of subsidiary protection and align their rights to those of refugees.
- Accelerate reunification of separated refugee families and extend favorable provisions to the category of beneficiaries of subsidiary protection.
- Accelerate the issuance and renewal of travel documents of refugees, inter alia by enhancing in staff and equipment the competent service of the Ministry of Public Order and Citizen Protection.
- In a possible review of the legislation on the acquisition of Greek citizenship by the children of beneficiaries of international protection, being born in Greece or attending Greek schools, ensure consistency with the spirit and philosophy of Law 3838/2010, taking into account also the fact that these children cannot enjoy the protection of their country of origin.

- Completion of the transposition into the Greek legislation of the Directive for Long Term Residents (2011/51/EC) with provisions that will facilitate the inclusion of beneficiaries of international protection.

Racist Violence

Issues:

- The overall negative atmosphere towards foreigners does not distinguish between refugees and economic migrants, persons present legally or illegally in Greece, those who have live in Greece for years or new arrivals. Xenophobic reactions and behaviors, as well as violent incidents with racist motives, have regularly also affected asylum seekers and refugees. Xenophobia and racism have a negative impact to the enjoyment of rights, from access to asylum to social rights, including access to health care, education and employment, and have seriously affected possibilities for integration.
- The Racist Violence Recording Network, coordinated by the National Commission for Human Rights and the United Nations High Commissioner for Refugees in Greece, in which 32 non-governmental organizations and other stakeholders participate, records incidents of racist violence based on the voluntary testimony of the victim, and highlights the quantitative and qualitative trends in the occurrence of racist violence in Greece.
- During the period January - December 2012, the Racist Violence Recording Network recorded, through interviews with the victims, 154 incidents of racist violence. The majority of the incidents reported physical attacks against foreigners, often combined with threats, verbal abuse and damage to property. The victims reported that they were targeted because they were foreigners or/and due to other relevant characteristic such as color, ethnic origin or religion. The use of a wide range of weapons demonstrates the increasing violence of the attacks. 24 of the recorded cases reported as perpetrators of racist violence police officers during the performance of their duties.
- Few of the victims file an official complaint, either because they lack legal documents and therefore they will be arrested to be deported, or because they do not believe they will find justice.
- The appointment of a Special Prosecutor responsible for the coordination and the proper investigation in an effort to tackle racist crimes by prosecuting authorities, as well as the establishment of Special Departments and Offices under the Hellenic Police aimed at tackling the phenomena of racist violence, are important steps in creating the conditions to address and prevent violence with racist and xenophobic motives. These Departments and Offices need to be strengthened through the recruitment of suitable staff and targeted training.

Recommendations:

- Effective prevention and combat of racist crimes presupposes the effective ability of the victim to report such a crime under safe conditions, without the fear of negative consequences or faced with being dissuaded from reporting a crime. The State should encourage the victims - regardless of their legal status in the country - to report any threats or attacks against them.
- The existing legal framework, apart from its deficient implementation, is insufficient to address the impunity of perpetrators and to protect the victims. To effectively address

racist violence, irrespective of whether this is achieved by adopting a new legislative framework or by modifying the existing framework, two aspects need particular attention: (i) the protection of victims and important witnesses of acts of racist violence and (ii) the investigation of racist motives from the outset of a criminal investigation procedure.

- Particularly with regard to the protection of victims and important witnesses, it is suggested the suspension of detention or deportation (in case they do not have legal documents), and to grant temporary residence status (as per the applicable legislation on protection for victims of trafficking) under a special prosecutor act which will verify the grounds of the complaint, for the period until the final judgment of the criminal proceeding, in order to facilitate the effective prosecution of the perpetrators.
- Addressing acts of racist violence must be accompanied by the effective investigation of any report concerning arbitrariness or negligence of police officers, as well as by the specialized training of the staff of the Departments and Offices of the Police, which are responsible for investigating acts of racist violence.

UNHCR Greece
July 2013