

Territorial Differentiation of the Refugee Protection in the Aegean Sea

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Introduction

During the 1990s and 2000s, forced migration related topics were largely discussed in the frames of securitisation and harmonisation of the legal framework within the EU member states. Greece, as a frontier member state, has been drawn in the centre of these discussions with the Europeanisation process of its asylum system and its practices in migration control at the maritime and land borders with Turkey. In particular, after the unexpected migration movement from Turkey to Greece in 2015, the Aegean Sea has been under the spotlight. Despite various studies focusing on refugee protection, border policies, and EU governance, few studies emphasized the legal landscape of forced migration in the region. Therefore, this report aims to provide an overview of the legal landscape of the asylum regime in the maritime border zone between Turkey and Greece and to argue how it has impact on the rights and livelihoods of asylum seekers.

While the Greek asylum system is shaped by the 1951 Refugee Convention and its 1967 Protocol, as well as international human rights treaties including European Convention on Human Rights (ECHR) and the EU Charter of Fundamental Rights, the harmonisation process of the Greek national legal framework with the EU law leads a multi-layered asylum regime in Greece. Following the adoption of the European Migration Agenda adopted by the European Commission in response to the so-called “refugee crisis” in May 2015, both in Italy and Greece, hotspots were established in order to identify, register and fingerprint asylum seekers. Within this framework, the fast-track border procedures for the asylum applications started to be implemented for those who arrive in the Eastern Aegean islands while the regular procedure continues to be applied in the mainland.

The consequences of this fragmentation in the legal procedures were aggravated since the geographical restrictions on travel from the Eastern Aegean Islands (where hot spots are established) to the mainland - which was brought as a result of the implementation of the EU-Turkey Statement of March 2016. On one hand, the complications in the asylum system put asylum seekers in a more precarious situation, and have had direct impact on their access to rights and to the basic services. On the other hand, in the face of the proliferation of regulations

and legal documents for “better” governance, actors in various levels find themselves in a regime of emergency with a flexible legal context. In addition to this fragmentation of the asylum legal framework, militarisation of the Aegean Sea and the gradual involvement of the institutions in different levels created new dynamics on the ground. Even though the main authority to receive asylum applications is the Greek asylum service, the presence of the European agencies such as EASO, Europol and Frontex together with the NGOs working on refugee protection bring new dimensions to the governance mechanism. From this perspective, while discussing the territorial differentiation in the asylum regime, the position of the main actors within this unique legal landscape will be addressed.

I. Background

From the late 1980s, a wide group of migrants began to arrive in Greece. While in the beginning the co-ethnic returnees from the former Soviet Union and the migrants from Balkan region (in particular from Albania) were the main groups, in the following years, together with the increase in the arrivals, the profile of the migrants became more diverse comprised of different regions including Southeast Asia and Sub-Saharan Africa (Triandafyllidou 2009: 159- 160). In this period between 1991 and 2001, the Greek migration policy was largely based on the restrictions and expulsions of the migrants (Triandafyllidou 2009: 160; Papageorgiou 2013: 77). With the Europeanisation process of the Greek migration policy during 2000s, a number of reforms were realized in Greek legislation on migration (Dimitriadi 2019: 5). However, both law and the practices were still not adequate enough to fulfil the international human rights standards as repeatedly criticised by the Council of Europe (ECRI 2009), Amnesty International (AI 2008), and Human Rights Watch (HRW 2008). The fundamental problems were lack of an adequate asylum determination system and effective appeal system, and continuous violation of non-refoulement principle.

With the shift in the migratory routes from the Western Mediterranean route (Morocco- Spain) and the Central Mediterranean route (Libya-Malta/Italy) to the Eastern Mediterranean route (Turkey-Greece), the crossings from Turkey to Greece on the land border dramatically increased between 2009 and 2011 (Alexandridis & Dalkiran, 28 March 2017) In addition to the new arrivals, the structural lack of the asylum system created precarious situation for the migrants in Greece. Therefore, the so-called “refugee crisis” in 2015 was in fact not a breaking point but an aggravated continuation and consequence of the humanitarian crisis already existed. In this context, the case of *M.S.S vs. Belgium and Greece* (ECtHR - *M.S.S. v. Belgium and Greece*, 2011) is significant in terms of demonstrating the structural problems in the asylum system in Greece, as well as the deficits in the Dublin regime in the European asylum system. The

European Court of Human Rights (ECtHR) was not only highlighting the insufficient conditions in the reception and detention facilities in Greece such as access to clean water and sanitation, but also the dysfunctions of the asylum system in Greece including inability of the access to the asylum application. Therefore, the Court decided that the Greek asylum system was not compatible with the standards accepted by the Dublin Regulations.

Mostly as a result of the *M.S.S vs. Belgium and Greece* case, the Greek government introduced a national Action Plan on Asylum Reform and Migration Management to the European Commission with the support of the European Asylum Support Office (EASO) and United Nations High Commissioner for Refugees (UNHCR) (UNHCR, December 2014). In the frame of the Action Plan, a strategic framework for migration management and an institutional reform were outlined. In this way, the fundamental services -the Asylum Service, the Appeal Authority, and the First Reception Service- for the asylum system could be established (Dimitriadi & Sarantaki 2019: 6).

During this period where the institutional and procedural reforms were taking place the migration trends changed once more. As a consequence of the RABIT operation organized by the Frontex at the Greek-Turkish land borders starting from 2010, the number of arrivals to the Aegean islands started to increase rather than the land borders. According to the data provided by the Ministry of Public Order and Citizen Protection (via UNHCR), the number of arrests of the irregular migrants at the land borders (Evros region) decreased from 54,974 in 2011 to 1,122 in 2013 while the arrests at the sea borders jumped from 1,030 to 11,447 in the same years (UNHCR December 2014).

Recent Developments in Aegean Sea after 2015

The sudden peak in arrivals in 2015 has led to fundamental changes in the Greek asylum system. While over 900,000 people crossed to the Aegean islands from Turkey, 3,550 people drowned in the sea (UNHCR 2015). Alongside the sharp increase in the numbers of arrivals, the image of Alan Kurdi's body laying lifeless on the shores of Bodrum in Turkey drew the attention from the Central Mediterranean route to the Eastern Mediterranean route. In consequence, the European Agenda on Migration was immediately adopted by the European Commission in May 2015 in order to define the main policy for a European response towards irregular migration including the re-shaping of the Greek asylum regime.

Table 1: Refugee movement in 2015



Source: DG-ECHO (2015), Western Balkan Route – Refugee/Migration Crisis. Available at <https://reliefweb.int/map/world/western-balkans-route-refugeemigration-crisis-echo-daily-map-03092015>.

With the adoption of the European Agenda, a number of measures were taken which had direct impact on the refugee protection in the Aegean. While it was decided for Frontex operations to be expanded with the allocation of a tripling budget and more equipment, a joint maritime information (JOT MARE) was established by Europol for collecting data for identification (European Agenda 2015: 3). Alongside these policies implemented for the detection in the Aegean Sea, the “hotspot approach” and the Asylum Relocation programme were also adopted by the European Agenda. The “hotspot approach” was defined as an intervention in the main arrival points where “the European Asylum Support Office, Frontex and Europol on the ground with frontline Member States to swiftly identify, register and fingerprint incoming migrants.” (European Agenda 2015: 6). By this means, Reception and

Identification Centres (RICs aka hotspots) were established as hotspots in Greece (Samos, Lesbos, Chios, Kos, and Leros) and Italy (Lampedusa, Pozallo, Porte Empedocle, Augusta, Taranta and Trapani). In parallel with the aim of the “hotspot approach” in order to fasten the asylum process, the fast-track border procedure has become the main asylum procedure in these islands. Thus, the legal framework for refugee protection was geographically differentiated between the islands and the mainland.

As a complementary policy to the “hotspot approach”, the temporary Asylum Relocation programme for the distribution of asylum seekers coming high rate of recognition countries within the EU member states was set up by the Council’s Decisions 2015/1523 and 2015/1601 as the Article 78(3) of Treaty of Functioning of the European Union (TFEU) was activated for Italy and Greece in order to respond the emergency situation. Hence, the refugee situation in Greece was officially characterized as an emergency. The ad-hoc and temporary mechanisms brought as a response to the emergency situation, created fundamental changes in the Greek asylum system which led to more disparities and heterogeneity in the treatments towards asylum seekers. The divergence deepened even more after the adoption of the EU- Turkey Statement of March 2016 which regulated the returns of all migrants who would arrive in Greek islands from Turkey or would be intercepted in the Aegean Sea after March 20, 2016 to Turkey. Furthermore, with the cease of transferring asylum seekers from the hotspots to the mainland from 21 March 2016 have turned the hotspots to detention centres (Dimitriadi, 2016: 3). From this date, while only the asylum seekers who are examined under the vulnerability criteria are transferred to the mainland, the others have been forced to live in poor conditions.

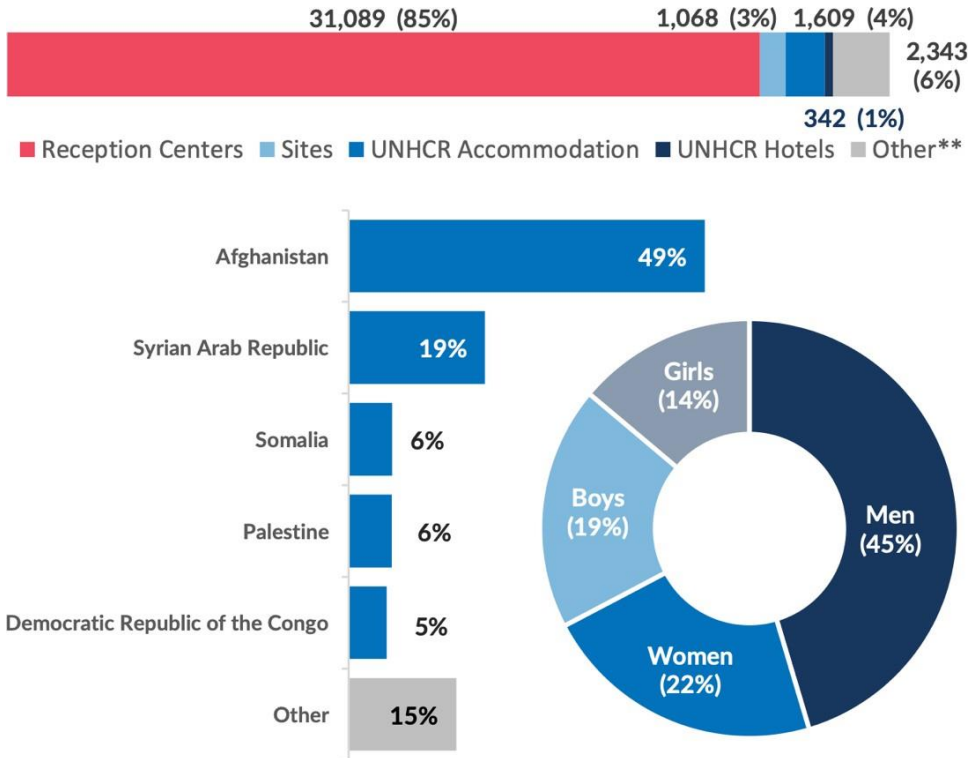
Following the EU-Turkey Statement of March 2016, the change in the Greek government from SYRIZA to New Democracy (ND) in July 2019 is another breaking point for the refugee protection in Greece. As one of the main promises of the ND in the general elections campaign, police started to conduct operations against the refugee squats in Exarcheia in Athens throughout August, just the following month of the governmental change. Together with these populist policies, institutional changes have also been implemented by the ND government. First, the Ministry of Migration Policy established during the SYRIZA government was transformed into a General Secretariat for Immigration Policy, Reception and Asylum under the Ministry of Citizen Protection (To Vima, 9 July 2019). However, the ND government decided to re-establish the Ministry of Migration and Asylum 6 months after this decision. Moreover, on late October 2019, a new strategy including the establishment of closed detention centres and a new asylum law was accepted by the government.

While all these developments were happening in the domestic politics on migration, on 27 February 2020, Turkish authorities stated that Turkey's western borders would open. Following this announcement, thousands of people including children and families from Afghanistan, Syria, Iraq and many other countries went to the borders to cross to Greece and Bulgaria. Greek police officers and soldiers attacked with tear gas, water cannons, plastic bullets against people who tried to cross the land border while the ships were prevented to arrive to the islands by both coast guard and the civilians in pushback operations (AI 2020: 4). In the meantime, London-based research group Forensic Architecture released a video on the killing of a 22 years old Syrian refugee by the Greek fire at the land border with Turkey (Und- Athens, 5 March 2020). Alongside the ill-treatments against the refugees, the most crucial step was taken with an emergency legislative decree (herein after "Decree") on 2 March that suspended the asylum applications for a month. Together with this suspension, PM Mitsotakis demanded to activate 78(3) of TFEU. The demand of the Greek government for activating the provisional measures against the emergency situation including the deployment of RABIT was welcomed by the leaders of European Commission, European Parliament, and the European Council as understood from their visit at the land border with Turkey and their common statement following this visit on 3rd March.

In addition to the suspension of the asylum procedures, during the period of effect of the Decree, asylum seekers arriving to islands were kept in various detention sites including the Rhodes Hellenic Navy vessel at the Port of Mytilene. Those who arrived on Leros (approximately 100 asylum seekers) and Samos (approximately 250 asylum seekers) were held in the Coast Guard station (RSA April 2020: 3). Meanwhile, two new detention facilities were established in the mainland in the north of Athens in order to keep the new arrivals until they are returned to Turkey (Ministry of Migration and Asylum, 14 March 2020). Taking into consideration the suspension of the asylum applications and arbitrary detention under inhuman conditions, international refugee law, EU law and domestic law were all violated in this case.

Around mid-March 2020, the outbreak of the Covid-19 brought questions about the detention of the newly arrived asylum seekers, as well as those living in the refugee camps in the islands. However, despite the Covid-19 measures and suspension of the readmissions to Turkey, the detention of the asylum seekers including unaccompanied children and pregnant women continued in these pre-removal detention sites (Kathimerini, 23 March 2020). In April 2020, with the end of the effect of the Decree, the asylum seekers under detention were informed that they would be released from detention; however, in practice the detention was not over by the end of April (RSA April 2020: 4).

Greece has been criticised for the poor conditions in the refugee camps in the Aegean islands for long time. In particular, as a result of the EU-Turkey Statement of 2016, with the geographical limitation, the asylum seekers have been stuck in the camps which led to overcrowded facilities. According to the latest numbers given by the HRW (April 22, 2020), as of April 2020, the population in the camps of the Aegean islands reached to 34,875 whereas the total capacity is around 6000. The NGOs such as HRW and MSF have been calling the authorities to safely transport the people starting from the ones at greater risks of chronicle illnesses, elderly, children, and pregnant women. In frame of the measures for Covid-19, a “shielding” programme has been implemented by the UNHCR. In this context, the asylum seekers at the risk of Covid-19 have been transferred from the RICs into ESTIA-programme apartments and/or hotels on the islands or the mainland (UNHCR June 16, 2020). Starting from May 2020, recognized refugees living in Moria RIC were asked to leave the island and go to the mainland. Nevertheless, the government has not announced any accommodation plan for those who would leave the camps and arrive in the mainland. There are currently 11,000 recognized refugees living in the reception facilities (Infomigrants June 9, 2020).



Source: UNHCR, Screenshot from the Aegean Islands Weekly Snapshots (8-14 June 2020). Available at <https://data2.unhcr.org/en/documents/download/77147>.

Actors

A number of actors in various levels are stakeholders in the refugee protection in Greece. However, following the European Agenda on Migration in 2015 and the EU-Turkey Statement of March 2016, the role of European Agencies such as EASO and Frontex have increased importance in the process.

Hellenic Police: Alongside the main responsibility for securing the external area of the hotspot facilities, the Hellenic Police has authority for identification and verification of the nationalities of new arrivals.

Frontex: Frontex, the European Border and Coast Guard Agency is fundamentally responsible for border surveillance. With this purpose, Operation Poseidon has been taking place in the Greek sea borders with Turkey and the Greek Aegean islands. In addition to the border surveillance and rescue operations, Frontex staff is also authorized to assist national authorities with the identification and verification process (Frontex, Main Operations: Operation Poseidon (Greece)). Nevertheless, in practice, due to the lack of capacity of the national authorities, Frontex is more engaged in the assessment of documents and translations. Its role in conducting the procedures is determined by an internal regulation (AIDA, Reception and Identification Procedure: Greece).

UNHCR: UNHCR does neither work for the registration of the asylum seekers, nor for the examination of the cases. However, it works with the government to fulfil the basic needs of asylum seekers and refugees such as shelter, water, sanitation, food, health, education, site management, and information provision. In this context, UNHCR has been conducting the ESTIA programme for accommodation and cash assistance funded by the Asylum, Migration and Integration Fund of the EU (UNHCR, ESTIA). When the EU-Turkey Statement of March 2016 was announced, the UNHCR emphasized its concerns for the implementation of the Statement since the capacity of the islands was insufficient for assessing asylum claims. Therefore, the UNHCR announced the suspension of their activities at all closed centres on the islands (UNHCR, March 22, 2016). Their role for monitoring and protection still continues.

IOM: IOM is assisting to the government for the site management and reconstructed accommodation facilities (IOM 2018a). Together with the Site Management Support (SMS), IOM is implementing an action programme called “Filoxenia” for providing emergency shelters

(temporary accommodation facilities through the activation of 6000 places in hotels) in order to decongest the Eastern Aegean Islands (IOM 2018b).

Greek Asylum Service: The Greek Asylum Service is the main authority for processing the asylum claims taken by the Registration and Identification Service.

European Asylum Support Office (EASO): EASO is originally an EU agency responsible for monitoring the harmonisation process of the asylum procedures in the member states. It played a crucial role during the implementation of the “hotspot” approach after 2015 (EASO 2020). In particular, with the adoption of the fast-track border procedure, EASO actively involved in the first instance asylum interviews. While in the beginning, they were only authorized to assist in the interviews in the hotspots, following the legislation in 2018, their authorization has been expanded to the regular procedure in the mainland (AIDA 2018).

Registration and Identification Service (RIS): RIS was firstly established in 2011 as a fundamental service for the registration and identification of the asylum seekers, including fingerprinting. They have a central role in the Open Temporary Reception Camps for third country nationals or stateless persons who apply for international protection (Hellenic Ministry of Migration Policy).

NGOs: Apart from the national, regional, and international authorities, there are number of NGOs working in the refugee protection in Greece. Danish Refugee Council (DRC), Oxfam, Médecins Sans Frontieres (MSF), Terre des Hommes, and Doctors of the World are INGOs working on the provision of legal, medical, and other assistance to the asylum seekers and refugees. There are also national NGOs such as METAdrasi, Praksis, Refugee Support Aegean, Greek Council for Refugees, Solidarity Now, European Lawyers in Lesvos, and Arsis actively working in various areas including legal aid, education, reception, accommodation, etc. In addition to the NGOs, in particular during 2015-2016 when Greece was facing the peak point of the “refugee crisis”, the grassroot organisations were very active in assisting the basic needs of refugees.

Legal Framework for Refugee Protection in Greece

Greek asylum system is mainly based on the 1951 Refugee Convention and its 1967 Protocol. In addition to the Geneva system for refugee protection, Greece is also bound with

the major human rights treaties concluded under the auspices of the UN, the EU legislation on the CEAS and the EU Charter of Fundamental Rights, as well as the 1950 European Convention on the Protection of Human Rights and Fundamental Freedoms (ECHR).

In 1996, the Law 2452 brought the legal basis for regular and accelerated procedures and in line with the EU law, new concepts of manifestly unfounded applications and safe third country were introduced. During the 2000s, the Dublin Regulation (2003), the Directives on the Reception (2007), Procedures and Qualifications (2008) were transposed into the Greek national legislation. (Petracou, Leivaditi, Maris, Margariti, Tsitsaraki and Ilias 2018: 28).

The Law 3907/2011 was a momentous step for the Greek legislation on the asylum for two reasons. First is concerning the institutionalisation of the Greek asylum system by establishing the Asylum Service and First Reception Service. Second important dimension is the Europeanization of the Greek legislation through adaptation the provisions of Directive 2008/11/EC “with regard to the common rules in Member States for return of illegally staying third-country nationals and other provisions”. The Law 3907/2011 changed the whole system existed since 2008 by bringing new standards concerning the first reception, making distinction between asylum seekers and irregular migrants, taking authority from the Greek police and giving to the civil asylum committees (Triandafyllidou 2014b: 419).

In 2015, the adoption of the hotspot approach by the EU as a response to the emergency situation brought major changes in the Greek asylum regime, as well as in the institutional structure. In the beginning, the Greek government was adopting ad hoc solutions such as boosting the number of reception places in line with the European directive and temporary distribution of refugees within the framework of the Relocation Programme. However, these initiatives did not have legal basis within the national legal framework (Dimitriadi and Sarantaki 2019: 7-8). Finally, following the EU-Turkey Statement of 18 March 2016, Law 4375/2016 was accepted by the Hellenic Parliament that introduced a number of changes in the legal framework. With the Law 4375/2016, the new Ministry of Migration Policy was established to take responsibilities for immigration and integration related issues. A greater role for EASO and Frontex was allowed in Greece. In terms of procedural changes, a new procedure “Fast-Track Asylum Procedure” was accepted to apply in the RICs (hotspots). The geographical restriction on the Aegean islands where the RICs were established started to be implemented. The returns of the irregular migrants that arrived in Greece after the Statement were regulated (Leivaditi, Papatzani, Ilias and Petracou 2020: 15).

In 2018, the Law 4375/2016 was amended with the law 4540/2018 in order to upgrade the

role of EASO once more. While EASO was only authorized to assess the vulnerability, to conduct interviews and draft opinions in the fast-track and border procedures, with this amendment, its authorization was expanded to implement these responsibilities in regular procedures as well (Leivaditi, Papatzani, Ilias and Petracou 2020: 16).

The latest development is the new amendment got into force on January 2019 that made changes to asylum procedures, appeal procedures for reception and detention, and to determine a “safe third country list”.

First Instance Procedures

Regular Procedure

Before June 2013, the Hellenic Police was the authority for receiving and examining asylum applications. Since 2013, the Asylum Service that has central offices in Athens and Regional Asylum Offices (RAO) across the country are the main authority for fingerprinting the applicants, registration and examination of the asylum applications. According to the Article 51(2) of the Law 4375/2016, in the framework of the Regular Procedure, “the examination of the applications shall be concluded the soonest possible and, in any case, within six months”. However, this time limit can be extended a further nine months (Article 51(3) of L4375/2016), where “(a) complex issues of fact and/or law are involved; (b) a large number of aliens or stateless persons simultaneously apply for international protection, making it very difficult in practice to conclude the procedure within the six-month time limit.” The delay can also be recognized in case that the applicant fails to submit his/her documents in time. If the examination exceeds the maximum time limits, the Law gives right to the applicant to request information from the Asylum Service; however, the authorities do know have obligation to make a decision within a specific timeframe. Therefore, the number of pending applications is high as there are 97,023 pending applications (grand total) out of 299,620 applications.

Since April 2016, within the framework of the Fast-track Procedure, EASO started to deploy personnel to “assist” the Asylum Service during the interview in cases. In June 2016, with the adoption of an amendment, this authority was extended to “conduct” an interview by an EASO caseworker. Finally, since May 2018, Greek-speaking EASO personnel could be deployed also in Regular Procedure in the mainland (AIDA 2019a).

Border Procedure

The Article 60 of Law 4375/2016 separates two different types of border procedures: normal border procedure and fast-track border procedure. In this sub-section, normal border procedure will be explained. The normal border procedure is applied in the transit zones such as ports or airports where the asylum seekers have same rights with the applicants who apply for international protection in the mainland. Therefore, it is separated from the fast-track border procedure in which the rights of the asylum seekers are restricted as will be discussed further in the next sub-section. Nevertheless, deadlines for the normal border procedure are shorter than the ones in the mainland. In the case that the decision concerning the international protection is not given, the asylum seekers have right to enter into Greek territory and the examination of the application continues under the Regular Procedure (Article 60(2) of Law 4365/2016). According to the report of AIDA (2019b), the asylum seekers remain in detention in practice during the 28-day examination period.

Fast-Track Border Procedure

The fast-track procedure is a special border procedure that can be “exceptionally” applied when there are large number of arrivals and international protection applications at the border zones. Even though the fast-track procedure was prepared to be applied for 6 months by the Law 4375/2016, the Minister of Interior and Administrative Reconstruction would decide to prolong it for further 3 months period. The original law was amended several times (August 2017, May 2018 and December 2018) in order to allow the extension of the validity of the procedure (AIDA 2019c).

The fast-track procedure can be applied for the asylum seekers who are subject to the EU- Turkey Statement which means that the applicants who arrived on the Greek Eastern Aegean Islands after 20 March 2016. The applicants who already arrived in the mainland are excluded from this procedure. Moreover, the applicants who apply for asylum in the RIC of Fylakio in Evros region are again not examined under the fast-track border procedure (AIDA 2019c). Therefore, the fast-track procedure is a geographically restricted procedure in the Greek asylum system. In addition to the territorial differentiation for the application of the procedure, the fast-track procedure also excludes the vulnerable groups and the family re-unification cases (Dublin cases). From this perspective, the regulation itself leads to differentiated treatments based on the location of the asylum application and on the specific groups.

Different from the regular procedure, the Hellenic Police, the Armed Forces and EASO are also authorized for the registration of asylum applications, the notification of decisions or other

procedural documents, and the receipt of appeals. Police officers assist the Asylum Service in the islands for taking fingerprints of the applicants and issuing or renewing the asylum seekers' permission cards (AIDA 2019c).

Another difference of the fast-track procedure from the regular procedure is the duration of the examination. The Law 4375/2016 and its amendment in 2018 foresees a very short time period for the conclusion of the asylum procedure. According to the Article 60(4)(d) and (e) of Law 4375/2016 and Article 28(3) of Law 4540/2018, the asylum procedure including the appeals should be decided within two weeks. This speed raises questions on access to an effective remedy as highlighted in various reports including the Report of the Special Rapporteur on the human rights of migrants on his mission to Greece in 2017. In the report (A/HRC/23/46/Add.4), he states:

“Law 4375/2016 specifies that the process shall be completed within 15 days including the appeal stage, which raises concerns over access to an effective remedy, despite the support of NGOs. The Special Rapporteur is concerned that asylum seekers may not be granted a fair hearing of their case, as their claims are examined under the admissibility procedure, with a very short deadline to prepare. Provisions under the fast track regime are problematic due to the lack of individual assessment of each case, and the risk of violating the non-refoulement principle is consequently very high.” (p. 82).

Dublin Procedure

Dublin procedure is regulated under the EU Regulation No 604/2013 (Dublin III regulation) together with Implementing regulations. Dublin procedure is mainly applied for the cases where a third-country national or stateless person has family in another Member State and asks for reunification for his/her family (Leivaditi, Papatzani, Ilias and Petracou 2020: 19). At this point, there is an independent unit from the Asylum Service which is called Department of the National Dublin Unit that works for the application of the EU Regulation No 604/2013. The Asylum Service shares competence with the National Dublin Unit concerning the Regulation. The National Dublin Unit is authorized to cooperate with the other state departments in framework of the Regulation (Greek Asylum Service – website).

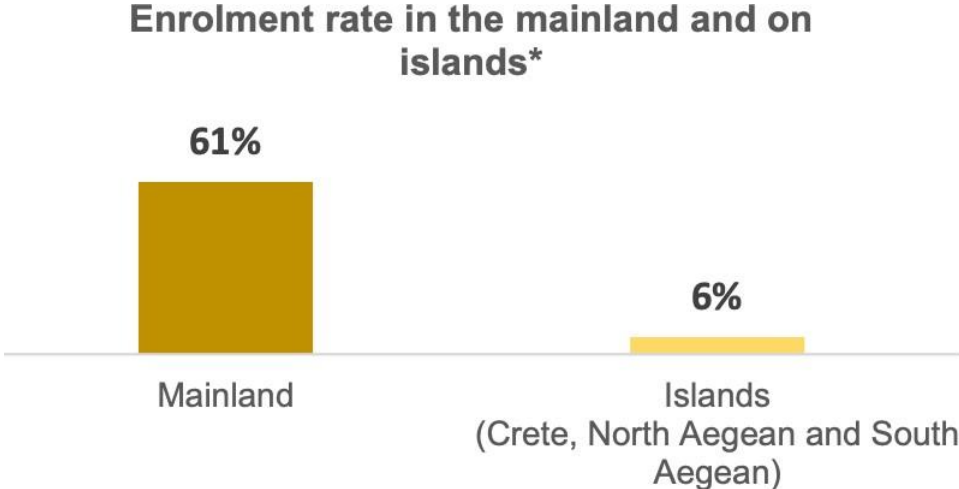
Accelerated Procedure

The Article 51(6) of the Law 4375/2016 determines criteria for the Asylum Service to register and examine by priority asylum applications: (a) belonging to vulnerable groups or being in need of special procedural guarantees; (b) application during the detention or staying at the transit zones; (c) being subject to the Dublin procedure (i.e. family re-unification); (d) manifestly unfounded applications; (e) subsequent application holders.¹

Impact on Rights & Livelihood

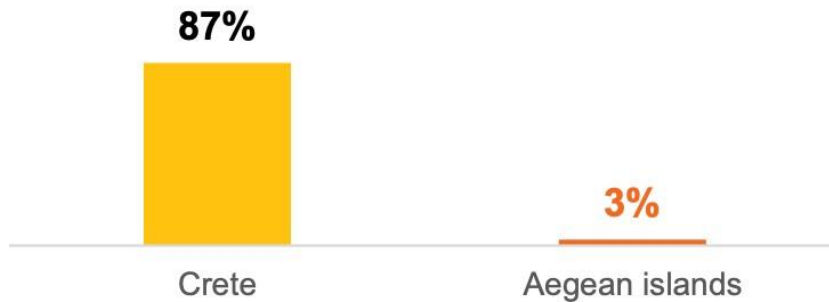
1. Education

By law, three months after arriving in the country, asylum seekers who have children at school-age have to send their children to schools. While children in the mainland are able to attend schools, in practice, the children in hotspots can only receive non-formal education provided by NGOs and cannot register in the schools in the islands (UNICEF Education Sector Working Group – January 2020).



¹ An asylum seeker has right to apply once more for international protection after a final negative decision for their prior application is given by the Hellenic Police or the Asylum Service. However, the applicant should have new reasons (new developments concerning their situation in their country) in order to make subsequent application (Article 59 of Law 4375/2016).

Enrolment rate on islands*



Source: Greece Education Sector Working Group, Access to Formal Education For Refugee and Migrant Children in Greece – January 2020.

2. Health

The national legislation in Greece regulates free health service and pharmaceutical treatment for asylum seekers and refugees. In order to benefit from health care, asylum seekers and refugees need to receive a social security number (AMKA). Despite the regulations in the legal framework, various reports were highlighting the challenges for them to access adequate health care in practice due to the serious shortage of resources and capacity (CommDH(2018)24, 6 November 2018). The lack of resources had a large impact on those who live in the Eastern Aegean islands. In addition to the high number of arrivals in 2015, the geographical restriction on the islands brought by the EU-Turkey Statement of March 2016 aggravated the challenges for refugees to access to the health services.

In order to solve the problems in the public health care system in Greece, in 2016, the “Comprehensive Emergency Health Response to Refugee Crisis” -PHILOS project- was created and started to be implemented by the Ministry of Health and Hellenic Centre for Disease Control and Prevention (KEELPNO). The main aim was to build capacity as a response to the emergency situation in the Eastern Aegean Sea. In the frame of PHILOS, the deployment of 1575 personnel (medical and auxiliary) was planned to support the hotspots and camps, as well as in the Open Accommodation Sites in the mainland. Nevertheless, according to the RSA report (June 2019: 8), the recruitments did not meet the calls in most of the areas and the absence of doctors and other medical staff remained.

	Chios RIC	Kos RIC	Leros RIC	Lesvos RIC	Samos RIC
Cultural Mediators	4	1		2	2
Doctors	0	1 Urologist	1	2	2
Midwives					1
Military doctor	1 for Primary Health Care				1
Nurses	4	4	6	8	5
Psychologists	4	6	2	2	1
Social Worker	4	5	2	1	2

Source: Screenshot from the RSA report titled “Structural Failure: Why Greece’s Reception System Failed to Provide Sustainable Solutions”, June 2019.

As a recent development, in July 2019, following the general elections, the right to social security number (AMKA) given to non-EU national migrants, refugees and asylum seekers including unaccompanied children was revoked which left thousands of people out of health care services (Keep Talking Greece, July 13 2019; Circular of the Ministry of Labour and Social Affairs, No. 80320/42862/Δ18.2718, October 1 2019). In February 2020, the government decided to grant the Provisional Insurance and Health Care Number (PAAYPA) for asylum seekers’ to access to health care while waiting for their application. If the asylum application is accepted and international protection is deserved, PAAYPA will turn into an AMKA number. In case of the rejection of the asylum application, PAAYPA will be automatically deactivated (Ekathimerini, February 3, 2020).

Apart from the state authorities, NGOs have a crucial role to offer health services to the refugees, in particular on the islands. In spite of minimizing their presence after PHILOS, the medical and health care of asylum seekers and refugees is still dependent on their work, notably on the efforts of MSF on the islands.

3. Access to employment

According to the articles 69 and 71 of the Law 4375/2016, both recognized refugees and subsidiary protection holders have full and automatic access to the labour market without any additional work permit. In addition to the high unemployment rates in Greece to the economic crisis since 2009, there are practical and bureaucratic challenges for access to the labour market. According to the report prepared by RSA (August 30, 2018), there is a direct linkage between accommodation and employment. The registration to the Greek Inland Revenue (Tax Office)

and opening of a bank account are prerequisites for employment. Nevertheless, this process cannot start without a permanent address. Since 2018, the Government Employment Agency OAED started to accept the registrations done by the camp residents and the homeless. Still, due to the difficulties to obtain the certificate concerning the homelessness and the certificate of accommodation sites or tax clearances, their problems remain in practice (RSA August 30, 2018).

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