

“Greece as a Country of Asylum”

UNHCR’s Recommendations

06 April 2015

UNHCR wishes to submit to the attention of the new Government of Greece a set of recommendations for its consideration to address the challenges in the asylum system and protection environment – many of which were identified in its report entitled “UNHCR Observations on the Current Situation of Asylum in Greece” dated December 2014¹.

I. Border management and access to the territory

1. Adopt internal rules and action plan on procedures at borders by the two competent Ministries² which ensure full regard of international, European and national norms concerning the protection of human life and dignity, the respect of the principle of non-refoulement of persons who are, or may be, in need of international protection, and the registration of all irregular entrants.
2. Reinforce search and rescue at sea (SAR) capacity of the Hellenic Coast Guard by increasing its human resources and operational means.
3. Ensure that informal returns (“push-backs”) of persons who cross the Greek border in an irregular manner do not occur.
4. Undertake effective and independent investigations into reported claims of irregular returns at sea and land borders (“push-backs”), and properly notify all those concerned of the outcome, as well as implement corrective measures.
5. Establish border inspection capacity within the Hellenic Police and Coast Guard to effectively audit compliance with international, European and national norms.
6. Increase available human resources and capacity of local Coast Guard authorities and Police authorities to receive and process new arrivals and provide initial relief, including personal hygiene items, clothing and first aid equipment and immediately improve material conditions in temporary detention facilities.
7. Adopt operational guidelines for the identification and handling of human bodies retrieved at sea, establish a process to inform next of kin, and ensure adequate treatment for survivors.

¹ UN High Commissioner for Refugees (UNHCR); *Observations on the Current Situation of Asylum in Greece*, published in January 2015, <http://www.refworld.org/docid/54cb3af34.html> .

² Ministry of Interior and Administrative Reconstruction/Alternate Ministers with portfolios of Citizen Protection and of Migration Policy, and Ministry of Economy, Infrastructures, Marine and Tourism/Alternate Minister of Marine.

II. First Reception and administrative treatment of asylum-seekers upon arrival

1. Expedite filling of all foreseen positions at the First Reception Service (Central Service and Regional structures) with qualified staff as stipulated in Law 3907/2011.
2. Allocate required resources to the First Reception Centres and Mobile Units to ensure that effective management, appropriate services and material conditions are provided to all new arrivals, as outlined in Law 3907/2011 and in accordance with applicable European standards. These conditions should include medical, psychosocial support, and information and interpretation services.
3. Establish First Reception Centres at main entry points, with a particular emphasis on the islands of North-Eastern Aegean and the Dodecanese, and immediately open the First Reception Centre in Moria on Lesbos.
4. Consolidate standard operating procedures (SOPs) for staff of the First Reception Service to ensure predictable and harmonised provision of services in the framework of first reception procedures.
5. Adopt the necessary regulatory framework for referral by the First Reception Service of persons with specific needs to accommodation facilities.
6. Consider making the necessary adjustments to the police-run “identification centres” in Samos and Chios, so that they can be transformed to First Reception Centres.
7. Draft and adopt a detailed plan of action for the management and reception of mixed migration flows; and define the responsibility of each of the actors with regard to different stages of the process such as provision of accommodation; basic needs; identification and documentation procedures; as well as transfers of new arrivals to other locations.
8. Ensure that the detailed plan of action also includes a contingency planning component to deal with any sharp increase of arrivals, over and above the anticipated numbers of arrivals based on current trends.
9. Plan for adequate and regular training for the staff of the First Reception Service and its partners, following best practices in other EU Member States facing similar operational challenges.
10. Adopt joint SOPs between the First Reception Service and the Asylum Service regarding the treatment of those who apply for asylum while still under first reception processes, with the aim to guarantee that further administrative detention of those asylum-seekers who have just arrived is exceptional and not the rule.
11. Ensure individualized examination of each issuance of a deportation and detention order and issue a renewable six-month suspension of deportation order if removal is not feasible (as foreseen in Art. 78 of Law 3386/2005).

12. Harmonise the status and granting of rights to third-country nationals under deportation procedures (Art. 78 of Law 3386/2005) and under return procedures (Art. 24 of Law 3907/2011), if the return is not feasible, and the individuals concerned are staying in the country with a suspension of deportation/removal order.

III. Access to and quality of the asylum procedures

1. Increase the registration and processing capacity of the Asylum Service in order to secure timely access to registration of all asylum-seekers, including by filling all vacant positions in the Asylum Service and creating additional positions through amendment of Law 3907/2011.
2. As foreseen, open a further eight Regional Asylum Offices (currently only five are operational) to ensure and improve access for all persons wishing to apply for asylum, and to accelerate the registration and processing of asylum applications submitted by persons in detention.
3. Ensure the immediate start of operations of the Regional Asylum Office in Thessaloniki.
4. Review the structure and rules of procedure of the Appeals Authority and its Appeals Committees so that the authority and responsibilities assigned to the Director and/or to the Rapporteurs do not *de facto* impair the Committees' mandate to provide an effective remedy to asylum applicants.
5. Transpose the provisions of the Asylum Procedures Directive (recast) that are not yet transposed into Greek law.
6. Adopt a public legal aid system for asylum-seekers in accordance with the requirements of the Asylum Procedures Directive.
7. Continue to provide resources to accelerate the examination of the backlog cases and to ensure a sustainable quality of decision-making, in particular through: (a) identification of joint premises to host all 20 Appeals Committees, (b) development of an Action Plan which outlines quantified targets, timeframes, indicators and resource requirements, and (c) updating the categorization of cases still pending with the aim to accelerate decisions when possible and appropriate, e.g. making decisions on a file basis.
8. Enhance operational monitoring of administrative procedures in the Attica Aliens Directorate, in particular those affecting examination of backlog cases (notifications of interview invitations and of interruption decisions, renewals of asylum seekers cards).

9. Given that some people granted humanitarian status under the “old” asylum procedure would be eligible for obtaining subsidiary protection, ensure that their status is reviewed through a harmonized, fair and timely procedure.
10. Unify the competencies for the granting and renewal of humanitarian status under the same administrative body.
11. Accelerate the issuance of decisions on pending applications for renewal of subsidiary protection granted under the ‘old’ asylum procedure by the competent authority within the Ministry of Interior (currently the Secretary General of Public Order). Until the issue is resolved, it is recommended to extend ipso facto the expired residence permits and to have them returned to their holders.
12. Agree on a timeframe for the gradual transfer to the Asylum Service of requests for renewal of international protection status for those who were granted this status under the “old” procedure.

IV. Second-line reception of asylum-seekers

1. To ensure oversight and ownership, streamline the currently dispersed competencies for reception (currently under the Ministry of Labour and the First Reception Service) under the overall responsibility and authority of one administrative entity.
2. Increase the number of reception places to address the basic needs of asylum-seekers entitled to be admitted to a reception system. In view of the earlier commitment by the Greek Government to increase capacity to 2,500 places, the required implementation should commence without delay.
3. Draft a ‘National Action Plan for the Reception of Asylum-Seekers’ which takes into account newly revised EU legislation, as well as the standards set by the relevant jurisprudence of the European Court of Human Rights. The plan should be based on current capacities and gaps, realistic numbers of applications, available and required resources, and stakeholders and should define actions and indicators within a specified timeframe.
4. Ensure that no reception centres and facilities are operated unless they meet adequate standards, which include certification and standard operating procedures for their operation, to ensure harmonized quality features in the services provided.
5. Transpose the provisions of the Reception Conditions Directive (recast) which are not yet transposed into Greek legislation.
6. Develop national reception policies to ensure efficient enjoyment of social rights by asylum-seekers (i.e. access to education, welfare and health services, development of their linguistic and professional skills).
7. Finalise the adoption of the draft Presidential Decree on the issuance of work permits for asylum-seekers.

V. Unaccompanied and separated children (UASC)

1. Ensure adequate protection of UASC by assigning responsibility to an administrative entity, with expertise in child protection matters, competent for all issues related to them. This entity should assess the current situation, ensure effective coordination and cooperation between all stakeholders involved and propose appropriate measures for the protection of children in full respect of their rights.
2. Expand the scope of the Ministerial Decision on age assessment by the First Reception Service to UASC-related procedures implemented by other competent authorities such as the Police and the Asylum Service.
3. Create a support mechanism for Public Prosecutors in their work as temporary guardians of UASC to facilitate the provision of services to these children.
4. Expedite the work of the Ministry of Justice Working Group on UASC with the aim to conclude specific recommendations regarding the institution of guardianship of UASC.
5. Ensure better access of UASC to the asylum procedure, in particular through the strengthening of travelling and escorting arrangements.
6. Establish a Best Interest Determination (BID) procedure for UASC that is based on a compulsory Best Interest Assessment (BIA) so as to effectively implement international, EU and national legal provisions affirming that the best interests of the child should be a primary consideration in all actions concerning children, whether undertaken by public or private institutions.

VI. Administrative detention

1. Continue with its efforts to reform detention policy, building on recent and positive changes in practices relating to the treatment of administrative detainees in pre-removal detention.
2. Ensure that the detention of persons seeking asylum is only applied exceptionally, and as foreseen in law. It should be implemented for the minimum possible period of time and only following exhaustion of alternatives measures. Appropriate screening and assessment of needs should ensure that persons who are bona fide asylum-seekers are not wrongly detained. Detention of children should be avoided. UNHCR Guidelines on detention of asylum seekers can serve as a reference³.
3. Promptly register and process asylum applications of persons who are under pre-removal detention to limit undue detention.
4. Review the maximum time limit an asylum-seeker can be subject to administrative detention in law as well as in practice, to avoid arbitrariness of detention.

³ UN High Commissioner for Refugees (UNHCR), *Detention Guidelines: Guidelines on the Applicable Criteria and Standards relating to the Detention of Asylum-Seekers and Alternatives to Detention*, 2012, <http://www.unhcr.org/505b10ee9.html>

5. Review detention orders against asylum-seekers in relation to necessity and appropriateness within 24 hours to 48 hours of their imposition, and thereafter on a weekly and monthly period until the maximum detention period is reached.
6. Provide detained asylum-seekers with information, access to counselling and legal aid services. Ensure substantial review of legality of detention through identification of significant expertise and resource reinforcement of the competent courts.
7. Ensure that the implementation of administrative detention to enforce deportations/returns is subject to an individual assessment and justification of its grounds and duration, taking into account whether this is appropriate and necessary to execute a return, and whether alternatives to detention can be implemented.
8. Revoke the Ministerial Decision endorsing the Opinion of the Legal Council of the State (No 44/2014) at least in relation to elements which are deviating from EU legislation, notably prolongation of administrative detention in pre-removal centres beyond 18 months.
9. Discontinue administrative detention for persons for whom UNHCR has issued a non-return advisory or who originate from countries to which removal is not implementable. Such persons should be issued with either a decision on their status or a suspension of the execution of their removal.
10. Terminate the administrative practice according to which reasons of public order or public security are evoked as grounds for detention in view of return/deportation of a third country national whose return/deportations is otherwise not feasible. Ensure that where such reasons of public order are evoked, they are specified and duly justified.
11. Take into account the existence of appropriate detention facilities and the ability to guarantee decent living conditions when imposing and reviewing detention orders, as provided by law. In the absence of these, detention should not be imposed.

VII. Integration of beneficiaries of international protection

1. Develop a comprehensive action plan and legislative framework on the integration of refugees and beneficiaries of subsidiary protection which is in line with obligations under the 1951 Convention relating to the Status of Refugees, as well as European legislation.
2. Mainstream refugee integration into general social protection measures by the State, namely housing (especially during the first phase of the integration procedure), vocational training, employment, education, health and social welfare, with particular emphasis on initial targeted support immediately after recognition. Existing policies and programmes, for instance those funded by the European Social Fund, should be reviewed so that persons granted status are effectively included into those benefit schemes.
3. Improve processing time of requests for reunification for refugee families.

4. Expand favourable legislative provisions on family reunification to beneficiaries of subsidiary protection.
5. Ensure issuance and renewal procedures for residence permits and travel documents are effective and swift, inter alia, through strengthening work processes and operational capacity of the competent authorities.
6. Facilitate effective access to the acquisition of Greek citizenship by beneficiaries of international protection, in particular through addressing the practical barriers that may hinder them from meeting some of the requirements, particularly in relation to the language test.

VIII. Racism and Xenophobia

1. Adopt a plan of action to prevent and tackle racist attacks, including against persons in need of international protection, in cooperation with specialized international and European organizations.
2. Adopt a uniform system at national level for the recording and monitoring of racist crimes, in cooperation with the police and any governmental or non-governmental body which collects relevant data.
3. Ensure implementation of Police Circular no. 7100/4/3 of 24 May 2006 on the obligation of police officers to investigate motivation for crimes, to collect relevant data, to record and/or report each incident against a person due to national or ethnic origin, colour, religion, disability, sexual orientation or gender identity based, regardless of whether a complaint has been lodged or not.
4. Ensure the application of the newly adopted Article 81 (A) of the *Penal Code* to ensure the proper investigation of racist motives in criminal prosecutions.
5. Ensure cooperation between police precincts and governmental or non-governmental bodies and immigrant communities in order to provide medical and social assistance, legal assistance and interpretation which will facilitate the victims' access to the police.
6. Amend the current legislative framework with a view to establishing an effective complaints mechanism regarding incidents of police violence and arbitrariness to enable an independent investigation and monitoring.

IX. Statelessness

1. Establish a national statelessness determination procedure which is conducted on an individual basis and encompasses procedural safeguards. To this end, the adoption of specific legislation is required, as well as specialized training of decision-makers with a focus on the identification of stateless persons. The competency could be assigned to the Asylum Service, considering its institutional set-up and the acquired expertise of the asylum applications' adjudicators.
2. Revise the national legislative and administrative frameworks, in order to ensure that stateless persons enjoy all rights enshrined in the 1954 Convention relating to the Status of Stateless Persons and have access to services, to which they are entitled, without discrimination.
3. Accede to the 1961 Convention on the Reduction of Statelessness which provides a legal framework to prevent statelessness at birth or later in life.
4. Facilitate access to documentation proving nationality for children who are born in Greece who automatically acquire the Greek citizenship on the basis of existing legislation, in particular through the provision of information, legal counselling and assistance.

X. Sustainability of funding for the improvement of the asylum system

1. Accelerate the submission of the Greek Multi-Annual National Plan for AMIF and the adoption of the required national legislation required for its implementation.
2. Establish the National Responsible Authority for EC Funds under direct ministerial supervision, to ensure that funding is properly coordinated among all ministries involved in migration and asylum management.
3. Elaborate a plan for the implementation of the mandatory consultation process/partnership principle with civil society, during the adoption and implementation of the National Plan for the AMIF.
4. As per priorities of the Greek National 2014-2020 AMIF component, include an activity on the representation of UASC in the current draft National Plan.