

DIRECTORATE-GENERAL FOR INTERNAL POLICIES

POLICY DEPARTMENT **C**

CITIZENS' RIGHTS AND CONSTITUTIONAL AFFAIRS



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International Protection in Greece

Background information for the LIBE Committee delegation to Greece 22-25 May 2017

LIBE



DIRECTORATE GENERAL FOR INTERNAL POLICIES
POLICY DEPARTMENT C: CITIZENS' RIGHTS AND
CONSTITUTIONAL AFFAIRS

CIVIL LIBERTIES, JUSTICE AND HOME AFFAIRS

International protection in Greece

Background information for the LIBE Committee delegation to Greece 22-25 May 2017

STUDY

Abstract

Upon request by the LIBE Committee, this paper provides a general overview of the latest developments in terms of international protection and reception of third-country nationals in Greece for the purposes of the visit of a delegation of the Committee on Civil Liberties, Justice and Home Affairs to Greece.

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1. OVERVIEW OF THE REFUGEE AND MIGRANT SITUATION IN GREECE

1.1. Statistical data

	2015	2016	2017
Arrivals Greek-Turkish borders	876.232 (872.519 through sea borders)	179.419(175.127 through sea borders)	(end April) 5.282
International protection applications	13.195	51.092	(end March)16.870
Out of whom UAMs	420	2.352	668
Relocation requests	(between 10-12/2015) 577	12.900	(end April) 7.394
Relocation transfers	82	7.192	5.216
Relocation requests UAMs	n.a.	n.a.	(Total till end March 2017): 568 registered, 522 sent, 405 accepted.
Relocation transfers UAMs	n.a.	n.a.	(total till end March 2017) 341
Outgoing Dublin transfers (effected)	1.117 (847)	4.886 (946)	n/a
Persons of concern in Greece (end April 2017)			62.018 (of whom 13.879 in the Aegean islands)
Persons lodged in camps (mainland, as of May 2017)			34.469
Persons lodged in camps (islands, as of May 2017)			12.889
UNHCR accommodation scheme			14.460
Returns to Turkey under EU-Turkey Statement		801	(up to 23 April) 293
Total returns to Turkey (also under Greece-Turkey bilateral Protocol)			1487

Source: Compilation from statistical data from Greek Asylum Service, Eurostat, Hellenic Police, UNHCR, EASO, ECRE AIDA country report Greece 2016, European Commission D.G. HOME.

1.2. General overview

2015 was a year of an unprecedented number of arrivals in Greece **with 872.519 persons** crossing the Greek-Turkey sea borders to the Aegean islands. In 2016, mixed migration flows to Greece were significantly reduced compared to the previous year, **totalling 179.419 persons**. Already since autumn 2015, the number of arrivals had decreased, due to the combined impact of the gradual closure of the so-called 'Balkan route', in particular, as far as Greece is concerned the closure of the border with the Former Yugoslav Republic of Macedonia (FYRoM) and the implementation, on 20 March 2016, of the EU-Turkey Statement adopted on 18 March 2016 between the EU Member States in the European Council and Turkey.

However, Greece remains under pressure with a government-reported number of **62,200 refugees** and migrants still present in its territory, of whom around **14,000 on the Eastern Aegean islands** and around 48,200 persons on mainland Greece.

EU support, both in terms of funding and with staff, especially from the European Asylum Support Office (EASO) and Frontex, has been crucial.

EU funding, from the emergency EU funds as well as from AMIF and ISF, increased further in 2016. Since the beginning of 2015, the EU has provided support in Greece in managing the refugee and humanitarian crisis, with over **€356, 8 million (awarded) in emergency assistance**, an amount which comes on top of the **€509, 5 million** already allocated to Greece under the **AMIF and ISF national programmes for 2014-2020**. Moreover, **€198 million** have been awarded through **the Emergency Support Instrument**.

EU Agencies, mostly EASO and Frontex, have deployed to Greece a total of **1.171 deployed staff**. EASO is particularly active in hotspots on the islands and since recently with the Asylum Appeals' Committees, too.

Coordination among the Greek authorities remains an issue. There is still no clear division of competences and tasks among the various ministries and departments, as well as levels of government, in dealing with the various aspects of the refugee crisis and in utilizing available EU funding.

1.3. Legislative and institutional developments

A new law on international protection (and an amendment thereof) were adopted. Law 4375/2016 transposed into Greek law the recast Asylum Procedures Directive and instituted, among others, within the **border procedure a fast-track provision in the case of mass arrivals**. The law also allowed for the involvement of EASO staff in the context of the application the fast-track border procedures.

Law 4399/2016, adopted in June 2016, amended the composition of the members of the second-instance asylum adjudication organs, the Appeals' Committees. **The new Committees include two administrative judges in their composition**. 12 Committees are currently operating.

In May 2017 the country's supreme administrative court, the Council of State, rejected an application against the inclusion of judges in these Committees.

Law 4375/2016 also reshaped the country's reception system, instituting a General Secretariat for Reception, the Reception and Identification Service and to an inter-ministerial coordinating unit for the refugee crisis and a re-arrangement of the EU funding secretariat).

In October 2016, the Ministry for Migration Policy was elevated to the rank of full Ministry.

The **EU-Turkey Statement** of 18 March 2016 has had a major impact on the asylum situation of the country. Persons who arrived on the Aegean islands after the entry into force of the Statement are kept there (with the exception of vulnerable groups) and cannot move to another part of Greece, awaiting the outcome of their application for protection or their return to Turkey.

So far, **1.487 persons have been returned to Turkey** on the basis of this Agreement or the bilateral Greece-Turkey Readmission Protocol.

Following a relevant application to annul, the Council of State is going to rule on the **legality of the definition of Turkey as a 'safe third country'** and thus the return of applicants to Turkey after dismissing their application as inadmissible. The discussion on the issue has already taken place and the decision is expected in the coming month.

1.4. Developments in international protection

Following the closure of the Balkan route and the EU-Turkey Statement of 18 March 2016, a significant number of persons who were stranded in Greece applied for international protection. As a result, **the number of applications for international protection rose exponentially to 51.092**, putting pressure on the Greek asylum system, which had been only recently subject to a major reform including the establishment of the Greek Asylum Service which started operating in June 2013.

From May on to July 2016, the Greek Asylum Service proceeded to the **pre-registration** of persons who had expressed the intention to apply for international protection for **a total of 27.592** and, after September, to their full registration.

Increase in staffing (**691 persons are currently employed in the Asylum Service**) and EU assistance (mainly through the deployment of experts by the EASO), led to a strengthening of the Asylum Service and the increase in the number of cases handled at first instance (in 2016 the Service issued 26.895 decisions – in admissibility or substance- and **during the first three months of 2017 12.356 decisions**), and, to a lesser extent, at second instance. However, there are still **delays in access to protection and registration** (in particular given the prioritization of certain nationalities), which continue to represent a challenge for the authorities.

Relocation which started at a slow pace in 2016 saw an increase in numbers (though still substantially below the figures foreseen in the relevant relocation Decisions of September 2015) and in the last part of 2016 and during 2017, a significant number of applicants have managed to benefit from this mechanism. Delays are still observed mainly due to the reluctance or straightforward refusal by a number of Member States in pledging relocation places and in the different requirements (nationality, age etc.) set by them. As of 5 May 2017, the **total number of persons relocated from Greece was 12.646 (19% of the total foreseen number of 66.400)**.

However, **persons who have arrived in Greece after the entry into force of the EU-Turkey Statement are not made eligible for relocation**; this decision has no clear legal basis.

1.5. The hotspots

The **'hotspot' approach** proposed in the Commission' 2015 European Agenda on Migration aimed to help frontline Member States (currently Italy and Greece) cope with the high numbers of mixed migration flows and fulfil their obligations under EU law. In their context, Member States would be able to identify, register and fingerprint new arrivals, channel those claiming asylum to international protection procedures or relocation and prepare the return of those who do not qualify for entry. EU agencies, mostly EASO, Frontex and Europol, would provide operational support for the hotspots.

The first half of 2016, Greece set up **hotspots in five Eastern Aegean islands, Lesbos, Chios, Samos, Leros and Kos**. Hotspots were established **in the premises of Reception and Identification Centers (RICs)**.

Following the EU-Turkey Statement, the hotspots' nature changed. New arrivals were kept in **effective detention**, confined within the premises of the RICs, not only pending the completion of the RIC procedures but even afterwards. They were, in any case, **no longer allowed to leave for the mainland**, but had to lodge their asylum application at the hotspot instead. Even after the lodging of their applications, applicants undergo a limitation of movement, the so-called **'geographical restriction'**, and have to remain in the island.

Given the limited number of alternative accommodation available on these islands, they are, in fact, obliged to remain in the hotspots and thus, their stay there became much longer and hotspots became overcrowded. Conditions in hotspots have been criticized in relation to different rights of the persons concerned.

Hotspots (and Reception and Identification Centers) still operate without Standard Operating Procedures.

The characteristics of hotspots are further blurred by the establishment, within or close to the RICs, of **detention areas** for specific categories of newcomers and **of pre-removal compounds for persons in return procedures**. In both cases, persons kept there are detained for indeterminate periods of time which may also last for long.

1.6. Reception conditions

As the initially transient refugee flows of 2015 were forced to stay in Greece, reception, both upon arrival and more permanently, became a major issue. At this time, more than **34.000 persons** are lodged in various sites and camps **on the mainland Greece** and around **13.000** (including the hotspots) **on the islands**. Their legal status and material conditions, in particular on the mainland, vary significantly. As a result, reception conditions remain problematic and an important number of applicants still live in precarious and substandard situations in makeshift or re-arranged camps.

UNHCR coordinates a gradual movement of all refugees remaining in Greece in private apartments; **14.400 persons** (mostly applicants in the process of relocation or vulnerable groups) are currently accommodated through this scheme. UNHCR is also planning to generalize a system of **cash card assistance** among refugees.

1.7. Unaccompanied minors and vulnerable groups

The treatment of children, in particular of unaccompanied children, remains a cause of concern. In February 2016, a Joint Ministerial Decision established **an age assessment system for unaccompanied minors during the asylum procedures**. The system provides for detailed medical and psychological examinations in a holistic approach regarding age assessment and providing the benefit of the doubt in favour of minority.

Nevertheless **accommodation** (both in the hotspots and at the next level of reception) **is still insufficient** compared to the numbers of unaccompanied minors and **deficiencies in the national guardianship system** continue to hinder their protection and legal representation. Despite legislative provisions, the Public Prosecutor who is, by law, appointed as a provisional guardian for unaccompanied minors, rarely appoints a permanent guardian. The majority of unaccompanied children, thus, lack effective guardianship. The government has prepared a draft law on guardianship, which has not yet been submitted to Parliament. It has also announced that it intends to modify the **legal framework regarding the shelters for unaccompanied minors**.

The lack of effective protection and representation means that **unaccompanied children are easily subject to violence and exploitation** in and outside the accommodation sites/camps.

Vulnerable groups, including unaccompanied minors, are excluded from the application of the fast-track border procedures. The Joint Action Plan on the implementation of the EU-Turkey Statement proposes, however, to include vulnerable groups under these procedures.

2. PERSONS STRANDED IN GREECE AND NEW ARRIVALS

In 2016, arrivals to Greece reached approximately 180.000,¹ a significant decrease in comparison with 2015, when 872.519 persons reportedly arrived in the Greek islands.² According to Frontex statistics, 90% of irregular arrivals from Turkey did so before the EU-Turkey Statement of 18 March 2016.³ 97% of arrivals originated from one of the following five countries: Syria (47%), Afghanistan (25%), Iraq (15%), Pakistan (5%) and Iran (3%).

Most of the persons who arrived in Greece in 2016 managed to leave the country during the early months of 2016. The definite closure of the border between Greece and FYRoM in March 2016 meant, however, that a number of these persons remained stranded in Greece. According to the Greek authorities, the number of refugees and persons of concern⁴ as of 2 May 2017 was 62.018 out of whom 13.870 in the Eastern Aegean islands.⁵

Table 1: Summary statement of refugee flows to Eastern Aegean islands

SUMMARY STATEMENT OF REFUGEE FLOWS TO EASTERN AEGEAN ISLANDS 04/05/2017 – AT 10:00 (KEPOM- Central Coordinating Organization for Migration)				
	GUESTS		GUESTS	
	IN STRUCTURES	NOMINAL CAPACITY OF STRUCTURES *	IN HOSTING FACILITIES **	NEW ARRIVALS ***
LESBOS TOTAL	3030	3500	941	90
CHIOS TOTAL	1390	1100	2462	1
SAMOS TOTAL	1718	850	375	0
LEROS TOTAL	600	1000	294	0
KOS TOTAL	1633	1000	789	0
OTHER ISLANDS TOTAL	-	-	638	0
UNHCR ISLANDS TOTAL	-	1199	988	-
ISLANDS TOTAL	7383	8649	6487	91
ISLANDS GRAND TOTAL	13870			
TOTAL ON MAINLAND AND ISLANDS ON WEDNESDAY 02/05/2017 (OFFICIAL STRUCTURES)				
NORTHERN GREECE	3569	CENTRAL GREECE	3050	
WESTERN GREECE	172	ATTICA GREECE	8658	
OTHER STATE-RUN FACILITIES	2253			
EASTERN AEGEAN ISLANDS	13879			
TOTAL	62018			
* NOMINAL CAPACITY REFERS TO HOSTING STRUCTURES ON THE ISLANDS ACCORDING TO COMPETENT STATE AGENCIES' REPORTS				
** HOSTING FACILITIES REFER TO UNHCR, OTHER NGOs AND OTHER STATE-RUN NON-OPEN TYPE FACILITIES ON THE ISLANDS				
*** FIGURES ON NEW ARRIVALS ARE DYNAMIC, RECORDED UNTIL 08:00 AND MAY CHANGE DURING THE DAY				

¹ According to the statistics by the Hellenic Police, the Police and the Coast Guard intercepted a total of 179.419 (the respective figure for 2015 was 876.232) individuals who entered irregularly through the Greek-Turkish land or sea borders. 176.127 of them had arrived through the sea borders.

http://www.astynomia.gr/index.php?option=ozo_content&lang=%27.%27&perform=view&id=55858&Itemid=1240&lang=. The figure provided by UNHCR is 173.450 in UNHCR's Mediterranean situation operation portal <http://data2.unhcr.org/en/situations/mediterranean/location/5179>

² [Refugee%20crisis,%20Fact%20sheet](http://www.refugeecrisis.org/factsheet) (in Greek). General Secretariat for media and Communication. January 2017.

³ <http://frontex.europa.eu/news/december-figures-for-three-main-migratory-routes-into-eu-Cdzfw4>

⁴ Greek authorities use the term "refugee flows".

⁵ Summary statement on refugee flows. Figures issued by KEPOM (Central Coordinating Organization for Migration) in <http://mindigital.gr/index.php/προσφυγικό-ζήτημα-refugee-crisis/1232-summary-statement-of-refugee-flows-to-eastern-aegean-islands-04-05-2017>

IOM calculates that, during 2016, fatalities among persons crossing the sea border between Greece and Turkey were 434.⁶ The Commission, using a different period of calculation, provides, in its fifth report on the Progress made in the implementation of the EU-Turkey Statement, a figure of 70 fatalities and missing persons recorded in the Aegean Sea since the EU-Turkey Statement.⁷

For the year 2017, new arrivals, between January and end of April 2017, reached 5.282, out of whom 4.843 came by sea.⁸ New arrival countries of origin are similar, up till now, in 2017.

The number of refugees currently present in Greece is being contested in the media⁹ and by NGOs¹⁰ on the grounds of the continuing irregular onward movement to the rest of the EU. Citing European immigration officials, the Wall Street Journal reported on December 2016¹¹ that Greek authorities had lost track of some 13,000 people of the total of 63,000 refugees and migrants who have been stranded in Greece since spring, according to the government's official estimates. The report, which was reproduced by other media, implied that some of these people might have found ways to slip into other Balkan countries through smuggling networks or have already reached northern Europe despite the closure of borders and the Balkan route last February. Greece dismissed the report as "baseless" stressing that "centers for refugees are open facilities and people are free to come and go, therefore some may not be inside at the moment of the counting each day". The paper did not follow up this article.

In its planning figures for 2017, UNHCR estimates the total number of refugees and migrants in Greece by the end of 2017 to be around 67,000 with around 40,000 new arrivals over the course of 2017. These planning figures take into consideration "re-admissions to Turkey, the total number of people that used the assisted voluntary return and repatriation (AVRR) scheme, family reunification scheme, and also the relocation figures."¹²

⁶ http://migration.iom.int/docs/2016_Flows_to_Europe_Overview.pdf

⁷ European Commission Fifth Report on the Progress made in the implementation of the EU-Turkey Statement Brussels, 2.3.2017COM(2017) 204 final. The data used are also provided by the International Organisation for Migration but for the period covering 1 April 2016 until 23 February 2017.

⁸ <http://migration.iom.int/europe/> and UNHCR Greece data snapshot 01.05.2017 <https://data2.unhcr.org/en/documents/download/56241>

⁹ Among others by the former General Secretary on Reception, M. O. Voudouris, after his resignation from the post. See <http://www.tovima.gr/politics/article/?aid=830777>

¹⁰ See relevant petition to the European Parliament regarding degrading conditions and EU funding in Greece' (petition number 225/2017) by the NGO Solidarity Now, March 2017, p. 1 in http://www.solidaritynow.org/wp-content/uploads/2017/04/EU-Petition-by-SolidarityNow_eng.pdf

¹¹ [Migrants in Greece Drop Off Grid](http://www.wsj.com/articles/migrants-in-greece-drop-off-grid-1481212000) WSJ, 6 December 2016

¹². UNHCR [UNHCR Regional refugee and migrant response plan for Europe - January to December 2017](https://www.unhcr.org/refugees-and-migrants/2016/12/unhcr-regional-refugee-and-migrant-response-plan-for-europe-january-to-december-2017) December 2016, page 49.

3. RECEPTION

3.1. Legislative and institutional developments

Reception of third country nationals had been a fragmented competence within the Greek administration, its remit being shared by various ministries (Social Welfare, Interior and Justice). Law 3907/2011 established a First Reception Service (in tandem with the Asylum Service) as an autonomous civilian service within the Ministry for Citizens' Protection. The FRS's tasks were, according to article 6 of that law "the efficient management of third country nationals illegally entering Greece, in conditions of respect for their dignity, to put these persons under first reception conditions and to establish First Reception facilities and referral to persons who wish to apply for international protection or belonging to vulnerable groups".

Nevertheless, due mostly to lack of staffing and limited administrative capacity, the FRS did not deliver sufficiently. Since its establishment in 2011 it has managed to set up only one First Reception Center, in Fylakio (Greek-Turkish land border, in Thrace) operational since March 2013,¹³ as well as two First Reception Mobile Units operational in the islands of Samos and Chios. Given that the FRC was situated in Thrace, it was outside the main arrivals points of 2015.

The government's response to the mass arrivals of 2015 sidestepped the FRS, which remained peripheral to the crisis. Only in the end of 2015, did a Joint Ministerial Decision provide for the establishment of five FRCs in the Eastern Aegean islands of Lesvos, Kos, Chios, Samos and Leros.¹⁴

Law 4375/2016,¹⁵ adopted in April 2016, which modified the international protection procedure in Greece, established (article 26), within the Ministry of Interior, **a General Secretariat for Reception**.¹⁶ The General Secretariat includes a Directorate for Reception (which centralized all scattered reception competences of other ministries, including accommodation of applicants and unaccompanied minors) and renamed the FRS into Reception and Identification Service (RIS), competent for the reception and identification of third-country nationals entering irregularly into Greece. RIS is composed of a Central Unit, the Reception and Identification Centres, open temporary reception Structures for applicants for international protection and open temporary accommodation Structures for persons in return procedures.

However, and despite the legislative reshuffle, first reception and reception responsibilities are still insufficiently delimited between the RIS, the Reception Directorate, the Ministry of Defence and the Police, as well as EU Agencies, UNHCR and various NGOs. This lack of clarity has an impact on coordination planning. At this moment refugee and migration coordination is provided within the Central Coordinating Body for the Management of the Refugee Crisis (KESOPD) established under the Chief of Staff's responsibility (Ministry of Defence).¹⁷ In addition a **Centre for the Operational Organization for Migration (KEPOM)** has been set up, as an informal body under the Ministry of Migration Policy.

¹³See <http://www.firstreception.gov.gr/content.php?lang=en&id=14&pid=9> for the description of the competences and tasks of this RIC.

¹⁴ JMD 2969/2015 issued in December 2015. O.G. 2602/B/2.12.2015. The same Volume of the Official Gazette also included JMD 2970 which regulated the assistance of the Ministry of Defence for the establishment of the FRCs.

¹⁵ Law No. 4375 of 2016 on the organization and operation of the Asylum Service, the Appeals Authority, the Reception and Identification Service, the establishment of the General Secretariat for Reception, the transposition into Greek legislation of the provisions of Directive 2013/32/EC. O.G.

¹⁶ Following the elevation of the alternate Minister for Migration Policy into a full Ministry, the General Secretariat on Reception was attached to the Ministry for Migration Policy.

¹⁷ Established by the Joint Ministerial decision 245258/ O.G. B' 630/9-3-2016 http://www.et.gr/idoocs-nph/search/pdfViewerForm.html?args=5C7QrtC22wFHp_31M9ESQXdtvSoClrL8V3b2N0qXFKx5MXD0LzQTLf7MGqco23N88knBzLcmTXKaO6fpVZ6Lx3UnKl3nP8NxdnJ5r9cmWYJWelDvWS_18kAEhATUkJb0x1LIdQ163nV9K--td6SIuUS8kJ5hVsuVNN0ZbdTPKXLUuIHfgt21cqrqJXT6SWT

A former MP, M. Odysseas Voudouris was nominated as a General Secretary on Reception in April 2016. He resigned in September 2016 alleging divergence of views with the Alternate Minister for Migration Policy and mismanagement of EU funds.¹⁸ He was replaced by M. Anastasios Salteris. In October 2016, Ms Anthi Karaggeli, was appointed as new Director to the Reception and Identification Service. New managers were appointed in the five RICs on February 2017.¹⁹ They are responsible for the overall management of the hotspots and specifically address concerns over safety and public order. In May 2016, the government established a special service entitled "Communication planning service for the refugee and migration crisis" within the General Secretariat on Information and Communication²⁰. The current Special Secretary is M. Georgios Florentis.

The recast reception directive (directive 2013/33/EU) has not yet been transposed into Greek legislation. Reception of applicants is still regulated by Presidential Decree 220/2007 which transposed the first Reception directive (directive 2003/9/EC). Law 4375/2016 integrated into Greek legislation certain elements of the 2013 directive related to the right to work of applicants for international protection (article 71 of the law) but not the entire directive, which should have been transposed by 21 July 2015. In December 2015, the Commission adopted an infringement decision against Greece (and Malta) for failing to fully transpose and implement the Directive.²¹ In October 2016, the Ministry of Interior submitted for public consultation a draft law transposing the directive²² which has not, as of yet, been submitted to the Parliament.

3.2. Reception conditions

During 2015 and early 2016 when the refugee population was mostly transient, reception was mostly oriented towards emergency actions of a humanitarian nature (provisional sheltering, food and medical care) in the islands, in central Athens and in the points of departure, notably the northern Greek border, provided mostly by UNHCR, NGOs and civil society. As the refugee population was gradually forced to remain in Greece, there was an increasing need for opening and establishing sites on the mainland of Greece that could host the refugee and migrant population and respond to their needs. In addition and in view of the EU-Turkey Statement, those who had arrived in Greece before the 20 March 2016 were almost fully transferred to the mainland and have the right to legal stay, asylum, family reunification and the possibility to benefit from the relocation scheme.

The Greek reception system has long been considered problematic.²³ The increase in the number of arrivals made these inadequacies more obvious. As of January 2017, there were 1.896 places available for asylum seekers, mostly run by NGOs, out of which 1.312 were dedicated for UAMs.²⁴ The majority of persons stranded in mainland Greece following the closure of the borders had to be hosted in temporary camps set up and managed mainly by the Greek Army. Their total nominal capacity was 66,264 and as of May 2, they were hosting 34,669 persons.²⁵ Their number is unclear, as some do not currently accommodate

¹⁸ See among others [Greek general secretary for migration quits after criticising government](#) Reuters. 13.9.2016

¹⁹ See <http://www.kathimerini.gr/897247/article/epikairothta/politikh/anelavan-ka8hkonta-oi-dioikhtes-twn-kentrwn-ypodoxhs-kai-taytopoihshs-prosfygwn---metanastwn>

²⁰ Ministerial decision 9100 (O.G. B' 1279/04.05.2016) in http://www.dsnet.gr/Epikairothta/Nomothesia/ya%209100_2016.htm. The Service is under a special Secretary and is provided with a staffing of 16 persons, as well as a post of a special advisor and a special collaborator.

²¹ Infringement number 20150403, 10 December 2015, on the basis of article 258 TFEU http://ec.europa.eu/atwork/applying-eu-law/infringements-proceedings/infringement_decisions/index.cfm?lang_code=EN&r_dossier=20150403&decision_date_from=&decision_date_to=&title=&submit=Search

²² http://www.opengov.gr/ypes/wp-content/uploads/downloads/2016/10/sn_prosarmogi_diatajeis_odigias.pdf

²³ See to this end the [UNHCR position on the return of asylum seekers to Greece under the Dublin regulation](#) UNHCR 15.4.2008 point 24 stating that "reception conditions continue to fall short of international and European standards". In addition, the inadequate reception conditions were a major ground for finding against Greece in the M.S.S. case of the European Court of Human Rights.

²⁴ Asylum Information Database (AIDA). Country report Greece 2016 [Country report Greece 2016](#) p. 96.

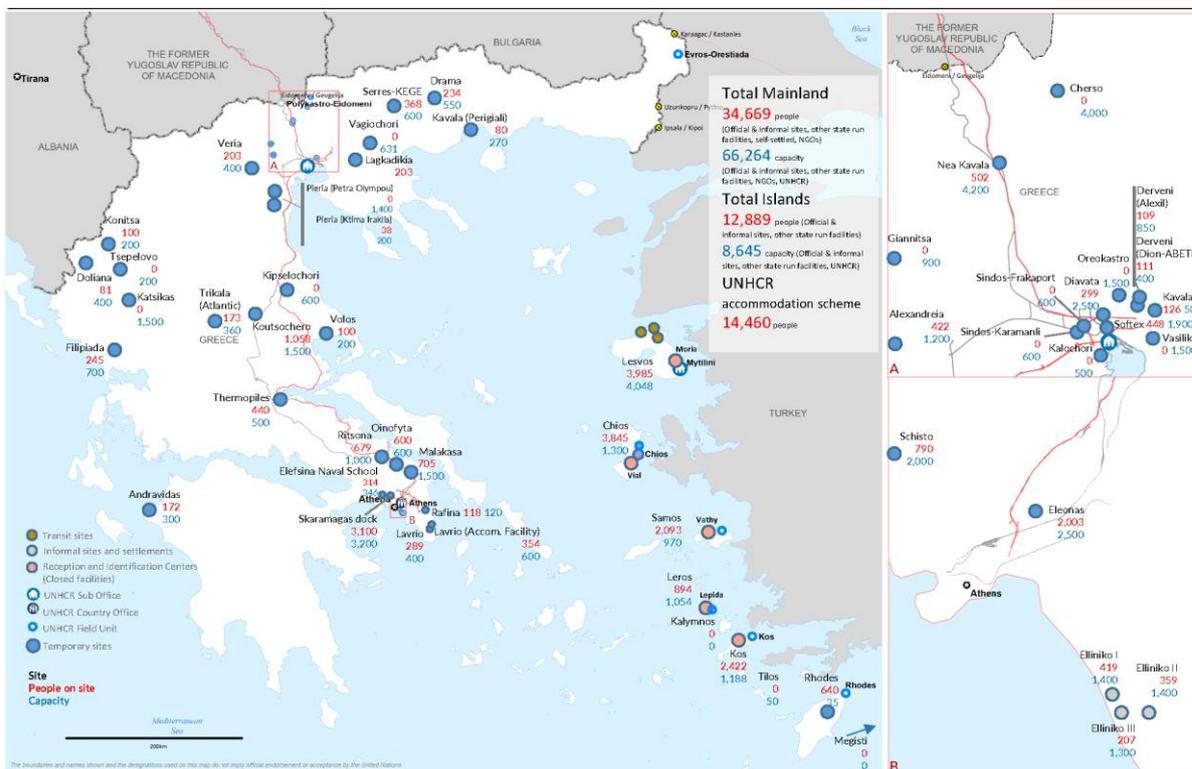
²⁵ UNHCR Interactive map sites in mainland Greece, May 2 2017, in <http://rrse-smi.maps.arcgis.com/apps/MapSeries/index.html?appid=d5f377f7f6f2418b8ebadaae638df2e1>

any person. UNHCR counts, as of January 2017 33 sites in mainland Greece and 9 on the islands.²⁶

Table 2: Europe Refugee Emergency

Europe Refugee Emergency

Daily map indicating capacity and occupancy (Governmental figures)
As of 02 May 2017 08:00 a.m. EET



Presence and capacity are based on Governmental figures from the Coordination Centre for the Management of the Refugee Crisis, as of 02/05/2017 10:00 a.m. Eastern European Time. Online map with additional information: <http://www.unhcr.gr/sites>

These camps raise a number of issues: the Commission has been requesting better information on the reception capacity of these sites and more generally “updated needs assessment in terms of total reception capacity and the nature of that capacity”.²⁷ Statistics on persons living there remain an issue while the legal status of these camps is unclear. Only two of these open accommodation facilities (located in Leros and Elaionas in Athens) have been officially established.²⁸ In some islands, in particular, numbers of persons hosted are disproportionate as to the islands’ population. Furthermore, many of these sites are of inadequate quality for long-term stay. Indeed the government has been urged by UNHCR to reduce their number and move people to apartments.²⁹

The region of Attica hosts 11 such sites, the bigger of which are Elaionas (center of Athens), Elliniko (former airport site which is a non-official settlement) and Skaramagkas. Another 10 are located in the wider Thessaloniki area.³⁰

²⁶ UNHCR n [UNHCR site profiles in Greece](#) . The European Court of Auditors (infra) report and the December 2016 Commission recommendation on Dublin transfers give a number of 53 sites being used.

²⁷ European Commission addressed to the Member States on the resumption of transfers to Greece under Regulation (EU) No. 604/2013,C(2016) 8525 final [Commission Recommendation on the resumption of Dublin transfers to Greece](#) 8.12. 2016 recital 14, page 6.

²⁸ AIDA Country report Greece. op. cit. p.97.

²⁹ The [UNHCR Recommendations for Greece in 2017](#) recommends that the Greek authorities undertake a longer term plan, with the support of key donors, clearly defining a strategy to put in place for a sustainable and adequate reception system on the mainland “progressively reducing the use of larger sites”.

³⁰ A full list of the reception sites and their capacity, as of 9 May 2017, can be found in the government’s ‘Summary statement of refugee flows in Greece, May 09, 2017’, in <http://mindigital.gr/index.php/προσφυγικό-ζήτημα-refugee-crisis/1248-summary-statement-of-refugee-flows-09-05-2017>

Winterisation (the effort to equip camps in view of the winter of 2016-7) had only partial success, especially in Northern Greece and the islands.³¹

In the end of 2015, UNHCR started (with EU funding) an accommodation scheme (mostly through apartments, renovated buildings, hotels and host families) initially addressed to relocation applicants. In June 2016 this scheme expanded to cover other applicants too (mostly Dublin family reunification cases or vulnerable groups). As of 2 May 2017, there were 14.140 persons accommodated under this scheme.³²

In 2016, UNHCR has started introducing cash card assistance among refugees (initially as a pilot project in some islands and later in the mainland as well). The programme is intended as humanitarian aid to provide choice in allowing refugees and migrants to meet their household's basic needs. This system consists in 'pre-paid' cards that will be filled on a monthly basis with a fixed amount calculated as per the basic need costs in Greece (excluding rent/ accommodation amounts) and according to established criteria agreed with the government of Greece. The cards will enable withdrawal of cash from any ATM machine as well as use for purchasing of items in the commercial market and POS machines in Greece only. The amount of cash assistance received per month depends on the family size.³³ Funding comes from EU ECHO funding and it is expected to cover all refugees within 2017.

The Commission, in its December 2016 fourth recommendation on the resumption of the Dublin transfers to Greece recognized that "in terms of quality, many of the reception facilities in Greece, in particular on the islands and in some of the mainland temporary facilities, still fall short of the requirements stipulated in the Reception Conditions Directive". In the mainland, and barring the UNHCR accommodation scheme "much of the remaining reception capacity consists of encampments and emergency facilities with widely varying and often inadequate standards, both in terms of material conditions and security" and considers that "it will be difficult to turn some camps into suitable permanent reception facilities" suggesting to close down some of them "while consolidating others".³⁴

3.3. Minors and unaccompanied minors

During 2016, 63,920³⁵ children arrived to Greece. There are no comprehensive data on Unaccompanied Minors upon arrival, but UAMs are estimated to make up 8% of all children (that is approx. 5,192).³⁶ The majority of children arriving to Greece were from Syria, Afghanistan and Iraq, but most UAMs were from Afghanistan, Syria and Pakistan.

Out of these 63,920 children, an estimated 21,000 were in temporary accommodation sites, urban areas and reception and identification centres in Greece. From among the unaccompanied minors, **324 UAMs were in reception and identification centres**, including 15 children in protective custody/detention.³⁷ **1,142 of them were**

³¹ [Thousands of refugees left in cold, as UN and EU accused of mismanagement](#) The Guardian 22.12.2016.

³² UNHCR, Europe refugee emergency. Daily map indicating capacity and occupancy (Governmental figures) <https://data2.unhcr.org/en/documents/download/56242>

³³ See [UNHCR launches cash-card assistance programme in Samos](#) UNHCR News, 14.2.2017.

³⁴ Commission recommendation of 8 December 2016 op. cit. point 12.

³⁵ Arrival figures for Greece have been collected in the framework of UNHCR border activities and are provided by Hellenic Coastguard and Hellenic Police. See. [Refugee and Migrant Children- Including Unaccompanied and Separated Children in the EU. Overview of Trends in 2016](#). Issued by UNHCR, IOM and UNICEF, April 2017.

³⁶ Figures are provided by UNHCR based on referrals to the National Centre for Social Solidarity (EKKA).

³⁷ FRA opinion 6/2016 on [fundamental rights in the 'hotspots' set up in Greece and Italy](#) finds (page 29) that "unaccompanied children are deprived of their liberty in some hotspots as a discretionary protective measure imposed by the temporary guardian or the Reception and Identification Service to prevent exploitation and avoid children going missing" while "unaccompanied children involved in disturbances were moved to migration detention facilities for public order reasons". In this last case, children suspected of involvement in riots in the hotspots have been transferred to pre-removal detention facilities in Athens.

accommodated in shelters for UAMs (out of an estimated number of 2,300 present in Greece).³⁸

According to the Commission's eleventh report on relocation and resettlement,³⁹ the pre-registration exercise identified **1,225 unaccompanied minors**, of which 568 belonged to one of the nationalities eligible for relocation (36% Syrians and 12% Iraqis). **As of 2 April 2017, all 568 unaccompanied minors have been registered for relocation and 341 have been relocated.** So far, the relocation of unaccompanied minors has been taken up mainly by Finland (130 relocated). The Commission requested 163 additional places for relocation of minors. According to the report, 522 relocation requests were sent out of which 405 have been accepted (and 341 UAMs already transferred, as previously stated).

Age assessment: Age assessment was introduced in 2013 by a Ministerial Decision of the Minister of Health for procedures within the context of the (then) First Reception Service (FRS).⁴⁰ In February 2016, a Joint Ministerial Decision introduced an age assessment procedure for persons seeking international protection.⁴¹ The system provides for detailed medical and psychological examinations in a holistic approach regarding age assessment and providing the benefit of the doubt in favour of minority. The application in practice, however, of the provisions laid down in these texts, in particular at the reception and identification stage "is an extremely challenging process".⁴²

Guardianship and legal representation: Legal representation of unaccompanied minors remains a major problem. In practice, little is done after the Asylum Service or Police or Reception and Identification Centre has informed the Juvenile Public Prosecutor who acts by law as temporary guardian for unaccompanied children; the Prosecutor merely assumes that capacity in theory. Despite relevant legislative provisions on the appointment of guardians "a tremendous lack of permanent guardianship system persists"⁴³. The Greek government is working on a reform of the guardianship system for unaccompanied minors. Such reform would allow for the prompt appointment of individual guardians to all unaccompanied children and would provide for a national registry of independent and qualified guardians that could be locally appointed by prosecutors. The draft law and relevant implementing legislation has been prepared by the Ministry of Labour, Social Welfare and Social Solidarity⁴⁴ with the cooperation of the Ministry of Justice but has not as yet been tabled for public consultation or debate in Parliament. The main obstacles relate to problems of competence between the different services involved and, in particular, to the financing for the guardianship system.

Protection against violence and abuse: Although there are **no comprehensive reporting** data or regular reporting on the number of incidents of child abuse and exploitation of refugee and immigrant children in Greece, reports from NGOs and media **recount of sexual and other forms of exploitation of children**, with unaccompanied children being in higher risk.⁴⁵

In this regard, in addition to gaps in structural issues of national child protection system, such as effective guardianship, there are **significant gaps identified in regard to oversight** and monitoring of accommodation centers, including specialised shelters for

³⁸ "Refugee and Migrant Children..." op. cit.

³⁹ European Commission [Eleventh report on relocation and resettlement](#) Brussels 12.4.2016. COM(2017) 212 final

⁴⁰ Ministerial Decision 92490/2013 "Programme for medical examination, psychosocial diagnosis and support and referral of entering without legal documentation third country nationals, in first reception facilities".

⁴¹ JMD1982/2016 of the Minister of Interior and Administrative Reconstruction and the Minister of Health.

⁴² AIDA Country report Greece 2016 op. cit. p. 72.

⁴³ *ibid.* p. 49.

⁴⁴ See. <http://taxpress.gr/archives/75862>

⁴⁵ See in particular [Emergency within an Emergency: the growing epidemic of sexual exploitation and abuse of migrant children in Greece](#). By Vasileia Digidiki and Jacqueline Bhabha. FXB Center for Human Rights. Harvard University, April 2017. Also [Child refugees in Europe 'forced to sell bodies' to pay smugglers](#). The Guardian 18.4.2017. FRA opinion 6/2016 also makes reference to the increasing danger of violence against children in hotspots.

unaccompanied children. The significant increase of shelters and accommodation centers along with the lack of national standards for shelters and efficient oversight from competent child protection authorities increased the risk of exploitation and abuse.

The Greek authorities announced in summer 2016 that they were in the process of drafting a new legal framework with binding standards for reception facilities and specialised shelters for UAMs,⁴⁶ in addition a draft law on foster care, covering also UAMs, is being drafted.

⁴⁶ See 'A new legal framework for unaccompanied minors shelters'. Athens News Agency, 12.7.2016 in <http://www.amna.gr/article/119209/Neo-nomiko-plaisio-gia-ti-leitourgia-xenonon-asunodeuton-anilikon->

4. THE SITUATION IN THE HOTSPOTS

The hotspot approach was presented by the European Commission in May 2015, in the context of the 'European Agenda on Migration'⁴⁷The Agenda comprised immediate action aimed at, for example, saving lives at sea, targeting criminal smuggling networks, and helping frontline Member States cope with the high numbers of arrivals, as well as longer-term measures, e.g. to secure Europe's borders, reduce the incentives for irregular migration and design a new policy on legal migration. In this context it proposed to set up a new approach towards managing the large inflow of migrants: the hotspot approach was conceived as an immediate response to a major migratory crisis. Hotspots were to be established at the EU's external borders facing a disproportionate migratory pressure and the EU would provide inter-agency operational support to ensure arriving migrants are registered and channeled, as appropriate, into the relevant national follow-up procedures.

Greece decided to set up hotspots in five Eastern Aegean islands that were considered to be the main gates of entry: Lesbos, Chios, Samos, Leros and Kos. The hotspots in Lesbos (Moria) and Samos (Vathy) used pre-existing reception or first reception structures, while for the others the state built provisional facilities. Setting up the hotspots in Greece took longer than planned. In Greece, four of the five planned hotspots were operational in March 2016, with the last one, in Kos, coming into operation in June 2016 due to reactions by the local authorities and community against its operation. The Commission has estimated the total capacity of the five hotspot facilities to be 7,450 places.⁴⁸

Since the start of the implementation of the EU-Turkey Statement on 20 March, the hotspots' nature changed in view of the emphasis given to return new arrivals to Turkey; they are now described as a "hybrid scheme of detention/reception of the newly arrived, where the same facilities serve as detention centres for 25 days and then become a place of open accommodation".⁴⁹ New arrivals are taken to the hotspots in the 5 islands, which are also acting as Reception and Identification Centers (RICs) under the Reception and Identification Service (RIS).

According to the law 4375/2016 (article 14), persons entering RICs may be "placed under a status of restriction of liberty" for a maximum of 25 days until the completion of the reception and identification procedures. After the EU-Turkey Statement these persons remain confined within the premises of the RICs, not only pending the completion of the RIC procedures but even afterwards. The Statement has in fact led to a "practice of blanket detention of all newly arrived persons on the hotspot facilities for a period of 25 days."⁵⁰

In addition, new arrivals were, in any case, **no longer allowed to leave for the mainland**, but had to lodge their asylum application at the hotspot instead. Even after the lodging of their applications, applicants receive an asylum seekers card which includes a limitation of movement within the Greek territory, the so-called '**geographical restriction**', and have to remain in the island for an indeterminate period of time which in many cases can be several months.

Besides the hotspots, each island has a (limited) number of facilities, most of which are run by NGOs for the temporary accommodation of vulnerable groups, such as families, people with health conditions and unaccompanied children. Given this limited number of alternative accommodation available on the islands, **new arrivals are, in fact, obliged to remain in the hotspots** and thus, their stay there became much longer and hotspots became overcrowded.

⁴⁷ European Commission. 'A European Agenda on Migration'. COM(2015) 240 final. 13.5.2015

⁴⁸ [Fifth Report on the Progress made in the implementation of the EU-Turkey Statement](#). In addition, there were 1564 places available through the rental scheme of the UNHCR.

⁴⁹ AIDA Country report Greece 2016 op. cit. p. 100.

⁵⁰ *ibid.* p. 100.

Persons who cannot be returned to Turkey, such as vulnerable groups and unaccompanied minors, are being transferred to the mainland. Such transfers take place only in specific cases, when the asylum application has been assessed at first instance and has had to be referred to the regular asylum procedure for further processing. As of 10 February 2017, around 5,400 such persons have been transferred to the mainland, usually referred to the UNHCR's rental scheme or to accommodation sites on the mainland, or they secured accommodation thereby themselves.⁵¹

Conditions in hotspots have been criticized in relation to different rights of the persons concerned. Following the EU-Turkey Statement, reception conditions for new arrivals have deteriorated and some RIC facilities became overcrowded, such as Lesvos, Chios and Vathy RIC in Samos. Overcrowding has led to the establishment of informal, makeshift camps outside the official RICs, as is the case in Chios and Kos

The material conditions in the hotspots were further stressed due to the **unusually harsh winter**, with snowstorms and exceptionally low temperatures of 2016-7. In its December recommendation on the resumption of the Dublin transfers, the Commission recognized that "the 'Hotspot' facilities on the islands [were] not only overcrowded but [had] substandard material conditions in terms of sanitation and hygiene, access to essential services such as health care, in particular for vulnerable groups".⁵² The recommendation considered that "security is insufficient and tensions persist between different nationalities". It has revised its assessment later on. The fifth report on the implementation of the EU-Turkey Statement appreciates that "Greece has taken a number of steps to improve the situation, by working on upgrading the facilities and by ensuring more efficient procedures".⁵³

Overcrowding, bad living conditions as well as the uncertainty over their fate and prolonged stay in the hotspots have also led to frequent outbreaks of riots among persons living in the hotspots and between them and authorities. Frequent cases of accidents (on occasions with fatalities) have been reported. The EU Fundamental Rights Agency (FRA) makes reference to reports of "serious incidents [...] including rape and other violent crimes, as well as suicide attempts and riots"⁵⁴ while medical organisations report a high rate of psychological problems⁵⁵.

The European Court of Auditors report finds that "coordination at the individual hotspot level is still fragmented and although it has been established that the central authorities in the Member States are responsible for the overall management of the hotspots, at least in Greece, they have yet to take on this responsibility in full".⁵⁶

At the time of writing of this briefing, there are no standard operating procedures (SOPs) which are applicable in the hotspots; their adoption is still pending despite EU insistence on the matter.⁵⁷ According to the Commission "draft Standard Operating Procedures have

⁵¹ European Commission [Fifth Report on the Progress made in the implementation of the EU-Turkey Statement](#) Brussels, 2.3.2017. COM(2017) 204 final. Page 7.

⁵² European Commission. [Commission recommendation of 8 December 2016 addressed to Member States on the resumption of transfers to Greece under Regulation \(EU\) No. 604/2013](#) C (2016) 8525 final. Point 12.

⁵³ [Fifth Report on the Progress made in the implementation of the EU-Turkey Statement](#) op.cit. p 6.
. Fundamental Rights Agency Opinion number 5/2016 pp 40-41 which contain a list of violent incidents in hotspots [FRA Opinion on fundamental rights in the 'hotspots' set up in Greece and Italy](#)

⁵⁵ See, among others, the monthly report for January 2017 of Medecins du Monde (Greek delegation) on the RIC of Moria. In <http://mdmgreece.gr/app/uploads/2017/03/Αναλυτική-Αναφορά-για-το-KYT-της-Μόριας-Ιανουάριος-2017.pdf>

⁵⁶ European Court of Auditors special report N. 6/2017 on [the EU response to the refugee crisis: the 'hotspot' approach](#) p. 6.

⁵⁷ See among others the European Commission's fourth and fifth Reports on the Progress made in the implementation of the EU-Turkey Statement which state (both in p. 7) the same sentence requiring that "the Registration and Identification Service should, as a matter of priority, finalise and adopt the Standard Operating Procedures for the hotspots, taking full account of the EU-Turkey Statement, in order to improve the processes".

been prepared by the Greek Reception and Identification Service, which has asked the concerned stakeholders to provide input in order to finalise the document".⁵⁸

A new development by the end of 2016 was that the authorities started establishing pre-removal centers on the Aegean islands with the aim of accelerating the implementation of the EU-Turkey Statement.⁵⁹ These pre-removal centers are (to be) located within or adjacent to the actual hotspots.

Law 4375/2016 (article 8) provides that Regional Services of the Reception and identification Service shall also include "Open Temporary Accommodation Structures" for third-country nationals who are within a return procedure. This provision has not been applied in the case of hotspots and authorities have opted for the establishment of closed pre-removal centres. In January 2015, Greece established seven pre-removal centres with a total of 5,215 places (one in Moria (Lesvos) and six on the mainland in Amygdaleza, Petrou Ralli, Corinth, Paranesti, Xanthi and Orestiada).⁶⁰

An operating detention pre-removal center with a projected total capacity of 500⁶¹ has already been established in the island of Kos next to the hotspot⁶² while another one is being discussed for in Chios. ⁶³In Lesvos, there is already a pre-removal detention area within the hotspot whose detention capacity "was reduced from 200 to 100 places, following the destruction of containers within the facility". The Greek Police is restoring the detention centre by "repairing damaged containers and by adding fencing".⁶⁴

⁵⁸ Annex 1 to the [Fifth Report on the Progress made in the implementation of the EU-Turkey Statement](#)

⁵⁹ ECRE news. [New detention centres at the external EU borders](#). 24 February 2017.

⁶⁰ Pre-removal centers were established based on the Ministerial Decision n. 8038/23/22-ιγ', O.G. 118/B'/21-1-2015 on the 'establishment and operation of pre-removal centers for the detention of Aliens and their Regulation of Operations' available in http://www.et.gr/ids-nph/search/pdfViewerForm.html?args=5C7QrtC22wE4q6ggiv8WTXdtvSoClrL870ttxUrqL015MXD0LzQTLf7MGgcO23N88knBzLCmTXKaO6fpVZ6Lx3UnKI3nP8NxdnJ5r9cmWyJWeIDvWS_18kAEhATUkJb0x1LIIdQ163nV9K--td6SIucEYD86sr8UZqmRjKmwLhVO9DQOyR261lgPpUGKuHTOF

⁶¹ See relevant reference in [Annex 1 of the Fifth Report on the Progress made in the implementation of the EU-Turkey Statement](#) op.cit.p.6 which also reports that "in Samos, the Greek Reception and Identification Service and Hellenic Police are looking into implementation details of a detention facility to be built inside the current hotspot".

⁶² JMD Αριθμ. 8038/23/22-ξε' (1)' O.G. Β' 322/7-2-2017 in <http://www.efsyn.gr/sites/efsyn.gr/files/wysiwyq/2017-02/efimerida.pdf> The projected costs of 4, 5 million Euro will be covered by AMIF funding.

⁶³ See Greek Reporter: [Exact Location for Pre-Departure Migrant Camp on Chios to be Determined by End of May, Amidst Protests by Locals - See more at: http://greece.greekreporter.com/2017/05/09/exact-location-for-pre-departure-migrant-camp-on-chios-to-be-determined-by-end-of-may-amidst-protests-by-locals/#sthash.U2JJsze3.dpuf](#) 9.5.2017.

⁶⁴ [Annex 1 of the Fifth Report on the Progress made in the implementation of the EU-Turkey Statement](#) op.cit.p.6.

5. INTERNATIONAL PROTECTION

5.1. Legislative and institutional developments

In 2016, **law 4375/2016 was adopted**. The new law reshaped the international protection structures in the country and transposed into national law the recast Asylum Procedures Directive.

A significant change of the law was the introduction of the **fast-track provision in the case of mass arrivals in the context of the border procedure** (see below). It also led to the application, for the first time in Greece, of the concepts of the 'safe third country' and of the 'first country of asylum'. Greek asylum legislation already had these provisions in previous legislative texts; it is the first time, though, that these concepts are being used widely. Following the EU-Turkey Statement they are used to examine the admissibility of applications by Syrian nationals who arrived in Greece after March 20, 2016. Later, they have also been used for examining the admissibility of applications in relation to other nationalities with a recognition rate of above 25%). Up till now, there is no national list of countries generally deemed to be safe third countries in Greece (or of first countries of asylum). The law, among others, included provision of free legal aid for applicants at the appeal stage, and allowed for the involvement of EASO staff in the context of the application the fast-track border procedures.

Law 4399/2016, adopted in June 2016, amended the composition of the members of the second-instance asylum adjudication organs, the Appeals' Committees. **The new Committees include two administrative judges in their composition.**

Following the government reshuffle in October 2016, **the Ministry for Migration Policy became a fully-fledged Ministry** (it was previously under an Alternate Minister within the Ministry of Interior). It took over the General Secretariat for Migration Policy (with the exception of naturalizations which remain within the competences of the Interior), the General Secretariat for Reception, the Asylum Service and the Appeals Authority, as well as the autonomous Directorate for Immigration Financial Policy.⁶⁵

Free legal aid: In September 2016, Ministerial Decision 12205/2016 determined the provision of free legal aid in appeals procedures.⁶⁶ Law 4375/2016 provides for free legal assistance in appeal procedures before the Appeals Authority but the terms and conditions for this were to be determined by Ministerial Decision. The said Ministerial Decision provides, among others, that the Asylum Service should establish and manage a registry with lawyers, accredited with the Service to provide free legal assistance and sets time limits for the request of such assistance by appellants. According to the Decision, lawyers are remunerated with a fixed fee of €80 per appeal⁶⁷. Funding will come from AMIF.

As of May 2017, no free legal aid was in place in practice under the auspices of the Greek authorities for appeal procedures. The Asylum Service has opened a call for expression of interest for lawyers to register with the above mentioned registry whose deadline has been prolonged.⁶⁸ At this moment, Greek authorities still do not comply with their obligation under national legislation and the recast Asylum Procedures Directive.

Currently free legal assistance to asylum seekers in second-instance is provided by two non-governmental organisations, the Greek Council for Refugees and Metadrasi, through

⁶⁵ Presidential Decree 123/2016. O. G. 208/4 November 2016.

<http://i1.aftocdn.gr/mediafiles/2016/11/anasximatismos-11-2016-fek-208.pdf>

⁶⁶ Ministerial Decision 12205/2016, O.G. 2864/B/9-9-2016 in <https://www.e-nomothesia.gr/kat-allodapoi/prosphuges-politiko-asulo/upourgike-apophase-oik-12205-2016.html>

⁶⁷ AIDA. [Greece: Legal aid scheme for appeals enters into force](#) 16.9.2016.

⁶⁸ See relevant press communique by the Greek Asylum Service, dated 4/5/2017 <http://asylo.gov.gr/wp-content/uploads/2017/05/ΔελτίοΤύπου-Παράταση-Προθεσμίας-Δικηγόρων.pdf>

UNHCR funding programmes, aimed at supporting appellants on the islands and a number of appellants in the mainland.⁶⁹

The reform of the Appeals Committees: Traditionally, appeals against first-instance asylum applications in Greece were made before administrative, quasi-judicial, Committees. Law 3907/2011 established an autonomous Appeals Authority coordinating a number of 3-member Appeals' Committees, which started to operate in July 2013. In September 2015, the term of the members of these Committees expired and was not renewed and the Committees ceased to operate.

Law 4375/2016 modified the procedures within the Appeals' Authority and the operation of the Appeals' Committees (composed by one person indicated by the UNHCR and 2 members proposed by the National Commission for Human Rights), which were supposed to start operating by summer 2016. The law also provided for transitional regimes for appeals lodged before July 2016. Appeals lodged between September 2015 and the entry into force of the new law would be examined by the Committees under law 3907/2011 and applications lodged after the entry into force of the new law and the establishment of the new Committees would be examined by the Backlog Appeal Committees (which were normally examining appeals under the so-called "old procedure"). These latter were thus competent to adjudicate on appeals by persons who had arrived after the EU-Turkey Statement against decisions at first instance, which rejected applications on the grounds of inadmissibility for coming from the 'safe third country'.

In the period of their operation (between April and July 2016) several of these Committees took decisions, which rebutted the "safe third country" presumption regarding Turkey and overturned the relevant first instance decisions.⁷⁰

Before the regular Committees under law 4375/2016 started operating, law 4399/2016, in June 2016⁷¹, amended their composition: the Independent Appeals; Committees established under the new amendment would be composed by two administrative judges indicated by the General Commissioner for Administrative Courts and one member indicated by the UNHCR (or, failing this, the NCHR or, failing this, the Minister for Migration Policy).

For many NGOs this modification is linked to the fact that the Backlog Appeals' Committees rejected, on a number of appeals, the negative first instance decisions on inadmissibility, thus putting in jeopardy the application of the EU-Turkey Statement. The new Independent Appeals' Committees started examining appeals lodged after the entry into force of law 4399/2016⁷². In February 2017, the Appeals' Authority increased the number of (new) Appeals' committees to 13 (12 regular and one as an alternate). Since March 2017, the Appeals' Committees may be assisted by assistant rapporteurs provided by EASO.⁷³

⁶⁹ AIDA Country Report Greece 2016, p. 48.

⁷⁰ AIDA Country Report Greece 2016, p. 41 quotes that these Committees had examined more 2000 appeals, half of which referred to inadmissibility matters. Of the relevant decisions issues, almost all (70 out of 72 till June 2016 and 307 out of 311 till September 2016) rejected the negative decision.

⁷¹ Law 4399/2016 on the "Institutional Framework on the establishment of Private Investments' Aid Schemes for County's Regional and Economic Development". O. G. A' 117/22-6-2016, available at: <http://bit.ly/2IKABdD>. The fact that the law was not related to international protection adds to the allegations that it was a result of EU pressure in view of the perceived intransigence of the Appeals' Committees.

⁷² See among others the ECRE communiqué of 24 June 2016 [Greece amends its asylum law after multiple Appeals Board decisions overturn the presumption of Turkey as a 'safe third country'](http://www.ecre.europa.eu/press/2016/20160624_greece_amends_its_asylum_law_after_multiple_appeals_board_decisions_overturn_the_presumption_of_turkey_as_a_safe_third_country/)

⁷³ See relevant amendment to law 4375/2016 introduced by article 101 of law 4461 O. G. 38 A'/28-03-2017 in http://www.et.gr/idoocs-nph/search/pdfViewerForm.html?args=5C7QrtC22wEsrjP0JA1xBXdvtvSoC1rl8zpleBDKN8RvtI9LGdkF53Uixsx942CdvqxSOYNugAGCF0IfB9HI6qSYtMOEkeHLwnFqmgJSA5WIsluV-nRwO1oKqSe4BIOTSpEWYhszF8P8UqWb_zFijMuQ9tPl6qQV6KtskY0zpvVz6RsNQG6yLatPmCQf_bmM

On 8 May 2017, **the Council of State ruled on an application** lodged by Greek NGOs⁷⁴ **to annul** the ministerial decision on **the new composition of the Appeals' Committees** under law 4399/2016 and the relevant internal rules of procedure of the Committees.⁷⁵ The NGOs claimed that the presence of two magistrates in the 3-member Appeals' Committees was unconstitutional. The case was initially take over by the Council of State's 4th Chamber which rejected in substance the arguments of the applicants, but decided to refer the matter to the plenary of the Council of State, in view of its significance. The discussion took place on March 2017 and the decision rejected the application and found that the presence of judges in the Appeals Committees did not violate the Constitution.⁷⁶

5.2. International protection applications

During 2015 and early 2016, most new arrivals did not apply for international protection in Greece as they were crossing to other EU Member States. Nevertheless, applications for international protection were on a slow rise during the last years (from 4814 in 2013, to 9.431 in 2014 and 13195 in 2015). With the closure of the borders and the opening of the relocation process, applications rose exponentially among those refugees who were stranded in Greece. In 2016, the total number of applications for international protection in Greece reached 51.092 (an increase of 287.2% compared to the previous year). More than half (26.693) were from Syria while the second and third nationalities were Iraq (4.812) and Pakistan (4.695).

Table 3: Statistical data of the Greek Asylum service



HELLENIC REPUBLIC
Ministry of Migration Policy

Asylum Service

Statistical Data of the Greek Asylum Service (from 7.6.2013 to 31.3.2017)

Asylum Applications										
	2013	Difference % (2013-2014)	2014	Difference % (2014-2015)	2015	Difference % (2015-2016)	2016	Difference % (2016-2017)	2017	Total
Total	4814		9431		13195		51092		16870	95402
Monthly average	688	+ 14.3%	786	+ 39.9%	1100	+ 287.2%	4258	+ 32.1%	5623	2074

Asylum Applications - Gender and Age ranges																					
Age ranges	2013			2014			2015			2016			March 2017			2017			Total		
	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total
0-13	255	182	437	389	306	695	920	793	1713	7691	7115	14806	533	508	1041	2344	2156	4500	11599	10552	22151
14-17	272	37	309	575	84	659	615	169	784	3530	1384	4914	345	87	432	1062	365	1427	6054	2039	8093
18-34	2371	600	2971	5161	922	6083	6194	1465	7659	15297	6601	21898	2040	560	2600	5999	2080	8079	35022	11668	46690
35-64	747	338	1085	1513	459	1972	2100	856	2956	5355	3798	9153	546	255	801	1783	1024	2807	11498	6475	17973
65 and over	7	5	12	7	15	22	35	48	83	144	177	321	4	6	10	26	31	57	219	276	495
Total	3652	1162	4814	7645	1786	9431	9864	3331	13195	32017	19075	51092	3468	1416	4884	11214	5656	16870	64392	31010	95402
Unaccompanied Minors (included in the above total)	188	12	200	414	36	450	367	53	420	2035	317	2352	218	10	228	617	51	668	3621	469	4090

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⁷⁴ See relevant press release by the Greek Council for Refugees <http://gcr.gr/index.php/el/news/press-releases-announcements/item/634-apofasi-ste-447-2017>

⁷⁵ Article 89 of the Greek Constitution prohibits magistrates from taking up any other remunerated activity.

⁷⁶ Council of State. Plenary. Decision 1237/2017.

Out of the total number of applications for 2016, 2.352 were lodged by unaccompanied minors (47% of them from Afghanistan and 36% from Syria).⁷⁷

During the first trimester of 2017 (figures till 31/3/2017) applications were 16.870 (668 lodged by UAMs). Syrian applicants again counted for more than a third (5.381), followed by Afghans (2.397) and Pakistani nationals (2.188).

The rise of applications in 2016 put a significant pressure on the Greek Asylum Service despite the fact that it has significantly increased its staffing.⁷⁸ Such pressure led to delays in access to protection and registration of applications.⁷⁹ In addition, the increase of persons who had arrived in Greece (on the islands) after the entry into force of the EU-Turkey Statement and wanted to apply for asylum and the differentiated registration on the basis of nationality (Syrians, followed by non-Syrian applicants belonging to a nationality with a recognition rate below or over 25%), meant that "an important number of persons willing to apply for asylum on the islands have not had effective access to asylum procedure, or have had access subject to undue delays exceeding 6 months for certain nationalities".⁸⁰ This practice also raises serious concerns in view of the non-discrimination principle and creates a substantial backlog of cases that have to be examined on the islands.

Table 4: 1st instance recognition rates/pending and appeals

⁷⁷ Statistical data from the Greek Asylum Service (http://asylo.gov.gr/en/wp-content/uploads/2017/04/Greek_Asylum_Service_Statistical_Data_EN.pdf)

⁷⁸ By the end of 2016, the Asylum Service was staffed with 691 employees, out of whom 654 were active on that day. 275 officials were permanent staff and 379 were employees on a fixed-term contract. AIDA Country Report Greece 2016 p. 28.

⁷⁹ In some cases, these delays may reach 6 months. In addition, such delays have led to reported cases of violation the *non-refoulement* principle (namely the reported return to Turkey, on 4 April 2016, of 13 persons from Chios without their asylum application being formally registered "due to administrative chaos" and the reported case of 10 Syrian citizens readmitted from Kos to Turkey, without due consideration of their asylum claims). AIDA Country Report Greece 2016 p.34.

⁸⁰ *ibid.* p. 14.

1st Instance Procedures - Recognition Rates (%) ² (Countries with more than 60 Decisions in substance)			
10 Countries of Origin with the highest recognition rates		10 Countries of Origin with the lowest recognition rates	
SYRIA	99.6%	DOMINICAN REPUBLIC	2.6%
YEMEN	93.7%	PAKISTAN	2.5%
PALESTINE	92.2%	ALGERIA	1.5%
STATELESS	83.9%	SENEGAL	1.2%
ERITREA	80.7%	ARMENIA	0.9%
SOMALIA	74.0%	GHANA	0.7%
IRAQ	66.6%	ALBANIA	0.2%
SUDAN	58.8%	GEORGIA	0.0%
AFGHANISTAN	58.5%	RUSSIA	0.0%
IRAN	51.7%	MOLDOVA	0.0%

1st Instance Procedures - Pending Applications - Countries of Origin		
	Pending Applications (28.02.2017)	Pending Applications (31.03.2017)
SYRIA	13347	11681
AFGHANISTAN	5539	5820
IRAQ	4290	4396
PAKISTAN	3206	3472
PALESTINE	948	965
IRAN	830	922
BANGLADESH	774	778
ALBANIA	720	711
DEMOCRATIC REPUBLIC OF CONGO	386	550
GEORGIA	371	387
OTHER COUNTRIES	2862	3356
total	33273	33038

Appeals - Countries of Origin							
	2013	2014	2015	2016	March 2017	2017	Total
PAKISTAN	188	976	1043	1866	329	912	4985
ALBANIA	188	619	382	837	98	333	2359
BANGLADESH	98	338	490	521	93	305	1752
SYRIA	3	9	4	1148	103	282	1446
GEORGIA	119	327	197	369	39	113	1125
EGYPT	52	308	135	328	20	47	870
NIGERIA	36	243	249	238	10	30	796
AFGHANISTAN	28	289	181	209	22	74	781
ALGERIA	9	88	61	357	55	145	660
MOROCCO	34	55	51	173	20	56	369
OTHER COUNTRIES	295	994	918	1155	94	275	3637
Total	1050	4246	3711	7201	883	2572	18780

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Pre-registration: Between 9 June and 30 July 2016 Greece finalized the process of pre-registration (that is a 'basic' or 'simple' registration of applicants' details, making use of the possibility foreseen in article 36(1)(b) of law 4375/2016) of persons who were located in mainland Greece. The total number of pre-registrations reached 27.592.⁸¹ By the end of February 2017, all pre-registered persons had been fully registered, although a significant number among them did not appear to the Asylum Units on their scheduled dates for full registration.⁸²

Delays in registration remains an important issue, especially regarding certain nationalities who are not prioritized. An important number of third-country nationals willing to apply for asylum on the islands after 20 March 2016, do not have effective access to asylum procedure or only have access subject to undue delays, exceeding 6 months for certain nationalities. Beyond violating the safeguards provided by the recast Asylum Procedures Directive, this in turn creates a substantial backlog of cases that have to be examined on the islands. In any event, as underlined, prioritisation of access to the procedure on the basis of nationality may lead to discrimination vis-à-vis other rights or undermine the right to family reunification.⁸³

According to UNHCR estimates, the number of new applications for international protection in 2017 in Greece will depend on various factors, such as "access to the asylum procedure, readmissions to Turkey, family reunification under the Common European Asylum System, relocation, assisted voluntary returns of non-Syrian arrivals and potential irregular movements".⁸⁴ It is nevertheless anticipated that the vast majority of the population remaining on the islands will apply for asylum in Greece and be transferred to facilities on

⁸¹ Asylum Service data in http://asylo.gov.gr/wp-content/uploads/2016/08/Preregistration-data_template_5_GR_EXTERNAL.pdf

⁸² AIDA Country Report Greece 2016 p. 38.

⁸³ op.cit. p. 38.

⁸⁴ UNHCR [UNHCR Regional refugee and migrant response plan for Europe - January to December 2017](#) December 2016, p. 9.

the mainland. With the limited possibility for onward movement, an estimated 10% of the population, composed of non-Syrian nationalities, are expected to express the wish to return voluntarily.

5.3. The asylum procedure

At this moment international protection is governed by two different procedures, while the EU-Turkey Statement has established a de facto third process for arrivals after March 2016.⁸⁵ In addition to the regular procedure under the Asylum Service and the continuation of the so-called "old procedure", the Statement allowed for the development of the fast-track "border procedure".

The "old procedure": The so-called "old procedure" referring to applications lodged before 7 June 2013 (when the Asylum Service started operating), governed by Presidential Decree n. 114/2010.⁸⁶ This procedure originally intended to cover the so-called "backlog": these were applications lodged when the Hellenic Police was competent to examine and decide at first instance asylum applications. As there are no longer pending decisions at first instance, the 'old procedure' refers only to appeals against such first instance decisions. The Appeals' Committees operating under this procedure are expected to complete their work by the end of 2017. **In 2016 these Committees have issued 5.364 decisions.** Article 22 of law 4375/2016 provides that appellants who have lodged their asylum applications up to five years before the entry into force of this law (that is before 3 April 2016), and their examination is pending before the Appeals' Committees, shall be granted a two-years residence status on humanitarian grounds, which can be renewed. Appellants granted with residence status on humanitarian grounds have the right to ask within two months from the notification of the decision on their asylum application to be examined in view of fulfilling the requirements international protection. On the basis of that provision, a total of 4,935 decisions granting humanitarian residence permits have been issued by the end of 2016.⁸⁷

The border procedure: Greek legislation contained already in the past a border procedure which, however, was rarely used. In the current legislation, article 60 par. 4 of Law 4375/2016 provides for a '**fast-track special procedure at the border**', which applies exceptionally in case of arrivals of a large number of third country nationals, who introduce international protection applications at the border or in transit zones of ports or airports of the country or while they remain in Reception and Identification Centres.⁸⁸

In practice, **this fast-track border procedure applies to arrivals after 20 March 2016** and takes place **in the Reception and Identification Centres (RIC)** of Lesbos, Chios, Samos, Leros and Kos where the hotspots are located. Within this context, the law allows for registration and interviews being conducted by EASO staff,⁸⁹ while the entire procedure at first and second instance has to be completed within 14 days. The procedure has predominantly taken the form of an admissibility procedure to examine whether applications may be rejected on the ground that Turkey is a "safe third country" or a "first country of asylum". The **admissibility procedure started being applied to Syrian**

⁸⁵See the relevant chart (March 2017) by the Asylum Service on <http://asylo.gov.gr/wp-content/uploads/2017/03/Asylum-procedure-in-the-context-of-the-EU-Turkey-statement.pdf>

⁸⁶ Presidential decree 114/2010 "on the establishment of a single procedure for granting the status of refugee or of beneficiary of subsidiary protection to aliens or to stateless persons in conformity with Council Directive 2005/85/EC on minimum standards on procedures in Member States for granting and withdrawing refugee status (L 326/13.12.2005). O. G. A, No. 195, 22 November 2010. in <http://www.refworld.org/docid/4cfdadf2.html>

⁸⁷ [Asylum Information Database \(AIDA\). Country report Greece 2016](http://www.refworld.org/docid/4cfdadf2.html), p. 16.

⁸⁸ The relevant Joint Ministerial Decision (no 13257/Official Gazette 3455/B/26.10.2016) for the application of the provisions of par. 4 of article 60 of the Law 4375/2016, was published on 26.10.2016, 13257. O. G. B' 3455 26/10/2016 in <http://asylo.gov.gr/wp-content/uploads/2016/10/Απόφαση-εφαρμογής-διατάξεων-παρ.-4-αρ.-60.pdf>

⁸⁹ *ibid.* The involvement of EASO staff in fast-track border procedures was foreseen in law 4375/2016 and has been detailed in the said Ministerial Decision.

nationals in April 2016 and, since the beginning of 2017, was applied to **other nationalities with a recognition rate for international protection above 25%** (such as Afghans, Iraqis). In the meantime, applicants whose nationalities have a recognition rate for international protection below 25%, go through the fast-track procedure with an examination of the application on the merits without prior admissibility assessment as of July 2016.⁹⁰

In accordance with Law 4375/2016, fast track border procedures do not apply for persons who belong to vulnerable groups who are referred to the regular examination procedure after they are registered or once vulnerability is identified, if it is not evident. The Joint Action Plan by Maarten Verwey the EU Coordinator on the implementation of the EU-Turkey statement⁹¹ calls on the Greek authorities to “**examine**, on a case by case basis [...] **the application of the inadmissibility procedure [...] to vulnerable applicant cases** with a view to their possible return to Turkey” and whether “Article 60(4)(f) of Law 4375/2016 could apply to vulnerable applicant cases in accordance with Article 24(3) of the Asylum Procedures Directive”. Additionally, it recommends to examine “the application of the inadmissibility procedure [...] to Dublin family reunification cases with a view to their possible return to Turkey”.⁹² This has not, as of yet, led to any legislative change to that end.

In the aftermath of the above-mentioned EU Joint Action Plan, the Asylum Service has revised the Guidance on the application of the border procedure concerning **applications by vulnerable groups**. Unlike what was the case so far, these will be examined by the Asylum Service Unit of the island where they were registered. Specifically, following the referral due to vulnerability, the interview on the merits will be conducted by the Asylum Office or Unit of the island and after the completion of the interview, applicants will receive an asylum seeker’s card without a geographical restriction. After this, the decision will be issued including the deadline of the regular procedure for an appeal. **Efforts will be made to prioritize interviews of this group**. Vulnerable Syrians, however, are still referred to the fast-track Syria service in Athens, therefore their application is not treated in the islands.

Unaccompanied minors, after their full registration, will go through an interview on the merits conducted on the island where the application was registered. However, the notification of the decision will be made, after accommodation for them has been secured, in the place of residence of the applicant. If accommodation is found outside the island before the time of the scheduled interview on the island, the examination of the merits of the case will pass on to the Asylum Offices in Athens or Piraeus.

Table 5: 1st instance breakdown and unaccompanied minors

⁹⁰ (AIDA) Country report Greece 2016 op. cit. p. 14.

⁹¹ European Commission [Joint action plan on the implementation of the EU-Turkey Statement](#) December 2016. Point 3.

⁹² *ibid.* point 2.

1st Instance Procedures							
	2013	2014	2015	2016	March 2017	2017	Total
Refugee Status	229	1224	3647	2467	688	1578	9145
Subsidiary Protection	92	487	348	245	53	87	1259
Negative in substance	1757	4255	4436	6611	996	2342	19401
Inadmissible decisions ¹	261	1451	2012	15055	2967	6784	25563
Implicit & Explicit withdrawals	242	1047	2362	2517	637	1565	7733
Total	2581	8464	12805	26895	5341	12356	63101
Monthly average	369	705	1067	2241		4119	1372
Recognition Rate (%) ²	15.4%	28.7%	47.4%	29.1%	42.7%	41.6%	34.9%

1st Instance Procedures - Unaccompanied Minors																					
	2013			2014			2015			2016			March 2017			2017			Total		
	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total	Men	Women	Total
Refugee Status	7	1	8	48	7	55	64	19	83	67	15	82	7	5	12	19	8	27	205	50	255
Subsidiary Protection	4		4	28		28	26		26	21		21	1		1	3		3	82	0	82
Negative in substance	56	2	58	151	6	157	107	8	115	279	6	285	68		68	164		164	757	22	779
Inadmissible decisions ¹	12	3	15	69	21	90	74	10	84	282	95	377	92	24	116	223	53	276	660	182	842
Implicit & Explicit withdrawals	14		14	86		86	114	11	125	73	10	83	22	1	23	58	7	65	345	28	373
Total	93	6	99	382	34	416	385	48	433	722	126	848	190	30	220	467	68	535	2049	282	2331

(1): Inadmissible decisions include decisions: (a) on subsequent (repeated) applications, (b) due to acceptance by another Member State (Relocation and Dublin Regulation procedures), (c) due to eligibility to return to a Safe Third Country (Border Procedures)

(2): Calculation based only on decisions in substance (Refugee Status, Subsidiary Protection, Negative in substance)

Revision date: 15/04/2017

5.4. Relocation

Greece is, together with Italy, one of the countries directly affected by the Council decisions on relocation (Council Decisions 2015/1523 and 2015/1601 of September 2015).⁹³ A total of 66.400 persons are supposed to be relocated from Greece on the basis of these two decisions.

Relocation has been a slow process: many persons who could be beneficiaries of relocation were unwilling to apply for international protection in Greece (preferring to move individually to other Member States) while several Member States were slow in pledging on relocation places and transferring persons (some have refused outright to do so) and the Greek authorities were not prepared.⁹⁴ Following a number of complaints from the part of the Greek authorities and insistence by the Commission, both pledges and transfers increased during the first months of 2017 but the number of people eligible for relocation present in Greece is still below what is foreseen in the Council Decisions. According to the eleventh Commission report on relocation and resettlement **"26,997 eligible applicants were registered in Greece" where "around 14,000 people still need to be relocated"**.⁹⁵ As of 5 May 2017, **the total number of persons relocated from Greece**

⁹³ Council Decisions (EU) 2015/1523 of 14 September 2015 (OJ L 239, 15.9.2015) and 2015/1601 of 22 September 2015 (OJ L 248), establishing provisional measures in the area of international protection for the benefit of Italy and of Greece. Originally the two decisions had envisaged that a total of 160 000 people should be relocated from Italy, Greece and Hungary; this was adjusted to 106 000 people from Italy and Greece only. According to these decisions relocation would only be applied to migrants with a nationality, which would show, in the latest Eurostat data, a 75 % 'recognition rate' in terms of decisions granting international protection.

⁹⁴ A detailed analysis on the challenges to relocation in Greece (and in Italy) can be found in the study commissioned by the European Parliament's Policy Department for Citizens' Rights and Constitutional Affairs at the request of the LIBE Committee [Implementation of the 2015 Council Decisions establishing provisional measures in the area of international protection for the benefit of Italy and of Greece](#) European Parliament. March 2017. pp. 36-39.

⁹⁵ European Commission [Eleventh report on relocation and resettlement](#). The Greek Asylum Service provides (as of 23 April 2017) a figure of 27.075 relocation applications registered with the Asylum Service, 20.012 relocation requests to other MS, 16.427 requests accepted and 11.629 implemented relocation requests.

was **12.646 (19% of the total number of 66.400)** provided for Greece in the relocation Decisions).⁹⁶

The Asylum Service is handling relocation through a special relocation unit situated in the building of IOM in Alimos (Athens suburb). The unit does the matching between pledges and preferences expressed by applicants for relocation, with the assistance of EASO. The Commission's eleventh report on relocation and resettlement again pointed out that **Member States should avoid overly restrictive preferences** and delays and **limit requirements** causing delays in the transfer procedure.

Article 13 paragraphs 2 and 3 of Decision 2015/1601 provides that the decision "shall apply until 26 September 2017" and "to persons arriving on the territory of Italy and Greece from 25 September 2015 until 26 September 2017, as well as to applicants having arrived on the territory of those Member States from 24 March 2015 onwards"⁹⁷ although according to the Commission the obligations arising from these Decisions shall continue.

It has been widely reported that the **Greek authorities have excluded from relocation persons who arrived in Greece after the entry into force of the EU-Turkey Statement.**⁹⁸ The European Court of Auditors special report on "the EU response to the refugee crisis: the 'hotspot' approach" refers that the fact that "since March 2016 the relocation option is no longer available for newly arrived migrants. This follows a decision by the Greek Asylum Service and in line with views put forward by Member States [...] which implied that relocation should be oriented towards migrants on the mainland who arrived before 20 March. A clear legal basis for this view is not included in the two Council Decisions on relocation".⁹⁹

Greece, as of 10 April 2017, **has not resettled** any of the 354 persons it has committed itself to resettle under the 20 July 2015 Council Conclusions or under the 1:1 resettlement mechanism with Turkey¹⁰⁰ Greece, as of 10 April 2017, has not resettled any of the 354 persons it has committed itself to resettle under the 20 July 2015 Conclusions or under the 1:1 resettlement mechanism with Turkey.¹⁰¹

5.5. The resumption of Dublin transfers to Greece

Transfers to Greece from other EU Member States on the basis of the Dublin system have been suspended since 2011, following two judgements by the European Court of Human Rights and the Court of Justice of the EU¹⁰², which identified systemic weaknesses in the Greek asylum system.

Since then, the Greek authorities have made continuous efforts to improve the functioning of their asylum system, assisted by the Commission, EASO, other Member States and organisations. During 2016, the Commission presented several recommendations on the measures to be taken by Greece in order to have a well-functioning asylum system,

⁹⁶UNHCR: EU emergency relocation mechanism. Data of 5 May 2017 [EU emergency relocation mechanism](#)

⁹⁷ A similar provision exists in decision 2015/1523 where the dates are slightly different (application until 17 September 2017, for persons having entered from 15 August 2015).

⁹⁸ See, among others, the AIDA 2016 report on Greece which states, in p. 27, that "since mid-June 2016, the relocation scheme is not applicable to those who have entered Greece after 20 March 2016". Maarten Verwey, EU Coordinator, in his presentation before the LIBE Committee on 29 April 2017 stated, in relation to a relevant question, that there is no obligation on the part of Greece to propose relocation and Member States have indicated that they want to prioritize persons who have arrived in Greece before the end of March 2016. This has been communicated to Greece and the Greek Asylum Service has indicated that it would not be useful to propose such persons for relocation.

⁹⁹ European Court of Auditors (ECA) special report on "[The EU response to the refugee crisis: the 'hotspot' approach](#)" Number 06/2017. Point 78.

¹⁰⁰ European Commission [Eleventh report on relocation and resettlement](#). op. cit. Annex 4.

¹⁰¹ *ibid.* Annex 4.

¹⁰² *M.S.S v Belgium and Greece* (no. 30696/09) and *NS v Secretary of State for the Home Department* C- 411/10 & C-493/10.

thereby creating the conditions for the gradual resumption of transfers under the Dublin Regulation.

In its Recommendation of 8 December 2016¹⁰³ following an analysis of the developments in the Greek asylum and reception conditions, the Commission recommended to “**resume gradually and on the basis of individual assurances**, taking account of the capacities for reception and treatment of applications in conformity with relevant EU legislation, and taking account of the currently inadequate treatment of certain categories of persons, in particular vulnerable applicants, including unaccompanied minors” **non-retroactively** but “as of a specific date”.¹⁰⁴ The resumption of transfers should “apply to asylum applicants who have entered Greece irregularly at external borders from 15 March 2017 onwards”. Greece was invited to provide, by 15 February 2017, an update on the progress made to implement the actions necessary for the recommendation and in particular to describe how the Greek authorities “are putting in place the procedure for providing assurances in individual cases of transfer”. Greece did not, up till 1 May, submit such a report.

The Greek authorities, as well as NGOs¹⁰⁵, have resisted this development on the grounds that **the Greek asylum and reception system is weak and cannot cope** with the increase in arrivals that such a move would lead to. Up till today there have been some, few, requests by some Member States, on grounds other than those of article 13 (first country of entry) and mostly for visa grounds. They have not led, as of yet to any transfer. UNHCR in its submission to the Council of Europe Committee of Ministers on the supervision of the execution of the M.S.S. judgment v. Belgium and Greece (Application No. 30696/09) warns that “although progress has been made, significant challenges related to reception, registration, asylum processing and solutions remain, giving rise to significant protection and safety risks”.¹⁰⁶ Equally, Human Rights Watch claimed that “conditions for asylum seekers in Greece are every bit as degrading now as they were six years ago”.¹⁰⁷

In an interview with the German Spiegel magazine, **Minister Mouzalas excluded that Greece consents to taking back Dublin returnees**. As he declared Greece is “not in a position to implement a return to the Dublin rules... [not for] political or ideological reasons... [but because] Greece simply has no capacity to cope with the arrival of other refugees”. He stated that Greece could “at most take back a small group of refugees as a symbol that we do not fundamentally reject the Dublin rules. For the moment we have reached the end of our powers”.¹⁰⁸

The Commission, up till the moment of the drafting of this briefing, has not pressed further on the issue.

Outgoing Dublin movements take place normally. In 2016, Greece submitted 4.886 requests (3.527 to Germany), the vast majority of which (4.276) were on family reunification grounds and effected 946 transfers.¹⁰⁹ In May 2017, Greek media reported that of an agreement between the Greek Ministry of Migration Policy and Germany to limit

¹⁰³ [Commission recommendation of 8 December 2016 addressed to Member States on the resumption of transfers to Greece under Regulation \(EU\) No. 604/2013](#). C (2016) 8525 final.

¹⁰⁴ Op. cit. point 34.

¹⁰⁵ See the relevant letter to Commission President and the Greek Minister for Immigration, dated 15/12/2016 by ECRE, the Greek Council for Refugees and other Greek NGOs and that a reinstatement of transfers to Greece is “premature in light of the persistent deficiencies in the Greek asylum system”. <http://www.statewatch.org/news/2016/dec/eu-ngo-letter-migration.pdf>.

¹⁰⁶ Communication from an IGO (UNHCR) (03/04/2017) in the case of M.S.S. v. Belgium and Greece (Application No. 30696/09) in [UNHCR Communication in the case of M.S.S. v. Belgium and Greece](#)

¹⁰⁷ Human Rights Watch: [EU: Returns to Greece put Refugees at Risk](#) 10.12.2016.

¹⁰⁸ [Griechischer Minister ‚Wir können keinen einzigen Flüchtling mehr unterbringen‘](#) Der Spiegel online. 26/3/2017.

¹⁰⁹ AIDA Country report Greece 2016, op. cit. pp. 48-49.

the number of Dublin transfers to Germany to 70 per month,¹¹⁰ however, these reports were rejected by the Minister for Migration Policy.¹¹¹

¹¹⁰See relevant article in the Greek daily *Efimerida ton Syntakton*, 12/5/2017. In <http://www.efsyn.gr/arthro/germaniko-plafon-stin-oikogeneiaki-epanemosi>

¹¹¹ Greek daily *Efimerida ton Syntakton*, 12/5/2017. In <http://www.efsyn.gr/arthro/mia-diapseysi-horis-exiqiseis>

6. RETURNS AND THE EU-TURKEY STATEMENT

6.1 The legislative framework

In the past, returns were regulated in Greece through a number of bilateral readmission agreements, mostly with neighbouring countries (in particular Albania).

As far as returns to Turkey are concerned, these were regulated by the bilateral Greece-Turkey Readmission Protocol, signed in Athens on 8 November 2001 (ratified in Greece by law 3030/2002 (O.G. A' 163/15-7-2002))¹¹². The implementation of the Protocol was subject to the political ups and downs in the relations between the two countries and was not considered to have achieved its objectives¹¹³. The Readmission Agreement between EU and Turkey,¹¹⁴ signed on 16 December 2013 and in force since 1 October 2014 originally covered only Turkish (and EU) nationals and, in its early stage, it coexisted with the bilateral protocol for third-country nationals. Since the 1 June 2016 the provisions on readmission of third country nationals of this Agreement (articles 4 and 6 thereof) have entered into force and should replace the bilateral protocol. Nevertheless, according to the Greek authorities **"during the current period, the Greek government is in negotiations with the Turkish authorities, and the signature of an implementing Protocol is pending"**.¹¹⁵

The Return Directive¹¹⁶ has been transposed into Greek law through law 3907/2011.

The EU-Turkey Statement of 18 March 2016 which provides that "all new irregular migrants whether persons not applying for asylum or asylum seekers whose applications have been declared inadmissible crossing from Turkey to the Greek islands as of 20 March 2016 will be returned to Turkey" came in addition to the above agreements, but it does not provide a legal framework for returns. The legal framework for such returns was, initially, the bilateral readmission Protocol between Greece and Turkey and, as of 1 June 2016, the EU-Turkey Readmission Agreement.¹¹⁷

On 18 March 2016, Commission President Juncker appointed Maarten Verwey formerly Director-General of the Structural Reform Support Service as the EU Coordinator to organise operational implementation in Greece.¹¹⁸

The legal nature of the Statement has been challenged before the General Court of the CJEU, which ruled recently that it lacked jurisdiction to hear and determine the Statement.¹¹⁹

In addition, Greece's **Council of State is due to rule on whether Turkey can be considered to be a 'safe third country'** for the sake of return on the basis of the above Statement, following a relevant application by two Syrian asylum seekers, with the support of one NGO,¹²⁰ whose applications for protection were rejected by the Appeals' Committees as inadmissible on the grounds that they arrived in Greece from a 'safe third country', as

¹¹² <https://nomoi.info/ΦΕΚ-Α-163-2002-σελ-1.html>

¹¹³ Evaluating the cost effectiveness of measures against irregular migration in Greece (in Greek). MIDAS (Migration and Detention Assessment) report October 2014. P. 57. <http://www.eliamep.gr/wp-content/uploads/2014/11/MIDAS-REPORT-GR-1.pdf>

¹¹⁴ [http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:22014A0507\(01\)&from=EN](http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:22014A0507(01)&from=EN)

¹¹⁵ See relevant press communiqué from the Ministry for Citizens Protection on the return of 22 irregular migrants to Turkey.

http://www.mopocp.gov.gr/index.php?option=ozo_content&lang=&perform=view&id=6121&Itemid=644

¹¹⁶ [Directive 2008/115/EC of December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals](#)

¹¹⁷ Nevertheless, decisions on returns to Turkey make reference to the EU-Turkey Statement.

¹¹⁸ http://europa.eu/rapid/press-release_IP-16-942_en.htm

¹¹⁹ Orders of the General Court (First Chamber, Extended Composition) of 28 February 2017. Cases T-192, T-103 and T-257/16 (NF, NG and NM v European Council).

¹²⁰ See relevant Amnesty International appeal in <https://www.amnesty.gr/action/petitions/20440/na-apeleytherothei-amesa-o-noori-apo-paranomi-kratysi-sti-lesvo>

provided in the Statement.¹²¹ The relevant discussion has taken place in March 2017 and the decision is expected within the coming months.

The EU-Turkey Statement does not provide where returns should be made from, although it stipulates that “all new irregular migrants crossing from Turkey into Greek islands as from 20 March 2016 will be returned to Turkey”. Turkey has asserted this to mean that **returns are admissible only if they are made directly from the Greek islands** for persons who remained there. Due to the overcrowding of hotspots, the Greek authorities tried to move persons who could be returned (whether applicants for international protection to Turkey to the mainland (principally to the closed pre-removal center of Corinth). where these persons were, nevertheless, subject to the border procedure.¹²² Turkey had accepted for some time this practice but rejected it later; on as a result, returns are now accepted only for persons who have not left the islands.

6.2. Number of returns

During 2016, 19.151 persons, in total, have been returned (the term used by the Hellenic police is “deported”)¹²³ from Greece. The majority were Albanian nationals (6.763 plus a further 3.561 who were ‘refoules’ upon arrival for a total of 10.324) returned to Albania. The second and third most numerous nationalities are Pakistan (1.624) and Morocco (1.491), followed by Iraqis (1.075) and Afghanis (1.058). The figure includes 143 Syrians who left on a voluntary basis to a third country (usually Turkey).

According to Commission data, on the basis of the EU-Turkey Statement, as of 4 May 2017, there have been 801 returns during 2016 and 293 till 23 April 2017 (a total of 1094 persons).¹²⁴ The Commission’s fifth report on the progress made in the implementation of the EU-Turkey Statement provides a different figure (1.487 persons), which includes persons also returned to Turkey on the basis of the Greek-Turkish bilateral Readmission Protocol. The Greek authorities provide a different system of calculation of the relevant data.¹²⁵

The said fifth report also states that around 7,000 migrants who have used the Assisted Voluntary Return and Reintegration Programme since the start of 2016 to return to their country of origin.¹²⁶

In the end of March 2017, the Minister for Migration Policy announced that asylum seekers whose application was rejected at first instance would have five days after they are handed their negative decision to decide whether to enter the voluntary return scheme or appeal against this decision.¹²⁷ In the former case, they would receive cash incentives (1000 euros per individual plus the plane ticket to the country of origin). They would lose this benefit if they appealed the decision. Various human rights groups have accused the Greek

¹²¹ See Communication by the Greek Asylum Campaign of 9 March 2017. <http://arsis.gr/kampania-gia-tin-prosvasi-sto-asilo-2/>

¹²² AIDA Country report on Greece, op. cit. p. 59.

¹²³ Data provided by the Hellenic Police.

http://www.astynomia.gr/index.php?option=ozo_content&lang=%27.%27&perform=view&id=55858&Itemid=1240&lang=

¹²⁴ European Commission, D.G. HOME. [Operational implementation of the EU-Turkey Statement](#).

¹²⁵ As of 12 May, the Ministry for Citizens Protection calculates that on the basis of the bilateral protocol there were 1183 returns in 2016 and 13 in 2017 (a total of 1.196 third country nationals). On the basis of the EU Turkey readmission agreement 54 Turkish nationals were returned in 2016 and 10 in 2017 (a total of 64, all Turkish nationals). On the basis of the EU-Turkey Statement 801 third country nationals were returned in 2016 and 364 in 2017 (a total of 1165 third country nationals). See relevant press communiqué from the Ministry for Citizens Protection on the return of 22 irregular migrants to Turkey (out of whom 190 were Syrians). http://www.mopocp.gov.gr/index.php?option=ozo_content&lang=&perform=view&id=6121&Itemid=644

¹²⁶ Ibid. p. 6

¹²⁷ ‘Mouzalas: Put an end to the asylum abuse’ 30.3.2017 in <http://news.in.gr/greece/article/?aid=1500136781>

government that it is putting pressure on rejected to take the cash and leave the country rather than appeal their cases.¹²⁸

¹²⁸ . See. [Greece paying asylum seekers to reject appeals](#). EUobserver.5 May 2017.

7. EU FUNDING

European Union, but also Member States, international organizations and NGOs have substantially contributed to the humanitarian crisis and the refugee support in Greece.

As far as direct EU funding is concerned, Greece can use the respective allocations under the Asylum, Migration and Integration Fund (AMIF) and the Internal Security Fund (ISF), covering the period from 2014 to 2020 (total allocation 866 million). According to the latest (March 2017) fact sheet of the European Commission¹²⁹, since the beginning of 2015 the EU has supported the Greek authorities as well as international organisations and NGOs operating in Greece in managing the refugee and humanitarian crisis, with over €356,8 million (awarded) in emergency assistance, an amount which comes on top of the €509,5 million already allocated to Greece under the national programmes for 2014-2020 (€294.6 million from AMIF and €214.8 million from ISF).

Funds were also made available through the AMIF and ISF emergency assistance and through the Emergency support instrument.¹³⁰ The funds already awarded through this emergency instrument (198 million so far) have been mainly awarded to international organizations (UNHCR, IOM) or NGOs.

In a letter dated 21 April 2017, to Minister Mouzalas, Commissioner Avramopoulos stated that "the additional emergency assistance directly managed by the Commission has been mobilized as quickly as possible" and with an immediate disbursement of pre-financing of 80%. The Commissioner expressed his concern that "Greece has still to start making full use of these significant financial resources" and that "the first and only 44 million Euro of expenditure recently declared [...] under these programmes barely includes any amounts spent on reception measures or [...] directly benefiting migrants and refugees"¹³¹

In addition, in-kind assistance has been delivered through the EU Civil Protection Mechanism. Twenty participating countries have offered 185 000 items of material support to respond to the most immediate needs, such as tents, beds, sleeping bags, blankets, hygiene kits, power generators, water pumps, fire-fighting equipment and other specialised equipment.¹³²

Law 4375/2016 established, within the Ministry of Economy, Development and Tourism a Special Secretariat to Coordinate and Manage the AMIF and ISF Programs.¹³³ The Secretariat, currently headed by Ms. Lambrini Kogou, was entrusted with the tasks of coordinating and managing funds related, among others, to the Common European Asylum Service, integration of legal migrants return, management of external borders and emergency funding. A Special Service was instituted by law 4375/2016 under the Special Secretariat which is currently the managing authority in Greece for AMIF and ISF; it has delegated part of its competences to two Managing Authorities (the Asylum Service and YDEAP.¹³⁴ Claims that EU funding has been wasted or underused arise on various occasions in the media.¹³⁵ A petition to the European Parliament regarding degrading conditions and

¹²⁹, European Commission [MANAGING THE REFUGEE CRISIS -EU Financial Support to Greece](#) Factsheet. Last updated 15 March 2017.

¹³⁰ Council Regulation (EU) 2016/369 of 15 March 2016 on the provision of emergency support within the Union (OJ L 70, 16.3.2016).

¹³¹ Letter dated 21 April 2017 (ref. Ares (2017) 2058500/21/4/2017) to Minister Mouzalas by Commissioner Avramopoulos.

¹³² European Commission. ECHO. [European Civil Protection and Humanitarian Aid Operations, Factsheet Greece](#) .

¹³³ . <http://www.amifisf.gr/pages/eidike-grammateia.html#> . The Special Secretary was appointed in operating in July 2016. O.G. YODD 385/18-7-2016.

¹³⁴ YDEAP (Service for the Management of European and Development Projects) under the Ministry for Citizens Protection was formerly the competent authority for most of the JHA funds http://www.mopocp.gov.gr/index.php?option=ozo_content&perform=view&id=4102&Itemid=533&lang=

¹³⁵ See in particular " [Where did the money go? How Greece fumbled the refugee crisis](#) ". The Guardian, 9-3-2017.

EU funding in Greece¹³⁶ draws the attention of the EP to the “mismanagement of EU funds by Greece” and recommends the Petitions Committee to “hold a hearing [...] on the issue of funding misuse with regard to the reception conditions” in Greece and to request the Court of Auditors to “evaluate the use of the funds by Greece”.

¹³⁶ Petition number 225/2017 by the NGO ‘Solidarity Now’, March 2017, in http://www.solidaritynow.org/wp-content/uploads/2017/04/EU-Petition-by-SolidarityNow_eng.pdf

8. EU AGENCIES

EASO, Frontex (now the European Border and Coast Guard), the EU Agency for Fundamental Rights (FRA) and Interpol are present in Greece providing assistance in infrastructure and human resources.

Table 6: Deployments by FRONTEX and the European Asylum Support Office

Deployments by FRONTEX and the European Asylum Support Office (EASO) in Greece*	
As of 2 May 2017	
Interpreters - EASO	134
Asylum Experts - EASO	118
Staff - EASO	26
Registration officers - seconded to Greek Asylum Service - EASO staff	28
Escort officers and readmission experts - Frontex	96
Fingerprinting and Registration Officers - Frontex	62
Interpreters - Frontex	27
Security Officers - Frontex	280
Border Surveillance Officers and Crew Members - Frontex	261
Team leaders, Coordination staff and Support Officers - Frontex	75
Debriefing Experts - Frontex	12
Screening Experts - Frontex	20
Advanced Document Officers and First Line Officers - Frontex	17
National Officers responsible for technical equipment - Frontex	13
NATO vessel liaison officers	2
Total deployed	1,171

Source : European Commission in

https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/press-material/docs/state_of_play_-_eu-turkey_en.pdf

8.1. EASO

EASO has been involved in supporting the Greek authorities with training and by deploying various Asylum Support Teams (ASTs), in Greece since April 2011, following relevant requests by the Greek governments. Since the beginning of its operations, EASO supported Greece in enhancing and building up its capacity in tackling the backlog of asylum cases, as well as in setting up a sustainable and efficient asylum structure. Later on EASO support to

Greece covered areas such as training of the staff of the new Asylum and First Reception services, support to the backlog committees, support to improvement of reception procedures and the management of EU funds related to asylum and reception. In 2015 and during the refugee crisis, EASO and Greece signed a new tailor-made Support Plan which was extended until the end of 2016. In September 2015, the Agency signed a specific Hotspot Operating Plan¹³⁷ (amended twice). The Hotspot Operating Plan stipulated that EASO would provide, within the Hotspots, information to potential applicants for international protection, support the Asylum Service Dublin Unit with handling outgoing Dublin take charge requests and support in detecting possible document fraud. Successive amendments to this HOP expanded the role of EASO in supporting the Asylum Service in providing information to potential relocation candidates and registration. The second amendment added support with the implementation of the admissibility procedure, in particular doing vulnerability screening, conduct admissibility interviews, recommend decisions and notify applicants thereof, as well as record intents to appeal.¹³⁸

A new special Operating Plan for Greece was signed in December 2016¹³⁹. It includes, among others, support in providing information to potential relocation candidates, the full registration of relocation applicants and the launch and operation of a case distribution/matching system for relocation. It also maintains assistance in the operation of hotspots, in particular admissibility interviews in hotspots for Syrians (the Asylum Service is doing the on the merits interviews in fast track procedure), eligibility interviews for low recognition rates, admissibility procedures for high recognition rates (non-Syrians), possibly followed, as of recently (in case of admissibility) by an eligibility procedure. A new area of practical support referred to the operation of the Reception and Identification Centers and support in the absorption of EU funds.

As of 27 February 2017, the European Asylum Support Office had deployed 118 interpreters in Greece and 89 Member States' experts, out of which 73 are deployed in the hotspots, 59 of them being case workers (the figures have been modified since, see relevant table by the Commission). The Commission estimates that, with these figures, there is a shortfall of 77 experts.¹⁴⁰ In addition to this figure, a number of 35 interim staff, trained as caseworkers to support the experts on the islands, has been recruited. EASO also deploys interim staff to support the Asylum Service in the registration of applicants. Lately, EASO has recruited a number of local interim staff as 'assistant legal rapporteurs' for the Independent Appeals Committees.

Admissibility interviews by EASO are heavily criticized by NGOs. In most cases in hotspots it is in fact EASO officers who conduct interviews and recommend a decision to the Greek Asylum Service. The recommendations include an assessment as to whether the safe third country (or the first country of asylum) concept may be applied in the particular case, and thereby provide the ground on which the application can be rejected as inadmissible. NGOs allege that the Greek Asylum Service relies often not only on EASO's decision-making as to the conduct of the interview itself, but also on EASO's final recommendation on admissibility.

On 28 April 2017, an NGO, the European Centre for Constitutional and Human Rights (ECCHR), submitted a complaint to the EU Ombudsman on EASO's involvement in inadmissibility decisions, alleging that EASO conducts, in the hotspots, the interviews on

¹³⁷ <https://www.easo.europa.eu/sites/default/files/20150930%20EASO%20Hotspot%20OP%20Greece.pdf>

¹³⁸ <https://www.easo.europa.eu/sites/default/files/20160401%20Hotspot%20Operating%20Plan%20-%20Amendment%20No%202.pdf>

¹³⁹ <https://www.easo.europa.eu/sites/default/files/EASO%20Special%20Operating%20Plan%20to%20Greece%202017%2014122016.pdf>

¹⁴⁰ Fifth Report on the Progress made in the implementation of the EU-Turkey Statement. Report by the European Commission to the European Parliament, the European Council and the Council. COM 2017 (204). Brussels. 2.3.2017, p. 4. In the letter to Minister Mouzalas mentioned earlier (ref. Ares (2017) 2058500/21/4/2017) Commissioner Avramopoulos mentioned the number of 128 Member States experts and EASO interim staff, along with interpreters.

the admissibility of applications and recommends a decision to the Greek Asylum Service case handlers “who in practice rely on EASO’s recommendation without posing any questions to the applicant themselves”. ECCHR having attended a number of interviews alleges that “the interviews do not permit a fair assessment of individual cases, they do not give room for a thorough investigation of vulnerabilities and they lack a critical evaluation as to whether Turkey qualifies as a safe third country for the person concerned”. It claims that “EASO officers often stick to a rigid questionnaire without giving the applicant sufficient opportunity to elaborate on their personal history of harm or persecution” that “interviews consist of an overwhelming number of closed questions” and that “in the most severe cases, the concluding remarks do not include crucial information on vulnerability raised by the applicant concerned”. Thereby, alleges ECCHR, EASO “plays a decisive role in the assessment of the (in) -admissibility of applications for international protection” which oversteps its legal basis and also fails to respect core standards of fairness. ECCHR challenges, before the Ombudsman, the legality and legitimacy of EASO’s actions and considers that they go beyond the remit of the Agency and EU legislation.¹⁴¹ A reply by EASO to a letter by ECCHR sent previously to the lodging of the complaint.¹⁴² maintains that “the experts [conducting interviews] prepare an opinion” based on the interviews as well as other information available which is “in no way binding to the Greek Asylum Service... which can issue a decision which differs from the conclusion in the opinion of the expert”. If decisions are in line with the opinion of EASO experts “this should only confirm that the process [...] is working well and that deployed experts [and the Greek Asylum Service] reach the same conclusions based on the application of the same legal provisions and standards”. EASO also stresses its continual measures to support the quality of the process and (ex post review of a sample of interviews and opinions and encouraging good practices).

8. 2. European Border and Coast Guard (Frontex)

Frontex has been involved in operations and support in Greece since 2009 with various joint operations, most notably Joint Operation Poseidon. Support included border surveillance, SAR activities, assistance in the identification and registration of incoming migrants, as well as debriefing and screening.

Currently, the European Border and Coast Guard has 790 officers deployed in Greece, including 70 officers for the support of readmission as part of the implementation of the EU-Turkey Statement, among others in the hotspots.

Frontex’s role in the hotspots relates to, assistance in identification including nationality screening, referral of people in need of international protection, assistance in registration including fingerprinting, which precedes the asylum applications and organisation of return measures for refused asylum seekers or other persons who do not have the right to remain in the EU.¹⁴³

In this latter context, Frontex supports the Greek authorities by providing transportation and escort officers supporting the Greek officers to accompany the transport of returnees to Turkey.¹⁴⁴ The Greek authorities are in charge of public order and security on the islands. According to the Commission fifth report on the implementation of the EU-Turkey

¹⁴¹“Greek Hotspots: EU Ombudsman must investigate conduct of the European Asylum Support Office” in <https://www.ecchr.eu/en/international-crimes-and-accountability/migration/greek-hotspots/articles/international-crimes-and-accountability-migration-greek-hotspots.html>

¹⁴² Reply EASO/ED/2017/125 of 12 April 2017. ‘Complaint for maladministration in violation of EU law’. ref. your letter of 21 March 2017.

¹⁴³ See in particular: [What is Frontex’s specific role in the hotspots?](#)

¹⁴⁴ See [Frontex role in the EU-Turkey Agreement’](#)

Statement, there is a gap of officers for border surveillance and insufficient technical equipment for border surveillance.¹⁴⁵

According to the Frontex data, in 2016, vessels deployed by Frontex in the sea border between Greece and Turkey rescued 35316 people.¹⁴⁶

8. 3. EUROPOL

As of March 2017, a pool of 116 guest officers seconded by Member States and trained by Europol has been set up to provide support wherever needed. They have been deployed on a three-month rotation basis to the five Greek hotspots since September 2016. Europol is carrying out a selection procedure to increase the pool to some 250 available guest officers. The number of guest officers can vary weekly; currently, the number deployed in the Greek hotspots to carry out secondary security checks is 12. In addition, three officials are stationed in the European Regional Task Force in Piraeus for coordination purposes. The deployment of a European Migration Liaison Officer to Turkey from 1 February also helps the coordination effort.¹⁴⁷

8. 4. European Union Agency for Fundamental Rights (FRA)

European Union Agency for Fundamental Rights (FRA) staff is deployed in Greece as of 2016, assessing fundamental rights situation in the hotspots and providing expert advice to EU agencies and the Commission on operational challenges and compliance with the EU Charter on Fundamental Rights. In this regard FRA conducts regular field mission to all five hotspots and participates to the EU Regional Task Force (EURTF) meetings in Athens. As of 2017, FRA reports on a monthly to its findings and recommendations.

In November 2016 FRA and the Greek Ministry of Migration Policy signed a Memorandum of Understanding to facilitate and strengthen cooperation in the area of migration whereby, FRA will share expertise and best practices with the Ministry concerning fundamental rights issues connected to the reception and identification of newly arrived migrants and asylum seekers. This will particularly focus on initial reception, identification and registration procedures, identification and referral of people with specific protection needs such as unaccompanied children, suspected victims of trafficking and vulnerable people, reception conditions, child protection safeguards, respect for the right to be heard and the right to an effective remedy. In this context FRA, in cooperation with UNHCR provided trainings to RIS staff in the hotspots and supports RIS to capacity building activities for its staff.¹⁴⁸

¹⁴⁵ European Commission: Fifth Report on the Progress made in the implementation of the EU-Turkey Statement. Op. cit. p. 4.

¹⁴⁶ See [Frontex Operations](#)

¹⁴⁷ European Commission: Fifth Report on the Progress made in the implementation of the EU-Turkey Statement. Op. cit p. 4.

¹⁴⁸ See [FRA to provide fundamental rights expertise to Greek authorities](#) 1.12.2016.

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DIRECTORATE-GENERAL FOR INTERNAL POLICIES

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