

Refugee Crisis and Asylum Policies in Greece and Italy

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Introduction

Southern Europe, and especially Greece and Italy, have been faced with a steady flow of refugees and migrants as a result of various conflicts in Europe's southern neighbourhood, demographic change and lack of economic development in parts of the Middle East, Sub-Saharan Africa and South Asia, as well as the impact of climate change. In particular, the Syrian conflict and the transformation of Libya into a failed state have led to a substantial increase in the number of incoming refugees and migrants, making the management of those flows by the Greek and Italian authorities almost impossible.

This chapter aims to provide a brief history of irregular migration flows to Greece, present challenges for border management and the current situation regarding reception facilities in Greece, followed by statistics, and then analyse the asylum procedure in Greece and Italy in some detail. Finally, the chapter concludes with a number of policy recommendations.

Irregular Migration Flows to Greece¹

Greece has been faced with relatively high irregular migrant population stocks and flows during the past 25 years. The evolution of inflows of irregular migrants has experienced ups and downs at the different border areas (see table 1). The most notable reduction is at the Greek-Albanian border as of 2011 and particularly in 2014, though this is closely related to the exemption from a visa requirement of Albanian nationals entering the EU as of December 2010.

Table 1. Irregular migrants in Greece 2011-2015

	2011	2012	2013	2014	2015*
Afghanistan	28,528	Afghanistan 16,584	Albania 15,389	Syria 32,520	Syria 455,363
Pakistan	19,975	Pakistan 11,136	Syria 8,517	Albania 16,751	Afghanistan 186,500
Albania	11,733	Albania 10,602	Afghanistan 6,412	Afghanistan 12,901	Pakistan 23,318
Bangladesh	5,416	Syria 7,927	Pakistan 3,982	Pakistan 6,184	Albania 16,068
Algeria	5,398	Bangladesh 7,863	Bangladesh 1,524	Somalia 3,621	Iraq 63,421

Source: Ministry for the Protection of the Citizen, www.astynomia.gr for all years cited here

* first 11 months of 2015.

The Greek Turkish border has been consistently under pressure during the past five years. This trend has been strongly influenced by geopolitical developments in the region since the Arab Spring in 2011 and particularly the implosion of the Libyan regime, the conflict in Syria as well as the overall instability and conflict in the Middle East, which

¹ Based on the Report prepared for the OECD Network of International Migration Experts, November 2015, and authored by Anna Triandafyllidou, Eda Gemi and Michaela Maroufouf.

have reshuffled the irregular migration and asylum seeking routes throughout south-eastern Europe and the Mediterranean.

During 2014 and particularly in 2015 the situation rapidly evolved. Arrivals in the Greek islands increased twenty times from just over 2,500 in 2013 to over 42,000 in 2014. They further increased six fold between 2014 and the first 8 months of 2015, while the most recent update by the UNHCR puts them at 851,319 (UNHCR, 2016), continuing unabated particularly on the island of Lesbos during the first 3 months of 2016.

With a closer look at the nationalities of the migrants arriving in Greece, we notice the emergence of Syrians as by far the largest group in 2015 (accounting for 65% of all registered undocumented arrivals). Afghans remained an important group in 2014 but their numbers increased dramatically in 2015 to over 186,500, a level unregistered even in the crisis years of 2009-2011. Interestingly, Pakistanis, who had declined in absolute numbers from nearly 20,000 in 2011 to 3,600 in 2014, have picked up again with over 23,318 in 2015 and the same is true for Iraqis, the third largest group.

Border Management

Alongside improvements in its asylum and irregular migration management policy, Greece has improved its border controls. Indeed, the rising number of apprehensions generally indicates not only irregular migration or asylum seeking pressures at the borders of Greece (or the presence of irregular migrants within the country) but also the enforcement efforts of the authorities. Greece has beefed up its border controls since 2007 in particular and again even more in 2012 through Operation Shield (Aspida) and the 12.5 kilometre fence built along the Greek Turkish land border. However, Operation Aspida was discontinued in 2015 through lack of funding and the significantly reduced migrant pressures there. Similarly, the fence appears to have suffered major damage from flooding in the region during the winter of 2014-15.

Until January 2015, apprehensions at the border and particularly at Greek-Turkish land and sea borders included disembarkation, identification at the police station and detention as a routine measure for all irregular migrants and asylum seekers. Returns, whether voluntary or compulsory, had also significantly increased during the past two years with Pakistanis being the main nationality returned. However, the situation changed dramatically in 2015. The change was due to the different practice of the new government concerning detention of irregular migrants and asylum seekers (see section above). However, it also has to do with the rising and particularly overwhelming influx towards Greece of irregular migrants and

asylum seekers from the Middle East (particularly Syria but also Iraq) as well as from Asian and African countries overall (particularly Afghanistan, but also Pakistan, Bangladesh and, to a lesser degree, Somalia, Eritrea and Sudan).

Overall, Greek migration policies in the 1990s and 2000s have largely been characterised by a reactive approach to irregular migration and informal employment in the country's black market economy. The main legislative measures for normalising the migration situation involved regularisation. Integration measures have been mostly on paper but in practice rather minimal.

For the past ten years, Greece, a principal gateway for irregular migrants and asylum seekers to Europe, has struggled to develop a sustainable asylum policy which would allow it to receive persons in need of international protection, while protecting the EU's external borders. But in the past two years, the political turmoil in the Middle East and Africa combined with the financial crisis have added new pressures, rendering the need for a revision of Greece's asylum policy approach and introduction of integration schemes (e.g. in the labour market) particularly urgent.

Greece itself bore the lion's share of managing irregular arrivals. Over the first six months of 2015 the number of migrants arriving on Greek shores soared by 408% compared with the same period the previous year. The economic crisis combined with fractured national politics has raised particularly complex challenges for Greek policy-makers. Hit hard by a five-year debt crisis and successive rounds of austerity measures, Greece has had to significantly limit its budget for migration issues and has had to curb public spending.

Current efforts have mainly focused on establishing and providing access to a viable asylum system that would process applications for international protection in a fair and timely manner. Less attention has therefore been paid to providing socioeconomic integration schemes, particularly in housing and the labour market. As a result, a growing number of NGOs, private charities and even international organisations have expanded their mandates and effectively taken over a large proportion of the state's responsibilities in receiving, hosting and assisting asylum seekers and other persons in need of international protection; in a way substituting the state in its role of guarding socioeconomic rights and gradually integrating its refugee and migrant population into Greek society. For its critics, asylum seekers and irregular migrants are effectively left to their own means within Greece and survive only with the help of private initiatives. While the absence of any integration prospect has sporadically found its way into the public dialogue, the need for a more comprehensive strategy has become particularly urgent.

Greek Reception Facilities

Living conditions differ among Greek reception facilities. When reception facilities operate beyond their full capacity, living conditions naturally begin to deteriorate.

Site	Type	Number of People
Agios Andreas (Attica)	Temporary accommodation facility	135
Chios	Hotspot	2,717
Diavata (Thessaloniki)	Reception facility	2,003
Drama	Temporary accommodation facility	520
Eleonas (Attica)	Reception facility	712
Eleftheroupoli	Temporary accommodation facility	250
Elliniko (Attica)	Temporary accommodation facility	3,956
Herso	Reception facility	3,640
Idomeni	Makeshift camp	10,500
Idomeni	Temporary accommodation facility	2,000
Konitsa	Temporary accommodation facility	162
Kos	Hotspot	67
Larisa	Temporary accommodation facility	396
Lavrio (Attica)	Temporary accommodation facility	338
Lefkovrysi	Temporary accommodation facility	447
Leros	Hotspot	11
Lesbos	Hotspot	4,723
Malakasa (Attica)	Temporary accommodation facility	795
Nea Karvali	Temporary accommodation facility	750
Orestiada	Temporary accommodation facility	140
Piraeus (Attica)	Temporary accommodation facility	3,390
Polykastro	Reception Facility	3,370
Ritsona	Temporary accommodation facility	350
Rodos	Temporary accommodation facility	48
Samos	Hotspot	530
Schisto (Attica)	Reception facility	1,970
Thermopyles	Temporary accommodation facility	300
Trikala	Temporary accommodation facility	191
Total	-	43,407

Source: Government's Coordination Centre for the Management of the Refugee Crisis, 16 March 2016²

An overview of how the Eleonas camp, perhaps the best organised refugee reception facility in Greece, operates provides an understanding of how Greek reception facilities operate in general. Eleonas was created at the end of July 2015. It belongs to the municipality of Athens, and several NGOs and volunteers provide their services there. The camp is divided in three sections: a) one for vulnerable people; b) one for families with children under 16;

² Hotspots are facilities where the registration of all incoming persons takes place. Then the refugees/migrants are taken into reception facilities, where they spend a few days before being transported to a temporary accommodation facility, where they stay until their asylum application is examined and their status determined.

and c) one for people older than 16. Eleonas can host about 750 people in its 90 prefabricated “Iso Box” houses. Each house contains four double bunk beds and one bathroom. Eight people can live in each house. Free food is distributed daily to everyone, 3 times per day, in one of the two common areas. The second common area is designated for children only. Moreover, there are two basketball courts, free Wi-Fi, and mobile phone charging stations. Free healthcare is provided by the Hellenic Centre for Disease Control and Prevention (KEELPNO). Food and other supplies are provided by state authorities (recently the army has started providing food), NGOs and volunteers. Interpreters provided by a Greek NGO are present in the camp most hours of the day. Eleonas is an open facility, which means that people are free to enter and leave without being checked by the police, who are present outside the camp for security purposes. Legal assistance is provided upon request, and asylum assistance is provided every Thursday by an Asylum Service officer. As previously mentioned, Eleonas camp is the best organised reception facility in Greece. Other facilities, such as Schisto, which was very recently and hastily completed, still lacks organisation.

In most cases, state authorities and certified NGOs and volunteers provide food in reception facilities, temporary accommodation facilities and hotspots. The voucher programme has not yet been implemented in Greece due to the high mobility of migrants and refugees between different sites and camps. However, there are plans for the implementation of such a programme in Greece too, once (and if) the situation becomes normalised.

The Asylum Procedure in Greece

Brief Historical Background

The asylum procedure in Greece, which was managed by the Greek police, was for years heavily criticised by international organisations, national human rights institutions, and national and international NGOs, for its structural deficiencies: problematic access to the procedure, insufficient examination of the asylum claims, low recognition rates,³ lack of interpretation, decisions without any reasoning, extreme length of the procedure (in many cases reaching a decade), etc.⁴

In 2009, the then new Government decided to set up a working group⁵ on the reform of the asylum system. The group submitted its report with specific and detailed

3 http://www.astynomia.gr/index.php?option=ozo_content&perform=view&id=12630&Itemid=73&lang=

4 UNHCR (2009, December). Observations in Greece as a Country of Asylum. Retrieved from <http://www.refworld.org/pdfid/4b4b3fc82.pdf>; Council of Europe (2009, February 4). Report by Thomas Hammarberg, Council of Europe Commissioner for Human Rights following his visit to Greece, 8-10 December 2008. Issue Reviewed: Human Rights of Asylum Seekers. CommDH(2009)6. Retrieved from <https://wcd.coe.int/com.instranet.InstraServlet?Index=no&command=com.instranet.CmdBlobGet&InstranetImage=1490755&SecMode=1&DocId=1361712&Usage=2>; National Commission for Human Rights(2008). *Report on the Asylum Procedure*. Retrieved from http://www.nchr.gr/images/pdf/apofaseis/prosfuges_metanastes/apofasi_asylo2008.pdf; For reports by the Greek Ombudsman on various aspects of the asylum procedure, see <http://www.synigoros.gr/?i=foreigner.el.prosbasi-asylo>; Amnesty International (2010, March). The Dublin II Trap: Transfers of Asylum Seekers to Greece. Retrieved from <http://www.amnesty.eu/static/documents/2010/GreeceDublinIIReport.pdf>.

5 The working group was composed of representatives of Ministries, UNHCR, the Greek Ombudsman, the National Commission for Human Rights, the Athens Bar Association, and NGOs.

recommendations to the Minister of Citizen Protection at the end of 2009. In 2010, a legislative drafting committee was set up with a two-fold mandate: a) to draft a bill establishing an autonomous civil Asylum Service, and b) to amend the asylum legislation then in force, in order to improve to a certain extent the existing situation until the Asylum Service becomes operational. The outcome was Law 3907/2011⁶ and Presidential Decree 114/2010. The most important change that PD 114/2010⁷ brought was the establishment of the Appeals Committees with decision-making powers composed of: a public servant as president, a representative of the UNHCR, and an expert appointed by the Minister of Citizen Protection (now Minister of the Interior) from a list compiled by the National Commission for Human Rights.

The Asylum Service, which now falls under the competence of the Alternate Minister of Migration Policy of the Ministry of the Interior, started operating on 7 June 2010. From that date onwards, police authorities stopped registering asylum applications, although applications already submitted remained under the competence of the decision-making authorities of PD 110/2014, i.e. the police authorities in the first instance and the Appeals Committees in the second instance.⁸ Thus, currently there are two asylum systems in place, dealing with old and new cases, respectively.⁹

Access to the Procedure

The legislative instrument regulating the asylum procedure is Presidential Decree 113/2013.¹⁰ Asylum applications must be submitted in person at the Regional Asylum Offices (hereafter, RAO) or Asylum Units of the Asylum Service. Currently, the following are operational: RAO of Attica, RAO of Thessalonica, RAO of Northern Evros, RAO of Southern Evros, RAO of Rhodes, RAO of Lesbos, RAO of Samos, Asylum Unit of Amygdaleza (registering applicants under administrative detention), Asylum Unit of Xanthi (registering applicants under administrative detention), Asylum Unit of Patras (registering applicants under administrative detention and vulnerable applicants accommodated in reception centres falling under its territorial competence). Not all the Regional Asylum Offices

6 Law 3907/2011 "Establishment of an Asylum Service and a First Reception Service, adaptation of Greek legislation to the provisions of Directive 1008/115/EC 'with regard to the common rules and procedures in Member States for the return of illegally staying third-country nationals' and other provisions" (O.G. A 7/2011). Retrieved from <http://www.ytp.gr/images/stories/2011/law%203907.pdf.pdf>.

7 PD 114/2014 "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" (O.G. A 195/2010). Retrieved from <http://www.unhcr.gr/prostasia/nomiki-prostasia/o-nomos-stin-ellada/nomothesia-gia-to-asylo/artikel/9578e6fbff5a045f49de676ede6f8488.html?L=zpppifyoo>.

8 At the moment there are no cases pending in the first instance. However, there are 20,201 cases pending in the second instance, the so-called "backlog".

9 The present report will focus on the new procedure.

10 PD 113/2013 "Establishment of a single procedure for granting the status of refugee or of subsidiary protection beneficiary to aliens or to stateless individuals in conformity with Council Directive 2005/85/EC "pn minimum standards on procedures in Member States for granting and withdrawing refugee status (L326/13.12.2005) and other provisions" (O.G.A146/2013). Retrieved from http://www.ytp.gr/images/stories/2013/asylo/PD%20113_2013_EN%20Final.pdf. The European Commission has sent Greece a letter of formal notice (see http://europa.eu/rapid/press-release_IP-15-5699_en.htm#_ftn1) for not having yet transposed the Recast Asylum Procedure Directive. A draft presidential decree transposing the Recast Directive was uploaded on 20 November 2015 in the electronic governmental platform for consultation.

provided for in article 3 of Law 3907/2011 have been set up. However, the setting up of the RAO in Crete and Chios, as well as the conversion of the Asylum Unit of Patras to the Regional Asylum Office,¹¹ are underway.

When applicants submit their application they are photographed, fingerprinted and a registration form is completed by registration officers, who pose a series of questions to the applicants with the assistance of an interpreter concerning their personal details, family links, reasons for not wishing to return to their country of origin, vulnerability etc. They are informed of their rights and obligations, an information leaflet is given to them, their interview is scheduled as soon as possible depending on the availability of caseworkers and interpreters,¹² and an asylum applicant's card is issued.¹³ Each applicant has his/her own physical and electronic file where all information and documents concerning his/her case are kept.

In case an asylum seeker is under administrative detention, police authorities must inform the competent RAO (or Asylum Unit) through an electronic system. Then the RAO informs the police of the date the asylum seeker needs to be transferred before it in order for his/her application to be registered. Administrative detention is not lifted automatically upon the registration of the asylum application. An applicant may continue to be detained if the police considers that there are national security or public order concerns or upon a recommendation by the head of the competent RAO if the continuation of detention is deemed necessary a) for the determination of the actual data of the applicant's identity or origin, or b) for the prompt and effective completion of the examination of the application.¹⁴

Although, the quality of the registration procedure has undoubtedly been improved, the problematic access to the asylum procedure as such continues to be criticised.¹⁵ It is true that the number of people wishing to apply for asylum exceeds¹⁶ its registration capacity mostly due to the fact that the Asylum Service is still understaffed. In order to

11 That means that it will be able to register all applicants and not simply detainees and vulnerable applicants.

12 Except in the case of subsequent applications. See *infra*. Moreover, according to article 16 par. 3 of PD. 113/2013, the examination of the following cases may be prioritised: a) applicants belonging to vulnerable groups, b) applicants who are under administrative detention or at the border, c) applicants falling under the Dublin Regulation, d) applicants whose claim is assumed to be well-founded, e) applicants whose claim is assumed to be manifestly unfounded, f) applicants who constitute a danger to national security or public order on the basis of a reasoned opinion of the police, and g) admissibility of subsequent applications. Given that interviews are scheduled for the first available date, in practice the only cases that are actually prioritised, even by postponing another scheduled interview, are applications filed by individuals detained at the transit zones of airports and ports (border procedure).

13 According to article 8 par. 1 of PD 113/2013 the maximum duration of the applicant's card, which is renewable until the asylum procedure is concluded, is 6 months. By decision of the Director of the Asylum Service the duration of the card may be reduced. Currently, the duration of the card is 4 months, whereas for nationals of Albania, Georgia, Pakistan Bangladesh and Egypt the duration is 3 months (see http://asylo.gov.gr/wp-content/uploads/2015/03/apofasi_8248_15.pdf). Moreover, applicants who are detained are issued with an applicant's card after their release.

14 Article 12 of PD 113/2013.

15 UNHCR (2014, December). *Observations on the Current Situation of Asylum in Greece* (p. 15). Retrieved from <http://www.refworld.org/docid/54cb3af34.html>; UNHCR (2015, April). *Recommendations to the New Government of Greece*. Retrieved from http://www.unhcr.gr/fileadmin/Greece/Extras/Greece/2015_EN_R.pdf.

16 This is so even though the vast majority of asylum seekers entering Greece do not wish to apply for asylum in Greece.

address this problematic situation, the Asylum Service constantly revises its procedures – always within the existing legislative framework – to increase its registration capacity without undermining the quality of the procedure. Thus, for example, it has adopted the so-called "fast-track procedure" for nationals (or stateless persons with former habitual residence in Syria), according to which both the registration and the interview take place at the same time by a caseworker (and not a registration officer) and the decision granting them refugee status is issued on the same day.¹⁷ It has also adopted the booking of registration appointments via Skype. The Asylum Service takes the view that in this way asylum seekers avoid the hardship of having to show up at the competent RAO at 7 am several times before they manage to get registered due to the large number of people queuing. However, this procedure has been criticised as enhancing unimpeded access to the asylum procedure (Asylum Information Database, 2015).

Procedure in the First Instance

The interview¹⁸ is conducted by a caseworker with the assistance of an interpreter.¹⁹ When the applicant is a woman, in most cases the interview is conducted by a caseworker of the same sex. In the case of families, each adult member is interviewed separately. Accompanied minors are interviewed without the presence of their parent(s) on the basis of the degree of their maturity or/and if the caseworker considers it necessary. The interview is recorded, although a full transcript of the interview, which is not signed by the applicant, is also kept during the interview in order to facilitate the procedure in the second instance.²⁰ The applicant may request a copy of both the transcript and the audio file. The applicant may be assisted by a lawyer, but at his/her own expense, given that there is no state legal aid scheme for the asylum procedure.²¹ The personal interview may be omitted: a) if the caseworker considers that on the basis of the file he/she is able to grant the applicant refugee or subsidiary protection status, or b) if the interview is not possible for objective reasons, in particular if the applicant is unfit or unable to be interviewed. Such incapacity must be certified by a physician.

It must be noted that in the case of applicants under administrative detention at the time of their interview, caseworkers are instructed: a) to prioritise the issuing of decisions in relation to other cases, and b) in case the applicant is detained upon recommendation of the RAO's head to inform the latter after the interview whether it is likely the applicant will be granted status. If that is the case, the head of the

17 Applicants for whom there are doubts as to their nationality or there are indications of potential application of exclusion clauses are referred to normal procedure in order for an in-depth interview to take place.

18 Article 17 of PD 113/2013.

19 All caseworkers of the Asylum Service have been trained on EASO training modules. Furthermore, they are assisted in their duties by UNHCR Associate Asylum Experts seconded to the Asylum Service. Their decisions are reviewed by the Department of Training, Quality Assurance and Documentation of the Asylum Service, which conducts face to face feedback sessions with the caseworkers and organises re-trainings when necessary.

20 See *infra*.

21 There are several NGOs providing free legal aid to asylum applicants. Moreover, the setting up of a state-funded legal aid scheme for the procedure in the second instance is underway.

competent RAO revokes his/her initial recommendation and the applicant is released. The caseworker must issue his/her decision as soon as possible and in any case within six months from the day the applicant was registered or within 3 months in the case of accelerated procedure.²² An application will be examined under the accelerated procedure in the following cases: a) the applicant comes from a safe country of origin, b) the application is manifestly unfounded,²³ c) the applicant has presented inconsistent, contradictory, improbable or unsubstantiated information, which render his/her statement of being a victim of persecution clearly unconvincing, d) the applicant misled the examination authorities by presenting false information or documents or by withholding relevant information or documents regarding his/her identity and/or nationality which could adversely affect the decision, e) the applicant filed another application for international protection stating other personal data, f) the applicant has not provided information establishing, to a reasonable degree of certainty, the applicant's identity or nationality or it is likely that he/she has destroyed or disposed in bad faith identity or travel documents that would help determine the applicant's identity or nationality, g) the applicant has submitted the application only to delay or impede the enforcement of an earlier or imminent deportation decision or removal by other means, h) the applicant failed to comply with his/her obligations as provided for in article 9, i) the applicant refuses to comply with the obligation to have his/her fingerprints taken, j) the application was submitted by an unmarried minor for whom an application has already been submitted by the parents or parent, which was rejected, and the applicant does not invoke new critical elements regarding his/her personal situation or the situation in his/her country of origin.²⁴ It needs to be noted, however, that the examination of an application under the accelerated procedure has no differences with the one under regular procedure in the first instance, but only in the second instance.²⁵ Thus, the caseworker decides when issuing his/her decision whether an application will fall under the accelerated procedure or not.

The caseworker may grant refugee or subsidiary protection status, or reject an application under the regular or accelerated procedure. The caseworker may also reject an application as inadmissible, but there is not a separate admissibility procedure, as in the case of Spain.²⁶ An application will be rejected as inadmissible, when: a) another EU member state has granted the applicant international protection status, b) another state has accepted the responsibility to examine the application under Dublin Regulation,²⁷ c) the applicant enjoys adequate protection by a non-EU member state, which is considered as a first country of asylum for him/her, d) a country is considered a safe third country for the applicant, e) the application is a subsequent application of the applicant and the

²² In case of an applicant detained at a transit zone, caseworkers are instructed to issue their decisions within 3 days.

²³ An application is characterised as manifestly unfounded where, during the submission of the application and the conducting of the personal interview, the applicant invokes reasons that manifestly do not comply with the status of refugee or of subsidiary protection beneficiary.

²⁴ Article 16 par. 4 of PD 113/2013.

²⁵ See *infra*.

²⁶ Except in the case of subsequent applications.

²⁷ See *infra*.

²⁸ See *infra*.

preliminary examination has not revealed new substantial elements,²⁸ f) a member of the applicant's family lodges a separate application, although the member has already consented to the inclusion of his/her case to an application made on his/her behalf and there are no facts to justify a separate application.²⁹ For the cases under c, d and f, an interview must take place before a decision is taken to reject the application as inadmissible.

All decisions must be justified. The average time for the issuing of a decision in the first instance is 88 days. The applicant must be notified of his/her decision. This is done in person by a registration officer with the assistance of an interpreter. The applicant is informed of the outcome of his/her application and he/she is given a certified copy of the decision.³⁰ If the applicant has been granted refugee status, he/she is informed of his/her rights and explained the procedure that must be followed for the issuing of his/her three-year residence permit. If the applicant has been granted subsidiary protection status, apart from the above, he/she is also informed of his/her right to file an appeal against the part of the decision that rejected refugee status. If the application has been rejected (either on the merits or as inadmissible), the applicant is given a certified copy of the decision, he/she is informed of his/her appeal rights, as well as the required time limits, and he/she must hand in the asylum applicant's card.

The vast majority of the decision notifications take place when the applicant presents him/herself to the competent RAO for the renewal of the asylum applicant's card. In the case of detainees, the Asylum Service may send the decisions to the head of the detention facility in order for the applicant to be notified of his/her decision.³¹ However, the Asylum Service has secured the agreement of the police for all applicants under detention to be transferred to the competent RAOs to be notified of their decisions, in an effort to better secure their rights by being properly informed by the registration officers with the assistance of an interpreter.

The caseworkers may also issue a decision to discontinue the examination of the application (while it is still pending) in the case of implicit withdrawal. It is assumed that there is an implicit withdrawal when it is ascertained that the applicant: a) failed to respond to requests to provide information essential to his/her application, b) did not appear for the personal interview without providing well founded reasons for his/her absence, c) absconded from the place where he/she was detained or did not comply with the alternative measures imposed, d) departed from the place he/she resided without asking permission or informing the competent authorities if he/she was obliged to do so or left the country without obtaining permission from the competent authorities, e) did not comply with his/her communication

29 Article 18 of PD 113/2013.

30 If an applicant has been granted refugee status, he/she is not given the reasoning of the decision.

31 Article 7 of PD 113/2013.

obligations within 15 days from the date the Asylum Service or the Appeals Authority asked him/her to contact them or appear before them, f) did not appear to renew the card on the next working day after its expiration.³² If a decision to discontinue the case is issued, the applicant may request its revocation in order for the procedure to resume. In the majority of the cases, such requests have been admitted by the caseworkers.

Procedure in the Second Instance

Law 3907/2011 provides for the Appeals Authority, an administrative body under the competence of the Alternate Minister for Migration Policy, based in Athens, for the examination of asylum applications in the second instance.³³ The appeals are examined by independent three-member Appeals Committees, which are assisted by the secretariat and the rapporteurs of the Appeals Authority. The members of the Committees are appointed by the Minister from a list compiled by the National Commission for Human Rights (the President and one member) and from a list compiled by the UNHCR.

Applicants have the right to appeal against a first instance decision within: a) 30 (calendar) days from the day following the notification of the decision, if their application was rejected under the regular procedure or if they appeal against a decision granting them subsidiary protection status, b) 15 days if their application was rejected under the accelerated procedure or as inadmissible, c) 10 days if the applicant is incarcerated or under administrative detention, and d) 3 days if the applicant is located in a First Reception Centre under restrictions or in an airport transit zone.³⁴

The appeals are lodged in person at the competent RAO/Asylum Unit with the assistance of a registration officer and an interpreter. Appeals have automatic suspensive effect. The applicants are reissued with an asylum applicant's card and informed of the date their appeal will be examined by the Appeals Committees. If a detainee wishes to file an appeal, the police transfer him/her to the competent RAO/Asylum Unit in order to do so.³⁵ If an appeal is filed after the time limits prescribed in the law, the admissibility of the appeal is decided upon by the Director of the Appeals Authority, whereas the applicant is not issued with an applicant's card until a decision is reached.³⁶ This provision has been criticised as limiting and undermining the decision-making power of the Appeals Committees (Asylum Information Database, 2015, p. 45). On the basis of the draft presidential decree transposing the Recast Directive, this competence will be assigned to the Appeals Committees.

The decision in the second instance is taken on the basis of the applicant's case file. The Appeals Committee may invite the applicant to an oral hearing upon a binding

³² Article 13 of PD 113/2013.

³³ Article 3 of Law 3907/2011.

³⁴ Article 26 of PD 113/2013.

³⁵ The applicant may submit any supplementary documents at least 15 days before the examination date of his/her appeal or, in the case of detainees, 5 days following the lodging of the appeal.

³⁶ Article 25 par. 5 of PD 113/2013. If the appeal is found to be admissible, the applicant is issued with an applicants' card and informed of the date his/her appeal will be examined by the Appeals Committee.

recommendation of the rapporteur, when the interview of the first instance is considered to be insufficient or the applicant has submitted new serious elements or the case is particularly complicated. The oral hearing is precluded if the application was rejected in the first instance as inadmissible or under the accelerated procedure or the application was filed by an applicant detained in a transit zone. The fact that the decision-making body does not have the right to invite an applicant for an oral hearing when it considers it necessary, but it is bound by the recommendation of the rapporteur and for some cases there is not even the possibility to do so, has been heavily criticised for undermining the independence of the Appeals Committees and the rights of the applicants (Asylum Information Database, 2015, p. 44-45). The draft presidential decree remedies this highly problematic situation by providing for the oral hearing of the applicant when the Appeals Committees consider it necessary under the aforementioned conditions.

The Appeals Committees must issue their decision within three months of lodging the appeal. Apart from granting international protection status or rejecting the appeal, they may also refer an applicant to the competent service of the Ministry of the Interior to be considered for a residence permit on humanitarian grounds. Furthermore, if an application was rejected as inadmissible in the first instance, the Appeals Committees may refer the case back to the first instance to be examined on its merits. The applicants are notified of the decision at the competent RAOs/Asylum Units by the registration officers.³⁷ If their appeal is rejected, they are informed of their right to file an appeal before the Administrative Appeals Court and they hand in their applicant's card. The said appeal does not have an automatic suspensive effect and it has to be filed within 60 days by a lawyer.

Free legal aid may be provided upon the applicant's request under the conditions of Law 3226/2004, i.e. a) insufficient resources, and b) "probability" of success.³⁸ A legal representative is appointed from a list compiled by the relevant Bar Association. It needs to be noted that, since September 2015, the Appeals Committees ceased their operation because the term of office of the members expired and no new members have been appointed by the Minister. This has generated a lot of problems for the asylum procedure given that no appeal is being examined. Until 31 December 2015, 1,797 appeals were pending.

Subsequent Applications

In the case of a subsequent application,³⁹ no interview is scheduled and the applicant is not issued with an applicant's card but with a proof of registration. A caseworker examines the claim of the applicant in combination with his/her previous case-file (admissibility procedure). If the previous application had been submitted to the police

³⁷ See supra.

³⁸ Law 3226/2004 "Legal aid to citizens with low income and other provisions" (O.G. A 24/2004).

³⁹ All subsequent applications are filed at the RAOs/Asylum Units even if the previous application had been submitted to the police authorities.

authorities, the Asylum Service requests a copy of the file. In order for the application to be admitted, the applicant must submit new substantial elements (concerning his/her personal condition or the situation in his/her country of origin), which are pertinent to the requirements for granting international protection status.⁴⁰ In such a case, the caseworker issues an admissibility decision; the applicant is notified to proceed to the competent RAO in order to be issued with an applicant's card and have the interview scheduled. If the application is rejected, the applicant may file an appeal.⁴¹

Dublin Cases

The applicants are fingerprinted when they submit their application to the RAOs/Asylum Units. If there is a "Eurodac hit" concerning another state, the registration officer informs the Dublin Unit of the Asylum Service. An interview is nevertheless scheduled: a) in order for the caseworker to pose questions to the applicant to clarify whether the relevant criteria of the Dublin Regulation still apply to his/her case, and b) to give him/her the opportunity to raise objections to a potential transfer to the state, where he/she had been previously fingerprinted. That is also the case with applicants who have visas or residence permits issued by another member state.

The registration form contains several questions concerning the whereabouts of the applicant's family members. If during the registration a "family reunification" case arises, on the basis of the Dublin criteria, and the applicant consents in writing to be reunited with his/her family members, the registration officer informs the Dublin Unit. An interview is scheduled close to the expiration date of the applicant's card, in order for the communication with the other member state to have been completed by then and the applicant to be informed of the outcome.

After having examined the case file of the applicant, the Dublin Unit sends a take charge or take back request – depending on the case – to the other member state. If the other member state assumes responsibility for the case, the Dublin Unit notifies the caseworker to issue a decision of non-admissibility. The applicant may file an appeal against the decision. If the other member state rejects the request, the Dublin Unit notifies the caseworker to proceed with the proper examination of the case. All the transfer modalities are carried out by the Dublin Unit.

It needs to be noted that following the M.S.S. judgment by the European Court of Human Rights (European Court of Human Rights, 2011) all states bound by the Dublin Regulation have suspended the implementation of the Regulation vis-à-vis Greece.⁴² Therefore, currently

40 Article 23 of PD 113/2013.

41 See supra.

42 Some of them had already done so on the basis of governmental political decisions or domestic court rulings.

there is an extremely low number of incoming requests by other member states concerning applicants with a Greek residence permit.

Unaccompanied Minors

Unaccompanied minors who are over 14 years of age may submit an asylum application in person. If a representative has already been designated by the Public Prosecutor for Minors, the application is filed by him/her in the presence of the minor. In the case of an unaccompanied minor under 14 years of age, the Asylum Service instantly informs the Public Prosecutor, who acts as the provisional guardian of the minor,⁴³ and requests his/her written permission to register the minor. In both cases, after the conclusion of the registration, the Asylum Service informs the Public Prosecutor for Minors of the date of the scheduled interview and of the place of accommodation of the minor. Moreover, it sends to the National Centre for Social Solidarity⁴⁴ a request for accommodation of the minor in a reception centre. In case the Public Prosecutor for Minors has already assigned the representation of a minor to another person,⁴⁵ the Asylum Service does not notify him/her.

The guardianship system for unaccompanied minors in Greece is very problematic. In practice, a guardian is never appointed by court decision, whereas the Public Prosecutor who acts as the provisional guardian of the minor almost never meets up with him/her or is present during the interview. Applications by unaccompanied minors are always examined under the normal procedure. The proof of notification of the decision is also sent to the Public Prosecutor (Greek Council for Refugees, 2015). In case the application is rejected, the minor may file an appeal.

Hotspots and Relocation

Greece has committed itself to set up 5 "hotspots" in: Lesbos, Chios, Samos, Leros and Kos, which are underway. At the beginning of November, a hotspot/relocation pilot programme was initiated in Lesbos with the participation of European Asylum Support Office (EASO) experts and FRONTEX officers. After potential relocation candidates have been spotted, they are screened (for nationality identification purposes) by FRONTEX, registered, photographed and fingerprinted by Greek police officers, and informed by EASO experts on the relocation scheme. If they wish to be relocated, they are referred to the Regional Asylum Office of Lesbos to be registered as asylum applicants.

Relocation candidates are also registered in the Regional Asylum Office of Attica by registration officers assigned to the Relocation Unit set up in the Asylum Service. Applicants

43 Article 19 of PD 220/2007 on the transposition of Directive 2003/9/EC on minimum standards for the reception of asylum seekers (O.G. A 251/2007).

44 The National Centre for Social Solidarity is in charge of the allocation of asylum applicants to the existing reception facilities.

45 Usually social workers or lawyers working for NGOs.

under the relocations scheme are currently referred to PRAKSIS (a Greek NGO, implementing partner of UNHCR) for accommodation. After the registration is concluded, the Head of the Relocation Unit is informed in order for the matchmaking procedure to take place (currently carried out by the Head of the Unit) to be followed by the communication with the member states of relocation. Upon a positive response by the member state of relocation, a non-admissibility and transfer decision is issued. The applicants are notified of the decision. The transfer modalities are carried out by the Relocation Unit in cooperation with the International Organisation for Migration (IOM). Until 25 January 2016, 828 applicants were registered under the relocation scheme, whereas 208 have been transferred to other member states.

Statistics

A. Registration of asylum applications in the 2 countries of concern

	2013	2014	2015 (1 st term)	2015 (2 nd term)	2015 (3 rd term) ⁴⁶
Greece	8,225 ⁴⁷	9,430	2,990	3,245	3,440
Italy	27,930	64,625	15,430	15,105	28,630

Source: Eurostat, 2014; Eurostat, 2015a, Eurostat, 2015b, Eurostat, 2015c, Eurostat, 2016

B. Recognition rate (refugee and subsidiary protection status)

	2014	2015 (1 st term)	2015 (2 nd term)	2015 (3 rd term)
EU average	40%	43%	42%	44%
Greece	14%	41%	49%	48%
Italy	32%	27%	22%	18%

Source: European Commission, 2015.

C. Top 10 countries of origin of asylum applicants in Greece

2013 ⁴⁸	2014	2015
Afghanistan	Afghanistan	Syria
Pakistan	Pakistan	Pakistan
Albania	Syria	Afghanistan
Georgia	Bangladesh	Albania
Egypt	Albania	Bangladesh
Syria	Iran	Iraq
Bangladesh	Georgia	Georgia
Nigeria	Sudan	Nigeria
Democratic Republic of Congo	Nigeria	Egypt
Iran	Cameroon	Iran

Source: Ministry of Public Order and Citizen Protection, 2013; Ministry of Public Order and Citizen Protection, 2014; Ministry of Interior, 2015

⁴⁶ During the 4th quarter of 2015, 3,531 applications were registered by the Greek Asylum Service.

⁴⁷ Out of 8,225 applications, 3,407 applications were submitted to the police authorities under the previous legislative framework.

⁴⁸ The data presented for 2013 involves only the Asylum Service, thus covering the time period 7 June to 31 December 2015.

D. Recognition rate per country of origin (refugee and subsidiary protection status) in the first instance in Greece

	2013	2014	2015
Top 5	Somalia 100%	Syria 99.6%	Syria 99.9%
	Syria 98.7%	Eritrea 76.9%	"Palestinians" 93.8%
	Sudan 90%	Iraq 67%	Stateless 92.4
	Eritrea 87.2%	Somalia 66.7%	Libya 91.7%
	Iran 64.5%	Sudan 62.2%	Eritrea 78.3%
Bottom 5	Pakistan 3.3%	China 2.8%	Bangladesh 4.4%
	Morocco 2.2%	Egypt 2.5%	Pakistan 2.8%
	Bangladesh 1.5%	Pakistan 2.0%	Algeria 1.1%
	Albania 0.0%	Albania 0.4%	Albania 0.2%
	Georgia 0.0%	Georgia 0.0%	Georgia 0.0

Source: Ministry of Public Order and Citizen Protection, 2013; Ministry of Public Order and Citizen Protection, 2014; Ministry of Interior, 2015

The Asylum Procedure in Italy

Regular Procedure

According to Italian legislation,⁴⁹ an asylum request may be made either at the Border Police Office or at the Immigration Office of the Police (*Questura*) – if the applicant is already in the territory – where an initial registration, fingerprinting and photographing of the applicant take place. If the asylum request is made at the border, asylum seekers are requested to present themselves at the *Questura* for formal registration within 8 working days.

The above preliminary phase is followed by the formal registration (lodging of the asylum application) – completion of a detailed form with the personal details and history of the applicant – conducted exclusively by the *Questura*.⁵⁰ Then the applicants are issued with a stay permit for asylum applicants, which is valid for 6 months and renewable.

The police authorities send the registration form and all documents concerning an asylum applicant to the Territorial Commissions for International Protection⁵¹ (hereafter, CTRPIs) or Sub-commissions, the competent bodies for examining an asylum application and taking decisions in the first instance. Each CTRPI has 4 members: 2 representatives of

⁴⁹ The Italian asylum procedure is regulated by the Legislative Decree no. 25/2008 "Implementation of Directive 2005/85/EC on minimum standards on procedures in Member States for granting and withdrawing refugee status" (see <http://www.camera.it/parlam/leggi/deleghe/08025dl.htm>), as amended by the Legislative Decree (LD) 142/2015 "Implementation of Directive 2013/33/EU on minimum standards for the reception of asylum applicants and the Directive 2013/32/EU on common procedures for the recognition and revocation of the status of international protection" of 18 August 2015, which entered into force on 30 September 2015 (see <http://www.gazzettaufficiale.it/eli/id/2015/09/15/15G00158/sg>). According to article 30 an implementing Regulation must be issued within 6 months from its entry into force, which will modify PD 21/2015 on "Regulation on the procedures for the recognition and revocation of international protection."

⁵⁰ According to previous legislation, there was no time limit for the formal registration to be concluded. Due to the new legislation transposing the Recast Asylum Procedure Directive, the time limits provided therein were introduced.

⁵¹ Commissioni territoriali per il riconoscimento della protezione internazionale

the Ministry of the Interior, one of which is a senior police officer; 1 representative of the municipality (or province or region); and 1 representative of the UNHCR. At the moment, there are 20 CTRPIs.⁵²

The personal interview of the applicant is conducted by one member provided by an interpreter, where necessary. Interviews are recorded and transcribed (not fully) in a report, which is given to the applicant at the end of the interview. The interviewing member then presents the case to the other members.⁵³ The decision on the merits⁵⁴ is taken by a 3-member majority. In case of a split vote, the President's vote prevails. The interview must take place within 30 days after the CTRPI has received the applicant's file from the *Questura* and the decision to be taken in the 3 following working days. In practice, however, the regular procedure usually lasts several months (Asylum Information Database, 2005, p. 28). The Law provides for the extension of the set time limits under certain conditions, in accordance with Directive 2013/32/EU. The maximum duration of the asylum procedure is 18 months.⁵⁵

One also needs to refer to the National Commission for the Right of Asylum (CNDA)⁵⁶, which coordinates and gives guidance to the CTRPI. Furthermore, the CNDA is responsible for the revocation and cessation of international protection status. Both the CTRPI and CNDA belong to the Department of Civil Liberties and Immigration of the Italian Ministry of the Interior and they are independent bodies concerning their decision-making powers.

Prioritised and Accelerated Procedure

The President of the CTRPI identifies the cases, which fall under the prioritised or accelerated procedures. The prioritised procedure is applied when: a) the application is

52 Decree Law No. 119/2014 (Il decreto-legge 22 agosto 2014, n. 119, "Disposizioni urgenti in materia di contrasto a fenomeni di illegalità e violenza in occasione di manifestazioni sportive, di riconoscimento della protezione internazionale, nonché per assicurare la funzionalità del Ministero dell'Interno") (see <http://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:decreto.legge:2014;119>), provided for the possibility to increase the number of CTRPI from 10 to 20 and set up 30 additional sub-commissions in order to address the increase in asylum applications. For their location and territorial competence, see http://www.interno.gov.it/sites/default/files/allegati/le_commissioni_territoriali_com_naz_dir_asilo.pdf.

53 The law provides for the possibility to omit the personal interview where: a) determining authorities have enough elements to grant refugee status without hearing the applicant; b) the applicant is unable or unfit to be interviewed, as certified by a public health unit or by a doctor working with the national health system; c) applicants come from countries where the situation is such that there are sufficient grounds according to the CNDA, to grant them subsidiary protection status. Currently, no such countries have been designated.

54 Granting refugee or subsidiary protection status and issuing a 5-year renewable residence permit; recommending to the police the issue of a 2-year residence permit on humanitarian grounds (e.g. for health conditions); rejecting the application; or rejecting the application as manifestly unfounded.

55 According to the law, when the CTRPI is unable to take a decision in this time limit and needs to acquire new elements, the examination procedure is concluded within six months of the lodging of the application. However, the CTRPI may extend the time limit for a period not exceeding a further nine months, where: a) complex issues of fact and/or law are involved; b) a large number of asylum applications are made simultaneously; c) the delay can clearly be attributed to the failure of the applicant to comply with his or her obligations of cooperation. By way of exception, the CTRPI, in duly justified circumstances, may further exceed this time limit by three months where necessary in order to ensure an adequate and complete examination of the application for international protection.

56 Commissione nazionale per il diritto di asilo (hereafter CNDA).

considered to be manifestly well-founded; b) the applicant is considered vulnerable; c) the applicant is under administrative detention; and d) the applicant comes from a country where the situation is such that there are sufficient grounds, according to the CNDA, to grant him/her subsidiary protection status, and the interview may be omitted.⁵⁷

The accelerated procedure is applied when an applicant is under administrative detention. Under the accelerated procedure, the necessary documentation is immediately transmitted to the CTRPI, which within 7 days must conduct the personal interview and take a decision within the following 2 days. Those time limits are doubled when: a) the application is manifestly unfounded; b) the applicant has introduced a subsequent application; c) the applicant has lodged his/her application after being stopped for avoiding or attempting to avoid border controls or after being stopped for an irregular stay, merely in order to delay or frustrate the adoption or the enforcement of an earlier expulsion or rejection at the border order.⁵⁸

Appeal

Asylum applicants may file an appeal within 30 calendar days (15 days for applicants under administrative detention) from the notification of the first instance decision rejecting their application⁵⁹ before the competent Civil Tribunal, which does not deal exclusively with asylum cases. The appeal must be filed by a lawyer. The appeal has automatic suspensive effect of the subsequent return order, except in cases where: a) the applicant is under administrative detention; b) the application was rejected as inadmissible; c) the application was rejected as “manifestly unfounded”; d) the application was made by an applicant under the accelerated procedure after having been apprehended for avoiding or attempting to avoid border controls, or immediately after, or for irregular stay, with the sole aim to avoid an expulsion or rejection order. However, in those cases, the applicant may request the suspension of the return order from the competent judge. The Tribunal must issue a decision, which may not be appealed against, within 5 days.⁶⁰

Applicants have the right to be heard by the Tribunal, which in any event has the discretion to hear the applicant. No time limit is provided for appeals decisions. The Tribunal may reject the appeal or grant international protection status to the applicant.⁶¹

It needs to be noted that for the appeal procedure free state-funded legal aid (“*gratuito patrocinio*”) is provided by law. In order for applicants to benefit from legal aid, they need to

57 The CTRPI, before taking such a decision, informs the applicant that he/she has the opportunity, within 3 days from the communication, to request a personal interview. In the absence of such a request, the CTRPI takes the decision.

58 Again the maximum time limit for the completion of the asylum procedure is 18 months, except in the case of detainees, where the maximum time limit is 6 months.

59 Or granting them subsidiary protection status or recommending to the police the issue of a 2-year residence permit on humanitarian grounds.

60 Moreover, when the subsequent application has been rejected for a second time, the appeal or the request of suspension do not suspend the effects of the return order.

61 Article 35 of PD 25/2008 as amended does not lay down the conditions for appealing against the decision of the Civil Tribunal. However, by virtue of the Civil Procedure Code, which is applicable in this context, the appeal to the Court of Appeal must be filed within 30 days of the Civil Tribunal's decision. A final appeal before the Cassation Court, the highest appellate court, may be lodged within 60 days of the ruling of the Court of Appeal.

prove that they have a yearly taxable income lower than € 11,369.24. In case of income acquired abroad, a certificate needs to be issued by the consular authorities of the country of origin. If the person concerned is unable to obtain this documentation, he/she may alternatively provide a self-declaration of income. Moreover, access to legal aid is also subject to a merits test by the competent Bar Council ("*Consiglio dell'ordine degli avvocati*"), which assesses whether the appeal is not manifestly unfounded.⁶²

"Dublin Cases"

All asylum applicants are fingerprinted by police authorities according to the Eurodac Regulation.⁶³ In the case of a "Eurodac hit", the police contacts the Italian Dublin Unit within the Ministry of the Interior. Moreover, after the formal registration of the asylum request by the *Questura*, on the basis of the information collected, if it considers that the Dublin Regulation⁶⁴ should be applied, it transmits the relevant documentation to the Dublin Unit. The Dublin Unit in both cases examines the Dublin criteria so as to identify the member state responsible. If another member state accepts the responsibility for the case under the Dublin Regulation, the Dublin Unit issues a decision that considers the application inadmissible and orders the transfer of the applicant to the other member state. The applicant is notified of the decision by the *Questura*, which is in charge of the transfer modalities.

The above decision may be appealed within 60 calendar days before the Regional Administrative Tribunal. The appeal does not have suspensive effect, thus, a request for the suspension of the decision's effect also needs to be lodged. The Tribunal examines the legality of the decision and it may revoke it and declare the Italian authorities responsible for the examination of the application. If Italy is considered to be the responsible member state, the applicant will be invited to present himself/herself to the *Questura* in order for the asylum procedure to continue.

Subsequent Applications

According to the law, in the case of a subsequent application the CTRPI examines, without conducting a personal interview, whether new elements are presented by the applicant concerning his/her personal condition or the situation in his/her country of

62 See PD 115/2002 (Decreto del Presidente della Repubblica, 30 maggio 2002, n. 115 "Testo unico delle disposizioni legislative e regolamentari in materia di spese di giustizia" (see <http://www.normattiva.it/uri-res/N2Ls?urn:nir:presidente.repubblica:decreto:2002-05-30;115!vig>). The Tribunal may revoke the decision of the Bar Council concerning access to legal aid, if it considers that the set requirements are not met.

63 Regulation (EU) No. 603/2013 of the European Parliament and of the Council of 26 June 2013 on the establishment of Eurodac for the comparison of fingerprints for the effective application of Regulation (EU) No. 604/2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person and on requests for the comparison with Eurodac data by Member States' law enforcement authorities and Europol for law enforcement purposes, and amending Regulation (EU) No. 1077/2011 establishing a European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice (recast).

64 Regulation (EU) No. 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (recast).

origin. If no such elements are presented, it rejects the application as inadmissible. No time limits are provided for. The CTRPI, before deciding on the admissibility of the subsequent application, informs the applicant of his/her right to file comments, within 3 days of the notification, in order to support the admissibility of his/her application. Subsequent applications are lodged with the *Questura*, which conducts a new formal registration, which is forwarded to the competent CTRPI.

Unaccompanied Minors

According to the law, the unaccompanied minor may submit an asylum application in person or through his or her legal guardian on the basis of the evaluation of the minor's situation. In the former case, the competent authority must suspend the asylum procedure and immediately inform both the Juvenile Court⁶⁵ and the Judge for Guardianship.⁶⁶ The Judge for Guardianship has to appoint a legal guardian within 48 hours, although this is not always the case in practice (Asylum Information Database, 2005, p. 55). The legal guardian, when appointed, must immediately contact the police authorities to confirm and reactivate the asylum procedure and to instigate the adoption of measures concerning the accommodation and care of the child. The legal guardian has the responsibility to assist the unaccompanied minor throughout the asylum procedure, including the appeal procedure in the event of a negative decision. Furthermore, the asylum interview cannot take place without the legal guardian's presence. The member of the CTRPI interviewing the minor must be specifically skilled for that purpose. For justified reasons, the CTRPI may interview the minor again, even without the presence of the legal guardian, in the presence of supporting personnel, if considered necessary in relation to the personal situation of the minor, degree of maturity and development, on the basis of the minor's best interests. The legal guardian must be authorised by the Judge for Guardianship to make an appeal against a negative decision. In practice, this rarely happens because in general legal guardians do not consider it necessary to appeal the decisions due to the fact that children have already obtained a form of protection status or could obtain a stay permit until the age of 18 years (Asylum Information Database, 2005).

Suspension of the Procedure

According to the law, if an applicant leaves the reception centre where he/she is placed without any justification or escapes detention without having been interviewed, the CTRPI suspends the examination of the application. The applicant may request the reopening

⁶⁵ Tribunale per i minorenni.

⁶⁶ Giudice tutelare.

of his/her case only once within 12 months of the suspension decision. After this time limit, the CTRPI closes the file. Any application made afterwards is treated as a subsequent application. During the preliminary examination, the reasons for leaving the centres are also examined.

“Hotspots”⁶⁷ and Relocation⁶⁸

Six “hotspots” have been identified in Porto Empedocle, Pozzallo, Trapani, Lampedusa, Augusta and Taranto. Since 21 September 2015, the “hotspot” in Lampedusa has been activated, where the Italian personnel is assisted by EASO personnel. According to the Italian Roadmap, the “hotspot” approach will apply the following procedure:

- all disembarked persons will go through a medical screening.
- each person will be interviewed by the Police authorities supported by FRONTEX for the compilation of the so-called “*foglio notizie*” to establish the basic whereabouts of the person concerned. EASO personnel assist the competent authorities in identifying possible candidates for relocation.
- all persons are photographed and fingerprinted.
- asylum seekers will be transferred to accommodation centres and then the above described asylum procedure will be followed.

Asylum seekers who may potentially fall under the relocation scheme receive detailed information from EASO experts and UNHCR officers. Those who agree to be relocated in other EU member states are transferred within 24-48 hours, in ad hoc reception centres, where they are formally registered with the use of a specific form, which is forwarded to the Dublin Unit so as to proceed with the matchmaking process and the communication with the member states of relocation. Until 22 January 2016, 257 asylum applicants were relocated from Italy to other member states.

Some Conclusions and Policy Recommendations

In response to the refugee crisis, the European Commission has taken several initiatives that immediately concern or involve Greece, including an initial agreement on relocation quotas (decided in May 2015, and again in October 2015), for a total of 160,000 asylum applicants due to be relocated from Italy and Greece to other EU member states. Recent Commission data (13 May 2016) shows that the total number of persons relocated reached 1,500 (909 from Greece and 591 from Italy). This figure sharply contrasts with the original target.

67 European Commission (2015, May 13). A European Agenda on Migration, Brussels, COM (2015) 240 final. Retrieved from http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/european-agenda-migration/background-information/docs/communication_on_the_european_agenda_on_migration_en.pdf.

68 Council Decision (EU) 2015/1523 of 14 September 2015 establishing provisional measures in the area of international protection for the benefit of Italy and of Greece and Council Decision (EU) 2015/1601 of 22 September 2015 establishing provisional measures in the area of international protection for the benefit of Italy and Greece. On the basis of those decisions and the latest Eurostat statistics, applicants who have the nationality of (or stateless persons whose former habitual residence was) Syria, Iraq, Eritrea, Yemen, Bahrain, Central African Republic and Swaziland fall under the relocation scheme.

On 15 October 2015, an EU-Turkey joint action plan was prepared with a view to improving cooperation with Turkey in managing the asylum-seeking flows that transit through the country towards Greece. The plan includes EU financial support for Turkey and Turkish cooperation to combat smuggling networks that operate on its shores.

A 17-point plan was decided on at an EU summit on 25 October 2015 with a view to effectively managing the flows and avoiding countries in the Balkans and further north in the EU closing their borders. Special emphasis has been put on increasing capacity to provide shelter to refugees along the Balkan route to ease the pressure on other European countries that are the end destinations. Greece has offered to create 30,000 reception places by the end of the year and 20,000 more through rent subsidies and family hosting with the support of the UNHCR. A further action plan enlisting the cooperation of African countries with a view to taming the flows was proposed at the Valetta Summit of 11-12 November.

On 18 March, following on from the EU-Turkey Joint Action Plan activated on 29 November 2015 and the 7 March EU-Turkey statement, the European Union and Turkey decided to end the irregular migration from Turkey to the EU. The agreement targets the people smugglers' business model and removes the incentive to seek irregular routes to the EU, in full accordance with EU and international law. It should be noted, of course, that this agreement has a number of problematic provisions but it looks like it may have been the best the EU could achieve under the circumstances. The choice between a clearly less than perfect agreement, which nevertheless contributed to the substantial reduction of refugee/migrant flows, and no agreement at all should not be very difficult.

Policy Recommendations

1. In the short term, a quick end to the fighting in Syria through diplomatic means should be an obvious priority. Including Russia and, if possible, Iran would considerably increase the prospects for an agreement. A well-organised and supported reconstruction and reconciliation process may convince significant numbers of refugees to eventually return home.
2. Provide financial support to neighbouring countries (Jordan, Lebanon, and Turkey) tied to the provision of decent living conditions for the refugees (access to education, labour market, etc.).

3. Increasing repatriation rates, through agreements between the EU and important countries of origin should be another priority, although such an objective would be extremely difficult to achieve.
4. Offer legal migration channels for refugees: to undercut migrant smugglers and limit the pressure at the external borders, European member states should establish legal channels for asylum seekers to apply from outside the Union and utilise existing legal pathways (e.g. humanitarian visas, family reunification).
5. Offer legal migration channels for economic migrants: the Mobility Partnerships were an innovative approach that offered very little mobility in the end to third-country nationals. Nonetheless, it is time to acknowledge that Europe needs a boost in its labour force and offering more labour schemes to partner countries, student visas and circular migration programmes can be mutually beneficial.
6. More efficient protection of the EU's external borders through the establishment of the European Borderguard/Coastguard Agency, with extensive jurisdiction and sufficient personnel and technical means.
7. Implementation of re-allocation decisions among all EU member states. Furthermore, though burden sharing is an underlying principle of the European Union, the reality has been for a long time that of the 28 member states of the EU, a very limited number were actually affected by irregular migratory flows. The need for restructuring the Dublin procedures has become glaringly obvious since 2012, yet to this day EU leaders cling to the Dublin revival and persist in attempting to revive one of the most ineffective mechanisms in place.
8. Provision of humanitarian assistance to Greece, as well as substantial support to the Greece police and administration sector.
9. Integration policies will also be of critical importance, but the challenges should be expected to be substantial as not all refugees may be capable or even willing to be sufficiently integrated. However, although an end to the Syrian drama will reduce the current number of asylum seekers, migration flows because of economic, environmental or security reasons will remain a major, even critical, challenge for Europe, which will need to develop a long-term migration management policy.

10. The EU should ensure that frontline states enhance their asylum systems, screening capacity, and coordinate civil society, NGOs and international organisations on the grounds of avoiding overlapping of resource provision and general chaos. There is also a need for better use of the organisational and financial capacity of international organisations like the UNHCR in border areas, where they should take a more central role in the management of first reception facilities.

11. Finally, in combination with relevant European policies, and with sufficient European support, Greece needs to develop a more effective national refugee/migration management policy.

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