Supporting University Community pathways for REfugees-migrants

Supporting Refugees on Health and Law Issues

Developing training modules on issues related to Legal services
and
Developing training modules on issues related to health care and legal services

ARISTOTLE UNIVERSITY OF THESSALONIKI
VU VRIJE UNIVERSITEIT AMSTERDAM
Universität zu Köln
GREEK COUNCIL FOR REFUGEES
ΙΔΡΥΜΑ ΚΡΑΤΙΚΩΝ ΥΠΟΤΡΟΦΙΩΝ IKY
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Activity 1:

Developing training modules on issues related to Legal services

PART I
DEFINITIONS

For the Basic Definitions:

UN High Commissioner for Refugees (UNHCR), *UNHCR Master Glossary of Terms*, June 2006, Rev.1, available at: http://www.refworld.org/docid/42ce7d444.html [accessed 17 March 2016]

refworld

Title	UNHCR Master Glossary of Terms
Publisher	UN High Commissioner for Refugees (UNHCR)
Author	United Nations High Commissioner for Refugees (UNHCR); Department of International Protection (DIP); Protection Information Section (PIS)
Publication Date	June 2006
Citation / Document Symbol	Rev.1
Cite as	UN High Commissioner for Refugees (UNHCR), *UNHCR Master Glossary of Terms*, June 2006, Rev.1, available at: http://www.refworld.org/docid/42ce7d444.html [accessed 15 September
Comments	Spanish version available at: Glosario de Términos claves relativos a la protección internacional de los refugiados

Basic Definitions (1)

- **Asylum:** The grant, by a State, of protection on its territory to persons from another State who are fleeing persecution or serious danger. Asylum encompasses a variety of elements, including nonrefoulement, permission to remain on the territory of the asylum country, and humane standards of treatment.

- **Asylum-Seeker:** An asylum-seeker is an individual who is seeking international protection. In countries with individualized procedures, an asylum-seeker is someone whose claim has not yet been finally decided on by the country in which he or she has submitted it. Not every asylumseeker will ultimately be recognized as a refugee, but every refugee is initially an asylum-seeker.

- **Conventions:** Formal international agreements among nations (to which states become party), which create binding legal obligations. Such agreements may have different names: treaty, convention, covenant, or pact.

Basic Definitions (2)

- **Convention Grounds:** The refugee definition in the 1951 Convention requires that the fear of persecution be linked to one or more of the following five grounds: race, religion, nationality, membership of a particular social group, or political opinion.

- **Convention Relating to the Status of Refugees:** A Convention that establishes the most widely applicable framework for the protection of refugees. The Convention was adopted in July 1951 and entered into force in April 1954. Article 1 of the 1951 Convention limits its scope to "events occurring before 1 January 1951". This restriction is removed by the 1967 Protocol relating to the Status of Refugees.

- **Status of Refugees:** As of 1 July 2005, there are 145 States who are parties to the 1951 Convention and/or the 1967 Protocol.

Basic Definitions (3)

- **Family Reunification:** The process of bringing together families, particularly children and elderly dependents with previous care-providers for the purpose of establishing or re-establishing long-term care. Separation of families occurs most often during armed conflicts or massive displacements of people.

- **International Protection:** The actions by the international community on the basis of international law, aimed at protecting the fundamental rights of a specific category of persons outside their countries of origin, who lack the national protection of their own countries.

- **International Refugee Law:** The body of customary international law and international instruments that establishes standards for refugee protection. The cornerstone of refugee law is the 1951 Convention and its 1967 Protocol relating to the Status of Refugees.

Basic Definitions (4)

- **Irregular Movement of Refugees:** The phenomenon of refugees or asylum-seekers moving illegally from a first country of asylum, in order to seek asylum or permanent settlement in another country.

- **Migrants (Economic):** Persons who leave their countries of origin purely for economic reasons not in any way related to the refugee definition, or in order to seek material improvements in their livelihood. Economic migrants do not fall within the criteria for refugee status and are therefore not entitled to benefit from international protection as refugees.

* Migrants choose to move not because of a direct threat of persecution or death, but mainly to improve their lives by finding work, or in some cases for education, family reunion, or other reasons. Unlike refugees who cannot safely return home, migrants face no such impediment to return. If they choose to return home, they will continue to receive the protection of their government.

Basic Definitions (5)

- **Non-Refoulement:** A core principle of international refugee law that prohibits States from returning refugees in any manner whatsoever to countries or territories in which their lives or freedom may be threatened. The principle of non-refoulement is a part of customary international law and is therefore binding on all States, whether or not they are parties to the 1951 Convention.

- **Persecution:** The core concept of persecution was deliberately not defined in the 1951 Convention, suggesting that the drafters intended it to be interpreted in a sufficiently flexible manner so as to encompass ever-changing forms of persecution. It is understood to comprise human rights abuses or other serious harm, often, but not always, with a systematic or repetitive element.

Basic Definitions (6)

- **Refugee:** A person who meets the eligibility criteria under the applicable refugee definition, as provided for in international or regional refugee instruments, under UNHCR's mandate, and/or in national legislation.

* Refugees are persons fleeing armed conflict or persecution. There were 19.5 million of them worldwide at the end of 2014. Their situation is often so perilous and intolerable that they cross national borders to seek safety in nearby countries, and thus become internationally recognized as "refugees" with access to assistance from States, UNHCR, and other organizations. They are so recognized precisely because it is too dangerous for them to return home, and they need sanctuary elsewhere. These are people for whom denial of asylum has potentially deadly consequences.

Basic Definitions (6)

- **Refugee Status Determination Procedures:** Legal and administrative procedures undertaken by UNHCR and/or States to determine whether an individual should be recognized as a refugee in accordance with national and international law.

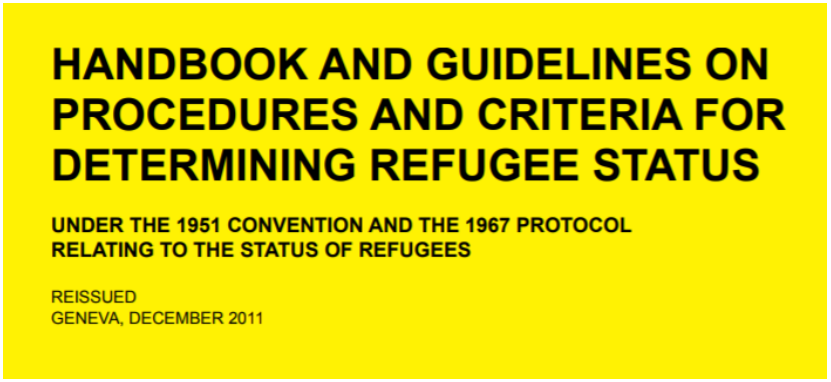
- **Safe Third Country:** A country in which an asylum-seeker could have had access to an effective asylum regime, and in which he/she has been physically present prior to arriving in the country in which she/he is applying for asylum.

PART II
THE REFUGEE STATUS DETERMINATION (RSD) (UNDER THE 1951 CONVENTION AND THE 1967 PROTOCOL)

The Refugee Status Determination (RSD)
(Under The 1951 Convention And The 1967 Protocol)

Criteria, Procedure, Cessation and Exclusion clauses

*according to UNHCR Refugees Determination Status handbook:
http://www.unhcr.org/uk/publications/legal/3d58e13b4/handbook-procedures-criteria-determining-refugee-status-under-1951-convention.html



Defining who is a refugee consists of three parts, which have been termed respectively "inclusion", "cessation" and "exclusion" clauses.

- ***''The inclusion clauses''*** define the criteria that a person must satisfy in order to be a refugee. They form the positive basis upon which the determination of refugee status is made.

- ***''The so-called cessation and exclusion clauses''*** have a negative significance; the former indicate the conditions under which a refugee ceases to be a refugee and the latter enumerate the circumstances in which a person is excluded from the application of the 1951 Convention although meeting the positive criteria of the inclusion clauses.

A. The status of refugee – inclusion clauses

1. The status of refugee according to 1951 Convention:

- A person is a ***refugee*** within the meaning of the 1951 Convention as soon as he/she fulfils the criteria contained in the definition of article 1a(1) and 1a(2) of the Convention of United Nations 1951.

- *Recognition of his/her **refugee status*** does not therefore make him/her a refugee but declares him/her to be one. **A person does not become a refugee because of recognition, but is recognized because he/she is a refugee.**

According to the 1951 Convention of United Nations:

Article 1 a (1) of the 1951:

«*For the purposes of the present Convention, the term ''refugee'' shall apply to any person who:*

(1) *Has been considered a refugee under the arrangements of 12 May 1926 and 30 June 1928 or under the Conventions of 28 October 1933 and 10 February 1938, the Protocol of 14 September 1939 or the Constitution of the international Refugee Organization; Decisions of non-eligibility taken by the International Refugee Organization during the period of its activities shall not prevent the status of refugees being accorded to persons who fulfill the conditions of paragraph 2 of this section*».

(2) *«as a result of events occurring before 1 January 1951 and owing to well founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.***»**

The criteria for the determination of refugee status

- **Existence of «Events»:** “happenings of major importance involving territorial or profound political changes as well as systematic programmes of persecution which are after-effects of earlier changes”.

- **Existence of well founded fear*:*** it contains an objective and subjective element. The objective element is defined as “owing to well - founded fear of being persecuted”, the subjective element is an assessment of credibility is indispensable where the case is not suficiently clear from the facts on record.

2. Further explanation of the criteria:

- It will be necessary to take into account the ***personal and family background*** of the applicant, his/her membership of a particular racial, religious, national, social or political group, his/her own interpretation of his/her situation, and his/her personal experiences – in other words, everything that may serve to indicate that the predominant motive for his application is fear.
- The **applicant's fear** should be considered well-founded if he/she can establish, to a reasonable degree, that his/her continued stay in his country of origin has become intolerable to him/her for the reasons stated in the definition, or would for the same reasons be intolerable if he returned there.
- **Well founded fear** of being percecuted: within the meaning of a threat to life or freedom on account of race, religion, nationality, political opinion or membership of a particular social group is always persecution. Other serious violations of human rights – for the same reasons – would also constitute persecution.
- **Discrimination:** meaning that this would be so if measures of discrimination lead to consequences of a substantially prejudicial nature for the person concerned.

- **Punishement:** a person guilty of a common law offence may be liable to excessive punishment, which may amount to persecution within the meaning of the denition, furthermore besides fearing prosecution or punishment for a common law crime, may also have “well founded fear of persecution”.

- **Consequences of unlawful departure or unauthorized stay outside country of origin:** The legislation of certain states imposes severe penalties on nationals who depart from the country in an unlawful manner or remain abroad without authorization.

- **“for reasons of race, religion, nationality, membership of a particular social group or political opinion”** usually there will be more than one element combined in one person, such as:

  *****_Race, religion, nationality, membership of a particular social group, political opinion (in the meaning of non tolerable opinions by the government)._

- **“is outside the country of his nationality”:** “nationality” refers to “citizenship”. Nationality may be proved by the possession of a national passport or “passport of convenience”.
- **Another category of refugees is *Refugees “sur place”*:** Refugee “sur place” is a person who was not a refugee when he left his country, but who becomes a refugee at a later date. A person becomes a refugee *“sur place”* due to circumstances arising in his country of origin during his absence. Diplomats and other oficials serving abroad, prisoners of war, students, migrant workers and others have applied for refugee status during their residence abroad and have been recognized as refugees.
- **“and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country”.**
- **“or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it”.**

3. The case of dual or multiple nationality:

According to article 1 a (2), paragraph 2, of the 1951 Convention:

"In the case of a person who has more than one nationality, the term "the country of his nationality" shall mean each of the countries of which he is a national, and a person shall not be deemed to be lacking the protection of the country of his nationality if, without any valid reason based on well-founded fear, he has not availed himself of the protection of one of the countries of which he is a national."

4. The Principle of Family Unity

The Final act of the Conference that adopted the 1951 Convention:

Recommends Governments to take the necessary measures for the protection of the refugee's family, especially with a view to:

- ***(1)*** *ensuring that the unity of the refugee's family is maintained particularly in cases where the head of the family has fulfilled the necessary conditions for admission to a particular country.*

- ***(2)*** *The protection of refugees who are minors, in particular unaccompanied children and girls, with special reference to guardianship and adoption.*

B. Procedures for the determination of refugee status

IN GENERAL:

Firstly, to enable states parties to the Convention and to the Protocol to implement their provisions, refugees have to be identified. Such identification is, i.e. the determination of refugee status.

It must be mentioned that it is therefore left to each Contracting State to establish the procedure that it considers most appropriate.

In a number of countries, refugee status is determined under ***formal procedures*** specifically established for this purpose. In other countries, the question of refugee status is considered within the framework of ***general procedures*** for the admission of aliens. In yet other countries, refugee status is determined under ***informal arrangements, or ad hoc for specific purposes***, such as the issuance of travel documents.

- Executive Committee of the High Commissioner's Programme, at its twenty-eighth session in October 1977, recommended that procedures should satisfy certain **basic requirements**, such as:

(i) *The competent oficial (e.g., immigration oficer or border police of cer) to whom the applicant addresses himself at the border or in the territory of a Contracting state should have clear instructions for dealing with cases which might come within the purview of the relevant international instruments. He should be required to act in accordance with the principle of non- refoulement and to refer such cases to a higher authority.*

(ii) *The applicant should receive the necessary guidance as to the procedure to be followed.*

(iii) *There should be a clearly identified authority – wherever possible a single central authority – with responsibility for examining requests for refugee status and taking a decision in the first instance.*

(iv) *The applicant should be given the necessary facilities, including the services of a competent interpreter, for submitting his case to the authorities concerned. applicants should also be given the opportunity, of which they should be duly informed, to contact a representative of UNHCR.*

(v) *If the applicant is recognized as a refugee, he should be informed accordingly and issued with documentation certifying his refugee status.*

(vi) If the applicant is not recognized, he should be given a reasonable time to appeal for a formal reconsideration of the, either to the same or to a different authority, whether administrative or judicial, according to the prevailing system.

(vii) The applicant should be permitted to remain in the country pending a decision on his initial request by the competent authority referred to in paragraph (iii) above, unless it has been established by that authority that his request is clearly abusive. He should also be permitted to remain in the country while an appeal to a higher administrative authority or to the courts is pending.

1. The examiner's duties:

- It may be for the examiner to use all the means at his disposal to produce the necessary evidence in support of the application.
- Untrue statements by themselves are not a reason for refusal of refugee status and it is the examiner's responsibility to evaluate such statements in the light of all the circumstances of the case.
- The examiner has to clarify any apparent inconsistencies.
- He/she is completing a standard questionnaire. Such basic information will normally not be suficient to enable the examiner to reach a decision, and one or more personal interviews will be required.
- It will be necessary for the examiner to gain the confidence of the applicant in order to assist the latter in putting forward his case and in fully explaining his opinions and feelings. In creating such a climate of confidence.
- Ensure that the applicant presents his case as fully as possible and with all available evidence.
- Assess the applicant's credibility and evaluate the evidence (if necessary giving the applicant the bene t of the doubt), in order to establish the objective and the subjective elements of the case.
- Relate these elements to the relevant criteria of the 1951 Convention, in order to arrive at a correct conclusion as to the applicant's refugee status.

2. The applicant's duties:

- Tell the truth and assist the examiner to the full in establishing the facts of his case.
- Make an effort to support his statements by any available evidence and give a satisfactory explanation for any lack of evidence. If necessary he must make an effort to procure additional evidence.
- Supply all pertinent information concerning himself and his past experience in as much detail as is necessary to enable the examiner to establish the relevant facts. He should be asked to give a coherent explanation of all the reasons invoked in support of his application for refugee status and he should answer any questions put to him.
- The subjective element of fear and the objective element of its well-foundedness need to be established.

C. Special categories of refugees

1. Mentally disturbed persons

- A mentally disturbed person may, however, be a refugee, and while his/her claim cannot therefore be disregarded, it will call for different techniques of examination.

- The examiner should, in such cases, whenever possible, obtain expert medical advice. The medical report should provide information on the nature and degree of mental illness and should assess the applicant's ability to fulfil the requirements normally expected of an applicant in presenting his/her case.

- It will, in any event, be necessary to lighten the burden of proof normally incumbent upon the applicant, and information that cannot easily be obtained from the applicant may have to be sought elsewhere, e.g. from friends, relatives and other persons closely acquainted with the applicant.

2. Unaccompanied minors

- There is no special provision in the 1951 Convention regarding the refugee status of persons under age.
- If a minor is accompanied by one (or both) of his parents, or another family member on whom he is dependent, who requests refugee status, the minor's own refugee status will be determined according to the principle of family unity.
- The question of whether an unaccompanied minor may qualify for refugee status must be determined in the first instance according to the degree of his/her mental development and maturity.
- If an unaccompanied minor finds himself/herself in the company of a group of refugees, this may – depending on the circumstances – indicate that the minor is also a refugee.

D. Cessation clauses concerning the refugee status

1. According to article 1 C (1) to (6) of the 1951 Convention:

This Convention shall cease to apply to any person falling under the terms of section as if:

(1) He/She has voluntarily re-availed himself/herself of the protection of the country of his nationality; This cessation clause implies three requirements:

(a) voluntariness: the refugee must act voluntarily;

(b) intention: the refugee must intend by his action to re-avail himself of the protection of the country of his nationality;

(c) re-availment: the refugee must actually obtain such protection

or

(2) Having lost his/her nationality, he/she has voluntarily re-acquired it.

2. According to article 1 C (2) of the 1951 Convention:

(3) He/She has acquired a new nationality, and enjoys the protection of the country of his new nationality;

***in the meaning of article 1 C (3) of the 1951 Convention:**

He/she has acquired a new nationality and enjoys the protection of the country of his new nationality;

or

(4) He/she has voluntarily re-established himself/herself in the country which he/she left or outside which he/she remained owing to fear of persecution;

3. According to the article 1 C (4) of the 1951 Convention:

He/She has voluntarily re-established himself/herself in the country which he/she left or outside which he/she remained owing to fear of persecution; it relates to refugees who, having returned to their country of origin or previous residence, have not previously ceased to be refugees under the first or second cessation clauses while still in their country of refugee. It does not refer to temporary visit to this country.

or

(5) He/She can no longer, because the circumstances in connexion with which he has been recognized as a refugee have ceased to exist, continue to refuse to avail himself of the protection of the country of his nationality;

4. According to article 1 C (5) of the 1951 Convention:

He/She can no longer, because the circumstances in connexion with which he/she has been recognized as a refugee have ceased to exist, continue to refuse to avail himself/herself of the protection of the country of his/her nationality; Circumstances" refer to fundamental changes in the country, which can be assumed to remove the basis of the fear of persecution

Provided that this paragraph shall not apply to a refugee falling under section a (1) of this article who is able to invoke compelling reasons arising out of previous persecution for refusing to avail himself/herself of the protection of the country of nationality;

5. According to article 1 C (6) of the 1951 Convention:

- *Being a person who has no nationality he/she is able to return to the country of his/her former habitual residence, because the circumstances in connexion with which he/she has been recognized as a refugee have ceased to exist*

- *Provided that this paragraph shall not apply to a refugee falling under section a (1) of this article who is able to invoke compelling reasons arising out of previous persecution for refusing to return to the country of his/her former habitual residence.*

- *The present clause deals exclusively with **stateless persons** who are able to return to the country of their former habitual residence.*

- *Provided that this paragraph shall not apply to a refugee falling under section a (1) of this article who is able to invoke compelling reasons arising out of previous persecution for refusing to return to the country of his/her former habitual residence.*

- *In the case of stateless persons the New York Convention of 28 September on the legal status of stateless persons is applicable.*

E. EXCLUSION CLAUSES

The 1951 Convention, in sections d, e and F of article 1, contains provisions whereby persons otherwise having the characteristics of refugees, as defined in Article 1, section a, are excluded from refugee status.

Such persons fall into three groups:

1. The first group: (Article 1 d) consists of persons already receiving United Nations protection or assistance; It means protection from organs or agencies of the United Nations

According to art.1 d of the Convention:

- *"This Convention shall not apply to persons who are at present receiving from organs or agencies of the United Nations other than the United Nations High Commissioner for Refugees protection or assistance.*

- *When such protection or assistance has ceased for any reason, without the position of such persons being definitively settled in accordance with the relevant resolutions adopted by the General Assembly of the United Nations, these persons shall ipso facto be entitled to the benefits of this Convention."*

2. The second group (article 1 e) deals with persons who are not considered to be in need of international protection;

According to the article 1 e of the 1951 Convention:

- *"This Convention shall not apply to a person who is recognized by the competent authorities of the country in which he/she has taken residence as having the rights and obligations which are attached to the possession of the nationality of that country".*

3. The third group (article 1 f) enumerates the categories of persons who are not considered to be deserving of international protection.

According to the article 1 (f) of the 1951 Convention:

"The provisions of this Convention shall not apply to any person with respect to whom there are serious reasons for considering that:

(a)He/she has committed a crime against peace, a war crime, or a crime against humanity, as defined in the international instruments drawn up to make provision in respect of such crimes;

b) he/she has committed a serious non-political crime outside the country of refugee prior to his/her admission to that country as a refugee;

(c) he/she has been guilty of acts contrary to the purposes and principles of the United Nations."

The interpretation of these exclusion clauses must be restrictive, (**a) war crimes, etc., (b) common crimes, (c) acts contrary to the purposes and principles of the United Nations.**

F. Legal Documents related to RSD

- Convention Relating to the Status of Refugees, 28 July 1951
- Protocol Relating to the Status of Refugees, 30 January 1967
- Statute of the Office of the United Nations High Commissioner for Refugees, 14 December 1950
- Convention Governing the Specific Aspects of Refugee Problems in Africa ("OAU Convention"), 10 September 1969
- Cartagena Declaration on Refugees, 22 November 1984
- Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (recast), European Union: Council of the European Union, OJ L 337; December 2011, pp 9-26, 20 December 2011.

PART III
ASYLUM PROCEDURES

A. Asylum Procedures Directive

Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection

The **Asylum Procedures Directive** aims to harmonize procedural guarantees during the asylum procedure and to uphold the quality of decision-making in the Member States of the EU. **The Directive confirms certain basic procedural guarantees** such as the right to a personal interview, the right to receive information and to communicate with UNHCR, the right to a lawyer, and the right to appeal.

Asylum Procedures Directive

(Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection)

According to NGOs' criticism, **the Directive does not contain any constraining engagement but rather a framework in which the Member States can adopt or continue their practices.** Its most controversial provisions intend to prevent the access to the procedures and to facilitate the transfer of asylum seekers outside the EU. For this purpose, the Directive establishes a distinction between "normal" and "special" procedures. The protection standards are rather different according to the procedure followed in each case.

B. Law 4375/2016

Asylum Procedures in Greece are provided by Law 4375/2016 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/EU** in combination with Law 4540/2018 on the standards of the reception of applicants for international protection and **the transposition into Greek legislation of the provisions of Directive 2013/33/EU**.

C. GUARANTEES FOR APPLICANTS

I. General Principles and Guarantees of Law 4375/2016

1 .Access to the procedure (art. 36)

a)Any alien or stateless person has the right to apply for international protection.

b)The application is submitted before the competent receiving authorities (Regional Asylum Offices, autonomous units of the Asylum Service, Mobile Asylum Units), which shall immediately proceed to register it fully. When it is not possible to proceed to the full registration, the Receiving Authorities may proceed, no later than 3 working days after the application is made, to a simple registration of the minimum necessary elements and proceed to the full registration as soon as possible.

c)Where simultaneous applications for international protection by a large number of third country nationals or stateless persons make the registration very difficult, the registration of an application may take place within 10 working days.

d)The applicant may submit an application on behalf of his/her family members. A minor above 15 years, can lodge an application in person. An unaccompanied minor, under 15 years, lodges an application through a representative.

2. Right to remain (art. 37)

Asylum applicants are allowed to remain in Greece until their application is examined and they shall not be removed in any way. This right does not constitute an entitlement to be granted a residence permit. The International Protection Applicant Card does not constitute an entitlement to issue a residence permit but ensures the enjoyment of the applicants' during its validity period and allows residence in the Greek territory (See art. 41 par. 1 d).

3. Right to information and counselling in detention facilities and at border entry points (art. 38)

a)Persons held in detention facilities or present at border crossing points, including transit zones, shall receive information on the possibility to submit an application for international protection. The Asylum Service, in cooperation with the authorities operating in these places, and/or civil society organizations shall ensure the provision of information on the possibility to submit an application for international protection. In those detention facilities and crossing points, interpretation services shall be provided to the extent that this is necessary for the facilitation of access to the asylum procedure.

b)Organizations and persons providing advice and counselling to aliens or stateless persons shall have effective access to border crossing points, including transit zones, at external borders, unless there are reasons related to national security, or public order or reasons that are determined by the administrative management of the crossing point concerned and impose the limitation of such access. Such limitations must not result in access being rendered impossible to these points for the abovementioned organizations or persons.

4. Reasoning and notification of decisions and other procedural documents (art. 40)

a)The decisions on the application for international protection, including decisions to transfer a person in accordance with Dublin Regulation, are notified to the applicant in due diligence of the competent Receiving Authority. When the notification is made, the applicant is informed by an interpreter in a language he/she understands, and reference is made in the relevant notification report.

b)The decision rejecting the application for international protection shall state the reasons in fact and in law for rejection. The negative decision shall mention the time limit for lodging an appeal, the body before which such appeal may be lodged, the consequences of letting this time limit expire without taking action as well as the possibility and conditions for receiving free legal aid in the procedures before the Appeals' Authority.

c)The invitations by the competent Receiving Authority to the applicant to the interview and by the Appeals Authority to the hearing, shall be made through any appropriate means, which ensures that the applicant is aware of the invitation.

5. Guarantees for applicants : information, interpretation, communication (art. 41)

Applicants have the following rights:

a) to be informed, in a language which they understand, on the procedure to be followed, their rights and obligations, the authorities' obligation to confidentiality and the fact that the information they provide to the authorities during the examination of their application shall not be revealed to the alleged actors of persecution or of serious harm, the consequences of not complying with their obligations and not cooperating with the authorities, as well as the consequences of the explicit or implicit withdrawal of their application. They shall also be informed of the time limits as well as the means at their disposal for fulfilling the obligation to submit the necessary data for substantiating their claims. The information shall be given in time to enable them to exercise the rights and to comply with their obligations.

b) to be provided with the services of an interpreter in order to submit their application and present their case to the competent Receiving Authorities, for the conduct of the interview or oral hearing at all stages of the procedure, at first and second instance, if the necessary communication cannot be ensured without such services.

c) to communicate with the UNHCR or any other organization providing legal, medical and psychological assistance.

6. Provision of information - Legal representation and assistance (art. 44)

Rights of applicants

- To consult, at their own expenses, a lawyer or other counsellor on matters relating to their applications.
- Following a request, in the context of the 1st instance procedures, are provided with legal and procedural information free of charge on the procedure. In the event of a negative decision on an application at first instance, applicants, following a relevant request, are provided with a specific updating on the reasons for such decision and the possibility to appeal against it.
- In procedures before the Appeals Authority, applicants are provided with free legal assistance (terms and conditions set by ministerial decision). In the cases of an application before a court, applicants may receive free legal assistance under the terms and conditions set in law 3226/2004.

Provision of information - Legal representation and assistance (art. 44)

Provisions for lawyers and counsellors

a)Lawyers who represent applicants have access to the information of their file. Other counsellors, who provide assistance to applicants, shall have access to their files' data, if these are relevant to the assistance provided. The Head of the competent Receiving Authority may, with a reasoned decision, prohibit the disclosure of information or its sources, if he/she considers that their disclosure may compromise national security, the safety of organizations who provide this information, or the safety of the persons whom this information concern or the country's international relations. This prohibition must not disproportionately restrict the right of the applicant to representation, legal support and defence.

b)Lawyers who represent and counsellors who assist applicants have access to the Regional Reception and Identification services under the special conditions of the General Operation Regulation of the Reception and Identification Service. Furthermore, they have access to detention facilities and transit zones, in order to communicate with the applicants in a specially arranged area.

c) The access in these areas shall be limited, when this is deemed objectively necessary by the competent authorities for the security, public order or administrative management of the area or the safety of the applicants, provided that the applicant's right to representation and legal assistance is not restricted or impeded, in particular when lawyers' and counsellors' access is excessively restricted or rendered impossible.

d) Lawyers or other counsellors have the right to provide legal assistance to the applicant at all stages of the procedure. Applicants are entitled to attend the personal interview with their lawyer who represents them or the counsellor who provides them with assistance. The absence of a lawyer or other counsellor shall not prevent the conduct of the personal interview, as long as this absence is not considered an important reason to suspend.

7. Personal interview (art. 52)

a) The interview shall be conducted with the assistance of an interpreter.

b) Before the interview, the applicant is given a reasonable amount of time in order to sufficiently prepare and to consult a legal or other counsellor (3-7 days).

c) Each case-handler must be sufficiently qualified to take into account the personal or general circumstances regarding the application, including the applicant's cultural origin. In particular, case- handler shall be trained especially concerning the special needs of women, children and victims of violence and torture.

d) The interview shall be conducted with the assistance of an interpreter. The selected interpreter must be able to ensure appropriate communication in a language understood by the applicant.

e) When the interview concerns a female applicant, special attention is taken so that the interview is conducted by a specialised female case handler, in the presence of a woman interpreter, if so requested.

f) A separate personal interview shall be conducted for every adult family member. The personal interview shall take place under conditions, which ensure appropriate confidentiality.

g) The interview shall be audio recorded while a report shall be drawn for every personal interview, which shall include the main claims of the applicant for international protection and all its essential elements.

h) When an audio recording is not possible, the report shall include a full transcript of the interview.

i) The applicant shall have the right to receive, at any time, copy of the transcript or the report drafted and the audio recording.

j) The above-mentioned guarantees shall also apply during the procedure for the examination of appeals, as well as during any supplementary examination or hearing.

II. Special guarantees for unaccompanied minors (art. 45)

a) When an unaccompanied minor applies for international protection, the competent authorities appoint a guardian in conformity with par. 1 of Article 19 of presidential decree 220/2007. The guardian represents the minor, ensures that his/her rights are safeguarded during the asylum procedure and that he/she receives adequate legal assistance and representation before the competent authorities.

b) The persons who conduct interviews with unaccompanied minors and take relevant decisions shall have the necessary knowledge regarding the special needs of the minors and must conduct the interview in such a way as to make it fully understandable by the applicant, taking in particular account of his/her age.

c) If the guardian or the person exercising a particular guardianship act is a lawyer, the applicant cannot be the beneficiary of free legal assistance.

d) The competent Receiving Authorities may, when in doubt, refer unaccompanied minors for age determination examinations according to the provisions of the Joint Ministerial Decision 1982/16.2.2016.

e) If after the age determination procedure does not transpire with certainty that the applicant is an adult, he/she shall be treated as a minor.

f) Applications for international protection of unaccompanied minors are always examined under the regular procedure.

g) Ensuring the child's best interest is a primary obligation when implementing the provisions of this article.

III. Special guarantees for victims of torture or other serious forms of violence (art. 50)

a) The Receiving Authorities shall assess within a reasonable period of time after an application for international protection is made, or at any point of the procedure the relevant need arises, whether the applicant is in need of special procedural guarantees, especially when there are indications or claims that he/she is a victim of torture, rape or other serious forms of psychological, physical or sexual violence.

b) When it is assessed that applicants have been identified as in need of special procedural guarantees, they are provided with adequate support in order to allow them to benefit from the rights and comply with the obligations of this part throughout the duration of the procedure.

c) Applications for international protection from persons in need of special procedural guarantees shall always be examined under the regular procedure.

IV. Attention: Withdrawal of applications (art. 47)

1. Explicit withdrawal

When applicants withdraw their application throughout the duration of the procedure:

- they submit a written statement before the competent Receiving Authorities and hand over their Card
- a relevant record is drafted in the presence of an interpreter, who confirms by signature its content
- the applicants are informed of the consequences of the withdrawal and the fact that they have to leave the country if they are not holding a residence permit.

The same procedure applies when applicants who have only had a simple registration declare that they do not wish to have a full registration of their application for international protection.

2. Implicit withdrawal

An implicit withdrawal is considered to exist, when it is concluded that the applicants, without justifying that this is caused by circumstances independent of their will:

a) did not respond to calls for the provision of information of significant importance for their application or
b) were not present in the personal interview or hearing before the Appeals Authority despite the fact that they were lawfully summoned and without indicating plausible reasons for their absence or
c) escaped from the location where they were detained or did not comply with the alternative measures imposed or
d) departed from the location where they were residing, without asking for permission or informing the competent authorities, or left the country without receiving the permission of the competent Receiving Authority

or

Implicit withdrawal

a)did not comply with their obligations to hand over travel document and any other document related to the examination and to data that certify their identity, their country of provenance and place of origin and family status, to inform the competent Receiving Authorities of their address or residence and other contact details and any changes thereof and to communicate or to deliver a document that they evidently possess or should have at their possession and can deliver or

b)did not appear to renew their Card, at the latest the next working day after its expiration.

Remember: the submission and the examination of an asylum application does not require the submission of documentary evidence! (art. 42 par. 1 b Law 4375/2016)

3. Challenge of decisions following explicit or implicit withdrawal

Applicants have the right to request only once the continuation of the examination within 9 months from the date of the discontinuation act or submission of the withdrawal from the authority which took the decision. Until the final decision they will not be deported and return decisions will not be executed.

In cases of transfer of applicants in Greece from other Member States according to the Dublin Regulation, any interruption decision issued pursuant to withdrawal of applications will be automatically revoked and the examination procedure will continue.

V. Confidentiality (art. 49)

For the purposes of examining international protection applications, all competent authorities are required to:

a) Not disclose information regarding individual applications or the fact that an application has been submitted, to the alleged actors of persecution or of serious harm of the applicant.

b) Not to request information by the alleged actors of persecution or of serious harm of the applicant in a manner that would result in direct or indirect disclosure of the fact that the applicants has submitted a claim and would jeopardize the physical integrity of the applicant and his/her dependents or the liberty and security of his/her family members still living in the country of origin.

D. NORMAL AND SPECIAL PROCEDURES

1. Regular procedures (art. 51)

A. Asylum application should be examined as "the soonest possible" and, in any case, within 6 months when regular procedures apply. This time limit may be extended for a period not exceeding a further 9 months, where:

- Complex issues of fact and/or law are involved; Or
- A large number of third country nationals or stateless persons simultaneously apply for international protection.

B. A further extension of 3 months is provided "where necessary due to exceptional circumstances and in order to ensure an adequate and complete examination of the application for international protection."

C. Where no decision is issued within the maximum time limit fixed in each case, the asylum seeker has the right to request information from the Asylum Service on the timeframe within which a decision is expected to be issued. As expressly foreseen in the law, "this does not constitute an obligation on the part of the Asylum Service to take a decision within a specific time limit."

An application **may** be registered and examined by way of priority for persons who:

- belong to vulnerable groups or are in need of special procedural guarantees;
- apply from detention, at the border or from a Reception and Identification Centre;
- are likely to fall within the Dublin procedure;
- have cases reasonably believed to be well-founded;
- have cases which may be considered as manifestly unfounded;
- represent a threat to national security or public order; or
- file a subsequent application.

*A **fast-track procedure** for the examination and the granting of refugee status to Syrian nationals and stateless persons with former habitual residence in Syria, is in place since September 2014.*

2. Accelerated procedures (art. 51)

An application is being examined under the accelerated procedure when:

a) the applicant comes from a Safe Country of Origin;

b) the application is manifestly unfounded;

c) the applicant has misled the 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;

d) the applicant has likely destroyed or disposed in bad faith documents of identity or travel which would help determine his/her identity or nationality;

e) 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;

f) the applicant refuses to comply with the obligation to have his or her fingerprints taken.

The basic principles and guarantees applicable to the regular procedure are also applied to the accelerated procedure. The examination of an application under the accelerated procedure must be concluded within 3 months, although the possibility to extend the time limits applies as in the Regular Procedure.

III. Border Procedures (art. 60)

Where applications for international protection are submitted in transit zones of ports or airports deadlines are shorter: applicants have no more than 3 days for interview preparation and consultation of a legal or other counsellor to assist them during the procedure and, when an appeal is lodged, its examination can be carried out at the earliest 5 days after its submission.

If no decision is taken within 28 days, applicants are allowed entry into the Greek territory for their application to be examined according to the provisions concerning the Regular Procedure

During Border Procedures asylum seekers enjoy the same rights and guarantees with those whose applications are lodged in the mainland.

3. Special Border Procedures –applicants arriving in the Greek islands after the EU-Turkey Statement (art. 60)

a) The time given to applicants in order to exercise their right to "sufficiently prepare and consult a legal or other counsellor who shall assist them during the procedure" is limited to one day;

b) Decisions shall be issued, at the latest, the day following the conduct of the interview and shall be notified, at the latest, the day following its issuance;

c) The deadline to submit an appeal against a negative decision is 5 days from the notification of this decision;

d) When an appeal is lodged, its examination is carried out no earlier than 2 days and no later than 3 days after its submission [in the first case appellants must submit any supplementary evidence or a written submission the day after the notification of a first instance negative decision; or within 2 days maximum if the appeal is examined within 3 days];

e) In case the Appeals Authority decides to conduct an oral hearing, the appellant is invited before the competent Committee one day before the date of the examination of their appeal and they can be given, after the conclusion of the oral hearing, one day to submit supplementary evidence or a written submission. Decisions on appeals shall be issued, at the latest, 2 days following the day of the appeal examination or the deposit of submissions and shall be notified, at the latest, the day following their issuance.

E. CHALLENGE OF NEGATIVE DECISIONS

1. Appeals before Asylum Appeals Commissions (art. 61-62)

Decisions rejecting an application (as well as against the part of the decision that grants subsidiary protection for the part rejecting refugee status) or withdrawing international protection status may be challenged under the provisions for the quasi-judicial appeal :

- within thirty (30) days from the notification of the decision.
- against the decision rejecting the application for international protection under the accelerated procedure, or as inadmissible, or against the decision rejecting the application for the continuation of the examination procedure after an interruption decision has been made, as well as in cases where the appeal is submitted while the applicant is in detention, within 15 days from the notification of the decision.
- against the decision rejecting an application for international protection in border procedures or when the appeal is submitted in a Reception and Identification procedure, within 5 days from the notification of the decision.

- When an appeal is lodged, the competent Receiving Authority shall inform, on the same day, the appellant on the date the appeal will be examined.
- The procedure before the Appeals Committee shall be, as a rule, in writing and the examination of the appeals shall be performed based on the elements from the case file, without the presence of the appellant.
- The appellant may submit any supplementary evidence or a written memorandum up till the day before the examination date.
- When the appeal is examined through the oral hearing procedure, the Appeals Authority shall invite the appellant at least 5 working days before the date of the examination.

2. Judicial challenge

The applicants for international protection can apply for the annulment of second instance decisions before the competent court – Administrative Court of Appeal -, in accordance with the provisions of Article 15 paragraph (3) of Law 3068/2002 (O.G. A' 274), as amended by Article 29 of Law 4540/2018 as in force. This possibility, the relevant time limit and the competent court shall be explicitly referred to in the decision.

➔ The application for annulment does not have suspensive effect. A separate application for the suspension of the negative decision must be submitted before the same Court.

PART IV.
RECEPTION CONDITIONS

A. Minimum Standards for Reception Directive

(Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection)

The purpose of the Reception Directive is to set **minimum standards for the reception of asylum seekers** including housing, health care and the right to work during the asylum procedure. Asylum seekers have very different reception conditions across Europe. In some countries their basic needs are not met and face significant obstacles to access housing, employment, education and health care.

The provisions of the Directive 2013/33/EU have been transposed into Greek legislation by the Law 4540/2018. As regards applicants' detention, the applicable law is the Law 4375/2016 as it is amended by the Law 4540/2018.

B. RECEPTION CONDITIONS FOR ASYLUM SEEKERS

1. General rules on material reception conditions and health care (art. 17 of the Law 4540/2018)

- The authorities shall ensure that material reception conditions are available to applicants when they make their application for international protection. The authorities shall ensure that material reception conditions provide an adequate standard of living for applicants, which guarantees their subsistence and protects their physical and mental health. The above mentioned standard shall also be provided for persons who are in detention.

- According to art. 33 of the Law 4368/2016, the applicants have the right to free access to public health system and they receive the necessary health care which shall include, at least, emergency care and essential treatment of illnesses and of serious mental disorders.

- The provision of all or some of the material reception conditions and health care is subject to the condition that applicants do not themselves have sufficient resources, allowing them to maintain an adequate standard of living, for example, if they have not been working for a reasonable period of time or their work do not allow them to maintain an adequate standard of living, according to art. 235 of the Law 4389/2016.

2. Modalities for material reception conditions
(art. 18 of the Law 4540/2018)

1. Where housing is provided in kind, it should take one or a combination of the following forms:

(a) premises used for the purpose of housing applicants during the examination of an application for international protection made at the border or in transit zones;

(b) accommodation centers which guarantee an adequate standard of living;

(c) private houses, flats, hotels or other premises adapted for housing applicants.

2. Without prejudice to any specific conditions of detention as provided for in Articles 10 and 11 of the Directive 2013/33/EU, in relation to housing referred to in paragraph 1(a), (b) and (c) of this Article authorities shall ensure that:

(a) applicants are guaranteed protection of their family life;

(b) applicants have the possibility of communicating with relatives, legal advisers or counsellors, persons representing UNHCR and other relevant national, international and non- governmental organizations and bodies;

(c) family members, legal advisers or counselors, persons representing UNHCR and relevant non-governmental organizations recognised by the Member State concerned are granted access in order to assist the applicants. Limits on such access may be imposed only on grounds relating to the security of the premises and of the applicants.

The authorities shall take into consideration:

- gender and age-specific concerns and the situation of vulnerable persons in relation to applicants within the premises and accommodation centers.
- take appropriate measures to prevent assault and gender-based violence, including sexual assault and harassment
- take under consideration that dependent adult applicants with special reception needs are accommodated together with close adult relatives
- that dependent adult applicants with special reception needs are accommodated together with close adult relatives
- that transfers of applicants from one housing facility to another take place only when necessary. Authorities, shall provide for the possibility for applicants to inform their legal advisers or counselors of the transfer and of their new address.

3. Persons working in accommodation centers shall be adequately trained and shall be bound by the confidentiality rules provided for in national law in relation to any information they obtain in the course of their work.

4. Authorities may involve applicants in managing the material resources and non-material aspects of life in the centre through an advisory board or council representing residents.

5. In duly justified cases, the Minister of Immigration can exceptionally set modalities for material reception conditions different from those provided for in this Article, for a reasonable period which shall be as short as possible, when:

(a) an assessment of the specific needs of the applicant is required, in accordance with Article 20 of the Law 4540/2018;

(b) housing capacities normally available are temporarily exhausted.

Such different conditions shall in any event cover basic needs.

3. Housing according to the Law 4375/2016

- Law 4375/2016 (art. 10) has provided a legal basis for the establishment of different accommodation facilities.

- In addition to Reception and Identification Centres, the Ministry of Economy and Ministry of Migration Policy may, by joint decision, establish open Temporary Reception Facilities for Asylum Seekers, as well as open Temporary Accommodation Facilities for persons subject to return procedures or whose return has been suspended.

- In practice, most temporary accommodation centres and emergency facilities operate without a prior Ministerial Decision and the requisite legal basis.

4. Health care (art. 33 Law 4368/2016 and art. 17 Law 4540/2018)

Article 33 of Law 4368/2016 provides free access to public health services for persons without social insurance and for persons belonging to vulnerable groups. Among others, asylum seekers and members of their families are considered as persons belonging to a vulnerable group, and are entitled to have free access to the public health system and be granted free pharmaceutical treatment.

Art.17 of Law 4540/2018 provides that all or part of the material conditions is subject to the condition that applicants do not work or that their work does not provide them with sufficient resources which could ensure an adequate standard of living sufficient for preserving their health and their subsistence, according to the income criteria set by article 235 of Law 4389/2016.

5. Employment
(art. 71 Law 4375/2016 and art. 15 Law 4540/2018)

Applicants for international protection after completing the procedure for lodging their application, and if they are in possession of the “international protection applicant card" or "asylum seeker’s card", shall have access to salaried employment or to the provision of services or works.

According to art. 15 of the law 4540/2018:

The right to access the labor market shall not be suspended during the appeal proceedings until a negative decision on the appeal is notified.

6. Vocational trainning (art. 16 of law 4540/2018)

- Applicants have access to vocational training, irrespective of whether they have access to the labour market. Access to vocational training relating to an employment contract shall depend on the extent to which the applicant has access to the labour market in accordance with Article 15.
- By joint decision of the Minister of Labour, Social Insurance and Social Solidarity, the Minister of Education, Research and Religious Affairs and the Minister of Immigration Policy, the specific conditions of the evaluation of qualifications are provided, in case that the applicants do not have the necessary supporting documents.

7. Schooling and education of minors (art. Law 15/2016, art. 13 and 14 Law 4540/2018)

- According to article 21(8) Law 4251/2014 (Immigration Code), children of citizens of a third country can enrol at public schools with incomplete documentation if they have filed an asylum claim.

- According to art. 38 of Law 4415/2016: With the decision of the Minister of Finance and the Ministry of Education, Research and Religious Affairs, reception structures for the education of refugees are established, the organization, operation, coordination and training of the above structures, as well as the criteria and the procedure for their staffing, e.g. Ministerial Decision 563/2018 for the reception structures for the education of refugees for the school year 2017-2018.

Articles 13 and 14 of Law 4540/2018

1. Minor children of applicants and applicants who are minors have the right to access the education system under similar conditions as Greek citizens, as long as an expulsion measure against them or their parents is not actually enforced. Such education may be provided in accommodation centers. Registration will be facilitated in case the minor faces difficulties in submitting the required documents. The right to access the secondary education system shall not be withdrawn for the sole reason that the minor has reached the age of majority.
2. Access to the education system shall not be postponed for more than three months from the date on which the application for international protection was lodged by or on behalf of the minor.
3. Preparatory classes, including language classes, shall be provided to minors where it is necessary to facilitate their access to and participation in the education system.
4. Where access to the education system is not possible due to the specific situation of the minor, the authorities concerned shall offer other educational arrangements in accordance with Greek law and practice.
5. The special terms of par. 3 and 4, may be regulated by joint decision of the Minister of Labour, Social Insurance and Social solidarity, the Minister of Immigration Policy and the Minister of Education, Research and Religious Affairs.

According to art. 14 of Law 4540/2018 Access to secondary education is not restricted to minors, but may also apply to adult applicants povided they are legally residing in the country.

8. Information (art. 5 of the Law 4540/2018)

1.Applicants shall be informed within a reasonable time not exceeding 15 days after they have lodged their application for international protection, of at least any established benefits and of the obligations with which they must comply relating to reception conditions. Applicants are provided with information on organizations or groups of persons that provide specific legal assistance and organizations that might be able to help or inform them concerning the available reception conditions, including health care.

2. Applicants are provided with the information in writing and, in a language that the applicant understands or is reasonably supposed to understand. Where appropriate, this information may also be supplied orally.

9. Documentation (art. 6 of the Law of 4540/2018)

- The competent authorities must provide the applicant, free of charge, with a special identity card of a foreign national who applied for asylum, according to Law 4375/2016.
- Whenever serious humanitarian reasons arise that require the applicant's presence in another state, the Central Authority shall issue to the applicant a travel document, following a request lodged by him/her before the competent authorities to receive and examine the application (according to art. 25 of the P.D. 141/2003).

10. Residence and freedom of movement (art. 7 of the Law of 4540/2018)

- the residence of the applicant may be decided by the authorities, for reasons of public interest, public order or, when necessary, for the swift processing and effective monitoring of his or her application for international protection.
- To the applicants subject to restriction of residence, the material reception conditions can be provided in the specific place which is determined by decision. In case of breach of the terms of the decision, the material reception conditions are withdrawn.
- applicants can be provided with temporary permission to leave their place of residence and/or the assigned area. Decisions shall be taken individually, objectively and impartially and reasons shall be given if they are negative.
- The applicant shall not require permission to keep appointments with authorities and courts if his or her appearance is necessary.
- applicants must inform the competent authorities of their current address and notify any change of address to such authorities as soon as possible.
- Applicants may move freely within the territory or within the area assigned to them and choose their place of residence. The assigned area cannot affect their private life and must allow them to enjoy access to all benefits under PD 220/2007.

11. Reduction or withdrawal of material reception conditions (art. 19 of the Law 4540/2018)

1. The material of reception conditions may be reduced or withdrawn, in exceptional and duly justified cases, where an applicant:

(a) abandons the place of residence determined by the competent authority without informing it or, if requested, without permission; or

(b) does not comply with reporting duties or with requests to provide information or to appear for personal interviews concerning the asylum procedure during a reasonable period laid down in national law; or

(c) has lodged a subsequent application as defined in Article 2(q) of Directive 2013/32/EU, according to Greek Law 4375/2016 (art. 34).

2. The material of reception conditions may be reduced when the applicant hasn't lodged an application for international protection as soon as reasonably practicable after his/her arrival at the Greek territory.

3. The material of reception conditions may be reduced or withdrawn when the applicant had concealed financial resources and has consequently benefited unfairly from the material reception conditions

4. The material of reception conditions may be withdrawn when the applicant breaches the rules of the accommodation centers as well as when he/she demonstrates a violent behaviour.

5. Decisions for reduction or withdrawal of material reception conditions or sanctions shall be taken individually, objectively and impartially and reasons shall be given. Decisions shall be based on the particular situation of the person concerned, especially with regard to vulnerable persons. Under all circumstances the decision cannot prevent access to health care in accordance with Article 17, par. 2, and cannot deprive the applicant from a dignified standard of living.

C. PROVISIONS FOR PERSONS BELONGING TO VULNERABLE GROUPS

1. General provisions (art. 20 of Law 4540/2018):

- While applying the provisions on reception conditions, the competent authorities and local administrations shall take care to provide special treatment to applicants belonging to vulnerable groups such as minors, in particular unaccompanied minors, disabled people, elderly people, pregnant women, single parents with minor children, victims of human trafficking, persons with serious illnesses, persons with mental disorders and persons who have been subjected to torture, rape or other serious forms of psychological, physical or sexual violence, such as victims of female genital mutilation. The support provided to these applicants takes into account their special reception needs throughout the duration of the asylum procedure and shall provide for appropriate monitoring of their situation.
- The assessment whether the applicant is an applicant with special reception needs is evaluated during the process of identification (art. 9, Law 4375/2016).
- The competent authorities must inform immediately the National Authority for the Recognition and Referral of Victims and Trafficking (art. 6 Law 4198/2013), in case they indentify victims of trafficking.

2. Minors (art.21 of Law 4540/2018)

The best interests of the child shall be a primary consideration. A standard of living adequate for the minor's physical, mental, spiritual, moral and social development must be ensured. In assessing the best interests of the child, the competent authorities shall in particular take due account of the following factors:

(a) family reunification possibilities;

(b) the minor's well-being and social development, taking into particular consideration of the minor's background;

(c) safety and security considerations, in particular where there is a risk of the minor being a victim of human trafficking;

(d) the views of the minor in accordance with his or her age and maturity.

- The competent authorities shall ensure access to Social Care Services for minors who have been victims of any form of abuse, neglect, exploitation, torture or cruel, inhuman and degrading treatment, or who have suffered from armed conflicts, and, if necessary, shall ensure that they receive appropriate mental health care and qualified counseling.

- Minors have access to leisure activities, including play and recreational activities appropriate to their age within the premises and accommodation centres and to open-air activities.

3. Unaccompanied and separated minors (art. 22 of Law 4540/2018):

- The competent authorities must inform the closest Public Prosecutor about the existence of unaccompanied minors. The Reception and Identification Service is responsible for the reception and identification of the unaccompanied minor. The competent authorities shall immediately inform the minor of the appointment of a representative, and shall make efforts to trace the members of the minor's family as soon as possible. When a relative of the minor is traced, he/she becomes the representative of the minor. The representative shall perform his or her duties in accordance with the principle of the best interests of the child, and shall have the necessary expertise to that end. In order to ensure the minor's well-being and social development, the person acting as representative shall be changed only when necessary. Organizations or individuals whose interests conflict or could potentially conflict with those of the unaccompanied minor shall not be eligible to become representatives.

- The competent authority for the protection of minors and separated minors is Directorate General for Social Solidarity of the Ministry of Labour, Social Insurance and Social Solidarity, which shall take the appropriate measures to ensure the minor's necessary representation, examines in regular periods the appropriateness of the representative and shall start tracing the members of the unaccompanied minor's family, where necessary with the assistance of international or other relevant organizations, as soon as possible after an application for international protection is made, whilst protecting his or her best interests. In cases where there may be a threat to the life or integrity of the minor or his or her close relatives, particularly if they have remained in the country of origin, care must be taken to ensure that the collection, processing and circulation of information concerning those persons is undertaken on a confidential basis, so as to avoid jeopardising their safety.
- Also, the competent authority ensures the placement of the minors:

  a) with an adult relative, b) in foster families, c) in accommodation centres with special provisions for minors, or in other accommodation suitable for minors, d) in accommodation centres for adult applicants.

  Those working with unaccompanied minors shall have had and shall continue to receive appropriate training concerning their needs, and shall be bound by the confidentiality rules provided for in national law, in relation to any information they obtain in the course of their work.

4. Victims of torture and violence (art. 23 of Law 4540/2018):

- The competent authorities shall ensure that persons who have been subjected to torture, rape or other serious acts of violence receive the necessary treatment for the damage caused by such acts, in particular access to appropriate medical and psychological treatment or care.
- Those working with victims of torture, rape or other serious acts of violence shall have had and shall continue to receive appropriate training concerning their needs, and shall be bound by the confidentiality rules provided for in national law, in relation to any information they obtain in the course of their work.

V. ADMINISTRATIVE DETENTION OF ASYLUM SEEKERS (art. 46 of Law 4375/2016 and art. 8,9,10 of Law 4540/2018)

A. Alternative to detention measures

According to article 46 par. 1 of Law 4375/2016 detention must not be imposed when alternative to detention measures such as regular reporting to the authorities, deposit of an adequate financial guarantee, submission of documents or the obligation to stay at a certain place can be applied.

B. Grounds for detention

According to **article 46 of Law 4375/2016** an alien or a stateless person who submits an application for international protection while in detention in view of return (Law 3907/2011) or administrative expulsion (Law 3386/2005) shall remain in detention, exceptionally and if this is considered necessary after an individual assessment under the condition that no alternative measures can be applied, for one of the following reasons:

1)in order to determine his /her identity or nationality, or

2)in order to determine those elements on which the application for international protection is based which could not be obtained otherwise, in particular when there is a risk of absconding*

3)when it is ascertained on the basis of objective criteria, including that he/she already had the opportunity to access the asylum procedure, that there are reasonable grounds to believe that the applicant is making the application for international protection merely in order to delay or frustrate the enforcement of a return decision, if it is probable that the enforcement of such a measure can be effected;

4)when he/she constitutes a danger for national security or public order, according to the reasoned judgment of the Police Director, or

5)when there is a serious risk of absconding* and in order to ensure the enforcement of a transfer decision according to the Dublin Regulation.

*C. Risk of absconding

Risk of absconding means the reasonable guess, based on a combination of objective criteria, that, in a particular case, the third-country national who is subject to a return procedure, may escape. Such objective criteria may indicatively be:

- the non-compliance with an obligation of voluntary departure
- the explicit expression of intent for non-compliance with the return
- decision
- the possession of false documents
- the provision of false information to authorities
- the existence of convictions for criminal offenses, pending prosecutions or
- serious indications that a criminal offense has been committed or is about to be committed by a specific person,
- the lack of travel or other confirmatory identity documents
- the previous escape and
- the non-compliance with an existing entry ban.

D. Detention order

The detention order is taken by the respective Police Director and, in the cases of the General Police Directorates of Attica and Thessaloniki, by the competent Police Director for Aliens' matters and shall include a complete and comprehensive reasoning. The detention order is taken upon a recommendation of the Head of the competent receiving Authority. This recommandation is not provided by law when the applicant constitutes a danger for national security or public order, according to the reasoned judgment of the Police Director.

1. Length of detention

The detention of applicants for international protection shall be imposed for the minimum necessary period of time. Delays in administrative procedures that cannot be attributed to the applicant shall not justify a continuation of detention.

The detention of applicants imposed on the following grounds:

a)in order to determine their identity or nationality, or

b)in order to determine those elements on which the application for international protection is based which could not be obtained otherwise, in particular when there is a risk of absconding or

c)when it is ascertained on the basis of objective criteria, including that they already had the opportunity to access the asylum procedure, that there are reasonable grounds to believe that they are making the application for international protection merely in order to delay or frustrate the enforcement of a return decision, if it is probable that the enforcement of such a measure can be effected shall, initially, not exceed 45 days and can later be prolonged by a further 45 days, as long as the recommendation of the Head of the competent Receiving Authority is not recalled.

The detention of applicants for international protection on the following grounds:

a)when they constitute a danger for national security or public order, according to the reasoned judgment of the Police Director, or

b)when there is a serious risk of absconding and detention is imposed in order to ensure the enforcement of a transfer decision according to the Dublin Regulation shall not exceed three (3) months.

In any case, and independently of whether the time limits for the above-mentioned grounds for detention have been completed or not, the total detention period may not exceed in any case the maximum time limits for detention, as they are foreseen in Article 30 of Law 3907/2011 (18 months).

2. Automatic judicial review

The initial detention order and the order for the prolongation of detention shall be transmitted to the President of the Administrative Court of First Instance, or the judge appointed by this former, who is territorially competent for the applicant's place of detention and who decides on the legality of the detention measure and issues immediately his decision, in a brief record, a copy of which he/she immediately delivers to the competent police authority. In case this is requested, the applicant or his/her legal representative must mandatorily be heard in court by the judge. This can also be ordered, in all cases, by the judge.

3. Challenge of detention decisions

Asylum seekers may challenge detention through “objections against detention” before the Administrative Court of First Instance. Objections against detention are examined by the President of the Administrative Court, whose decision is non-appealable. If so requested, the judge must hear the applicant or his representative or even order the hearing. The allegations put forth during the process must be substantiated immediately. The judge shall decide on the lawfulness of the detention or the extension of it and issue immediately a judgement on the objection which must be stated briefly in the minutes. A copy of the minutes must be handed over immediately to the police authorities.

4. Legal aid

Detainees who are applicants for international protection shall be entitled to free legal assistance and representation to challenge the detention order according to the provisions valid for third country nationals in detention (provisions set in law 3226/2004 apply accordingly).

F. Acceleration of asylum procedure

The detention of an applicant constitutes a reason for the acceleration of the asylum procedure, taking into account possible shortages in adequate premises and the difficulties in ensuring decent living conditions for detainees. These difficulties, as well as the vulnerability of applicants, shall be taken into account when deciding to detain or to prolong detention. When an alien or stateless person applies for international protection while in detention, the Head of the competent Receiving Authority and/or the Administrative Director of the Appeals Authority shall be immediately informed and shall ensure the prioritized examination of the application or the appeal.

G. Place of detention

Applicants are detained in detention areas as provided in Article 31 of Law 3907/2011 (pre-removal detention centres established in accordance with the provisions of the Return Directive).

H. Guarantees for detained asylum seekers

- In cases of detention of asylum seekers, the competent authorities shall apply the following (art. 46, par. 10 of Law 4375/2016 as amended by Law art. 9 of Law 4045/2018):

1. Detention of applicants shall take place, as a rule, in specialised detention facilities. Where accommodation cannot be provided in a specialised detention facility and is obliged to resort to prison accommodation, the detained applicant shall be kept separately from ordinary prisoners.

   As far as possible, detained applicants shall be kept separately from other third-country nationals who have not lodged an application for international protection.

2. Detained applicants shall have access to open-airspaces.

3. Persons representing the United Nations High Commissioner for Refugees (UNHCR), as well as organizations, which on the basis of a special agreement, act on behalf of the UNHCR in Greece have the possibility to communicate with and visit applicants in detention and in conditions that respect privacy.

4. Family members, legal advisers or counselors and persons representing relevant non-governmental organizations recognised officially, have the possibility to communicate with and visit applicants in conditions that respect privacy. Limits to access to the detention facility may be imposed only where, by virtue of national law, they are objectively necessary for the security, public order or administrative management of the detention facility, provided that access is not thereby severely restricted or rendered impossible.

5. Applicants in detention are systematically provided with information, which explains the rules applied in the facility and sets out their rights and obligations in a language which they understand, or are reasonably supposed to understand, according to Law 4375/2016.

Applicants are provided with appropriate medical care and they maintain the right to legal representation.

I. Provisions for minors

(art. 46, par. 10A of Law 4375/2016 as induced by Law art. 9 of Law 4045/2018)

1.The health, including mental health, of applicants in detention who are vulnerable persons shall be of primary concern to national authorities.

Where vulnerable persons are detained, regular monitoring and adequate support takes into account their particular situation, including their health.

2. The minor shall be detained only as a measure of last resort and after it having been established that other less coercive alternative measures cannot be applied effectively. Such detention shall be for the shortest period of time and all efforts shall be made to release the detained minors and place them in accommodation suitable for minors. In any case, the the period up to the completion of the referral procedure for minors to hosting centres may not exceed 25 days and the minor's best interests, shall be a primary consideration.

Furthermore, where minors are detained, they shall have the possibility to engage in leisure activities, including play and recreational activities appropriate to their age.

3. Unaccompanied minors shall be detained only in exceptional circumstances. All efforts shall be made to release the detained unaccompanied minor as soon as possible.

Unaccompanied minors shall never be detained in prison accommodation. As far as possible, unaccompanied minors shall be provided with accommodation in institutions provided with personnel and facilities which take into account the needs of persons of their age.

Where unaccompanied minors are detained, they are accommodated separately from adults.

4. Detained families shall be provided with separate accommodation guaranteeing adequate privacy.

5. Female detained applicants must be accommodated separately from male applicants, unless the latter are family members and all individuals concerned consent thereto. The detention during pregnancy shall be prevented and for three months after the childbirth.

Activity 3:

Developing training modules on issues related to health care and legal services

PART I
ACCESS TO HEALTH

Health care (art. 33 Law 4368/2016 and art. 17 Law 4540/2018)

Article 33 of Law 4368/2016 provides free access to public health services for persons without social insurance and for persons belonging to vulnerable groups. Among others, asylum seekers and members of their families are considered as persons belonging to a vulnerable group, and are entitled to have free access to the public health system and be granted free pharmaceutical treatment.

Art.17 of Law 4540/2018 provides that all or part of the material conditions is subject to the condition that applicants do not work or that their work does not provide them with sufficient resources which could ensure an adequate standard of living sufficient for preserving their health and their subsistence, according to the income criteria set by article 235 of Law 4389/2016.

Access to health care

Article 19 recast Reception Conditions Directive

Access to health care is guaranteed in law in all AIDA countries. In practice there is only full access to health care in **Belgium**, **Spain**, **Greece**, **Ireland**, **Italy** and **Serbia**. The remaining countries have only limited access.

In practice, several obstacles to effective access to healthcare have been reported in most Member States:

More details at:

http://www.asylumineurope.org/

1. Specialized treatment for victims of torture:

- *Article 25 Recast Reception Conditions Directive*
- Specialized treatment for victims of torture is required by Article 25 of the Recast Reception Conditions Directive but not provided:

In **Bulgaria**, **Croatia**, **Malta** and **Serbia**. **Germany** and **Ireland** provide specialized treatment whereas the other AIDA countries only provide limited specialized treatment for victims of torture. **Spain** legally foresees this, but in practice there is no specialized medical centre for treatment of victims of torture.

The specialized treatment for victims of torture is usually provided by NGOs or independent charities and usually lacks the required capacity. This was reported in **Austria**, **Cyprus**, **Germany**, **France**, **Greece**, **Ireland**, **Italy** and the **United Kingdom**.

2. Organizations providing specialized treatment for victims of torture

CY	Future Worlds Center
FR	Primo Levi Centre Osiris Mana Forum Réfugiés-Cosi Essor Centre
GR	Médecins Sans Frontières Greek Council for Refugees Babel Day Centre
HR	Croatian Law Centre Croatian Red Cross Rehabilitation Centre for Stress and Trauma Society for Psychological Assistance (SPA)
HU	Cordelia Foundation
IE	Spirasi
IT	Italian Council for Refugees (CIR) MSF ASGI
UK	Freedom from Torture Helen Bamber Foundations Refugee Therapy Centre

Health Care in Greece

- More specifically in Greece, Article 33 of Law 4368/2016 provides free access to public health services for persons without social insurance and for persons belonging to vulnerable groups, such as asylum seekers and members of their families and Art.17 of Law 4540/2018 provides that all or part of the material conditions is subject to the condition that applicants do not work or that their work does not provide them with sufficient resources which could ensure an adequate standard of living sufficient for preserving their health and their subsistence.

Part II

Pension for uninsured adults - Requirements & Supporting Documents

Pension for uninsured adults - Requirements & Supporting Documents

Article 93 of the Law 4387/2016 provides that the monthly pension of uninsured elderly shall be granted or re-allocated to those who apply after the entry into force of this law, provided that the **following conditions** are met:

a)They have reached the age of 67.

b)They do not receive or are not entitled to a pension by any social security institution or in Greece or abroad, irrespective of amount, and also, in the case of married persons, their spouse does not receive a pension higher than the full amount of the pension benefit, Due to old age.

c)They have been permanently and legally resident in Greece for the last 15 years (with 10 of them consecutive) before applying for retirement and are still staying during their retirement.

d)Their total annual personal income tax and their exempt or specially taxed income does not exceed EUR 4,320 or, in the case of married persons, the total annual family taxable income, as well as the exempt or taxable income does not exceed €8,640.

Additionally:

For the purposes of checking the income criteria, the Law 4387/2016 provides that this will be made on the basis of the income for the financial year preceding that in which the application for retirement is being submitted or the audit is carried out.

In addition to the income declared in the income tax statement, personal and family income includes the amounts received or entitled to be paid by the spouse or the wife for married couples, financial aid or other pensions or benefits in Greece or abroad, irrespective of whether they are welfare or not, from interest on deposits, from a legal sustentation and from any other income that has not been declared, even if they are exempt or not has the legal obligation to declare them, which date back to the year whose income tested.

When one of the spouses already receives an uninsured old-age pension from the OGA, his annual pensions are counted towards family income in order to judge whether the other spouse will retire as an uninsured elderly person.

Furthermore:

The amount of the benefit paid to unsecured senior persons is not taken into account when considering the assumptions for the continued payment of the benefit.

In case of resignation from receipt of a periodic allowance or an allowance or pension, the periodic benefits or allowances paid before termination are not taken into account for the calculation of income when checking the income criteria, both when granting the benefit and during the re-check.

Even the main owner-occupied residence of up to 100 square meters will be taken into account, since the objective cost resulting therefrom is not calculated on the income.

The income criteria set are to be met cumulatively and otherwise the person concerned or the beneficiary is excluded from the receipt or continuation of the benefit.

For those who submit inaccurate or false statements, the amounts of pensions they have received unduly are charged against them plus 10%.

1. Documents

Checking Income Criteria:

- The check of the income criterion is based on the income declared in the income tax statement for the financial year preceding that in which the application for retirement is submitted or the audit is carried out.
- Both personal and family income, in addition to income declared in the income tax statement, includes the amounts received or entitled to be received by the person himself and his / her spouse on the marriage, from aids, financial aid or other pensions or benefits in Greece or abroad, whether or not of a provident nature, from interest on deposits, from a legal sustentation and from any other income which has not been declared, even if they are exempt or not the statutory requirement to declare them, which date back to the year whose income tested.
- When one of the spouses is entitled to the unpaid old-age pension from OGA, his annual pensions are counted towards family income, in order to determine whether the other spouse will retire from OGA as an uninsured old-age.
- The amount of the benefit paid to unsecured senior persons is not taken into account when considering the assumptions for the continued payment of the benefit.
- In the event of resignation from receipt of a periodic allowance or an allowance or pension, the periodic benefits or allowances paid before termination are not taken into account for the calculation of income when checking the income criterion, both when granting the benefit and during the re-check.
- When one of the spouses already receives an uninsured old-age pension from the OGA, his annual pensions are counted towards family income in order to judge whether the other spouse will retire as an uninsured elderly person.

Moreover:

The documentation required to demonstrate that the conditions for granting the uninsured overage pension for applicants to supply after the power of the Law. 4093/2012 provisions are as follows:

1) Recent family status certificate.

2) A certified copy of the form E1 income tax declaration and Clearance of the competent Tax Authority (DOY) for the year preceding that in which the application is submitted. The submission of these supporting documents is mandatory and no affirmative statement, even if accepted by the Tax Office, on the non-obligation to file a tax return will be accepted.

3) Responsible Statement of the applicant stating:

(a) if he receives or is entitled to a pension from any source and whether he or she was insured with another insurance institution and who and

(b) the sums received or to be received by the person himself and his spouse on the marriage, from allowances, financial aids or other pensions or allowances in Greece or abroad, whether or not welfare, from interest on deposits, statutory maintenance and any other income that has not been declared, even if they are exempt from tax or there is no statutory obligation to declare them in the year in which the income is controlled.

4) If the applicant was insured with another insurance institution, a certificate from the institution showing the length of the insurance period, the occupation for which he was insured, whether or not he or she is entitled to a pension or not.

5) If the applicant is married and his/her spouse is a pensioner of another insurer or of the State, Greece or abroad, a certified copy of his / her original retirement decision is submitted, or, if he is a national of another country, a certified statement of the competent insurer, duly authenticated and officially translated, showing whether the spouse is retiring and the amount of the pension received.

6) For the purposes of checking the permanent and legal ten-year residence in Greece, the following documents shall be submitted by the applicant:

(a) Certified photocopies of all passport (s) of both Hellenic and foreign (in the case of citizens and other countries) of the last twenty years prior to the filing of the application.

(b) Also, the applicant must provide any of the following supporting documents to show his / her residence in Greece during the last 10 years prior to the submission of the application:

- Copies of income tax return forms E1 or validated statements of the last decade or E9 forms, if they have been submitted or
- Requesting an insurer from whom the insured person is insured and the married or insured spouse or
- Certificate of the beginning and continuation of practicing a liberal profession by the Registry Department of the competent tax office.
- Or certificate for Tax Registration Number or
- Execution of a certified health book of the beneficiary or spouse by the competent services or
- Hiring contract with tenant or his / her spouse, deposited and certified by the competent tax authority.

Part III

Recognized refugees rights

Part III. Rights for recognized refugees

The situation of recognized refugees in Greece, should be taken into consideration in the light of the overall state of socio-economic rights in Greece in times of strong economic and social crisis (shrinking of welfare state, cuts in salaries, increase of unemployment, etc.). The general situation has a detrimental effect on the most vulnerable groups of the population, especially refugees with no family links and supportive social network in the country. Refugees expect limited support by the State during their integration procedure.

According to **Article Art. 29 and 30 of P.D. 141/2013**:

- Beneficiaries of international protection should enjoy the same rights as Greek Citizens and receive the necessary social assistance according to the terms that apply for Greek citizens. However, not all of them have access to social rights and welfare benefits. What has been recorded is either the difficult access of rights (bureaucracy and basically no provision for the inability of refugees to submit certain documents, like family status, birth certificates, diplomas etc) or sometimes the refusal from civil servants to grant them the benefits provided, thus violating Greek or European law and the principle of equal treatment (Law 3304/2005).

A. An indicative list of refugees' social rights and the difficulties they face is presented below:

- **Family allowances** are provided to families, who can show a 10 years permanent and continuous stay in Greece. As a result, the majority of refugees and beneficiaries of international protection are excluded from this benefit.
- **Allowance to single mothers** is provided to those who can provide proof (divorce, death certificate, birth certificates etc) of their family situation. With no access to any authority of their country and no provision in law or in practice from the Greek State many of them are excluded because they cannot provide the necessary documents.
- Typically, the beneficiaries of international protection have **access to accommodation** with the conditions and limitations applicable to third-country nationals residing legally in the country, according to Article 33, P.D. 141/2013 (Article 21 of the Geneva Convention of 1951). However, in practice there are limited accommodation places for homeless people in Greece and generally beneficiaries of international protection are not admitted to them. Moreover, those in need of shelter, who lack the financial resources to continue to rent a house, remain homeless or reside in abandoned houses, informal hotels or unsuitable homes. In other words, there are no shelters, exclusively for recognized refugees, where they could be part of integration activities. Additionally, there is no provision for financial support for living costs.

- Although a refugee can apply for the acquisition of citizenship 3 years after recognition, yet and especially in case of adult refugees residing in Greece, one must undergo a lasting, complex and demanding exam procedure, that involves deep knowledge of the Greek history, culture, politics and literature etc. Finally, **the acquisition of nationality** remains under the discretion of the Greek State.
- There is **free access to medical care** for beneficiaries of international protection under the Law 4368/2016. However, there are no translators or cultural mediators in public hospitals, which means that the access is becoming from hard to impossible for cases that do not speak English or Greek.
- There are **no special and fixed allowances** for refugees and beneficiaries of international protection,
- There **is no provision of social support for vulnerable refugee cases**, such as victims of torture, by the State. The only psychosocial and legal support addressed on the identification and rehabilitation of torture victims in Greece is offered by three NGOs GCR, Day Centre Babel and Doctors without Borders, which means that the continuity of the program depends on funding.
- **There are no free Greek language courses** funded by the State: The programme organized by the University of Athens charges a fee for participation in Greek Language courses, ranging from 500 to 670 Euros per academic year for immigrants and refugees. Greek language courses are also offered by the School of Modern Greek Language of the Aristotle University of Thessaloniki. Free Greek language courses are only offered at the moment by non-governmental organizations.

- Law 4375/2016, articles 69 and 71 and Law 4540/2018, art. 15, provide for **complete and automatic access to the labour market** for recognized refugees, but in practice unemployment rates are so high, and competition from workers who speak Greek is so intense, that it is extremely difficult for newly recognized refugees that do not speak the language to find employment. Additionally, refugees face obstacles in enrolling in vocational training programs as the majority of them cannot provide evidence (high school degrees, diplomas e.tc.) of their educational background, which are prerequisites for participating.
- In principle, Law 4387/2016 article 93 **provides for pension rights for uninsured seniors**, but the requirement of 15 years of residence in Greece in practice excludes seniors who are newly recognized refugees.
- According to article 23 of P.D. 141/2013 and article 21 of Law 4375/2016 family members of the beneficiary of international protection who do not individually qualify for such protection are entitled to a renewable residence permit which must be valid for as long as the beneficiary's. However, if the family was created after entering the country in case of spouses both of them must have a valid residence permit at the time that the wedding ceremony took place. These provisions are in direct violation of article 8 ECHR and extremely impractical since in order to qualify for a residence permit as a refugee family member they must already have a residence permit.

1. Article 13 of P.D. 141/2013 and article 63 of Law 4375/2016 provide an inflexible list of reasons for the revocation of refugee status. The determining authority shall withdraw or refuse the renewal of the refugee status if it is established:

- that the person should have been excluded from being a refugee according to Article 12 of P.D.141/2013 that excludes from the refugee status those who have committed crimes against peace, war crimes, crimes against humanity, serious non-political crimes prior entering the Greek territory or they are guilty of acts contrary to the purposes and principles of United Nations.
- that the person concerned has committed falsification, or has omitted facts, including the use of false documents that were decisive for the granting of the refugee status or it is reasonably believed that a) the person constitutes danger to the national security of the country, b) the person constitutes a risk for society especially after a final conviction for particularly serious crimes. The following crimes are considered as particularly serious: felony or misdemeanor punishable by at least three years imprisonment, grievous bodily injury [Article 310 of the Greek Penal Code (GPC)],child abduction (Article 324 GPC), accidental discharge (Article 327 of the GPC), sexual dignity attack (Article 337 GPC), seduction of children (Article 339 GPC), abuse of minors in lechery (Article 342 GPC), child pornography (Article 348A GPC), pimping (Article 350 GPC), prostitute exploitation (Article 351 GPC), sexual intercourse with a minor (Article 351A GPC), and extortion (Article 385 GPC).

- In other words, there is no legal basis for any kind of consequence on his refugee status. **Moreover, applying for asylum in another EU country is not considered waiving the international protection status since article 63 of Law 4375/2016 requires that the beneficiary explicitly relinquishes the international protection status in a written declaration, which has to be personally presented to the relevant authorities.** In practice, if the residence permit of a refugee expires he/she will be asked to give explanation for his/her delay and whereabouts. The beneficiary of international protection is entitled to a personal interview and a written statement to the competent Receiving Authority, explaining the reasons why his/her refugee status should not be revoked.

- Directive 2013/32/EU in recital 43 and article 33 provides that EU Member States should not be obliged to assess the substance of an application for international protection where a first country of asylum has granted the applicant refugee status or otherwise sufficient protection and the applicant will be readmitted to that country. This provision considers the legal basis for any readmissions to a “first country of asylum” as Greece.

- Integration for refugees in Greece was primarily the responsibility of the pertinent Greek Ministry responsible for the management of the European Refugee Fund. A fraction of the allotted ERF funds was directed to integration assisting programs, given that priority was placed on Reception issues of Asylum Seekers. Since the funds transformation to ANIIF, there was a newly appointed state authority responsible for managing it. In the last years absolutely nothing has happened regarding integration matters. In the absence of State sponsored integration programs, NGO's are struggling to assist refugees. Yet, given the current situation in Greece where over 50000 people have been added to those who were recognized as refugees and to those who are in the process of being recognized (asylum seekers), the emphasis of the NGOs is placed upon meeting the needs of the newly arrived. In essence, the assistance in terms of integrating refugees in Greece is ver limited.

Consequently,

- newly recognized refugees have not much to expect for, and most likely will continue to face living conditions, which do not facilitate their integration but on the contrary present the basic characteristics of social exclusion. No housing is foreseen based on Refugees' status, nor is there a financial support envisioned until someone manages to find employment. Moreover, UNHCR can fund an extremely limited number of projects for providing information, legal counseling, and social assistance to refugees. The possibility for direct financial assistance to recognized refugees arising from such projects is extremely limited and framed within the duration of each project. Therefore, such financial assistance can only have an extremely limited effect.

- The recognition of asylum seekers as beneficiaries of international protection does not result in any improvement of their social status. Instead, many of them continue to be homeless and unemployed with no future possibility of improvement. The majority of recognized refugees have never received adequate reception facilities, like housing and financial support. As a result, they keep facing serious welfare problems (poverty, homelessness, unemployment etc) and most of the times they cannot cover their basic needs. The lack of national integration policy for refugees combined with the strong economic and social crisis in Greece creates an environment for refugees, non-conducive to integration but rather to social exclusion.

B. Recognized Refugees: Rights and Difficulties

As of 20 March 2016, all recognized refugees, holders of subsidiary protection and holders of humanitarian status do not issue a work permit, as long as the residence permit is sufficient. The only work permit they need, is the one that is required when they want to work in restaurants or hotels (work permit in stores with a health care interest). However, high unemployment rates and the fact that most refugees have not learned Greek at a satisfactory level, make them less competitive on the labour market than Greek citizens or foreigners who have lived for many years in Greece.

1. About the benefits:

According to Greek law, recognized refugees, holders of subsidiary protection and holders of humanitarian status have access to social assistance benefits under the same conditions applicable to Greek citizens.

Basic benefits in Greece are the following:

- Disability allowance for those with a disability rating of 67% and above or 50% if they are HIV-positive
- Allowance for unprotected children in divorced, widowed, single mothers
- Single Child Support Benefit and Special Benefit for Tortured and Long-Family Families provided that parents have a permanent and continuous 10-year stay in Greece (evidenced by specific supporting documents set by the OGA, eg E1, Children's certificates). Circular OGA No. 7/30.10.2013

  (https://www.taxheaven.gr/laws/circular/view/id/17456)
- Pension of uninsured elderly (over 67 years old) ONLY FOR RECOGNIZED REFUGEES by OGA, provided, among other things, proof of a permanent and legal 15-year residence in Greece. More specifically: To reside permanently and legally in Greece fifteen (15) consecutive years prior to the application for the allowance or fifteen (15) years between the age of 17 and 67, of which ten (10) continuously prior to the application and still reside in Greece after the receipt of the benefit. (According to the article 93 of Law 4387/2016 Government Gazette A 85 / 12.5.2016).
- Unemployment benefit for those who were employed, dismissed or terminated their contract of employment.

- No specific benefits are provided for beneficiaries of international protection (subject to the acquisition of the status) in order to provide them with social support for further smooth integration. No social benefits are provided for vulnerable refugees (eg victims of torture or violence).
- For accommodation, there is no specific provision for accommodation to recognized refugees or for the provision of apartments to families of refugees with many or other criteria of vulnerability. They can only apply for housing in homeless hostels to which Greek citizens who face housing problems or who are completely homeless are also applying. In order to apply for housing, a number of supporting documents (VAT, AMKA, Clearance) and medical examinations are required to certify that the individual can cohabit with others.

2. Other problems:

As announced by the OAED headquarters at the end of February 2018, a refugee in order to be registered at the OAED and receive an unemployment card, must have a residential lease agreement in his name or must be referred as a guest. With the new decision, OAED accepts certificates of hospitality from NGOs' accommodation structures, plus certificates from services provided to homeless citizens, as day centres, municipal or from NGOs.

3. Access to services:

Tax offices need to have a residence permit with a registered address (home contract) to issue TAX REGISTRATION NUMBER. Because the Residence Permits issued by the Asylum Service do not provide a residence address, recognized refugees fill in a statement with their residence address stamped by the Asylum Service and then go to the Tax Office for TAX REGISTRATION NUMBER. However, the Asylum Service has recently stopped giving such assertions. Tax offices receive a certificate of hospitality by NGOs when refugees are left in their structures. They also accept a solemn declaration of the 1599/1986 law when a refugee is hosted in someone else's home, as long as the host holds a house contract in his name.

Greek language courses

There is no formal governmental structure to offer free Greek language courses to refugees, in order for them to obtain a language certificate of different levels (B2, C1, etc.). The only governmental structure is the tuition fee courses at the University of Athens. Also, courses that lead to a certificate of language skills are organised by the Hellenic American Union, again with tuition fees. The School of Modern Greek Language at Aristotle University of Thessaloniki offers Greek language courses to all foreign students who are enrolled as full-time students. The Hellenic Open University also offers similar Greek language programmes to refugees.

PART IV

BENEFITS AND ALLOWANCES IN GREECE

Benefits and allowances in Greece

No special benefits are given to refugees.
Refugees have the same rights and benefits as Greek citizens

1. Benefits for Persons with Disability of 67% and above:

- Benefit from welfare
- Free travel with urban transport
- Discount on utility bills:
  - –PPC (Social Invoice)
  - –Municipal fees
  - –EYDAP (depending on the Municipality)
- OAED
  - –Special unemployment card
  - –Participation in employment programs for people with disabilities
- Tax-deductions
- Prioritization to social assistance programs when they exist (social grocery store, rent subsidy etc.)
- Access to higher education for children attending the Greek school, without examinations

How to apply for disability allowance

To receive a disability allowance, one must:

1. Submit an application to a Disability Certification Center (KEPA) of his/her area
2. Have a decision for a disability rate of 67% or more (or 50% for HIV)
3. Submit an application for an allowance to the relevant department of his/her municipality.

For Stage (1) regarding the application for assessment and the disability rate, one must present to the competent KEPA:

a) His/her completed application (the relevant form is given in the KEPA, but there is also an electronic version here: https://www.ika.gr/gr/infopages/kepa/home.cfm);
b) A completed recommendatory attestation from a doctor with an authentic and certified signature (the prints can be found here: https://www.ika.gr/gr/infopages/news/20131114_kepa.pdf)
c) His/her residence permit or passport;
d) His/her Health record (Βιβλιάριο ασθενείας του φορέα ασφάλισης) (applies only to policy holders);
e) Health Insurance Brochure. (Applies only to insured persons)
f) If he/she has an insurance agent or if he/she does not have an insurance company, he/she will have to pay a fee of € 46.14 to the same KEPA he/she submits the application
g) His/her social security number (AMKA)

Since the application is submitted, he/she needs approximately 2 months, until he/she gets informed by phone for the appointment with the Commission. The decision on the disability rate is taken after one month.

For Stage (3), he/she should contact his/her City of Permanent residence to be informed of the required supporting documents. Indicatively, one should have the following documents:

- Decision of disability from KEPA
- Residence permit in force
- Tax declaration
- Proof of permanent residence
- Bank account
- Info: If one does not agree with the disability percentage he/she has been given, he/she has the right to appeal within 10 days

2. Allowance for Unprotected Children

This allowance is only for low-income mothers and for its issuance, one should contact their City of Residence. The monthly allowance is € 44.02 for each child up to 16 years old (living with the applicant) and is deprived of parental protection due to: death, disability (67% or more), abandonment, imprisonment for more than three months, or out of marriage.

EDITION PROCEDURE

- The necessary conditions for the issuance of the allowance are:
- Proof of absence of parental protection. Where appropriate:
- Divorce - Abandonment – Out of marriage Recognized:
    1) Divorce
    2) Judicial Decision on Custody and sustenance or Responsible Statement of the spouse on the amount of sustenance he pays (with the authenticity of the signature signed) or attorney's attestation on marital status and sustenance
- ORPHANHOOD: Father's death certificate
- FATHER DISABILITIES: Health Committee's advice from KEPA with a disability percentage of more than 67%
- FATHER FAMILY: Certification from prison with probable release date
    1) Residence permit in force
    2) Tax declaration
    3) Proof of permanent residence
    4) Bank account
    5) Unemployment card or employer's statement with monthly net earnings

APPENDIX I

- **Leading Cases of the European Court of Human Rights (ECtHR)**

M.S.S. v. Belgium and Greece (2011):

- The ECtHR held that Greece and Belgium violated three articles of the European Convention of Human Rights and Fundamental Freedoms pertaining to right to life, prohibition of inhuman and degrading treatment, and right to an effective remedy.
- The applicant in this case, an Afghan national, was an interpreter for air force troops in Kabul who fled his country in 2008 and entered the EU via Greece. He later moved to Belgium, where he filed an application for asylum. Belgium, in applying the criteria established by the EC "Dublin II" Regulation, which requires that the first EU Member State that an asylum seeker enters becomes responsible for granting asylum, forwarded the application to the Greek authorities.

M.S.S. v. Belgium and Greece (continued)

- The Afghan national protested, claiming that the detention facilities were appalling in Greece and that he was likely to be sent back to his country without examination of the merits of his case. He had argued that his life was threatened should he be returned to Afghanistan. In 2009, the applicant was sent to Greece and was immediately taken to a detention center. He was released several days later and became homeless. The applicant filed an application to the ECtHR, arguing that Belgium exposed him to the danger of inhuman and degrading treatment by sending him to Greece, where he faced deportation without a proper hearing of his case. He also claimed that Belgium lacked a proper remedy for asylum seekers whose initial applications were rejected.

M.S.S. v. Belgium and Greece (continued)

- The ECtHR, in finding for the Afghan national, imposed fines of €6,000 (about US$8,172) on Greece and €30,000 on Belgium. It upheld that inhumane treatment is degrading "when it humiliates or debases an individual showing a lack of respect for, or diminishes his or her human dignity…".
- Meanwhile, on January 18, 2011, Greece, in an effort to deal with the country's tremendous influx of asylum seekers and the socio-economic and human rights issues that have been generated, adopted a Law on Establishing a New Asylum Unit and Service of First Reception, in order to harmonize its legislation with Directive 2008/115/EC on Common Standards and Procedures in Member States for Returning Illegally Staying Third Country Nationals
- This Law removed the asylum procedure from the ambit of the police and assigned it to a new, independent authority, called the Asylum Unit, under the Ministry for the Protection of Citizens. This unit became responsible for the application and implementation of asylum procedures and other forms of international protection for foreigners and stateless persons. The Law also created a service to examine appeals against rejections of asylum applications by the Asylum Unit.

Case Sharifi and Others v. Italy and Greece (2014):

- The case concerned 32 Afghan nationals, two Sudanese nationals and one Eritrean national, who alleged, in particular that they had entered Italy illegally from Greece and been returned to that country immediately, with the fear of subsequent deportation to their respective countries of origin, where they faced the risk of death, torture or inhuman or degrading treatment.

Sharifi and Others v. Italy and Greece (continued)

- The ECtHR held, by a majority, concerning four of the applicants, who had maintained regular contact with their lawyer that there had been:
- a violation by Greece of Article 13 (right to an effective remedy) combined with Article 3 (prohibition of inhuman or regarding treatment) of the European Convention on Human Rights on account of the lack of access to the asylum procedure for the above-named applicants and the risk of deportation to Afghanistan, where they were likely to be subjected to ill-treatment;
- a violation by Italy of Article 4 of Protocol No. 4 (prohibition of collective expulsion of aliens); a violation by Italy of Article 3, as the Italian authorities, by returning these applicants to Greece, had exposed them to the risks arising from the shortcomings in that country's asylum procedure; and, a violation by Italy of Article 13 combined with Article 3 of the Convention and Article 4 of Protocol No. 4 on account of the lack of access to the asylum procedure or to any other remedy in the port of Ancona.

Sharifi and Others v. Italy and Greece (continued)

- The ECtHR reiterated that the Dublin system – which serves to determine which European Union Member State is responsible for examining an asylum application lodged in one of the Member States by a third-country national – must be applied in a manner compatible with the Convention: no form of collective and indiscriminate returns could be justified by reference to that system, and it was for the State carrying out the return to ensure that the destination country offered sufficient guarantees in the application of its asylum policy to prevent the person concerned being removed to his country of origin without an assessment of the risks faced.

APPENDIX II

- **Leading cases of the Court of Justice of the European Union (CJEU)**

Leading cases of the Court of the European Union (CJEU)

- **NS case (C-411/10)**

  This case concerned an Afghan national who came to the UK after travelling via Greece. He was arrested in Greece in 2008 but did not make an asylum claim there. He was released from detention in Greece and ordered to leave the country and later was arrested by the police and expelled to Turkey where he was detained for 2 months in appalling conditions. He escaped detention in Turkey and came to the UK where he claimed asylum. He was subsequently placed in a Dublin II procedure and the UK issued a transfer decision with respect to Greece. The applicant requested the Secretary of State to accept responsibility for examining his asylum claim on the ground that there was a risk that his fundamental rights under EU law, the ECHR and/or Geneva Convention would be breached if he returned to Greece. This was refused and judicial review was sought whereby the Court of appeal then requested a preliminary reference to the CJEU.

NS case (continued)

- CJEU: Article 4 of the Charter of Fundamental Rights of the European Union must be interpreted as meaning that the Member States, including the national courts, may not transfer an asylum seeker to the 'Member State responsible' within the meaning of Regulation No 343/2003 where they cannot be unaware that systemic deficiencies in the asylum procedure and in the reception conditions of asylum seekers in that Member State amount to substantial grounds for believing that the asylum seeker would face a real risk of being subjected to inhuman or degrading treatment within the meaning of that provision.

NS case (continued)

- The Dublin III Recast Regulation 604/2013 has incorporated the NS case wording into recast Article 3(2) whereby *"Where it is impossible to transfer an application to the Member State primarily designated as responsible because there are substantial grounds for believing that there are systemic flaws in the asylum procedure and in the reception conditions for applicants in that Member State, resulting in a risk of inhuman or degrading treatment within the meaning of Article 4 of the Charter, the determining Member State shall continue to examine the criteria set out in Chapter III in order to establish whether another Member State can be designated as responsible".*

Sexual Orientation Cases

- That a particular social group, which is entitled to international protection, may be a group whose members have a common characteristic, such as sexual orientation, has been clarified by the CJEU already in its judgment in Joined Cases X, Y and Z (C-199-201/12) . In its judgment in Joined Cases A, B and C (C-148-150/13), the CJEU clarified the conditions under which national authorities can assess the reliability of asylum seekers as regards their sexual orientation. Concerning the possibility for the national authorities to accept as admissible evidence of homosexuality, the submission of the applicants to "tests" in order to prove their homosexuality, or even the voluntary production of evidence such as video footage of their sexual intercourse, the CJEU emphasized that the evidence in question is not necessarily probative, and may further undermine human dignity, the respect of which is enshrined in the Charter of Fundamental Rights of the EU.

Case F v Hungary

- In case F v Hungary, C-473/16, judgment of 25.01.2018, the CJEU has ruled that sexual orientation tests can't be used to rule on asylum applications. Hungarian officials sought to examine a Nigerian man's application on the grounds that he is gay. His claim was that, as a homosexual man, he faced prosecution back home in Nigeria, where homosexuality is illegal and where the maximum penalty in some northern states is death by stoning.
- Hungarian authorities rejected the application based on psychological tests that required the man to draw a picture of a person in the rain and describe his perceptions of inkblots.

Case F v Hungary (continued)

- The CJEU ruled that, though it is acceptable for authorities to seek expert opinions, these should be obtained in a way that is consistent with human rights standards and that "the performance of such a test amounts to a disproportionate interference in the private life of the asylum-seeker.“ Such interference is "particularly serious because it is intended to give an insight into the most intimate aspects of the asylum-seeker's life." The reliability of such assessments was, in any case, disputed. The court said authorities and courts could not "base their decision solely on the conclusions of an expert’s report and must not be bound by them."

APPENDIX III

- **Selected International and EU Law Provisions**

The 1951 Geneva Convention on Refugees

- Article 1 of the Convention, as amended by the 1967 Protocol, defines a refugee as:
- *"A person who owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it."*

The principle of non-refoulement

- A refugee's right to be protected against forcible return, or refoulement, is set out in the 1951 Convention relating to the Status of Refugees:
- "No Contracting State shall expel or return ('refouler') a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion» [Article 33(1)].

The principle of non-refoulement (continued)

- It is widely accepted that the prohibition of forcible return is part of customary international law. This means that even States that are not party to the 1951 Refugee Convention must respect the principle of non-refoulement. Therefore, States are obligated under the Convention and under customary international law to respect the principle of non-refoulement. If and when this principle is threatened, UNHRC can respond by intervening with relevant authorities, and if it deems necessary, will inform the public.

THE EU AND SHENGEN

- The Schengen Agreement was signed on 14 June 1985 by five of the then ten EU member states
- In 1990 the Agreement was supplemented by the Schengen Convention, which proposed the abolition of internal border controls and a common visa policy. As more EU member states signed the Schengen Convention, agreement was reached on absorbing it into the procedures of the EU. The Agreement and its related conventions were incorporated into the mainstream of European Union law by the Amsterdam Treaty in 1997. UK could not accept abolishing border controls, and was given a full opt-out from the area.

Border Controls

- As a result of the on-going migration crisis and terrorist attacks in Paris, a number of countries have temporarily reintroduced controls on some or all of their borders with other Schengen states. As of 16 February 2016 Austria, Denmark, France, Germany, Norway, and Sweden have imposed controls on some or all of their borders with other Schengen states.
- The closing of the Balkan refugee route was announced in the Communiqué of the EU Summit of 25 October 2015. It was decided that "an uncontrolled flow policy without the prior information of the neighbouring country is not acceptable. This should be applied by all Member States of the route “. It was also decided that "a country can refuse third country nationals entering when they do not confirm their wish to request international protection“

The Right to Asylum on the EU Charter of Fundamental Rights

- Article 18: The right to asylum shall be guaranteed with due respect for the rules of the Geneva Convention of 28 July 1951 and the Protocol of 31 January 1967 relating to the status of refugees and in accordance with the Treaty on European Union and the Treaty on the Functioning of the European Union.
- Article 19: 1. Collective expulsions are prohibited. 2. No one may be removed, expelled or extradited to a State where there is a serious risk that he or she would be subjected to the death penalty, torture or other inhuman or degrading treatment or punishment

Asylum Procedures Directive (2013/32/EU)

- The Asylum Procedures Directive (APD) in Article 27 gives the possibility to Member States to apply the safe third country concept. The safe third country notion, as set out in the APD, is the concept that Member States may send applicants to third countries with which the applicant has a connection, such that it would be reasonable for him/her to go there, and in which the possibility exists to request refugee status and if s/he is found to be a refugee, it must be possible for him/her to receive protection in accordance with the 1951 Convention.

EU - Turkey Deal on Refugees (18-19 March 2016)

- All "new irregular migrants" crossing from Turkey the Aegean Sea to Greece will be sent back. That is, people arriving after this deal is sealed who do not apply for asylum or whose applications are deemed inadmissible. The EU will pay the transport costs. Migrants already in Greece will be transferred from the Greek islands to reception centers on the mainland. Due to legal concerns and fears of mass deportation, emphasis is placed on people being sent back on an individual basis.

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