



Council of the
European Union

Brussels, 7 October 2014
(OR. en)

14027/14

ASIM 87
COMIX 532

COVER NOTE

From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
date of receipt:	7 October 2014
To:	Mr Uwe CORSEPIUS, Secretary-General of the Council of the European Union

No. Cion doc.:	SWD(2014) 316 final
Subject:	COMMISSION STAFF WORKING DOCUMENT on the Assessment of the implementation of the Greek Action Plan on Asylum and Migration management

Delegations will find attached document SWD(2014) 316 final.

Encl.: SWD(2014) 316 final



Brussels, 6.10.2014
SWD(2014) 316 final

COMMISSION STAFF WORKING DOCUMENT

**on the Assessment of the implementation of the Greek Action Plan on Asylum and
Migration management**

Contents

I.	Introduction.....	3
II.	First Reception.....	5
1.	Main shortcomings identified	5
2.	Current situation/achievements	6
3.	Ongoing and incomplete implementation of agreed actions and shortcomings still to be tackled	6
III.	Asylum Procedure in Greece	7
1.	Main shortcomings identified	7
2.	Current situation/achievements	9
3.	Ongoing and incomplete implementation of agreed actions and shortcomings still to be tackled	10
IV.	Reception of applicants for international protection, including of vulnerable groups.....	11
1.	Main shortcomings identified	11
2.	Current situation/achievements	12
3.	Ongoing and incomplete implementation of agreed actions and shortcomings still to be tackled	13
V.	Return and detention of irregularly staying third-country nationals.....	13
1.	Main shortcomings identified	13
2.	Current situation/achievements	14
3.	Ongoing and incomplete implementation of agreed actions and shortcomings still to be tackled	15
VI.	Border management	17
1.	Main shortcomings identified	17
2.	Current situation/achievements	17
3.	Ongoing and incomplete implementation of agreed actions and shortcomings still to be tackled	19
VII.	Conclusion	19

I. INTRODUCTION

In the period 2008-2010, Greece was confronted with massive migratory pressure on its borders. In 2008 and 2009 the number of irregular border crossings was extremely high (88 226 cases in 2008 and 79 435 in 2009) affecting both land and sea borders. This further increased in 2010 to 89 003 cases¹. The pressure put on the Greek border by the number of arrivals revealed that the Greek border management system, as well as the reception and the asylum system, were not prepared to cope with the increased needs. Greece needed, as a matter of urgency, to show a strong commitment to put in place all the necessary measures to address the situation and at the same time there was an equally urgent call for EU solidarity.

A number of judgements of the European Court of Human Rights [ECtHR] had condemned Greece for failing to respect the fundamental rights of migrants, including applicants for international protection. These judgements underlined the existence of inhumane detention conditions, cases of applicants becoming homeless and destitute, as well as an impeded access to an effective remedy against detention decisions.

In this context and on the basis of numerous reports² from international organisations, NGOs, lawyers and individuals concerned, the Commission initiated infringement proceedings against Greece in 2009 and 2010 concerning the implementation of the EU asylum *acquis* in the area of access to and adequateness of the asylum procedure as well as reception conditions, including in respect of vulnerable applicants for international protection, such as unaccompanied minors.

In the January 2011 *M.S.S v. Belgium and Greece* case³ the ECtHR ruled that, owing to the low level of protection afforded to applicants for international protection in Greece, transfers to Greece from other Member States under the "Dublin Regulation"⁴ constituted an infringement of the Convention. Greece was therefore condemned for infringing Article 13 of the European Convention of Human Rights on the "Right to an effective remedy" in conjunction with Article 3 on the "Prohibition of torture". This judgement prompted the suspension of transfers of applicants for international protection to Greece in application of the Dublin Regulation by the vast majority of Member States. The suspension of Dublin transfers to Greece is still in force. The execution of this judgement by Greece is subject to continuous supervision by the Committee of Ministers of the Council of Europe⁵. In the December 2011 *N.S. v. UK* case of the Court of Justice [CJEU], the CJEU confirmed that the extent of the infringement of fundamental rights described in the *M.S.S.* case showed that, at

¹ Source: Frontex Risk Analysis Network.

² The reports include, inter alia, an opinion of the Greek Ombudsman, reports by Human Rights Watch, a follow up report by the Pro Asyl group, a report by Thomas Hammarberg, Council of Europe's Commissioner for Human Rights, a report by the Austrian Red Cross and Caritas Austria and submissions by the Greek Group of Lawyers for the Rights of Refugees and Migrants.

³ [http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-103050#{"itemid":\["001-103050"\]}](http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-103050#{).

⁴ Council Regulation (EC) No 343/2003 of 18 February 2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national. OJ L 50, 25.02.2003, p. 1. This was "recast" in 2013 as: Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (OJ L 180/31 29.6.2013). The Recast Dublin Regulation has applied since 1 January 2014.

⁵ http://www.coe.int/t/dghl/monitoring/execution/Source/Documents/Docs_exec/H-Exec%282014%294_M.S.S._en.pdf.

the time of the transfer of the applicant M.S.S., a systemic deficiency in the asylum procedure and in the reception conditions of asylum seekers existed in Greece⁶.

At the same time, Greece committed to reform its asylum and migration policies on the basis of a national (Greek) Action Plan presented in August 2010 and revised in January 2013. Additionally, all main recommendations from the 2010 Action Plan "Greece-Schengen" for the reform of the national border management policy were also included and followed up in the framework of the Action Plan on asylum and migration.

Throughout this process, the Commission has closely monitored the implementation by Greece of the measures envisaged in its Action Plans and provided financial and technical support.

The financial needs identified by Greece for the revised Action Plan's full implementation surpassed by far the financial means available in the area of asylum under the annual programmes of the European Refugee Fund (ERF) 2008-2013. The EU funding available in the area of asylum for Greece, in conjunction with a limited national budget intervention, was insufficient to address all the needs identified in the asylum procedure and reception area. In this context, the Commission significantly increased these amounts from EUR 22 M to EUR 56 M with the allocation of additional emergency funding. Other Funds, such as the External Borders Fund (EBF) and the Return Fund (RF), disposed of significantly increased resources. Nevertheless, since these resources were not used to the full potential by the Greek authorities in the period 2007-2010, urgent interventions in these areas were needed.

Therefore, the Commission, together with the Greek authorities and in close cooperation with the other Member States, initiated a prioritisation exercise on the implementation of the Action Plan in 2012, placing an emphasis, *inter alia*, on those actions aimed at addressing the main concerns forming the basis for the 2010 ECtHR condemning judgement, as well as in the Commission's infringement proceedings. Additionally, the Commission urged the Greek authorities to make use of the possible complementary assistance which could be made available under the EU Structural Funds, in particular with regard to the refurbishment of open reception facilities.

The Commission wished to ensure close cooperation between all of its Services involved in assisting Greece. In order to assist Greece adequately in the definition of the strategy and in the implementation of the actions in the policy areas indicated above, Directorate-General Home Affairs (DG HOME) established an internal Task Force with the aim of assisting Greece in the establishment of a protective and well-functioning asylum, migration, border-management and return system with a view to ensuring a smooth functioning of the Schengen area and the Common European Asylum System, including the Dublin system. In doing so, the DG HOME Task Force cooperates closely with other Commission services, including the Task Force for Greece.

Furthermore, the Commission has undertaken numerous monitoring missions to Greece, both at technical and political level. Since mid-2010 more than 20 such missions were carried out which included visits to open and closed centres for applicants for international protection and irregular migrants, as well as meetings with the Greek authorities on the implementation of the Action Plan and the policy dialogue on the new Home Affairs Funds (the Asylum,

6

<http://curia.europa.eu/juris/document/document.jsf?jsessionid=9ea7d0f130deacfa54b477874d31bad68c3b47d33363.e34KaxiLc3eQc40LaxqMbN4Ob30Me0?text=&docid=117187&pageIndex=0&doclang=en&mode=lst&dir=&occ=first&part=1&cid=498465>. (see points 86 and 89 in particular)

Migration and Integration Fund - AMIF and the Internal Security Fund - ISF) and with relevant stakeholders, such as the UNHCR, IOM and NGOs.

Within its role of monitoring and supporting the actions undertaken by Greece to reform its asylum and migration system, the Commission also closely liaised with EASO and FRONTEX in the context of continuous and comprehensive operational support measures provided by these Agencies to Greece.^{7, 8}

Finally, the Commission has worked very closely with all interested Member States⁹ and Norway, as a representative of the European Economic Area, through regular *ad hoc* meetings of the so-called “Friends of Greece” Group, chaired by the Commission. This Group is a forum for the exchange of information on the state of implementation of the Action Plan, *inter alia* allowing interested Member States to propose practical cooperation measures. In addition, the participation of EASO, Frontex, UNHCR and IOM aims to ensure the availability of up to date information on the situation on the ground.

Against this background, the objective of this document is to provide a factual assessment of the developments in Greece since 2010 in the areas of asylum, migration, border management and return and present the pending implementation of agreed actions and shortcomings still to be tackled. This document does not provide any new recommendations – rather, it focuses on the follow up to the agreed actions from the revised Greek Action Plan.

This document presents the situation in Greece as it stands in the end of September 2014.

II. FIRST RECEPTION

1. Main shortcomings identified

Schengen evaluation missions in 2010 highlighted the inadequacy of the first reception capacity for migrants intercepted at Greece's borders with non-EU countries. The procedure in temporary detention facilities, such as police stations, was not suitable for properly handling asylum cases. The existing detention centres did not allow for the implementation of an effective screening and first reception procedure of mixed flows, including of vulnerable persons such as, in particular, unaccompanied minors. Detention facilities often did not meet relevant international and EU standards. In particular, the facilities were often overcrowded; separation for gender and families did not exist; and the sanitary and humanitarian situation was often sub-standard. In addition, there was no mechanism in place for the identification, within the mixed flows, of those third country nationals who may have wished to apply for international protection and who should have therefore been adequately informed of their rights.

⁷ On 28 July 2014 EASO published a separate report on its supportive actions to Greece in the framework of the implementation of the Operating Plans which were drawn in accordance with article 10 of Regulation (EU) No 439/2010 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 19 May 2010 establishing a European Asylum Support Office (<http://easo.europa.eu/wp-content/uploads/Interim-assessment-on-the-implementation-of-the-EASO-Operating-Plan-for-Greece.pdf>).

⁸ Poseidon land and sea Joint Operation, Rapid Intervention Border Teams (RABITs) coordinated by Frontex and EASO Operating Plan Phase I and II.

⁹ Meetings with relevant stakeholders were held by the Commission since September 2010. Since June 2012 seven meetings of the “Friends of Greece” Group have taken place. The following interested Member States participate regularly to such meetings: Austria, Belgium, Bulgaria, Czech Republic, Cyprus, Denmark, Finland, France, Germany, Hungary, Ireland, Italy, Lithuania, the Netherlands, Poland, Romania, Sweden and the United Kingdom.

2. Current situation/achievements

In 2011 the **First Reception Service** (FRS) was established¹⁰ as an autonomous body, reporting to the Minister of Public Order and Citizen Protection. Its mandate is the first reception of third-country nationals intercepted following illegal entry in Greece. First reception, as well as ensuring the immediate vital needs of the third-country nationals, includes certain procedures, such as identification, registration, medical screening and socio-psychological support, provision of information on rights and obligations and the referral of vulnerable persons such as unaccompanied minors and victims of torture. The FRS supervises the establishment and operation of First Reception Centres (FRCs) and of First Reception Mobile Units operating at the borders, which are both responsible for carrying out the above mentioned tasks.

The establishment of both the FRC and the First Reception Mobile Units was supported financially by the EBF. The total EU funding of such infrastructural projects amounted approximately to EUR 9 M. Further financial support was also provided through EBF emergency measures in order to provide some additional targeted assistance to the actual reception/identification/screening procedures of irregular migrants by the FRC and the Mobile Units.

Achievements in the area of first reception

- Establishment and operation of the First Reception Service (FRS).
- Establishment and operation of the First Reception Centre (FRC) in the area of Fylakio Evros (240 places). Establishment of the First Reception Centre in Lesbos (220 places) which is still not operational.
- Establishment and operation of two First Reception Mobile Units on the islands of Chios and Samos since 1 July 2013 and at Lesbos since 1 October 2013.
- Training of personnel by Frontex and EASO.
- Establishment and operation of three Screening Centres on the islands of Lesbos, Chios and Samos.
- In the centres already operational: identification, registration, medical screening and socio-psychological support, provision of information on rights and obligations to irregular migrants and persons in possible need of international protection; referral of vulnerable persons such as unaccompanied minors and victims of torture to open accommodation (if available); provision of interpretation either by physical presence of the interpreter or by teleconference.

3. Ongoing and incomplete implementation of agreed actions and shortcomings still to be tackled

Despite the progress noted in the area of first reception, the capacity is still limited: at present (September 2014) only one FRC has been established (Fylakio Evros), complemented by two First Reception Mobile Units. Therefore, the first reception capacity continues to be in need of significant further financial and human resource investment in order for Greece to dispose of an effective and sustainable first reception system to achieve the objectives of the Action Plan.

¹⁰ Law 3907/2011.

Ongoing and incomplete issues in the area of first reception

- Consolidation and sustainability of all achievements reached so far in the first reception area (see Chapter II.2).
- Completion of the recruitment procedure for the FRS. There are still eighty posts of civil personnel vacant.
- Establishment and operation of additional FRCs in areas with the highest level of arrivals of irregular migrants, in order to ensure that screening mechanisms exist at the main points of entry to identify persons in possible need of international protection and those with specific procedural needs.
- Establishment and operation of additional First Reception Mobile Units¹¹ in areas where Screening Centres are managed by the Hellenic Police or in areas where first reception capacity is extremely limited (e.g. in the area of Dodecanese). This will ensure that screening mechanisms exist at the main points of entry to identify persons in possible need of international protection and those with specific procedural needs.
- Guarantee that unaccompanied minors are immediately referred to special accommodation centres and assisted by specialized personnel.

III. ASYLUM PROCEDURE IN GREECE

1. Main shortcomings identified

As already pointed out¹², in 2010, numerous reports¹³ from international organisations, NGOs, lawyers and individuals concerned raised serious allegations of non-compliance by the Greek authorities with key requirements of the EU asylum *acquis*. In particular, the following systemic deficiencies in the Greek asylum procedure, which have also been acknowledged by the Greek authorities, were reported:

Ineffective/lack of access to the asylum procedure. Access to the asylum procedure for third country nationals entering the country irregularly and expressing the wish to apply for international protection, or for those already present on the Greek territory, was in practice impeded or made very difficult by a lack of adequate institutional and procedural arrangements within the Hellenic Police, who were the authority responsible for carrying out the registration/lodging of applications and their examination. In particular, third country nationals that entered the country irregularly and expressed the wish to apply for international protection were either not informed about the procedural steps required in view of formalizing an asylum request (i.e. the place where they should go to formally lodge their applications) or, if informed, were unable to lodge an application due to, *inter alia*, institutional shortages and lack of adequate legal support.

In this respect, third country nationals could in practice lodge their applications for international protection only in one Asylum Department of the Hellenic Police in the Athens

¹¹ Greece is planning to establish one additional First Reception Mobile Units.

¹² See Chapter I.

¹³ These include, *inter alia*, an opinion of the Greek Ombudsman, reports by Human Rights Watch, a follow up report by the Pro Asyl group, a report by Thomas Hammarberg, Council of Europe's Commissioner for Human Rights, a report by the Austrian Red Cross and Caritas Austria and submissions by the Greek Group of Lawyers for the Rights of Refugees and Migrants.

(Petrou Ralli), where access was often impeded due to, *inter alia*, a lack of personnel, including of interpreters as well as limited opening hours¹⁴.

As a result, the number of applicants who were able to lodge their applications for international protection with the competent authorities remained, in general, very low¹⁵.

Inadequate examination at first instance as well as non-respect for applicants' rights to information and counselling. The examination of applications at first instance was inadequate, this being mainly due to the lack of appropriate knowledge or necessary training in the area of asylum, including on the carrying out of the personal interviews, of the authorities competent to examine the applications for international protection (Hellenic Police/Ministry of Public Order and Citizen Protection personnel). Therefore, decisions at first instance did not contain the required justification enabling applicants for international protection to understand the reasons of the rejection of their applications and to exercise their rights to make an appeal: they were often written in a short standardised format and failed to assess the relevant elements of an individual asylum claim or present any detailed legal reasoning. In addition to that, the recognition rate at first instance did not exceed 0.3% of the examined cases¹⁶.

Applicants for international protection did not generally receive adequate information on their rights and obligations during the procedure. Interpretation and counselling services on matters relating to their application were lacking or were ineffective. In addition, there was no procedure in place for identifying vulnerable applicants such as unaccompanied minors who require specific assistance during the asylum procedure.

Lack of an effective remedy. The asylum procedure in place in 2009 was characterised by the lack of an effective remedy against the negative first instance decisions taken by the determining authority (Hellenic Police/Ministry of Public Order and Citizen Protection). In particular, according to the Greek asylum legislation of 2009, the applicant could only submit an application for annulment against the first instance decision before the Council of State. Therefore, there was no court in place competent to examine negative decisions of the determining authority both in fact and in law. In addition, free legal assistance was in practice not guaranteed to applicants for international protection, in view of exercising their right to an effective remedy. Finally, the duration of the appeal procedure was very lengthy (more than 7 years) leading to a situation of 46 000 pending cases at second instance in 2010.

Inadequate treatment of unaccompanied minors. The structural shortcomings in the Greek asylum system described above also affected unaccompanied minors. They were routinely detained in the centres located on the islands, where they were not able to lodge their applications. Consequently, in the great majority of cases, unaccompanied minors in practice

¹⁴ See p. 86 of Human Rights Watch's "Stuck in a Revolving Door. Iraqis and Other Asylum seekers and Migrants at the Greece/Turkey Entrance to the European Union", which reports that "only 6% of asylum seekers in 2007 lodged their claims anywhere other than" at Petrou Ralli. According to UNHCR, the Department received up to 95% of the asylum applications made in Greece in 2006 and 2007. It was also reported that access in Petrou Ralli was possible only on Saturdays, and then for only a limited period of time, in order to schedule a further appointment for revisiting the directorate in order to lodge an asylum application.

¹⁵ For instance, in July 2009, Human Rights Watch reported that "on July 17 [2009], we observed more than 1000 migrants standing in line throughout the night, trying, largely in vain, to file asylum applications at the Petrou Ralli police station. Generally, the authorities at Petrou Ralli choose 300 asylum applicants per week and turn the rest away". See report *Stuck in a Revolving Door. Iraqis and Other Asylum seekers and Migrants at the Greece/Turkey Entrance to the European Union*.

¹⁶ In 2009 the EU27 recognition rate at first instance reached 27%, in Greece it reached 0.1%. In 2010 the EU27 recognition rate at first instance reached 25%, in Greece it reached 0.3%. In 2011 the EU27 recognition rate at first instance reached 25%, in Greece it reached 0.2%. In 2012 the EU27 recognition rate at first instance reached 31%, in Greece it reached 0.1%.

were in principle able to apply for asylum only once they were released. In addition, serious deficiencies in the guardianship system created obstacles impeding unaccompanied minors from having an effective access to international protection, including defending their rights during the procedure.

2. Current situation/achievements

In the area of the asylum procedure, significant progress was reached by the Greek authorities in the implementation of the National Action Plan. In particular, in 2011, the **Asylum Service** and the **Appeals Authority** were established¹⁷, both as autonomous bodies, reporting to the Minister of Public Order and Citizen Protection, whose objective was and continues to be the establishment of a new and effective asylum system at both first instance and the appeal stages.

The Commission supported Greek efforts for the establishment and initial operation of these services under the ERF Community Actions with a Grant of EUR 2.1 M. In addition, *ad hoc* financial assistance was granted to Greece as of 2010 under ERF emergency measures aimed at, *inter alia*, helping Greece to cope with the additional needs of its asylum system arising during the transitional phase from the old to the new (reformed) system. In addition, in 2013, EUR 3.5 M were granted to UNHCR under the ERF Community Actions in support of the Greek efforts for the clearance of the backlog.

Achievements in the area of the asylum procedure

- Access to the asylum procedure

- Establishment and operation of the Asylum Service, replacing the Hellenic Police for the registration and examination at first instance of applications lodged after 7 June 2013.
- Establishment and operation of five Regional Asylum Offices in the Attica region (Athens), Northern Evros, Southern Evros (Alexandroupoli), Lesbos (covering the islands of Lesbos, Chios and Limnos) and Rhodes.
- Establishment and operation of four Asylum Mobile Units which were set up in the pre-removal centre in Amygdaleza, in Patras (to register applicants in pre-removal proceedings in Western Greece), in Thessaloniki (to process asylum applications for persons in pre-removal proceedings in Northern Greece) and in the pre-removal centre in Komotini (under the office of Southern Evros).
- Provision of information on the asylum procedure and the rights of the applicants, interpretation and counselling services to applicants for international protection, including in view of facilitating access to the asylum procedure.
- The registration rate of applications of international protection has increased.¹⁸

- Training of the authorities responsible to examine applications for international protection

- Training of the competent personnel by EASO and UNHCR. Development and use of

¹⁷ Law 3907/2011.

¹⁸ In 2013, 8 225 and in eight months of 2014 6 245 applications for international protection were registered. Source: Greek Asylum Service.

clear guidelines and instructions on the asylum procedure.

- Training of the competent appeal committees by EASO and UNHCR.

- Examination of applications for international protection at first instance

- Establishment and use of a national database on Country of Origin Information with the cooperation of EASO and UNHCR.
- Development of relevant IT tools within the Asylum Service to ensure the generation of credible statistical data and the assessment of the quality of the procedure.
- Increase in the recognition rate at first instance¹⁹.

- Treatment of vulnerable persons

- Establishment of a screening procedure aimed at identifying vulnerable applicants, such as unaccompanied minors, to support them during the procedure.

- Effective remedy

- Establishment and operation since June 2013 of an Appeals Authority. In the end of September 2014 10 Appeals Committees currently operate within the Appeals Authority, competent for examining both in fact and in law the appeals submitted against the negative first instance decisions of the Asylum Service.
- Establishment since June 2013 of 20 Appeals Committees, competent for examining both in fact and in law the appeals submitted against the negative first instance decisions of Hellenic Police/Secretary General of the Ministry of Public Order and Citizen Protection. An amendment of their Procedural Regulation was signed in September 2014.

- Unaccompanied minors

- Establishment of a dedicated Task Force on unaccompanied minors consisting of representatives of the co-responsible authorities (Ministry of Justice, Hellenic Police, First Reception Service, Asylum Service, Ministry of Labour), in order to develop a national strategy on unaccompanied minors.

3. Ongoing and incomplete implementation of agreed actions and shortcomings still to be tackled

Despite the improvements mentioned above, several actions still remain to be implemented according to the Greek Action Plan to ensure an effective and protective asylum procedure, in line with the EU asylum *acquis*. In addition, all necessary actions for guaranteeing the sustainability of the achievements reached so far need to be implemented.

Ongoing and incomplete issues in the area of the asylum procedure

- Clearance without further delay of the 'backlog' of pending applications for international protection submitted to the Hellenic Police under the previous legal

¹⁹ In the first nine months of 2014 reached 25% at first instance. For Syrian applicants the recognition rate reached 99.5% and a fast track procedure is followed (after a nationality assessment, the status is granted within one day). Asylum claims by Eritreans, Somalis, Afghanis and Ethiopians are recognized at rates above 61%. The average duration of the asylum procedure at first instance is 70 days (from registration to decision). Source: Greek Asylum Service.

regime (both in first instance and at the appeal stage).²⁰

- Consolidation and sustainability of all past (see Chapter III.2) and future achievements reached so far in the asylum procedure area.
- Guarantee that all required personnel²¹ and infrastructure are in place for ensuring an effective access to the asylum procedure, an adequate first instance procedure and full respect for applicants' rights, as well as respect for the right to an effective remedy.
- Establishment and operation of the remaining eight out of the total thirteen Regional Asylum Offices agreed upon in the revised Action Plan.
- Guarantee and secure effective cooperation and coordination between all relevant national institutions involved in the asylum procedure.
- Guarantee as appropriate the right to effectively access free legal assistance both in law and in practice, including by making available adequate interpretation services.
- Development of a comprehensive national strategy ensuring full protection of unaccompanied minors, including an effective guardianship system.

IV. RECEPTION OF APPLICANTS FOR INTERNATIONAL PROTECTION, INCLUDING OF VULNERABLE GROUPS

1. Main shortcomings identified

Systemic shortcomings in the reception of applicants for international protection in Greece have been extensively documented²². In particular, the following key deficiencies were reported:

Reception of applicants for international protection. Applicants for international protection were, in general, not provided with any kind of housing or other financial/material assistance from the Greek State such as food, clothing or access to health care. The accommodation capacity of the reception centres was insufficient to accommodate more than a small proportion of the applicants for international protection in Greece.²³ Migrants – including applicants for international protection – were therefore living in circumstances of acute destitution, especially in the big cities (i.e. in Athens and Patras), where they were often homeless. In addition, the referral system in place whose objective was to ensure that appropriate accommodation is provided to applicants for international protection in need of accommodation was in practice ineffective. Due to the lack of available and/or adequate open reception facilities, applicants of international protection remained often in detention facilities.

²⁰ A number of 52 000 pending cases at second instance were reported in December 2012, reported as having been reduced to 26 000 cases by the end of 2013. In March 2014, the number of the “backlog” cases reported as having increased up again to approximately 42 000 cases. In July 2014, Greece presented a concept paper with legislative and administrative measures intended to be taken in view of clearing the backlog of the pending asylum cases by the end of 2017. On 30 September 2014, a number of 20 and 37 306 cases were reported as pending cases at first and second instance respectively.

²¹ There are still seventy two posts of civil personnel vacant.

²² Reports issued by Human Rights Watch, the Dutch Refugee Council in collaboration with other NGOs, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment and UNHCR.

²³ According to the revised Action Plan, in 2010 662 places were available in Greece for adult asylum seekers and 338 for unaccompanied minors.

Detention conditions of applicants for international protection. Detention facilities²⁴ where applicants for international protection were held were severely overcrowded and the living conditions prevailing in general were inhumane. Most of these facilities were inadequate to hold migrants and applicants for international protection for a long period of time, including of vulnerable persons such as, in particular, unaccompanied minors. The existing problems concerned access to basic sanitation facilities, food, clothing, health care, open-air spaces and recreational activities and contact with the outside world.

Reception of vulnerable groups, including of unaccompanied minors. The specific situation of vulnerable persons, such as unaccompanied minors, was not taken into account by the Greek authorities, given that in the first place there was no procedure for identifying them. The lack of available places in adequate open reception centres as well as structural flaws in the functioning of the guardianship system mentioned in Section III.1, had a particular impact on the provision of material reception conditions and housing to unaccompanied minors, in view of their specific vulnerability.

2. Current situation/achievements

Some progress has been made on the issue of material reception conditions for applicants for international protection in Greece, with a slight increase in the number of open reception places from 1 000 in 2010 to 1 160 in mid-September 2014.

In addition, a political agreement was reached between the Commission and Greece in December 2013 on the issue of increasing the open reception capacity. Greece committed to provide for a minimum of 2 500 places in open accommodation for applicants of international protection to be available by the end of 2014. These places are aimed at covering the overall needs for 7 500 to 15 000 applicants on a yearly basis. A review of the adequacy of this capacity will be carried out on an annual basis, starting at the beginning of 2015. The required minimum open accommodation capacity will be adapted according to this review. Where respective statistical evidence results in the need for adjusting open accommodation capacity, Greece has committed to ensure that a strategic planning is in place.

Achievements in the area of reception of applicants for international protection, including of vulnerable groups

- Limited increase in the number of open reception places for applicants for international protection and vulnerable persons. Out of 1 160 places²⁵, 536 places are currently co-funded by ERF 2008-2013, 352 places are currently funded by the State Budget, and 272 places are currently funded by the European Economic Area grants.
- Improvement of the referral system to open accommodation for applicants for international protection and vulnerable persons by the appointment of the National Centre for Social Solidarity as the Referral Authority and the cooperation between the competent authorities (Police, First Reception Service, Asylum Service).
- Identification of seven new structures (three in Attica and one each in Serres, Dikaia, Sparti and Sidirokastro) in the framework of the implementation of the agreement reached with the Commission in December 2013.

²⁴ Soufli (Alexandroupoli), Feres (Alexandroupoli), Tycherio (Alexandroupoli), Filakio Kyprinou (Orestiada), Venna (Rhodopi), Samos, Pagani Lesvos, Mersinidi (Chios), Thessaloniki, Eleftherios Venizelos (Athens airport) and Petrou Ralli (Athens).

²⁵ On September 2014 only 1 139 places were operational according to information received.

3. Ongoing and incomplete implementation of agreed actions and shortcomings still to be tackled

The improvements mentioned above remain limited and much more need to be undertaken by the Greek authorities in view of ensuring that all applicants receive reception conditions in line with the requirements of the EU asylum *acquis*. In particular, open reception capacity needs to be expanded and adapted to the specific situation of applicants and take into consideration their particular vulnerability, as foreseen in the Action Plan.

In addition, in line with the commitments set out in the revised Greek Action Plan, common standard operation procedures which were required in order to ensure an efficient operational management of the open accommodation facilities, have not, to date, been adopted in all relevant Ministries. Although UNHCR has already developed such standards as part of the measures implementing the transitional phase of the asylum system in Greece (co-financed under the ERF emergency mechanism), their adoption in the Greek law is still pending. A monitoring mechanism for the sustainable and undisrupted operation of the facilities and provision of services is still not in place. Concerns also remain with regard to the financial and operational sustainability of all open accommodation projects in the mid and long term.

Ongoing and incomplete issues in the area of reception of applicants for international protection, including of vulnerable groups

- Setting up a minimum of 2 500 places in open accommodation for applicants of international protection by the end of 2014 and conducting an annual review of the situation, in line with the agreement reached with the Commission.
- Establishment of Common Standard Operating Procedures in all relevant Ministries and of a monitoring mechanism for the sustainable and undisrupted operation of the facilities and provision of services (i.e. legal aid, psychosocial services and access to the necessary health care and treatment).
- Sustainability of the system of provision of material reception conditions and, in particular, of the operation of open reception facilities through an effective use of funding (from EU and national budget). This will require the Greek authorities to ensure the timely planning, availability and disbursement of EU and national funding needed for the undisrupted operation of the required minimum open reception capacity, taking into account that disruptions due to lack of such planning do not constitute an emergency situation justifying EU top-up funding.

V. RETURN AND DETENTION OF IRREGULARLY STAYING THIRD-COUNTRY NATIONALS

1. Main shortcomings identified

Back in 2010, the following shortcomings were identified:

The low performance in returning irregular migrants. In 2009, Greece issued 42% of the EU's return decisions, but it only managed to carry out 8% of those return decisions. There was no programme to promote and support voluntary return and reintegration. Greece experienced difficulties in cooperating with third-countries for the readmission of their nationals (especially with Afghanistan, Pakistan and Bangladesh).

Inadequate facilities to detain irregular migrants and poor quality of the assistance provided in detention. As outlined in Chapter I, many reports from international organisations and NGOs, as well as ECtHR judgments, had regularly pointed out that Greece detains irregular migrants in inadequate facilities or in police stations for the full length of their detention period and highlighted the inhumane detention conditions of irregular migrants in Greece, due to the absence of medical, psychological and legal assistance.

2. Current situation/achievements

The revised Greek Action Plan adopted in 2013 provides for a list of specific actions to remedy this situation focusing on three aspects: the management of the return process, the improvement of the detention conditions and the provision of services in the pre-removal centres.

The Action Plan foresaw actions to increase capacity to carry-out forced and voluntary return and actions to improve the cooperation with third countries. As a result, the number of effective returns has significantly increased from 20 342 to 26 186 between 2009 and 2013. While in 2008, Greece effectively returned only 30 Afghanis, 10 Bangladeshis and 80 Pakistanis, in 2013 it respectively returned 735, 1 365 and 4 835 migrants from these third-countries²⁶.

The original objective of the Ministry of Public Order and Citizen Protection was to establish pre-removal facilities of a total capacity of 10 000 places by the first semester of 2014. There were discussions between the Commission and Greece on the needs for pre-removal centres, for funding and on Greece's financial capacity to ensure sustainable management of its detention facilities. Following these discussions the projects to build pre-removal centres in ex-military camps located in Ritsona (800 places), Karoti (600 places) and in West Macedonia (2 000 places) were, abandoned and an agreement was reached that a capacity of 7 000 – 7 500 places in pre-removal centres is sufficient.

All these structures are, however, not yet available because the construction of the centre in Lesbos is not yet completed and renovation work is on-going in several other centres, in order to improve the detention conditions. The new detention centres established in Police Academy premises and ex-military camps needed renovation works. With the support of the RF, the Greek authorities carried out refurbishment and maintenance works, as provided under the revised Action Plan. However, this process is ongoing.

The revised Action Plan, finally, foresaw the recruitment of interpreters and translators in order to improve the provision of information and of social workers and psychologists to provide psychosocial support. Actions to provide healthcare and free legal assistance to migrants placed in detention were also planned.

To implement these actions, Greece received significant financial support from the EU. Over the period 2008-2013, Greece was the biggest beneficiary of the Return Fund receiving around EUR 125 M plus almost EUR 5 M in emergency funding. 50% of this allocation was earmarked for the implementation of actual returns (in earlier annual programmes focussing mostly on forced returns, but in later years becoming nearly equally allocated to both voluntary and forced returns) and approximately 32 % for costs related to detention facility in order to improve their conditions. The remaining 18% of the Return Fund allocations was

²⁶Source: EUROSTAT

used to co-finance different support and capacity building measures deemed essential to boost the Greek return capacity.

Achievements in the area of return and detention of irregular migrants

- Improving the performance in returning irregular migrants

- Greece has significantly improved its performance in returning irregular migrants.²⁷ Greece has developed in cooperation with IOM, a voluntary return program to encourage return and support the reintegration of the migrants. In parallel, the Hellenic Police also developed its own voluntary return programme.²⁸

- Inadequate facilities to detain irregular migrants

- Greece has increased the capacity of the Amygdaleza pre-removal centre from 210 places in September 2012 to 2 000 places and has also established five new pre-removal centres in Corinth (1 536 places), Xanthi (480 places), Komotini (600 places), Paranesti (997 places), Lesvos (600 places)²⁹. Taking into account the detention centre of Fylakio (374 places) and Attica Aliens Directorate³⁰ (340), the total capacity in the pre-removal centres will be up to 6 927 places.

- Improving detention conditions and the quality of the assistance provided in detention

- The old detention centres of Pagani in Lesvos, Palio Elliniko, Aspropyrgos, Tycheron, Piraeus and Venna, which were all not suitable for holding migrants, were closed down.
- The detention conditions in the old detention centre of Attica Aliens Directorate have been improved in order to reach the minimum standards. The common and sanitary facilities were refurbished. Recreational opportunities were provided to the detainees.
- Under the RF, a total amount of EUR 20 M was earmarked for the establishment /refurbishment of the pre-removal facilities in Korinthos, Amygdaleza, Xanthi, Komotini, Paranesti and Lesvos. The renovation work is on-going in all these centres.
- The material detention conditions in the pre-removal centres have been improved. An approximate amount of EUR 20 M, under the RF, allows for co-financing selected categories of running costs.
- Psychological and social support, as well as medical assistance necessary was introduced in the detention facilities.

3. Ongoing and incomplete implementation of agreed actions and shortcomings still to be tackled

²⁷ Over the period 2009-2013, the number of returns has increased from 20 342 to 26 186 while the number of migrants ordered to return has decreased from 77 000 to 42 800. Overall, out of the total number of migrants returned from the EU, the percentage of those effectively returned from Greece has constantly increased from 8% in 2009 to 26.2 % in 2013.

²⁸ In 2013, the ratio between voluntary and forced returns was about 40% voluntary returns and 60% forced returns in Greece. This corresponds to the average in the EU according to FRONTEX 2014 risk analysis data.

²⁹ Greece has requested to transform this Centre into an open accommodation facility for asylum seekers. The request is currently under examination by the Commission.

³⁰ Located in Petrou Ralli.

Despite the fact that Greece has increased its number of returns, there is still a gap between the number of decisions issued and the number of decisions effectively implemented. There is a need to support the voluntary return of a higher number of migrants.

This is also due to the fact that, as in many other Member States, Greece still experiences difficulties to return migrants back to Pakistan, Afghanistan and Bangladesh. Even if Greece has significantly increased the number of returns to these third-countries, they still represent by far the main nationalities of irregular migrants to be returned. The main challenge is the lack of cooperation of the authorities to readmit their nationals who do not accept to return voluntarily. Efforts aiming to improve the cooperation with the Pakistani authorities under the EU-Pakistan readmission agreement have been undertaken and more are being planned or prepared. Greece should benefit from these efforts, although their efficiency remains uncertain. In accordance with the Action Plan, at the operational level, Greece has committed to continue its cooperation with the consular authorities of these third countries.

Shortcomings in the provision of services in detention centres were identified; in particular, the psychological and social support was often disrupted for several months because of the delay to renew the contracts of the interpreters, social workers and psychologists, as well as medical assistance was provided only in some detention facilities and on a non-systematic basis by non-governmental organisations.

For instance, the Memorandum of Understanding (MoU) between the Ministry of Public Order and Citizen Protection and the Ministry of Health was only signed in September 2013. The deployment of the medical personnel has only begun as of April 2014. This MoU covers only the assistance to the pre-removal centres while health assistance shall be provided in all detention centres.

In addition, the MoU between the Ministry of Public Order and Citizen Protection and the Athens Bar Association to provide free legal assistance to migrants was only signed on 3 April 2014 with nearly two years of delay. The grant agreement is not yet signed. As a result, free legal assistance is not yet offered on a regular basis to irregular migrants in all detention facilities, in order to challenge return decisions or detention orders.

More generally, Greece is legally obliged to ensure that the return and detention of irregular migrants is carried out in full compliance with the Return Directive and the Charter for Fundamental Rights.

Ongoing and incomplete issues in the area of return and detention of irregular migrants

- Consolidation and sustainability of all past (see Chapter V.2) and future achievements reached so far in the area of returns needs to be ensured, while ensuring full respect of the principle of non-refoulement.
- Allocation of the necessary resources, funding and personnel to increase the number of returns and improve the relation with concerned third-countries.
- Ensuring the completion of all the on-going actions to improve the detention conditions in the pre-removal centres.
- Detention of irregular migrants must only be applied as a last resort in full respect of the common standards provided by the Return Directive, and therefore not in police stations and sub-standard detention centres.
- Provision of services, such as medical assistance, free legal assistance and psychological support to be guaranteed in an undisrupted, systematic and well-coordinated manner throughout all detention facilities, including regular police

stations, as foreseen in the Action Plan.

- Alternatives to detention to be developed (for example open accommodation centres for irregular migrants under assisted voluntary return programmes).
- Improvement of the judicial review of return decision and detention orders (i.e. training for judges, improvement of access to legal assistance for persons in return proceedings).
- Ensuring the proper functioning of the forced-return monitoring system.

VI. BORDER MANAGEMENT

1. Main shortcomings identified

Greece was confronted with massive migratory pressure at its external borders between 2008 and 2010. The Greek-Turkish land border was the main point of entry of irregular migrants coming to Greece. In 2009 Greece accounted for 75% of all irregular entries along the Schengen external borders³¹, a percentage which increased even to 86% in 2010. The Schengen evaluation carried out in Greece in 2010 at land, sea and air borders highlighted extensive and systematic shortcomings in the area of border management. These shortcomings needed to be addressed, in order for Greece to carry out border control in full compliance with the Schengen *acquis*.

The evaluation report highlighted in particular that the personnel, infrastructure, equipment available and inter-agency cooperation were not sufficient to allow the border control authorities and the border guard units to carry out high-quality controls. Furthermore, the level of professionalism observed was largely inappropriate for the challenges faced by the authorities conducting such controls. Risk analysis at the regional or local level was almost non-existent. Finally, the need to improve further international cooperation with neighbouring countries, in particularly with Turkey, was also highlighted.

In the past, several reports³² contained allegations with regard to acts of the Greek authorities responsible for border control which could constitute a violation of fundamental rights and principles of the EU law. In particular, the reports referred to cases in which persons intercepted at the sea and the land external borders were allegedly seriously mistreated; summary forced return of migrants intercepted at the sea and at the external land border with Turkey; conduct of border surveillance in a way that apparently put the safety of persons seriously at risk³³.

2. Current situation/achievements

Given the extensive scope of the recommendations in the evaluation reports of 2010, a specific "*Greece-Schengen*" *Action Plan* had been adopted by the Council and annual peer-to-peer review missions were conducted to Greece³⁴. In parallel, Greece presented eight progress

³¹ Source: Frontex 2010 and 2011 Annual Risk Assessments.

³² I.e. Pro Asyl, Human Rights Watch, European Parliament's LIBE Committee Delegation ("LIBE Report"), the report by Thomas Hammarberg.

³³ Case 2009/4104 – Violation of asylum *acquis* – In particular concerns the Schengen Borders Code (regulation EC 562/2006), the reception conditions directive (2003/9/EC), the asylum procedures directive (2005/85/EC) and the qualifications directive (2004/83/EC).

³⁴ In March 2011, May 2012 and October 2013.

reports on the implementation of this National Action Plan between November 2010 and July 2013. The Commission also monitored the implementation of all the outstanding recommendations, which were included in the *Greek Action plan on asylum and migration*.

This monitoring process resulted that most recommendations were followed up progressively and important improvements were registered, as also indicated in the JHA Council Conclusions of June 2014.

The implementation of the Greek actions have been carried out with the support of the EU financial assistance. However, the EU funding possibilities available for actions on border management were only partially used in the first half of the respective programming period. In fact, only 43% of the EBF allocation for 2007-2010 (EUR 78 M) was actually absorbed, also due to the inadequacy of public procurement processes and complex national administrative procedures, which resulted overall in rather limited structural investment in border management.

Frontex provided an important contribution to the control of the Greek borders; the Rapid Border Intervention Teams (RABITs) were launched in November 2010, in order to face the exceptional pressure at the Greek borders. During the operational period – lasting from 2 November 2010 to 2 March 2011- every week close to 200 well-trained guest officers from 26 Member States assisted their Greek colleagues in controlling the border areas, as well as in identifying the apprehended irregular immigrants. Since then, Greece has been continuously supported in the framework of the Joint Operations coordinated by Frontex (Poseidon Land and Sea).

Following the allegations of possible violations of fundamental rights by Greek border authorities (serious mistreatments during border surveillance operations and push-back practices at the external border), the Commission has asked clarifications from Greece. In particular, in December 2013 the Commission started an inquiry. Following a first clarification from the Greek authorities in February, the Commission asked for further clarifications. Last clarifications provided by Greece are still under assessment.

Achievements in the area of border management

- Improvement in the facilities and equipment used for border checks and border surveillance, with a significant contribution of the EU funds (EUR 207 M were allocated to Greece between 2007 and 2013 under the EBF complemented by EUR 5 M of emergency assistance).
- Set-up of a comprehensive risk-analysis system.
- Intensification of inter-service cooperation, in particular by setting up an inter-ministerial Committee and a National Coordination Centre (NCC), as well as coordination centres at regional and local level.
- Reinforcement of the training system, in order to cover all fields of the Schengen Borders Code and all levels of personnel.
- Control of the Greek-Turkish land border, in particular by carrying out the "Shield operation" from 2 August 2012, co-financed by EU funds (EBF), which involved the deployment of significant number of extra border guards at that border section, operation which reduced dramatically the number of irregular border crossings.
- Start of an automatic surveillance system along the Greek-Turkish land border.
- Improvement in the cooperation with Turkey, especially at land border, where

operational cooperation was significantly enhanced.

3. Ongoing and incomplete implementation of agreed actions and shortcomings still to be tackled

In order to achieve the objectives set out in the Action Plan, Greece will need to further develop, consolidate and finalise additional actions, in order to sustain these achievements (see section VI.2) and further enhance its border management system.

In addition, there is a need to maximise the use of the ISF-Borders, ensuring the timely implementation of projects, improving the public procurement procedure and ensure full absorption of funds available, in order to complete the process already started, moving from handling emergencies and ensure a structural and sustainable management of its borders. Full absorption of available funding against the background of limited financial resources is essential in order to meet the objectives mentioned above.

Ongoing and incomplete issues in the area of border management

- Finalisation of a national strategy on border management, including all components and defining relevant strategic and financial priorities, maximising the use of the ISF-Borders available.
- Consolidation of the NCC, in order to ensure effectiveness and full compliance with the Eurosur Regulation.
- Consolidation of the control of the Greek-Turkish land border, also by the reinforcement of technical equipment (e.g. by extending the existing *Automated Border Surveillance System*), which could allow for a more efficient use of the human resources available in the different areas.
- Development of a strategy and an investment plan to ensure an adequate capacity of surveillance of the external maritime borders, also maximising the use of available technology and combining with the existing support provided by Joint Operations coordinated by Frontex.
- Finalisation of the still outstanding shortcomings on infrastructure and facilities identified during the Schengen evaluations.
- Enhancement of the cooperation with Turkey, in particular at sea borders, taking the experience of the results achieved at the operational level with regard to the land borders.

VII. CONCLUSION

Since 2010 Greece has implemented a variety of actions aimed at addressing the systemic flaws and deficiencies in respect of the asylum procedure, the reception conditions as well as the return and border management systems. In particular, while back in 2010 there were no adequate structures and procedures in place to ensure access to an effective and fair asylum procedure, the establishment and operation of Regional Asylum Offices and Mobile Units, of the Asylum Service and of the Appeals Authority are some of the significant steps taken by the Greek authorities. Steps were also taken in view of ensuring adequate living conditions in detention facilities, notably the closing down of the vast majority of inadequate detention facilities and the establishment of pre-removal centres. In addition, Greece has committed to

increase, by the end of 2014, the capacity of open reception facilities to a minimum of 2 500 places where adequate material reception and living conditions are to be provided to applicants for international protection.

However, to overcome all the remaining systemic flaws in the Greek asylum system as identified in the relevant judgements of the ECtHR and CJEU and to ensure an effective and protective management of the asylum and migration policies, the Greek authorities have committed to taking further steps, building also on the understanding reached during the policy dialogue on the new HOME AFFAIRS Funds referred to in the Introduction.

In particular, Greece has committed to ensure implementation of all the pending actions listed in the Action Plan by December 2014 at the latest³⁵, a summary of which has been identified in section 3 of each Chapter in this document.

Summary of measures which Greece has committed to implement

- Detention of irregular migrants and applicants for international protection to be used only under the limited circumstances and with the prescribed legal and procedural safeguards laid down in the EU acquis;
- Adequate living conditions to be provided in all facilities hosting applicants for international protection and irregular migrants (open and closed facilities), including uninterrupted provision of services such as legal aid, psychosocial services and access to the necessary health care and treatment;
- A comprehensive national strategy for the treatment of unaccompanied minors in all relevant policy areas, to be developed and implemented;
- Completion of all national actions/measures that need to be taken in order to guarantee an effective and fair asylum procedure, including the full clearance of the backlog;
- Completion of all national actions/measures to be taken in order to guarantee an effective border management;
- Consolidation of all national actions/measures to be implemented in order to guarantee the sustainability of the established institutional structures and of the relevant procedures and services provided;
- Improvement of the procedures and systems for the absorption of EU funds, to prevent the discrepancy between the allocated and used funds in the framework of the AMIF and ISF.

Finally, a long term national strategy in the areas of border management, asylum and return after the end of the implementation period of the Action Plan (December 2014) will need to be put in place in view of guaranteeing sustainability of the achievements made so far and to promote contingency planning in these areas.

While increased EU funding in the HOME field will be available to Greece over the period 2014-2020 to help overcoming all the remaining flaws and deficiencies of its current migration, asylum and border management system, this support will not be able to cater for all needs. For this reason Greece will need to develop a comprehensive national financial

³⁵ To be noted that the deadline for the clearance of the pending asylum cases ("backlog") was set for May 2015.

strategy, building upon the national budget and possible additional use of other EU funding sources such as the Structural Funds.