

Report on the Living Conditions of Beneficiaries of International Protection in Greece



Protection on Paper, Not in Practice

I arrived in Greece in 2018. As soon as I was granted refugee status, I was thrown out onto the streets. My wife and our baby were still in Syria and I wanted to reunite with them more than anything. But how could I have them brought to Greece when I had nothing to offer them there? I didn't have a place for them to stay and I couldn't even get adequate medical treatment for myself. In 2019, my wife was killed in an attack at the Syria-Turkey border.

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LOUISA GOULIAMAKI ATHENS

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WHO WE ARE

Passerell is a Luxembourgish non-profit organization providing legal information to asylum seekers and refugees. Pink Paper, our unit for legal watch and action, seeks to ensure, through legal and advocacy work, that asylum seekers and refugees can effectively exercise their rights.

MORE INFO

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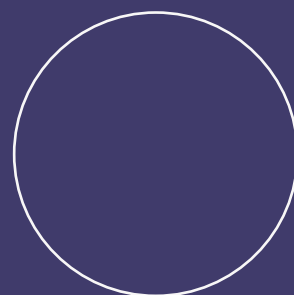
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Independence

Passerell is an independent, non-profit organization. For our sources of funding, please consult our annual report, which can be found on our website www.passerell.lu



The vast majority were unable to meet even their most basic needs



Lukia Nomikos is the main author of this report. She grew up in Luxembourg and holds a Master of Arts in International Relations from the University of Warwick and a Bachelor of Laws from the University of Bristol.

In the beginning of February 2020, I went to Athens, Greece to volunteer for a local association that supports refugees, asylum-seekers and undocumented migrants. Through a daily drop-in centre, our team provided information and support to visitors regarding the Greek asylum procedure, as well as assistance with accessing other services in Athens, such as housing, health care and education. Our team also accompanied visitors to the Asylum Service Offices, other NGOs, and medical appointments, when needed.

Initially planning on staying in Athens for a minimum of 3 months, my stay was unfortunately cut short due to the COVID-19 pandemic. However, even the mere 6 weeks I spent volunteering there were enough to make it overwhelmingly clear to me that the living conditions of both asylum-seekers and refugees in Greece are appalling. It seemed to me that the vast majority were unable to meet even their most basic needs and had received little to no information or support from the responsible authorities. They had simply been abandoned by the state and left to fend for themselves.

People came to our centre with stories of unimaginable horror, recounting what they had experienced not only in their country of origin but also during their journey to Europe and during their time in Greece. These included personal accounts of loss, violence, torture, and rape. What I found perhaps most unjust was that, after everything they had already suffered, many of them had probably hoped to finally find safety and a life of dignity in Europe – instead, they were met with the realisation that the hardships they had endured were far from over.

Based on my short experience in Athens, the lack of access to housing seemed to be the most pressing issue. Most of the people who came to our centre during my time there were either homeless (i.e. sleeping on the streets, in parks, or in trains stations) or had precarious and/or temporary housing solutions (i.e. staying at an acquaintance's or friend's place or in 'squats'). The housing situation for refugees and asylum-seekers alike was so dire that we had to consistently tell people who came to the centre seeking accommodation that there was nothing we could do to help them. At best, we could try contacting different shelters, but it was extremely unlikely that a housing solution could be found, mainly due to a severe lack of capacity and long waiting lists. Single adult males, in particular, had virtually no chance of being admitted anywhere. However, even unaccompanied minors, women, or people who were considered vulnerable in some other way, faced often insurmountable obstacles in accessing housing. One of the cases I worked on was that of a young single woman and her new-born baby with a pulmonary infection. They were homeless and – especially given their vulnerability – in desperate need of accommodation. We managed to only find them temporary, emergency shelter in a church. After I had left Athens, during the COVID-19 lockdown, they were able to stay in an apartment with many other people and afterwards at a friend's place. My most recent correspondence with her, however, revealed that soon after the lockdown in Greece was lifted, she and her baby had been left homeless again and were back on the streets.

Executive summary

In the last few years, there has been a significant increase in the number of asylum applications declared inadmissible by the Grand Duchy of Luxembourg. Most of these applications are lodged by individuals who have already been granted international protection in Greece and are thus ordered to return there.

For this reason, Passerell felt it was essential to document the situation of beneficiaries of international protection in Greece. This report provides an overview of the living conditions of recognised refugees in Greece by assessing their access to various social rights including housing, employment, education, health care, social welfare, and further integration steps. The findings of the report are based on the jurisprudence of international and national courts; reports by international, European and national human rights bodies, institutions and organisations; publicly available data; news articles; and testimonies from individuals who came to Luxembourg to seek asylum after having already been granted refugee status in Greece.

A number of international and national courts have already held that the living conditions of asylum-seekers and recognised refugees alike in Greece are so dire that they are capable of amounting to ‘inhuman or degrading treatment’ under Article 3 of the European Convention on Human Rights, Article 4 of the European Charter of Fundamental Rights, or Article 7 of the International Covenant on Civil and Political Rights, and therefore prevent the return of persons to the country in accordance with the principle of non-refoulement. Many international and non-governmental organisations have also heavily criticised the living conditions of recognised refugees

in Greece.

Although the access of recognised refugees to housing, employment, education, health care, and social welfare under the same conditions as Greek nationals (or at the very least, under the same conditions as other third-country nationals legally residing in the country) is provided in national law, it is not enforced in practice. There are numerous obstacles beneficiaries of international protection encounter when attempting to access their social rights in Greece, including administrative and bureaucratic barriers in obtaining necessary documents and satisfying other preconditions; a serious lack of strategies, programmes, and measures specifically targeting beneficiaries of international protection; a serious lack of effective infor-

mation and support; and inadequate funding and resources due to the financial crisis and the subsequent decade of austerity measures.

Housing: It is well-documented through numerous cases, reports and news articles that most beneficiaries of international protection encounter insurmountable obstacles in accessing housing. These include an absence of accommodation places earmarked for recognised refugees; a severe lack of capacity in shelters and long waiting lists; administrative and bureaucratic barriers in obtaining the required documents and satisfying other preconditions for access to shelters or for renting a

place; and a lack of effective information. The 2020 amendment to the national asylum legislation, which requires beneficiaries of international protection housed in accommodation facilities during their asylum procedure to leave these centres within a 30-day period after the granting of international protection, is likely to further exacerbate an already dire housing situation. For these reasons, beneficiaries of international protection, including those who are returned to Greece from other EU Member States, face a real risk of homelessness or living under otherwise deplorable conditions in camps, abandoned buildings, or overcrowded apartments.

Employment: Access of beneficiaries of international protection to employment in the official labour

market is nearly impossible. This is mainly due to a number of bureaucratic barriers in obtaining the necessary documents for employment and registration with the Labour Employment Office (OAED) and opening a bank account, as well as the severe omission of the Greek state to implement integration strategies and programmes aimed specifically at refugees; to introduce mechanisms for assessing refugees’ qualifications, skills and previous work experience; and to provide free Greek language courses. Those few who do manage to find employment, tend to be employed in the informal economy, thus depriving them of access to social security,

subjecting them to often very poor working conditions, and exposing them to a heightened risk of exploitation. The prevailing economic conditions and the high unemployment rate in Greece, as well as the impact of COVID-19 on the economy, naturally further compound the situation. For these reasons, beneficiaries of international protection, including those who are returned to Greece from other EU Member States, are highly unlikely to find employment, at least in the formal economy, and thus face a real risk of destitution.

Education: Although there have been significant improvements as regards the access of refugee children to education since the introduction of the DYEP programme, which consists of separate preparatory reception classes for refugee children in public schools in the afternoons, in 2016, some obstacles still persist. The DYEP programme itself has been criticised for its lack of integration measures and for separating refugee children from other children in Greek schools, thus potentially hindering rather than facilitating integration. The inadequate training of teachers and the lack of interpreters and cultural mediators were also identified as problems with regard to the programme. In more general terms, there are concerns over the low school attendance of refugee children that stems from various barriers to education, most notably difficulties with the Greek language. Less progress has been recorded as regards the access of adult beneficiaries of international protection to higher education and vocational training programs, largely due to a lack of effective mechanisms for the recognition of their previous educational qualifications. For these reasons, child beneficiaries of international protection, including those who are returned to Greece from other EU Member States, are likely to encounter some obstacles in

accessing adequate education, and adult beneficiaries are likely to struggle in accessing further education opportunities.

Health care: Effective access of beneficiaries of international protection to health care is problematic, mainly due to difficulties in obtaining a social security number (AMKA), uninformed and/or misinformed health care professionals who are not aware of refugees' rights to health care; and the lack of cultural mediation and interpretation services in hospitals and other health care facilities. The financial crisis and the subsequent drastic cuts to the public health system have resulted in lengthy waiting times and increased costs, and have thus also significantly hindered effective access to health care. The even more limited access of recognised refugees to mental health care is particularly worrying. For these reasons, beneficiaries of international protection, including those who are returned to Greece from other EU Member States, are likely to struggle in accessing adequate health care.

Social welfare: Access of beneficiaries of international protection to social welfare is highly problematic, mainly due to lengthy residence requirements that effectively exclude them from most forms of social assistance, thus constituting indirect discrimination. The only effective social allowance available to refugees, in theory, is the guaranteed minimum income. However, in practice, access to it is significantly hampered by bureaucratic barriers in obtaining the necessary documents for it. Naturally, the erosion of the welfare state following the economic crisis and the subsequent cuts in social expenditure in Greece have also hindered the access of beneficiaries of international protection to social welfare. For these reasons, beneficiaries of international protection,

including those who are returned to Greece from other EU Member States, are unlikely to benefit from any form of social assistance and thus face a real risk of homelessness and destitution.

Further integration steps: The right to family reunification and the ability to obtain long-term residence or citizenship are both major contributing factors to the better integration of refugees in the host country. Although the unity of the family is an essential right of refugees, beneficiaries of international protection who apply for family reunification in Greece face a variety of obstacles which render the effective exercise of this right impossible in practice. In reality, only a small number of beneficiaries of international protection are able to initiate a family reunification procedure and others will sometimes attempt to reunite through dangerous irregular routes. Those who do manage to apply for family reunification often wait years for their applications to be processed, and only few receive positive decisions. The ability of beneficiaries of international protection to obtain long-term residence or citizenship, in turn, is impeded by their lack of access to various social rights. Given that obtaining long-term residence or citizenship requires both linguistic and civic integration, the lack of access of beneficiaries of international protection to free and adequate integration programmes and language courses is particularly detrimental.

These findings make it overwhelmingly clear that the access of beneficiaries of international protection to various social rights and adequate protection is far from guaranteed in Greece. Beneficiaries of international protection, including those who are returned to Greece from other EU Member States face a real and concrete risk of finding themselves in a state of extreme

material deprivation which would seriously damage their physical or mental health and would not allow them to meet even their most basic needs – a situation that is incompatible with human dignity and thus capable of amounting to 'inhuman or degrading treatment' under international human rights law. Therefore, EU Member States that transfer refugees back to Greece not only expose them to a risk of fundamental rights violations, but also risk committing a violation of these rights themselves.

For these reasons, Passerell urges the competent authorities of each EU Member State, Luxembourg included, to challenge the presumption that the level of protection and rights afforded to beneficiaries of international protection is the same throughout the EU, and instead, to duly consider,

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and give sufficient weight to, the real and personal risk a beneficiary of international protection might face if transferred to Greece before an inadmissibility decision and a removal order are issued. Passerell thus recommends a threefold approach to determining whether an individual may be returned to Greece:

1. An assessment of the general living conditions of beneficiaries of international protection in Greece. Member States must examine whether access to various social rights and adequate protection are systematically guaranteed by the Greek state. This must be done on the basis of information that is objective, reliable, specific and properly updated, and by having regard to the standard of protection of fundamental rights guaranteed by European law.

2. An assessment of the individual circumstances of each specific case. Member States must take into account all factors that might increase an individual's vulnerability. These include their age, gender, disability, medical condition (physical or psychological), sexual orientation, and any other component that further increases their risk of being exposed to living conditions constituting inhuman or degrading treatment in Greece.

3. Assurances from the Greek authorities. Member States must obtain proper assurances from the Greek authorities that the returnees would be received in a way that is compatible with their fundamental rights and human dignity.

Based on the findings of this report, the logical conclusion following the assessment contained already in the first step of the threefold

approach would be that an individual should not be returned to Greece since the general living conditions of beneficiaries of international protection are dire and protection is not ensured. Even if the assessment resulted in a different conclusion, it would then be imperative to carry out the individual assessment contained in the second step of the approach. In the absence of vulnerability-increasing factors, proper assurances from the Greek authorities under the third and final step of the approach would still have to be obtained before a definitive decision is taken.

Passerell calls on the EU to take concrete steps to uphold the fundamental rights of refugees and to ensure their safety and human dignity. This can start with the aforementioned recommendations.

Résumé (fr)

Ces dernières années, le nombre de demandes d'asile déclarées irrecevables par le Grand-Duché de Luxembourg a considérablement augmenté. La plupart de ces demandes sont déposées par des personnes qui bénéficient déjà d'une protection internationale en Grèce et qui sont donc sommés d'y retourner.

Pour cette raison, Passerell a estimé qu'il était essentiel de rendre compte de la situation des bénéficiaires de protection internationale en Grèce. Ce rapport donne un aperçu des conditions de vie des réfugiés en Grèce en évaluant leur accès à divers droits sociaux, notamment le logement, l'emploi, l'éducation, les soins de santé, la protection sociale et les mesures d'intégration.

Les conclusions du rapport s'appuient sur la jurisprudence des tribunaux internationaux et nationaux ; sur les rapports des institutions et organisations internationales, européennes et nationales des droits de l'homme ; sur des données publiques ; sur des articles de presse et sur les témoignages de personnes venues au Luxembourg pour demander l'asile alors qu'elles avaient déjà obtenu le statut de réfugié en Grèce.

Un certain nombre de tribunaux internationaux et nationaux ont déjà jugé que les conditions de vie des demandeurs d'asile et des réfugiés en Grèce sont si terribles qu'elles peuvent constituer un « traitement inhumain ou dégradant » au sens de l'article 3 de la Convention européenne des droits de l'homme, de l'article 4 de la Charte européenne des droits fondamentaux ou de l'article 7 du Pacte international relatif aux droits civils et politiques, et empêchent donc le retour des personnes concernées dans le pays conformément au principe de non-refoulement. De nombreuses organisations interna-

tionales et non gouvernementales ont également fortement critiqué les conditions de vie des réfugiés reconnus en Grèce.

Bien que le droit national grec prévoit que les réfugiés aient accès au logement, à l'emploi, à l'éducation, aux soins de santé et à la protection sociale dans les mêmes conditions que les ressortissants grecs (ou, au minimum, dans les mêmes conditions que les autres ressortissants de pays tiers résidant légalement dans le pays), cela n'est, en pratique, pas appliqué. Lorsqu'ils tentent d'accéder à leurs droits sociaux, les bénéficiaires de protection internationale rencontrent de nombreux obstacles : barrières administratives et bureaucratiques ; un grave manque de stratégies, de programmes et de mesures ciblant spécifiquement les bénéficiaires

DES INTERNATIONAUX ET NATIONAUX ONT DÉJÀ JUGÉ QUE LES CONDITIONS DE VIE DES RÉFUGIÉS EN GRÈCE SONT SI TERRIBLES QU'ELLES PEUVENT CONSTITUER UN « TRAITEMENT INHUMAIN OU DÉGRADANT »

de protection internationale ; un grave manque d'information et de soutien en matière d'éducation ; et un financement et des ressources inadéquats en raison de la crise financière et des mesures d'austérité qui ont suivi.

Logement : de nombreux rapports et articles de presse montrent que la plupart des bénéficiaires de protection internationale rencontrent des obstacles insurmontables dans l'accès au logement. Il s'agit notamment de l'absence de logements réservés aux réfugiés reconnus ; d'un manque cruel de capacité dans les foyers et de longues listes d'attente ; d'obstacles administratifs et bureaucratiques à l'obtention des documents requis pour avoir une place dans un

foyer ou louer un logement privé ; et d'un manque d'informations pratiques. L'amendement de 2020 à la législation nationale sur l'asile, qui exige que les bénéficiaires d'une protection internationale hébergés dans des centres d'hébergement pendant leur procédure d'asile quittent ces centres dans un délai de 30 jours après l'octroi de la protection internationale, risque d'aggraver encore une situation déjà désastreuse en matière de logement. Pour ces raisons, les réfugiés statutaires, dont ceux qui sont renvoyés en Grèce depuis d'autres États membres de l'UE, courent un risque réel de se retrouver sans abri ou de vivre dans des conditions déplorables dans des camps, des bâtiments abandonnés ou des appartements surpeuplés.

Emploi : L'accès des bénéficiaires de protection internationale à l'emploi à travers le marché du travail officiel est presque impossible. Cela est principalement dû à un certain nombre d'obsta-

cles bureaucratiques lors de l'obtention des documents nécessaires à l'emploi et à l'enregistrement auprès de l'Office de l'emploi et du travail (OAED) et à l'ouverture d'un compte bancaire, ainsi qu'à la grave omission de l'État grec de mettre en œuvre des stratégies et des programmes d'intégration destinés spécialement aux réfugiés, d'introduire des mécanismes d'évaluation des compétences, des qualifications et de l'expérience professionnelle antérieure des réfugiés, et de fournir des cours de grec gratuits. Les rares personnes qui parviennent à trouver un emploi tendent à être employées dans l'économie informelle, ce qui les prive de l'accès à la sécurité sociale, les soumet à de très mauvaises conditions de

travail et les expose à un risque accru d'exploitation. La situation économique actuelle et le taux de chômage élevé en Grèce, ainsi que l'impact de la COVID-19 sur l'économie, aggravent naturellement la situation. Pour ces raisons, les réfugiés statutaires, dont ceux qui sont renvoyés en Grèce depuis d'autres États membres de l'UE, ont peu de chances de trouver un emploi, du moins dans l'économie formelle, et sont donc confrontés à un risque réel de dénuement.

Éducation : bien qu'il y ait eu des améliorations significatives en ce qui concerne l'accès des enfants réfugiés à l'éducation depuis l'introduction, en 2016, du programme DYEP – qui consiste en des classes préparatoires d'accueil séparées pour les enfants réfugiés dans les écoles publiques tous les après-midis – certains obstacles persistent encore. Le programme DYEP lui-même a été critiqué pour son manque de mesures d'intégration et pour avoir séparé les enfants réfugiés des autres enfants dans les écoles grecques, ce qui pourrait entraver plutôt que faciliter l'intégration. La formation inadéquate des enseignants et le manque d'interprètes et de médiateurs culturels sont d'autres problèmes concernant l'accès à l'éducation. D'une manière plus générale, le faible taux de scolarisation des enfants réfugiés est préoccupant, en raison de divers obstacles à l'éducation, notamment les difficultés d'apprentissage de la langue grecque. Des progrès moins importants ont été enregistrés en ce qui concerne l'accès des bénéficiaires adultes aux programmes d'enseignement supérieur et de formation professionnelle, en grande partie en raison du manque de mécanismes de reconnaissance de leurs qualifications antérieures. Pour ces raisons, les enfants réfugiés statutaires, dont ceux qui sont renvoyés en Grèce depuis d'autres États membres de l'UE, risquent de rencontrer certains obstacles pour accéder à une éducation adéquate, et les bénéficiaires adultes risquent de rencontrer des difficultés pour

accéder à des possibilités d'études supérieures.

Santé : l'accès effectif des bénéficiaires de protection internationale aux soins de santé est problématique, principalement en raison des difficultés à obtenir un numéro de sécurité sociale (AMKA), des professionnels mal informés qui ne connaissent pas les droits des réfugiés en matière de santé, et du manque de services de médiation et d'interprétation culturelle dans les hôpitaux et autres établissements de soins. La crise financière et les réductions drastiques du budget de la santé qui ont suivi ont entraîné de longs délais d'attente et une augmentation des frais médicaux, et ont donc aussi considérablement entravé l'accès effectif aux soins de santé. L'accès encore plus limité des réfugiés reconnus aux soins de santé mentale est particulièrement inquiétant. Pour ces raisons, les réfugiés statutaires, dont ceux qui sont renvoyés en Grèce depuis d'autres États membres de l'UE, risquent d'avoir du mal à accéder à des soins de santé adéquats.

Aide sociale : l'accès des bénéficiaires d'une protection internationale à l'aide sociale est très problématique, principalement en raison de l'exigence d'une longue période de résidence qui les exclut effectivement de la plupart des formes d'assistance sociale et constitue une discrimination indirecte. La seule allocation sociale efficace dont disposent les réfugiés est, en théorie, le revenu minimum garanti. Toutefois, dans la pratique, l'accès à ce revenu est considérablement entravé par les obstacles bureaucratiques à l'obtention des documents nécessaires pour en faire la demande. L'érosion de l'État-providence suite à la crise économique et les réductions des dépenses sociales qui en ont résulté en Grèce ont également entravé l'accès des bénéficiaires de protection internationale à l'aide sociale. Pour ces raisons, il est peu probable que les bénéficiaires de protection internationale, dont ceux qui sont renvoyés en Grèce depuis d'autres États membres de l'UE,

bénéficient d'une forme quelconque d'assistance sociale et soient donc confrontés à un risque réel de dénuement et de se retrouver sans-abri.

Les autres démarches d'intégration : le droit au regroupement familial et la possibilité d'obtenir le statut de résident longue durée ou la citoyenneté sont deux facteurs majeurs qui contribuent à une meilleure intégration des réfugiés dans le pays d'accueil. Bien que l'unité de la famille soit un droit essentiel des réfugiés, les bénéficiaires de protection internationale qui demandent le regroupement familial en Grèce sont confrontés à divers obstacles qui rendent l'exercice effectif de ce droit impossible dans la pratique. En réalité, seul un petit nombre de bénéficiaires sont en mesure d'engager une procédure de regroupement familial, tandis que d'autres tentent parfois de se regrouper par des voies irrégulières et dangereuses. Ceux qui parviennent à introduire une demande de regroupement familial attendent des années avant que celle-ci ne soit traitée, et seuls quelques-uns reçoivent une décision positive. La capacité des bénéficiaires d'une protection internationale à obtenir un permis de séjour de longue durée ou un statut de citoyen est, quant à elle, entravée par leur manque d'accès à divers droits sociaux. Étant donné que l'obtention du statut de résident longue durée ou de la citoyenneté nécessite une intégration linguistique et civique, le manque d'accès des bénéficiaires de protection internationale à des programmes d'intégration et à des cours de langue gratuits et adéquats est particulièrement préjudiciable.

Ces résultats montrent clairement que l'accès des bénéficiaires de protection internationale à divers droits sociaux et à une protection adéquate est loin d'être garanti en Grèce. Les bénéficiaires d'une protection internationale qui sont renvoyés en Grèce depuis d'autres États membres de l'UE courent un risque réel et concret de se retrouver dans un état de

dénuement matériel extrême qui porterait gravement atteinte à leur santé physique ou mentale et ne leur permettrait pas de satisfaire leurs besoins les plus fondamentaux – une situation incompatible avec la dignité humaine et pouvant donc constituer un « traitement inhumain ou dégradant » au regard du droit international des droits de l'homme.

Pour ces raisons, Passerell invite urgemment les autorités compétentes de chaque État membre, y compris au Luxembourg, à contester la présomption selon laquelle le niveau de protection et les droits accordés aux bénéficiaires d'une protection internationale sont les mêmes dans l'ensemble de l'Union européenne et, au contraire, à examiner dûment et à prendre en compte le risque réel et

cas spécifique. Les États membres doivent prendre en compte tous les facteurs susceptibles d'accroître la vulnérabilité d'un individu. Il s'agit notamment de l'âge, du sexe, d'un handicap, de l'état de santé (physique ou psychologique), de l'orientation sexuelle et de tout autre élément qui augmente encore le risque d'être exposé à des conditions de vie constituant un traitement inhumain ou dégradant en Grèce.

3. Des garanties de la part des autorités grecques. Les États membres doivent obtenir des autorités grecques l'assurance que les personnes transférées seront accueillies d'une manière compatible avec leurs droits fondamentaux et leur dignité humaine.

Sur la base de ce rapport, la conclusion logique qui découle de l'évaluation contenue dans la première étape de la

UN ÉTAT MEMBRE QUI RENVOIE UN RÉFUGIÉ EN GRÈCE EXPOSE CETTE PERSONNE A UN RISQUE GRAVE DE VIOLATION DES DROITS FONDAMENTAUX ET PREND AUSSI LE RISQUE DE COMMETRE UNE VIOLATION DE DROITS

personnel auquel un bénéficiaire de protection internationale pourrait être exposé s'il était transféré en Grèce avant qu'une décision d'inadmissibilité et de transfert ne soit prononcée. Passerell recommande donc une triple approche pour déterminer si une personne peut être renvoyée en Grèce :

1. Une évaluation des conditions de vie générales des bénéficiaires de protection internationale en Grèce. Les États membres doivent examiner si l'accès aux divers droits sociaux et à une protection adéquate est systématiquement garanti par l'État grec. Cela doit être fait sur la base d'informations objectives, fiables, spécifiques et correctement mises à jour, et en tenant compte du niveau de protection des droits fondamentaux garantis par le droit européen.

2. Une évaluation des circonstances particulières de chaque

triple approche serait qu'un individu ne devrait pas être renvoyé en Grèce étant donné que les conditions de vie générales des bénéficiaires de protection internationale sont désastreuses et que la protection n'est pas assurée. Même si l'évaluation aboutissait à une conclusion divergente, il serait alors impératif de procéder à l'évaluation individuelle contenue dans la deuxième étape de l'approche. En l'absence de facteurs augmentant la vulnérabilité, il faudrait encore obtenir des assurances appropriées de la part des autorités grecques dans le cadre de la troisième et dernière étape de l'approche avant de prendre une décision définitive.

Passerell appelle l'Union européenne à prendre des mesures concrètes pour faire respecter les droits fondamentaux des réfugiés et pour garantir leur sécurité et leur dignité humaine, en commençant par prendre en compte les recommandations susmentionnées.

1. Introduction

In 2011, the European Court of Human Rights ruled in the landmark case of *M.S.S. v. Belgium and Greece* that the living conditions of asylum-seekers in Greece were so dire that their human rights, namely those protected under Article 3 of the European Convention on Human Rights (ECHR)¹ prohibiting ‘inhuman or degrading treatment’, would be breached if they were returned from other EU Member States under the Dublin III Regulation² (which generally requires the first EU country an asylum-seeker reaches to take responsibility for their asylum claim, and permits other EU countries to send them back to that country if they travel onward from there).³

As a result of this seminal judgment, the returns of asylum-seekers to Greece from other EU Member States were suspended for six years. In December 2016, despite the fact that there had been little to no improvement in the conditions in Greece, the European Commission announced that asylum-seekers should be able to again be returned to Greece as of mid-March 2017.⁴ This announcement was met with sharp criticism by numerous civil society organisations that considered the resumption of the returns of asylum-seekers to be premature.⁵ Despite the Commission’s announcement, many countries, including Luxembourg,⁶ continue to suspend the returns of asylum-seekers to Greece and most take back requests of those countries that do attempt to do so (predominantly Germany) have been rejected by the Greek Asylum Service, which itself admits the inadequate reception conditions of asylum-seekers in Greece. In 2019, 91.3% of the 13,438 incoming requests under the Dublin Regulation were refused by Greece.⁷ The following is the standard wording taken from a Greek Asylum Service response to a take back request:

Due to the disproportionate number of third-country nationals applying for asylum in Greece in 2016 and 2017, our reception capacity remains under particular stress. The Greek Authorities are in the process of developing and upgrading reception facilities, therefore we regret, but as at present we cannot guarantee reception for that person. Although we are in the process of developing and upgrading our reception facilities, we, nevertheless are not in a position to give assurances for adequate reception conditions for the above person, in conformity with Directive 2013/33/EU.

In light of the above, we regret to inform you that your take back request is respectfully denied.⁸

Yet, when it comes to beneficiaries of international protection, EU Member States routinely continue to try to enforce their returns to Greece. A beneficiary of international protection is someone who has already been granted refugee status or subsidiary protection status in one country – in this case, in Greece – and will generally have any subsequent asylum claims lodged in other EU Member States declared inadmissible. An order to leave the country and return to the Member State having granted international protection will usually follow.

- 1 Council of Europe, European Convention for the Protection of Human Rights and Fundamental Freedoms, as amended by Protocols Nos. 11 and 14, 4 November 1950, ETS 5.
- 2 Regulation 604/2013 of 26 June 2013 establishing the criteria 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 (‘Dublin III Regulation’).
- 3 ECtHR, 21 January 2011, *M.S.S. v Belgium and Greece*, n°30696. For subsequent cases with similar facts and rulings, see: ECtHR, 31 July 2014, *F.H. v. Greece*, n°78456; ECtHR, 11 March 2015, *AL.K. v. Greece*, n°63542; ECtHR, 4 February 2016, *Amadou v. Greece*, n°37991; and ECtHR, 18 May 2017, *S.G. v. Greece*, n°46558.
- 4 European Commission, ‘Commission Recommendation (EU) 2016/2256’, 8 December 2016 (available on <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32016H2256&from=EN>)
- 5 Agerholmt, H., ‘EU says member states can start deporting refugees and migrants back to Greece from March’, The Independent, 8 December 2016 (available on <https://www.independent.co.uk/news/world/europe/europe-refugees-migrants-greece-march-a7462921.html>); Human Rights Watch, ‘EU: Returns to Greece Put Refugees at Risk’, 10 December 2016 (available on <https://www.hrw.org/news/2016/12/10/eu-returns-greece-put-refugees-risk>); Amnesty International, ‘EU: Pressure on Greece for Dublin returns is ‘hypocritical’’, 8 December 2016 (available on <https://www.amnesty.org/en/latest/news/2016/12/eu-pressure-on-greece-for-dublin-returns-is-hypocritical/>).
- 6 Ministère des Affaires étrangères et européennes, ‘Réaction du ministre de l’Immigration et de l’Asile, Jean Asselborn, suite aux récentes préoccupations formulées quant aux transferts Dublin vers l’Italie’, 26 October 2018 (available on https://gouvernement.lu/fr/actualites/toutes_actualites/communiqués/2018/10-octobre/26-asselborn-transferts-dublin.html).
- 7 Hellenic Republic, Ministry of Migration and Asylum, ‘Statistical Data of the Greek Dublin Unit’, 29 February 2020, p. 3. (available on http://asylo.gov.gr/en/wp-content/uploads/2020/03/Dublin-stats_February20EN.pdf)
- 8 Alper, L., ‘Greece is not safe for asylum seekers and refugees to be sent back to’, Free Movement, 18 April 2019 (available on <https://www.freemovement.org.uk/returns-to-greece/>).

In recent years, the Grand Duchy of Luxembourg has faced an increase in the number of asylum applicants who already have international protection in another Member State – in most cases, Greece. Consequently, the responsible authorities of Luxembourg have taken a hard line against such cases: individuals who claim asylum in Luxembourg after having already been granted international protection in another country are systematically issued an inadmissibility decision and an order to leave the country.⁹ Indeed, there has been a significant increase in the number of asylum applications declared inadmissible by Luxembourg in recent years: 22 in 2017, 33 in 2018, and 88 in 2019 (despite a decrease in asylum applications in Luxembourg over these years).¹⁰ Often, the inadmissibility decision is issued on the same day as the asylum claim is lodged, thus depriving the individuals concerned of reception measures and resulting, in the worst instances, in children having to sleep on the streets. Recently, in some cases, such individuals have not even managed to lodge their asylum application in Luxembourg to begin with.¹¹

It is for these reasons that Passerell felt it was essential to document the situation of beneficiaries of international protection in Greece. This report aims to provide an overview of the living conditions of recognised refugees¹² by assessing their access to various social rights in Greece. The findings of the report are based on the jurisprudence of international and national courts; reports by international, European and national human rights bodies, institutions and organisations; publicly available data; news articles; and testimonies from individuals who came to Luxembourg to seek asylum after having already been granted refugee status in Greece.

First, a legal framework that includes the relevant international, European and national law, as well as case law relating to the living conditions of recognised refugees, is provided. The main part of the report then examines the access of beneficiaries of international protection to various social rights in Greece. Specifically, the access of recognised refugees to housing, employment, education, health care, social welfare, and further integration steps, is assessed. Comparisons are drawn between access according to the law and access in reality – in other words, access ‘on paper’ versus access ‘in practice’. Lastly, a set of conclusions and recommendations is provided. Testimonies collected by Passerell from individuals who came to Luxembourg to seek asylum after having already been granted refugee status in Greece can be found throughout the report.

⁹ Luxembourg: Article 28 de la Loi du 18 décembre 2015 relative à la protection internationale et à la protection temporaire. Ministère des Affaires étrangères et européennes, ‘Bilan de l’année 2019 en matière d’asile, d’immigration et d’accueil’, p. 4-7. (available on https://maee.gouvernement.lu/content/dam/gouv_maee/directions/d8/publications/statistiques-en-mati%C3%A8re-d-asyle/Bilan-2019-Asile-Immigration-et-Accueil.pdf).

¹¹ Passerell, ‘Position paper – In Luxembourg, families with children on the street on the day of their asylum application’, 9 September 2020 (available on https://7fbd6c04-47c2-4b9a-859a-d3933d784078.filesusr.com/ugd/837f1b_360ca170eb8e46278d0e73d227dc3c87.pdf); Caregari, L., ‘Politique d’asile : Chiens de faïence’, Woxx, 10 September 2020 (available on <https://www.w maxx.lu/politique-dasile-chiens-de-faience/>); Ministère des Affaires étrangères et européennes, ‘Prise de position du ministre de l’Immigration et de l’Asile par rapport au communiqué du Lëtzebuurger Flüchtlingsrot’, 11 August 2020 (available on https://maee.gouvernement.lu/fr/actualites.gouvernement%2Bfr%2Bactualites%2Btoutes_actualites%2Bcommuniqu%C3%A9s%2B2020%2B08-aout%2B11-asselborn-prise-position.html).

¹² Note that the term ‘beneficiary of international protection’ will be used interchangeably with ‘recognised refugee’ in this report.

2. Legal framework

2.1 Relevant International, European and National Law

Universal Declaration of Human Rights 1948¹³

The Universal Declaration of Human Rights is a milestone document in the history of human rights that enshrines the rights and freedoms of **all** human beings.

Article 1:

All human beings are born free and equal in dignity and rights.

Article 2:

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Article 3:

Everyone has the right to life, liberty and security of person.

Article 25:

Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

Article 26:

Everyone has the right to education.

Legislation on the Rights of Beneficiaries of International Protection

The access of beneficiaries of international protection to various social rights is regulated by the following legislation:

International Law: the 1951 Geneva Convention¹⁴

The 1951 Convention Relating to the Status of Refugees and its 1967 Protocol regulates, inter alia, the rights of beneficiaries of international protection to housing (Article 21), employment (Articles 17-19), education (Article 22), health care (Article 23) and social welfare (Articles 23 and 24). All EU Member States have ratified the Convention, thus making the treaty officially binding on all Member States.

EU Law: Directive 2011/95/EU¹⁵

Directive 2011/95/EU, also known as the Qualification Directive

sets out criteria for applicants to qualify for refugee status or subsidiary protection and defines the rights afforded to beneficiaries of these statuses, hence provisions on protection from refoulement, residence permits, travel documents, access to employment, access to education, social welfare, healthcare, access to accommodation, access to integration facilities, as well as specific provisions for children and vulnerable persons are also contained in the legislative instrument.¹⁶

Its primary aim is to “ensure that persons fleeing persecution are identified and have access to the same level of protection, regardless of the Member State where they lodge their asylum application.”¹⁷ Thus, the presumption is that the level of protection and rights afforded to beneficiaries of international protection is the same throughout the EU. This legal inference does not, however, mean that it is necessarily the case in practice, meaning that it is not conclusive by itself.

¹³ UN General Assembly, Universal Declaration of Human Rights 10 December 1948, 217 A (III).

¹⁴ UN General Assembly, Convention relating to the Status of Refugees (adopted 28 July 1951, entered into force 22 April 1954) 189 UNTS 137 (Refugee Convention) and Protocol relating to the Status of Refugees (adopted 31 January 1967, entered into force 4 October 1967) 606 UNTS 267.

¹⁵ 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 ('Qualification Directive').

¹⁶ European Commission, 'Who qualifies for international protection' (available on https://ec.europa.eu/home-affairs/what-we-do/policies/asylum/refugee-status_en).

¹⁷ UNHCR and ECRE, 'The Qualification Directive' (available on <https://www.refworld.org/cgi-bin/texis/vtx/rwmain/opendocpdf.pdf?reldoc=y&docid=4aa508692>).

Greek Law: PD 141/2013¹⁸

PD 141/2013 incorporates Directive 2011/95/EU into Greek law.

Article 3 of the European Convention on Human Rights (ECHR)

Article 3 – Prohibition of torture:
No one shall be subjected to torture or to inhuman or degrading treatment or punishment.

The right under Article 3 “relates directly to an individual’s personal integrity and human dignity”¹⁹ and is absolute in nature, meaning there can be no exceptions or limitations to it.

Article 3 of the ECHR is relevant to our current context because the deplorable living conditions of both asylum-seekers and beneficiaries of international protection have been held by a number of international and national courts to be capable of amounting to ‘inhuman or degrading treatment’ under the article. It is worth adding that Article 4 of the European Charter of Fundamental Rights (‘the Charter’)²⁰ and Article 7 of the International Covenant on Civil and Political Rights (ICCPR)²¹ are equivalent in wording to Article 3 of the ECHR and are thus also applicable in cases involving the living conditions of refugees.

Principle of Non-Refoulement

The principle of non-refoulement forms an essential protection under international human rights, refugee, humanitarian, and customary law.

The principle of non-refoulement is most often referred to in the context of refugee protection due to its codification in Article 33 of the 1951 Geneva Convention relating to the Status of Refugees and its 1967 Protocol, which states that the principle protects refugees and asylum-seekers against return to places where they would be in danger of being persecuted.²² Therefore, in our current context, non-refoulement under refugee law is not particularly relevant as here we are concerned not with persecution but rather with the living conditions of recognised refugees capable of amounting to ‘inhuman or degrading treatment’ under Article 3 of the ECHR (or equivalent legislation).

Under international human rights law, however, the scope of the principle of non-refoulement is broader:

*States are bound not to transfer any individual to another country if this would result in exposing him or her to serious human rights violations, notably arbitrary deprivation of life, or torture or other cruel, inhuman or degrading treatment or punishment.*²³

In other words, under international human rights law, protection against non-refoulement applies to all persons, including refugees and asylum-seekers, and prohibits return on a number of different grounds, including exposure to ‘inhuman or degrading treatment’, thus making it applicable to our specific context. Furthermore, international human rights law has established the principle of non-refoulement as “a fundamental component of the absolute prohibition of torture and cruel, inhuman or degrading treatment or punishment”²⁴ This means that non-refoulement is considered a protection even when it is not expressly mentioned in the relevant treaty. So, although the ECHR, for instance, contains no explicit prohibition on refoulement, the case law of the European Court of Human Rights has clearly developed such prohibition, particularly under Article 3 of the ECHR, which has been interpreted by the Court as

*providing an effective means of protection against all forms of return to places where there is a risk that an individual would be subjected to torture, or to inhuman or degrading treatment or punishment.*²⁵

Therefore, given that states have a legal obligation under international human rights law to uphold the principle of non-refoulement, it would be unlawful for a state to transfer beneficiaries of international protection to the Member State having granted international protection, if there was a real and concrete risk that this would expose them to, inter alia, ‘inhuman or degrading treatment’. As noted above, deplorable living conditions have been held by a number of courts to be capable of amounting to ‘inhuman and degrading treatment’ under the different legal instruments containing this provision, most notably Article 3 of the ECHR.

18 Greece: Presidential Decree No. 141, G.G. A’ 226, of 2013, on the transposition into the Greek legislation of Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 (L 337) on minimum 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.

19 UNHCR, ‘Manual on Refugee Protection and the ECHR: Part 4.1 – Selected Case Law on Article 3’, 1 August 2006, p. 1. (available on <https://www.unhcr.org/3ead2e584>).

20 European Union, Charter of Fundamental Rights of the European Union, 26 October 2012, 2012/C 326/02.

21 UN General Assembly, International Covenant on Civil and Political Rights, 16 December 1966, United Nations, Treaty Series, vol. 999.

22 Rodenhäuser, T., International Committee of the Red Cross, ‘The principle of non-refoulement in the migration context: 5 key points’, 30 March 2018 (available on <https://reliefweb.int/report/world/principle-non-refoulement-migration-context-5-key-points>).

23 UNHCR, ‘Advisory Opinion on the Extraterritorial Application of Non-Refoulement Obligations under the 1951 Convention relating to the Status of Refugees and its 1967 Protocol’, p. 8-9. (available on <https://www.unhcr.org/4d9486929.pdf>).

24 UNHCR, ‘Note on International Protection A/AC.96/951’, 13 September 2001, p. 6. (available on <https://www.refworld.org/docid/3bb1c6cc4.html>).

25 UNHCR, ‘Manual on Refugee Protection and the ECHR: Part 2.1 – Fact Sheet on Article 3’, 1 August 2006, p. 1. (available on <https://www.unhcr.org/3ead2d262>).

2.2 Relevant Case Law

UN Human Rights Committee, *Jasin et al. v. Denmark* (2014)²⁶

The case concerned a Somali national and her child who were granted subsidiary protection in Italy, that is, international protection for persons seeking asylum who do not qualify as refugees. They subsequently applied for asylum in Denmark. The Refugee Appeals Board, upholding the decision of the Danish Immigration Service, stated that the mother and her now three children should be transferred back to Italy in accordance with the principle of first country of asylum under the Dublin Regulation. The applicant claimed that by forcibly deporting her and her children to Italy, Denmark would violate their rights under Article 7 of the International Covenant on Civil and Political Rights (ICCPR).

The UN Human Rights Committee found that returning a single mother and her children with no shelter and means of subsistence to Italy after the grant of subsidiary protection would indeed amount to a violation of Article 7 of the ICCPR.

*The Committee recalls that States parties should give sufficient weight to the real and personal risk a person might face if deported and considers that it was incumbent upon the State party to undertake an individualized assessment of the risk that the author would face in Italy, rather than rely on general reports and on the assumption that, as she had benefited from subsidiary protection in the past, she would, in principle, be entitled to work and receive social benefits in Italy today. The Committee considers that the State party failed to devote sufficient analysis to the author's personal experience and to the foreseeable consequences of forcibly returning her to Italy. It has also failed to seek proper assurance from the Italian authorities that the author and her three minor children would be received in conditions compatible with their status.*²⁷

UN Human Rights Committee, *O.Y.K.A. v. Denmark* (2016)²⁸

The case concerned a Syrian minor who was granted refugee status in Greece but subsequently lodged a new asylum application in Denmark. His application was ruled inadmissible and he was ordered to return to Greece. The applicant alleged that his deportation to Greece would violate his rights under, inter alia, Article 7 of the ICCPR, due to a risk of homelessness in Greece. The UN Human Rights Committee found that the removal of the applicant to Greece would indeed amount to a violation of Article 7.

*The Committee recalls that States parties should give sufficient weight to the real and personal risk a person might face if deported. In particular, the evaluation of whether or not the removed individuals are likely to be exposed to conditions constituting cruel, inhuman or degrading treatment in violation of Article 7 of the Covenant must be based not only on assessment of the general conditions in the receiving country, but also on the individual circumstances of the persons in question. These circumstances include vulnerability-increasing factors relating to such persons, such as their age, which may transform a general situation which is tolerable for most removed individuals to intolerable for some individuals.*²⁹

CJEU, *Jawo and Ibrahim and Others* (2019)³⁰

The *Jawo* case concerned a Gambian national who had lodged an initial asylum application in Italy but then continued his journey, submitting another application in Germany. The German authorities rejected the application as being inadmissible and ordered his removal to Italy pursuant to the Dublin III Regulation. Claiming a violation of Article 4 of the Charter of Fundamental Rights of the EU before the Verwaltungsgerichtshof Baden-Württemberg (Higher Administrative Court, Baden-Württemberg, Germany), the applicant argued that his removal to Italy would be unlawful because of the systemic deficiencies in the reception conditions for applicants and living conditions of beneficiaries of international protection in that country. The Higher Administrative Court referred the case to the Court of Justice of the European Union (CJEU), asking it to interpret the Dublin III Regulation and the prohibition of inhuman or degrading treatment set out in Article 4 of the Charter.

The *Ibrahim and Others* cases concerned stateless Palestinians that had resided in Syria and were granted subsidiary protection in Bulgaria, and a Russian national who declared himself to be Chechen and received such protection in Poland. They submitted subsequent asylum applications in Germany that were ruled inadmissible. Germany ordered their removal to Bulgaria and Poland respectively. The applicants consequently brought actions before the German courts. The cases ultimately reached the Federal Administrative Court, which decided to ask the CJEU to clarify the limits of the possibility to reject applications for international protection as inadmissible due to the prior granting of protection by another Member State.

The CJEU reached the following conclusions in its judgment:

...where the court or tribunal hearing an action challenging a transfer decision has available to it evidence provided by the person concerned for the purposes of establishing the existence of such a risk, that court or tribunal is obliged to assess, on the basis of information that is objective, reliable, specific and properly updated and having regard to the standard of protection of fundamental rights guaranteed by EU law, whether there are deficiencies, which may be systemic or generalised, or which may affect certain groups of people.

...the question of what criteria should guide the competent national authorities in carrying out that assessment, it must be noted that,

²⁶ UN Human Rights Committee, *Jasin et al v. Denmark*, Communication No. 2360/2014.

²⁷ *Ibid*, para 8.9.

²⁸ UN Human Rights Committee, *O.Y.K.A. v. Denmark*, Communication No. 2770/2016.

²⁹ *Ibid*, para 8.11.

³⁰ CJEU, 19 March 2019, *Jawo*, C-163/17, EU:C:2019:218 and CJEU, 19 March 2019, *Ibrahim*, Joined cases C-297/17, C-318/17, C-319/17 and C-438/17, EU:C:2019:219.

in order to fall within the scope of Article 4 of the Charter, which corresponds to Article 3 ECHR, and of which the meaning and scope are therefore, in accordance with Article 52(3) of the Charter, the same as those laid down by the ECHR, the deficiencies referred to in the preceding paragraph of the present judgment must attain a particularly high level of severity, which depends on all the circumstances of the case.

That particularly high level of severity is attained where the **indifference of the authorities of a Member State** would result in **a person wholly dependent on State support** finding himself, irrespective of his wishes and personal choices, in **a situation of extreme material poverty that does not allow him to meet his most basic needs**, such as, *inter alia*, food, personal hygiene and a place to live, and that **undermines his physical or mental health or puts him in a state of degradation incompatible with human dignity**.³¹

EU law must be interpreted as meaning that the question whether Article 4 of the Charter precludes the transfer, pursuant to Article 29 of the Dublin III Regulation, of an applicant for international protection to the Member State which, in accordance with that regulation, is normally responsible for examining his application for international protection, where, in the event of such protection being granted in that Member State, the applicant would be exposed to **a substantial risk of suffering inhuman or degrading treatment** within the meaning of Article 4 of the Charter, on account of the **living conditions that he could be expected to encounter** as a beneficiary of international protection in that Member State, falls within its scope.

Article 4 of the Charter must be interpreted as not precluding such a transfer of an applicant for international protection, unless the court hearing an action challenging the transfer decision finds, on the basis of **information that is objective, reliable, specific and properly updated** and having regard to the **standard of protection of fundamental rights guaranteed by EU law**, that that risk is real for that applicant, on account of the fact that, should he be transferred, he would find himself, irrespective of his wishes and personal choices, in **a situation of extreme material poverty**.³²

Administrative Tribunal (Luxembourg), A. and B (Iraq) v. Ministry for Migration and Asylum (2019)³³

The case concerned an Iraqi national and his mother who applied for asylum in Luxembourg. The son had been shot in Iraq and was paraplegic as a result. They had both been granted refugee status in Greece and therefore their applications in Luxembourg were ruled inadmissible by the Ministry for Migration and Asylum. The applicants appealed against this decision, claiming a violation of both Article 3 of the ECHR and Article 4 of the Charter on the basis that Greek authorities had refused the son the necessary care and treatment for his medical condition, and that this had not changed despite the granting of international protection.

The Administrative Tribunal granted the appeal and annulled the Ministry's decision.

An authority examining an application for international protection by an individual already holding protection status in another Member State **must check whether the protection of fundamental rights is systematically guaranteed** by the country already providing international protection. This especially concerns applicants who are entirely dependent on public aid, and, in particular, on the public health system of the country providing them protection.

The Tribunal, noting that the Minister's decision relied on the protection status already provided by Greece, considered that the Minister had failed to verify whether the applicant benefited from **adequate care**, without which he would be finding himself **in a situation which would seriously damage his physical or mental health or put him in a state of degradation incompatible with human dignity** – and could henceforth be characterised as inhuman or degrading treatment.³⁴

Magdeburg Administrative Court (Germany) (2016)³⁵

The case concerned a Syrian national who applied for asylum in Germany, but whose application was subsequently ruled inadmissible due to his existing refugee status in Greece. He was requested to leave the country within 30 days, or otherwise face deportation. The applicant appealed this decision to the Magdeburg Administrative Court that reached the following conclusions:

...a deportation order resulting from an asylum application found to be inadmissible is unlawful...where the deportation would put the applicant at **risk of an inhuman or degrading treatment** within the meaning of Art. 3 of the ECHR.

In light of **the deplorable state of the general living conditions in Greece as well as of those of beneficiaries of international protection in particular**, the conclusion is justified that a deportation of a recognised beneficiary of international protection to Greece would amount to a violation of Art. 3 of the ECHR.

...a state can be held responsible under Art. 3 of the ECHR in extraordinary cases where the foreign national is completely dependent on state support and is faced with **indifference by the authorities despite the fact that he/she lives in such poverty and need that it is incompatible with his/her human dignity**.

31 Ibid, para 90-92.

32 Ibid, para 98.

33 Luxembourg Administrative Tribunal, 6 November 2019, A. and B (Iraq) v. Ministry for Migration and Asylum, n° 43536.

34 Ibid. (Summary of the case in English available on <https://www.asylumlawdatabase.eu/en/case-law/luxembourg-administrative-tribunal-and-b-iraq-v-ministry-migration-and-asylum-n%C2%B0-43536-6#content>).

35 Germany – Administrative Court Magdeburg, 13 July 2016, 9 A 594/15 MD.

...the Court referred to the persistent recession, the low per capita income/lack of a minimum income, the strict austerity program imposed by the EU, the lack of social benefits such as unemployment benefits and/or the dependence of such benefits of an income, the lack of a functioning health insurance system and the high unemployment rates. In light of these circumstances, **a beneficiary of international protection had no realistic chance of being employed, in particular since there were no official integration programmes or language courses.** Bearing in mind **the dependence of social benefits as well as health care of a sufficient income and the particular vulnerability of refugees**, the Court found that there was sufficient evidence to conclude that a deportation of the applicant would result in a violation of Art. 3 of the ECHR.³⁶

German Federal Constitutional Court (2017)³⁷

The German Federal Constitutional Court blocked the removal of a recognised refugee from Germany to Greece and held that the Federal Office of Immigration and the Administrative Court should have assessed how access to shelter, food and sanitary facilities are ensured for recognised beneficiaries returned to Greece before taking a transfer decision.

German Federal Constitutional Court (2018)³⁸

The following year, the German Federal Constitutional Court issued a similar ruling where it held that recognised refugees in Greece may not be returned without assurances from the relevant Greek authorities. The Federal Constitutional Court concluded that

*returns have to be examined on a **case-by-case basis** and in particular whether: the **livelihood** of the persons concerned was **guaranteed**; and they had **access to the labour market, housing and health care.***³⁹

Dutch Council of State (2019)⁴⁰

A single mother and her daughter who suffered from severe psychological problems had had their asylum applications declared inadmissible by the Netherlands on the grounds that they had already been granted international protection by Greece. The mother and daughter appealed this decision and the Dutch Council of State held that the extreme vulnerability of the daughter and the extent to which she depended on her mother would make it more difficult for both of them to exercise their rights in Greece, and that therefore they should not be returned to Greece from the Netherlands without proper justification by the Dutch State. The Secretary of State was ordered to reassess the case with due consideration of the particular vulnerability of the applicants and to examine whether they would face a risk of inhuman or degrading treatment if transferred to Greece.⁴¹

³⁶ Ibid. (Summary of the case in English available on <https://www.asylumlawdatabase.eu/en/case-law/germany-%E2%80%93-administrative-court-magdeburg-13-july-2016-9-59415-md>).

³⁷ BVerfG, Beschluss der 1. Kammer des Zweiten Senats vom 08. Mai 2017, 2BvR 157/17.

³⁸ BVerfG, Beschluss der 1. Kammer des Zweiten Senats vom 31. Juli 2018, 2BvR 714/18.

³⁹ 'Returned recognized refugees face a dead-end in Greece – introductory note', op. cit.

⁴⁰ Dutch Council of State, 17 July 2019, ECLI:NL:RVS:2019:2385.

⁴¹ Ibid. Summary of the case in English available on <https://www.asylumlawdatabase.eu/en/content/netherlands-ruling-against-return-greece-vulnerable-beneficiaries-international-protection>).

3. Access to Social Rights

It is a commonly held assumption, both in law and among the general public, that being granted refugee status has numerous positive effects on a person's life, both practically and psychologically, and that therefore recognised refugees are in a better position than asylum-seekers. However, while this may sometimes be the case, being granted refugee status in Greece certainly does not seem to guarantee an improved quality of life. As German publication Deutsche Welle notes:

*For recognized refugees in Greece, the hardship isn't over... Life for refugees in Greece does not always get easier when their status is officially recognized. On the contrary: Often already traumatized by war, they face the risk of poverty and homelessness.*⁴²

Indeed, the UNHCR has stressed that the “provision of basic social rights is currently a challenge for *both* asylum seekers and beneficiaries of international protection in Greece.”⁴³ In other words, the granting of an international protection status will not necessarily result in *actual* protection.

As discussed above, a number of international and national courts have held that the living conditions of asylum-seekers and recognised refugees alike in Greece are so dire that they are capable of amounting to ‘inhuman or degrading treatment’ under Article 3 of the ECHR, Article 4 of the Charter, or Article 7 of the ICCPR, and therefore prevent the return of persons to the country.

In addition, many international and non-governmental organisations have heavily criticised the living conditions of recognised refugees in Greece. For example, the NGOs Refugee Support Aegean and PRO ASYL, documenting the living conditions of returned recognised refugees, warned that they would “face a dead-end in Greece.”⁴⁴ A legal note published by the same two organisations found that an international protection status in Greece “does not necessarily secure a dignified life for its holder” and “amounts to no more than protection ‘on paper’.”⁴⁵ A lawyer at the Greek Council for Refugees, Vivi Paschalidou, similarly states:

*...recognized refugees have nearly the same rights as Greek citizens – but only in theory. In practice, Greece failed to launch integration programs early on to pave the way for refugees to enter Greek society.*⁴⁶

What this essentially means is that although the access of recognised refugees to housing, employment, education, health care, and social welfare under the same conditions as Greek nationals (or at the very least, under the same conditions as other third-country nationals legally residing in the country) is provided in national law, it is not enforced in practice.

Furthermore, not only is the situation of recognised refugees in Greece no better than that of asylum-seekers, but in some ways, it might actually be worse as it often means even less access to certain rights and support – at least on paper. For example, the ‘Reception Conditions Directive’⁴⁷ sets out minimum standards for the reception conditions of asylum-seekers in the EU but affords no such guarantees to recognised refugees. Moreover, following a series of new legislative measures restricting the access of recognised refugees to accommodation and social benefits that were announced in March 2020, the Greek Minister for Migration and Asylum himself stated:

*...our aim is to grant asylum to those entitled within 2-3 months and from then on, we cut any benefits and accommodation, as all this works as a pull factor ... Greece is cutting these benefits. Anyone after the recognition of the asylum status is responsible for himself.*⁴⁸

This statement reveals how in Greece, refugees are left to essentially fend for themselves as soon as they are granted international protection status.

Therefore, in this section, the access of beneficiaries of international protection to various social rights in Greece is examined. Specifically, the access of recognised refugees to housing, employment, education, health care, social welfare, and further integration steps, is assessed. Comparisons are drawn between access according to the law and access in reality – in other words, access ‘on paper’ versus access ‘in practice’. First, however, it is useful to summarize some of the most common obstacles beneficiaries of international protection encounter when trying to access these rights.

⁴² Schmitz, F., ‘For recognized refugees in Greece, the hardship isn't over’, Deutsche Welle, 12 July 2020 (available on <https://www.dw.com/en/greece-refugees-syria/a-54083143>).

⁴³ PRO ASYL and Refugee Support Aegean, Legal note on the living conditions of beneficiaries of international protection in Greece, ‘Rights and effective protection exist only on paper: The precarious existence of beneficiaries of international protection in Greece’, 30 June 2017, p. 10. (available on <https://rsaagean.org/wp-content/uploads/2017/06/2017-06-23-Legal-note-RSA-beneficiaries-of-international-protection-in-Greece-1.pdf>).

⁴⁴ PRO ASYL and Refugee Support Aegean, ‘Returned recognized refugees face a dead-end in Greece – a case study’, 4 January 2019 (available on https://www.proasyl.de/wp-content/uploads/Case-Study_Iranian-Family-CH-GR_Imprint.pdf).

⁴⁵ ‘Rights and effective protection exist only on paper’, op. cit., p. 3.

⁴⁶ ‘For recognized refugees in Greece, the hardship isn't over’, op. cit.

⁴⁷ 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 (‘Reception Conditions Directive’).

⁴⁸ European Council on Refugees and Exiles, Asylum Information Database, ‘Country Report: Greece’, 2019 Update, p. 217. (available on https://www.asylumineurope.org/sites/default/files/report-download/aida_gr_2019update.pdf).

3.1 Key Obstacles

There are numerous obstacles beneficiaries of international protection encounter when attempting to access their social rights in Greece. Some of the most commonly cited⁴⁹ ones are the following:

- administrative and bureaucratic barriers in obtaining necessary documents and satisfying other preconditions;
- a serious lack of strategies, programmes, and measures specifically targeting beneficiaries of international protection;
- a serious lack of effective information and support; and
- inadequate funding and resources due to the financial crisis and the subsequent decade of austerity measures.

Given that administrative and bureaucratic barriers in obtaining necessary documents and satisfying certain preconditions seems to be the most recurring problem for beneficiaries of international protection in their attempt to access the various social rights considered in this report, an outline of the most commonly required documents and preconditions, and the reasons they are so difficult to obtain or satisfy, is provided:

Tax identification number (AFM)

- AFM is a necessary precondition for access to nearly all the social rights that will be considered in this report, including housing, employment, health care, and social welfare.
- It is also a prerequisite for opening a bank account and for the issuance of a social security number (AMKA).
- In order to obtain AFM, a certified residence address (i.e. proof of address) is required. In theory, a homeless certificate should be a viable alternative to proof of address.⁵⁰ However, in practice, this does not seem to be the case. The tax authorities, for instance, did not accept homeless certificates as proof of address in any of the cases of vulnerable families that Refugee Support Aegean documented over the summer of 2020. One family, for example, was told by *four* different tax offices that they could not be issued AFM based on their homeless certificate.⁵¹ Therefore, those beneficiaries of international protection who cannot obtain a certified residence address and/or who are homeless, are unable to receive AFM,⁵² and consequently, unable to access any social rights for which obtaining AFM is a precondition.
- Furthermore, according to the experience of the Greek Council for Refugees, the issuance of AFM is subject to severe delays: the procedure carried out by the tax authorities to verify refugees' personal data through the Asylum Service takes approximately 2 months.⁵³
- UNHCR statistics from September 2020 indicate that 73% of the 6,863 recognised refugees housed in the UNHCR Accommodation and Cash Assistance Scheme, ESTIA (Emergency Support to Integration and Accommodation),⁵⁴ have AFM.⁵⁵ Naturally, being in the Accommodation Scheme, they are much more likely to be able to obtain a certified residence address and thus AFM. Therefore, this percentage is likely to be significantly lower for those outside a support framework such as ESTIA. It should also be noted that the recognised refugees in the ESTIA scheme are in no way representative of the refugee population as a whole in Greece given that they make up less than 10% of that.⁵⁶
- The introduction of COVID-19 restrictions in mid-March 2020 led to the complete suspension in the issuance of AFM in the Attica Region. At the time of Refugee Support Aegean and PRO ASYL's writing, in May 2020, this suspension remained in force – meaning that beneficiaries of international protection were unable to apply for AFM for at least 2 months.⁵⁷

Social security number (AMKA)

- Beneficiaries of international protection need a social security number (AMKA) in order to access health care and the labour market. It is also required for collecting certain benefits, such as the unemployment benefit from the Labour Employment Office (OAED).
- Obtaining AMKA requires having AFM, a residence permit, and proof of address.⁵⁸
- According to the experience of the Greek Council for Refugees, refugees who possess the old residence permit in the form of a 'booklet' have encountered problems in the issuance of AMKA as employees of the Citizen Service Center have not known how to process these.⁵⁹
- Obtaining AMKA is also made more problematic due to technical issues encountered by authorities in adapting a refugees' personal details contained in their residence permits into Greek characters (despite the fact that there is no such requirement under national law).⁶⁰

49 'Rights and effective protection exist only on paper', op. cit.; 'Country Report: Greece', op. cit.; Council of Europe, Commissioner for Human Rights, 'Report of the Commissioner for Human Rights of the Council of Europe, Dunja Mijatović, following her visit to Greece from 25 to 29 June 2018', 6 November 2018 (available on https://reliefweb.int/sites/reliefweb.int/files/resources/CommDH%282018%2924%20-%20Greece%20report_EN.docx.pdf).

50 Refugee.Info, 'Proving your address', 30 August 2020 (available on <https://www.refugee.info/greece/proving-your-address-linked-on-faq-page-only--greece/overview-proving-your-address-linked-on-faq-page-only/>).

51 Refugee Support Aegean, 'Recognised but unprotected: The situation of refugees in Victoria Square', 3 August 2020 (available on <https://rsaagean.org/en/recognised-but-unprotected-the-situation-of-refugees-in-victoria-square/>).

52 Ibid.

53 'Country Report: Greece', op. cit., p. 220.

54 See Annex I for more information on the role of the UNHCR in Greece and the ESTIA scheme.

55 UNHCR, 'ESTIA II Accommodation Capacity Weekly Update', 21 September 2020 (available on <http://estia.unhcr.gr/en/estia-accommodation-capacity-weekly-update-21-september-2020/>).

56 At the end of 2019, Greece hosted 68,219 refugees and 12,249 people in 'refugee-like' situations. See: UNHCR, '2019 Year-End Report: Greece', 8 July 2020 (available on <https://reporting.unhcr.org/sites/default/files/pdfsummaries/GR2019-Greece-eng.pdf>).

57 Refugee Support Aegean and PRO ASYL, 'Kurdistan Darwesh and others v. Greece and the Netherlands Application no. 52334/19: Written submissions on behalf of Refugee Support Aegean (RSA) and Stiftung PRO ASYL', 4 June 2020, p. 2. (available on https://rsaagean.org/wp-content/uploads/2020/06/RSA_PROASYL_TPL_Darwesh-1.pdf).

58 Ibid, p. 3.

59 'Country Report: Greece', op. cit., p. 223.

60 'Kurdistan Darwesh and others v. Greece and the Netherlands Application no. 52334/19: Written submissions on behalf of Refugee Support Aegean (RSA) and

- According to UNHCR statistics from September 2020, 79% of the 6,863 recognised refugees in the ESTIA Accommodation Scheme have AMKA.⁶¹ However, this percentage is likely to be significantly lower for those outside a support framework such as ESTIA, whose beneficiaries make up, as noted above, less than 10% of the total refugee population in Greece.

Bank account

- Opening a bank account is a necessary precondition for beneficiaries of international protection to access the labour market and to receive social benefits.
- Necessary documents for the opening of a bank account in Greece include a residence permit, passport, proof of address, as well as AFM and a tax clearance certificate.
- In practice, beneficiaries of international protection who are waiting to obtain their residence permit or passport or who cannot prove a residence address have been refused the right to open a bank account.⁶²
- According to UNHCR statistics from September 2020, only 10% of the 6,863 recognised refugees in the ESTIA Accommodation Scheme have managed to open a bank account.⁶³ This percentage is likely to be even lower for those outside a support framework such as ESTIA.

Proof of address

- Proof of address (i.e. certified residence address) is a prerequisite for obtaining AFM and AMKA and opening a bank account. It is also necessary for receiving certain social benefits, such as the guaranteed minimum income.
- Residence can be certified through either a rental contract, a certificate from a reception centre, an electricity or water bill, or a homeless certificate.⁶⁴
- However, as noted above, in practice, some authorities do not seem to be willing to accept homeless certificates as proof of address. Even if they are accepted, the Municipality of Athens provides certificates of homelessness only to those whom street workers have actually encountered living in the street, thus excluding those homeless people who live under precarious conditions in abandoned or improper housing (e.g. 'squats', overcrowded apartments with no water or electricity) or who move around.⁶⁵ Consequently, many homeless people are unable to obtain a homeless certificate.⁶⁶

Certificates proving family situation

- Certificates proving family situation (e.g. divorce papers, death certificates, birth certificates) are a prerequisite for obtaining certain social benefits.
- With no access to the authorities of their country of origin, most beneficiaries of international protection struggle to obtain such certificates.⁶⁷

Stiftung PRO ASYL', op. cit., p. 3.

61 'ESTIA II Accommodation Capacity Weekly Update', op. cit.

62 Kurdistan Darwesh and others v. Greece and the Netherlands Application no. 52334/19: Written submissions on behalf of Refugee Support Aegean (RSA) and Stiftung PRO ASYL', op. cit., p. 3.

63 'ESTIA II Accommodation Capacity Weekly Update', op. cit.

64 Kurdistan Darwesh and others v. Greece and the Netherlands Application no. 52334/19: Written submissions on behalf of Refugee Support Aegean (RSA) and Stiftung PRO ASYL', op. cit., p. 2.

65 PRO ASYL and Refugee Support Aegean, 'Update, legal note on the living conditions of beneficiaries of international protection in Greece', 30 August 2018, p. 4. (available on <https://www.proasyl.de/wp-content/uploads/2015/12/Recognized-Report-Update-Publication-ENG.pdf>).

66 'Kurdistan Darwesh and others v. Greece and the Netherlands Application no. 52334/19: Written submissions on behalf of Refugee Support Aegean (RSA) and Stiftung PRO ASYL', op. cit., p. 8.

67 'Country Report: Greece', op. cit., p. 221.

We were in the Malakasa camp near Athens. There were more than 1,000 people in the camp, and it was very dangerous. There was a lot of violence. The common areas were so unsafe that even the doctors advised us to not let our children leave the room. I witnessed children being raped. The only solution was to have the children locked up, all the time. Later on, some people reproached us for not allowing the children to go out. But they had no idea what went on in the camp.

3.2 Housing

Access to housing on paper

International Law: Article 21 of the 1951 Geneva Convention

Housing:

As regards housing, the Contracting States, in so far as the matter is regulated by laws or regulations or is subject to the control of public authorities, shall accord to refugees lawfully staying in their territory treatment as favourable as possible and, in any event, not less favourable than that accorded to aliens generally in the same circumstances.

EU Law: Article 32 of Directive 2011/95/EU

Access to accommodation:

1. Member States shall ensure that beneficiaries of international protection have access to accommodation under equivalent conditions as other third-country nationals legally resident in their territories.
2. While allowing for national practice of dispersal of beneficiaries of international protection, Member States shall endeavour to implement policies aimed at preventing discrimination of beneficiaries of international protection and at ensuring equal opportunities regarding access to accommodation.

Greek Law: Article 33 of PD 141/2013

Access to accommodation:

Beneficiaries of international protection shall have access to accommodation under equivalent conditions and restrictions as other third-country nationals legally resident in Greece, always with a view to offering equal opportunities regarding access to accommodation.

Access to housing in practice

Although according to the law beneficiaries of international protection in Greece have access to accommodation under the same conditions and limitations applicable to other third-country nationals residing legally in the country, in practice, access to accommodation for recognised refugees is extremely limited. As Refugee Support Aegean and PRO ASYL note, refugees in Greece have “no secure and effective access to shelter.”⁶⁸ There are a number of reasons for this.

First of all, “no state-run accommodation places are earmarked for beneficiaries of international protection, not even for vulnerable individuals.”⁶⁹ For example, the places provided by the National Centre for Social Solidarity (E.K.K.A., a public body under the Ministry of Labour and Social Affairs) and the currently existing 30 temporary accommodation camps in the mainland are only provided for asylum-seekers or for relocation, not for beneficiaries of international protection. Even if the now recognized refugees had been living in such accommodation as applicants, they are requested to leave the facilities soon after they are granted refugee status.⁷⁰ Similarly, accommodation under the UNHCR accommodation and cash assistance scheme (ESTIA) – the management and overall coordination of which has now been taken over by the Ministry of Migration and Asylum⁷¹ – is unavailable to recognised refugees who have not been accommodated already as asylum-seekers in the ESTIA flats and to those who have been returned from other European countries.⁷²

Therefore, beneficiaries of international protection who cannot afford to rent a place themselves, can theoretically only be accommodated in existing shelters for the homeless in Greece. There is very limited accommodation available to homeless people, and no shelters are dedicated specifically to beneficiaries of international protection. In Athens, for example, there are only four homeless shelters provided by public authorities, and while beneficiaries of international can apply to them for accommodation, they are extremely unlikely to get admitted as the shelters are always overcrowded and constantly receiving new applications.⁷³ The likelihood of getting admitted to one of the shelters is so low that most people in need do not even apply, and in any case, the majority of beneficiaries of international protection cannot fulfil the shelters’ preconditions, such as having AFM, tax declarations, or certificates of special medical examinations that are not performed at hospitals for free.⁷⁴

At the time of Refugee Support Aegean and PRO ASYL’s research in April 2020, all shelters provided by public authorities (or in co-operation with them) in the Attica region, apart from one, were full, and none were accepting placements, partly due to the COVID-19 pandemic.⁷⁵ The research also revealed that 1) most shelters only accept people who speak English or Greek due to a lack of interpreters; 2) the vast majority of shelters do not accept people with mental health conditions; and 3) the only shelter for families had been suspended, and now only two

68 PRO ASYL and Refugee Support Aegean, ‘Returned recognized refugees face a dead-end in Greece – introductory note’, 4 January 2019 (available on <https://rsaegean.org/en/returned-recognized-refugees-face-a-dead-end-in-greece/>).

69 ‘Rights and effective protection exist only on paper’, op. cit., p. 13.

70 Ibid, p. 13-14.

71 *Kurdistan Darwesh and others v. Greece and the Netherlands Application no. 52334/19*: Written submissions on behalf of Refugee Support Aegean (RSA) and Stiftung PRO ASYL, op. cit., p. 5.

72 ‘Returned recognized refugees face a dead-end in Greece – a case study’, op. cit., p. 3; ‘Kurdistan Darwesh and others v. Greece and the Netherlands Application no. 52334/19’: Written submissions on behalf of Refugee Support Aegean (RSA) and Stiftung PRO ASYL, op. cit., p. 5-6.

73 ‘Country Report: Greece’, op. cit., p. 218.

74 ‘Rights and effective protection exist only on paper’, op. cit., p. 15; Greek Council for Refugees, ‘Report of the Greek Council for Refugees to the UN Committee on Economic, Social and Cultural Rights in View of its 55th Session’, 8 January 2015, p. 7. (available on https://tinternet.ohchr.org/Treaties/CESCR/Shared%20Documents/GRC/INT_CESCR_ICO_GRC_19295_E.pdf).

75 ‘Kurdistan Darwesh and others v. Greece and the Netherlands Application no. 52334/19’: Written submissions on behalf of Refugee Support Aegean (RSA) and Stiftung PRO ASYL, op. cit., p. 9.

shelters exceptionally admit families and one accepts women with children, notably victims of domestic violence.⁷⁶

In addition to homeless shelters provided by public authorities, a number of NGOs also offer shelter to recognised refugees. There is, however, no known list of such organisations,⁷⁷ which makes it difficult to estimate their exact capacities. They tend to, however, have very limited capacity and long waiting lists – as do the homeless shelters run by public authorities. They are also generally reserved only for the most vulnerable individuals (and even then, a place is naturally not guaranteed). For example, Faros offers temporary housing to 22 unaccompanied refugee minors, Za'atar's Orange House provides long-term accommodation to 15 female refugees and their children, and Klimaka's Iolaos shelter has capacity for 10 non-nationals with severe psychiatric problems.⁷⁸

Secondly, the Greek state offers no financial support for living costs for newly recognised refugees⁷⁹ – no rental subsidies, loans or any other kind of support is provided.⁸⁰ A rental allowance does exist, but it is only provided to those who have resided in Greece for an uninterrupted period of at least 5 years.⁸¹

The only official integration programme currently operating in Greece that offers rental subsidies to newly recognised beneficiaries of international protection is the EU-funded 'Hellenic Integration Support for Beneficiaries of International Protection' (HELIOS) programme, which is implemented by the International Organisation for Migration (IOM) in partnership with several NGOs.⁸² However, those recognised refugees who were granted status prior to 2018 and/or who do not reside in a reception facility or in ESTIA accommodation, including returnees from other EU Member States, are not eligible for the HELIOS programme. Even those beneficiaries of international protection who do qualify for it, need to have AFM, a bank account and an existing rental agreement – all of which are difficult to obtain in practice.⁸³ Indeed, less than 4% of people granted refugee status in Greece since the beginning of 2018 have received rental subsidies under HELIOS.⁸⁴ Furthermore, the programme only runs until November 2020.⁸⁵

For the above reasons, and according to the experience of the Greek Council for Refugees, those recognised refugees who lack personal financial resources to rent a place either remain homeless or reside in abandoned houses ('squats') or informally rented, overcrowded apartments.⁸⁶ The living conditions tend to be deplorable in these places as they often lack access to electricity, toilets, or running water. Additionally, many face a constant danger of eviction.⁸⁷ Being homeless or living under precarious conditions such as these also leaves beneficiaries of international protection exposed to a heightened risk of beatings, muggings, exploitation, racist attacks, and sexual violence.

Thirdly, even beneficiaries of international protection who can afford to rent a place themselves still face major administrative barriers in accessing housing, mainly due to difficulties in obtaining the necessary documents for it, as noted above. Those seeking to rent property need, for example, AFM, which in turn – ironically – requires a certified residence address. Those who do not hold such certificate and/or who are homeless, generally cannot receive AFM and therefore cannot rent property.⁸⁸

The chances of beneficiaries of international protection to obtain a rental agreement are further lowered by discrimination in the housing market and xenophobic stances from local authorities (e.g. the Deputy Governor of Chios, in April 2020, called on landlords not to let property to migrants).⁸⁹

Fourthly, as regards beneficiaries of international protection who are returned to Greece from other EU Member States, no support, information or referral regarding accommodation possibilities in Greece is provided to them upon arrival. Nor are they granted any type of cash allowance.⁹⁰ They are simply left to survive by their own means, irrespective of their vulnerability.⁹¹

A case study carried out by Refugee Support Aegean and PRO ASYL documented the living conditions of a four-member family of recognised refugees, who were returned to Greece from Switzerland in August 2018. Upon arrival, they ended up homeless. They did not have enough money to rent a house nor did they have access to any other secure housing solution, such as a homeless shelter. Due to being recognised refugees returned from another EU country, they were not eligible for accommodation under the ESTIA scheme nor for a place in a refugee camp for asylum-seekers. Attempts at finding accommodation in shelters and under the Athens Municipality 'social housing scheme' also failed because of their limited capacity and long waiting lists. They were forced to sleep in a park and in houses of acquaintances.⁹²

The case of this family is unfortunately in no way unique. Refugee Support Aegean has documented a number of other cases of beneficiaries of international protection who were sent back by other EU countries and upon their arrival in Greece "had to sleep in the streets in desperation, without any access to food, water and sanitary facilities."⁹³

76 Ibid, p. 9.

77 Ibid, p. 7.

78 See Annex I for more information on these organisations.

79 'Country Report: Greece', op. cit., p. 218.

80 'Rights and effective protection exist only on paper', op. cit., p. 13.

81 'Kurdistan Darwesh and others v. Greece and the Netherlands Application no. 52334/19: Written submissions on behalf of Refugee Support Aegean (RSA) and Stiftung PRO ASYL', op. cit., p. 8.

82 See Annex I for more information on the role of the IOM in Greece and the HELIOS programme.

83 Ibid, p. 6.

84 Ibid, p. 7.

85 'Country Report: Greece', op. cit., p. 219.

86 Ibid, p. 218; 'Report of the Greek Council for Refugees to the UN Committee on Economic, Social and Cultural Rights in View of its 55th Session', op. cit., p. 7.

87 'Rights and effective protection exist only on paper', op. cit., p. 16.

88 'Recognised but unprotected: The situation of refugees in Victoria Square', op. cit.

89 'Kurdistan Darwesh and others v. Greece and the Netherlands Application no. 52334/19: Written submissions on behalf of Refugee Support Aegean (RSA) and Stiftung PRO ASYL', op. cit., p. 7.

90 Ibid, p. 4.

91 'Rights and effective protection exist only on paper', op. cit., p. 17.

92 'Returned recognized refugees face a dead-end in Greece – a case study', op. cit.

93 'Rights and effective protection exist only on paper', op. cit., p. 17.

As a final point, new legal developments this year have made a housing situation that was already dire for recognised refugees in Greece, even worse. Following an alarming amendment to the national asylum legislation in early March 2020 (briefly mentioned above), beneficiaries of international protection housed in accommodation facilities during their asylum procedure must now leave these centres within a 30-day period after the granting of international protection. Previously this “grace period...to make a transition from organized accommodation and basic support to an independent living” was 6 months.⁹⁴ The amendment also orders benefits in cash or in kind to be halted as soon as the decision on the international protection application is issued.⁹⁵

The objective of the amendment is to urgently decongest the overcrowded camps on the Greek islands and to vacate much needed space for newly arriving asylum-seekers. However, as no measures have been taken to create more housing options in the mainland for recognised refugees or “to mitigate longstanding obstacles...in obtaining the necessary documentation for access to key rights,”⁹⁶ the amendment merely “shift[s] a problem from the islands to the mainland.”⁹⁷

Unsurprisingly then, these changes to the law have been widely criticised by a number of human rights organisations. As Refugee Support Aegean and PRO ASYL note:

*...[this] current policy of the Greek government shifts away from what was already limited and ineffective integration support to an approach expecting immediate autonomy and self-sufficiency of people granted international protection.*⁹⁸

The UNHCR has also expressed its grave concern over the amended legislation with the following warning:

*Forcing people to leave their accommodation without a safety net and measures to ensure their self-reliance may push many into poverty and homelessness. Most of the affected refugees do not have regular income, many are families with school-aged children, single parents, survivors of violence, and others with specific needs. The ongoing COVID-19 pandemic and measures to reduce its spread create additional challenges by limiting people’s ability to move and find work or accommodation.*⁹⁹

A report on Greece published by the European Council on Refugees and Exiles (ECRE) similarly warned that “given the limited integration of recognised beneficiaries of international protection in Greece, [the amendment] results in a high risk of homelessness and destitution.”¹⁰⁰ Médecins Sans Frontières, in turn, drew attention to the fact that many of the refugees being evicted are extremely vulnerable, and called on the Greek government to suspend evictions of these people in particular, to identify immediate accommodation solutions, and to enlarge the existing accommodation schemes.¹⁰¹

The evictions of around 9,000 recognised refugees from Greece’s reception system started on the 1st of June and in the following months another 11,000 refugees will have to make the same transition from assistance for asylum seekers to general social welfare.¹⁰² These changes to legislation will directly affect, for example, all those benefiting from the ESTIA scheme – currently the scheme houses 6,863 beneficiaries of international protection¹⁰³ and 5,952 receive cash assistance.¹⁰⁴ Most of the accommodation provided by ESTIA is in Athens, and thus there are fears that evicting so many refugees at once “could trigger a humanitarian crisis in the city.”¹⁰⁵

Indeed, a makeshift camp was already formed in Victoria Square in central Athens as a result of the mass evictions. Over the summer, Refugee Support Aegean monitored the cases of several vulnerable Afghan families who were granted international protection in Lesbos and told to leave the Moria camp as a result of the eviction decision. They all ended up homeless and exposed to very poor conditions in Victoria Square.¹⁰⁶ As reported by local media outlet Efsyn, this makeshift camp is only “a very small example of where things can go if the Minister of Immigration and Asylum, Notis Mitarakis, insists on evicting 11,000 refugees from structures and apartments, without solutions for the next day.”¹⁰⁷

Some of those who were staying on Victoria Square were subsequently subjected to threats, intimidation, and violence by the police, and forcibly removed and transferred to camps in and around Athens, camps further away, and even to the Amygdaleza pre-removal detention centre. The living conditions in most of these places were reportedly abhorrent, forcing people to return to Victoria Square.¹⁰⁸ This decision to rather be homeless in Victoria Square than to live in one of the camps speaks volumes about the conditions and lack of security in those camps.

94 Mahecic, A., UNHCR, ‘Greece must ensure safety net and integration opportunities for refugees – UNHCR’, 2 June 2020 (available on <https://www.unhcr.org/news/briefing/2020/6/5ed603924/greece-must-ensure-safety-net-integration-opportunities-refugees-unhcr.html>).

95 ‘Country Report: Greece’, op. cit., p. 219.

96 ‘Recognised but unprotected: The situation of refugees in Victoria Square’, op. cit.

97 ‘Greece must ensure safety net and integration opportunities for refugees – UNHCR’, op. cit.

98 Refugee Support Aegean, ‘Lack of effective integration policy exposes refugees in Greece to homelessness and destitution, while returns from European countries continue’, 4 June 2020 (available on <https://rsaagean.org/en/lack-of-effective-integration-policy-exposes-refugees-in-greece-to-homelessness-and-destitution-while-returns-from-european-countries-continue/>).

99 ‘Greece must ensure safety net and integration opportunities for refugees – UNHCR’, op. cit.

100 ‘Country Report: Greece’, op. cit., p. 23.

101 MSF, ‘Vulnerable refugees evicted and left to sleep on streets’, 13 July 2020 (available on <https://www.msf.org/greece-evicts-vulnerable-refugees-leaves-them-streets>).

102 ‘Greece must ensure safety net and integration opportunities for refugees – UNHCR’, op. cit.

103 ESTIA II Accommodation Capacity Weekly Update’, op. cit.

104 UNHCR, ‘Greece Cash Assistance Update’, 17 September 2020 (available on <https://data2.unhcr.org/en/documents/details/79044>).

105 Montalto Monella, L. and Dell’Anna, A., ‘Thousands of migrants face eviction in Greece sparking fears over homelessness’, EuroNews, 2 June 2020 (available on <https://www.euronews.com/2020/06/01/thousands-of-asylum-seekers-face-eviction-in-greece-sparking-fears-over-homelessness>).

106 ‘Recognised but unprotected: The situation of refugees in Victoria Square’, op. cit.

107 European Council on Refugees and Exiles, ‘Greece: Pushbacks Continue, Eviction of Makeshift Camp in Athens’, 19 June 2020 (available on <https://www.ecre.org/greece-pushbacks-continue-eviction-of-makeshift-camp-in-athens/>).

108 ‘Recognised but unprotected: The situation of refugees in Victoria Square’, op. cit.

Although this amendment to the law does not directly affect beneficiaries of international protection who are returned to Greece from other EU Member States – since they are in any case generally ineligible for accommodation in the places where refugees are now being evicted from – it certainly will affect them indirectly as on the whole, it will make an already dire housing situation even worse for recognised refugees in Greece. The number of refugees in desperate need of housing on the mainland is likely to multiply and as a result, there will be even more competition over already scarce places in shelters, camps, squats, apartments, etc.

Summary : It is well-documented through numerous cases, reports and news articles that most beneficiaries of international protection encounter insurmountable obstacles in accessing housing. These include an absence of accommodation places earmarked for recognised refugees; a severe lack of capacity in shelters and long waiting lists; administrative and bureaucratic barriers in obtaining the required documents and satisfying other preconditions for access to shelters or for renting a place; and a lack of effective information. The 2020 amendment to the law is likely to further exacerbate an already dire housing situation. For these reasons, beneficiaries of international protection, including those who are returned to Greece from other EU Member States, face a real risk of homelessness or living under otherwise deplorable conditions in camps, abandoned buildings, or overcrowded apartments.

3.3 Employment

Access to employment on paper

International Law: Article 17 of the 1951 Geneva Convention

Wage-Earning Employment:

1. *The Contracting State shall accord to refugees lawfully staying in their territory the most favourable treatment accorded to nationals of a foreign country in the same circumstances, as regards the right to engage in wage-earning employment.*
2. *In any case, restrictive measures imposed on aliens or the employment of aliens for the protection of the national labour market shall not be applied to a refugee who was already exempt from them at the date of entry into force of this Convention for the Contracting State concerned, or who fulfils one of the following conditions: (a) He has completed three years' residence in the country; (b) He has a spouse possessing the nationality of the country of residence. A refugee may not invoke the benefits of this provision if he has abandoned his spouse; (c) He has one or more children possessing the nationality of the country of residence.*
3. *The Contracting States shall give sympathetic consideration to assimilating the rights of all refugees with regard to wage-earning employment to those of nationals, and in particular of those refugees who have entered their territory pursuant to programmes of labour recruitment or under immigration schemes.*

EU Law: Article 26 of Directive 2011/95/EU

1. *Member States shall authorise beneficiaries of international protection to engage in employed or self-employed activities subject to rules generally applicable to the profession and to the public service, immediately after protection has been granted.*
2. *Member States shall ensure that activities such as employment-related education opportunities for adults, vocational training, including training courses for upgrading skills, practical workplace experience and counselling services afforded by employment offices, are offered to beneficiaries of international protection, under equivalent conditions as nationals.*
3. *Member States shall endeavour to facilitate full access for beneficiaries of international protection to the activities referred to in paragraph 2.*
4. *The law in force in the Member States applicable to remuneration, access to social security systems relating to employed or self-employed activities and other conditions of employment shall apply.*

Greek Law: Article 27 of PD 141/2013

1. *Beneficiaries of international protection shall be authorized to engage in employed or self-employed activities subject to the provisions of Presidential Decree No. 189/1998 (O.G. AϜ-140).*
2. *Beneficiaries of international protection can participate in employment-related education opportunities for adults, vocational training, including training courses for upgrading skills, practical workplace experience and counselling services afforded by employment offices under equivalent conditions as Greek nationals.*
3. *The law in force applicable to remuneration, access to social security systems relating to employed or self-employed activities and other conditions of employment shall also apply to beneficiaries of international protection.*

Access to employment in practice

Under Greek law, recognised refugees have full and automatic access to the labour market and do not need to obtain a work permit. In principle, then, provided that they have a valid residence permit, beneficiaries of international protection enjoy equal access to the labour market as Greek nationals.¹⁰⁹ In practice, however, accessing employment on the official labour market is nearly impossible for beneficiaries of international protection. Third-country nationals remain over-represented in unemployment statistics¹¹⁰ and those few who are lucky enough to find a job tend to be

*...employed in the informal economy, which deprives them of access to social security, and subjects them to further precariousness and vulnerability. Henceforth, the vast majority of international protection beneficiaries and applicants rely on food, non-food item and financial assistance distributions to meet their basic needs. This often forces them into dangerous income generating activities, and extends the need for emergency services, increases the risk of exploitation, and hinders their integration prospects.*¹¹¹

There are various reasons why, in practice, beneficiaries of international protection have such limited access to the labour market. First of all, as with housing, one of the main obstacles beneficiaries of international protection face in accessing employment and in registering with the Labour Employment Office (OAED) are the bureaucratic barriers in obtaining necessary documents, including AFM and AMKA. Obtaining AFM – without which one cannot work legally – remains particularly problematic due to obstacles with regards its provision.¹¹² There are also significant delays in the issuance of AFM.¹¹³

As noted above, major difficulties are also reported in opening bank accounts, including those dedicated for salary payments (a precondition for employment in the private sector) and obtaining unemployment cards from OAED.¹¹⁴ Unemployment cards offer access to, inter alia,

¹⁰⁹ Skleparis, D., ELIAMEP, 'Refugee Integration in Mainland Greece: Prospects and Challenges', 2 March 2018, p. 3. (available on <https://www.eliamep.gr/wp-content/uploads/2018/03/Skleparis-Policy-Brief-GREECE.pdf>).

¹¹⁰ Country Report: Greece', op. cit., p. 220.

¹¹¹ 'Refugee Integration in Mainland Greece: Prospects and Challenges', op. cit., p. 3.

¹¹² 'Report of the Commissioner for Human Rights of the Council of Europe, Dunja Mijatović, following her visit to Greece from 25 to 29 June 2018', op. cit., p. 14.

¹¹³ 'Country Report: Greece', op. cit., p. 220.

¹¹⁴ Ibid, p. 165.

unemployment benefits, free public transport, discounts and vocational training.¹¹⁵ However, you need to have a certificate of residence or a homeless certificate – both of which are difficult to obtain in practice, as noted above. UNHCR statistics from September 2020 indicate that only 33% of recognised refugees in the ESTIA Accommodation Scheme eligible to register with unemployment services had registered with OAED.¹¹⁶ This percentage is likely to be considerably lower for those outside a support framework such as ESTIA.

Secondly, beneficiaries of international protection “receive virtually no...support to get oriented, trained or recognised in their field of work.”¹¹⁷ Naturally, they do not possess the same prerequisites as Greek nationals in terms of language skills, social networks, and geographic and cultural knowledge.¹¹⁸ The employability of refugees could, however, be considerably improved through integration strategies and programmes targeting specifically refugees, Greek language courses, and by putting in place mechanisms for the recognition of refugees’ qualifications, skills and previous work experience. However,

*...no national strategy or targeted measures or programs helping with employment and accessing the labour market are put in place by the responsible Greek authorities. Additionally, no mechanism to assess previous professional skills and qualifications exist, resulting in further barriers to access to work or to vocational training programs.*¹¹⁹

The UNHCR similarly states:

*The current situation is disappointing. Most beneficiaries are unemployed and destitute or have recently lost their jobs and face serious financial problems. There is also no specific national strategy for the promotion of socio-economic empowerment and self-reliance of recognised refugees. There are currently no employment programmes of the OAED, targeting specifically recognised refugees as beneficiaries. And there is no mechanism to assess refugees’ qualifications, skills and previous professional experience.*¹²⁰

Furthermore, given that knowledge of the Greek language is vital for drafting a CV, communicating with employers, and filling most job positions, one of the most severe omissions of the Greek government is the lack of free, state-provided language courses.¹²¹ The only language program for third-country nationals provided by the state is run by the University of Athens, but fees amount to hundreds of euros annually.¹²²

As a result of this failure of the Greek government to introduce integration programmes and language courses targeted at refugees, most free programmes and courses are offered and carried out by national and international NGOs, funded by international donors including the EU and the UN.¹²³ For example, the EU-funded and IOM-run HELIOS programme has provided a total of 1,784 job counselling sessions and 2,047 integration courses to refugees as of September 2020.¹²⁴ Other NGOs that provide integration programmes, language courses and/or job counselling include Generation 2.0, Hestia Hellas, METAdrasi, and SolidarityNow.¹²⁵ However, as the Commissioner for Human Rights of the Council of Europe points out, “migrant integration cannot rely solely on civil society” and “much more needs to be done to cover the integration needs of most migrants.”¹²⁶ Indeed, as the UNHCR noted in May 2020, most refugees still do not benefit from language courses or integration programmes in Greece¹²⁷ and this severely hampers their access to the labour market.

Finally, the limited access of beneficiaries of international protection to employment is naturally further exacerbated by the general difficulties stemming from the prevailing economic conditions in Greece and its high unemployment rate.¹²⁸ This has only been made worse by the COVID-19 outbreak, which the European Commission predicts will severely affect Greece’s economy and possibly raise the unemployment rate to 20% this year.¹²⁹

Summary : Access of beneficiaries of international protection to employment in the official labour market is nearly impossible. This is mainly due to a number of bureaucratic barriers in obtaining necessary documents for employment and registration with OAED and opening a bank account, as well as the severe omission of the Greek state to implement integration strategies and programmes aimed specifically at refugees; to introduce mechanisms for assessing refugees’ qualifications, skills and previous work experience; and to provide free Greek language courses. Those few who do manage to find employment, tend to be employed in the informal economy, thus depriving them of access to social security, subjecting them to often very poor working conditions, and exposing them to a heightened risk of exploitation. The prevailing economic conditions and the high unemployment rate in Greece, as well as the impact of COVID-19 on the economy, naturally further compound the situation. For these reasons, beneficiaries of international protection, including those who are returned to Greece from other EU Member States, are highly unlikely to find employment, at least in the formal economy, and thus face a real risk of destitution.

115 Refugee.Info, ‘Getting an unemployment card’, 2 September 2020 (available on <https://www.refugee.info/greece/working-in-greece--greece/getting-an-unemployment-card?language=en#>); ‘Rights and effective protection exist only on paper’, op. cit., p. 22.

116 ‘ESTIA II Accommodation Capacity Weekly Update’, op. cit.

117 ‘Refugee Integration in Mainland Greece: Prospects and Challenges’, op. cit., p. 2.

118 ‘Kurdistan Darwesh and others v. Greece and the Netherlands Application no. 52334/19: Written submissions on behalf of Refugee Support Aegean (RSA) and Stiftung PRO ASYL’, op. cit., p. 9.

119 ‘Rights and effective protection exist only on paper’, op. cit., p. 21.

120 Ibid, p. 21.

121 ‘Kurdistan Darwesh and others v. Greece and the Netherlands Application no. 52334/19: Written submissions on behalf of Refugee Support Aegean (RSA) and Stiftung PRO ASYL’, op. cit., p. 9.

122 ‘Rights and effective protection exist only on paper’, op. cit., p. 11.

123 ‘Report of the Commissioner for Human Rights of the Council of Europe, Dunja Mijatović, following her visit to Greece from 25 to 29 June 2018’, op. cit., p. 13.

124 IOM, ‘Helios Factsheet’, 18 September 2020 (available on https://greece.iom.int/sites/default/files/HELIOS%20Factsheet%20September%2020%20W3_0.pdf).

125 See Annex I for more information on these organisations.

126 ‘Report of the Commissioner for Human Rights of the Council of Europe, Dunja Mijatović, following her visit to Greece from 25 to 29 June 2018’, op. cit., p. 14.

127 ‘Kurdistan Darwesh and others v. Greece and the Netherlands Application no. 52334/19: Written submissions on behalf of Refugee Support Aegean (RSA) and Stiftung PRO ASYL’, op. cit., p. 9-10.

128 ‘Rights and effective protection exist only on paper’, op. cit., p. 21.

129 European Commission, ‘European Economic Forecast Greece – Spring 2020’, May 2020, p. 88. (available on https://ec.europa.eu/economy_finance/forecasts/2020/spring/ecfin_forecast_spring_2020_el_en.pdf).

In Greece, we had no place to stay and my children were not able to attend school. My son became the victim of a knife attack in Athens and as a result, he now suffers from post-traumatic stress disorder, separation anxiety, low mood, and flashbacks. He needs a safe environment and psychological treatment in order to get better – this would not be possible if we were sent back to Greece.

3.4 Education

Access to education on paper

International Law: Article 22 of the 1951 Geneva Convention

Public Education:

1. *The Contracting States shall accord to refugees the same treatment as is accorded to nationals with respect to elementary education.*
2. *The Contracting States shall accord to refugees treatment as favourable as possible, and, in any event, not less favourable than that accorded to aliens generally in the same circumstances, with respect to education other than elementary education and, in particular, as regards access to studies, the recognition of foreign school certificates, diplomas and degrees, the remission of fees and charges and the award of scholarships.*

EU Law: Articles 27 and 28 of Directive 2011/95/EU

Access to education:

1. *Member States shall grant full access to the education system to all minors granted international protection, under the same conditions as nationals.*
2. *Member States shall allow adults granted international protection access to the general education system, further training or retraining, under the same conditions as third-country nationals legally resident.*

Access to procedures for recognition of qualifications:

1. *Member States shall ensure equal treatment between beneficiaries of international protection and nationals in the context of the existing recognition procedures for foreign diplomas, certificates and other evidence of formal qualifications.*
2. *Member States shall endeavour to facilitate full access for beneficiaries of international protection who cannot provide documentary evidence of their qualifications to appropriate schemes for the assessment, validation and accreditation of their prior learning. Any such measures shall comply with Articles 2(2) and 3(3) of Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications (1).*

Greek Law: Articles 28 and 29 of PD 141/2013

Access to education:

1. *All minors granted international protection status shall have access to education under the same conditions as Greek nationals.*
2. *Access to the general education system and to programs of further training or retraining shall be allowed to adults granted international protection status under the same conditions as third-country nationals legally resident in Greece.*

Access to procedures for recognition of qualifications:

1. *Beneficiaries of international protection shall enjoy equal treatment to Greek nationals in the context of the existing recognition procedures for foreign diplomas, certificates and other evidence of formal qualifications.*
2. *Beneficiaries of international protection who cannot provide documentary evidence of their qualifications shall be facilitated as regards their full access to appropriate schemes for the assessment, validation and accreditation of their prior learning. To this end apply Articles 2 paragraph 2 and 3 paragraph 3 of Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 (P.D. 38/2010 (O.G. AØ-78)).*

Access to education in practice

According to Greek law, child beneficiaries of international protection have the same right to access to the public education system as Greek nationals. In fact, rather than being a right to education it is an obligation for minor beneficiaries of international protection to study at primary and secondary education institutions since education is compulsory for all children aged between 5 and 15 years old in Greece, including refugee children.¹³⁰ Regardless of this, and despite the fact there have been significant improvements in access to education for child beneficiaries of international protection since 2016, in practice, access is not guaranteed for all of them.

To facilitate the access of refugee children to Greek schools, a new law in 2016 (4415/2016) introduced “separate preparatory reception classes (DYEP) for refugee children in public schools as a temporary solution to their urgent need to pursue education.”¹³¹ DYEP essentially consists of afternoon preparatory classes in the mainland for children between the ages of 4 and 15 in public schools near the reception camps, while children residing in other facilities can attend the regular morning classes in their neighbourhood’s school along with Greek pupils.¹³²

Although the implementation of the DYEP programme does constitute a positive development, “gaps in the provision of education still exist.”¹³³ The DYEP programme has been criticised by a number of NGOs and some organisations of education professionals for not being inclusive, and for resulting in ‘ghetto schools’ as described by the Greek Helsinki Monitor.¹³⁴ Indeed, the lack of integration measures and the

130 UNHCR, Help Greece, ‘Access To Education’ (available on <https://help.unhcr.org/greece/living-in-greece/access-to-education/#:~:text=Can%20my%20children%20access%20education,similar%20conditions%20as%20Greek%20nationals.>); ‘Country Report: Greece’, op. cit., p. 220

131 ‘Refugee Integration in Mainland Greece: Prospects and Challenges’, op. cit., p. 5.

132 ‘Report of the Commissioner for Human Rights of the Council of Europe, Dunja Mijatović, following her visit to Greece from 25 to 29 June 2018’, op. cit., p. 10.

133 Ziomas, D., Capella, A. and Konstantinidou, D., European Social Policy Network, ‘Integrating refugee and migrant children into the educational system in Greece’, July 2017, p. 1. (available on https://www.researchgate.net/publication/333421396_Integrating_refugee_and_migrant_children_into_the_educational_system_in_Greece).

134 Greek Helsinki Monitor, ‘Submission to the UN Committee on the Elimination of Racial Discrimination on the follow-up to the concluding observations on Greece’, 21 March 2018, p. 1. (available on https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2fCERD%2fNGO%2fGRC%2f30738&Lang=en); ‘Report of the Commissioner for Human Rights of the Council of Europe, Dunja Mijatović, following her visit to Greece from 25 to 29 June 2018’, op. cit., p. 10.

separation of refugee children from other children has been one of the main criticisms of DYEP.¹³⁵ This segregation in the schools, although intended to “soften xenophobic reactions, led to the schools that hosted [the DYEP programme] being targeted, and stigmatised the refugee population.”¹³⁶ In other words, the programme, intended initially as a *temporary* solution, has, in many ways, ended up “[hindering], rather than [facilitating], the social integration of refugee children in schools.”¹³⁷

A report by the European Social Policy Network pointed out a number of further shortcomings of the DYEP programme, including

*lack of cooperation (in both administrative and educational terms) between the school and the Reception/Preparatory Classes, insufficient numbers of teachers with relevant experience and appropriate skills, non-regular attendance of many pupils along with the fact that many dropped out of school (mainly due to change in their residency and/or difficulties with the Greek language). In addition, there has been a significant lack of provision of pre-school education, upper secondary education and vocational training.*¹³⁸

Refugee Support Aegean and PRO ASYL similarly highlighted the inadequate training of teachers, noting that most of them had not been trained in intercultural education or teaching Greek as a second language. They also criticised the lack of interpreters and cultural mediators at all stages of the enrolment procedure and the school classes.¹³⁹

In addition to the issues surrounding DYEP specifically, UNICEF, together with the REACH Initiative, identified a series of more general barriers that refugee children continue to encounter in accessing formal education, out of which difficulty with the Greek language was the most commonly reported issue among refugee children. Other obstacles identified included: lessons considered unhelpful by children awaiting relocation to another EU country or because they are not adapted to the children’s skill level; excessive distance between school and place of residence; high costs of transport and school materials; and parents being afraid of racism in schools.¹⁴⁰

The number of refugee children enrolled in formal education is not known. In 2019 UNICEF estimated that the total number of both asylum-seeking and refugee children of school age enrolled was 11,700 whereas the total number of asylum-seeking and refugee children in Greece was 27,000.¹⁴¹ Out of the recognised refugees between the ages of 4 and 17 in the ESTIA Accommodation Scheme, 77% are enrolled in school.¹⁴² This percentage is likely to be lower for those outside of a support framework such as ESTIA. Indeed, the Commissioner for Human Rights of the Council of Europe, while commending the positive developments of 2016 as regards the access of refugee children to education, did still express ‘deep concern’ over low school attendance rates in the mainland in 2018, and urged the Greek authorities to implement “inclusive education programmes in the mainstream schools of the mainland.”¹⁴³

Despite the positive developments as regards the integration of refugee children in schools, “limited progress has been recorded in the area of integration of adult refugees in higher education and vocational training programmes.”¹⁴⁴ Adult beneficiaries of international protection are entitled to the educational system as well as to training programs under the same preconditions as third country nationals living in Greece. However, as was noted in the previous section, no effective mechanisms exist for the recognition of refugees’ qualifications, thus naturally hampering not only their access to employment but also their access to further education and vocational training programs.

In 2017, the Ministry of Education, Research and Religious Affairs introduced the ‘European Qualifications Passport for Refugees’ scheme – a document which provides an assessment of the higher education qualifications of the holder based on available documentation and a structured interview. However, according to research carried out by the Hellenic Foundation for European and Foreign Policy (ELIAMEP) on young Syrian asylum-seekers and refugees, very few are able to actually benefit from this scheme, largely due to the fact that most do not have any documentation with them verifying their previous educational qualifications. Out of ELIAMEP’s respondents, only a bit over 3% have had their qualifications recognised and converted in Greece.

Summary: Although there have been significant improvements as regards the access of refugee children to education since the introduction of the DYEP programme in 2016, some obstacles still persist. The DYEP programme itself has been criticised for its lack of integration measures and for separating refugee children from other children in Greek schools, thus potentially hindering rather than facilitating integration. The inadequate training of teachers and the lack of interpreters and cultural mediators were also identified as problems with regard to the programme. In more general terms, there are concerns over the low school attendance of refugee children that stems from various barriers to education, most notably difficulties with the Greek language. Less progress has been recorded as regards the access of adult beneficiaries of international protection to higher education and vocational training programs, largely due to the lack of effective mechanisms for the recognition of their previous educational qualifications. For these reasons, child beneficiaries of international protection, including those who are returned to Greece from other EU Member States, are likely to encounter some obstacles in accessing adequate education, and adult beneficiaries are likely to struggle in accessing further education opportunities.

135 ‘Rights and effective protection exist only on paper’, op. cit., p. 26.

136 Simopoulos, G. and Alexandridis, A., ‘Refugee education in Greece: integration or segregation?’, Forced Migration Review, March 2019, p. 28. (available on <https://www.fmreview.org/sites/fmr/files/FMRdownloads/en/education-displacement/simopoulos-alexandridis.pdf>).

137 ‘Refugee Integration in Mainland Greece: Prospects and Challenges’, op. cit., p. 5.

138 ‘Integrating refugee and migrant children into the educational system in Greece’, op. cit., p. 2.

139 ‘Rights and effective protection exist only on paper’, op. cit., p. 26.

140 UNICEF and REACH Initiative, ‘Access to Education of Refugee and Migrant Children outside Accommodation (Open) Sites’, March 2017, p. 2. (available on https://reliefweb.int/sites/reliefweb.int/files/resources/REACH_GRC_Access_to_Education%20final.pdf).

141 UNICEF, ‘Refugee and migrant children in Greece’, 31 January 2019 (available on <https://www.unicef.org/eca/sites/unicef.org/eca/files/2019-02/Refugee%20and%20migrant%20children%20in%20Greece%2031%20Jan%202019.pdf>).

142 ‘ESTIA II Accommodation Capacity Weekly Update’, op. cit.

143 ‘Report of the Commissioner for Human Rights of the Council of Europe, Dunja Mijatović, following her visit to Greece from 25 to 29 June 2018’, op. cit., p. 12.

144 ‘Refugee Integration in Mainland Greece: Prospects and Challenges’, op. cit., p. 1.

I had breast cancer. As an asylum-seeker I was admitted to an oncology hospital in Athens where I underwent mastectomy, chemotherapy, and hormonal treatment. After two years of chemotherapy and the granting of subsidiary protection status, I was told to leave the place where I was staying at. They told me that I was not disabled and could therefore find a job. I found myself on the streets and I could not undergo my hormonal treatment. For six months, I slept in public parks. I left Greece to save my life.

3.5 Health Care

Access to health care on paper

International Law: Article 23 of the 1951 Geneva Convention

Public Relief:

The Contracting States shall accord to refugees lawfully staying in their territory the same treatment with respect to public relief and assistance as is accorded to their nationals.

EU Law: Article 30 of Directive 2011/95/EU

Healthcare:

1. Member States shall ensure that beneficiaries of international protection have access to healthcare under the same eligibility conditions as nationals of the Member State that has granted such protection.

2. Member States shall provide, under the same eligibility conditions as nationals of the Member State that has granted protection, adequate healthcare, including treatment of mental disorders when needed, to beneficiaries of international protection who have special needs, such as pregnant women, disabled people, persons who have undergone torture, rape or other serious forms of psychological, physical or sexual violence or minors who have been victims of any form of abuse, neglect, exploitation, torture, cruel, inhuman and degrading treatment or who have suffered from armed conflict.

Greek Law: Article 32 of PD 141/2013

Health care:

1. Beneficiaries of international protection shall have access to health care under the same eligibility conditions applicable to Greek nationals.

2. Beneficiaries of international protection who have special needs, in particular pregnant women, disabled people, persons who have undergone torture, rape or other serious forms of psychological, physical or sexual violence, minors who have been victims of any form of abuse, neglect, exploitation, torture, cruel, inhuman or degrading treatment or persons who have suffered from armed conflict shall be provided with adequate health care, including treatment for mental disorders, when needed, under the same eligibility conditions as Greek nationals.

Access to health care in practice

As seen above, under Greek law, free access of beneficiaries of international protection to health care, including mental health care, is provided under the same conditions applicable to Greek nationals. However, in practice, as the Commissioner for Human Rights of the Council of Europe notes, “access to health care services is reportedly very complicated.”¹⁴⁵ Recognised refugees encounter a number of obstacles in accessing adequate health care.

First, as with housing and employment, access to health care is hampered by administrative and bureaucratic barriers in obtaining the necessary documents for it.¹⁴⁶ In order to access health care, beneficiaries of international protection need AMKA. As noted above, this can be very difficult to obtain in practice. Those who are unable to obtain AMKA, are required to bear the costs of medication and tests themselves.¹⁴⁷

Secondly, access to health care is impeded by uninformed health care professionals as well as the lack of interpretation and cultural mediation services in hospitals and other health care facilities. As the UNHCR notes:

*Health professionals are not correctly informed on asylum seekers’ and refugees’ rights and documentation and they often refuse to treat them or refer them to specialists...The lack of interpreters in hospitals and health services complicates the situation.*¹⁴⁸

Finally, numerous reports highlight the impact of the financial crisis, the subsequent decade of austerity measures, and the unprecedented cuts to the public health system on effective access to health care,¹⁴⁹ particularly to mental health care.¹⁵⁰ The public health sector in Greece “is under huge pressure and lacks the capacity to cover all the needs for health care services, be it of the local population or of migrants.”¹⁵¹ What this erosion of the public health system essentially means is that there are significant shortages in staff and thus very long waiting lists for appointments, lack of funds for medicines and technical equipment, and an increase in co-payments. Indeed, the high cost of health care services and lengthy waiting times were reported to be key obstacles in accessing the Greek health care system, with many of those interviewed having had to wait for several months for consultations with doctors, diagnostic tests and access to treatment.¹⁵²

145 ‘Report of the Commissioner for Human Rights of the Council of Europe, Dunja Mijatović, *following her visit to Greece from 25 to 29 June 2018*’, *op. cit.*, p. 8.

146 *Ibid.*, p. 8.

147 ‘Kurdistan Darwesh and others v. Greece and the Netherlands Application no. 52334/19: Written submissions on behalf of Refugee Support Aegean (RSA) and Stiftung PRO ASYL’, *op. cit.*, p. 3.

148 ‘Rights and effective protection exist only on paper’, *op. cit.*, p. 18-19.

149 Amnesty International, ‘Resuscitation Required: The Greek Health System After a Decade of Austerity’, April 2020 (available on <https://www.amnesty.org/download/Documents/EUR2521762020ENGLISH.PDF>); ‘Country Report: Greece’, *op. cit.*, p. 223; ‘Refugee Integration in Mainland Greece: Prospects and Challenges’, *op. cit.*, p. 4; ‘Report of the Commissioner for Human Rights of the Council of Europe, Dunja Mijatović, *following her visit to Greece from 25 to 29 June 2018*’, *op. cit.*, p. 8; ‘Kurdistan Darwesh and others v. Greece and the Netherlands Application no. 52334/19: Written submissions on behalf of Refugee Support Aegean (RSA) and Stiftung PRO ASYL’, *op. cit.*, p. 3; ‘Rights and effective protection exist only on paper’, *op. cit.*, p. 19.

150 ‘Rights and effective protection exist only on paper’, *op. cit.*, p. 19.

151 ‘Report of the Commissioner for Human Rights of the Council of Europe, Dunja Mijatović, *following her visit to Greece from 25 to 29 June 2018*’, *op. cit.*, p. 8.

152 ‘Kurdistan Darwesh and others v. Greece and the Netherlands Application no. 52334/19: Written submissions on behalf of Refugee Support Aegean (RSA) and Stiftung PRO ASYL’, *op. cit.*, p. 3.

As a result of these deficiencies in the public health system, it is “mainly NGOs together with some municipal authorities and volunteers that provide basic health services and medical and psychological support” to beneficiaries of international protection.¹⁵³ Some of the main actors providing medical care to refugees in Greece are international NGOs Médecins Sans Frontières (MSF), Médecins du Monde (Mdm) and Medical Volunteers International (MVI). NGOs focused on providing mental health care include Babel, Klimaka, SolidarityNow, Hestia Hellas, and specifically for women, the Melissa Network. AMURTEL, in turn, offers support to pregnant women and women with infants through midwives and lactation consultants.¹⁵⁴ Naturally, health care services provided by NGOs are highly precarious, because they depend on funding to these organisations.

Limited access to mental health care is a cause for particular concern. Public mental health institutions and NGOs offering mental health care to refugees in Athens have waiting lists of several months – even for urgent cases, the waiting time for the first appointment with Babel, for example, was 4 months.¹⁵⁵ Furthermore, the lack of interpretation services and cultural mediation is particularly problematic for those with mental health problems as it significantly impedes a proper diagnosis and results in patients not receiving necessary and appropriate treatment, including therapy, and not being hospitalized when they should be.¹⁵⁶

Summary: Effective access of beneficiaries of international protection to health care is problematic, mainly due to difficulties in obtaining AMKA, uninformed and/or misinformed health care professionals who are not aware of refugees' rights to health care, and the lack of cultural mediation and interpretation services in hospitals and other health care facilities. The financial crisis and the subsequent drastic cuts to the public health system have resulted in lengthy waiting times and increased costs and have thus also significantly hindered effective access to health care. The even more limited access of recognised refugees to mental health care is particularly worrying. For these reasons, beneficiaries of international protection, including those who are returned to Greece from other EU Member States, are likely to struggle in accessing adequate health care.

153 'Refugee Integration in Mainland Greece: Prospects and Challenges', op. cit., p. 4.

154 See Annex I for more information on these organisations.

155 'Update, legal note on the living conditions of beneficiaries of international protection in Greece', op. cit., p. 9.

156 'Rights and effective protection exist only on paper', op. cit., p. 20.

3.6 Social Welfare

Access to social welfare on paper

International Law: Articles 23 and 24 of the 1951 Geneva Convention

Public Relief:

The Contracting States shall accord to refugees lawfully staying in their territory the same treatment with respect to public relief and assistance as is accorded to their nationals.

Labour Legislation and Social Security:

1. The Contracting States shall accord to refugees lawfully staying in their territory the same treatment as is accorded to nationals in respect of the following matters;

(a) In so far as such matters are governed by laws or regulations or are subject to the control of administrative authorities: remuneration, including family allowances where these form part of remuneration, hours of work, overtime arrangements, holidays with pay, restrictions on work, minimum age of employment, apprenticeship and training, women's work and the work of young persons, and the enjoyment of the benefits of collective bargaining;

(b) Social security (legal provisions in respect of employment injury, occupational diseases, maternity, sickness, disability, old age, death, unemployment, family responsibilities and any other contingency which, according to national laws or regulations, is covered by a social security scheme), subject to the following limitations:

(i) There may be appropriate arrangements for the maintenance of acquired rights and rights in course of acquisition;

(ii) National laws or regulations of the country of residence may prescribe special arrangements concerning benefits or portions of benefits which are payable wholly out of public funds, and concerning allowances paid to persons who do not fulfil the contribution conditions prescribed for the award of a normal pension.

2. The right to compensation for the death of a refugee resulting from employment injury or from occupational disease shall not be affected by the fact that the residence of the beneficiary is outside the territory of the Contracting State.

3. The Contracting States shall extend to refugees the benefits of agreements concluded between them, or which may be concluded between them in the future, concerning the maintenance of acquired rights and rights in the process of acquisition in regard to social security, subject only to the conditions which apply to nationals of the States signatory to the agreements in question.

4. The Contracting States will give sympathetic consideration to extending to refugees so far as possible the benefits of similar agreements which may at any time be in force between such Contracting States and non-contracting States.

EU Law: Article 29 of Directive 2011/95/EU

Social welfare:

1. Member States shall ensure that beneficiaries of international protection receive, in the Member State that has granted such protection, the necessary social assistance as provided to nationals of that Member State.

2. By way of derogation from the general rule laid down in paragraph 1, Member States may limit social assistance granted to beneficiaries of subsidiary protection status to core benefits which will then be provided at the same level and under the same eligibility conditions as nationals.

Greek Law: Article 30 of PD 141/2013

Social welfare:

Beneficiaries of international protection shall receive the necessary social assistance on the same conditions as provided to Greek nationals.

Access to social welfare in practice

Under Greek law, beneficiaries of international protection should enjoy equal access to social welfare as Greek nationals. In practice, however, most recognised refugees do not have access to social assistance and welfare benefits due to a number of reasons.

First of all, and perhaps most notably, access to most social benefits are underpinned by lengthy residence requirements. For example, family allowance is provided only to those families that can demonstrate 10 years of permanent and uninterrupted stay in Greece, birth allowance requires 12 years of permanent stay in Greece, rental allowance requires 5 years of permanent stay in Greece, and the uninsured retiree benefit requires 15 years of permanent residence in Greece.¹⁵⁷ Therefore, most beneficiaries of international protection, specifically those who are newly recognised, are excluded from these benefits. As concluded by Refugee Support Aegean and PRO ASYL in their recent report:

¹⁵⁷ 'Country Report: Greece', op. cit., p. 221-222; 'Kurdistan Darwesh and others v. Greece and the Netherlands Application no. 52334/19: Written submissions on behalf of Refugee Support Aegean (RSA) and Stiftung PRO ASYL', op. cit., p. 8.

*the lengthy residence requirements underpinning most benefits do not take into account the particular situation of refugees and thereby entail differential treatment against beneficiaries of international protection compared to nationals and effectively exclude them from most forms of social assistance.*¹⁵⁸

The Greek Council for Refugees similarly criticised the lengthy residence requirements, stating that they constitute “indirect discrimination against recognized refugees, as [they have] a disproportionate impact and [nullify] for many of them the enjoyment of their right to social security.”¹⁵⁹

Moreover, some benefits are simply not at all available to refugees. For example, while beneficiaries of international protection who have lost their employment are entitled to *some* unemployment benefits, they are excluded from long-term unemployment benefits, which are only accessible to Greek and EU citizens.¹⁶⁰

Secondly – even if the lengthy residence requirements are satisfied – as with access to other rights, access to social benefits is hampered by “bureaucratic barriers, which make no provision to accommodate the inability of beneficiaries to submit certain documents.”¹⁶¹ For example, the single mother allowance requires proof of the family situation (e.g. divorce, death certificate, birth certificate) but with no access to the authorities of their country of origin, most mothers cannot provide these documents.¹⁶²

The preconditions for obtaining guaranteed minimum income, formerly known as the Social Solidarity income (KEA), also perfectly illustrate this point. The guaranteed minimum income consists of €200 per month for each household, plus €100 per month for each additional adult and €50 per additional child.¹⁶³ It is intended to temporarily support people who live below the poverty line, including beneficiaries of international protection.¹⁶⁴ According to the ECRE report on Greece, it is essentially the only “effective allowance in practice” for recognised refugees who do not meet the lengthy residence requirements for other benefits.¹⁶⁵

However, in practice, its preconditions are extremely difficult for refugees to meet. In order to receive the guaranteed minimum income, a person must have AFM, tax clearance, AMKA, a bank account, and proof of address/a homeless certificate.¹⁶⁶ Additionally, a family status certificate must also be submitted to the tax office if family members are to be registered.¹⁶⁷ As noted above, all of these can be extremely difficult for refugees to obtain. As a specific example of the barriers in accessing this benefit it is observed that the responsible authority for the guaranteed minimum income has explicitly stated in an email reply that persons who are accommodated in houses of friends or acquaintances and do not have a permanent address or persons living in abandoned houses or squatted spaces are not eligible for the guaranteed minimum income. In other words, proof of address or a homeless certificate are an absolute requirement for access.¹⁶⁸ Indeed, Refugee Support Aegean and PRO ASYL documented the case of a family who were denied benefits due to their homelessness: their application for the guaranteed minimum income failed because they were unable to provide proof of address and unable to prove their homelessness.¹⁶⁹

Thirdly, according to the ECRE report on Greece, in some cases civil servants have even simply refused to grant beneficiaries of international protection the benefits provided, contrary to the principle of equal treatment under Greek and EU law.¹⁷⁰

Finally, the existing systemic gaps in the social welfare system as well as its deterioration following the economic crisis and the subsequent austerity measures in Greece naturally further hinder the access of beneficiaries of international protection to social welfare. Significant cuts in social expenditure have taken their toll on the country’s welfare state and thus access to benefits, particularly for the most marginalized (e.g. refugees) is not guaranteed.¹⁷¹

Summary: Access of beneficiaries of international protection to social welfare is highly problematic, mainly due to the lengthy residence requirements that effectively exclude them from most forms of social assistance, thus constituting indirect discrimination. The only effective social allowance available to refugees, in theory, is the guaranteed minimum income. However, in practice, access to it is significantly hampered by bureaucratic barriers in obtaining the necessary documents for it. Naturally, the erosion of the welfare state following the economic crisis and the subsequent cuts in social expenditure in Greece have also hindered access of beneficiaries of international protection to social welfare. For these reasons, beneficiaries of international protection, including those who are returned to Greece from other EU Member States, are unlikely to benefit from any form of social assistance and thus face a real risk of homelessness and destitution.

158 ‘Kurdistan Darwesh and others v. Greece and the Netherlands Application no. 52334/19: Written submissions on behalf of Refugee Support Aegean (RSA) and Stiftung PRO ASYL’, op. cit., p. 8.

159 ‘Report of the Greek Council for Refugees to the UN Committee on Economic, Social and Cultural Rights in View of its 55th Session’, op. cit., p. 3.

160 ‘Kurdistan Darwesh and others v. Greece and the Netherlands Application no. 52334/19: Written submissions on behalf of Refugee Support Aegean (RSA) and Stiftung PRO ASYL’, op. cit., p. 10.

161 ‘Country Report: Greece’, op. cit., p. 221.

162 Ibid, p. 221.

163 ‘Kurdistan Darwesh and others v. Greece and the Netherlands Application no. 52334/19: Written submissions on behalf of Refugee Support Aegean (RSA) and Stiftung PRO ASYL’, op. cit., p. 7.

164 ‘Country Report: Greece’, op. cit., p. 222.

165 Ibid, 222.

166 ‘Kurdistan Darwesh and others v. Greece and the Netherlands Application no. 52334/19: Written submissions on behalf of Refugee Support Aegean (RSA) and Stiftung PRO ASYL’, op. cit., p. 7.

167 ‘Rights and effective protection exist only on paper’, op. cit., p. 24.

168 ‘Kurdistan Darwesh and others v. Greece and the Netherlands Application no. 52334/19: Written submissions on behalf of Refugee Support Aegean (RSA) and Stiftung PRO ASYL’, op. cit., p. 13.

169 ‘Returned recognized refugees face a dead-end in Greece – a case study’, op. cit., p. 4.

170 ‘Country Report: Greece’, op. cit., p. 221.

171 ‘Rights and effective protection exist only on paper’, op. cit., p. 4.

3.7 Further Integration Steps

Family Reunification

In addition to the social rights already considered in this report, the right to family reunification is also a major contributing factor to the better integration of refugees in the host country. As the Commissioner for Human Rights of the Council of Europe notes, “family life is essential for migrants to rebuild their lives in the host country.”¹⁷² Although the 1951 Geneva Convention does not itself refer to family reunification, the Final Act of the Conference of Plenipotentiaries at which it was adopted confirms that “the unity of the family ... is an essential right of the refugee” and recommends that states “take the necessary measures for the protection of the refugee’s family, especially with a view to ensuring that the unity of the family is maintained.”¹⁷³

According to the ECRE report on Greece, recognised refugees who apply for family reunification “face serious obstacles which render the effective exercise of the right to family reunification impossible in practice.”¹⁷⁴ The list of obstacles is long: difficulties in obtaining necessary documents; cumbersome and lengthy procedures; administrative obstacles as regards the issuance of visas even in cases where the application for family reunification has been accepted; and the lack of information on the possibility of family reunification, its three-month deadline and the available remedies.¹⁷⁵ As a result of these obstacles, only a small number of beneficiaries of international protection are able to initiate a family reunification procedure and others will sometimes attempt to reunite through dangerous irregular routes.¹⁷⁶ Those who do manage to apply for family reunification often wait years for their applications to be processed. According to Refugee Support Aegean’s research, most applications are either rejected or not answered at all.¹⁷⁷ In 2019, a total of 266 applications for family reunification were submitted before the Asylum Service. Out of these only 24 received positive or partially positive decisions, 29 received negative decisions, and 213 remain unanswered.¹⁷⁸ It should also be noted that only those with refugee status have the right to family reunification in Greece, meaning that those with subsidiary protection status, for example, are excluded from this right.

Long-Term Residence and Citizenship

The lack of access of beneficiaries of international protection to their social rights and their deplorable living conditions also impede their ability to obtain long-term residence and citizenship. In addition to 5 years of consecutive residence in Greece, beneficiaries of international protection must satisfy a number of other requirements in order to be granted long-term residence, including “sufficient income..., full health insurance..., and good knowledge of the Greek language, knowledge of elements of Greek history and Greek civilisation.”¹⁷⁹

As regards citizenship, a new amendment to the law in March 2020 significantly increased the period of legal residence required to apply for citizenship from 3 years to 7 years for recognised refugees despite the legal obligation under Article 34 of the 1951 Geneva Convention to “facilitate the assimilation and naturalization of refugees” and “in particular to make every effort to expedite naturalization proceedings.”¹⁸⁰ Furthermore, in order to obtain citizenship, the following requirements need to be satisfied: sufficient knowledge of the Greek language, to be normally integrated in the economic and social life of the country, and to be able to actively participate in political life (i.e. to be familiar with the political institutions of the country, knowledge of Greek political history).¹⁸¹

As the Commissioner for Human Rights of the Council of Europe states, “countries which demand linguistic and civic integration – including as a requirement for long-term residence and naturalisation – should provide adequate support, notably free courses and materials, for all migrants to learn and succeed.”¹⁸² As was noted earlier, the Greek government currently does not provide adequate support and thus migrant integration relies largely on NGOs. This, as well as the problematic access of recognised refugees to various other social rights, naturally hamper their ability to satisfy the requirements for long-term residence and citizenship.

172 Ibid, p. 12.

173 Nicholson, F., UNHCR, ‘Legal and Protection Policy Research Series: The “Essential Right” to Family Unity of Refugees and Others in Need of International Protection in the Context of Family Reunification’, January 2018, p. 5. (available on <https://www.unhcr.org/5a8c413a7.pdf>).

174 ‘Country Report: Greece’, op. cit., p. 213

175 ‘Report of the Commissioner for Human Rights of the Council of Europe, Dunja Mijatović, following her visit to Greece from 25 to 29 June 2018’, op. cit., p. 12; ‘Country Report: Greece’, op. cit., p. 213; ‘Rights and effective protection exist only on paper’, op. cit., p. 27.

176 ‘Report of the Commissioner for Human Rights of the Council of Europe, Dunja Mijatović, following her visit to Greece from 25 to 29 June 2018’, op. cit., p. 12.

177 ‘Rights and effective protection exist only on paper’, op. cit., p. 27.

178 ‘Country Report: Greece’, op. cit., p. 213.

179 ‘Report of the Commissioner for Human Rights of the Council of Europe, Dunja Mijatović, following her visit to Greece from 25 to 29 June 2018’, op. cit., p. 12.

180 ‘Country Report: Greece’, op. cit., p. 207.

181 Ibid, p. 207.

182 ‘Report of the Commissioner for Human Rights of the Council of Europe, Dunja Mijatović, following her visit to Greece from 25 to 29 June 2018’, op. cit., p. 13

4. Conclusions and Recommendations

Both international and national courts have, on a number of occasions, held that the living conditions of asylum-seekers and recognised refugees alike in Greece are so dire that they are capable of amounting to ‘inhuman or degrading treatment’ under Article 3 of the European Convention on Human Rights, Article 4 of the European Charter of Fundamental Rights, or Article 7 of the International Covenant on Civil and Political Rights, and therefore prevent the return of persons to the country in accordance with the principle of non-refoulement. In addition, numerous international and non-governmental organisations have heavily criticised the living conditions of recognised refugees in Greece.

As this report has made overwhelmingly clear, the access of beneficiaries of international protection to various social rights is far from guaranteed in Greece. Many obstacles to adequate protection and the effective enjoyment of fundamental rights still persist, and living conditions continue to be dire. Recognised refugees who are returned to Greece from other EU Member States face a real and concrete risk of finding themselves in a state of extreme material deprivation which would seriously damage their physical or mental health and would not allow them to meet even their most basic needs – a situation that is incompatible with human dignity and thus capable of amounting to ‘inhuman or degrading treatment’ under international human rights law. Therefore, EU Member States that transfer refugees back to Greece not only expose them to a risk of fundamental rights violations, but also risk committing a violation of these rights themselves.

For the above reasons, Passerell urges the competent authorities of each EU Member State, Luxembourg included, to challenge the presumption that the level of protection and rights afforded to beneficiaries of international protection is the same throughout the EU and instead, to duly consider, and give sufficient weight to, the real and personal risk a beneficiary of international protection might face if transferred to Greece before an inadmissibility decision and removal order are issued. Passerell thus recommends a threefold approach to determining whether an individual may be returned to Greece:

1. **An assessment of the general living conditions of beneficiaries of international protection in Greece.** Member States must examine whether access to various social rights and adequate protection are systematically guaranteed by the Greek state. This must be done on the basis of information that is objective, reliable, specific and properly updated, and by having regard to the standard of protection of fundamental rights guaranteed by European law.
2. **An assessment of the individual circumstances of each specific case.** Member States must take into account all factors that might increase an individual’s vulnerability. These include their age, gender, disability, medical condition (physical or psychological), sexual orientation, and any other component that further increases their risk of being exposed to living conditions constituting inhuman or degrading treatment in Greece.
3. **Assurances from the Greek authorities.** Member States must obtain proper assurances from the Greek authorities that the returnees would be received in a way that is compatible with their fundamental rights and human dignity.

Based on the findings of this report, the logical conclusion following the assessment contained already in the first step of the threefold approach would be that an individual should not be returned to Greece since the general living conditions of beneficiaries of international protection are dire and protection is not ensured. Even if the assessment resulted in a different conclusion, it would then be imperative to carry out the individual assessment contained in the second step of the approach. In the absence of vulnerability-increasing factors, proper assurances from the Greek authorities under the third and final step of the approach would still have to be obtained before a definitive decision is taken.

Passerell calls on the EU to take concrete steps to uphold the fundamental rights of refugees and to ensure their safety and human dignity. This can start with the aforementioned recommendations.

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Annex

ANNEX I – Table of Organisations Supporting Refugees in Greece

There are hundreds of non-governmental organisations (NGOs) currently operating migration-related missions across Greece and attempting to fill gaps left by authorities who are unable to meet the needs of the country's growing refugee and migrant population. Therefore, the list of NGOs provided here is by no means exhaustive and is intended to simply offer a general idea of the different types of NGOs active in Greece and the programmes and services they provide.

Organisations	Programmes and Services
International NGOs:	
<p>AMURTEL – Ananda Marga Universal Relief Team Ladies https://greece.amurtel.org/</p>	<p>AMURTEL is an international grassroots women's non-governmental organisation with projects world-wide. In Greece, it aims to provide safe, all female environments for women during pregnancy and infancy to care for themselves, for each other and for their children. They are a multicultural team of women providing both individual and group services by midwives and lactation consultants in their women's centre in Athens as well as in refugee camps and other community venues. The centre is open to all women, but mainly serves refugee and migrant women. They offer:</p> <ul style="list-style-type: none"> • the opportunity to create a community with other mothers in order to overcome the often devastating effects of isolation and loneliness; • empowerment as mothers, to mother their babies in the best possible way despite the challenging situations they face; • individualized midwifery care during pregnancy and postpartum; • education and support for breastfeeding and all aspects of infant feeding; • group sessions on many topics including reproductive health, family planning, gender-based violence, infant care, breastfeeding and infant nutrition in Arabic, Farsi, French and English.
<p>Danish Refugee Council (DRC) https://drc.ngo/our-work/where-we-work/europe/greece/</p>	<p>DRC is a leading, international humanitarian displacement organisation, supporting refugees and internally displaced persons in 40 countries. It began operations in Greece in November 2015 on the island of Lesbos and expanded its operations to the mainland in 2016. DRC works at nine sites on the Greek mainland providing site management services, along with food, water and sanitation, protection, legal aid, and non-formal education. In urban settings, DRC supports migrants with cultural mediation and integration courses that include language and soft skills.</p>

<p>International Organisation for Migration (IOM) https://greece.iom.int/en</p>	<p>IOM is the leading inter-governmental organization in the field of migration. IOM Greece, as a founding member of IOM, has a long cooperation experience with the Greek government and civil society, aiming at helping and supporting migrants. Its activities in Greece include:</p> <ul style="list-style-type: none"> • assisted voluntary return and reintegration; • relocation to other EU Member States; • site management support; • migrant integration in collaboration with the Greek municipalities; • primary health care with implementing partners; • safe zones for unaccompanied children; • education of migrant and refugee children. <p>Most notably, IOM runs the HELIOS integration programme in Greece in close collaboration with Greek authorities and experienced partners, including the Greek Council for Refugees, METAdrasi, Solidarity Now, and the Danish Refugee Council. The programme is funded by the European Commission. HELIOS aims to promote the integration of beneficiaries of international protection currently residing in temporary accommodation schemes into Greek society, through the following components:</p> <ul style="list-style-type: none"> • integration courses which consist of modules on Greek language learning, cultural orientation, job readiness and life skills; • accommodation support: supporting beneficiaries towards independent accommodation in apartments rented in their name, including by providing contributions to rental and move-in costs and networking with apartment owners; • employability support: provision of individual employability and job readiness support, including job counselling, access to job-related certifications and networking with private employers; • integration monitoring: regular assessment of the integration progress of the beneficiaries to ensure that they will be in a position to confidently navigate through Greek public service providers once they will exit from the HELIOS project and start living independently in Greece; • sensitization of the host community: organisation of workshops, activities and events and production of a nationwide media campaign to create exchange occasions between the hosting and the hosted communities, highlighting the value of the integration of migrants into Greek society.
<p>Médecins du Monde (Mdm) https://mdmgreece.gr/en/</p>	<p>Mdm Greece, founded in 1990, is a medical humanitarian non-governmental organization. Its aim is to provide medical care as well as other services to marginalized populations that cannot access health care services and medical care. It offers primary and specialist health care services, psychosocial services, and a pharmacy for its patients.</p>
<p>Médecins Sans Frontières (MSF) https://msf.gr/en</p>	<p>MSF is an international, independent, medical humanitarian organisation. The Greek section of MSF, founded in 1990, provides medical and mental health care to refugees and migrants both in Athens and on the Greek islands. Their activities include providing primary health care and mental health care, vaccinating pregnant women and migrant children against common childhood diseases, providing sexual and reproductive health care, treating chronic diseases, and providing care for victims of torture and sexual violence. They also organise public awareness activities.</p>
<p>Medical Volunteers International (MVI) https://medical-volunteers.org/</p>	<p>MVI has been providing medical care to displaced people in Greece since 2016. Their volunteer medical teams assess, manage, refer and administer medications to refugees who have no access to other medical services.</p>

<p>UNHCR – the UN Refugee Agency https://help.unhcr.org/greece/</p>	<p>The UNHCR’s role in Greece focuses on working with the government, non-governmental and other organizations, volunteer networks, and communities to ensure the protection of refugees and asylum seekers arriving in Greece. Where necessary, the UNHCR helps the Greek government to fulfill the basic needs of asylum-seekers and refugees. In some cases, the UNHCR provides support when there are gaps related to shelter, water, sanitation, food, basic household items, health, education, information provision, coordination and site management.</p> <p>The UNHCR’s most important project in Greece is the Emergency Support to Integration and Accommodation programme (ESTIA), co-funded by the Asylum, Migration and Integration Fund of the European Union. It has been running since the end of 2015. Through ESTIA, the UNHCR works with the Greek government, local authorities and NGOs to provide urban accommodation and cash assistance to refugees and asylum-seekers in Greece. The ESTIA Accommodation Scheme currently houses 6,863 recognised refugees and 5,952 receive cash assistance.</p> <p>The ESTIA scheme is mainly directed at asylum-seekers as beneficiaries of international protection will have to leave ESTIA accommodation within a 30-day period after the granting of international protection. Cash assistance under the scheme is halted almost immediately after the decision on the international protection application is issued.</p> <p>New development: the management and overall coordination of the accommodation component of the ESTIA programme has now been taken over by the Ministry of Migration and Asylum.</p>
<p>Greek NGOs:</p>	
<p>ARSIS – Association for the Social Support of Youth http://www.arsis.gr/en/</p>	<p>ARSIS is a non-governmental organization, established in 1992, that specializes in the social support of youth that are in difficulty or danger and in the advocacy of their rights. Its main goals are the prevention of youth marginalisation, the elaboration of policies which defend youth rights, and the provision of active social support towards young disadvantaged people. It offers a wide range of services including temporary housing, psychosocial support, job counselling, legal support, and educational support.</p>
<p>Babel https://babeldc.gr/en/home-page/</p>	<p>Babel is a non-governmental organisation that provides mental health services to migrants (regardless of their legal status) in Athens since 2007. These services include psychiatric treatment, psychological support, diagnosis, counselling and psychotherapy, and psychosocial rehabilitation.</p>
<p>Faros https://faros.org/</p>	<p>Faros is a Greek, Christian non-profit organization, established in 2014, that provides humanitarian care and individual support to unaccompanied children and refugee youth. Faros’ shelter offers temporary housing to 22 unaccompanied refugee minors between the ages of 10 and 16. In addition, it provides food, psychosocial support, access to legal services, vocational training, informal education, and recreational and sports activities.</p>
<p>FORGE for Humanity https://www.forgeforhumanity.org/</p>	<p>FORGE is a non-profit organisation that works with single male refugees and asylum-seekers in Athens and its surrounding areas. It offers personalised programmes that consist of psychosocial support, occupational assistance, housing, and direct aid.</p>
<p>Greek Council for Refugees (GCR) https://www.gcr.gr/en/</p>	<p>The GCR is a non-governmental organization, which has been active since 1989 in the field of asylum and human rights in Greece. It aims to defend the rights of refugees and asylum-seekers in Greece, and to ensure their protection and integration. The GCR provides, inter alia, free legal and social advice to refugees and asylum-seekers with a special emphasis on vulnerable individuals, such as unaccompanied minors and victims of human trafficking.</p>

<p>Generation 2.0 for Rights, Equality and Diversity https://g2red.org/</p>	<p>Generation 2.0 for Rights Equality and Diversity is a non-profit organisation founded in 2013. Its goal is to promote equal participation in a diverse society through the empowerment of communities. It offers:</p> <ul style="list-style-type: none"> • one-on-one career counselling sessions; • information about labour rights and employment procedures in Greece; • information about educational and vocational training programmes; • skill development groups; • entrepreneurship counselling; • assistance searching for a job; • workshops on CV and motivation letter writing, job search techniques, interview preparation, etc.; • Greek language classes; • individual counselling and intercultural mediation; • information on rights, documents and residence permits, health care, and accommodation; • informative events and workshops.
<p>Hestia Hellas https://www.accmr.gr/en/member/team/468.html</p>	<p>Hestia Hellas is a non-governmental organisation that supports vulnerable populations in Athens, including refugees. It offers psychosocial support, vocational training, workshops, English and Greek language classes, and job coaching (e.g. CV writing, interview preparation).</p>
<p>Klimaka – Organization for the Development of Human and Social Capital to Combat Social Exclusion http://www.klimaka-cosmos.com/</p>	<p>Klimaka is a Greek non-governmental organization, founded in 2000, whose main goals are the combatting of social exclusion and promotion of mental health. It provides mental health services and implements social inclusion programs for excluded population groups. Its focus is on particularly vulnerable persons, especially those with mental illnesses and severe psychosocial problems. The services it provides include psychiatric care and monitoring, psychotherapeutic sessions, counselling, referrals to other services, information and support during the asylum procedure, and Greek language lessons. Klimaka also runs the Iolaos shelter which has capacity for 10 non-nationals with severe psychiatric problems.</p>
<p>Melissa Network https://melissanetwork.org/</p>	<p>Melissa Network is an organisation for migrant and refugee women in Greece. Founded in 2014 with grassroots-based participation, it provides a platform for networking, capacity building and advocacy and runs an innovative integration program supporting refugee women and children. It provides information, language lessons, psychosocial support, self-care and community care (e.g. workshops on meditation, yoga, self-defence, stress management), art and creative activities, after-school help with homework, and skills development (vocational, cooperative, and leadership trainings, IT and coding trainings, CV-writing workshops, cooking, crafts and sewing).</p>
<p>METAdrasi https://metadrasi.org/en/home/</p>	<p>METAdrasi is a Greek non-governmental organisation founded in 2009. Its mission is to facilitate the reception and integration of refugees and migrants in Greece. METAdrasi is active in the following key areas:</p> <ul style="list-style-type: none"> • the provision of quality interpretation, enabling vital communication with refugees and migrants through the deployment of over 350 interpreters, trained and certified by METAdrasi in 43 languages and dialects; • the protection of unaccompanied and separated children, through a comprehensive safety net of activities including accommodation facilities, escorting from precarious conditions to safe spaces and the pioneering activities of guardianship, foster families and supported independent living; • the protection and support of other vulnerable groups through the provision of legal aid to asylum-seekers, certification of victims of torture and deployment of humanitarian aid wherever needed; • the education and integration of refugees and migrants through educational programmes, Greek language lessons, multilingual support guides and remedial education for children that enables access to the right to education, as well as soft-skills training, traineeship opportunities, and work placements.

<p>PRAKSIS – Programs of Development, Social Support and Medical Cooperation https://praksis.gr/en-about/</p>	<p>PRAKSIS is a non-profit association whose main goal is the eradication of social and economic exclusion of vulnerable social groups and the defense of their personal and social rights. It provides a wide range of services including health care, accommodation, psychosocial support, job counselling, legal support, interpretation and cultural mediation, clothing and basic hygiene services.</p>
<p>Refugee Support Aegean (RSA) https://rsaagean.org/en/</p>	<p>RSA is a Greek non-profit organization focusing on strategic litigations in support of refugees, monitoring human rights violations as well as the provision of legal, social and humanitarian support in individual cases. Members of the organization are based on the islands and in the mainland and document the situation in different parts of Greece.</p>
<p>SolidarityNow https://www.solidaritynow.org/en/</p>	<p>SolidarityNow is a non-governmental organisation, which offers information, social services (social protections, counseling and empowerment, referrals), legal support (legal counseling, mediation, and court representation for certain cases), psychosocial support, psychological support (e.g. individual counseling and psychotherapy), a day center for children between the ages of 3–12 years, employment support (support with the job search, job orientation sessions, employment skills training, job interview preparation, thematic workshops, seminars and networking with potential employers, networking with educational programs), and counseling and accounting support (tax consulting for individuals, counseling and guidance for municipal benefits, social benefits and debt settlements).</p>
<p>Za'atar http://zaatarngo.org/</p>	<p>Za'atar is a non-governmental organisation which provides long-term housing for up to 15 female refugees and their children, English and Greek language courses, vocational training, legal support, psychological support, CV workshops, support to the LGBTQ refugee population, and a mentoring program on LGBTQ issues and rights. Za'atar also runs the Orange House shelter, which provides long-term accommodation to 15 female refugees and their children.</p>

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