



Registration of asylum applications in the new mainland RIC in Greece

Observations on access to the asylum procedure in the Attica region

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Introduction

Since September 2022, Greece applies screening (hereafter “reception and identification”) procedures to irregularly arriving or staying third-country nationals and stateless persons on the mainland, in addition to existing procedures at the Evros land border and on the islands,¹ under the responsibility of the Reception and Identification Service (RIS) of the Ministry of Migration and Asylum. According to a circular of said Ministry, as a rule, persons who are present on the mainland and have not previously undergone reception and identification procedures shall lodge their asylum applications at the Reception and Identification Centres (RIC) of Malakasa and Diavata, near Athens and Thessaloniki respectively.² The two facilities were re-established as RIC with a November 2022 amendment to the organisational structure of the Ministry.³

The Ministry of Migration and Asylum had already barred direct access to the Asylum Service for those who had not previously undergone reception and identification procedures under a November 2021 circular.⁴ In July 2022, it launched a special online platform⁵ for the booking of appointments for reception and identification procedures and lodging of asylum claims at the RIC of Malakasa and Diavata as “Responsible Registration Authorities”.⁶

The launch of this “uniform registration” procedure in mainland Greece is a significant development for the country’s asylum system, marred for over a decade by structural problems regarding access to the procedure.⁷ It also presents important legal issues at European Union (EU) level in view of upcoming negotiations between the European Parliament and the Council on the proposal for a Screening Regulation, tabled by the European Commission on 23 September 2020 as part of the New Pact on Migration and Asylum.⁸ The Screening proposal is largely modelled on the Greek reception and

¹ Lesvos, Chios, Samos, Leros and Kos. See European Council, *EU-Turkey Statement*, 18 March 2016, available at: <https://bit.ly/2S5qaAg>.

² Ministry of Migration and Asylum, Circular 504912/2022, 31 August 2022. The Circular is accompanied by RIS Director Decision “Establishment of two (2) Registration and Transfer Coordination Mobile Units”, 504264/2022, 31 August 2022.

³ Articles 34(h)-(i) PD 106/2020, Gov. Gazette A’ 255/23.12.2020, inserted by Article 12 PD 77/2022. Note that the new RIC of Malakasa encompasses two formerly operating reception facilities: “old” and “new” Malakasa. See e.g. RSA, ‘New Malakasa: Inhuman subsistence, nine months on’, 17 December 2020, available at: <https://bit.ly/3HTTiXp>.

⁴ Ministry of Migration and Asylum, Circular 411695/2021, 24 November 2021.

⁵ Ministry of Migration and Asylum, *Registration appointment application*, available at: <https://bit.ly/3HY6bzQ>.

⁶ Articles 1(q) and 69(7) Asylum Code, L 4939/2022, Gov. Gazette A’ 111/10.06.2022.

⁷ ECtHR, *M.S.S. v. Belgium and Greece*, App No 30696/09, 21 January 2011; Council of Europe Committee of Ministers, *1383rd meeting (29 September - 1 October 2020) (DH) - H46-7 M.S.S. and Rahimi groups v. Greece (Application No. 30696/09)*, CM/Del/Dec(2020)1383/H46-7, 1 October 2020, available at: <https://bit.ly/3kQ2m7y>. Note that the position expressed by the Greek government to the Council of Europe Committee of Ministers in 2021, per which “Those who have expressed their intention to apply for asylum can submit their registration themselves electronically”, does not reflect the current process: Greek Government, *The Communication concerning the execution of the M.S.S. v. Greece (30696/09) and RAHIMI v. Greece (8687/08) group of cases judgments rd. in response to the decision of the CM at its 1383 meeting*, DH-DD(2021)363, 16 March 2021, para 9, available at: <https://bit.ly/3R5vG6a>.

⁸ European Commission, *Proposal for a [Screening Regulation]*, COM(2020)612, 23 September 2020. See also Council of the European Union, *Proposal for a [Screening*

identification procedure and contains provisions on the conduct of screening both at the borders and on the territory of Member States.⁹

This report documents the legal and administrative issues pertaining to the new uniform registration procedure and to asylum seekers' access to their rights following the launch of the new mainland RIC, through the lens of eleven recent cases of asylum seekers supported by Refugee Support Aegean (RSA) in the Attica region, covered by the RIC of Malakasa. It analyses obstacles to the making of asylum applications, the regime applicable in the RIC and the conduct of reception and identification procedures and lodging of asylum applications therein.

Barriers to “making” asylum applications on the mainland

Access to the asylum procedure comprises of three discrete stages according to legislation in force:¹⁰

1. “Making” of the asylum application, i.e. expression of the person's intention to receive international protection status;
2. “Registration” of the application by the competent authorities within a set deadline. Greek law transposes the concept as “simple registration” or “partial registration”;¹¹
3. “Lodging” of the application upon submission of a form by the applicant to the competent authorities. Greek law transposes the concept as “full registration”.¹²

The status of “applicant for international protection” and corollary rights to remain on Greek territory and to access reception conditions are acquired upon the “making” of the asylum application, in line with core principles of international, EU and national law.¹³ The “making” of a claim consists in the written or oral expression of the person's intention to seek international protection and “entails no administrative formalities”,¹⁴ whether it is addressed to the competent authority or not.

The Greek Ombudsman recalls that “the law lays down short deadlines for the registration of the application and for the grant of documents attesting its lodging, even where lodging cannot be fully conducted. The intention of the legislature is to ensure partial registration and the grant of a document with the details and a

Regulation] – mandate for negotiations with the European Parliament, 10585/22, 22 June 2022.

⁹ See further RSA et al., *The Workings of the Screening Regulation*, January 2021, available at: <https://bit.ly/3WlppP8>; RSA, *Comments on the Commission proposal for a Regulation introducing screening at the external borders*, October 2020, available at: <https://bit.ly/3jSUBO7>.

¹⁰ Article 6 Asylum Procedures Directive.

¹¹ Article 69(2) Asylum Code.

¹² Article 69(1) Asylum Code.

¹³ Articles 2(c) and 9(1) Asylum Procedures Directive; Articles 2(b) and 17(1) Reception Conditions Directive; Article 1(c), 59(1), 69(8) and 73(1) Asylum Code; Administrative Court of Athens, Decision AP971/2021, 24 May 2021, para 4; Administrative Court of Piraeus, Decision AP245/2021, 18 June 2021, para 4; Decision AP74/2021, 25 February 2021, para 4.

¹⁴ CJEU, C-72/22 PPU MA, 30 June 2022, para 80; C-808/18 *Commission v Hungary*, 17 December 2020, para 97; C-36/20 VL v *Ministerio Fiscal*, 25 June 2020, paras 93-94.

photograph of the person even in the case where full registration cannot be swiftly carried out.”¹⁵

Specifically, under the Asylum Code provisions transposing the Asylum Procedures Directive, the “lodging” of asylum applications shall be conducted “immediately” by the Responsible Registration Authorities, i.e. the Asylum Service and the RIS.¹⁶ Where lodging cannot take place immediately, upon Decision of the Director of the Asylum Service, the Responsible Authorities shall “register” the application within three working days from its “making” and proceed to its “lodging” no later than fifteen working days from “registration”. The authorities shall issue the applicant a “document bearing their details and photograph, which is handed in upon lodging and is replaced by the asylum seeker’s card.”¹⁷

Under Greek law, Responsible Registration Authorities may require the applicant to be physically present during the “lodging” of the application; “registration” is subject to no such requirement.¹⁸ The authorities may in any event archive the case where the applicant “does not appear for the lodging on the scheduled date”, by decision of the competent Regional Asylum Office (RAO).¹⁹

Disregard of “applicant for international protection” status

The Greek authorities do not consider the submission of a request for a registration appointment at the RIC of Malakasa and Diavata via the Ministry of Migration and Asylum online platform as “registration” of an application for international protection in the meaning of the Asylum Code. That is because personal details on the platform are filled in by the applicant – not by the Responsible Registration Authorities – and cannot be verified, on the one hand, while the applicant receives no document with details and photograph, on the other.

Yet, the administration does not view the request for a registration appointment via the online platform as “making” of an asylum claim either, even though this act amounts an expression of intention before the Responsible Registration Authority and is the sole means of access to the asylum procedure, in accordance with the Ministry of Migration and Asylum circular. Importantly, the appointment receipt automatically generated by the online platform expressly states that said document “does not constitute a statement of intention to apply for asylum, but proof that an appointment has been scheduled to this end”. This poses impermissible “administrative formalities” on the unfettered right to “make” an asylum application, as interpreted by constant case law of the Court of Justice of the European Union (CJEU).²⁰

Such a practice contravenes legal standards and means that persons who wish to lodge an asylum claim and approach the Responsible Registration Authorities via the

¹⁵ Ombudsman, ‘Υπερμετρη καθυστέρηση στην καταγραφή αιτήσεων διεθνούς προστασίας’, 322987/49662, 12 September 2022.

¹⁶ Article 6(1)-(2) Asylum Procedures Directive; Article 69(1)-(2) Asylum Code.

¹⁷ Article 69(2) Asylum Code.

¹⁸ Article 69(6) Asylum Code.

¹⁹ Article 69(5) Asylum Code.

²⁰ CJEU, C-72/22 PPU MA, 30 June 2022, para 80; C-808/18 *Commission v Hungary*, 17 December 2020, para 97; C-36/20 VL v *Ministerio Fiscal*, 25 June 2020, paras 93-94.

online platform set up to that end are not recognised as “applicants for international protection” and are denied the basic guarantees attached to that status, often for prolonged periods of time. As a result, applicants awaiting the date of their scheduled appointments at the RIC of Malakasa remain at risk of arbitrary deprivation of liberty and deportation from Greece. In case of arrest by the Hellenic Police, they are placed under pre-removal detention instead of being “directly transferred” to the RIC for the purpose of reception and identification procedures pursuant to the Asylum Code.²¹ Furthermore, return and detention orders remain in force even where people demonstrate the receipt of their appointment request at the RIC.

Case study: Nizar*, a refugee from Syria, requested an appointment to lodge his asylum application via the online platform in early January 2023 and received an appointment at the RIC of Malakasa for early March 2023. Three days later, he was arrested in Athens and was transferred to the pre-removal detention centre of Amygdaleza, despite having produced the appointment receipt before the police authorities. Nizar submitted objections against his return within the 48-hour deadline, where he stressed his asylum seeker status. However, the Aliens Directorate of Attica issued a return decision to Syria or Türkiye and prolonged his detention. The Aliens Directorate of Attica subsequently dismissed his appeal against the return decision without due motivation. Nizar remained in arbitrary detention for twelve days without being referred to the RIC or the Asylum Service for the lodging of his claim. He was eventually released after the Police ordered the postponement of his removal.

The above practice has been declared contrary to the Asylum Code by the Administrative Court of Kavala, in a recent case involving a person detained, even though prior to his arrest he “had submitted online before the Ministry of Migration and Asylum application no... for the scheduling of registration of an asylum application, by which the date of registration of his application was set at... and in that manner expressed his intention to receive an international protection status. As a result, in accordance with the aforementioned provision of Article 65(8) of the Asylum Code, the applicant obtained the status of asylum seeker”, due to which no return decision may be issued against him.²²

Prolonged delays

Waiting times for the lodging of asylum applications on the mainland remains a structural problem of the Greek asylum system. Even the new uniform registration procedure is marred by undue delays well exceeding the maximum deadline of three working days for the “making” of an application set by law at least for “registration”.

On the one hand, the Ministry of Migration and Asylum online platform does not offer an unlimited number of appointments. When a specific threshold of persons requesting

²¹ Article 38(1) Asylum Code.

²² Administrative Court of Kavala, 164/2023, 7 February 2023. See Greek Council for Refugees, ‘Απόφαση του Διοικητικού Πρωτοδικείου κρίνει παράνομη την επιστροφή και κράτηση προσώπου που έχει αιτηθεί μέσω της online πλατφόρμας του Υπουργείου των προγραμματισμό της πλήρους καταγραφής του αιτήματος ασύλου’, 16 February 2023, available at: <https://bit.ly/3YCrAW2>.

registration at the RIC and Malakasa and Diavata is reached, the platform 'shuts down' and does not offer appointments to new requests. An automated message appears on the user's screen, stating: "No available dates were found for the location you selected" and indicating only the request number, not the person's details. The operation of the platform is only reinstated after competent services manually introduce new dates for available appointments.²³

Case study: Shabnam*, a refugee from Afghanistan, entered Greece in early November 2022 together with her minor daughter. The family arrived in Athens and had no stable shelter. Shabnam's efforts to request an appointment via the online platform in late November 2022 were unsuccessful, as the platform had no available appointments at the time. Following telephone contact between her lawyers and the RIC of Malakasa, she was advised to await an automated message with an appointment date once the platform would be 'back on'. Shabnam's lawyers eventually secured an appointment directly with the RIC, as described below.

On the other hand, the online platform books appointments for several months later, reaching even up to twelve months. The following table provides an indicative list of waiting times in for initial registration appointments at the RIC of Malakasa in cases supported by RSA in the Attica region:

Waiting times for initial registration appointments: RIC of Malakasa			
	Registration language	Appointment request	Appointment
Ehsan*	Dari	Aug 2022	Aug 2023
Zarifa*	Dari	Oct 2022	May 2023
Ayse*	Turkish	Oct 2022	Jan 2023
Raheel*	Dari	Dec 2022	Jan 2023
Nizar*	Arabic	Jan 2023	Mar 2023
Sana*	Dari	Jan 2023	Mar 2023

According to the Greek authorities, the majority of applicants who book appointments via the online platform do not show up at the RIC on their indicated appointment date. Due to this, the RIS reschedules set appointments for closer dates at regular intervals. This is done through an automated message sent to the email address used by the applicants when making the appointment request.

The Ombudsman has raised with the authorities the issue of undue delays in the lodging of asylum claims in mainland RIC, recalling that asylum applications must at least be "registered" within three working days where "lodging" is not feasible. Related complaints are pending before the European Commission.²⁴

²³ Similar arrangements are in place for the platform for registration of subsequent asylum applications, where appointments are booked with the territorially competent RAO or AAU of the Asylum Service.

²⁴ *Inter alia*, CHAP(2022)02264, 12 August 2022.

Categories exempted from the online platform

Ministry of Migration and Asylum Circular 504912/2022 only exempts unaccompanied children and persons in criminal or administrative detention from the uniform registration procedure at the RIC of Malakasa and Diavata. Asylum claims made by these categories of people continue to be lodged at the Asylum Service.²⁵

The wording of the circular implies that all other asylum seekers are to be registered in the two RIC after booking an appointment via the online platform. In practice, however, the Greek authorities seem to exempt certain categories of people from the requirement of an online appointment via the platform prior to their entry into the RIC, though no information or criteria are publicly available thereon.

Practice to date suggests that categories exempted from the platform include large groups transferred by the authorities to the RIC of Malakasa such as shipwreck survivors or persons who have arrived in mainland reception facilities (camps) on their own and remain unregistered there.

Case study: Naiem* and **Nooria*** are refugees from Afghanistan. They arrived in Greece through the land border at the end of August 2022 with Nooria's daughter and arrived in the Schisto camp in Attica. In October 2022, the camp arranged their organised transfer as part of a larger group of residents to the RIC of Malakasa, with a view to the lodging of their asylum applications.

RIS treatment remains unclear as regards the latter case of individual asylum seekers residing in camps after arriving on their own, however. In similar cases supported by RSA, it appears that reception and identification procedures in the RIC of Malakasa are only made possible after an appointment request via the online platform and/or intervention from the applicants' lawyers with a request to speed up registration, particularly for vulnerable persons.²⁶

Case study: Raheel* and her children are refugees from Afghanistan. They arrived in Greece in mid-October 2022 and reached the "old" Malakasa camp on their own; the camp now forms part of the RIC of Malakasa. Raheel repeatedly approached the authorities but received no information on when the family would be registered. In late December 2022, Raheel's lawyers urged the RIC of Malakasa to speed up registration on account of the family's vulnerability and pressing health needs. The RIC responded in January 2023 with a registration appointment. Following completion of the process, the family was transferred to a reception facility.

Case study: Habibi*, an Afghan refugee, arrived in Athens in early September 2022 and reached the "old" Malakasa camp a few days later. After several hours, she was allowed to enter and remain there until her registration. Her husband, **Reza***, arrived in the camp one month later. The couple awaited their

²⁵ See however, Solomon, '«Με εντολή άνωθεν»: Το καλά κρυμμένο μυστικό της Υπηρεσίας Ασύλου', 12 December 2022, available at: <https://bit.ly/3RaMn0c>.

²⁶ Articles 38(1) and 41(d) Asylum Code.

registration at the RIC of Malakasa until it was arranged by the authorities in late January 2023.

In any event, in RSA's experience, the RIC of Malakasa does not admit everyone who appears on their own initiative without a scheduled appointment via the online platform or the authorities, even where vulnerability or homelessness grounds apply.

Case study: Zarifa*, a refugee from Afghanistan, arrived in Greece at the beginning of October 2022 with one of her minor sons. They arrived in Athens and had no stable shelter. After she applied via the online platform, Zarifa obtained an appointment for registration at the RIC of Malakasa in early May 2023. Her lawyers filed a request to the RIC to speed up registration in early November 2022, citing the family's homelessness and the urgent need for Zarifa to be reunited with her second son who has been in Türkiye since they were forcibly separated at the land border. One week later, Zarifa and her first son travelled to the RIC of Malakasa on their own and asked to be subject to reception and identification procedures. However, the camp denied them entry. Only after contact between Zarifa's lawyers and the authorities did the RIC reschedule her registration appointment for late November 2022 and admit them on the scheduled date.

Case study: Shabnam*, as described above, did not manage to request a registration appointment via the online platform due to the lack of available appointments at the end of November 2022. She was advised to wait for an automated message as soon as the operation of the platform would be reinstated. On the same day, however, her lawyers filed a request to the RIC to speed up the family's registration on account of serious health issues and vulnerability. One week later, the RIC of Malakasa responded and set a registration appointment for mid-December 2022. Registration was completed on that date.

Access to the asylum procedure in Attica: Key figures

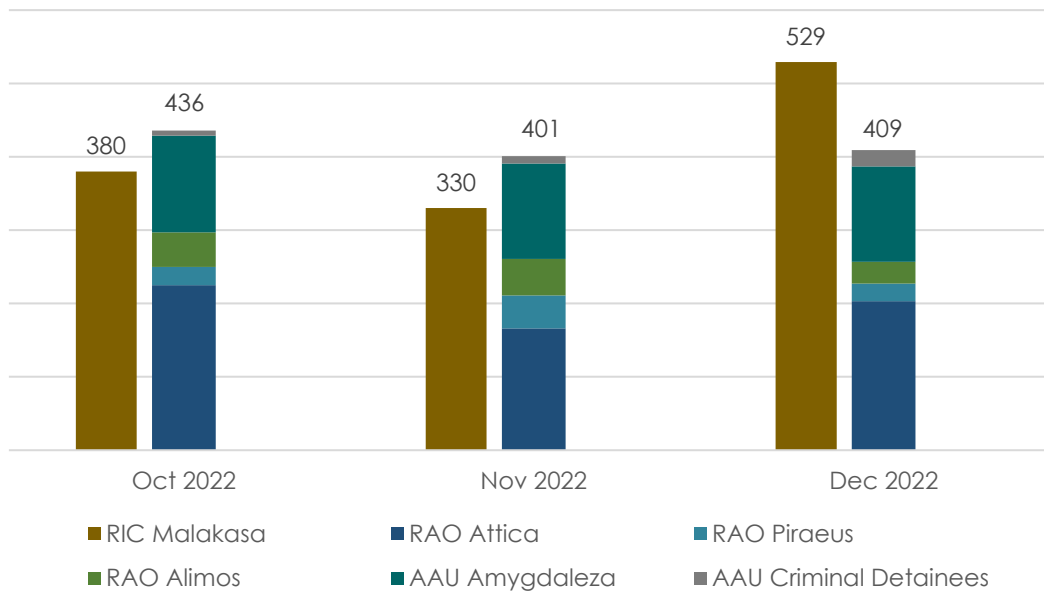
Over the past two years, the majority of asylum applications throughout Greece have been lodged in Attica, where a dedicated Directorate of the Asylum Service operates three Regional Asylum Offices (RAO) and six Autonomous Asylum Units (AAU).²⁷ Attica accounted for 43% of the total number of claims in 2021 and 36% in 2022.²⁸

In the period October to December 2022, for which the Ministry of Migration and Asylum has released detailed statistics, the RIC of Malakasa (1,239) and the various RAO and AAU of the Asylum Service (1,246) lodged almost equal numbers of first asylum applications in the Attica region. The lodging of first asylum claims by location in Attica was as follows:

²⁷ Article 29 PD 106/2020, as amended by Article 10 PD 77/2022.

²⁸ Ministry of Migration and Asylum, *Statistics; RSA, The Greek asylum procedure in figures: most asylum seekers continue to qualify for international protection 2021*, March 2022, available at: <https://bit.ly/3lidrHY>.

Lodging of first asylum applications in Attica by location



Source: Ministry of Migration and Asylum, Monthly Reports.

Legal status and procedures in mainland RIC

De facto detention regime

Greek law does not apply a “fiction of non-entry” into the national territory to persons undergoing reception and identification procedures, contrary to the Screening Regulation proposal under negotiation. However, as has been consistently highlighted, the Asylum Code imposes a “restriction on liberty” to persons subject to reception and identification procedures which amounts to *de facto* detention. It entails a prohibition on exit from the RIC facilities for a maximum of 25 days under a Decision of the Director of the RIC, to be issued within five days from entry into the facility.²⁹ The measure entails substantial interference with the personal liberty of newly arrived persons, since they are required to remain within the RIC and cannot receive visitors outside the facility, while their movements are restricted and monitored by the authorities.³⁰ It also amounts to arbitrary detention insofar as it is automatically imposed without following legislative safeguards on deprivation of liberty of asylum seekers. Such a reading is supported by Letter of Formal Notice INFR(2022)2156 sent by the European Commission to the Greek government in late January 2023, under an infringement procedure for incorrect transposition of Articles 8, 9 and 11 of the Reception Conditions Directive.³¹

In practice, reception and identification procedures may take up to 25 days, since the scheduled date for arrival in mainland RIC does not mean that the uniform registration

²⁹ Article 40(a) Asylum Code.

³⁰ See in particular RSA et al., *The Workings of the Screening Regulation*, January 2021, 8-9, available at: <https://bit.ly/3WlppP8>; RSA et al., *Deportations and Returns Bill – Comments from legal organisations*, June 2021, 11, available at: <https://bit.ly/3xealyn>; RSA & HIAS, *The role of the European Commission in the implementation of the EU asylum acquis on the Greek Islands*, January 2023, 16, available at: <https://bit.ly/3lh1137>.

³¹ European Commission, ‘January Infringements package: key decisions’, INF/23/142, 26 January 2023, available at: <https://bit.ly/3RdzL8n>.

process will be completed on that day. RSA cannot draw clear conclusions on the exact duration of the registration procedure and corollary *de facto* detention in the RIC of Malakasa for those arriving following an appointment via the online platform or the RIC itself. For instance, the procedure in question was concluded on the same day in the case of **Shabnam*** and within two days for **Raheel***, while **Zarifa*** remained under “restriction of liberty” for eight days until the completion of her registration. Appointments may also be postponed on the spot due to capacity shortages.

Case study: Ayse* is a refugee from Türkiye. Following a request for an appointment to lodge her asylum application via the Ministry of Migration and Asylum online platform in October 2022, she received an appointment at the RIC of Malakasa for early January 2023. Upon arrival in the RIC, however, she was informed that the authorities would not be able to carry out her registration due to capacity shortages, and received a new appointment for the end of January. Yet, when she arrived on the date of her new appointment, she was again told that registration would not take place due to a shortage in interpretation services. By early February, the RIC of Malakasa had not rescheduled Ayse's appointment for registration.

Nevertheless, the case of survivors of shipwrecks in areas beyond the Eastern Aegean in the fall of 2022 is an illustrative example of protracted *de facto* detention. Survivors of different incidents were transferred to the RIC of Malakasa until the completion of reception and identification procedures and of the lodging of their asylum applications.

Case study: Rohullah*, a refugee from Afghanistan and survivor of a shipwreck off the coast of Kythira on 5 October 2022,³² was brought to the RIC of Malakasa one week later. However, he was only notified a decision on “restriction of liberty” upon completion of his registration fifteen days after arriving in the facility, despite a request for speedier registration filed by his lawyers. Rohullah's “restriction of liberty” within the RIC exceeded the maximum 25-day time limit, since he remained in Malakasa for 30 days before being released and transferred to a reception facility.

Case study: Frishta* is a refugee from Afghanistan and survivor of the same shipwreck, during which she lost a family member. She was transferred to the RIC of Malakasa one week later and remained there for two weeks. Frishta received a decision of “restriction of liberty” within the facility only upon registration twelve days after her arrival, despite a request for speedier registration filed by her lawyers.

In light of the above, the Ombudsman has requested clarifications from the RIS on “whether entry of persons arriving in the RIC of Malakasa is registered on the same day

³² Hellenic Coast Guard, ‘Συνέχεια ενημέρωσης αναφορικά με ευρεία επιχείρηση έρευνας και διάσωσης αλλοδαπών στη θαλάσσια περιοχή ν. Κυθήρων’, 8 October 2022, available at: <https://bit.ly/3wyJ2OX>.

and whether the date of entry has been recorded in any document other than said decisions of the Director.³³

Furthermore, concerns arise around the legality of the process for the period prior to the establishment of Malakasa and Diavata as RIC. We recall that the uniform registration procedure on the mainland started on 1 September 2022, when the camps were still “reception facilities”. Only in mid-November 2022 were they relaunched as RIC where a “restriction of liberty” may be imposed under the Asylum Code. Accordingly, the Ombudsman has also requested clarifications from the RIS “on the status of stay and legal basis of restrictions of liberty for the period prior to the issuance of the aforementioned decisions by the Director and prior to the establishment of the RIC.”³⁴

Vulnerability assessments

Screening of new arrivals for vulnerability based on the indicative categories set out in Article 1(zg) of the Asylum Code is a core stage of the reception and identification procedure, conducted by the Medical Check and Psychosocial Support Unit for vulnerability.³⁵ Prompt identification of vulnerability is a prerequisite for the provision not only of special reception conditions – as incorrectly stated in Article 41(d) of the Asylum Code – but also of special procedural guarantees needed for an adequate examination of the asylum application by the Asylum Service.³⁶

In a sign of positive practice at the RIC of Malakasa, upon completion of reception and identification procedure and of the lodging of the asylum claim, the applicant’s classification in a vulnerability category is explicitly noted in the initial version of their Foreigner’s Health Card, signed by a National Public Health Organisation (Εθνικός Οργανισμός Δημόσιας Υγείας, EODY) doctor.³⁷ Vulnerability categories are marked by a special code e.g. “2A” for persons with serious illnesses, “6A” for single-parent families, “10A” for victims of torture or violence, “C” for non-vulnerable persons.

Lodging of asylum applications

The lodging of asylum applications at the RIC of Malakasa and Diavata is carried out by the RIS based on form “ΥΠΥ.01 Additional personal data registration form”. The same form is used in the RIC of Fylakio at the Evros land border and in the Closed Controlled Access Centres (CCAC) of Lesbos, Chios, Samos, Leros and Kos.³⁸

Observations from certain cases supported by RSA even in 2023 indicate that lodging in the RIC of Malakasa is done by staff deployed by the European Union Agency for

³³ Ombudsman, ‘Επιβολή περιορισμού ελευθερίας στο Κέντρο Υποδοχής και Ταυτοποίησης Μαλακάσας’, 327045/328337/67645, 12 December 2022.

³⁴ *Ibid.*

³⁵ Article 41(d) Asylum Code; Articles 12(2) and 16 JMD 1/7433/2019, Gov. Gazette B’ 2219/10.06.2019.

³⁶ See further RSA, *Ειδικές διαδικαστικές εγγυήσεις στη διαδικασία ασύλου: Παρατηρήσεις επί της νομολογίας*, June 2022, available at: <https://bit.ly/3HixkNc>.

³⁷ On different practice on the islands, RSA et al., *The state of the border procedure on the Greek islands*, September 2022, 15-16, available: <https://bit.ly/3PC2Nhb>.

³⁸ *Ibid.*, 12-13.

Asylum (EUAA) with support from interpreters of the Agency. These officials are identified in lodging forms not by name but by handwritten staff codes; “REG [number]” and “EUAA [number]” respectively. This practice has no basis in the Asylum Code, given that EUAA-deployed personnel may “offer support” to the RIS in reception and identification procedures³⁹ but may support only the Asylum Service in the lodging of asylum claims “where urgent needs arise”.⁴⁰ The Asylum Code therefore does not foresee the possibility for EUAA support to the RIS in the lodging of asylum applications.

In cases supported by RSA, all lodging forms indicate as “date & place of entry into Greece” the RIC of Malakasa and the date of lodging, not the actual date of entry and the point of entry into the country. Nevertheless, the “International Protection Application Information” section includes the question “Tell us your point of entry in Greece”. This field is filled by the correct point of entry. Similar issues have been documented in the lodging of asylum applications by the RIS on the islands.⁴¹

In addition, the “International Protection Application Information” section of the RIS lodging form contains a specific field relating to the application of the “safe third country” concept based on the national list of safe third countries,⁴² with the question “Tell us the reasons for your departure from Turkey”. In cases supported by RSA, however, the reasons for applicants’ departure from Türkiye are written down by the RIS in a rudimentary manner and as a summary rather than a *verbatim* account of their statements. For instance, relevant reasons for leaving Türkiye have been recorded in lodging forms as “fear of police and deportation” in the case of **Rohullah***, “fear of deportation” in the case of **Habibi*** and **Reza***, “fear for my safety” in the case of **Shabnam***, “I just passed” in the case of **Naiem*** and “I only passed” in the case of **Nooria***. As for **Zarifa***, the field in the form is empty.

Furthermore, after lodging has been completed, elements of the applicants’ case files e.g. lodging form and Foreigner’s Health Card are uploaded on the Asylum Service database (“Alkyoni”) with delay, due to challenges faced by the RIC of Malakasa in promptly handling cases. Delays reach up to ten days, as was the case for **Shabnam*** in December 2022, or even two weeks in the cases of **Raheel***, **Habibi*** and **Reza*** in January 2023.

Finally, according to a Decision of the Independent Authority for Public Revenue (Ανεξάρτητη Αρχή Δημοσίων Εσόδων, ΑΑΔΕ) which entered into force at the end of December 2020, asylum seekers automatically receive a Tax Identification Number (Αριθμός Φορολογικού Μητρώου, ΑΦΜ) upon completing the lodging of their asylum application.⁴³ An ΑΦΜ is automatically issued together with the International Protection Applicant Card (Δελτίο Αιτούντος Διεθνή Προστασία, DADP) after the Responsible Registration Authorities conduct the process online, and an ΑΦΜ issuance certificate is handed to the applicant.⁴⁴ Yet, whereas it issues DADP, the RIC of Malakasa does not

³⁹ Article 45 Asylum Code.

⁴⁰ Article 69(16) Asylum Code.

⁴¹ RSA et al., *The state of the border procedure on the Greek islands*, September 2022, 13.

⁴² JMD 42799/2021, Gov. Gazette B’ 2425/07.06.2021, as amended and in force.

⁴³ Articles 1(3) and 8 ΑΑΔΕ Decision Α1270/2020, Gov. Gazette B’ 5508/14.12.2020.

⁴⁴ Article 2(1) ΑΑΔΕ Decision Α1270/2020.

issue AFM to asylum seekers upon the lodging of their claims. People have to refer to the territorially competent RAO to complete the process.

Processing of asylum claims in the RIC

Beyond uniform registration, the processing of asylum applications deemed manifestly unfounded or relating to single adults originating from “safe countries of origin”⁴⁵ takes place in the RIC of Malakasa and Diavata, according to informal information from the authorities. However, no information is made publicly available on the categories of applications processed during the “restriction of liberty” imposed on applicants within the RIC.⁴⁶ Due to this, applicants do not receive full and timely information “upon the making of the application... on the procedure followed”, as required by law.⁴⁷

Moreover, reports indicate that the above procedure entails remote interviews as a rule and that border procedure provisions are – erroneously – applied, due to which the Asylum Service grants a shorter ten-day deadline for appeal against negative decisions.⁴⁸

Onward transfer to reception facilities

After uniform registration has been completed at the RIC of Malakasa, the RIS refers applicants who declare that they need reception conditions to a reception facility,⁴⁹ since camps are now the only form of accommodation offered by Greece.⁵⁰ Asylum seekers may be placed in any camp on the mainland, regardless of where they resided prior to the reception and identification procedure. For example, after the application was lodged, **Raheel*** was placed in the Alexandria camp even though she was staying in the RIC of Malakasa until her registration, **Naiem*** and **Nooria*** were placed in the Schisto camp where they were residing prior to their registration, **Zarifa*** was moved to the Thiva camp, **Frishta*** to the Filippiada camp and **Rohullah*** to the Koutsochero camp. **Shabnam*** was placed in the RIC of Malakasa.

Conclusions and recommendations

Drawing on the above analysis, Refugee Support Aegean (RSA) makes the following observations:

1. Greece contravenes international, EU and domestic law by setting constraints on the “making” of asylum applications, i.e. the expression of intention to lodge an asylum claim subject to no “administrative formality”, upon which “applicant for international protection” status is acquired. The request for a registration appointment via the Ministry of Migration and Asylum, the sole and dedicated channel for asylum seekers’ access to the Responsible Registration

⁴⁵ JMD 708368/2022, Gov. Gazette B’ 6012/25.11.2022.

⁴⁶ Pursuant to Article 40(c) Asylum Code.

⁴⁷ Article 74(1) Asylum Code.

⁴⁸ Articles 95(1) and 97(1)(c) Asylum Code. On the scope of the border procedure, RSA et al., *The state of the border procedure on the Greek islands*, September 2022, 13-15.

⁴⁹ Article 43(d) Asylum Code.

⁵⁰ RSA, ‘On the termination of the ESTIA II housing programme for asylum applicants’, 22 December 2022, available at: <https://bit.ly/3luuL12>.

Authorities, undoubtedly amounts to such an expression of intention. Accordingly, the request for a registration appointment must absolutely be expressly acknowledged as “making” of an asylum application, regardless of the availability of appointments in mainland RIC or the date of potential appointments granted by the platform.

2. The uniform registration procedure at the RIC of Malakasa and Diavata and the operation of the online platform in no way remedy systematic non-compliance with the maximum time limits set by law for the lodging of asylum applications in Greece. At least “registration” should therefore take place within three working days from the “making” of the application through the request of an appointment via the online platform. A document bearing the applicant’s photograph and details must also be granted at that stage, in accordance with Article 69(2) of the Asylum Code.
3. As long as the issue persists, asylum seekers continue to be deprived of documents attesting their right to remain on the territory and to receive reception conditions until their claim is lodged at the RIC. The RIS must therefore offer full material reception conditions to those in need thereof already at the point when a registration appointment is requested through the platform. Furthermore, where people with an appointment in mainland RIC are apprehended before “registration”, police authorities must refrain from detention and immediately transfer them to the RIC for reception and identification procedures under Article 38 of the Asylum Code. Alternatively, they should themselves proceed to immediate “registration” of the persons’ “intention” to apply for international protection and refer them to the Asylum Service for the lodging of the application.
4. RSA reiterates that the “restriction of liberty” within the RIC amounts to arbitrary deprivation of liberty, given that it does not comply with the strict legislative safeguards on administrative detention. Greece should amend Article 40 of the Asylum Code and repeal the “restriction of liberty” in the RIC to bring its legislation in line with Articles 8, 9 and 11 of the Reception Conditions Directive.⁵¹ We recall that permissible restrictions on asylum seekers’ freedom of movement are already regulated in Articles 49 and 50 of the Asylum Code.
5. RSA repeats that the last sentence of Article of Article 41(d) of the Asylum Code must be repealed to bring Greek law in line with Article 24 of the Asylum Procedures Directive.⁵² At a minimum, Greece should amend the provision to bring it line with the last sentence of Article 77(3) of the Asylum Code, expressly referring to “the provision of special procedural guarantees to those persons”.
6. Greece should ensure that sufficient registration officers and interpreters are deployed to ensure rapid and uninterrupted registrations in the RIC, automatic issuance of AFM and uploading of registration elements e.g. lodging forms,

⁵¹ RSA et al., *Deportations and Returns Bill – Comments from legal organisations*, June 2021, 11.

⁵² RSA, *Ειδικές διαδικαστικές εγγυήσεις στη διαδικασία ασύλου: Παρατηρήσεις επί της νομολογίας*, June 2022, 19.

Foreigners' Health Cards and submitted documents on the asylum seekers' case files immediately after lodging. We recall that the Asylum Code does not currently foresee the possibility for EUAA support to the RIS at the stage of lodging of asylum applications.

7. The lodging form should accurately reflect the elements of the asylum application to avoid confusion on applicants and authorities. The "date & point of entry into Greece" field should therefore be completed with the actual date and point of entry into the country, not the date and place of lodging of the claim.
8. The lack of available information on the categories of applications examined by the Asylum Service while applicants are under "restriction of liberty" within the RIC undermines the adequacy of information provided to asylum seekers in line with the safeguards of Article 74(1) of the Asylum Code. This information could be made available on the online platform of the Ministry of Migration and Asylum.
9. It is clear from the letter of Article 95 of the Asylum Code that the border procedure does not apply to applications examined in the RIC, since they are not made at the border or in transit zones. Moreover, there are no "mass arrivals" circumstances which would justify the extension of the border procedure to those making asylum claims during their stay in the RIC.



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