

Immigration detention in 2022: Sharp rise in detention orders, no access to remedies and legal aid in Greece

Key figures

Deportations & returns

- ❖ The Hellenic Police issued 30,631 detention orders, of which 16,977 in return procedures (Return Directive), 7,081 in deportation procedures (derogation from the Return Directive), and 6,573 in the asylum procedure (Reception Conditions Directive).
- ❖ Detention was applied in 99.7% of a total of 7,103 deportation decisions, as opposed to 64.5% of 26,338 return decisions.

Review of deportation & return decisions

- ❖ Only 450 removal decisions (1.3% of the total) were challenged by an administrative appeal before the Hellenic Police.
- ❖ The Hellenic Police granted only 12 out of 450 appeals (2.7%).
- ❖ No free legal assistance was provided in 2022 for detention or return proceedings.

Judicial review of detention

- ❖ 5,011 objections against detention were lodged with the administrative courts. Most of those were filed at the Administrative Court of Athens (2,827).
- ❖ The administrative courts granted 40% of objections. However, in the context of *ex officio* review under the same standards, the same courts quashed only 0.3% of detention orders.

Detention conditions

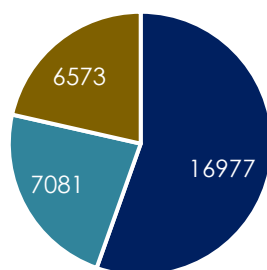
- ❖ 2,813 people were held in detention at the end of the year. Of those, 316 were detained in police stations.
- ❖ The total number of staff deployed in pre-removal detention centres throughout Greece was 37, including administrative staff and interpreters.

This Refugee Support Aegean (RSA) policy note analyses immigration detention statistics for 2022, as made available in response to parliamentary questions in March 2023.

Persisting systematic use of detention

The Hellenic Police issued a total of 30,631 detention orders in 2022, a 46% increase from 21,044 detention orders in 2021.

Detention orders: 2022



- Return (Return Directive)
- Deportation (derogation from Return Directive)
- Asylum (Reception Conditions Directive)

Source: Ministry of Citizen Protection, Reply to parliamentary question, 13 March 2023

Specifically, detention orders rose by 8% in return procedures, and by 55% in deportation procedures conducted by way of derogation from the Return Directive. A striking 697% increase was recorded in asylum detention orders.

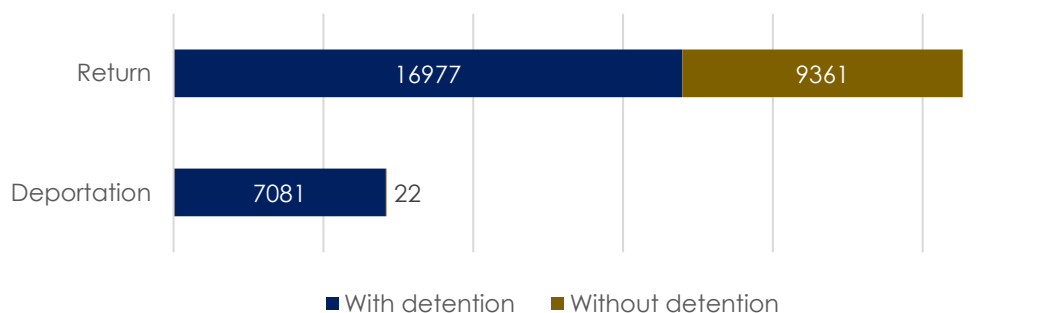
The Hellenic Police took a total of 33,441 removal decisions, of which 26,338 return decisions under the Return Directive and 7,103 deportation decisions on the Eastern Aegean islands by way of derogation from the Directive.

The Police clarifies that all new arrivals are channelled into screening (“reception and identification”) procedures, following which persons who do not fall under the asylum procedure “are referred to the competent police Authority for channelling into deportation, return or readmission procedures”. Yet, this position is called into question by the data pointing to 7,103 deportation decisions taken in 2022 even though the same authority concedes that “almost all entrants in our country make an asylum application during the reception and identification procedure”.¹

Furthermore, official statistics confirm that Greece applies pre-removal detention systematically and not as a last resort measure in removal procedures. Deprivation of liberty is almost an automatic adjunct of deportation decisions taken in derogation from the Return Directive, since 99.7% of deportation orders were accompanied by detention. Conversely, the rate of return decisions carrying detention was 64.5%:

¹ Directorate of the Hellenic Police, Reply to parliamentary question, 7017/4/25899-γ', 16 March 2022, available at: <https://bit.ly/3LilM02>.

Detention in return & deportation proceedings: 2022



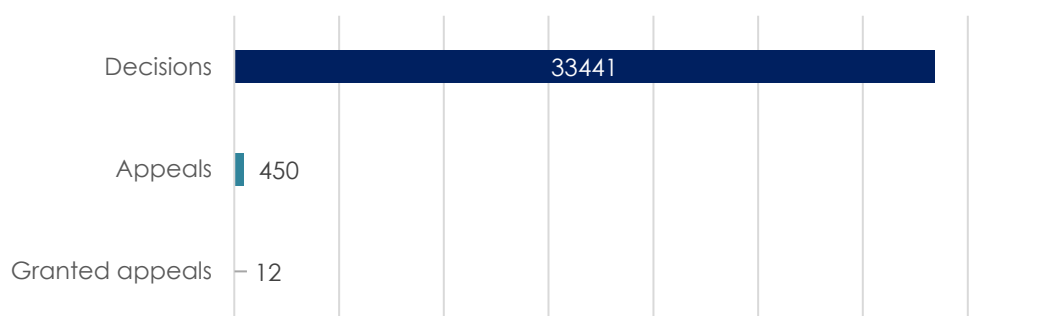
Source: Ministry of Citizen Protection, Reply to parliamentary question, 13 March 2023

Lack of access to remedies

Administrative appeal against deportation or return

Greek law foresees an administrative appeal against deportation or return decisions before the Hellenic Police within a tight deadline of five days.

Review of return & deportation decisions: 2022



Source: Ministry of Citizen Protection, Reply to parliamentary question, 13 March 2023

Data on such administrative appeals demonstrate systemic gaps in access to remedies. The past year saw as many as 33,441 deportation or return decisions but no more than 450 administrative appeals. Therefore, only 1.3% of removal decisions in Greece was challenged through an appeal.

Useful contrast may be drawn from the asylum procedure, where the rejection of an asylum claim by the Asylum Service involves the issuance of a return or deportation decision.² In 2022, the Asylum Service took 11,643 in-merit rejections and 8,962 inadmissibility decisions on asylum claims, while 16,830 appeals were lodged against Asylum Service decisions before the Appeals Authority.³

² Article 87(8) Asylum Code.

³ RSA, *The Greek asylum procedure in figures in 2022: Analysis of main trends in refugee protection*, March 2023, available at: <https://bit.ly/3LWW41N>.

Severe obstacles to access to the remedy stem from the complete absence of state-provided free legal assistance, contrary to Greece's obligations.⁴ No progress has been marked on legal aid over one year after the Council of the EU urged Greece for measures to ensure "effective access to free legal assistance", as "the issue is under review by the competent Services of [the Ministry of Citizen Protection] and the Directorate of the Hellenic Police".⁵

In addition, serious doubts persist as to the effectiveness of the administrative appeal to the Hellenic Police as a means of review of the legality of removal or detention orders. In cases supported by RSA, Hellenic Police decisions on such appeals appear to be identical, to lack specific reasoning on submissions and merely to state that "the foreigner lacks residence documents and the return decision was issued without a departure deadline, according to the provisions of articles 21, 22, 23 of L. 3907/11". This is the case even for asylum seekers who enjoy a right to remain on Greek territory.⁶

These concerns are corroborated by official data. In 2022, the Police rejected 438 administrative appeals and only approved 12, i.e. no more than 2.7%.

Judicial review of detention

5,011 objections against detention were lodged in 2022. This means that less than one out of five detention orders were challenged before the courts. Here too, effective access to the remedy is marred by the aforementioned obstacles and by Greece's failure to observe its duty to provide free legal assistance.

The overwhelming majority of objections against detention were filed with the Administrative Court of Athens (2,827), followed by Corinth (940), Piraeus (298), Thessaloniki (240) and Kavala (157).

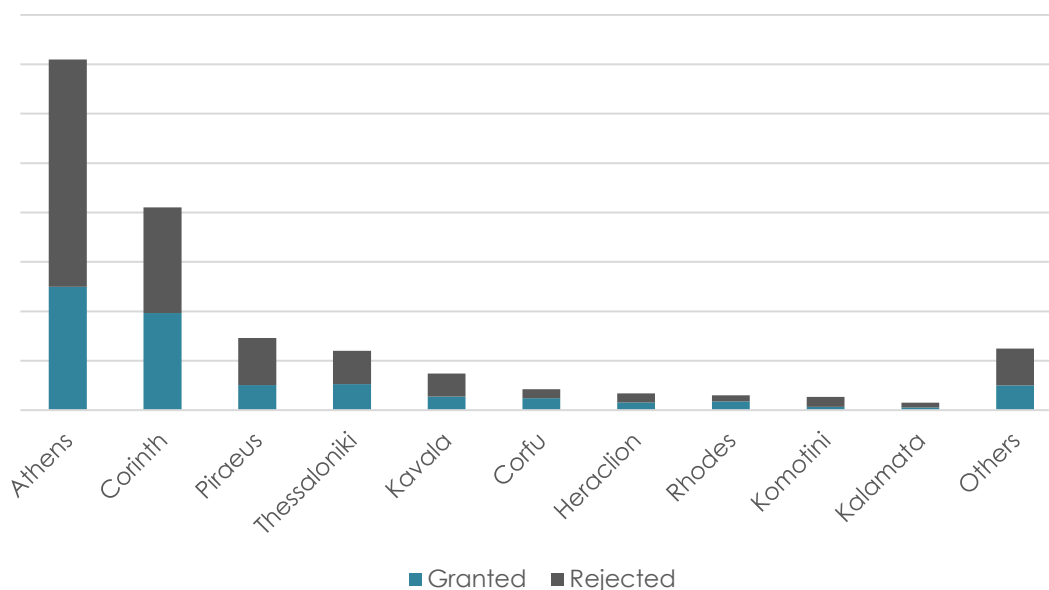
40% of objections against detention examined on their merits were granted by the administrative courts in 2022:

⁴ Article 13(4) Return Directive; Article 28(4) L 3907/2011.

⁵ Ministry of Citizen Protection, Reply to parliamentary question, 7017/4/26334-y', 13 March 2023, 3.

⁶ Article 73(1) Asylum Code.

Decisions on objections by administrative court: 2022



Source: Ministry of Justice, Reply to parliamentary question, 23 March 2023

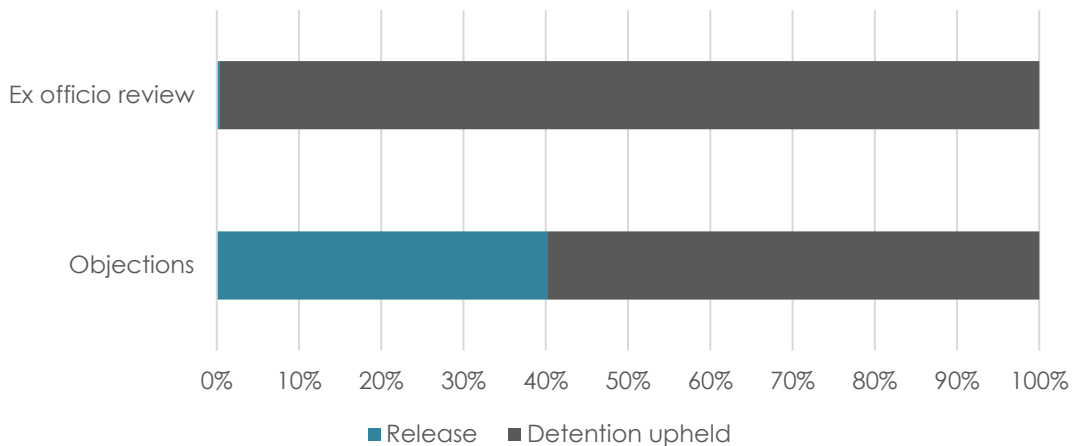
Striking disparities persisted in 2022 between the objections procedure and *ex officio* review of prolongation of detention orders, even though both categories of detention review are based on the same standards.

Ex officio review of detention: 2022					
	Asylum		Returns		Release rate
	Release	Approval	Release	Approval	
Athens	1	234	6	493	0.9%
Corinth	5	4,064	0	0	0.1%
Kavala	4	913	0	116	0.4%
Piraeus	1	98	1	113	0.9%
Rhodes	0	20	1	52	1.4%
Others	0	499	2	62	0.4%
Total	11	5,828	10	836	0.3%

Source: Ministry of Justice, Reply to parliamentary question, 23 March 2023

The above figures show evident discrepancies in the different mechanisms established for judicial review of detention. Whereas the administrative courts quashed 40% of detention orders challenged through objections, they only found 0.3% of *ex officio* reviewed orders to be unlawful.

Release rate upon judicial review: 2022



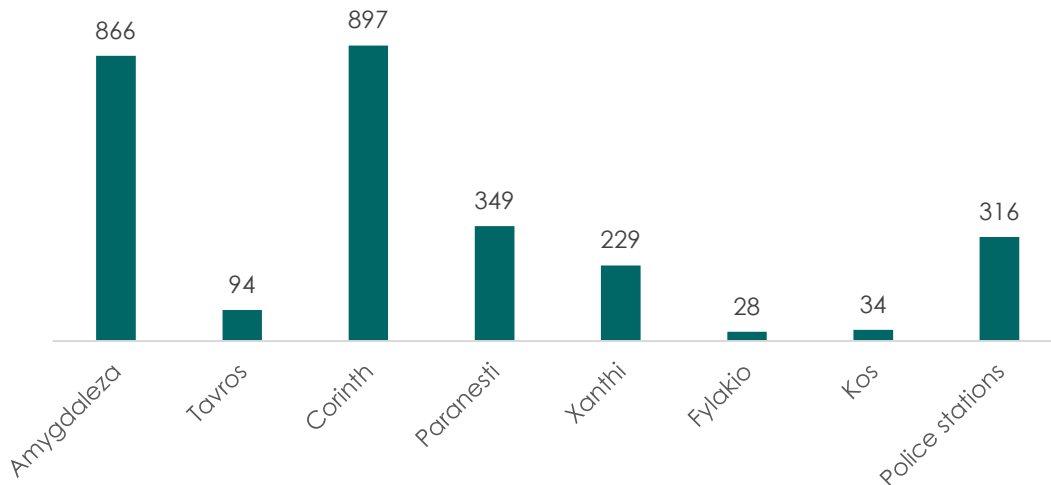
Source: Ministry of Justice, Reply to parliamentary question, 23 March 2023

Available data highlight yet again the pressing need for adequate free legal assistance with a view to a fair and effective scrutiny of immigration detention.

Detention conditions

A total of 2,813 persons were in immigration detention at the end of 2022, i.e. a 20% rise from 2,335 persons at the end of 2021. Of those, 2,497 were held in pre-removal detention centres and 316 in police stations throughout the Greek territory:

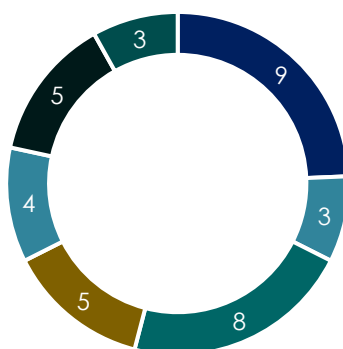
Persons in immigration detention: 31 Dec 2022



Source: Ministry of Citizen Protection, Reply to parliamentary question, 13 March 2023

Critical gaps in health care and support to people detained in pre-removal detention centres persist. According to Ministry of Citizen Protection figures, the total number of staff deployed in pre-removal centres was 37, including administrative staff and interpreters:

Total pre-removal detention centre staff



■ Amygdaleza ■ Tavros ■ Corinth ■ Paranești ■ Xanthi ■ Fylakio ■ Kos

Source: Ministry of Citizen Protection, Reply to parliamentary question, 13 March 2023

The Ministry has not provided a disaggregation by category of medical or administrative staff profile in response to parliamentary questions.