



# aida

Asylum Information  
Database

## Country Report: Cyprus



**November 2015**



Edited by:



**ecre**

European Council  
on Refugees and Exiles

## ACKNOWLEDGMENTS

This report was written by Corina Drousiotou, Head of the Humanitarian Affairs Unit, NGO Future Worlds Center and Manos Mathioudakis, Senior social advisor of the Humanitarian Affairs Unit, NGO Future Worlds Center, assisted by Fatema Islam, Mary Zalokosta, Panayiota Toumazou and updated by Marie Vassiliou. The report was edited by ECRE.

All information provided in this report on detention conditions are based on monitoring visits carried out by Future Worlds Center in March 2014, for the submission of comments to the Committee against Torture pending their visit in April 2014 and for the purpose of drafting the report for the AIDA website, on monitoring visits carried out in January 2015 as well as based on information collected during the weekly visits to the centre for the representation of individual cases by Future Worlds Center.

**The information in this report is up-to-date as of 27 November 2015.**

## The AIDA project

The AIDA project is jointly coordinated by the European Council on Refugees and Exiles (ECRE), Forum Réfugiés-Cosi, Irish Refugee Council and the Hungarian Helsinki Committee. It aims to provide up-to date information on asylum practice in 16 EU Member States (AT, BE, BG, CY, DE, FR, GR, HR, HU, IE, IT, MT, NL, PL, SE, UK) and 2 non-EU countries (Switzerland, Turkey) which is easily accessible to the media, researchers, advocates, legal practitioners and the general public through the dedicated website [www.asylumineurope.org](http://www.asylumineurope.org). Furthermore the project seeks to promote the implementation and transposition of EU asylum legislation reflecting the highest possible standards of protection in line with international refugee and human rights law and based on best practice.



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## Glossary & List of Abbreviations

**Recourse**                      Judicial review of administrative acts before the Supreme Court

**CRMD**                          Civil Registry and Migration Department

**EASO**                          European Asylum Support Office

**ECHR**                          European Convention on Human Rights

**ECtHR**                        European Court of Human Rights

**EDAL**                        European Database of Asylum Law

**EMN**                          European Migration Network

**KISA**                        Action for Equality, Support and Antiracism

**RoC**                          Republic of Cyprus

**RRA**                        Refugee Reviewing Authority | Αναθεωρητική Αρχή Προσφύγων

**UNCAT**                      United Nations Committee against Torture

**UNHCR**                      United Nations High Commissioner for Refugees

**UNVFVT**                    United Nations Voluntary Fund for the Victims of Torture

**URVT**                        Unit for the Rehabilitation of Victims of Torture

## Statistics

**Table 1: Applications and granting of protection status at first and second instance: 2015 (January-September)**

	Applicants in 2015	Pending applications in 2015	Refugee status	Subsidiary protection	Rejection <sup>1</sup>	Refugee rate	Subs. Prot. rate	Rejection rate
<b>Total</b>	1,560	1,915	95	1,075	360	6.2%	70.2%	23.6%

Breakdown by countries of origin of the total numbers

Syria	705	660	15	1,050	0	1.5%	98.5%	0%
Palestine	95	135	5	15	0	25%	75%	0%
Vietnam	95	65	0	0	65	0%	0%	100%
Stateless	65	20	30	0	0	100%	0%	0%
India	65	45	0	0	35	0%	0%	100%
Pakistan	65	35	0	0	45	0%	0%	100%
Egypt	60	175	10	0	35	22.3%	0%	77.7%
Iraq	55	230	5	5	0	50%	50%	0%
Bangladesh	45	20	0	0	35	0%	0%	100%
Sri Lanka	45	45	0	0	35	0%	0%	100%
Somalia	40	45	0	0	0	-	-	-
Eritrea	0	0	0	0	0	-	-	-
Afghanistan	0	10	0	0	0	-	-	-
Kosovo	0	10	0	0	0	-	-	-

Source: Eurostat (rounded).

<sup>1</sup> Rejection should include *both* in-merit and admissibility negative decisions (including Dublin decisions).

**Table 2: Gender/age breakdown of the total numbers of applicants: 2015 (January-September)**

	Number	Percentage
<b>Total number of applicants</b>	1,560	100%
Men	920	58.9%
Women	640	41.1%
Children	340	21.8%
Unaccompanied children	Not available	Not available

Source: Eurostat (rounded). According to the Asylum Service, 46 unaccompanied children applied for asylum between January-June 2015.

**Table 3: Comparison between first instance and appeal decision rates: 2015 (January-June)**

	First instance		Appeal	
	Number	Percentage	Number	Percentage
<b>Total number of decisions</b>	862	100%	541	100%
<i>Positive decisions</i>	633	73.4%	363	67.1%
• <i>Refugee status</i>	93	10.7%	30	5.5%
• <i>Subsidiary protection</i>	540	62.6%	171	31.6%
<i>Negative decisions</i>	229	26.6%	178	32.9%

Source: Asylum Service; Refugee Reviewing Authority

**Table 4: Applications processed under the accelerated procedure in 2015**

The accelerated procedure is not applicable in Cyprus.

**Table 5: Subsequent applications lodged in 2015**

According to Eurostat, the total number of subsequent applicants in 2015 (January-September) is 135. A breakdown per nationality is not available.

**Table 6: Number of applicants detained per ground of detention: 2013-2015**

Statistics per ground of detention are not available.

**Table 7: Number of applicants detained and subject to alternatives to detention**

Statistics are not available, as alternatives to detention are not systematically applied.

## Overview of the legal framework and practice

### Main legislative acts relevant to asylum procedures, reception conditions and detention

Title in English	Original Title (GR)	Abbreviation	Web Link
Refugee Law 2000 (6(I)/2000)	Ο περί Προσφύγων Νόμος του 2000 (6(I)/2000)	Refugee Law	< <a href="http://bit.ly/1O3Odb4">http://bit.ly/1O3Odb4</a> > (GR)
Refugee (Asylum Seekers' Reception Conditions) Regulations 2005	Οι περι Προσφύγων (Συνθήκες Υποδοχής Αιτητών) Κανονισμοί του 2005	Reception Regulations	< <a href="http://bit.ly/1K5Nkhy">http://bit.ly/1K5Nkhy</a> > (GR)
Refugee (Asylum Seekers' Reception Conditions) Regulations Amendment 2013	Οι περί Προσφύγων (Συνθήκες υποδοχής Αιτητών) Κανονισμοί του 2013		< <a href="http://bit.ly/1TA26l3">http://bit.ly/1TA26l3</a> > (GR) (p. 1639)
State Medical Institutions and Services General Regulations 2000-2013	Οι Περί Κυβερνητικών ιατρικών Ιδρυμάτων και Υπηρεσιών Γενικοί κανονισμοί του 2000-2013		< <a href="http://bit.ly/1RwrE4U">http://bit.ly/1RwrE4U</a> > (GR)
Medical Institutions and Services (Regulations and Fees) 1978-2013	Οι Περί ιατρικών Ιδρυμάτων και Υπηρεσιών (Ρύθμισις και Τέλη) Νόμοι του 1978 έως 2013		< <a href="http://bit.ly/1M8f0Wd">http://bit.ly/1M8f0Wd</a> > (GR)
Aliens and Immigration Law (Cap.105)	Ο περί Αλλοδαπών και Μεταναστεύσεως Νόμος (ΚΕΦ.105)		< <a href="http://bit.ly/1XTPnM">http://bit.ly/1XTPnM</a> > (GR)
Rights of Persons who are Arrested and Detained Law 2005	Ο περί των Δικαιωμάτων Προσώπων που Συλλαμβάνονται και Τελούν υπό Κράτηση Νόμος του 2005 (163(I)/2005)		< <a href="http://bit.ly/1IXTWQj">http://bit.ly/1IXTWQj</a> > (GR)
Legal Aid Law 2002	Ο Περί Νομικής Αρωγής Νόμος του 2002 (165(I)/2002)		< <a href="http://bit.ly/1CEeWu6">http://bit.ly/1CEeWu6</a> > (GR)
Advocates Law Cap. 2	Ο περί Δικηγόρων Νόμος (ΚΕΦ.2)		< <a href="http://bit.ly/1K4yryl">http://bit.ly/1K4yryl</a> > (GR)
General Administrative Law Principles Law 1999	Ο περί των Γενικών Αρχών του Διοικητικού Δικαίου Νόμος του 1999 (158(I)/1999)		< <a href="http://bit.ly/1Githap">http://bit.ly/1Githap</a> > (GR)
Law on the establishment and operation of the Administrative Court (131(I)/2015)	Ο περί της Ίδρυσης και Λειτουργίας Διοικητικού Δικαστηρίου Νόμος του 2015 (131(I)/2015)	Administrative Court Law	< <a href="http://bit.ly/1VsDv68">http://bit.ly/1VsDv68</a> > (GR)
Council Regulation (EC) No 866/2004 on a regime under Article 2 of Protocol No 10 of the Act of Accession as last amended by Council Regulation (EC) No 587/2008 (OJ L 163/1)		Green Line Regulation	< <a href="http://bit.ly/1CBNDkg">http://bit.ly/1CBNDkg</a> > (EN)

### Main implementing decrees and administrative guidelines and regulations relevant to asylum procedures, reception conditions and detention

Title in English	Original Title (GR)	Abbreviation	Web Link
Reception Regulations Ministerial Decree 2008	Απόφαση δυνάμει του κανονισμού 12(2) των περί		< <a href="http://bit.ly/1fFyMuZ">http://bit.ly/1fFyMuZ</a> > (GR)



	Προσφύγων (Συνθήκες Υποδοχής Αιτητών) Κανονισμοί του 2005, Κ.Δ.Π. 364/2008		
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## Overview of the main changes since the previous update

The report was previously updated in **February 2015**.

### *Qualification*

- The recognition rate increased significantly during the first six months of 2015, reaching 73.4% at first instance and 53% at the Refugee Reviewing Authority (RRA). The number of persons granted refugee status instead of subsidiary protection also increased significantly in 2015, with 10.8% granted such status by the Asylum Service in the first half of 2015, compared with 4.1% last year, and 7.9% granted refugee status by the RRA compared to 2.5% last year.<sup>2</sup>

### *Procedure*

- Another significant change that occurred in July 2015 was the adoption by Parliament of the Law establishing the Administrative Court.<sup>3</sup> The new Administrative Court will take over from the Supreme Court as the first instance judicial review authority for asylum decisions. Asylum applications submitted after the 20 July 2015, once rejected by the Asylum Service, the first instance examining authority, will be subject to an appeal before the Administrative Court and not the Refugee Reviewing Authority (RRA) which was the second instance administrative authority. The RRA will continue to examine appeals on asylum applications submitted before the 20 July 2015 and once the RRA has completed the backlog it will cease operating. The Administrative Court will examine decisions both on facts and points of law and its decisions will be subject to an appeal before the Supreme Court on points of law. The Administrative Court is expected to start operation by the end of 2015 or early 2016 at the latest.
- Regarding unaccompanied children, the authorities commenced in May 2015 an age determination procedure which depends solely on intrusive medical tests with a significant margin of error and which have found the vast majority of all individuals tested to be between 18 -19. Children were forcibly evicted from the shelters with many disappearing. In addition, the decision determining the age of the child is not provided in writing and there is no procedure to challenge the decision.

### *Reception conditions*

- Reception conditions at the recently expanded Kofinou reception centre improved temporarily, with the addition of a full-time social worker (until the end of March 2015), a part-time clinical psychologist, as well as full-time nurses and translators (from April until end of June 2015). However, with the exhaustion of available funding and the delay in the approval of the national Asylum, Migration and Integration Fund (AMIF) programme, the provision of these services was not able to continue. Currently, the centre is running on bare minimum staff, whereas the number of residents is at its highest yet, close to 280. The new funding for the centre is expected to be implemented by the end of 2015 and until then local NGOs and volunteers will provide specialised services free of charge or with the support of UNHCR.

### *Detention*

- One year on, the newly adopted policy on detention of asylum seekers, according to which the only asylum seekers detained are those who submit an application after they have been arrested and detained, is still in place. Based on monitoring throughout the year, the numbers of asylum seekers in detention at any time is at an average of 20 persons. The new policy stipulates that the applications of detained asylum seekers undergo a fast-track examination whereby the Asylum Service issues a decision within 30 days, and the Refugee Reviewing Authority rules on appeals within 15 days. However, the aforementioned deadlines are not

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<sup>2</sup> Refugee status rate at first instance was 3% in 2013 and 4% in 2014. Subsidiary protection at first instance was 11% in 2013 and 72% in 2014.

<sup>3</sup> Law N. 131(I)/2015 on the establishment and operation of the Administrative Courts, 21 July 2015.

always followed and intervention is often necessary to highlight that the timeframe has elapsed and the detained asylum seeker must be released.

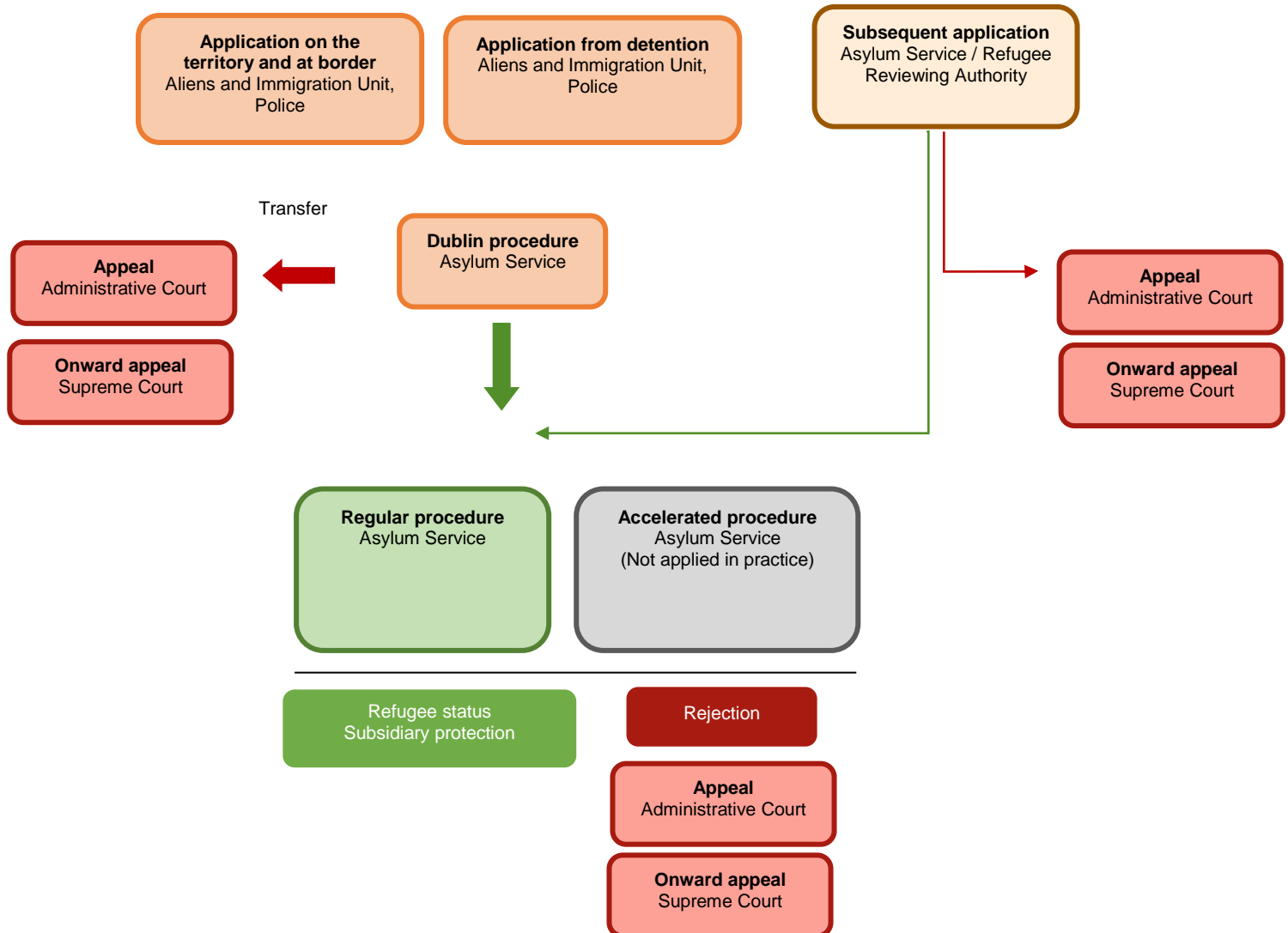
#### *Transposition*

- The Republic of Cyprus has yet to transpose the recast Asylum Procedures Directive and the recast Reception Conditions Directive. According to the responsible authorities, this is due to establishment of the Administrative Courts. To date it is still not clear when the transposition will take place as the final draft of the amendments have not been taken yet to Parliament for discussion. NGOs have not been given access to the latest drafts of the amendments even though the last drafts made public were those of July 2014. According to the responsible authority, access will not be given until the drafts are taken to Parliament for discussion, which is the final stage of debate.

# Asylum Procedure

## A. General

### 1. Flow chart: Procedure as of 20 July 2015



## 2. Types of procedures

### Indicators: Types of Procedures

Which types of procedures exist in your country?

- |   |   |  |
|---|---|--|
| ❖ Regular procedure:                    | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No            |
| ▪ Prioritised examination: <sup>4</sup> | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No            |
| ▪ Fast-track processing: <sup>5</sup>   | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No            |
| ❖ Dublin procedure:                     | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No            |
| ❖ Admissibility procedure:              | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No            |
| ❖ Border procedure:                     | <input type="checkbox"/> Yes            | <input checked="" type="checkbox"/> No |
| ❖ Accelerated procedure: <sup>6</sup>   | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No            |
| ❖ Other:                                |   |  |

Are any of the procedures that are foreseen in the law, not being applied in practice? ☒ Yes ☐ No

Although an accelerated procedure is foreseen in national legislation, in practice it is not applied. Prioritised examination of well-founded cases, as well as fast-track processing, is carried out within the regular procedure.

## 3. List of the authorities that intervene in each stage of the procedure

Stage of the procedure	Competent authority in EN	Competent authority in original language (GR)
<b>Application at the border</b>	Aliens and Immigration Unit, Police	Υπηρεσία Αλλοδαπών και Μετανάστευσης
<b>Application on the territory</b>	Aliens and Immigration Unit, Police	Υπηρεσία Αλλοδαπών και Μετανάστευσης
<b>Dublin procedure</b>	Asylum Service	Υπηρεσία Ασύλου
<b>Accelerated procedure</b>	Asylum Service	Υπηρεσία Ασύλου
<b>Refugee status determination</b>	Asylum Service	Υπηρεσία Ασύλου
<b>Appeal procedures</b> <ul style="list-style-type: none"> <li>• First appeal</li> <li>• Second (onward) appeal</li> </ul>	<ul style="list-style-type: none"> <li>• Refugee Reviewing Authority / Administrative Court</li> <li>• Supreme Court</li> </ul>	<ul style="list-style-type: none"> <li>• Αναθεωρητική Αρχή Προσφύγων / Διοικητικό Δικαστήριο</li> <li>• Ανώτατο Δικαστήριο</li> </ul>
<b>Subsequent application (admissibility)</b>	Asylum Service Refugee Reviewing Authority (if an appeal was submitted in the first application)	Υπηρεσία Ασύλου Αναθεωρητική Αρχή Προσφύγων

## 4. Number of staff and nature of the first instance authority

Name in English	Number of staff	Ministry responsible	Is there any political interference possible by the responsible Minister with the decision making in individual cases by the first instance authority?

<sup>4</sup> For applications likely to be well-founded or made by vulnerable applicants. See Article 31(7) APD.

<sup>5</sup> Accelerating the processing of specific caseloads as part of the regular procedure.

<sup>6</sup> Labelled as "accelerated procedure" in national law. See Article 31(8) APD.

Asylum Service	25 Only 8 full-time decision-making officers.	Ministry of Interior	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
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In most cases the Asylum Service, the first instance authority, decides independently without interference from the Ministry of Interior. However, from time to time the Minister of Interior will have input in setting the policy for asylum seekers from specific countries of origin such as when there is an influx of asylum seekers from a country in conflict (i.e. Iraq, Syria). Additionally there have been cases where the Minister of Interior has inquired about individual cases and requested them to be given priority or special attention.

## 5. Short overview of the asylum procedure

The asylum procedure in Cyprus is a single procedure whereby both refugee status and subsidiary protection status is examined. In accordance with the Refugee Law of 2000, an asylum application may be lodged at entry points into the Republic of Cyprus (RoC) or within the territory at any police station. An asylum application can also be lodged from detention or prison. In practice asylum applications are only received at the Aliens and Immigration Unit, which is a department of the Police. One such office exists in each of the 5 districts in Cyprus (Nicosia, Limassol, Larnaka, Paphos, Ammochostos). For people in detention or prison who have requested to lodge an asylum application, the police officers in charge of the detention centre or prison guards should notify the Aliens and Immigration Unit who sends one of their police officers to receive the asylum application. The majority of asylum seekers (approx. 90%) enter Cyprus from the areas not controlled by the Republic of Cyprus (RoC), at the north of the island, and then cross the "green line" / no-man's land to the areas under the control of the RoC. The "green line" is not considered a border, and although there are authorised points of crossing along it, these are not considered official entry points into the RoC. Once an application is received by the Aliens and Immigration Unit, it is immediately registered in the common data system which is managed by the Asylum Service and fingerprints are taken. A person is considered an asylum seeker from the day the asylum application is submitted up to the issuance of the final decision.

Specifically, the following procedures exist:

**Regular procedure and accelerated procedure:** The Refugee Law provides for a regular procedure and an accelerated procedure. The Asylum Service, a department of the Ministry of Interior, is responsible for the first instance examination of asylum applications, including the examination of the Dublin Regulation criteria. In addition the Asylum Service is responsible for the overall coordination on issues related to asylum, asylum seekers and persons under international protection, as well as the management of the reception centre. The decision issued by the Asylum Service can lead to refugee status, subsidiary protection status or a rejection. Until the April 2014 amendment to the Refugee Law, the Asylum Service could also grant humanitarian status, but this has since been removed.

The Asylum Service is responsible for both the regular and accelerated procedures and asylum seekers are entitled to material reception conditions during both these procedures. The accelerated procedure has a specific time limit for the issuance of the decision and shorter time limits for the submission of an appeal. In practice the accelerated procedure is never used. However, asylum applications from countries considered to be safe or countries facing a humanitarian crisis are prioritised through a fast-track procedure.

**Dublin procedure/admissibility procedure:** According to Article 11(B)(2) of the Refugee Law, during the procedure to identify the Member State responsible under the Dublin Regulation a person is considered an asylum seeker. Regarding asylum seekers returned to Cyprus under the Dublin Regulation, if the refugee status determination procedure was not concluded this will resume at the stage it was left off. The current practice leading on from the end of 2014 indicates that Dublin returnees whose final decision is pending are not detained upon return but instead are transferred to Kofinou

Reception Centre. For Dublin returnees who have a final decision, it is expected that they will be detained upon return, however there have been no such cases to indicate the practice.<sup>7</sup>

**Admissibility of a subsequent application/new elements:** When a rejected asylum seeker submits a subsequent application or new elements to the initial claim, authorities will first examine the admissibility of such an application or elements. During the admissibility procedure the person is not considered an asylum seeker. If the new application or new elements are admitted then the person is considered an asylum seeker and the new application or new elements are examined under the regular procedure.

## Appeals

- **Asylum applications submitted prior to 20 July 2015:** Under national legislation there are two appeals, an administrative appeal before the Refugee Reviewing Authority and a judicial appeal before the Supreme Court. If rejected by the Asylum Service an asylum seeker has 20 calendar days to file an appeal before the Refugee Reviewing Authority, which is the second instance administrative authority that examines asylum applications. Alternatively, the applicant can bypass this stage and submit a recourse before the Supreme Court within 75 days. An asylum seeker who receives subsidiary protection status can submit an appeal against the part of the decision that rejects the application for refugee status before the Refugee Reviewing Authority or the Supreme Court as described.

The Refugee Reviewing Authority, an independent body, examines both substance and points of law and can grant refugee status or subsidiary protection upon examination of the appeal. If rejected by the Refugee Reviewing Authority, an asylum seeker has the right to submit a recourse before the Supreme Court within 75 days.

The Supreme Court, which is the only judicial review process in the asylum procedure, decides only on points of law and does not examine the substance of an asylum claim. In addition this procedure does not have automatic suspensive effect and although according to the Refugee Law the applicant is still considered an asylum seeker throughout this procedure, the law does not allow applicants to remain in the country. Instead asylum seekers are simultaneously considered “prohibited migrants” and subject to detention and deportation. An asylum seeker can submit a separate application before the Supreme Court requesting the suspension of the decision until the case is reviewed, however the applicant must establish “obvious illegality” or “irreparable damage” and even where deportation has been argued to lead to irreparable damage, this has not always been accepted by the presiding Judge.

- **Asylum applications submitted as of 20 July 2015:** In July 2015, the Parliament adopted the Law Establishing the Administrative Court and approved relevant amendments to the Constitution and the Administration of Justice Law.<sup>8</sup> The new Administrative Court will take over from the Supreme Court as the first instance judicial review authority for asylum decisions. Asylum applications submitted after the 20 July 2015, once rejected by the Asylum Service, the first instance examining authority, will be subject to an appeal before the Administrative Court and not the Refugee Reviewing Authority (RRA) which was the second instance administrative authority. The RRA will continue to examine appeals on asylum applications submitted before the 20 July 2015 and once the RRA has completed the backlog it will cease operating.

The Administrative Court will examine decisions both on facts and points of law and its decisions will be subject to an appeal before the Supreme Court on points of law. The Administrative Court will comprise

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<sup>7</sup> Based on information provided by NGO Future Worlds Center which carries monitoring visits to Kofinou reception centre and provides free legal support to asylum seekers since 2008 and assists an average of 400 cases per year.

<sup>8</sup> Law N. 131(I)/2015 on the establishment and operation of the Administrative Courts, 21 July 2015.

of one president and up to 6 judges at the level of President of District Court and will start operating with a notification of the Higher Judicial Council, published in the Official Gazette as soon as the judges are appointed. The Administrative Court are expected to start operation by the end of 2015 or early 2016 at the latest.

## B. Procedures

### 1. Registration of the asylum application

#### Indicators: Registration

1. Are specific time-limits laid down in law for asylum seekers to lodge their application? ☐ Yes ☒ No
2. If so, what is the time-limit for lodging an application?
3. Are there any reports (NGO reports, media, testimonies, etc.) of people refused entry at the border and returned without examination of their protection needs? ☒ Yes ☐ No

According to the Refugee Law,<sup>9</sup> an asylum application is addressed to the Asylum Service, a department of the Ministry of Interior, but is lodged at any police station, at the entry points into the Republic of Cyprus (RoC) or within the territory. An asylum application can also be lodged from detention or prison.

In practice all asylum applications are received by the Aliens and Immigration Unit, which is an office within the Police. One such office exists in each of the 5 districts in Cyprus (Nicosia, Limassol, Larnaka, Paphos, Ammochostos). For people in detention or prison who have requested to lodge an asylum application, police officers in charge of the detention centre or prison guards will notify the Aliens and Immigration Unit, who sends one of their police officers to receive the application.

Persons requesting to lodge an asylum application whilst in prison are often informed that they cannot submit their application until they are transferred to the Menogia detention centre once they have completed their prison sentence; the majority of third country nationals that are convicted for any offence including minor offences are declared “prohibited immigrants” and placed under detention for the purpose of deportation once they have completed their prison sentence. However, in cases where individuals who are in prison manage to submit an asylum application before their transfer to the detention centre, these are usually not examined until they are transferred to detention except in cases where the authorities are alerted of vulnerabilities. In addition, even once transferred to detention, their asylum application often takes longer to be examined than applications submitted by individuals who applied in detention. This may be attributed to the lack of coordination between the prison authorities, immigration officers and the Asylum Service. Due to this delay, the time limits of the fast-track processing of detained asylum seekers’ claims (see section on Detention: Duration of Detention) are often not adhered to.

Once an application is received by the Aliens and Immigration Unit, the fingerprints of the asylum seeker and of children (asylum seekers or dependent) aged 14 and over are taken and the application is immediately registered in the common asylum data system which is managed by the Asylum Service. However, persons often arrive at the Aliens and Immigration Unit expressing their intention to apply for asylum and are given an appointment at a later date or told to return in a few days. There have been cases where individuals were asked by the Police to proceed with translating their documents (when done by professional translator this is oftentimes at a high fee), before they are given access to submit an asylum application, even though no such obligation exists in the law and, on the contrary, the law

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<sup>9</sup> Article 1 Refugee Law.



stipulates that free interpretation is provided at all stages of the asylum procedure.<sup>10</sup> In response to an intervention carried out in 2015 regarding this issue, the police addressed this to be a misunderstanding between the applicant and the receiving officer at Immigration. Based on testimonies of individuals who have applied for asylum recently, it can be concluded that individuals who wish to apply for asylum are no longer advised to translate their documents beforehand. In all the above cases persons are not provided with any documentation indicating that they have attempted to lodge an application, and therefore they have no access to reception conditions. If they have entered the RoC irregularly, they also run the risk of being arrested and returned to their country of origin without their claim being examined.

It should be noted that the vast majority (approx. 90%) of asylum seekers enter Cyprus from the areas not controlled by the RoC, in the north of the island, and then cross the “green line” / no-man’s land to the areas under the control of the RoC. The “green line” is not considered a border and although there are authorised points of crossing along it, these are not considered official entry points into the RoC. Crossing of the “green line” is regulated under the “Green Line” Regulation.<sup>11</sup> If a person has entered the areas in the north without permission from the authorities there, he or she may be arrested and returned to Turkey and possibly from there to his or her country of origin. As the *acquis* is suspended in the areas in the north,<sup>12</sup> there is no asylum system in force and persons cannot seek asylum there. In order to cross the “green line” through the points of crossing a person needs a valid visa and will be checked by police acting in the north and then by RoC Police. As the majority of persons seeking asylum do not have such a visa, they cross the “green line” in an irregular manner with the help of smugglers.<sup>13</sup> If a person who has entered the north in an irregular manner is able to cross at these points and expresses the intention to apply for asylum to the RoC police officers, he or she will then be referred to the Aliens and Immigration Unit in order to lodge an application. If the person has been in the RoC before and had been forcefully or voluntarily returned, but had remained irregularly, he or she may be arrested and detained, but he or she will be given access to the asylum procedure.

People apprehended by the police within RoC territory before applying for asylum are arrested for irregular entry and/or stay, regardless of whether they were intending to apply for asylum, even if they were on their way to apply for asylum and have only been in the country for a few days. Since 2014, this does not apply to Syrian nationals who will not be arrested even if they have not regularised their stay. In addition, there are less such cases documented and the majority are not detained.

The law does not specify the time limits within which asylum seekers should lodge their application for asylum. According to the Refugee Law,<sup>14</sup> persons who have entered irregularly must apply the “soonest possible” after they enter the country. In practice, the time which is considered to be the “soonest possible” may vary between the Aliens and Immigration Unit of each district. If the police officer in charge of receiving applications considers that the application was not lodged the soonest possible, the asylum seeker who entered irregularly may be arrested. According to the Refugee Law,<sup>15</sup> if an asylum seeker did not lodge an application for international protection as soon as possible, and without having a good reason for the delay, the accelerated procedure can be applied, however in practice this is never implemented. The fact that an asylum application was not submitted the soonest possible by an asylum

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<sup>10</sup> Article 11(5) Refugee Law.

<sup>11</sup> Council Regulation (EC) No 866/2004 on a regime under Article 2 of Protocol No 10 of the Act of Accession as last amended by Council Regulation (EC) No 587/2008.

<sup>12</sup> EU Accession Treaty - Protocols on Cyprus. The Protocol on Cyprus, attached to the Treaty of Accession signed on 16 April 2003 by the Republic of Cyprus, provides for the suspension of the application of the *acquis* in those areas of the Republic of Cyprus, where the Government of the Republic does not exercise effective control.

<sup>13</sup> European Commission, *Ninth report on the implementation of Council Regulation (EC) 866/2004 of 29 April 2004 and the situation resulting from its application covering the period 1 January until 31 December 2012*.

<sup>14</sup> Article 7 Refugee Law.

<sup>15</sup> Article 12Δ(4)(i) Refugee Law.

seeker who entered legally or illegally, will often be taken into consideration during the substantial examination of the asylum application and as an indication of the applicant's lack of credibility.

Once the asylum application is lodged and the applicant's fingerprints are taken, the application is immediately registered in the common data system which is managed by the Asylum Service and soon after the Aliens and Immigration Unit transfers the physical file to the Asylum Service, which carries out the first instance refugee status determination procedure. As the digital file is already in the asylum database, there is no issue of the Asylum Service not having immediate knowledge of an asylum application being lodged.

### **Refoulement**

Asylum seekers waiting for a decision by the Supreme Court on their appeal against the rejection of their asylum application are detained even though according to the Refugee Law the decision issued by the Supreme Court is the final decision on the asylum application and the status of asylum seeker is maintained up to this decision.<sup>16</sup> The authorities continue not to consider the aforementioned as asylum seekers and detain them as failed asylum seekers. Asylum seekers whose case is pending before the Supreme Court are thus vulnerable to deportation.

In 2014 there have been documented cases of asylum seekers with cases pending before the Supreme Court having been deported. In 2015, asylum seekers who have been rejected are still at risk as there have been attempts to deport asylum seekers who were still within the 75 day deadline of submitting a recourse to the Supreme Court or whose case was indeed pending at Supreme Court level.

## **2. Regular procedure**

### **2.1. General (scope, time limits)**

#### **Indicators: Regular Procedure: General**

- |  |   |
|--|---|
| 1. Time-limit set in law for the determining authority to make a decision on the asylum application at first instance:     | None  |
| 2. Are detailed reasons for the rejection at first instance of an asylum application shared with the applicant in writing? | <input checked="" type="checkbox"/> Yes <sup>17</sup> <input type="checkbox"/> No |
| 3. Backlog of pending cases as of 31 December 2015:  | Not available   |

According to the law, the Asylum Service should ensure the fastest possible examination process of applications. In instances where the Asylum Service is not able to issue a decision within 6 months, it is obliged to inform the asylum seeker of the delay or, upon request, the asylum seekers should receive information on the time frame within which the decision on their application is to be expected.

In practice, the time required for the majority of decisions on asylum applications exceeds the 6 month period, and in cases of well-founded applications, the average time taken for the issuance of a decision takes approximately 2-3 years. It is not uncommon for well-founded cases to take up to 5-7 years of waiting time before asylum seekers receive an answer.<sup>18</sup> While there has been a substantial improvement in processing times for fast-tracked nationalities (see section on Regular Procedure: Fast-Track Processing), for other nationalities there are still long delays. There are no consequences from the delays mentioned above and the Asylum Service does not inform the asylum seeker of the delay as

<sup>16</sup> Article 2(1), Refugee Law. See the definition of "applicant", read in conjunction with the definition of "final decision".

<sup>17</sup> Only upon request of the applicant.

<sup>18</sup> Based on information provided by the NGO Future Worlds Center.

provided for in the law, unless the applicant requests information on the delay. Even when such a request is submitted to the Asylum Service, the written response mentions briefly that the decision will be issued within reasonable time, yet no specific time frame within which the decision is to be expected is provided to the applicant.

## 2.2. Fast-track processing

The Asylum Service prioritises certain caseloads and examines them within the regular procedure and not accelerated procedures under three circumstances:

- (1) When the country of origin is deemed generally safe;<sup>19</sup> and
- (2) If a conflict is taking place in the country of origin, such as Iraqi cases in the past and Syrian cases currently;
- (3) When the asylum seeker is in detention (see section on Detention: Duration of Detention).

In 2015, a substantial improvement in the time required for the examination of cases of Syrians and Palestinians ex Syria was noted, with many cases receiving decisions within 6 months – 1 year, including for applications submitted in 2014.

Although the law provides for the prioritisation of cases of vulnerable applicants and of evidently well-founded cases,<sup>20</sup> in practice such prioritisation is rare. In the rare instance when prioritisation is given to a vulnerable case, such as to victims of torture, violence or trafficking, it does not necessarily imply that other important safeguards are followed, such as the evaluation of their vulnerability and psychological condition and how this may affect their capability to respond to the questions of the interview. Overall, prioritisation of a vulnerable individual's case does not necessarily ensure that the interview is carried out under the appropriate procedures specified in accordance to vulnerability.

## 2.3. Personal interview

### Indicators: Regular Procedure: Personal Interview

1. Is a personal interview of the asylum seeker in most cases conducted in practice in the regular procedure? ☒ Yes ☐ No  
❖ If so, are interpreters available in practice, for interviews? ☒ Yes ☐ No
2. In the regular procedure, is the interview conducted by the authority responsible for taking the decision? ☒ Yes ☐ No
3. Are interviews conducted through video conferencing? ☐ Frequently ☐ Rarely ☒ Never

According to the law, all applicants including each dependent adult are given the opportunity of a personal interview.<sup>21</sup> The personal interview on the substance of the application may be omitted where:<sup>22</sup>

- (a) The Head of the Asylum Service is able to take a positive decision with regard to refugee status on the basis of available evidence;
- (b) The examining officer has already met with the applicant in order to assist him or her to complete the application and submit substantial information related to the application in accordance with the applicant's obligations as provided in the law;
- (c) After a complete examination of the information provided by the applicant, the Asylum Service considers the application unfounded as provided for under the accelerated procedure; or

<sup>19</sup> Note that this is also a ground for using the accelerated procedure.

<sup>20</sup> Article 12Δ(4)(a) Refugee Law.

<sup>21</sup> Article 13A(1) Refugee Law.

<sup>22</sup> Article 13A(2) Refugee Law.

- (d) Practically it is not possible to hold an interview, particularly when the Asylum Service is of the opinion that the applicant is unfit or unable to be interviewed owing to enduring circumstances beyond his or her control. When in doubt, the Asylum Service may ask for a confirmation from a doctor or psychologist.

According to the law,<sup>23</sup> the Asylum Service shall take appropriate measures to ensure that personal interviews are conducted under conditions that allow the applicant to explain in detail the reasons for submitting the application for asylum, and in order to do so the Asylum Service shall:

- (a) Ensure the competent officer who conducts the interview is sufficiently competent to take account of the personal or general circumstances surrounding the application, including the applicant's cultural origin or vulnerability of the applicant, to the extent possible; and
- (b) Appoint an interpreter who is able to ensure the appropriate communication between the applicant and the competent officer who conducts the interview, without the necessary communication having to be conducted in the language preferred by the applicant if there is another language which he or she may reasonably be considered to understand and in which he or she is able to communicate.

In practice, all asylum seekers are interviewed even when the above conditions are not met, and in the majority of cases the interview takes place 1-2 years after the application has been submitted, with the exception of cases that are being prioritised under fast-track processing (see section on Regular Procedure: Fast-Track Processing). In addition, there is no evidence of the Asylum Service omitting the interview in cases where the applicant may be unfit or unable to be interviewed owed to enduring circumstances beyond his or her control, even when such exemption has been requested.<sup>24</sup> All interviews are carried out by the Asylum Service, which is the authority responsible for taking decisions on asylum applications, and an interpreter is always present as provided for in the law. Applicants can make a request regarding the gender of both the examiner as well as the interpreter and in practice if such a request is made then it is usually granted. However, an applicant often does not have knowledge of this right in order to make such a request.

Although an interpreter is always present at interviews, they are not professional interpreters nor adequately trained, and there is no code of conduct for interpreters.<sup>25</sup> Asylum seekers often complain about the quality of the interpretation as well as the impartiality /attitude of the interpreter, yet such complaints are seldom addressed by the Asylum Service.<sup>26</sup> During monitoring of interviews at the Asylum Service, it has been noted that although asylum seekers are asked by the interviewing officer whether they can understand the interpreter, most of the time they are reluctant to admit that there is an issue with understanding and prefer to proceed with the interview as they feel they have no other choice or are unwilling to wait for a longer period of time (sometimes months) for another interview to be scheduled.<sup>27</sup> In addition, there have been cases where the applicant has complained about the interpreter regarding the quality of interpretation or attitude, and this has been perceived as lack of cooperation on behalf of the applicant.

In order to comply with the Asylum Service's obligation, as provided for under the law, to "allow the applicant to explain in detail the reasons for submitting the application for asylum", the examining officer should permit corrections by the applicant during the interview or once it is concluded and this is the only stage at which corrections are permitted. However in practice this varies between the examining officers as some officers will allow such corrections and will only take into consideration the corrected statement, whereas others will allow such corrections but then consider the initial statement and the

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<sup>23</sup> Article 13A(9) Refugee Law.

<sup>24</sup> Based on information provided by the NGO Future Worlds Center.

<sup>25</sup> KISA, *Comments and observations for the forthcoming 52<sup>nd</sup> session of the UN Committee against Torture*, April 2014, available at: <http://bit.ly/112c0K3>, 39-40.

<sup>26</sup> Based on information provided by the NGO Future Worlds Center.

<sup>27</sup> Based on information from legal advisors of Future Worlds Center present at the interviews.

corrected statement to be contradictory and have often used this as evidence of lack of credibility on behalf of the applicant. In some cases the officer has not accepted any corrections at all.

Only a verbatim transcript of the interview is drafted as audio/video recordings are neither required nor permitted according to the law. As a result there are often complaints by asylum seekers that the transcript does not reflect their statements, which is attributed either to the problematic interpretation or to problems with the examining officer, such as not being appropriately trained especially for the examination of vulnerable persons or sensitive issues, not being impartial, having a problematic attitude and not allowing corrections or clarifications on the asylum seeker's statements.

According to the law an applicant, as well as his or her legal representative / lawyer, has access at the Asylum Service to the reasoning of the decision, and as of June 2014 also to the transcript of the interview, in order to decide whether to submit an appeal. A request must be submitted to the Asylum Service in order to access these and according to the law such access is provided within 5 working days for the accelerated procedure and 10 working days for the regular procedure, from the date the applicant or legal representative / lawyer is notified of the decision on the asylum application. Until 2014 and in practice, once the request was sent within the time-limit, the Asylum Service would give access to these documents, including beyond the time-limit. However, in 2015, requests for access to a number of files for the purpose of submitting an appeal were rejected due to the fact that the 10 working day limit had been exceeded and essentially access had been denied. Following numerous interventions which highlighted, among other points, the erroneous application and interpretation of the Refugee Law and Directive 2005/85/EC, the lack of information given to asylum seekers regarding the 10 working-day limit to access the file and the fact that such a vital detail is not included in the text of the decision letter (which only stipulated that individuals have 20 working days to submit an appeal), it appears as though the Asylum Service has reverted back to allowing access to the interview transcript and reasoning of examined cases even when the request is lodged beyond the 10 day limit but within the 20 days afforded to submit an appeal. In addition, recently the 10 day limit to access the file for the purposes of submitting an appeal has been included in the text of the decision on the asylum application, however it is not clear if this will lead back to a more restrictive access to the file.

Regarding asylum applications examined whilst in detention, the overall quality of the asylum examination is not particularly affected by the fact that the applicant is in detention, as the examination including the personal interview, is carried out by an officer / caseworker from the Asylum Service with the assistance of an interpreter. However, it is evident that the psychological state of individuals who are in detention is rarely taken into consideration during the interviewing process. Until recently such interviews were carried out at the offices of the Asylum Service, as with all asylum seekers, but currently there are interviews carried out in the detention centre but always by officers / caseworkers of the Asylum Service.

## 2.4. Appeal

### Indicators: Regular Procedure: Appeal

1. Does the law provide for an appeal against the first instance decision in the regular procedure?
 

	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
❖ If yes, is it	<input checked="" type="checkbox"/> Judicial	<input checked="" type="checkbox"/> Administrative
❖ If yes, is it suspensive	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
2. Average processing time for the appeal body to make a decision:
 

❖ Cases considered unfounded	6 months
❖ Cases considered well-founded	2 years

**Appeals for asylum applications submitted before 20 July 2015**

Following a negative decision on the asylum application by the Asylum Service, an asylum seeker has 20 calendar days to file an appeal at the Refugee Reviewing Authority (RRA),<sup>28</sup> the second instance administrative authority. Alternatively, the applicant can bypass this stage and submit a recourse before the Supreme Court within 75 calendar days. The appeal before the RRA has suspensive effect and it examines both facts and points of law. There is no specific time limit set for the issuance of a decision but rather the law provides that a decision must be issued as soon as possible.

Asylum seekers are informed about their right to appeal before the RRA as this is included in the first instance decision and they have a right to submit an appeal without legal representation. However, if asylum seekers do not have legal representation the chances of succeeding at the appeal stage are extremely limited. Due to the fact that legal aid is not provided by the state at this stage of the asylum procedure (see section on [Regular Procedure: Legal Assistance](#)), only a small number of applicants are represented and are able to submit well-argued appeals against the decision of the Asylum Service.

When preparing for an appeal before the RRA, applicants or their legal representatives are not given access to the applicants' full file before the RRA. Instead access is provided only to the recommendation on the decision and the interview transcript at the Asylum Service and only within 20 working days from the notification of the negative decision. Due to this, appeals are prepared by legal representatives without having knowledge of the full content of the file, supporting documents, medical reports, evidence or country of origin information that has been used by the Asylum Service in support of the negative decision. If an asylum seeker submits an appeal before the RRA without legal representation and then at later stage and before the issuance of a decision wishes to retain legal representation or wishes to change their legal representative, the newly appointed legal representative will not have access to any of contents of the applicant's file.

The procedure before the RRA is administrative, not judicial. According to the law, it is up to the discretion of the RRA to provide for a hearing.<sup>29</sup> In practice a hearing is very rarely provided for. Such hearings are not carried out in public and the decisions are not published,<sup>30</sup> however a detailed decision is sent to the applicant.

The RRA can grant refugee status or subsidiary protection to asylum seekers. The average time taken to issue a decision varies from 6 months to 3 years depending on the case. As in the first instance examination for well-founded cases, it is not unusual for the RRA to take 3 years or more to issue a decision.<sup>31</sup>

## **Onward appeal**

If rejected by the RRA, an asylum seeker has the right to submit a recourse<sup>32</sup> before the Supreme Court within 75 calendar days.

The Supreme Court is the only judicial review process in the asylum procedure and decides only on points of law, not facts of the case. In addition, this procedure does not have an automatic suspensive effect and although, legally speaking, the applicant is still considered an asylum seeker throughout this

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<sup>28</sup> Article 28ΣΤ(2) Refugee Law.

<sup>29</sup> Article 28Ζ(4) Refugee Law.

<sup>30</sup> Article 28Ζ(5) Refugee Law.

<sup>31</sup> Based on information provided by the NGO Future Worlds Center.

<sup>32</sup> Administrative recourse under Article 146(1) of the Constitution of the Republic of Cyprus. This provision provides as follows: "The Supreme Constitutional Court shall have exclusive jurisdiction to adjudicate finally on a recourse made to it on a complaint that a decision, an act or omission of any organ, authority or person, exercising any executive or administrative authority is contrary to any of the provisions of this Constitution or of any law or is made in excess or in abuse of powers vested in such organ or authority or person." The recourse is a first instance procedure and the Supreme Court can only confirm or annul the decision, while it cannot examine its substance or issue a new decision.

procedure, the law does not allow applicants to remain in the country; asylum seekers at this stage are considered “prohibited migrants” and subject to detention and deportation. An asylum seeker can submit a separate application before the Supreme Court with which he or she can request suspension of the decision until the case is reviewed. In this separate application before the Supreme Court, the applicant must establish that the decision suffers from “blatant illegality” or, if it is not suspended, it will lead to “irreparable damage”. However, even where the deportation has been argued to lead to irreparable damage this has not always been accepted by the presiding judge. Accordingly, an asylum seeker who does not file an application for suspension, or in cases where the Court decides not to suspend his or her deportation order, is at risk of *refoulement* before the final determination of the asylum claim.

### Appeals for asylum applications submitted as of 20 July 2015<sup>33</sup>

In July 2015, the Parliament adopted the Law Establishing the Administrative Court and approved relevant amendments to the Constitution and the Administration of Justice Law.<sup>34</sup> The new Administrative Court will take over from the Supreme Court as the first instance judicial review authority for asylum decisions. Asylum applications submitted after the 20 July 2015, once rejected by the Asylum Service, the first instance examining authority, will be subject to an appeal before the Administrative Court and not the Refugee Reviewing Authority (RRA) which was the second instance administrative authority. The RRA will continue to examine appeals on asylum applications submitted before the 20 July 2015 and once the RRA has completed the backlog it will cease operating. In addition the Administrative Court has the right to take over applications submitted before 20 July 2015.

The Administrative Court will examine decisions both on facts and points of law and its decisions will be subject to an appeal before the Supreme Court on points of law. The Administrative Court will comprise of one president and up to 6 judges at the level of President of District Court and will start operating with a notification of the Higher Judicial Council, published in the Official Gazette as soon as the judges are appointed. The Administrative Court is expected to start operation by the end of 2015 or early 2016 at the latest.

With the transposition of the recast Asylum Procedures Directive, the Refugee Law will be amended and will ensure that the procedure before the Administrative Court has suspensive effect.

## 2.5. Legal assistance

### Indicators: Regular Procedure: Legal Assistance

1. Do asylum seekers have access to free legal assistance at first instance in practice?
 

<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> With difficulty	<input type="checkbox"/> No
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  - ❖ Does free legal assistance cover:
 

<input checked="" type="checkbox"/> Representation in interview
<input checked="" type="checkbox"/> Legal advice
2. Do asylum seekers have access to free legal assistance on appeal against a negative decision in practice?
 

<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> With difficulty	<input type="checkbox"/> No
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  - ❖ Does free legal assistance cover
 

<input checked="" type="checkbox"/> Representation in courts
<input checked="" type="checkbox"/> Legal advice

Free legal assistance is not granted by the state during the examination of the asylum claims on the first and second administrative instances,<sup>35</sup> and *pro bono* work by lawyers is prohibited by the Advocates Law,<sup>36</sup> and may lead to disciplinary measures against lawyers.

<sup>33</sup> Article 11 Administrative Court Law.

<sup>34</sup> Law N. 131(I)/2015 on the establishment and operation of the Administrative Courts, 21 July 2015.

<sup>35</sup> Asylum applications submitted prior to 20 July 2015 are subject to a second administrative examination carried out by the Refugee Reviewing Authority. Applications submitted after that date are subject to an appeal before the newly established Administrative Court.



At these stages, the only legal assistance provided to asylum seekers free of charge is under funded projects such as those provided by UNHCR, and previously the European Refugee Fund (ERF) as well as other smaller projects. Due to the lack of legal assistance UNHCR has funded consistently the project “Strengthening Asylum for Refugees and Asylum Seekers in Cyprus”, implemented by the NGO Future Worlds Center since 2006,<sup>37</sup> which provide for 2-3 lawyers for all asylum seekers and persons under international protection. However, its capacity is insufficient for the numbers of asylum seekers and refugees in Cyprus. A project funded under the ERF which provided free legal assistance specifically to asylum seekers was implemented once for the first 6 months of 2013, then for the first 6 months of 2014 and for another 6 months until June 2015 by the NGO Future Worlds Center.<sup>38</sup> Due to the short duration as well as the gap in the implementation periods, the projects implemented under ERF have not been able to effectively cover the needs of the population for free legal assistance. In addition, the projects that are funded at a national level under the newly established Asylum, Migration and Integration Fund (AMIF) and that have been announced do not include legal assistance.<sup>39</sup> The lack of legal assistance provided by the state, the lack of funding for non-state actors to provide such assistance combined with the lack of any information provided currently by the state (see section on Information for Asylum Seekers and Access to NGOs and UNHCR) leads to a major gap in the information asylum seekers have on the asylum procedures in Cyprus.

Asylum seekers reach NGOs providing legal assistance primarily through word of mouth, especially since the information available to asylum seekers is often not available or outdated (see section on Information for asylum seekers and access to UNHCR and NGOs) or via other NGOs that may not have legal assistance and may refer asylum seekers to NGOs that do. Individual officers working in various departments of the government that come in contact with asylum seekers may refer them to NGOs to receive legal assistance, whereas asylum seekers residing in the reception centre may be referred by the staff working there. In the case of asylum seekers in detention they come in contact with NGOs again through other detainees but also by the NGOs carrying out monitoring visits to the detention centre.<sup>40</sup>

Legal aid is offered by the state only at the judicial examination of the asylum application before the Supreme Court.<sup>41</sup> The application for legal aid is subject to a “means and merits” test.<sup>42</sup> According to this test, an asylum seeker applying for legal aid must show that he or she does not have the means to pay for the services of a lawyer. This claim will be examined by an officer of the Social Welfare Services who submits a report to the Supreme Court. In the majority of cases, asylum seekers are recognised not to have sufficient resources. Regarding the “merits” part of the test, an asylum seeker must argue in written submissions that his or her appeal is likely to be successful. As the Supreme Court only examines points of law, this means that asylum seekers must raise legal / procedural points without the assistance of a lawyer. It is nearly impossible for a person with no legal background to satisfy this requirement and as a result, since the 2010 amendment of the law for Legal Aid which extends the benefit of legal aid to the asylum procedure, only 5 applications for legal aid have been granted.<sup>43</sup> The applications that were successful were mostly prepared free of charge by lawyers working with NGOs.

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<sup>36</sup> Article 17(9) Advocates Law.

<sup>37</sup> For an overview, see Future Worlds Center, *Strengthening Asylum*, at: <http://bit.ly/1L9ypGb>.

<sup>38</sup> For an overview, see Future Worlds Center, *Provision of Free Legal Advice to Asylum Seekers in Cyprus*, available at: <http://bit.ly/1Mahy6e>.

<sup>39</sup> See the website of the Ministry of Interior: <http://bit.ly/1LOdbgp>.

<sup>40</sup> Based on information provided by the NGO Future Worlds Center, which carries out weekly visits to the detention centre.

<sup>41</sup> Article 6B(2) Legal Aid Law.

<sup>42</sup> Article 6B(2)(b)(bb) Legal Aid Law.

<sup>43</sup> According to a search carried out on the Cylaw database, 50 applications for legal aid submitted by asylum seekers were found, out of which 5 were granted.



With the establishment of the Administrative Court that will soon replace the Supreme Court for the first instance judicial examination of asylum decisions,<sup>44</sup> legal aid will be offered by the state in the same way as described above for the Supreme Court.

The UN Committee against Torture (UNCAT) has stated in its fourth report on Cyprus that it considers that the criteria are overly restrictive to legal aid of asylum seekers and undocumented immigrants and places them at risk of unwarranted *refoulement* and illegal detention,<sup>45</sup> while the report of the Working Group on the Universal Periodic Review of Cyprus included a recommendation to ensure that asylum seekers have free legal aid throughout the asylum procedure.<sup>46</sup>

### 3. Dublin

#### 3.1. General

##### Indicators: Dublin: General<sup>47</sup>

1. Number of outgoing requests in 2015 (January-September):	67
❖ Top 3 receiving countries	SE 17
	DE 13
	UK 12
2. Number of incoming requests in 2015 (January-September):	194
❖ Top 3 sending countries	DE 54
	SE 35
	UK 15
3. Number of outgoing transfers in 2015 (January-September):	14
❖ Top 3 receiving countries	DE 5
	UK 4
	SE 2
4. Number of incoming transfers in 2015 (January-September):	4
❖ Top 3 sending countries	NL 2
	UK 1
	NO 1

#### Application of the Dublin criteria

The applicant is interviewed by Dublin Regulation officers and all documents and information are collected in collaboration with him/her. For unaccompanied minors, both the interview and family tracing is done in the presence and with the collaboration of the Social Welfare Service's officers. Following this, the request is submitted via 'DubliNet' to the relevant Member State.

In practice the evidential requirements that are needed to prove family links are mostly documents that prove familial relationship with the individual in question are requested from the asylum seeker, such as identity documents, family registration documents, birth/ marriage certificates, photographs, any documents available and when necessary DNA tests. The authorities conducting the Dublin procedure will not refuse to apply the family provisions if the asylum seeker has not indicated the existence of family members in another Member State from the outset.<sup>48</sup>

<sup>44</sup> According to the Government of Cyprus the Administrative Court will start operating by the end of 2015.

<sup>45</sup> UNCAT, *Concluding Observations on the Fourth Report of Cyprus, Committee against Torture*, 21 May 2014.

<sup>46</sup> UN Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Cyprus, Twenty-sixth session*, 4 April 2014.

<sup>47</sup> Data provided by the Dublin Unit, October 2015.

<sup>48</sup> Information provided by the Dublin Unit, October 2015.

The criteria most frequently used in practice for incoming requests are previous application for international protection and for outgoing requests, family unity for unaccompanied minors.

### **The discretionary clauses**

The humanitarian clause may be applied when the other criteria are not applicable and humanitarian reasons arise, whereas the sovereignty clause may be applied when the transfer is not going to be implemented within the time limits for reasons not foreseen in the Regulation i.e. health issues.<sup>49</sup>

## **3.2. Procedure**

### **Indicators: Dublin: Procedure**

1. On average, how long does a transfer take after the responsible Member State has accepted responsibility? 2 months

All asylum seekers applying for asylum aged 14 and over as well as their dependants, also aged 14 and over are systematically fingerprinted and checked in Eurodac.<sup>50</sup> The Dublin procedure is systematically applied in all cases;<sup>51</sup> when lodging an application for asylum, the applicant also fills in a Dublin questionnaire where he or she has to state any previous travels or any relatives present in another Member State. Should he or she have travelled through another Member State or have relatives present in one Member State, the Dublin Unit invites the applicant for an interview.

### **Individualised guarantees**

The Dublin Unit seeks individualised guarantees that the asylum seeker will have adequate reception conditions upon transfer for specific categories only i.e. minors with or without families, single women, persons with health issues and in general vulnerable persons.<sup>52</sup> Such guarantees are sought after the responsible Member State has agreed to take charge of / take back the applicant.

### **Transfers**

When another EU Member State accepts responsibility for the asylum applicant, it takes on average 2 months (based on estimations from practical experience) before the applicant is transferred to the responsible Member State. Asylum seekers are not detained for the purpose of transfer whereas the actual transfer takes place under supervision or when necessary under escort.

### **The situation of Dublin returnees**

Regarding asylum seekers transferred back from another Member State, as of the end of 2014 a shift in practice has been noted according to which Dublin returnees whose final decision is pending are not detained. In the case they have no place on their own to stay, they are transferred to Kofinou Reception Centre, which is an open centre for asylum seekers.<sup>53</sup>

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<sup>49</sup> *Ibid.*

<sup>50</sup> Article 11A Refugee Law.

<sup>51</sup> Article 11B Refugee Law.

<sup>52</sup> Information provided by the Dublin Unit, October 2015.

<sup>53</sup> Based on information provided by NGO Future Worlds Center which carries visits to Kofinou reception centre.

For asylum seekers transferred back from another state, if a final decision was not issued prior to them leaving Cyprus, the asylum procedure resumes where it was left off, whereas if a final decision was issued then deportation procedures are initiated.

### 3.3. Personal interview

#### Indicators: Dublin: Personal Interview

☒ Same as regular procedure

1. Is a personal interview of the asylum seeker in most cases conducted in practice in the Dublin procedure? ☒ Yes ☐ No
  - ❖ If so, are interpreters available in practice, for interviews? ☒ Yes ☐ No
2. Are interviews conducted through video conferencing? ☐ Frequently ☐ Rarely ☒ Never

The interview for the Dublin procedure is carried out by the Dublin Unit of the Asylum Service. These interviews are conducted in the same manner as the regular procedure, meaning that an interpreter is always available when needed and applicants can choose the gender of the interpreter and/or interviewer. It is also recorded in the same way as the regular procedure, meaning only a written transcript is produced as audio/video recording is neither possible nor required by law (see section on Regular Procedure: Personal Interview). The interview for the Dublin procedure focuses on determining the Member State responsible for examining the application for international protection. For possible take-back questions focus on the applicants entry into other member states prior to reaching Cyprus, whether or not they have applied for asylum in said countries and the reasons for applying, duration of stay along with specific dates of entry, reason for leaving the country. For family unity reasons, questions focus on whether the individual has family members in other member states, as well the relationship with the individual in question, their relatives' status in the country and whether they can obtain any documents proving the familial relationship. All applicants are also informed on the Dublin procedure, what it entails, the possibilities and effect on the case.<sup>54</sup>

### 3.4. Appeal

#### Indicators: Dublin: Appeal

☐ Same as regular procedure

1. Does the law provide for an appeal against the decision in the Dublin procedure?
  - ☒ Yes ☐ No
  - ❖ If yes, is it ☒ Judicial ☒ Administrative
  - ❖ If yes, is it suspensive ☐ Yes ☒ No

The procedure for appeals against Dublin procedure decisions is identical to appeals in the regular procedure (see Regular Procedure: Appeal), except for the suspensive effect of the appeal before the RRA. Whereas an appeal in the regular procedure before the RRA has automatic suspensive effect, in the case of an appeal against a decision in the Dublin procedure it does not suspend the decision, unless the RRA so determines.<sup>55</sup> According to information provided by the Asylum Service, the RRA has so far suspended all transfers until a decision has been issued on appeal.

As in the regular procedure, a second appeal is available before the Supreme Court, which does not have suspensive effect but a separate application must be filed in order to suspend the execution of the decision.

<sup>54</sup> Based on testimonies of individuals who have undergone a Dublin related interview.

<sup>55</sup> Article 11B(3) Refugee Law.

The majority of cases in Cyprus that may be transferred to other Member States, are not challenged by asylum seekers as the great majority of the cases are related to family unity reasons and their preference is to not remain in Cyprus.

### 3.5. Legal assistance

#### Indicators: Dublin: Legal Assistance

☒ Same as regular procedure

1. Do asylum seekers have access to free legal assistance at first instance in practice?
 

<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> With difficulty	<input type="checkbox"/> No
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  - ❖ Does free legal assistance cover:
 

<input checked="" type="checkbox"/> Representation in interview
<input checked="" type="checkbox"/> Legal advice
  
2. Do asylum seekers have access to free legal assistance on appeal against a Dublin decision in practice?
 

<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> With difficulty	<input type="checkbox"/> No
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  - ❖ Does free legal assistance cover
 

<input checked="" type="checkbox"/> Representation in courts
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There is no access to free legal assistance from the state before the Asylum Service and Refugee Reviewing Authority during the Dublin procedure. However, such cases can be assisted by the free legal assistance provided for by NGOs under project funding, but the capacity of these projects is extremely limited (see [Regular Procedure: Legal Assistance](#)). Legal aid is offered by the state only at the judicial examination of the Dublin decision before the Supreme Court. The application for legal aid is subject to a “means and merits” test and is extremely difficult to be awarded (see [Regular Procedure: Legal Assistance](#)). However, asylum seekers, as stated above, extremely rarely submit appeals against the Dublin transfer and as such no free legal assistance has ever been requested during the appeal procedure so as to have statistics on the matter. As from 2016, all appeals within the Dublin procedure will be examined before an Administrative Court and a free legal assistance will be available by the state subject to a “means and merits” test.<sup>56</sup>

### 3.6. Suspension of transfers

#### Indicators: Dublin: Suspension of Transfers

1. Are Dublin transfers systematically suspended as a matter of policy or jurisprudence to one or more countries?
 

<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
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  - ❖ If yes, to which country or countries?
 

Greece
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The majority of cases that fall under the Dublin procedure in Cyprus are requests from other Member States for Cyprus to take responsibility (“take back” requests) and seldom will an asylum seeker leave another Member State and come to Cyprus. In case a transfer is not possible within the time-limits foreseen by the Dublin Regulation, Cyprus will assume responsibility for examining the asylum application and asylum seekers will have full access to reception conditions and all other rights enjoyed by asylum seekers.

There are no national court rulings on Dublin transfers.

#### Suspension of transfers to Cyprus

In September 2014, the Council of Alien Law Litigation (CALL) of Belgium annulled the decision of the Secretary of State for Asylum, Migration and for Social Integration, which refused leave to remain and

<sup>56</sup> Article 6B(2) Legal Aid Law.

ordered the return of a Cameroonian national to Cyprus under the Dublin Regulation.<sup>57</sup> The Cameroonian national, a victim of trafficking, invoked as reasons for appeal that return to Cyprus would constitute treatment contrary to Article 3 of the European Convention on Human Rights (ECHR), and made complaints on the general insufficiency of Cyprus authorities to protect asylum seekers and victims of trafficking, her mistreatment by the authorities and lack of access to medical care and legal assistance. The Court ruled that the State had not sufficiently examined the complaints and recent evidence documenting ill-treatment by the Cypriot authorities (including international reports from NGOs) the applicant had submitted. The State, given the evidence before it, should not have been contented with assumptions on the conditions in Cyprus but was obliged to investigate more rigorously whether the particular situation of the applicant and the allegations made amounted to a violation of Article 3.

In another case, the Administrative Tribunal in Munich ordered the suspension of the deportation of a Nigerian national to Cyprus under the Dublin procedure.<sup>58</sup> The applicant applied for an order of a staying effect of the proceedings against the order of his deportation claiming that during his stay in Cyprus he was not provided with accommodation or food, was left homeless and exposed to inhuman and degrading treatment. By citing relevant European case law the court stated that the mere fact that the economic and social living standard would be significantly lowered if an applicant was transferred is not sufficient to breach Article 3 ECHR and lead to a suspension of deportation – there must be a systemically founded serious danger of an inhumane or degrading treatment.

The court cited the judgment in *MA v Cyprus*,<sup>59</sup> where the European Court of Human Rights (ECtHR) found among others a violation by Cyprus of Article 13 ECHR. However, it stated that at present it could not validate whether this is a case portraying a deficit of legal protection that could indicate the existence of serious systemic flaws in the asylum/legal remedy procedures in Cyprus. By citing many relevant sources and facts, including an interview of a UNHCR representative in Cyprus, that describe the situation of asylum seekers in Cyprus the court concluded that it could not preclude the existence of systemic flaws that could result to degrading or inhumane treatment for asylum seekers and Dublin returnees. The court ruled that it was not in a position (considering the limited time-frame of the summary proceedings as well) to make safe conclusions based on the information provided for the present situation in Cyprus.

#### **4. Admissibility procedure**

Article 12B-quater(2) of the Refugee Law sets out grounds for inadmissibility, under which an application would be examined under the accelerated procedure (see section on Accelerated Procedure). These apply where the applicant:

- (a) Has been granted refugee status in another Member State;
- (b) Comes from a first country of asylum;
- (c) Comes from a safe third country;
- (d) Has been allowed to remain on the territory of the RoC for other reasons, on the basis of which he or she has obtained equivalent status to refugee status;
- (e) Has been allowed to remain on the territory of the RoC for other reasons which prohibit his or her removal pending the status determination procedure in accordance with (d);
- (f) Has lodged a subsequent application after a final decision; or
- (g) A dependant of the applicant lodges an application after he or she consented to have his or her case be part of an application made on his or her behalf, and there are no facts which justify a separate application.

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<sup>57</sup> CALL, Decision No 129604, 18 September 2014.

<sup>58</sup> Administrative Tribunal of Munich, Decision of 5 May 2014.

<sup>59</sup> ECtHR, *MA v Cyprus*, Application No 41872/10, Judgment of 23 July 2013.

As will be seen below, the accelerated procedure is not applied in practice. The only admissibility procedure provided for in national legislation is the procedure that examines the admissibility of a subsequent application or new elements after a final decision has been issued (see section on Subsequent Applications).

## **5. Border procedure (border and transit zones)**

There is no border procedure in Cyprus.

## **6. Accelerated procedure**

### **6.1. General (scope, grounds for accelerated procedures, time-limits)**

As in the regular procedure, the Asylum Service is the authority responsible for taking decisions at first instance in accelerated procedures.

Article 12Δ(1) of the Refugee Law provides that, under an accelerated procedure, the Asylum Service must examine the case by order of priority and within 30 days after the submission of the asylum application. The same provision states that an asylum application is examined under the accelerated procedure where the applicant:

- (a) Comes from a country where there is no serious risk of persecution;<sup>60</sup>
- (b) Comes from a safe third country;<sup>61</sup>
- (c) Comes from a safe European third country;<sup>62</sup>
- (d) Comes from a safe country of origin;<sup>63</sup>
- (e) Lodges an inadmissible application;<sup>64</sup>
- (f) Comes from a first country of asylum;<sup>65</sup>
- (g) Meets one of the following criteria:<sup>66</sup>
  - i. The application is likely to be considered well-founded or the applicant has special needs;
  - ii. The applicant, in submitting his/her application and presenting the facts, has only raised issues that are not relevant or of minimal relevance to the examination of whether he or she qualifies as a refugee;
  - iii. The applicant clearly does not qualify as a refugee or beneficiary of international protection;
  - iv. The application is considered to be unfounded because the applicant's country of nationality is considered a safe country of origin;
  - v. The applicant has misled the authorities by presenting false information or documents or by withholding relevant information or documents with respect to his or her identity and/or nationality that could have had a negative impact on the decision;
  - vi. The applicant has filed another application for asylum stating other personal data;
  - vii. The applicant has not produced information establishing with a reasonable degree of certainty his or her identity or nationality, or it is likely that, in bad faith, he or she has destroyed or disposed of an identity or travel document that would have helped establish his or her identity or nationality;

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<sup>60</sup> Article 12A Refugee Law.

<sup>61</sup> Article 12B Refugee Law. See section on Safe Country Concepts.

<sup>62</sup> Article 12B-bis Refugee Law. See section on Safe Country Concepts.

<sup>63</sup> Article 12B-ter Refugee Law. See section on Safe Country Concepts.

<sup>64</sup> Article 12B-quater Refugee Law. See section on Admissibility Procedure.

<sup>65</sup> Article 12B-quinquies Refugee Law. See section on Safe Country Concepts.

<sup>66</sup> Article 12Δ(4) Refugee Law.

- viii. The applicant has made inconsistent, contradictory, improbable or insufficient representations which make his or her claim clearly unconvincing in relation to his or her having been the object of persecution;
- ix. The applicant has submitted a subsequent application which does not raise any relevant new elements with respect to his or her particular circumstances or to the situation in his or her country of origin;
- x. The applicant has failed without reasonable cause to make his or her application earlier, having had opportunity to do so;
- xi. The applicant is making an application merely in order to delay or frustrate the enforcement of an earlier or imminent decision which would result in his or her removal;
- xii. The applicant failed to comply with his or her obligations to cooperate with the authorities, to submit relevant documentation and information, to hand over passport and travel documents, to report or appear before the Asylum Service, RRA and police etc.;<sup>67</sup>
- xiii. The applicant entered the territory unlawfully or prolonged his/her stay unlawfully and, without good reason, has either not presented him or herself to the authorities and/or filed an application for asylum as soon as possible, given the circumstances of his or her entry;
- xiv. The applicant is a danger to the national security or public order, or the applicant has been forcibly expelled for serious reasons of public security or public order;
- xv. The applicant refuses to comply with the obligation to have his or her fingerprints taken.

It should be noted that the transposition of the Asylum Procedures Directive has been carried out in such a way that creates ambiguity in Article 12Δ(1) of the Refugee Law. While the “safe country of origin” is listed twice as a ground for using the accelerated procedure – both in Article 12Δ(1)(d) and Article 12Δ(1)(g)(iv) – the “safe third country” and “first country of asylum” concepts are both grounds for inadmissibility and grounds for using the accelerated procedure.

In practice the accelerated procedure is never used. Due to this, there is no available information on the consequences on the responsible authority not abiding by the stricter time-limits, nor are there any available statistics on this procedure.

## 6.2. Personal Interview

### Indicators: Accelerated Procedure: Personal Interview

☒ Same as regular procedure

1. Is a personal interview of the asylum seeker in most cases conducted in practice in the accelerated procedure? ☐ Yes ☐ No
  - ❖ If so, are questions limited to nationality, identity, travel route? ☐ Yes ☐ No
  - ❖ If so, are interpreters available in practice, for interviews? ☐ Yes ☐ No
2. Are interviews conducted through video conferencing? ☐ Frequently ☐ Rarely ☐ Never

As is the case during the regular procedure, interviews of applicants during accelerated procedures are to be carried out by the Asylum Service.<sup>68</sup> According to Article 13A(2) of the Refugee Law, the interview can be omitted when the Asylum Service considers the claim unfounded, in the following cases:<sup>69</sup>

- (a) The applicant, in submitting his or her application and presenting the facts, has only raised issues that are not relevant or of minimal relevance to the examination of whether he or she qualifies as a refugee;

<sup>67</sup> Article 16 Refugee Law.

<sup>68</sup> Article 12Δ(2) Refugee Law.

<sup>69</sup> Article 13A(2) Refugee Law, citing Articles 12Δ(4)(b), (η), (ι) and (ια).



- (b) The applicant has made inconsistent, contradictory, improbable or insufficient representations which make his or her claim clearly unconvincing in relation to him or her having been the object of persecution;
- (c) The applicant has submitted a subsequent application which does not raise any relevant new elements with respect to his or her particular circumstances or to the situation in his or her country of origin; or
- (d) The applicant is making an application merely in order to delay or frustrate the enforcement of an earlier or imminent decision which would result in his or her removal.

Once a decision is issued under the accelerated procedure, Article 18(2B)(b) of the Refugee Law provides that the interview report should be made available to the legal representative within 5 working days instead of the 10 working days limit provided under the regular procedure.

As the accelerated procedure is not applied in practice, it is not possible to comment on the nature of the interview.

### 6.3. Appeal

#### Indicators: Accelerated Procedure: Appeal

☐ Same as regular procedure

1. Does the law provide for an appeal against the decision in the accelerated procedure?

- ❖ If yes, is it
- ❖ If yes, is it suspensive

- |  |  |
|--|--|
| <input checked="" type="checkbox"/> Yes      | <input type="checkbox"/> No                        |
| <input checked="" type="checkbox"/> Judicial | <input checked="" type="checkbox"/> Administrative |
| <input checked="" type="checkbox"/> Yes      | <input type="checkbox"/> No                        |

There is no separate procedure for appealing against a decision in the accelerated procedure. As is the case with the regular procedure, an administrative appeal that has suspensive effect is submitted to the RRA.

The only difference from the appeal in the regular procedure are the different time limits set for lodging an appeal and the stricter time limits set for the authorities to issue a decision. The time limit within which an appeal must be lodged is 10 working days instead of 20 calendar days as with the regular procedure. The stricter time limit does not apply when the accelerated procedure is imposed under Article 12Δ(4)(a) of the Refugee Law, which concerns claims that are likely to be well-founded or the applicant has specific needs. In accordance with the law,<sup>70</sup> the RRA must issue a decision within 15 days, while under the regular procedure decisions must be issued “as soon as possible”.

As in the regular procedure, an appeal is available before the Supreme Court which does not have automatic suspensive effect but a separate application must be filed in order to suspend the decision.

Due to the fact that the accelerated procedure is never used there is no information on the submission of appeals.

### 6.4. Legal assistance

<sup>70</sup> Article 28H Refugee Law.



**Indicators: Accelerated Procedure: Legal Assistance**

☒ Same as regular procedure

1. Do asylum seekers have access to free legal assistance at first instance in practice?  
☐ Yes ☒ With difficulty ☐ No  
❖ Does free legal assistance cover: ☒ Representation in interview  
☒ Legal advice
2. Do asylum seekers have access to free legal assistance on appeal against a negative decision in practice?  
☐ Yes ☒ With difficulty ☐ No  
❖ Does free legal assistance cover ☒ Representation in courts  
☒ Legal advice

See the section on [Regular Procedure: Legal Assistance](#).

**C. Information for asylum seekers and access to NGOs and UNHCR**

**Indicators: Information and Access to NGOs and UNHCR**

1. Is sufficient information provided to asylum seekers on the procedures, their rights and obligations in practice? ☐ Yes ☒ With difficulty ☐ No  
❖ Is tailored information provided to unaccompanied children? ☐ Yes ☒ No
2. Do asylum seekers located at the border have effective access to NGOs and UNHCR if they wish so in practice? Not applicable
3. Do asylum seekers in detention centres have effective access to NGOs and UNHCR if they wish so in practice? ☒ Yes ☐ With difficulty ☐ No
4. Do asylum seekers accommodated in remote locations on the territory (excluding borders) have effective access to NGOs and UNHCR if they wish so in practice?  
☒ Yes ☐ With difficulty ☐ No

In accordance with the law,<sup>71</sup> upon lodging an asylum application, applicants are to be provided with information concerning the asylum examination procedure, as well as their rights and obligations, in a language they understand. This information must include the right of asylum seekers to be assisted by an interpreter free of charge, either in their mother tongue or in a language they understand, the right to be represented by a lawyer or representative of an organisation dealing with refugees, as well as the right to communicate with UNHCR at all stages of the asylum procedure. In addition, asylum seekers must be provided with information regarding the consequences of non-compliance with their obligations and non-cooperation with the relevant authorities. The law does not specify the form/means to be used for the provision of this information.

In practice, a printed leaflet is available at the Aliens and Immigration Unit, translated in a number of languages (English, Arabic, Persian, French, Sinhalese, Bangla, Urdu), and contains basic and minimum information concerning the rights and obligations of asylum seekers. However, it lacks substantial information, including updated details of organisations offering assistance to asylum seekers. Although asylum seekers are supposed to be provided with this leaflet when lodging their application for asylum, in practice often they are not.<sup>72</sup>

<sup>71</sup> Article 11(5) Refugee Law.

<sup>72</sup> Based on information provided by NGO Future Worlds Center.

A guide, aiming to provide detailed information to asylum seekers and beneficiaries of international protection in Cyprus, was prepared by the Asylum Service in 2011. This guide contains information on the asylum procedure, on rights and obligations during the asylum procedure, as well as limited information on the grounds upon which an asylum seeker can be detained. It also mentions contact details of UNHCR and NGOs offering services free-of-charge. Although this guide can be found online,<sup>73</sup> it is not clear if and when it is provided to asylum seekers in hard copies upon the submission of asylum application. It has also not been updated since 2012 even though the relevant laws have undergone amendments. According to the authorities, it is to be updated once the recast Directives are transposed in national law.

Applicants are given a leaflet on the Dublin procedures which includes general information on the Dublin procedure, the individual's rights along with a small paragraph on how it applies to unaccompanied minors and also to adults.<sup>74</sup> The leaflet also includes contact numbers.

From time to time there are other information materials produced by NGOs or private companies, such as information leaflets, booklets and websites,<sup>75</sup> regarding the asylum procedure, asylum seekers' rights and obligations and available support services. However, these are not always available nor are they updated consistently, since they are often prepared within the framework of various European-funded projects. These leaflets/booklets may be available at various access points for asylum seekers only if the implementing agencies take the initiative to disseminate them or if the asylum seekers come into contact with the NGOs providing direct assistance.

There is no specific information provided to unaccompanied children and there is no alternative source of information available at present on this aspect.

Regarding decisions, in accordance with the law,<sup>76</sup> the Head of the Asylum Service must inform the applicant about the decision of the examination of asylum application and timeframe to exercise their right to lodge an administrative appeal or judicial review, in a language that the asylum seeker may reasonably be considered to understand. In practice the decision of the Asylum Service is rendered in written form, the first page is provided in English and in a language understood by the asylum seeker, and includes whether a status has been granted or not, as well as the relevant legal provisions. Attached to this first page is a half-page summary of the reasoning of the decision and this is provided only in Greek. A detailed reasoning of the decision exists in the file at the Asylum Service, as well as the interview transcript. Both can be accessed by the asylum seeker within 20 days upon rejection (see section on Regular Procedure: Appeal) and reviewed in order to prepare an appeal, however these are also available only in Greek (the interview transcript sometimes is in English) and there is no available free translation/interpretation.

In case the Asylum Service does not reach a decision within 6 months, it is obliged by law to inform the asylum seeker of the delay or upon request, provide information on the expected time-frame for the issuance of the decision.<sup>77</sup> In practice this is rarely provided and if an asylum seeker does make such a request, he or she is usually provided with a letter stating that the decision will be made as soon as possible.

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<sup>73</sup> Asylum Service, *Guide for asylum seekers and beneficiaries of international protection in Cyprus*, available at: <http://bit.ly/1fLch88>.

<sup>74</sup> 'Dublin' Regulation (Regulation No. 604/2013) – Leaflet, available at: <http://bit.ly/1OhnwUj>.

<sup>75</sup> Future Worlds Center, *Information on Seeking Asylum in Cyprus*, available at: <http://bit.ly/1HzLDFR>, prepared in the framework of the ERF-funded "Info Bus" project. See <http://bit.ly/1V6del2>.

<sup>76</sup> Article 18(7E) Refugee Law.

<sup>77</sup> Article 13(6) Refugee Law.

Regarding the administrative appeal before the RRA, the Refugee Law states that asylum seekers must be informed in writing of their rights and obligations in relation to the procedures before the RRA.<sup>78</sup> This particular provision does not render any obligation in terms of the language of the written information provided to asylum seekers. In practice another information leaflet (available in English only) is provided to asylum seekers in hard copies by the RRA. This leaflet contains basic information on the procedure regarding the administrative appeal and rights and obligations of asylum seekers during this procedure.

There is no available information provided by the state regarding the judicial appeal before the Supreme Court (or the soon to operate Administrative Court) or the application for legal aid that can be applied for.

Currently there is no information provided by the state on the procedure for the submission of a subsequent application or new elements, which includes an admissibility procedure. It has been observed by Future Worlds Center that the lack of information for this procedure acts as a deterrent for people who wish to submit a subsequent application or new elements, or who may have applied to the wrong authority which does not forward the application/new elements to the responsible authority; i.e. Syrians who had applied for asylum in the past and wish to submit a new claim or new elements to their claim if it has not been rejected, based on the current situation in Syria. Considering that during the admissibility procedure for subsequent applications or new elements the person is not an asylum seeker and does not enjoy a status or reception conditions, he or she is at risk of arrest and deportation (see section on Subsequent Applications).

### **Information in detention**

In the main detention centre and in prisons, there are leaflets available on the general rights and obligations of detainees, but no available information on the asylum procedure. This often leads to persons not understanding that they may have an asylum claim or not realising that they have a right to apply for asylum whilst in detention or prison.

According to the Refugee Law,<sup>79</sup> asylum seekers in detention should be informed about their rights to retain the services of a lawyer and, according to the Rights of Persons who are Arrested and Detained Law,<sup>80</sup> every detainee has the right to have meetings with his or her lawyer. Lawyers appointed by detainees, legal representatives of NGOs working on asylum issues or UNHCR representatives, can visit asylum seekers in the detention centre and hold meetings with detainees confidentially. No major obstacle has been identified in the process of visitation of lawyers, however representatives of NGOs or UNHCR are obliged to send prior notification of their intention to visit the detention centre or a detainee, whereas lawyers are not.

Detained asylum seekers have encountered difficulties sending faxes to their lawyers or legal representatives from an NGO or UNHCR since they must request permission from the detention authorities. In the past this was a time consuming process which could take days to be approved. However, in 2015, it has come to the attention of Future Worlds Center that detained asylum seekers were able to fax documents from detention on the same day, or a day after the request. As the detention centre is not in a city, this is usually the fastest and most practical way to notify the lawyer / legal representative of any documents or decisions detainees may have received in detention, some of which may require an immediate response. Faxes to the European Court of Human Rights, the Ombudswoman and UNHCR are usually approved faster than others.

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<sup>78</sup> Article 28(O)(1) Refugee Law.

<sup>79</sup> Article 7(5) Refugee Law.

<sup>80</sup> Article 12 Rights of Persons who are Arrested and Detained Law.

## D. Subsequent applications

### Indicators: Subsequent Applications

1. Does the law provide for a specific procedure for subsequent applications? ☒ Yes ☐ No
2. Is a removal order suspended during the examination of a first subsequent application?
  - ❖ At first instance ☒ Yes ☐ No
  - ❖ At the appeal stage ☒ Yes ☐ No
3. Is a removal order suspended during the examination of a second, third, subsequent application?
  - ❖ At first instance ☒ Yes ☐ No
  - ❖ At the appeal stage ☒ Yes ☐ No

All subsequent applications must go through an admissibility procedure as provided for in the law.<sup>81</sup> If the competent authority, which can be either the Asylum Service (first instance administrative body examining asylum applications) or the Refugee Reviewing Authority (second instance administrative body), depending on which of the two authorities issued the final decision on the initial application. Specifically, if an application was examined and rejected by the Asylum Service and the applicant did not proceed with an appeal leading to the decision becoming final, they must submit the subsequent application or new elements to the Asylum Service. If the asylum seeker proceeded with an appeal before the Refugee Reviewing Authority, the subsequent application or new elements must be submitted to this authority. In cases where the asylum seeker continued with an appeal before the Supreme Court on the initial application, then the subsequent application or new elements will again be submitted before the RRA.

According to Article 16Δ(4) of the Refugee Law, if an applicant submits new elements on their claim after a final decision was made, or submits a new application or a new administrative appeal, the competent authority does not treat these cases as a new application or a new administrative appeal, but always as further steps on the initial application or initial appeal. When either the Asylum Service or the Refugee Reviewing Authority decides that the subsequent application or new elements are admissible, they will continue with the substantive examination of these, during which the applicant is considered an asylum seeker. According to the law the decision will only be considered as a new decision if the elements increase the chances of the applicant receiving international protection, and if the competent authority is satisfied that the applicant could not submit these elements in the initial examination, due to no fault of his or her own. If these requirements are not fulfilled then the decision not to admit the new elements or the subsequent application is not considered a new decision but merely confirmation of the initial decision. The difference being that if this is a confirmation of the original decision then the applicant can only challenge before the Supreme Court the legal points related to the decision not being considered a new decision.

There are no specific time limits in which the competent authority must issue a decision on the admissibility of the subsequent application or new elements, and the applicant is not considered an asylum seeker during this procedure. Consequently he or she does not have access to any reception conditions. As a result, the applicant may remain for months without regular status or any rights while the competent authority decides on the admissibility of the subsequent application or new elements.

If the Refugee Reviewing Authority is the competent authority, it has the discretion as in the regular procedure to not carry out a personal interview, therefore a decision on a subsequent application can be taken without hearing the applicant. Until recently, this was observed in practice including cases of Syrian applicants who filed subsequent applications and who were granted subsidiary protection without

<sup>81</sup> Article 16Δ Refugee Law.

being given a personal interview.<sup>82</sup> As of June 2014 this practice has changed and the Refugee Reviewing Authority is providing a personal interview to Syrian applicants before granting status.

An important obstacle in submitting a subsequent application is the asylum seekers' lack of knowledge of the right to do so or the procedure that must be followed in regards to the competent authority to examine the admissibility of such an application.<sup>83</sup> Often an applicant will submit the application to the authority that is not the competent one, and will not be informed of this or redirected to the competent authority.

If the competent authority takes a negative decision after the substantial examination, an appeal can be submitted as provided for in the regular procedure (see section on appeals in the regular procedure). This means that a subsequent application examined at first instance by the Asylum Service provides the right to appeal before the RRA, which suspends the first instance decision, examines points of law and substance, and has the discretion to carry out another personal interview, as well as grant status, and if rejected an appeal can also be submitted before the Supreme Court. Whereas if a subsequent application examined at first instance by the RRA is rejected, the applicant can only submit an appeal before the Supreme Court which does not suspend the RRA decision, only examines points of law, and can only confirm or annul the decision and cannot grant status.

Throughout 2014 the admissibility procedure for subsequent applications was predominantly followed by Syrians who have been residing in Cyprus with no regular status, following the rejection of their initial asylum applications. The delays noticed in issuing the admissibility decision have resulted in a large number of Syrians having for several months no regular status and access to basic reception rights.<sup>84</sup> In 2015 there was a substantial improvement in the time required to issue the admissibility decision for Syrian applicants with most requests being examined with 1-2 months.

## E. Guarantees for vulnerable groups of asylum seekers (children, traumatised persons, survivors of torture)

### 1. Special procedural guarantees

#### Indicators: Special Procedural Guarantees

1. Is there a specific identification mechanism in place to systematically identify vulnerable asylum seekers? ☐ Yes ☐ For certain categories ☒ No  
❖ If for certain categories, specify which:
2. Are there special procedural arrangements/guarantees for vulnerable people? ☐ Yes ☐ For certain categories ☒ No  
❖ If for certain categories, specify which:

There is no specific mechanism defined within the Refugee Law for identifying vulnerable asylum seekers. The majority of such cases are identified during the interview at the first instance examination of the asylum application, which can take place after an average of 1 to 2 years from the day of a person's application. According to the Asylum Service, such identification takes place in practice at the Aliens and Immigration Unit which receives the asylum applications, by reviewing the application. There

<sup>82</sup> Based on information provided by NGO Future Worlds Center.

<sup>83</sup> *Ibid.*

<sup>84</sup> Ombudsman, *Position Paper of the Ombudsman as Independent Authority for the Promotion of Rights on the examination of asylum applications by Syrians*, Action 8/2014, available in Greek at: <http://bit.ly/1VAMEUU>.

are no available statistics or official information on the effectiveness of this procedure and from information provided by vulnerable asylum seekers it is not effective.<sup>85</sup>

The lack of this initial identification procedure prevents or delays (depending on the specific vulnerability and support consequently required) access to any available support, which in itself is limited. In cases of victims of torture or violence, the lack of access to support will often impair the efficient examination of asylum applications, since they do not receive prior counselling psychological or legal that may assist them to present their asylum claim adequately. The lack of effective measures for the timely identification specifically of victims of torture was recently noted by the UN Committee against Torture.<sup>86</sup>

In addition, there are no specific procedural guarantees provided in the law or administrative guidelines or practice to accommodate the specific needs of such asylum seekers, such as extended time limits for submitting evidence and support for gathering evidence. Article 18(6) of the Refugee Law only states that the Asylum Service and all other relevant authorities should take into account the specific state of vulnerable persons (including persons who have been subjected to torture, rape, or other forms of serious psychological, physical, or sexual violence) but does not specify what this entails.

Regarding the procedure followed during the examination of the asylum application, in recent years there have been improvements noted in the personal interview as well as training of officers / caseworkers carrying out the interview and examining asylum claims. However, specific interview techniques are not systematically used and practice still depends on individual officers / caseworkers conducting interviews. In addition, due to the lack of an identification mechanism, in many cases the interview will be carried out by an officer / caseworker who lacks the necessary training and as there is no internal procedure to refer cases, they will often continue with the interview and examination of the application. There are also still complaints about interviews being carried out in an interrogatory manner.

Asylum applications submitted by vulnerable groups of asylum seekers such as victims of torture, severe forms of violence and unaccompanied children follow the regular examination procedure. However, in accordance to Article 12Δ(4)(a) of the Refugee Law, officers are given discretionary power to exercise the accelerated examination procedure when an applicant is deemed to have special needs, although in practice this is never used. Generally, the accelerated procedure is not used by the Asylum Service, under any circumstance.

## 2. Use of medical reports

### Indicators: Use of medical reports

1. Does the law provide for the possibility of a medical report in support of the applicant's statements regarding past persecution or serious harm?  
☐ Yes ☒ In some cases ☐ No
2. Are medical reports taken into account when assessing the credibility of the applicant's statements?  
☒ Yes ☐ No

There is no specific reference to medical reports and to how these should be examined and evaluated in the law. Due to this, there are inconsistencies in the way each officer/caseworker interprets medical reports and in the way these are evaluated. Specifically, medical reports provided by private doctors in Cyprus or from the country of origin of the asylum seeker are often viewed as non-credible and not taken into consideration by certain officers/caseworkers, whereas others may evaluate them and include them in the assessment. In addition, the costs for reports from private doctors are borne by the

<sup>85</sup> Based on information provided by NGO Future Worlds Center.

<sup>86</sup> UNCAT, *Concluding Observations on the Fourth Report of Cyprus*, 21 May 2014.

applicant. Medical reports from public hospital doctors are usually considered more credible, but even with such reports, there are discrepancies in the way they are assessed. Currently there are no NGOs providing medical reports. The only available report from an NGO is the one that may be provided under the Unit for the Rehabilitation of Victims of Torture (URVT) project implemented by the NGO Future Worlds Center,<sup>87</sup> which is a psychological report that may be drafted as part of the rehabilitation services offered to victims of torture.

Regarding victims of torture, the law provides for an examination by a state Medical Board which has been appointed to evaluate torture claims within the asylum procedure.<sup>88</sup> When a claim of torture is made by the asylum seeker or identified by the eligibility officer of the Asylum Service or the Refugee Reviewing Authority, the claimant is referred to this Board for examination. The Board will arrange the appointment with the individual, in most cases scheduling an appointment several months – 1 year after the referral has been made by the Asylum Service. Considering that the initial interview by the Asylum Service which leads to the referral is usually conducted 1-2 years after the submission of the asylum application, this leads to a considerably delayed medical examination of victims of torture etc., which will inevitably affect the Board's findings. The operation of this Board is problematic with regards to the procedures/methodology followed, as well as in aspects of essential expertise. None of the members have sufficient training on issues of torture and do not follow a specific methodology or procedure for the examination of victims of torture, such as the Istanbul Protocol or other internationally accepted procedures. In addition, the examination itself takes 20 minutes and there are no interpreters present during the examination. The UN Committee against Torture noted in its 2014 report the insufficient interpretation during the medical assessment, and referred to reports that children of victims of torture assumed the role of interpreters<sup>89</sup> Until recently, this Board did not include a psychological/psychiatric assessment and although it currently claims to have added a psychologist or psychiatrist, it has not altered the duration of the examination, nor is there a private examination or evaluation of victim's psychological status. To date, all reports issued by this Board conclude that "the Board is not in a position to determine the cause of the findings".<sup>90</sup> This is stated even in cases where there are clear physical findings. The UN Committee against Torture has expressed its concern about information indicating that the process still does not include as a routine measure a psychological/psychiatric evaluation of victims, in addition to the fact that "none of the medical evaluations determined that torture had been the cause of the findings."<sup>91</sup>

Following the criticism received by the UN Committee against Torture (UNCAT) and complaints submitted by NGO Future Worlds Center, the national Ombudsman carried out consultations in 2015 with the responsible authorities to improve the procedures followed by the state Medical Board for the evaluation of victims of torture. The Ministry of Health that is responsible for appointing the members of the Board as well as the procedures followed has assured that new procedure will be followed in line with the Istanbul Protocol, interpreters will be used during the evaluation, a psychologist and psychiatrist will be added and the doctors on the Board will receive further training as well as operational guidelines in line with the Istanbul Protocol. Due to these consultations, the examination of cases by the Board was put on hold and these resumed in October 2015, however the changes the Ministry had committed to were not implemented besides the presence of an interpreter.

Recently the Asylum Service and RRA established a practice of referring asylum seekers who claim to have undergone gender-related violence, particularly Female Genital Mutilation, to a public hospital gynaecologist in order to be examined and verify their claims. This is carried out without any prior counselling or psychological support, also with regard to unaccompanied children.

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<sup>87</sup> For more information, see: <http://bit.ly/1HwjJN3>.

<sup>88</sup> Article 15 Refugee Law.

<sup>89</sup> UNCAT, *Concluding Observations on the Fourth Report of Cyprus*, 21 May 2014.

<sup>90</sup> This is a standard phrase used in individual cases and this information is based on cases represented by the NGO Future Worlds Center.

<sup>91</sup> UNCAT, *Concluding Observations on the Fourth Report of Cyprus*, 21 May 2014.

### 3. Age assessment and legal representation of unaccompanied children

#### Indicators: Unaccompanied Children

1. Does the law provide for an identification mechanism for unaccompanied children?  
☐ Yes ☒ No
2. Does the law provide for the appointment of a representative to all unaccompanied children?  
☒ Yes ☐ No

According to the law, when an application for asylum is lodged by an unaccompanied child, the Aliens and Immigration Unit, which is the authority responsible for receiving asylum applications, must immediately notify the Head of the Asylum Service, who must immediately notify the Director of Social Welfare Services.<sup>92</sup> In practice there is no proper identification mechanism, save for the police officers at the Aliens and Immigration Unit having to verify the ages on the asylum applications in order to identify children. However, this is not done systematically, nor is there a procedure to identify children who may have entered the country on false documents that show them to be over 18. Due to the lack of information both at the Unit where asylum applications are lodged as well as in detention centres, unaccompanied children are not always aware that it is to their benefit to report their real age.

The legal and policy framework for unaccompanied children has been repeatedly criticised by the national Ombudsman, who has issued two reports on the issue,<sup>93</sup> stating the gaps in both policy and practise. The main issues, raised by the Ombudsman are the lack of early identification of unaccompanied children, their detention, the care provided by the Social Welfare Services as the legal guardian, as well as the lack of an effective legal representative that is also provided by the Social Welfare Services, the lack of coordination between the relevant authorities, delays in the examination of their asylum applications and in the latest report the newly introduced age assessment procedure is criticised heavily.

Regarding the age assessment procedure, although the law provides for such a procedure, until recently if there was doubt regarding the age of a child, the officer examining the asylum application would give the benefit of the doubt and examine the application as that of a child.

Towards the end of 2014, the first two children who were twin siblings were required to undergo an age assessment, which comprised of a wrist x-ray, jaw-line x-ray and a tooth examination as well as a physical sexual development examination, whereas no psycho-social assessment was carried out. The results indicated the children to be over 18. The children had claimed upon arrival to have been born in Denmark and after the results of the age assessment were issued their Danish birth certificates were verified, confirming them to be under 18.

According to a report issued by the national Commissioner of Children's Rights, the scientific (medical-based) age assessment procedure is to be used when there are doubts as to the asylum seeker's age. The Commissioner remarked that the medical means used (x-rays) can be invasive, bearing uncertain

<sup>92</sup> Article 10 Refugee Law.

<sup>93</sup> Ombudsman, *Intervention regarding the treatment of unaccompanied children* (Παρέμβαση Εθνικής Ανεξάρτητης Αρχής Ανθρωπίνων Δικαιωμάτων αναφορικά με τη μεταχείριση των ασυνόδευτων παιδιών μέχρι την ανάληψη της φροντίδας τους από το κράτος) 29 May 2014; *Report regarding the system of protection and representation of Unaccompanied Minors* (Έκθεση της Αρχής Κατά των Διακρίσεων αναφορικά με το σύστημα προστασίας και εκπροσώπησης των ασυνόδευτων ανηλίκων), 24 August 2015, File No. AKP 41/2015, available in Greek at: <http://bit.ly/1iZeaPB>.



results, and recalled that the age-assessment examinations should be conducted with respect to the children's integrity, rights and personal circumstances.<sup>94</sup>

As of May 2015, a number of unaccompanied children have undergone age assessment examinations. According to the authorities the reason behind the increased use of age assessment examinations is that the majority of the unaccompanied children have relatives in other European countries and thus were potential Dublin candidates who would require an age assessment. Based on testimonies, the age assessment examination still comprises of a wrist x-ray, jaw-line x-ray, a tooth examination and a physical sexual development examination, which the majority of the children refuse to undertake, and there is still no evidence of a proper psycho-social assessment. Based on latest information, the Asylum Service attempts to undertake a social assessment comprising of an interview in the presence of the welfare officer responsible for the child. This is inadequate as the style is very similar to the interview carried out as part of the examination of an asylum claim.

According to the authorities, the doctors that are currently carrying out some of the dental examinations have since been trained under the European Asylum Support Office (EASO) and the others are to be trained soon.

All of the children, with the exception of one, who have undergone the current age assessment examinations, were found to be between 18 and 20 years old.<sup>95</sup> There is no procedure in place to challenge the findings and the Asylum Service refuses to give access to the file and documents relevant to the age assessment. As soon as the results were announced to the individuals, they were forced to immediately leave the shelter for minors where they had been residing without any material support besides being offered a place in the Kofinou reception centre for asylum seekers.

A more detailed age assessment procedure has been included in the draft of the upcoming amendment to the Refugee Law, which has not been shared with NGOs, however (see [Annex](#)).

Regarding the actual examination of asylum applications of unaccompanied children, these were put on hold for a period during 2010-2013 due to a disagreement between the Asylum Service/Attorney General and the Commissioner for Children's Rights on how the representation should be carried out by the Commissioner who at the time according to the Refugee Law was the representative. In January 2013 the relevant articles of the Refugee Law were amended and the representation of unaccompanied children was removed from the Commissioner for the Rights of the Child and given to the Director of the Social Welfare Services.<sup>96</sup> The examination of cases resumed, although there are still serious delays in their examination.

According to the law,<sup>97</sup> the Social Welfare Services provide guardianship to unaccompanied children, as well as legal representation. The same officer working in the Social Welfare Offices can act both as the guardian and the legal representative.<sup>98</sup> According to the law, guardianship has automatic and immediate effect, without a decision or act, whereas representation must be taken up and carried out as soon as possible. There is no procedural formality for the Social Welfare Services to take up either appointment and these appointments apply for all procedures.

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<sup>94</sup> Commissioner of Children's Rights, *Position Paper on the first-stage handling of cases of unaccompanied minors, The results of the investigation of complaints, consultation with NGOs and interviews with unaccompanied minors*, November 2014.

<sup>95</sup> According to the authorities, one was found to be underage, however this is not confirmed.

<sup>96</sup> Commissioner for the Protection of Children's Rights, *Report of the Commissioner for Children's Rights in Cyprus to the UN Committee on the Rights of the Child – Supplementary Report to the 3rd and 4th Periodic Report of Cyprus*, September 2011, available at: <http://bit.ly/1HwkyWf>, 41.

<sup>97</sup> Article 10(1) Refugee Law.

<sup>98</sup> Article 10(1B) Refugee Law.

The role of the representative entails representation and assistance during the examination of the asylum application. In addition, the law provides that the Asylum Service shall ensure that the representative is given the opportunity to inform the unaccompanied child about the meaning and possible consequences of the personal interview and, where appropriate, how to prepare themselves for the personal interview. The Asylum Service permits the representative to be present at the interview and ask questions or make comments, within the framework set by the responsible officer/caseworker who conducts the interview. On the other hand, the guardian is responsible for the overall well-being of the child, including accommodation, school arrangements, and access to healthcare.

In practice, however, both guardianship and representation is usually carried out by an officer from the Social Welfare Services. In the case of the representative the appointed officer does not have any knowledge or training on legal or asylum issues. The representative rarely meets with the child before the interview and even in cases where the representative does meet the child, often no information is provided on the interview nor on the meaning and possible consequences of it. It has been noted that the children are often taken to their interviews on the scheduled day, without prior notice. During the interview the representative is always present, but as they usually have no prior contact with the child and no knowledge about the specific case, they are not in a position to contribute in any way. In all cases monitored by Future Worlds Center,<sup>99</sup> the representative has never asked any questions or made any comments after the interview, and no further actions were taken on behalf of the child, such as following up on the case in case of delay or keeping the child informed about the procedure. Also regarding the Dublin procedure, it has recently been noted that in some cases the representative of the child has not informed the Asylum Service of the existence of relatives in other European countries, leading to the expiration of three month deadline to lodge a Dublin request. In instances where the asylum application is rejected, the representative does not have the required legal knowledge to prepare an appeal before the RRA and there is no evidence of children being referred to a lawyer or legal advisor,<sup>100</sup> who can prepare such an appeal. In situations where the child needs to be represented before the Supreme Court, the representative does not have the legal capacity to do so nor do they refer the child in practice to a lawyer who has such capacity. According to the Social Welfare Services and the Commissioner for Children's Rights, they will establish a collaboration so that the Commissioner for Children's Rights will carry out representation in order to overcome the above issues, however up to November 2015 no developments were noted on this issue.

## F. The safe country concepts

### Indicators: Safe Country Concepts

- |  |   |
|--|---|
| 1. Does national legislation allow for the use of "safe country of origin" concept?  | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| ❖ Is there a national list of safe countries of origin?                              | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| ❖ Is the safe country of origin concept used in practice?                            | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| 2. Does national legislation allow for the use of "safe third country" concept?      | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| ❖ Is the safe third country concept used in practice?                                | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| 3. Does national legislation allow for the use of "first country of asylum" concept? | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |

### Safe country of origin

<sup>99</sup> Based on information provided by the NGO Future Worlds Center.

<sup>100</sup> The examination of asylum applications of unaccompanied children were on hold from 2010-2013, therefore to date only a few cases have been decided on under the current law and practice.

Article 12B-ter of the Refugee Law defines safe country of origin with reference to Directive 2005/85/EC. This includes countries set out in a common EU list,<sup>101</sup> as well as the possibility to designate additional countries in a national list, insofar as they fulfil the definition in Article 31 of Directive 2005/85/EC.

The “safe country of origin” concept may be used as a ground for channelling the application in the accelerated procedure.<sup>102</sup>

However there is no national list of safe countries published or being used.

### Safe third country

The definition of safe third country is defined in Article 12B of the Refugee Law mirrors the provision of Article 27 of the Directive 2005/85/EC. This may be used as a ground for inadmissibility and a ground for using the accelerated procedure.

### First country of asylum

The definition of safe third country is defined in Article 12B-quinquies of the Refugee Law mirrors the provision of Article 26 of the Directive 2005/85/EC. This may also be used as a ground for inadmissibility and a ground for using the accelerated procedure.

In practice these concepts do not seem to be applied, since the accelerated procedure is not applied (see section on [Accelerated Procedure](#)).

## G. Treatment of specific nationalities

### Indicators: Treatment of Specific Nationalities

1. Are applications from specific nationalities considered manifestly well-founded? ☒ Yes ☐ No  
❖ If yes, specify which: Syria, Iraq, Somalia, Eritrea
2. Are applications from specific nationalities considered manifestly unfounded?<sup>103</sup> ☒ Yes ☐ No  
❖ If yes, specify which: Bangladesh, Pakistan, Philippines, Vietnam

The Asylum Service gives priority to the examination of asylum applications in two cases: cases that are likely to be unfounded because of the country of origin of the applicant and countries that are going through a political or humanitarian crisis and are likely to be well-founded. In the first case the Asylum Service examines asylum applications from countries such as **Bangladesh, Pakistan, Philippines** and **Vietnam** soon after they have been submitted. These cases are often examined by an officer/case worker from the Asylum Service, at the premises of the Aliens and Immigration Unit instead of the offices of the Asylum Service as all other cases. The procedure followed is the regular procedure and all formalities that apply to the regular procedure apply to these cases, including deadlines, appeals and legal representation.

In cases of asylum seekers from countries that are going through a political or humanitarian crisis, the examination of their asylum applications are usually put on hold initially until the authorities decide the policy that will be followed in these cases. Examples of this occurred in the past with **Iraqi** asylum seekers and recently with **Syrian** asylum seekers. In both instances the examination of the asylum

<sup>101</sup> While the recast Asylum Procedures Directive currently provides no legal basis for an EU list, this could be done through the adoption of the Commission proposal for a Regulation establishing a common EU list of safe countries of origin.

<sup>102</sup> Article 12Δ(1) Refugee Law.

<sup>103</sup> Whether under the “safe country of origin” concept or otherwise.

applications were on hold for approximately 2 years, but once examination resumed, priority was given to these cases. In the case of Iraqi applicants, the vast majority of cases were granted subsidiary protection and not refugee status. This was the policy previously followed also for Syrian applicants, as only one person received refugee status in 2012, one in 2013 and four in 2014.<sup>104</sup> However there has been a shift in policy in 2015, as in the first 6 months of the year, a number of Syrians received refugee status as did Palestinians ex Syria. In addition, applications from **Somalia** and **Eritrea** are considered well founded and granted mostly refugee status, whereas cases from **Iraq** are now also being treated once again as well-founded.

The policy to grant subsidiary protection instead of refugee status to **stateless Kurds** ex Syria led to a hunger strike and at a later stage thirst strike in May 2015 carried out by two stateless Kurds.<sup>105</sup> The protesters considered that as stateless Kurds the decision to grant them subsidiary protection instead of refugee was legally unfounded. In addition, other factors that led to the protest was also the insecurity the protesters felt being stateless and under the status of subsidiary protection, as in 2011 this status was ceased for many Iraqis and Palestinians ex Iraq, as well as the differences in the rights under each status, as subsidiary protection in Cyprus does not enjoy the right to family reunification nor a travel document. The two protestors were eventually granted citizenship and the authorities have assured that arrangements are being made for a travel document to be issued to persons under subsidiary protection by the end of the 2015.

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<sup>104</sup> According to statistics provided by the Asylum Service.

<sup>105</sup> KISA, 'The lives of the strikers must be protected', <http://bit.ly/1Ukfudu>; Future Worlds Center *et al*, 'Hunger strike of stateless Kurds from Syria is escalating – Position of NGO group regarding the regulation of the status and rights of Ajanib Kurds from Syria', 12 May 2015, available at: <http://bit.ly/1RqFqSX>.

## Reception Conditions

### A. Access and forms of reception conditions

#### 1. Criteria and restrictions to access reception conditions

##### Indicators: Criteria and Restrictions to Reception Conditions

1. Does the law make material reception conditions available to asylum seekers in the following stages of the asylum procedure?
 

❖ Regular procedure	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Reduced material conditions	<input type="checkbox"/> No
❖ Dublin procedure	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Reduced material conditions	<input type="checkbox"/> No
❖ Accelerated procedure	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Reduced material conditions	<input type="checkbox"/> No
❖ First appeal	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Reduced material conditions	<input type="checkbox"/> No
❖ Onward appeal	<input type="checkbox"/> Yes	<input type="checkbox"/> Reduced material conditions	<input checked="" type="checkbox"/> No
❖ Subsequent application	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Reduced material conditions	<input type="checkbox"/> No
  
2. Is there a requirement in the law that only asylum seekers who lack resources are entitled to material reception conditions?
 

<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
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During the first and second administrative procedures, asylum seekers have the right to access material reception conditions, whereas they do not have such a right during the appeal before the Supreme Court.

Specifically, according to national legislation, asylum seekers are entitled to material reception conditions as follows:

#### *Regular and accelerated procedure*

Asylum seekers are entitled to material reception conditions during both these procedures, although in practice the accelerated procedures are never used. For both procedures asylum seekers are entitled to reception conditions from submission of the application up to the issuance of the decision of the administrative appeal.

#### *Dublin procedure*

During the determination procedure to identify the Member State responsible under the Dublin Regulation, a person is considered an asylum seeker.<sup>106</sup> According to this if a person arrives in Cyprus and there is a possibility that another Member State is the responsible state, then he or she is considered an asylum seeker and enjoys all such rights including material reception conditions. Regarding asylum seekers returned to Cyprus under the Dublin Regulation, if their asylum case is still under examination, they will be entitled to material reception conditions and are usually transferred to Kofinou. If their asylum application has been determined, they are not entitled to reception conditions and may be detained.

#### *Appeals*

Under national legislation there are two appeals, an administrative appeal and a judicial appeal before the Supreme Court. During the administrative appeal, asylum seekers are entitled to reception conditions, whereas they are not entitled to these during the judicial appeal brought before the Supreme Court.

<sup>106</sup> Article 11(B)(2) Refugee Law.

### *Subsequent application*

When a rejected asylum seeker submits a subsequent application or new elements to his or her initial claim, the authorities will first examine the admissibility of such an application or new elements. During this stage people are not considered asylum seekers and are not entitled to reception conditions. If the application or new elements are considered admissible then the person resumes status as an asylum seeker for the substantial examination of the new application or new elements and is entitled to material reception conditions.

The Reception Conditions Regulations stipulate that if reception conditions cannot be covered in kind, Welfare Services are responsible for assessing and covering the reception conditions for asylum seekers. According to the Regulations, Welfare Services' assistance depends on the evaluation of whether an asylum seeker has sufficient resources to cover the basic and special needs of his or her household, thus securing an adequate standard of living. The level of resources of the applicants as well as the specific conditions for granting assistance to them is not regulated by the Reception Conditions Regulations. The application form for the provision of material reception conditions and the general information provided to the applicants indicates a set of eligibility requirements, the level of assistance and reasons for the termination of material assistance. These are decided by the Council of Ministers in practice, although the Regulations do not confer such power to the Council.

There is no assessment of the risk of destitution either during the examination of the application for assistance or before a decision is issued to terminate assistance. In practice the sufficiency and adequacy of resources that can ensure a dignified standard of living are not taken into account. For example, if any of the applicants secure employment, the provision of material reception conditions are immediately terminated without taking into account the sufficiency of the remuneration to cover the basic and/or special needs of applicants and their family members. This situation often forces asylum seekers into destitution.

According to national legislation, asylum seekers have a right to access the material reception conditions upon the submission of an asylum application. The submission of an asylum application is confirmed in the form of a document called "Confirmation of Submission of an Application for International Protection", issued by the District Aliens and Immigration Department, certifying the name and status of the claimant. Often, an asylum seeker may not be provided with this document the first time they present themselves to the Department, but may need to go back after 3-10 days. Asylum seekers seeking to access any material reception conditions are required to present this documentation. However in practice, and in cases of emergency, people have been referred to a reception centre without possessing this document. This does not apply when it comes to accessing all other state-sponsored services including Welfare Services. Also in practice, the Welfare Services often require the applicant to submit the alien registration number, which is issued a few weeks after the application for asylum is submitted.

In practice, there are a number of major obstacles encountered by asylum seekers in accessing material reception conditions that ultimately hinder the objectives of the Reception Conditions Regulations:

- ❖ Submission of documentation in order to apply for material reception conditions: If there is no vacancy in the reception centre, an application form for the provision of material reception conditions can be lodged at Social Services. Often, in practice, one may submit that application before being informed that there is a vacancy in the reception centre. In any case, denial on behalf of the asylum seeker to accept the referral to the reception centre results in termination of any assistance.

The above mentioned application requires the mandatory submission of 8 types of documentation for the applicant and each member of their family, before the Social Welfare Services start the examination process.<sup>107</sup> These include: an unemployment card from the District Labour office or medical certificate of inability to work from the Public Healthcare Unit; a rent/lease agreement although the claimant may be homeless; confirmation of school attendance of the dependents; and a confirmation from the Asylum Service that there is no availability at the reception centre to host the claimant. Also, in order for rent to be subsidised, the landlord is expected to submit tax details on the rented property, otherwise asylum seekers can be deprived from their right to secure housing. The obligation to secure the above documentation can impede the access of asylum seekers to material conditions. It should be noted regarding the above prerequisites that currently, in practice, the unemployment card is not required for asylum seekers who have not completed six months from the date of submission of their application for asylum. Also the confirmation that there is no availability at the reception centre to host the claimant by the Asylum Service is often confirmed by direct telephone communication between Welfare Services and the Asylum Service.

- ❖ Systematic delays in examining the application and granting the assistance: Currently, the average processing time of the application for material reception conditions in Social Services is between 1 to 3 months. Between 2011 and 2013, all benefits issued to non-Cypriot welfare beneficiaries were subject to approval by the parliamentary financial committee and this procedure caused drastic delays in the provision of welfare benefits to asylum seekers. Even though this approval requirement no longer exists and Social Welfare Services can determine and issue the allowances for asylum seekers, delays seem to persist due to various administrative difficulties including staff shortage and lack of adequate resources to implement the newly amended Reception Conditions framework. In practice, most delays are regarding the issuance of rent subsidies and the issuance of an allowance to cover electricity, water and minor expenses. The issuance of vouchers is in most cases timely (see Section on Forms and Levels of Material Conditions for more details).
- ❖ Mandatory information on place of residence: In order to submit the application for material assistance a valid residential address must be provided, thus excluding homeless asylum seekers from accessing material assistance. In addition, the practical difficulties of obtaining certain requirements such as a rental agreement and the property's tax details, are not taken into consideration by Welfare Services during the application submission process.

Additionally, it is important to note that in practice, asylum seekers are permanently denied access to material assistance by Social Welfare Services, in instances where they refuse to take up accommodation and material reception conditions offered at the reception centre. This includes vulnerable persons for whom the reception centre is not suitable and may not cover adequately their needs either due to the facilities itself or the fact that it is located in a remote area far from services.

Coverage of material conditions by Welfare Services is terminated when an asylum seeker and/or his or her spouse is deemed "wilfully unemployed", upon referral to a job by the Employment office. A person can be deemed wilfully unemployed in instances where he or she rejects a job offer, regardless of the reason. Such reasons may include not being able to immediately take up work because it is located in a remote place with no transportation available (bus, car etc.), not being able to move to a new property near work due to lack of funds, not being able to secure a written answer from an employer regarding the outcome of a referral, even when it is the employer's fault, not being able to immediately secure childcare due to lack of funds etc.

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<sup>107</sup> Ministry of Labour and Social Insurance, *Application for Material Reception Conditions of Applicants for International Protection* (Αίτηση για Κάλυψη Υλικών Συνθηκών Υποδοχής Σε Αιτητές Διεθνούς Προστασίας), available at: <http://bit.ly/1Sp11tQ>.

All the above apply in the cases of single parent families as well. Usually, two “unjustified” denials of employment are needed to terminate the material assistance provided by the Welfare Services (outside a reception facility). In such cases, the only alternative for the person/family is either to move to the reception centre (if there is a vacancy) or wait for approximately 6 months before being able to apply again to Welfare Services. The exact time of waiting before a new application can be lodged varies between Welfare Officers and the district office where the application is submitted. This is a very common reason for file termination in Welfare Services and according to the Future Worlds Centre experience, the most frequent reason for exclusion from accessing reception conditions by asylum seekers. Currently, and due to the described practices, the vast majority of asylum seekers do not receive any sort of reception conditions or assistance.

## 2. Forms and levels of material reception conditions

### Indicators: Forms and Levels of Material Reception Conditions

1. Amount of the monthly financial allowance/vouchers granted to asylum seekers as of 31 December 2015 (in original currency and in €):

❖ Single adult	€320
❖ Family of 4 or more	€735

Within the framework of the Reception Regulations, material reception conditions refer to accommodation, food, clothing, and a daily allowance. According to the Regulations, material assistance can be provided in kind and/or in vouchers and/or “in another way”, a term that is undefined.

Food and clothing are provided in vouchers, rent allowance is directly payable to landlords and a financial allowance to cover the cost of electricity, water and minor expenses are paid in cheques to applicants. Residents of the reception centre are granted 3 daily meals. The Reception Regulations allow the Welfare Services to cut part of the provision of material conditions if the applicant works or has some resources, following an evaluation of the amount of resources. In practice this is not implemented, as any kind of employment/income leads to the termination of the provision of material conditions by Welfare Services.

The Regulations do not set the amount of material assistance provided to asylum seekers, but only refer to assistance that would “ensure a standard of living adequate for the health of applicants and sufficient to ensure their subsistence”.<sup>108</sup> However, the application form for the provision of material reception conditions as well as the accompanying general information, indicates the level of assistance, which is determined by the Council of Ministers. The detailed breakdown of the amounts granted to asylum seekers are as follows:<sup>109</sup>

Number of persons in the household	Food, clothing and footwear (in voucher)	Rent allowance	Allowance for electricity, water and minor expenses	Total amount of assistance granted
1	€150.00	€100.00	€70.00	<b>€320.00</b>
2	€225.00	€100.00	€95.00	<b>€420.00</b>
3	€300.00	€150.00	€130.00	<b>€580.00</b>
4 and over	€375.00	€200.00	€160.00	<b>€735.00</b>

<sup>108</sup> Regulation 14(1) Reception Regulations.

<sup>109</sup> Ministry of Labour and Social Insurance, *Application for Material Reception Conditions of Applicants for International Protection* (Αίτηση για Κάλυψη Υλικών Συνθηκών Υποδοχής Σε Αιτητές Διεθνούς Προστασίας), available at: <http://bit.ly/1Sp11tQ>.



The needs assessment does not include any special needs (e.g. disability) therefore these are not taken into account. This can be confirmed by the actual “Application for Material Reception Conditions of Applicants for International Protection” and the general requirements, which do not seek for any information on specific needs and/or vulnerable circumstances the applicant and their family may have. According to the law, persons under an accelerated asylum procedure have the same access to material reception conditions, however in practice accelerated procedures are not used.

Prior to the July 2013 amendment to the Reception Regulations, all recipients of social benefits including nationals and asylum seekers received the exact same financial support and this was regulated under the same law, the Public Allowance Law. With this amendment, asylum seekers were excluded from this Law and the allowance provided to them is no longer commensurate with the minimum social support provided to EU citizens. Currently, the amount to cover basic needs for nationals / EU citizens is regulated by the Guaranteed Minimum Income (GMI) law and it is set at €480 (in cash) per month for one person, while the corresponding amount for asylum seekers is €220 (in vouchers and cash).

The foreseen monthly rent allowance for nationals / EU citizens when it comes to a single person or a couple varies between €96.25 and €154, depending on the area the person(s) resides and it is increased to €140-€224 for a family of 3. The exact amount may be further adjusted due to the presence of special needs and the exact composition of the household.

For asylum seekers, rent is set at €100 euro for single persons and couples. It is increased to €150 for a family of 3 and can reach up to a maximum of €200 in case of families of 4 and above, without any further adjustment.

The maximum amount of material assistance for asylum seekers is capped at €735 (out of which €200 is for rent), irrespective of the number of family members. The rent allowance is directly payable to the landlords upon the submission of necessary documentation (e.g. confirmation from Inland Revenue Department). Vouchers for food and clothing can be redeemed at specific local shops located in different cities. In the case of nationals, under the new Guaranteed Minimum Income legislation, rent allowance is also paid directly to landlords. However, they do not receive any part of the allowance in vouchers as asylum seekers do.

The material assistance enumerated in the Reception Regulations is far from sufficient to cover the standard cost of housing in Cyprus. Such inadequacy emerges clearly when looking at the difference between the rent allowance amounts for nationals and asylum seekers, and undermines the obligation to ensure dignified living condition for asylum seekers. Such difference is also evident in the case of the allowances for daily expenses, food and clothing. Indicatively, according to information by UNHCR, the average cost of rent for a one-bedroom apartment is €350-420, for two-bedroom apartments €480- 530 and for three-bedroom apartments €610-630.<sup>110</sup> The maximum amount of €200, irrespective of the number of the applicant’s family members, is inadequate to secure housing.

Asylum seekers are not entitled to any other social benefits granted to nationals such as: grants/benefits under the Ministry of Finance, i.e. child benefits, which are proportional to the number of dependent children in the household, student grants, given to nationals who secure a position in university, the single parent benefit, in cases of single parent households, or the birth benefit given to single mothers if they are not eligible for a similar benefit from the Social Insurance office. Asylum seekers are also excluded from the grants/benefits of the Department for Social Inclusion of Persons with Disabilities, under the Ministry of Labour and Social Insurance, which include various benefits aimed to help

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<sup>110</sup> UNHCR Cyprus, *UNHCR Observations on the Refugee (Reception Conditions) Regulations of the Republic of Cyprus of 2013*, July 2013, available at: <http://bit.ly/1DiHe8g>.

disabled persons. Notably, any special allowance for blind people, mobility allowance, financial assistance schemes for the provision of technical means, instruments and other aids, care allowance schemes for paraplegic/quadruplegic persons etc.

### 3. Types of accommodation

#### Indicators: Types of Accommodation

1. Number of reception centres:<sup>111</sup> 1
2. Total number of places in the reception centres: 400
3. Total number of places in private accommodation: Not available
4. Type of accommodation most frequently used in a regular procedure:  
☒ Reception centre ☐ Hotel or hostel ☐ Emergency shelter ☒ Private housing ☐ Other
5. Type of accommodation most frequently used in an accelerated procedure:  
 Not applicable

Currently there is 1 operating reception centre, at the area of Kofinou in Limassol District, with a maximum capacity of approximately 400 people (depending on the composition of the residents). The reception centre is located in a remote area (around 25km from the nearest city, Larnaca), with absolutely nothing around it except dry fields and sparse trees. It is near a village with a population of approximately 1,300 people. There are bus routes connecting the reception centre with the cities either directly in the case of Larnaca or through regional bus stations from where another bus can be used to reach other destinations.

Most asylum seekers reside in private houses/flats, which they are expected to find on their own.

After the amendment of the Reception Regulations in July 2013, Welfare Services first exhaust the possibility of placing asylum seekers in the reception centre upon their application for assistance. If the referral is impossible, usually due to lack of availability, the Welfare Services bear the responsibility of processing applications and addressing asylum seekers' needs, including the allocation of an allowance to cover housing expenses. The asylum seeker is expected to find accommodation and provide all necessary documentation (see section on [Criteria and Access to Reception Conditions](#)). There are no specific facilities/provisions for asylum seekers who applied at the borders, nor any alternative housing schemes.

Families, single women and traumatised people are placed in the reception centre under the same conditions than all other residents. However, single men and single women are placed in different rooms in distinct sections, while families do not share their living space with others.

Regarding the referral criteria of asylum seekers to the reception centre, the Asylum Service recently announced that families with strong ties to the community will be excluded from the obligation to receive material support in the reception centre. This is yet to be monitored. Currently, if an asylum seeker refuses a referral to the reception centre, regardless the reason (even medical), Asylum Service and Welfare Services will exclude him or her from any future assistance.

<sup>111</sup> Both permanent and for first arrivals.

#### 4. Conditions in reception facilities

##### Indicators: Conditions in Reception Facilities

1. Are there instances of asylum seekers not having access to reception accommodation because of a shortage of places? ☒ Yes ☐ No
2. What is the average length of stay of asylum seekers in the reception centres? Not available
3. Are unaccompanied children ever accommodated with adults in practice? ☒ Yes ☐ No

The main form of accommodation used by asylum seekers is private accommodation secured independently. There are no standards or conditions regulated for rented accommodation in Cyprus. Therefore, asylum seekers living in private accommodation may often be living in appalling conditions, as per reports received by Future Worlds Center. This applies to Cypriots and European nationals as well.<sup>112</sup>

##### Conditions in Kofinou reception centre

The Asylum Service is responsible for the operation and financial management of the **Kofinou** reception centre. A local organisation, the Local Council of Volunteerism of Kofinou (*Συμβούλιο Κοινοτικού Εθελοντισμού Κοφίνου*), is also involved in the daily management of the Centre while some services such as catering are provided by contractors. The responsibility for the overall management of the centre is held by Asylum Service.

Future Worlds Centre has received reports of overcrowding in the past years, when the maximum capacity was approximately 80 persons, but not in a systematic manner. Following its expansion in September 2014, the centre can host about 400 people. At the moment the centre accommodates approximately 120 residents and has not reached its maximum capacity yet.

Kofinou consists of containers (mobile/temporary structure), with rooms designated to sleep 2-4 persons depending on their size. There have been reports of more than 4 members of a family having to reside in one room, but not on a regular basis. Families do not share their rooms, while single persons do. The toilets/bathrooms (separate for single men and single women) are common in 2 detached rooms. Families are placed in containers with 2 rooms (one for each family) where a common en-suite bathroom/toilet is shared. In the cases of a family with many members, both rooms (i.e. the whole container) can be allocated.

According to reports of residents to Future Worlds Centre, the toilets / bathrooms used by single men/women are cleaned twice a day, which is not considered adequate by them, in view of the number of users. Families must clean their own toilets. Residents often complain about shortages in cleaning materials. Complaints of not having enough hot water throughout the day are rare. There are often reports of insects and snakes appearing in the premises, due to the location of the Centre.

Residents are allowed to use common kitchen areas in which there is newly installed equipment. There are 3 meals provided per day, for which Future Worlds Centre sometimes receives complaints regarding the quality, quantity and variety of the food offered. Pork is not served in the centre, although Muslim residents from time to time have expressed their mistrust on whether there is any trace of pork in the food they eat. In cases of sick residents who present a medical report, special dietary arrangements are made.

<sup>112</sup> See e.g. Cyprus Mail, 'Living conditions contributed to death of Romanian mother', 24 January 2014, available at: <http://bit.ly/1O8bM2l>.

The rapid increase of asylum seekers admitted in the centre, following the last sea rescue in September 2015 in combination with planning / coordination flaws on attending such increase, led to a shortage of material supplies, such as clothes, detergents, baby food and sanitation products.<sup>113</sup> Those needs are being covered through donations by individuals, NGOs and other institutions / organisations.

The staff responsible for the operation of the centre includes 6 institutional officers, 3 cleaners and 1 person responsible for technical maintenance. The Asylum Service reports that permanent staff received training occasionally over the past years, through seminars organised by other projects running under the ERF. Those seminars were not specifically designed for the reception facilities staff.

When it comes to specialised services, the composition and the number of professionals varies. A full time social worker offered services until the end of March 2015, while a part time clinical psychologist, 16 nurses and 3 translators – covering fulltime shifts – offered services from April until the end of June. In September and in order to correspond to the simultaneous arrival of 105 persons in the centre, following a sea rescue operation, nurses covering full time shifts were placed and a medical doctor offers services inside the centre, 3 days a week.

Currently, there is no specialised staff providing psycho-social and legal support. Procedures for hiring staff have been initiated by the government and are expected to conclude by the end of 2015. During this period, such services are offered by local NGOs and volunteers.

After the rapid increase of the number of residents in the centre, Future Worlds Center occasionally receives complaints related to the number of staff as well as the quality and efficiency of their interaction and communication.

The frequency and variety of educational / leisure activities offered in the centre fluctuate over the years. During the last period, especially after the sea rescue of refugees and their admission in the centre, a number of activities are organised and implemented by non-governmental actors only, such as NGOs, trade unions, voluntary organisations and individual volunteers. The activities include language courses in Greek and English, cultural and art related activities, integration seminars.

Residents are allowed to go out when they want, provided that they are not out of the centre for prolonged periods of time. There is no special arrangement regarding religious practices of the residents. People visit religious places in the nearby villages/cities. There is no special place for practicing religion inside the Centre.

Over the last year, there have not been any major protests by asylum seekers regarding reception conditions.

There is no specific duration of stay for asylum seekers in the reception centre. As long as the claimant of material reception conditions retains the status of an asylum seeker, he or she may be referred or obliged to stay in the centre. Based on Future Worlds Center's experience, the timeframe for the examination of asylum applications in the first and second instance can be from 6 months to 8 years. Upon the issuance of a negative decision at the administrative appeal, the person is usually notified to make necessary arrangements to depart from Cyprus at once. In that case people are allowed to remain in the reception centre until their removal.

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<sup>113</sup> See also KISA, 'KISA points out serious gaps and dysfunctions in the Reception Center of Kofinou', 10 September 2015, available at: <http://bit.ly/1FSemdX>.

## 5. Reduction or withdrawal of reception conditions

### Indicators: Reduction or Withdrawal of Reception Conditions

1. Does the law provide for the possibility to reduce material reception conditions?  
☒ Yes ☐ No
2. Does the legislation provide for the possibility to withdraw material reception conditions?  
☒ Yes ☐ No

In the case of people not residing in a reception centre and according to the July 2013 amendment to the Reception Regulations, the Social Welfare Service can reject, in full or in part, an application for reception conditions, or can cease in full or in part, the provision of reception conditions, if the applicant is employed and/or has sufficient resources to provide for his or her and his or her family's basic and special needs and for an adequate standard of living from a health perspective. The same applies when concealed financial resources are discovered or if a person is deemed as wilfully unemployed by the labour office and/or Welfare office.<sup>114</sup> Being considered wilfully unemployed is one of the most frequent reasons for exclusion from Welfare aid. A person can be deemed wilfully unemployed upon any refusal of an employment offer, even if there is total lack of transportation to/from the workplace, inability to pay for child care in order to attend work etc.

For people who are found to have concealed details about their financial situation, usually, there is no other action taken on behalf of the Welfare Services, apart from the closure of their file. In the past, there were cases where overpaid amounts were deducted from the benefits provided in the future, however such practices are very rare at present.

Reception conditions can be rejected or withdrawn if an applicant's place of residence has been determined by a decision issued by the Minister of Interior for reasons of public interest or public order when necessary for the swift processing and effective monitoring of the person's application and such a decision has been breached. The ground of not lodging an application "as soon as reasonably practicable", under Article 20(2) of the recast Reception Conditions Directive, is not applied.

Refusal to move into the reception centre, upon referral by Asylum Service or Welfare Services, leads to permanent exclusion from any other type of material assistance (i.e. assistance offered by the Welfare Services, outside of the reception facility) regardless the reason of the denial. The applicant's only choice is to decide to enter the reception facility. The only exception to this practice was announced recently by the Asylum Service and it involves families with strong ties in the community (see section on Types of Accommodation). This is yet to be monitored.

Regarding partial restriction of reception conditions, the only case involves persons not residing in a reception centre, and in particular persons receiving aid from welfare services. For those people, rent allowance can be rejected if they are not able to submit all the required documents regarding the property they are renting. That means that they can receive vouchers and money for electricity, bills and daily expenses, but not rent.

Decisions revoking Welfare aid are often, but not always, communicated in writing, without providing detailed information on the reasons. The assessment is performed by Welfare Officers. Although the decision can be appealed before the Supreme Court as with any administrative decision, in view of the lack of legal aid for such cases it is extremely difficult to challenge in practice and to date no such case has been brought before the Supreme Court.

People who have lost access to reception conditions because of their refusal to move to the reception centre cannot regain access, unless they decide to move into a centre. For people who have been

<sup>114</sup> Ministry of Labour and Social Insurance, *Application for Material Reception Conditions of Applicants for International Protection*, Section 4: Termination of assistance.

rejected by Welfare Services and are not referred to a reception centre (not a frequent scenario), there is no uniform policy on when they will be able to have access again to reception conditions. Often, a 6-month ban is applied but this varies between welfare officers and cities. For any of the decisions described above, there is no assessment regarding the risk of destitution.

People who reside in reception centres can be evicted if they do not comply with the centre's operation rules, as described in the Reception Regulations.

There has not been any limitation to the provision of reception conditions in relation to large numbers of arrivals.

## 6. Access to reception centres by third parties

### Indicators: Access to Reception Centres

1. Do family members, legal advisers, UNHCR and/or NGOs have access to reception centres?

☒ Yes

☐ With limitations

☐ No

Article 19(1) of the Reception Regulations allows relatives, legal advisors, representatives of UNHCR, NGOs and independent authorities to communicate with the residents of the reception centre. The visits of any of the official bodies must be notified to the Asylum Service. Visitors are required to register at the entrance of the reception centre. There is no limitation in the number of visits each asylum seeker can have.

Asylum seekers residing in the reception centre are permitted to communicate with legal advisors, UNHCR or any other governmental and non-governmental bodies – either via phone or through physical visits to their offices. However, given the remote location of the reception centre, transportation to the major cities including Nicosia is often inconvenient and the public transportation vouchers offered by the administration of the reception centre is subjected to justifications (e.g. limitations may apply if the visit concerns non-governmental sectors/personal visits). Asylum seekers residing in reception centre usually rely on their personal mobiles for communication.

## 7. Addressing special reception needs of vulnerable persons

### Indicators: Special Reception Needs

1. Is there an assessment of special reception needs of vulnerable persons in practice?

☐ Yes

☒ No

There are no specific procedures or mechanisms to identify vulnerable persons and address their specific reception needs. The Refugee Law is currently being amended (see [Annex](#)) and it is expected that the categories considered as vulnerable will be extended to those mentioned in Article 21 of the recast Reception Conditions Directive, thereby to cover:

“[M]inors, unaccompanied minors, disabled people, elderly people, pregnant women, single parents with minor children, victims of human trafficking, persons with serious illnesses, persons with mental disorders and persons who have been subjected to torture, rape or other serious forms of psychological, physical or sexual violence, such as victims of female genital mutilation.”

The current definition in Article 18(6) of the Refugee Law includes children, unaccompanied children, persons with special needs, elderly people, pregnant women, single parents with children, victims of human trafficking, persons with mental disorders and persons who have been subjected to torture, rape or other serious forms of psychological, physical or sexual violence.

In practice, special needs and vulnerabilities might be identified during people's contact with the Welfare Services and during the refugee status determination procedure by the Asylum Service and this may lead to some basic referrals to public health services. Contact with local NGOs is also a route of addressing special needs and vulnerability,

Unaccompanied children who have applied for asylum are not placed in the reception centre and are referred to shelters for children run by the State. There have been a few cases of unaccompanied children being placed in foster families or with other adults on a temporary basis, though this is rare.<sup>115</sup> There are no reported instances of potential children placed into common accommodation with adults while undergoing age assessment.

There is no specific set of measures for preventing gender-based violence in the Kofinou reception centre, either at the legislative level or in practice.

Regarding family unity, overall efforts are made to keep families together. Prior to the recent amendment of the Reception Regulations in July 2013, this was ensured in the regulations, whereas this provision has now been removed. There is no evidence of this provision being implemented yet. When it comes to welfare services and reception centres, families are treated as an entity.

For the purpose of receiving proper education, the needs of children with disabilities are identified and assessed by the Ministry of Education in the context of their obligation towards children with special needs.

## 8. Provision of information

In accordance with the Reception Regulations,<sup>116</sup> the Asylum Service is obliged to ensure that all asylum seekers are given access to information regarding the asylum procedure, their rights to access material reception conditions, organisations/services offering legal and social assistance to asylum seekers as well as their legal obligations so as they can maintain their legal status. This information should be provided in the form of a booklet/leaflet in a language the applicant can understand.

In practice, the only information available and provided to asylum seekers is that described in the section Information for asylum seekers and access to NGOs and UNHCR. Residents of the reception centre are currently provided with a leaflet by the Asylum Service regarding the Dublin Regulation.

There is no leaflet/information booklet available at the District Welfare offices and District Labour Offices concerning the access of asylum seekers to material assistance and employment. Information concerning employment can be found only on the site of the Labour Department of the Ministry of Labour and Social Insurance.<sup>117</sup>

## 9. Freedom of movement

### Indicators: Freedom of Movement

1. Is there a mechanism for the dispersal of applicants across the territory of the country?  
☐ Yes ☒ No
2. Does the law provide for restrictions on freedom of movement? ☒ Yes ☐ No

<sup>115</sup> Commissioner for the Protection of Children's Rights, *Report of the Commissioner for Children's Rights in Cyprus to the UN Committee on the Rights of the Child – Supplementary Report to the 3rd and 4th Periodic Report of Cyprus*, September 2011, available at: <http://bit.ly/1HwkyWf>, 33.

<sup>116</sup> Article 4 Reception Regulations.

<sup>117</sup> Ministry of Labour and Social Insurance, *Employment of Asylum Seekers*, available at: <http://bit.ly/1CFH2p2>.



The 2013 amendment to the Refugee Law restricts the freedom of movement of asylum seekers to areas controlled by the RoC. Therefore asylum seekers cannot cross the “green line” to the Northern areas not under the control of the RoC, although other third-country nationals who are legally in Cyprus either as visitors or under some form of residence, employment or student permit do have the right to cross.

The Minister of Interior may restrict freedom of movement within the controlled areas as well, and after the amendment to the Reception Conditions Regulations in 2013, the Minister of Interior may also decide on the area of residence of asylum seekers for reasons of public interest or order.<sup>118</sup>

Asylum seekers currently reside where they choose, as to date there have been no decisions issued by the Minister of Interior appointing the area of residence of asylum seekers for reasons of public interest or order. They are obliged to report any changes of living address to the authorities within 3 days; if they fail to do so, they are considered to have withdrawn their asylum application. There is no legislative differentiation regarding the provision of material conditions based on the area of residence.

So far, the only dispersal scheme was performed in 2011 with regard to Palestinians from Iraq who were residing in Larnaca. It was conducted by the Asylum Service aiming at the geographical dispersal of both beneficiaries of international protection and asylum seekers residing in the city.<sup>119</sup> The community of Palestinians from Iraq included around 2,000 persons at that time, of which a small number of people was working. Following intense public debate concerning the allowances granted to asylum seekers/refugees and in the absence of a coherent and effective integration policy, the authorities asked Palestinians to move to other cities (mainly Nicosia and Limassol). The goal was to increase the chances of the refugee population to secure employment and to release the pressure felt by part of the local Cypriot community which was showing signs of intolerance towards that particular group. There is no clear information on whether this scheme actually led to increased employment opportunities for those refugees.

## B. Employment and education

### 1. Access to the labour market

#### Indicators: Access to the Labour Market

1. Does the law allow for access to the labour market for asylum seekers? ☒ Yes ☐ No  
     ❖ If yes, when do asylum seekers have access the labour market? 6 months
2. Does the law allow access to employment only following a labour market test? ☒ Yes ☐ No
3. Does the law only allow asylum seekers to work in specific sectors? ☒ Yes ☐ No  
     ❖ If yes, specify which sectors: Agriculture, fishery, manufacture, waste management, trade repairs, cleaning industry, food delivery et al.
4. Does the law limit asylum seekers' employment to a maximum working time? ☐ Yes ☒ No  
     ❖ If yes, specify the number of days per year
5. Are there restrictions to accessing employment in practice? ☒ Yes ☐ No

<sup>118</sup> Regulation 8(1)(b) Reception Regulations.

<sup>119</sup> European Migration Network (EMN), *The Organisation of Reception Facilities for Asylum Seekers in the different Member States: Cyprus*, 2013, available at: <http://bit.ly/1f71AM1>; UNHCR Cyprus, *The needs of refugees and the integration process in Cyprus*, May 2013, available at: <http://bit.ly/1HAdoOE>, 97.



According to the Article 11 of the Reception Regulations, asylum seekers are permitted to access the labour market after a certain period of time following the submission of an asylum application, determined by the Minister of Interior, in consultation with the Minister of Labour and Social Insurance. Asylum seekers can currently access to employment 6 months after the submission of an asylum application.<sup>120</sup> Article 12(2) of the Reception Regulations also affords the Council of Ministers the power to restrict the sectors of employment available for asylum seekers, and such a restriction was introduced in 2008.<sup>121</sup>

The occupations in these specific sectors are at the low end of the Cypriot labour market and are very low paid. The Ministry of Labour and Social Insurance is the competent authority to facilitate and regulate the access of asylum seekers to the labour market. Any asylum seeker seeking employment can register at a District Labour Office. Asylum seekers can obtain employment either through a referral from the District Labour Offices or through personal initiative. The most common jobs offered to asylum seekers are in farming and agriculture.

The permitted fields of employments for asylum seekers are the following:<sup>122</sup>

Sectors of labour market	Permitted occupations
Agriculture; animal husbandry; fishery	Labourers
Manufacture	Forage productions labourers
Waste management	Drainage and waste processing labourers Garbage and trash collection and processing labourers Recycling labourers Animal Waste Processing labourers
Wholesale trade-repairs	Gas stations and carwash labourers Freight handlers of wholesale trades
Other fields	Building and outdoors cleaners Distributors of advertising and informative materials Food delivery

Job referrals are usually given on a form along with the details of potential employers. Applicants are required to contact them directly, and the employer is expected to provide a written report on the outcome of the meeting. The form does not provide space for the asylum seekers' statements on the outcome of the meeting, including, for instance, the reasons why it was not possible for the asylum seeker to be offered the job. Candidates need to report to the Labour Office following their contact with employers. If employment is secured, a contract needs to be signed and stamped by the District Labour Office. All employers recruiting asylum seekers are required to be authorised by the Labour Department to employ third-country nationals.

The terms and conditions, including remuneration of the occupations in animal farming and agricultural sectors is regulated based on the Collective Agreement of Agriculture and Animal Farming. At present, the salary is €455 (gross) per month. Accommodation and food may be provided by the employer. The salary may increase up to €769 per month if the employee is considered to be skilled for the position, or if there is a specific agreement with a trade union. However, in practice, asylum seekers are employed

<sup>120</sup> Ministerial Decision under Regulation 11(1) of the Reception Conditions Regulations of 2005, Government Gazette, Annex 3, Part 1, 12 October 2007 (Απόφαση δυνάμει του Κανονισμού 11(1) των Περι Προσφύγων (Συνθήκες Υποδοχής Αιτητών) Κανονισμών του 2005, Επίσημη Εφημερίδα της Δημοκρατίας, Παράρτημα Τρίτο, Μέρος 1, 12 Οκτωβρίου 2007).

<sup>121</sup> Ministerial Decision under Regulation 12(2) of the Reception Conditions Regulations of 2005, Government Gazette, Annex 3, Part 1, 10 October 2008 (Απόφαση δυνάμει του Κανονισμού 12(2) των Περι Προσφύγων (Συνθήκες Υποδοχής Αιτητών) Κανονισμών του 2005, Επίσημη Εφημερίδα της Δημοκρατίας, Παράρτημα Τρίτο, Μέρος 1, 10 Οκτωβρίου 2008).

<sup>122</sup> Ministry of Labour and Social Insurance, *Employment of Asylum Seekers*, available at: <http://bit.ly/1CFH2p2>.

as unskilled labourers and in businesses where there is no presence of unions. Therefore, their wages remain at minimum levels.

Additionally, all applicants and recipients of material reception conditions, who are physically and psychologically able to take up employment are required to be registered as unemployed, after the initial 6 months period and show that they are actively seeking employment. A labour card is issued to the asylum seekers and their unemployment status is confirmed either on a monthly or bi-monthly basis.

There is no formal limitation of working hours. The standard remuneration for farms and agricultural jobs is set for 80 working hours per fortnight, spread over 6 working days a week.

In practice, asylum seekers face significant obstacles in accessing the labour market and the problem intensified even more in 2013 following the financial crisis. The major obstacles are the following:

- ❖ Low wages and lack of supplementary material assistance: This is particularly problematic for asylum seekers with families. Remuneration from employment in agriculture and animal farming is highly insufficient to meet the basic needs of a family. Labour conditions such as taking up accommodation at the place of work often lead to splitting up the family. These jobs are often offered to single parents with young children without taking into consideration the care of children or possible supplementary assistance for childcare support.
- ❖ Distance and lack of convenient transportation: Given the nature of employment that asylum seekers are permitted to take up, workplaces are often situated in remote rural regions and working hours may start as early as 4 or 5am. Asylum seekers have reported difficulties in commuting to these workplaces using low-cost transportation (e.g. public buses). Remuneration does not cover travel expenses.
- ❖ Language barriers: Lack of communication skills in Greek and English often impede the efficient communication between officials of Labour Offices as well as potential employers. Many asylum seekers are unable to understand their prospective employers' opinion during meetings and/ or the employers' opinions on their job referral forms.
- ❖ According to the experience of Future Worlds Centre, there is a lack of interest from employers in the agricultural and farming sectors in employing asylum seekers. In fact, many employers in these sectors often prefer to employ third-country nationals who arrive in the country with an employment permit and are authorised to work for a period up to 4 years. In order to receive a license for the employment of third-country nationals, an employer is required to register at the Labour Office in addition to actively seeking for employees locally, nationally or within the EU.<sup>123</sup> As asylum seekers are referred to them by the Labour Office, the employers may try to avoid recruiting them, hoping that if they do not hire an asylum seeker, they will be able to invite/hire other workers on a working visa. Thus, they may often place the responsibility of refusing the employment on the asylum seekers.
- ❖ Lack of gender and cultural sensitivity in the recruitment procedure: Female asylum seekers often face difficulties accessing employment for reasons related to cultural barriers. For example, many Muslim women have never worked before and especially when it comes to the conditions in the sectors of agriculture and animal farming (remoteness, staying overnight, male dominated work spaces) there is a need for gradual and facilitated transition to employment. Women from Muslim backgrounds wearing visible symbols of their religious identity (e.g. hijab/

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<sup>123</sup> Circular on the Strategy for the employment of third-country nationals (Στρατηγική για την Απασχόληση Αλλοδαπών), May 2008, available at: <http://bit.ly/1LbedON>.

niqab) report to have faced difficulties accessing the labour market, as in some cases, they were considered as unable to maintain employment due to their attire.<sup>124</sup>

According to Article 13(1) of the Reception Regulations, asylum seekers are permitted to take part in vocational training programmes providing they are relevant to the permitted sectors of employment for asylum seeker, unless otherwise authorised by the Minister of Labour. In practice, there are no professional training schemes available in these specific sectors.

## 2. Access to education

### Indicators: Access to Education

- |  |   |
|--|---|
| 1. Does the law provide for access to education for asylum-seeking children? | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| 2. Are children able to access education in practice?                        | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |

The Reception Regulations stipulate that all asylum seeking children have access to education under the same conditions that apply to Cypriot citizens, immediately after applying for asylum and no later than 3 months from the date of submission.<sup>125</sup> In practice, the vast majority of children access public education, However as there is no systematic monitoring of children's registration at school, there have been cases of children remaining out of the education system for more than 3 months, mainly for reasons related to difficulty of families accessing certain schools, lack of information/timely arrangements, limited schools' capacity at a given period to accommodate additional students etc. Children residing in reception centres also attend regular schools in the community.

According to the Reception Regulations, students are not restricted from attending secondary education for the sole reason of reaching a certain age limit.<sup>126</sup> New students who are over 18 years but have not completed 3 years of secondary education (gymnasium) have been recently denied access technical / vocational schools by the Ministry of Education. The exact practice is under monitoring.

The age of students and their previous academic level is taken into consideration when deciding the grade where they will be registered. Classes at public schools are taught in Greek. Should they wish to attend a private school (usually for reasons of attending courses in English) it is possible at their own cost. The provisions for children asylum seekers are the same as for every non-Greek speaking student. In order to deal with the language barrier, the Ministry of Education announced the formulation of "transitional classes" for non-Greek speakers in the first 3 years of secondary education (gymnasium) where 18 hours of Greek per week will be provided. In the last 3 years of secondary education (lyceum) 4 extra hours of Greek will be provided.

Students are expected to succeed in the final exams in order to proceed to the next grade Students at the age of 15 and above may also attend evening Greek classes offered by the Ministry of Education in the community through a life-learning scheme (Adult Education Centres).

Linguistic and cultural barriers are still significant obstacles for young students, especially those entering secondary education. Transportation to school is still an issue of concern recently due to the introduction of fare charges for students. Considering the very limited resources allocated to asylum seekers' families after the financial crisis this presents a significant challenge. Currently the most frequently reported obstacle in accessing education is the difficulty covering everyday expenses of the children (transportation, food, clothes etc.)

<sup>124</sup> Based on information provided by Future Worlds Center.

<sup>125</sup> Article 10(1) Reception Regulations.

<sup>126</sup> Article 10(2) Reception Regulations.

Since there is no preliminary monitoring or assessment of the vulnerability of the children, special needs of students are usually evaluated and taken into consideration by the Ministry of Education upon registration into schools, and sometimes through the intervention of NGOs. Depending on the nature and the seriousness of the disability, different arrangements are offered. The available schemes by the Ministry of Education for students with special needs are: placement in a regular class and provision of additional aid; placement in a special unit which operates within the regular school; placement in a special school (for more severe cases); placement in alternatives to school settings.

Adequately assessing the needs of children is time-consuming, and in addition there is often the need to receive important treatments (physiotherapy, occupational therapy, speech therapy) outside of the school context (in public hospital or privately). There are often delays in accessing these services.

In the case of unaccompanied and separated children who reside in the youth homes under the guardianship of Welfare Services, a special educational programme operates, focusing on Greek and English language acquisition.

### C. Health care

#### Indicators: Health Care

1. Is access to emergency healthcare for asylum seekers guaranteed in national legislation?  
☒ Yes      ☐ No
2. Do asylum seekers have adequate access to health care in practice?  
☐ Yes      ☒ Limited      ☐ No
3. Is specialised treatment for victims of torture or traumatised asylum seekers available in practice?  
☐ Yes      ☒ Limited      ☐ No
4. If material conditions are reduced or withdrawn, are asylum seekers still given access to health care?  
☒ Yes      ☐ Limited      ☐ No

According to the Reception Conditions Regulations,<sup>127</sup> asylum seekers without adequate resources are entitled to free medical care in public medical institutions covering at minimum emergency and essential treatment. Welfare beneficiaries and residents in the reception centre are explicitly eligible for free medical care and in that respect they have access to free health care under the same provisions which apply to citizens. The Regulations do not specify the level of resources needed to receive free medical care in the case of asylum seekers not receiving welfare assistance.

The Regulations make provision for identifying of the needs of vulnerable groups, including victims of torture,<sup>128</sup> and access to appropriate care. However, in practice, there are no specialised facilities or services, except for the ones available to the general population within the public health care system. Currently, there is only one NGO (Future Worlds Center) offering specialised social and psychological support to victims of torture, operating through the funds of United Nations Voluntary Fund for the Victims of Torture (UNVFVT).<sup>129</sup>

In order for the Ministry of Health to issue the necessary document granting access to health care (hospital card) a welfare dependency report (indicating a lack of resources), is usually needed. As currently there are many asylum seekers who do not receive welfare assistance (see section on Criteria

<sup>127</sup> Article 15 Reception Regulations.

<sup>128</sup> Regulation 26(1) Reception Regulations. There is no specific reference to people with mental health problems, as the provision of the recast Reception Conditions Directive is not yet transposed into national legislation.

<sup>129</sup> For more information see Future Worlds Center, UNVFVT, available at: <http://bit.ly/1HQVYfJ>.

and Access to Reception Conditions). Some people have reported difficulties securing a hospital card. However, this is not a widespread problem as in practice most asylum seekers receive their hospital card without inquiry into their resources.

One important change regarding access to health care is the introduction in August 2013 of charges to the health care system as a result of the financial crisis. Even asylum seekers who hold a hospital card (therefore proving that they lack resources) need to pay €3-6 in order to visit a doctor and an additional €0.50 for each medicine/test prescribed, with a maximum charge of €10. As for emergency care, it remains free for holders of medical cards, otherwise it costs €10.

Asylum seekers who need to receive essential treatment which is not available in the RoC are not included in the relevant scheme recently introduced by the Ministry of Health transposing the Directive on patients' rights in cross-border healthcare. In practice, however, the Ministry has covered the costs, upon approval of the Minister of Health, for several cases of children asylum seekers to receive medical treatment outside the country.

In a number of cases, asylum seekers reported to Future Worlds Center that they faced racist behaviour from medical staff, often in relation to their poor Greek language skills and the reluctance of the latter to communicate in English.

## Detention of Asylum Seekers

### A. General

#### Indicators: General Information on Detention

1. Total number of asylum seekers detained in January-September 2015: <sup>130</sup>	100
2. Number of asylum seekers in detention as of 17 November 2015: <sup>131</sup>	33
3. Number of detention centres:	1
4. Total capacity of detention centres:	256

In Cyprus, the majority of asylum seekers are not systematically detained. In cases where they are, they are not detained under the provisions of the Refugee Law, but under the provisions of the Aliens and Immigration Law.<sup>132</sup> According to these provisions, detention can be issued if a person is declared a “prohibited immigrant”<sup>133</sup> or for the purpose of return,<sup>134</sup> under the provisions that transpose the Return Directive.<sup>135</sup>

The only official number available from authorities is the number of asylum seekers who have applied for asylum in detention. In January-September 2015, 100 applications were submitted from detention, in 134 in 2014 and 118 in 2013. There are no official numbers available for the total number of asylum seekers who were detained the previous year. However, with the implementation of the new policy described below, combined with biweekly monitoring of the detention centre,<sup>136</sup> it is clear that the number of asylum seekers detained in 2015 is close to the number of applications submitted from detention.

As of 28 January 2013, a newly built detention centre, “**Menogia**”, in the district of Larnaca, started operating with the purpose to detain irregular migrants. However, it is also used for the detention of asylum seekers. The official capacity of Menogia is 256 persons, and since operating, there have been no issues of overcrowding. In addition to the centre, third-country nationals can also be held temporarily in police stations, until being transferred to Menogia. The period of time they are held in these holding cells can be anywhere from days up to 3-4 months, however in 2015 an improvement was noted with the majority of cases being transferred to Menogia within days. The overall capacity of the holding cells is estimated to be of 60-70 people.

Up to the end of 2014, asylum seekers whose applications were pending at all stages of the procedure could be detained.

In September 2014, a new policy regarding the detention of asylum seekers was initiated, according to which the majority of asylum seekers detained are only those who submit an application after they have been arrested and detained. In most cases, such persons have been arrested for irregular stay or for a criminal offence and apply for asylum once they are in prison or detention. Under the previous policy asylum seekers were arrested for irregular entry or stay, regardless of whether it was clear that the intention was to apply for asylum (e.g. persons from Syria) and even if they had been in the country for a few days. Under the new policy, there has been sufficient improvement in this area and in the majority

<sup>130</sup> Estimation based on the new policy to only detain persons lodging an application from detention.

<sup>131</sup> According to the management of the detention centre on 17 November 2015 there were 33 asylum seekers in detention, not including rejected asylum seekers.

<sup>132</sup> Article 6 Aliens and Immigration Law.

<sup>133</sup> Article 14 Aliens and Immigration Law.

<sup>134</sup> Article 18ΠΣΤ Aliens and Immigration Law.

<sup>135</sup> Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals, OJ 2008 L348/98.

<sup>136</sup> Based on biweekly monitoring of Menogia by NGO Future Worlds Center.

of such cases asylum seekers are not detained even if undocumented, as long as they present themselves without undue delay.

Under the previous policy and practice, an asylum seeker who was convicted for any offence was declared a “prohibited immigrant” and was detained as such, even if the asylum application was still pending. In the last year it has been noted that such convictions do not lead to detention.<sup>137</sup> Also under the previous policy and practice, Dublin returnees were detained regardless of personal circumstances or the status of their asylum applications. The new policy and practice makes no reference to Dublin returnees, however in practice Dublin returnees whose final decision is pending are not detained but instead are transferred to Kofinou Reception Centre. For Dublin returnees who have a final decision, it is expected that they will be detained upon return but since the policy has been implemented there has been no such case to indicate the policy followed.<sup>138</sup>

However, the 2014 policy does not apply to persons appealing before the Supreme Court. Asylum seekers waiting for a decision by the Supreme Court on their appeal against the rejection of their asylum application are detained even though according to the Refugee Law the decision issued by the Supreme Court is the final decision on the asylum application and the status of asylum seeker is maintained up to this decision.<sup>139</sup> The authorities continue not to consider the aforementioned as asylum seekers and detain them as failed asylum seekers. This is expected to change with the transposition of the recast Asylum Procedures Directive and the operation of the new Administrative Court (see section on Regular Procedure: Appeal).

The number of detained asylum seekers since the implementation of the new policy has gradually increased. When the policy was first implemented, the number of asylum seekers in detention were documented at 2-5.<sup>140</sup> From March 2015 and onwards the number of detained asylum seekers appears to be stable at 18-20, with 22 as the maximum number of detainees.

## B. Legal framework of detention

### 1. Grounds for detention

#### Indicators: Grounds for Detention

1. In practice, are most asylum seekers detained
  - ❖ on the territory: ☐ Yes ☒ No
  - ❖ at the border: Not applicable
2. Are asylum seekers detained in practice during the Dublin procedure? ☐ Frequently ☒ Rarely ☐ Never
3. Are asylum seekers detained during a regular procedure in practice? ☐ Frequently ☒ Rarely ☐ Never

#### Asylum detention

<sup>137</sup> Based on information provided by NGO Future Worlds Center that carries out weekly visits to the Menogia detention centre.

<sup>138</sup> Based on information provided by NGO Future Worlds Center that carries monitoring visits to the Kofinou Reception Centre.

<sup>139</sup> Article 2(1), Refugee Law. See the definition of “applicant”, read in conjunction with the definition of “final decision”.

<sup>140</sup> Based on biweekly monitoring of Menogia by NGO Future Worlds Center.

According to the Refugee Law,<sup>141</sup> asylum seekers who enter or have entered the Republic of Cyprus (RoC) irregularly should not be detained solely for their irregular entry or stay, provided that they present themselves without “undue delay” to the authorities and explain the reasons for their irregular entry. Detention under the Refugee Law is permitted on two grounds:

- (1) To establish the applicants’ nationality or identity if they have destroyed or falsified their personal documents and do not reveal their real identity during the submission of their asylum application; and
- (2) To examine new elements in the application after the claim has been refused at the initial stage and at appeal level and a deportation order has been issued.

### **Detention of “prohibited immigrants”**

The Aliens and Immigration Law provides that a person can be detained if declared a “prohibited immigrant” and provides 13 instances under which a person may be declared a “prohibited immigrant”. Out of these 13 instances, the ones that are most commonly applied to asylum seekers are the following:

- (a) When a person is deported from the RoC;<sup>142</sup>
- (b) When a person enters or remains in the RoC in breach of any prohibition, terms, restrictions or reservations included in the Aliens and Immigration Law, or any Regulations issued based on that Law, or any permit issued based on that Law or Regulations;<sup>143</sup>
- (c) Where a person is considered a prohibited immigrant based on the provisions of the Aliens and Immigration Law.<sup>144</sup>

According to the Aliens and Immigration Law, a “prohibited immigrant” found in the RoC is guilty of a criminal offence and is subject to imprisonment for period that does not exceed 3 years or to a fine which does not exceed 5,000 Cypriot pounds (approx. €8,500), or to both imprisonment and a fine.<sup>145</sup> The Law also foresees the offences of entering the RoC on a temporary permit and remaining beyond the expiration of that permit;<sup>146</sup> remaining in the RoC on a permit and violating any conditions of that permit or taking on any form of work without the necessary permit;<sup>147</sup> and violating a condition or restriction imposed by the Aliens and Immigration Law or the Refugee Law.<sup>148</sup>

With the new policy only persons convicted of an offence before they have applied for asylum are declared a “prohibited immigrant” and a detention and deportation administrative order is issued. Once the person applies for asylum, the deportation order is suspended but the detention order is not, and the fast-track examination as described above will be implemented.

### **Detention for the purpose of removal**

Asylum seekers can also be detained under separate provisions of the Aliens and Immigration Law that transpose the Returns Directive,<sup>149</sup> for the purpose of return, although the return order is suspended until the asylum application has been decided on. These provisions do not apply to persons subject to a return decision as a criminal law sanction or as a consequence of a criminal sanction; in such cases they will be detained as a “prohibited immigrant”, as described above.

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<sup>141</sup> Article 9 Refugee Law.

<sup>142</sup> Article 6(1)(θ) Aliens and Immigration Law.

<sup>143</sup> Article 6(1)(κ) Aliens and Immigration Law.

<sup>144</sup> Articles 6(1) and 14(1)(μ) Aliens and Immigration Law.

<sup>145</sup> Article 19(2) Aliens and Immigration Law.

<sup>146</sup> Article 19(λ) Aliens and Immigration Law.

<sup>147</sup> Article 19(κ) Aliens and Immigration Law.

<sup>148</sup> Article 19(v) Aliens and Immigration Law.

<sup>149</sup> Article 18ΠΣΤ Aliens and Immigration Law.



In practice, in the majority of cases asylum seekers are detained based on the “prohibited immigrant” provisions and not the provisions transposing the Returns Directive. As a result, many provisions upon which detention could be challenged do not apply, such as the lack of reasonable prospect of return or the 18 month maximum detention limit under the Returns Directive.

The UN Committee against Torture has confirmed that:

“[I]n the majority of cases asylum seekers are detained under the Aliens and Immigration Law as undocumented immigrants, or for minor offences, and will remain detained for protracted periods of time during the whole status determination procedure.”<sup>150</sup>

The administrative orders for the detention of asylum seekers are issued by the Civil Registry and Migration Department (CRMD), which is under the Ministry of Interior and is responsible for the removal of persons with irregular status. The Asylum Service does not issue such orders and can only recommend an asylum seeker is released.

The decision to detain is not based on an assessment of the asylum seeker’s individual circumstances. There is no assessment regarding the risk of absconding and the CRMD, issues detention and deportation orders simultaneously, without considering less restrictive alternatives to immigration detention. This applies for all detainees including asylum seekers whose case is still After a visit to Cyprus in 2014, Amnesty International stated that the authorities “routinely detain hundreds of migrants and asylum seekers in prison-like conditions for extended periods’ and detention is automatic, without implementing the required safeguards or offering alternatives to detention.”<sup>151</sup> UNHCR commented that the administrative detention of asylum seekers as presented in the Amnesty International report requires immediate resolution and noted that the detention of asylum seekers on account of their unauthorised entry or presence in the country of asylum should in principle be avoided and used only in exceptional circumstances.<sup>152</sup> Although sufficient improvement has been noted in relation to the numbers of detained asylum seekers with the implementation of the new policy, the lack of alternatives as well as the duration of detention, especially in cases that are pending before the Supreme Court, are still an issue.

Asylum seekers are mainly detained on the territory. As Cyprus is an island there are no external borders and asylum seekers are rarely detained at entry points (ports, airports). The vast majority of asylum seekers enter Cyprus through the territories in the north (see section on Registration of the Asylum Application). But as the “green line” between them is not considered a border, there are no official “entry points”. There are no detention facilities near the green line.

According to Article 11(B)(2) of the Refugee Law, during the determination procedure to identify the Member State responsible under the Dublin Regulation, the person is considered to be an asylum seeker. In practice if a person arrives in Cyprus and there is a possibility that another Member State is the responsible state then they are considered an asylum seeker and enjoys all such rights and will not be detained for this reason alone.. Under the previous policy Dublin returnees were detained regardless of personal circumstances or the examination stage of their asylum claim. Under the new policy there is no reference or information on this. However in practice Dublin returnees whose final decision has not been issued yet are not detained but instead are transferred to Kofinou Reception Centre. For Dublin returnees who have a final decision it is expected that they will be detained upon return however currently there is no such case to indicate the policy.<sup>153</sup>

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<sup>150</sup> UNCAT, *Concluding Observations on the Fourth Report of Cyprus*, 21 May 2014.

<sup>151</sup> Amnesty International, ‘Cyprus: Abusive detention of migrants and asylum seekers flouts EU law’, Press Release, 18 March 2014, available at: <http://bit.ly/1CFO1OL>.

<sup>152</sup> UNHCR, *UNHCR’s comments on new report on Cyprus by Amnesty International*, 20 March 2014, available at: <http://bit.ly/1CJiL16>.

<sup>153</sup> Based on monitoring visits carried out by NGO Future Worlds Center to the Kofinou reception centre.

In the case of the admissibility procedure for subsequent applications / new elements, the Refugee Law permits for detention during the examination of the admissibility of a subsequent application or new elements, however as mentioned above these provisions are never used. Instead in such cases persons can be detained under the Aliens and Immigration Law as a “prohibited immigrant”. In practice during this admissibility procedure, persons will not necessarily be detained but if they are already in detention they will remain in detention or if apprehended by the police for any reason, as they do not have a status at this stage, they will most likely be arrested and detained.

## 2. Alternatives to detention

### Indicators: Alternatives to Detention

1. Which alternatives to detention have been laid down in the law?
  - ☐ Reporting duties
  - ☐ Surrendering documents
  - ☐ Financial guarantee
  - ☐ Residence restrictions
2. Are alternatives to detention used in practice? ☐ Yes ☒ No

Only rarely and under special circumstances are detainees released, and there is no formal criteria for such a decision, it is left to the absolute discretion of the authorities. Although the Aliens and Immigration Law refers to alternatives to detention and states that detention is used as a last resort, alternatives to detention are not listed. The Refugee Law is currently under amendment and includes a list of alternatives to detention (see [Annex](#)). There are no guidelines or procedures in place to examine the necessity and proportionality of detention in order to determine if it is the last resort.

## 3. Detention of vulnerable applicants

### Indicators: Detention of Vulnerable Applicants

1. Are unaccompanied asylum-seeking children detained in practice?
  - ☐ Frequently
  - ☒ Rarely
  - ☐ Never
- ❖ If frequently or rarely, are they only detained in border/transit zones? ☐ Yes ☒ No
2. Are asylum seeking children in families detained in practice?
  - ☐ Frequently
  - ☐ Rarely
  - ☒ Never

The Refugee Law prohibits the detention of all asylum-seeking children. Under the Aliens and Immigration Law, there are no provisions relating to the detention of children, except for those that transpose the Returns Directive, according to which children can be detained as a last resort and for the least possible time.<sup>154</sup> In practice, overall unaccompanied children are not detained, however there are cases where unaccompanied children are detained when arrested or convicted of a criminal offence such as trying to leave the country on false/forged documents,<sup>155</sup> and in such instances they are detained as “prohibited immigrants”.

There have been cases where the person in detention had not informed the authorities of his or her true age, and in some instances when the authorities received knowledge of the minor age of the person, he

<sup>154</sup> Article 18 ПГ(1) Aliens and Immigration Law.

<sup>155</sup> Based on monitoring visits carried out by NGO Future Worlds Center to the Youth Hostels where unaccompanied children are accommodated and weekly visits to Menogia detention centre.

or she was soon released. But there have also been cases where the authorities had knowledge of the age of the child and yet they were not released. The reason for this is not clear.

Detention of vulnerable persons is not prohibited. Victims of torture, trafficked persons and pregnant women are detained with no special safeguards in place.

#### 4. Duration of detention

##### Indicators: Duration of Detention

- |  |               |
|--|---------------|
| 1. What is the maximum detention period set in the law (incl. extensions): | 18 months     |
| 2. In practice, how long in average are asylum seekers detained?           | Not available |

The Refugee Law allows for a court to order the detention of adult asylum-seekers for up to 8 days which can be extended by the court for further 8-day periods up to a maximum total of 32 days. However as in practice asylum seekers are never detained under this law, these periods are never applied.

Asylum seekers are detained under the Aliens and Immigration Law and until recently would usually be held for the entire duration of the examination of the asylum claim. As of September 2014, a new policy has been implemented whereby applications of detained asylum seekers undergo a fast-track examination; when detainees apply for asylum while in detention they will not be immediately released. Any deportation orders will be suspended and the Asylum Service will interview and reach a decision on the application within 30 days. If protection is granted the detainee will be released. If the application is rejected and the applicant submits an appeal to the RRA, then the RRA will issue a decision within 15 days. If protection is granted the detainee will be released. In the event that due to the complexity of a case, a decision cannot be reached within 30 days by Asylum Service or 15 days by the RRA, then the detainee will be released.<sup>156</sup>

Based on monitoring throughout 2015, the aforementioned deadlines are not strictly being followed and intervention is often necessary to highlight that the timeframe has elapsed and the detained asylum seeker must be released. It has been noticed that the limited time-frame in which decisions must be issued by the relevant decision-making bodies has sometimes led to hasty decisions on behalf of the Asylum Service and/or RRA.

Asylum seekers whose cases are pending before the Supreme Court are not included in the aforementioned policy and are often detained for the entire duration of the case which may even exceed 18 months.

### C. Detention conditions

#### 1. Place of detention

##### Indicators: Place of Detention

- |  |                              |  |
|--|------------------------------|--|
| 1. Does the law allow for asylum seekers to be detained in prisons for the purpose of the asylum procedure (i.e. not as a result of criminal charges)? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| 2. If so, are asylum seekers ever detained in practice in prisons for the purpose of the asylum procedure?   | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |

<sup>156</sup> Based on information communicated to the NGO Future Worlds Center by the Ministry of Interior.

Most asylum seekers are detained in Menogia, a detention centre completed in 2013 which was built specifically for the purpose of detaining irregular migrants. In addition, holding cells at various police stations around the country are also used for detention, and these are usually used for a short time until the person is transferred to the main detention centre. In the detention centre, asylum seekers are always detained with other third-country nationals as well as EU nationals pending removal. In police stations, they may also be held with persons detained upon committing an offence and pending trial, however such persons are usually transferred to a unit in the Central Prison for persons pending trial, and cases of serious offences will usually be transferred to this unit once the Court has officially ordered their detention.

## 2. Conditions in detention facilities

### Indicators: Conditions in Detention Facilities

- |   |   |   |
|---|---|---|
| 1. Do detainees have access to health care in practice? | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No   |
| ❖ If yes, is it limited to emergency health care?       | <input type="checkbox"/> Yes            | <input checked="" type="checkbox"/> No                                  |
| 2. Is access to detention centres allowed to            |   |   |
| ❖ Lawyers:  | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> Limited <input type="checkbox"/> No            |
| ❖ NGOs:   | <input type="checkbox"/> Yes            | <input checked="" type="checkbox"/> Limited <input type="checkbox"/> No |
| ❖ UNHCR:  | <input type="checkbox"/> Yes            | <input checked="" type="checkbox"/> Limited <input type="checkbox"/> No |
| ❖ Family members:                                       | <input type="checkbox"/> Yes            | <input checked="" type="checkbox"/> Limited <input type="checkbox"/> No |

The detention centre and holding cells are under the management of the Police, therefore the guards are police officers. They often lack training, perceiving detainees as criminal offenders and treating them as such. Due to this, detainees often complain about the behaviour of the officers. The Ombudsman referred to “a number of complaints” relating to the use of force during arrest, detention and deportation of migrants in its submission to the 52<sup>nd</sup> session of the UN Committee against Torture. It was stated that in some cases police members used excessive force, while there were also reports of use of chemical restraints during deportation.<sup>157</sup> A relevant report by the Ombudsman addressed several complaints by migrants and asylum seekers concerning violence and abuse at the stages of arrest, detention at Menogia, and during deportation procedures.<sup>158</sup> Furthermore, NGO Action for Equality, Support and Antiracism (KISA) has reported that in response to a protest by detainees at Menogia in 2013, the staff beat them with truncheons, and when the injured detainees were transferred to the hospital the police officer told the doctor that they injured themselves while playing football.<sup>159</sup> The UN Committee against Torture also stated in its fourth report on Cyprus that it remained concerned by the allegations of ill-treatment by police in Menogia.<sup>160</sup>

In June 2015, a detained asylum seeker from Pakistan whose asylum claim was rejected at first instance was reportedly beaten by Immigration police (not Menogia staff) during an attempt to deport him as he had not submitted an appeal to the RRA within 20 days, even though he was within the 75 days to appeal the decision before the Supreme Court. Since March 2015, there have also been hunger strikes of detainees in Menogia which comprised mostly of irregular migrants and failed asylum seekers, along with a few asylum seekers with applications at first or second instance.

<sup>157</sup> Contribution of the National Human Rights Institution for the consideration of Cyprus’ Fourth Periodic Report at the 52<sup>nd</sup> session of the UN Committee against Torture, 2014.

<sup>158</sup> Ombudsman report on claims of abuse of foreigners by members of the Aliens and Immigration Unit of the Police during their arrest, detention and deportation, 18 September 2013 (Έκθεση Επιτρόπου Διοικήσεως και Ανθρωπίνων Δικαιωμάτων σχετικά με ισχυρισμούς κακοποίησης αλλοδαπών από μέλη της ΥΑΜ κατά τη σύλληψη, κράτηση και απέλαση τους, 18 Σεπτεμβρίου 2013).

<sup>159</sup> KISA, *Detention conditions and Juridical overview on detention & deportation mechanisms in Cyprus*, January 2014, available at: <http://bit.ly/1Jm6o8i>, 32.

<sup>160</sup> UNCAT, *Concluding Observations on the Fourth Report of Cyprus*, 21 May 2014.

Regarding the main detention centre in Menogia, there have been no incidents or complaints regarding serious deficiencies in the sanitary facilities provided. Indeed, all the detainees who were asked during a monitoring visit are satisfied with the general state of the facilities and mentioned that there is indeed hot water and they can shower without restrictions such as length etc.<sup>161</sup> The facilities are cleaned twice a day. Overall the cleanliness of the detention centre seems to be of a very high standard. However regarding the holding cells in the various police stations the conditions vary. In a case reported in 2014 an unaccompanied child asylum seeker being detained in a holding cell reported serious deficiencies in the standard of hygiene of the sanitary facilities as well as not being provided with basic necessities such as soap, shampoo or toothpaste.

Since Menogia began operating there have not been any reports regarding overcrowding. In Menogia the holding cells are furnished with bunk beds and have a capacity to accommodate 8 asylum seekers. The room is 18m<sup>2</sup> metres and most of the space in the room is taken up by 4 metal bunk beds, leading to cramped conditions due to the fact that detainees spend many hours in the cells. The authorities consider the space to meet international standards, but the limited space has been noticed by Amnesty International.<sup>162</sup> Regarding the holding cells at the various police stations, many of these are not adequate for stays longer than a few days, and although asylum seekers have their own beds, the space in some is not adequate.

Asylum seekers in Menogia have complained about the clothing they are given.<sup>163</sup> In some instances (mainly in relation to women) there have been complaints of lack of undergarments and generally a very limited amount of clothing is available for detainees including asylum seekers. It has been reported that the only clothing they receive is when this is donated or when friends and family provide them with clothing during visits. In the holding cells the situation varies.

According to the law, a detainee has a right to medical examination, treatment and monitoring at any time during detention.<sup>164</sup> The relevant law does not limit this right to emergency situations and from the testimonies of the detainees it can be concluded that indeed they have access to medical examinations, treatment and monitoring in situations which cannot be classified as emergencies. However, the law provides for the criminal prosecution of a detainee who, if proven, abuses the right to medical examination, treatment and monitoring, requesting it without suffering from a health complication which requires medical examination, treatment or monitoring.<sup>165</sup> If a detainee is found guilty of this offence, he or she is liable to 3 years in prison, or a fine of up to €5,125.80. Although there is no information of a detainee being convicted of this, it can be used as a deterrent. During the March 2014 monitoring visit to the detention centre, it was reported that it had been used to intimidate a detainee who had already been taken for numerous medical examinations. Since then there have been no other such cases.

For a detainee to receive medical care and be examined by a doctor during detention, a written request must be lodged on behalf of the detainee. These requests, if submitted in English or Greek, are attended to in a timely manner and with a prompt response, and there were no complaints regarding the time it took for a request to be processed and for the detainee to see a doctor. There is no available information of anyone attempting to submit such a request in another language so as to know if it would be accepted and if there are procedures in place to have it translated. Most detainees who do not write

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<sup>161</sup> Based on a monitoring visit carried out by the NGO Future Worlds Center in March 2014 for the submission of comments to the Committee against Torture pending their visit in April 2014 and for the purpose of drafting the report for AIDA.

<sup>162</sup> Amnesty International, 'Cyprus: Abusive detention of migrants and asylum seekers flouts EU law', Press Release, 18 March 2014.

<sup>163</sup> Based on a monitoring visit carried out by NGO Future Worlds Center in March 2014, as well as weekly visits to the centre for the representation of individual cases.

<sup>164</sup> Article 23 Rights of Persons who are Arrested and Detained Law.

<sup>165</sup> Article 30 Rights of Persons who are Arrested and Detained Law.

Greek or English, or who are illiterate have to ask a fellow detainee who does to fill this request for them.<sup>166</sup>

Detainees are usually examined in the detention centre by a doctor who as of recently, visits on a daily basis. There is no in-house doctor. In situations where transportation to a clinical facility outside the detention centre is required, detainees are handcuffed usually for the entire duration of transportation, as well as during the medical examination. During their medical examination detainees are accompanied by a policeman/policewoman (depending on the gender of the detainee) who is present throughout the medical examination. Based on the testimonies of some detainees, it is evident that interpreters were not present during the medical examination, even in cases where the detainee is illiterate and does not speak Greek or English.<sup>167</sup> This lack of communication and basic provision of information for detainees is in clear violation of the law, which states that any communication between the detainee and members of staff or police for purposes of medical examinations is deemed “important” interaction and therefore authorities are obliged to ensure that this communication is in a language which the detainee understands.<sup>168</sup> There is an obligation to make the appropriate arrangements for this communication to be understood by the detainee which is unfortunately not adhered to, as evidenced by the lack of interpreters during the medical examination. By the end of 2014 there has been a psychologist on site approximately 1-2 times a week.

Regarding access to medical care for detainees including asylum seekers being held in a holding cell at a police station, the situation is similar as described above, however the way in which such requests are handled may vary. In one recent case an unaccompanied child asylum seeker detained in a holding cell reported that he requested to see a medical doctor and receive painkillers but his requests were never met.<sup>169</sup>

In Menogia, detainees confirmed that pork is not served,<sup>170</sup> and it was also mentioned that during Ramadan the religious dietary requirements are accommodated. Regarding other dietary needs for medical reasons, these are also accommodated, although for cases of pregnant women and women breastfeeding it is not clear if these are accommodated. The quality of the food has been reported as good; however there have been complaints regarding the quantity as a fair amount of detainees mentioned that the food was not enough to sustain them. There are vending machines available on site. Regarding the holding cells, the situation is similar to that in the detention centre regarding the accommodation of dietary requirements for religious or medical reasons, but quality and quantity varies. Detained asylum seekers in Menogia have access to open-air spaces twice daily for about an hour or one hour and 15 minutes at a time, once in the morning and once in the afternoon. Some detainees have complained regarding the size of the outdoor space.<sup>171</sup> During this time they can engage in recreational activities such as sports, card playing, chess, and backgammon. Some detainees mentioned that they did not possess a ball to play with, while others mentioned that some of these accessories are bought by the detainees with their own money. There are no special facilities for young children, as families are not detained. Unaccompanied children are detained, and from the research it emerges that the youngest unaccompanied child detained is 15-16. Regarding the holding cells at the various police stations, many lack sufficient open-air spaces and there are reports of detainees having extremely limited time outside. The holding cells do not have any recreational facilities.

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<sup>166</sup> Based on a monitoring visit carried out by NGO Future Worlds Center in March 2014, as well as weekly visits to the centre for the representation of individual cases.

<sup>167</sup> Based on a monitoring visit carried out by NGO Future Worlds Center in March 2014, as well as weekly visits to the centre for the representation of individual cases.

<sup>168</sup> Articles 18 and 25 Rights of Persons who are Arrested and Detained Law.

<sup>169</sup> Based on the findings of a lawyer representing the child on behalf of NGO Future Worlds Center, when visiting the child in detention.

<sup>170</sup> Based on a monitoring visit carried out by NGO Future Worlds Center in March 2014, as well as weekly visits to the centre for the representation of individual cases.

<sup>171</sup> Based on a monitoring visit carried out by NGO Future Worlds Center in March 2014, as well as weekly visits to the centre for the representation of individual cases.

Families are not detained although the authorities have stated they will soon be completing a wing in Menogia for the purpose of detaining families with children. In Menogia unaccompanied children are not kept separately from adults, whereas women are detained separately from men. In holding cells in various police stations women and unaccompanied children are detained separately. Other vulnerable persons are not kept in separate rooms in Menogia or in holding cells.

Under the Aliens and Immigration Law children in detention shall have access to education, but to date there have been no cases of unaccompanied children in Menogia having access to education, whereas accompanied children are not detained. Detainees have access to a television located in the communal area, and there are also some magazines available. However these are very limited in number and are mostly available in English. Only detainees who at the time of their arrest had personal laptops have access to a computer. It is not clear if detainees have access to internet. During recent interviews with detainees, most detainees could not answer whether internet was available to them, while one replied that there was no internet, another mentioned that they can access the internet via their mobile phones if they pay a specific amount.<sup>172</sup> In holding cells there are no reading materials or access to internet.

### **Access to detention centres**

Under the law, every detainee is allowed to have personal private interviews with a lawyer in a private space without the presence of any member of the police.<sup>173</sup> This right can be exercised any day or time and the Head of the Detention Centre has an obligation to not prevent, obstruct, or limit access. In practice this is mostly adhered to, however there would probably be an issue if a lawyer attempted to visit past the hour detainees are restricted to their rooms. In the case of UNHCR/NGO visits, there are restrictions as they must give prior notice and will be given access during regular hours. Police officers are present during interviews with detainees although lawyers maintain client/lawyer privilege and can meet in private. No alternatives to detention are applied. In holding cells the situation is similar to that described here.

The media are restricted from accessing detention centres and must request permission which would most probably not be granted. As mainstream media show little interest in such issues, Future Worlds Centre does not have knowledge of any media attempts to enter detention facilities. Less mainstream media would definitely not be given access and any video footage that has surfaced was shot without permission. Politicians have access to detention centres but are also required to give prior notice.

Under the law every detainee has the right to daily visits with any person of their choice for the duration of one hour.<sup>174</sup> These are held in the presence of police. When asked, no detainee reported a problem with the visiting procedure, apart from the fact that police presence during these meetings with relatives, friends, etc., is very evident. The same would apply to religious representatives although to date there have been no such visits.

NGOs and UNHCR monitor detention centres, specifically who is being detained, but in order to carry out monitoring visits and to be given access to areas besides those for visitors, approval is needed from the Head of Police or the Ministry of Justice and Public Order. Legal representation is offered by NGOs. Red Cross Cyprus has initiated a project in Menogia offering social and psychological support.

In Menogia, detainees are permitted to have mobile phones, however the signal is switched off at certain times of the day, namely during their lunch and afternoon rest. Detainees report that they must pay for credit for their mobile phone with their own money that is held for them in the centre. Money

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<sup>172</sup> Based on a monitoring visit carried out by NGO Future Worlds Center in March 2014.

<sup>173</sup> Article 12 Rights of Persons who are Arrested and Detained Law.

<sup>174</sup> Article 16 Rights of Persons who are Arrested and Detained Law.

sources include what was in their possession at the time of arrest or from friends or family. This money is used for all their necessities. This creates a communication barrier for detainees who did not carry any money at the moment of their arrest or who have used all of their funds. Detainees report that in such cases they borrow money from other detainees or use another detainee's mobile. According to the management of the centre detainees can request to use the centre's landline however such a request must be submitted in writing and approved by the Director which usually takes 24 hours, and this includes calls to lawyers. Detainees did not seem to know about this option or report that it was easier to borrow another detainee's mobile. As the centre is in a remote area, it is not easy for lawyers to access it, therefore detainees use faxes to send documents or written communication to lawyers/NGOs/other organisations. However in order to do so, detainees must submit a written request that must be approved by the Director and again this can take days to be approved, usually depending on who the recipient is. Faxes to the European Court of Human Rights, the Ombudswoman and UNHCR are usually approved faster than others. KISA has reported difficulties on behalf of detainees when trying to send a fax to the NGO and has submitted a relevant complaint to the Ombudsman stressing the right of detainees to send and receive letters.<sup>175</sup> There have also been reports by detainees that the documents are checked by the detention staff before they are allowed to send them.<sup>176</sup>

The situation in holding cells varies, in some there are stricter rules regarding the use of a mobile however in others it is easier to access the landline and send faxes.

Persons categorised as a vulnerable person before detention or during their detention are detained. Regarding support and/or special treatment when in detention, it depends on the needs/vulnerability but it is safe to say that this is rarely adequate. There is no mechanism in detention centres (or out of detention centres) to identify persons with special reception needs.

## D. Procedural safeguards

### 1. Judicial review of the detention order

#### Indicators: Judicial Review of Detention

1. Is there an automatic review of the lawfulness of detention? ☐ Yes ☒ No
2. If yes, at what interval is the detention order reviewed?

The majority of asylum seekers in detention are not informed of the reasons or legal basis of their detention. In the case they are provided with the administrative detention order, this mentions a summary of the articles of the law upon which the detention is based but does not include the facts and/or reasons for detention. It also includes a brief description of the available legal remedies. The administrative order is usually issued in English and rarely in Greek, and it is never provided in a language the applicant is known to understand. In Menogia, detainees are given a general leaflet informing them of their rights and obligations in detention, but it is not clear if this includes the right to legal challenges and the right to legal assistance. However, in practice, detainees do not have knowledge of the reasons for their detention or the legal challenges available or their legal aid options.

<sup>175</sup> KISA, *Detention conditions and Juridical overview on detention and deportation mechanisms in Cyprus*, January 2014; Ombudsman report on the right of detainees at the Menogia detention centre to send letters via fax, 6 March 2014 (Έκθεση της Επιτρόπου Διοικήσεως και Ανθρωπίνων Δικαιωμάτων όσον αφορά το δικαίωμα αποστολής επιστολών με τηλεμοιότυπο από κρατούμενους στο Χώρο Κράτησης Μεταναστών στη Μενόγεια, 6 Μαρτίου 2014).

<sup>176</sup> KISA, *Detention conditions and Juridical overview on detention and deportation mechanisms in Cyprus*, January 2014.



In spite of claims by the CRMD that detainees are always provided written information regarding the grounds of their detention and their rights, and that every reasonable effort is made to ensure that detainees receive the information in a language they understand,<sup>177</sup> NGOs such as KISA,<sup>178</sup> and the Ombudsman<sup>179</sup> have noted several reports by detainees that they had not received adequate information.

According to national legislation, there are two legal remedies available to challenge detention for immigration purposes, and these can be used by asylum seekers in detention as they are detained for immigration purposes.

## Recourse

Firstly, if the administrative order was issued based on the asylum seeker being declared a “prohibited immigrant” (see section on Grounds for Detention),<sup>180</sup> the order can be challenged by recourse under Article 146 of the Constitution before the Supreme Court. Although this is not provided for in the Aliens and Immigration Law, it is derived from the wording of the Article in the Constitution, as it is the case with all executive decisions issued by the administration. If the administrative order was issued based on the articles of the Aliens and Immigration Law that transpose the Returns Directive,<sup>181</sup> then again the order can be challenged under Article 146 of the Constitution before the Supreme Court and this instance is provided for specifically in the Law.<sup>182</sup>

In both instances, if successful, the detention order will be annulled. The difference between the two instances is that legal aid by the state is only provided when challenging the administrative orders issued in accordance with the articles of the Aliens and Immigration Law that transpose the Returns Directive (see section on Legal Assistance).<sup>183</sup>

## Habeas Corpus application

The second remedy, also available before the Supreme Court, is a Habeas Corpus application provided for under Article 155(4) of the Constitution, which challenges the lawfulness of detention, but only on grounds relating to length of detention. Again there are specific provisions in the articles transposing the Returns Directive that refer to this remedy.<sup>184</sup> If the detention is ordered based on the asylum seeker being declared a “prohibited immigrant”, then the maximum detention limit of 18 months does not apply, however a Habeas Corpus application can be submitted if it is possible to establish that the length of detention is excessive. Nevertheless, as there is no specified time-limit it is more difficult to substantiate this.

If a Habeas Corpus application is successful, the detainee should be immediately released. There is a substantial number of cases where the Supreme Court ordered the release of a detainee either on the lawfulness of the grounds of detention or length and the administration immediately issued new detention orders and re-arrested the person as they exited the Court. In July 2014, it was reported by KISA that an asylum seeker whose appeal at the Supreme Court had been pending since 2011, was detained for 8 months and eventually deported. UNHCR expressed concern regarding the potential

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<sup>177</sup> Based on information provided by NGO Future Worlds Center.

<sup>178</sup> KISA, *Comments and Observations for the forthcoming 52nd session of the UN Committee against Torture*, April 2014, 10.

<sup>179</sup> Ombudsman, *Report on the visits to Menogia on 14 February, 3 April, and 19 April 2013*, published 16 May 2013 (Έκθεση αναφορικά με τις επισκέψεις που διενεργήθηκαν στο χώρο κράτησης μεταναστών στη Μενόγεια στις 14 Φεβρουαρίου, 3 Απριλίου και 19 Απριλίου 2013 – 16 Μαΐου 2013).

<sup>180</sup> Article 14 Aliens and Immigration Law.

<sup>181</sup> Article 18ΟΓ Aliens and Immigration Law.

<sup>182</sup> Article 18ΠΣΤ(3) Aliens and Immigration Law.

<sup>183</sup> Article 6C Legal Aid Law.

<sup>184</sup> Article 18ΠΣΤ(5) Aliens and Immigration Law.

violation of the principle of non-*refoulement* and called on the Government to thoroughly investigate this case and to ensure the protection and welfare of the family members of the deported person.<sup>185</sup>

The deadline to submit a recourse against the administrative decisions is 75 days upon receiving knowledge of the decision, whereas a Habeas Corpus application can be submitted at any time. There are no time-limits in which the Supreme Court is obliged to examine the recourse. Priority is supposed to be given to cases of detention, however in practice the time it takes to examine such cases is still lengthy as the average is 8 months,<sup>186</sup> whereas a Habeas Corpus application may take 1-3 months. The submission of either application does not have suspensive effect, meaning the detainee can be returned to the country of origin within this time period. For asylum seekers the deportation order is suspended by the administration for the duration of the examination of the asylum claim but not during the judicial review of the asylum claim.

The Aliens and Immigration Law, under the articles that transpose the Returns Directive Law, provides for periodic reviews of the lawfulness of detention or review of this upon request of the detainees but in practice, this does not take place. Even when the applicant or his or her legal representative requests a review, in most cases the administration does not even respond to the request. In the rare case a review is carried out, a proper review is not conducted and the initial justification is repeated, usually stating a lack of cooperation by the detainee for the issuance of travel documents, regardless if the detainee is an asylum seeker and without stating any reasoning or facts to support the claim of lack of cooperation.

The judicial review of detention is not considered effective due the lack of suspensive effect as well as the length of time to issue a decision. This was confirmed by the ECtHR in *MA v Cyprus* where the Court held that the applicant did not have an effective remedy with automatic suspensive effect to challenge his deportation.<sup>187</sup> The applicant was not deported to Syria only because of an interim measure issued by the Court under Rule 39 of its Rules of Court to the Cypriot Government indicating that he should not be removed until further notice. The Court concluded that there was a lack of effective remedy to challenge lawfulness of detention, as the only recourse in domestic law that would have allowed the applicant to have had the lawfulness of his detention examined would have been one brought under Article 146 of the Constitution. The Court held that the average length of such proceedings, standing at 8 months, was undoubtedly too long for the purposes of Article 5(4) ECHR, and rejected the argument of the Government that it was possible for individuals to speed up their actions by reaching an agreement with the Government. The Court ruled Cyprus had violated Article 5(4) ECHR (relating to lawfulness of detention) and that domestic remedies must be “certain”, and speediness, as an indispensable aspect of Article 5(4) ECHR, should not depend on the parties reaching an agreement.

The above position was confirmed in July 2015 in the recent ECtHR cases concerning the detention and deportation of 17 Syrian Kurdish asylum seekers from Cyprus to Syria, *HS and Others v Cyprus* and *KF v Cyprus*,<sup>188</sup> where the Court held Cyprus responsible for the inadequate mechanisms and ineffective remedies that are in place to challenge the lawfulness of detention, and which violate Article 5(1) ECHR. In the context of the duration of detention, the Court concluded that the lack of a ‘speedy’ procedure of judicial review of the lawfulness of the applicants’ detention, amounted to a violation of Article 5(4) of the Convention.

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<sup>185</sup> UNHCR Cyprus, ‘UNHCR expresses concern over potential violation of the principle of *non-refoulement*’, Press Release, 18 July 2014, available in Greek at: <http://bit.ly/1HU2ltg>.

<sup>186</sup> ECtHR, *MA v Cyprus*, Application No 41872/10, 23 July 2013, para 167.

<sup>187</sup> *Ibid*, paras 169-170.

<sup>188</sup> ECtHR, *HS and Others v Cyprus*, Application No 41753/10, Judgment of 21 July 2015; *KF v Cyprus*, Application No 41858/10, Judgment of 21 July 2015. For an analysis, see Mary Zalokosta, ‘Analysis of the Strasbourg case-law on Kurdish asylum seekers in Cyprus and the controversial practice of detention’, 28 August 2015, EDAL, available at: <http://bit.ly/1lxXROy>.

The UN Committee against Torture has also expressed its concern concerning the lack of protection against *refoulement* during the judicial review process, and stated that Cyprus should abide by its commitment to provide for an effective judicial remedy before a court with automatic suspensive effect of the deportation of asylum seekers and other undocumented migrants.<sup>189</sup>

## 2. Legal assistance for review of detention

### Indicators: Legal Assistance for Review of Detention

1. Does the law provide for access to free legal assistance for the review of detention?
 

❖ Detention under the Returns Directive	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
❖ Detention as “Prohibited immigrant”	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
2. Do asylum seekers have effective access to free legal assistance in practice?
 

<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
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According to the law, an application for legal aid can be submitted only for the judicial review of detention before the Supreme Court and only when the administrative order was issued based on the articles of the Aliens and Immigration Law transposing the Returns Directive.<sup>190</sup> If the administrative order was issued based on the asylum seeker being declared a “prohibited immigrant”, then he or she is not eligible for legal aid. Legal aid is also not provided to challenge the length under a Habeas Corpus application, nor is it provided to challenge or request a review of detention before the authorities through administrative procedures (request for a review, challenge purpose, length, and lawfulness).

Applications for legal aid are subject to a “means and merits” test. According to this the detainee applying for legal aid must show that they do not have the means to pay for the services of a lawyer and this will be examined by a Welfare officer who will submit a report to the Court and in most cases for detainees, this leg of the test will be considered to be met. Regarding the “merits” test, a detainee must submit reasons in the application that there is a possibility for the Court to issue a positive decision on the lawfulness of detention. As the Supreme Court only examines points of law, the detainee must raise legal points without the assistance of a lawyer in order for the judge to decide whether there is a possibility that the Court may rule in favour of the detainee if it later examines the lawfulness of detention. It is nearly impossible for a person with no legal background to satisfy this requirement and, as a result, since the law for Legal Aid passed in 2010, no applications, submitted by asylum seekers in detention (besides having been extremely few)<sup>191</sup> have been granted.

The main obstacles to accessing legal assistance in detention is the lack of resources on behalf of the detainee to contract the services of a lawyer and the aforementioned problematic procedure for accessing legal aid. Contacting a lawyer is not much of an issue, although the detainees who were asked during a monitoring visit had not received a list of lawyers and their telephone numbers as compiled by the Cyprus Bar Association and as required by law.<sup>192</sup> Meetings with lawyers in detention are confidential and held in a specialised room which has been designated as the lawyer’s room. The clients are contacted mainly through their mobile phones.

Asylum seekers in detention reach NGOs providing legal assistance primarily through word of mouth, especially since the information available to asylum seekers is often not available or outdated (see section on Information for asylum seekers and access to UNHCR and NGOs) or by NGOs carrying out

<sup>189</sup> UNCAT, *Concluding Observations on the Fourth Report of Cyprus*, 21 May 2014.

<sup>190</sup> Article 6C Legal Aid Law.

<sup>191</sup> According to the Cylaw database, only 5 applications for legal aid have been submitted by asylum seekers in detention.

<sup>192</sup> Article 8(3)(b) Rights of Persons who are Arrested and Detained Law.

monitoring visits to the detention centre.<sup>193</sup> If an NGO visiting the detention centre cannot offer legal assistance, it often refers asylum seekers to NGOs that do offer such services. It has been noted that there is a general lack of use of interpreters during all procedures in the detention centre, which is problematic especially in relation to illiterate detainees. This makes communication for illiterate detainees nearly impossible and they are unable to make use of their rights relating to access to legal remedies, food, clothing and medical examinations. If an asylum seeker was represented prior to his or her detention, there may be a slightly better chance of challenging the detention. However similar issues will arise, as an asylum seeker who was represented by a private lawyer prior to detention may not have funds to continue contracting the lawyer's services. If the asylum seeker was represented by a lawyer working for an NGO, such legal services are very limited, since currently only Future Worlds Center provides such services. In addition, judicial review has court expenses which the NGO is not in a position to cover.

Besides the judicial review of detention, a legal representative can challenge the detention of an asylum seeker or request his or her release through administrative procedures that do not carry expenses. Such representation is offered for free to detained asylum seekers through the project 'Strengthening Asylum' funded by UNHCR, the project 'Provision of Free Legal Advice to Asylum Seekers' funded by the ERF,<sup>194</sup> both implemented by Future Worlds Center. Both projects are limited in their capacity to offer representation to all asylums seekers that may request it.

Free legal assistance is available to asylum seekers in detention, as to all asylum seekers, through the implementation of the abovementioned UNHCR and ERF-funded projects, with the same limitations on capacity.

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<sup>193</sup> Based on information provided by NGO Future Worlds Center that carries out weekly visits to the detention centre.

<sup>194</sup> The ERF funded a project implemented by Future Worlds Center providing free legal advice to asylum seekers. It started in February 2014 and ended in June 2014. It was granted again to FWC from January 2015 – June 2015.

## ANNEX – Transposition of the CEAS in national legislation

### Directives and other CEAS measures transposed into national legislation

Directive	Deadline for transposition	Date of transposition	Official title of corresponding act	Web Link
<b>Directive 2011/95/EU</b> Recast Qualification Directive	21 December 2013	15 April 2014	The Refugees (Amendment) Law of 2014 (N. 58(I)/2014)  The Refugees (Amendment) (No 2) Law of 2014 (N. 59(I)/2014)	< <a href="http://bit.ly/1HwnhwB">http://bit.ly/1HwnhwB</a> > (GR)  < <a href="http://bit.ly/1LhRNPC">http://bit.ly/1LhRNPC</a> > (GR)

#### Qualification

- ❖ Transposed at the absolute minimum possible
- ❖ Abolished the application of basic principles governing the treatment of refugees to subsidiary protection beneficiaries: (i) the principle of *non-refoulement*; (ii) non-discrimination; (iii) fair treatment; (iv) family unity; and (v) access to information. Beneficiaries of subsidiary protection status are excluded from the right to family reunification.
- ❖ The new Article 25(12)(a) transposes the derogation of Article 12(1) last indent of the Family Reunification Directive, by virtue of which Member States may require refugees to meet the same conditions as other third-country nationals if the application for family reunification is not submitted within 3 months after the granting of their status. It should be noted that overall family reunification rights of refugees are restricted to the absolute minimum, with the adoption of most of the optional provisions of the Family Reunification Directive which derogate from the general standards.
- ❖ The definition of “unaccompanied minor” is inconsistent with the term envisaged in Article 2(l) of the recast Qualification Directive, as it makes reference to a child who is not accompanied by an adult responsible “by law or custom”, as opposed to Article 2(l) of the recast Qualification Directive which refers to an adult responsible for the child “by law or by the practice of the Member State concerned”.
- ❖ The definition of “family members” does not reflect accurately the relevant definition contained in Article 2(j) of the recast Qualification Directive, insofar as: (i) it does not refer to its relevance to the application for international protection; (ii) it refers only to the female spouse of a beneficiary of international protection; and (iii) fails to refer to the *practice* of the Member State, in this case the RoC, in relation to the comparable treatment of unmarried couples to married couples, and in the determination of an adult responsible for the beneficiary of international protection when that beneficiary is a minor and unmarried.
- ❖ The social assistance that is granted to beneficiaries of subsidiary protection status is limited to “core benefits”, and provides that these should cover at least minimum income support, assistance in the case of illness, or pregnancy, and parental assistance, in so far as those benefits are granted to nationals under national law, which are to be provided at the same level and under the same eligibility conditions as nationals.
- ❖ An obligation of family tracing is established but only after international protection has been granted.
- ❖ Reasons of persecution are harmonised with the Directive and include Article 10(1)(d) of the recast Qualification Directive.

## Pending transposition and reforms into national legislation

Directive / Regulation	Deadline for transposition	Stage of transposition	Participation of NGOs
<b>Directive 2013/32/EU</b> Recast Asylum Procedures Directive	20 July 2015 Article 31(3)-(5) to be transposed by 20 July 2018	Amendments drafted.	Limited
<b>Directive 2013/33/EU</b> Recast Reception Conditions Directive	20 July 2015	Amendments drafted.	Limited
<b>Regulation (EU) No 604/2013</b> Dublin III Regulation	Directly applicable 20 July 2013	Amendments drafted.	Limited

The latest draft of the reform, to be discussed by Parliament, has not been made available to NGOs even though the last drafts made public were those of July 2014. According to the responsible authority, access will not be given until the drafts are taken to Parliament for discussion, which is the final stage of debate. The following measures are based on the draft shared in July 2014.

### *Procedure*

- The draft law states clearly that the responsible authority has three working days in which to register an applicant as an asylum seeker. However, the way in which the proposed new sections have been drafted renders the registration process unclear. These sections may be interpreted to mean that asylum seekers are limited to a three working day timeframe in which to lodge the application, and with the consequence that it may be deemed implicitly withdrawn or abandoned should they not do so.
- The age assessment procedure is limited to a medical examination, in addition there is no provision stipulating that age assessment for children asylum seekers will only be conducted if it is in the best interests of the child (as provided for in Article 25(6) of the recast Asylum Procedures Directive).
- The right of a child to make an application for international protection on his or her own behalf is not ensured but rather the wording indicates that the application must be submitted by other people on behalf of the child.
- NGOs are excluded from the provision of legal assistance and/or representation to asylum applicants at all stages of the examination of the asylum application including the first stage which is administrative, and permits only lawyers and legal counsellors (whereas Article 22 of the recast Asylum

Procedures Directive permits Member States to allow non-governmental organizations to provide such assistance in first instance and appeal procedures).

- The obligation to *make arrangements for interpretation* to the extent necessary to facilitate access to the asylum procedure, in detention facilities and at border crossing points, has not been ensured as *the wording in the draft law states that the authority* “provides the possibility for interpretation”.
- The obligation to ensure that ‘organisations and persons providing advice and counselling have effective access to applicants present at border crossing points, including transit zones, at external borders’, is not ensured. In addition the draft law circumscribes *who* may provide advice by limiting access to ‘organisations or persons recognised by law or by the authorities of the Republic’. No such limitation is foreseen by the recast Asylum Procedures Directive, but only the flexibility Member States have in setting the rules “covering the presence of such organisations” (Article 8(2) of the recast Asylum Procedures Directive).
- The obligation to provide ‘information on the reasons for the delay’ of the decision has not been transposed. Article 31(6) of the recast Asylum Procedures Directive states that the applicant shall be informed of a delay in taking a decision and, where requested, the reasons for the delay and the timeframe within which the decision is to be expected.
- An implicitly withdrawn claim can be rejected where it has not been considered on its substance contrary to the principle of *non refoulement* (Article 28 recast Asylum Procedures Directive).
- The new procedure to be followed for subsequent asylum applications is problematic, including that it does not ensure protection from direct or indirect *refoulement*.
- Article 21(3) of the recast Asylum Procedures Directive which relates to rules concerning the modalities for filing and processing requests for legal and procedural information has not been transposed. In addition Article 21(2)(a) recast Asylum Procedures Directive that states that free legal information may only be provided to ‘those who lack sufficient resources’ has been transposed to state that free information shall not be provided to an applicant ‘who works or/and has sufficient means’. This is a wider exemption as envisaged by the Directive as those who work may still not have sufficient means.
- According to Article 46(6) of the recast Asylum Procedures Directive , ‘the court or tribunal shall have the power to rule whether or not the applicant may remain on the territory, *either* upon the applicant’s *request* or acting *ex officio*’. In the proposed law ‘acting *ex officio*’ has not been included.
- In a proposed amendment asylum seekers’ right to remain extends only to the issuance of the first instance decision and its communication to the asylum seeker concerned. Although the proposed amendment reflects adequately the provisions of Article 9 (1) of the recast Asylum Procedures Directive, it does not reflect the mandatory provisions of Article 46 (5) of this Directive, which sets an obligation on the Member States to allow applicants to remain

on the territory until the time limit within which to exercise the right to an effective remedy has expired, and when such right has been exercised within the time limit, pending the outcome of the remedy.

#### *Reception conditions*

- Reference to immediate access to material reception conditions upon application for international protection is no longer foreseen contrary to Article 17 (1) of the recast EU Reception Conditions Directive 2013/33/EU) whereby Member States shall ensure that material reception conditions are available to applicants when they make their application for international protection. The draft Law does not ensure that allowances / vouchers are provided from the time the asylum application is made, nor does it establish the level of assistance that is to be provided in the form of vouchers and/or financial allowances, thereby ensuring that the total amount is sufficient to ensure a dignified standard of living and is adequate for the health, subsistence and housing needs,
- The draft Law does not determine eligibility for assistance and the level of assistance that is to be provided to applicants, in relation to their basic and special needs, including in cases, in which an applicant is partially employed and/or has limited financial means.
- The draft Law does not establish who may be considered a dependent of an applicant and/or persons whom applicants may be considered as having an obligation and/or legal duty to provide for;
- The draft Law does not determine the conditions and procedures for declaring a person as temporarily or permanently incapable of working;
- The draft Law does not determine the conditions and procedures for identifying, for the purposes of special assistance, an applicant as a vulnerable person or person with special needs, and the relevant level of assistance;
- The draft Law does not determine an applicant as wilfully unemployed, and, in such case, eligibility for registration as unemployed and for material assistance; etc
- “Medical Institutions”: The proposed new provision restricts the definition of medical institutions to outpatient clinics of hospitals. This may constitute an undue restriction of the access of applicants to health care as envisaged in the recast Reception Conditions Directive. Essential treatment of illness and serious mental disorders; necessary medical assistance to applicants with special needs, including appropriate mental health care; as well as rehabilitation services for minors victims of abuse and appropriate medical and psychological treatment of victims of torture and violence under Articles 17, 19, 23 and 25 of the recast Reception Conditions Directive, may require the asylum seekers’ access to / referral for treatment through services provided at other clinics of the public medical institutions in Cyprus, including the emergency department, as well as their hospitalisation.
- Additional requirements are foreseen in the Application for Material Reception Conditions, which go beyond the ‘Confirmation of Submission of an Application for International Protection’ and the information contained therein in violation of Article 6 (6) recast Reception Conditions Directive.



- The proposed law provides that both the freedom of movement as well as the right to reside freely may be restricted for *all applicants* by virtue of a decision of the Minister of Interior, in the form of a regulatory administrative act. This may be at variance with the provisions of Article 7 (2) of the recast Reception Conditions Directive, in so far as the latter refers to a decision restricting the freedom of residence of *an applicant*, as opposed to the restriction of the freedom of movement, by virtue of Article 7 (1), which refers to *applicants*.
- The draft law provides that access to applicants by family members, legal advisers, UNHCR and NGOs may be restricted on public security grounds. Article 18 (2) (c) of the recast Reception Conditions Directive provides that such access may only be limited on grounds relating to the security of the premises and of the applicants. Public security grounds constitute therefore an undue restriction under the mandatory provisions of Article 18 (2) (c) of the recast Reception Conditions Directive.

#### *Detention of asylum seekers*

- The Draft Law does not foresee the judicial review of the detention order at reasonable intervals, contrary to an explicit requirement in Article 9(5) of the recast Reception Conditions Directive.
- The draft law provides as an alternative to detention the obligation to stay at an assigned place, such as special accommodation centres for detained applicants.
- The draft law foresees the ability to submit a recourse (judicial review) against the detention decision, under Article 146 of the Constitution “subject to the conditions under which the said Article *allows* such a recourse”. The wording runs the risk to be at variance with the mandatory provisions of Article 9 (3) of the recast Reception Conditions Directive, insofar as it may, under the set conditions, restrict the submission of such a recourse.
- The provisions of this new sub-Section foresee that the judicial review shall be concluded within 6 months. This section may be at variance with the provisions of Article 28 of the Dublin Regulation ‘... when the requesting Member State fails to comply with the deadlines for submitting a take charge or take back request or where the transfer does not take place within the period of *six weeks*, the applicant shall no longer be detained’.