

The Workings of the Screening Regulation

Juxtaposing proposed EU rules with the Greek reception and identification procedure

January 2021



Summary of observations

The European Commission proposal for a Screening Regulation is largely modelled on the “reception and identification procedure” applicable to all irregularly arriving persons in Greece. Most of its provisions correspond to, if not mirror, provisions in Greek legislation already in force. An in-depth understanding of the procedure is essential to identifying pitfalls and concerns attached to the Screening Regulation proposal at an early stage of negotiations in the Council and the European Parliament, with a view to promoting better law-making and sound reform of European Union (EU) law.

Transparency and accountability of Frontex support

1. The involvement of Frontex in the reception and identification procedure implemented in Greece is marred by a lack of transparent rules and legal framework. The process of registration of individuals' personal data, including age and nationality, by Frontex experts is neither recorded nor transcribed. Beyond the palpable effects of incorrect registration on the asylum procedure, this results in a lack of accountability of the Agency insofar as individuals are not informed of the possibility to make use of the Frontex complaints mechanism when they deem their rights to be violated.
2. Participation of actors such as guardians during the registration procedure before Frontex has had meaningful effect in preventing incorrect registration of unaccompanied children's personal details.

Deprivation of liberty

3. Greek law does not espouse the fiction of non-entry into the territory. Although the IPA foresees a “restriction on freedom” amounting to *de facto* detention for up to 25 days for the reception and identification procedure, individuals on the islands are not subject to blanket deprivation of liberty and are not detained under that particular provision in practice, though other forms of confinement apply. Practice differs in Evros, where people are confined within the RIC for the full 25-day period.
4. However, contrary to the law, not all new arrivals are immediately referred to a RIC. Practice at the land border of Evros, as well as on the islands during the March 2020 suspension of the asylum procedure, reveals systematic use of arbitrary detention of new arrivals prior to – or without – access to reception and identification procedures.

Medical check and vulnerability

5. Albeit formally laid down as parts of the reception and identification procedure, it is not clear at which point the medical check and vulnerability assessment are deemed to be completed for the purposes of the procedure. It appears that reception and identification procedures are often considered as concluded before the individual undergone a medical check and vulnerability assessment, partly due to delays and capacity gaps in the conduct of those steps.
6. Severe problems persist in the medical check and vulnerability assessment, including: long waiting times; failure to grant individuals access to their medical records on Lesbos; non-identification of certain vulnerabilities e.g. victims of torture; failure to refer individuals to specialised hospitals for necessary examinations. Barriers are owed to chronic shortages in qualified staff, as well as other factors.

Introduction

The European Commission proposal for a Screening Regulation is largely modelled on the “reception and identification procedure” (διαδικασία υποδοχής και ταυτοποίησης) applicable to all irregularly arriving persons in Greece. The majority of its provisions correspond to, if not mirror, provisions in Greek legislation which set out key elements of the process such as restrictions on liberty, identification, registration, medical check, vulnerability assessment, and referral to asylum or other procedures. To that end, an in-depth understanding of the procedure is essential to identifying pitfalls and concerns attached to the Screening Regulation proposal at an early stage of negotiations within the Council and the European Parliament, with a view to promoting better law-making and sound reform of EU law.

The correlation table presented below provides a point-by-point comparison of the main provisions of the Screening Regulation proposal with relevant domestic legislation, namely L 4375/2016 and L 4636/2019 (IPA). It also offers a detailed analysis of the implementation of the reception and identification procedure in practice, drawing on up-to-date information complemented by observations from the following civil society organisations supporting asylum seekers in the country. The information provided in the correlation table has been collected through a collaborative effort of civil society organisations Refugee Support Aegean (RSA), HIAS Greece, Greek Council for Refugees, Danish Refugee Council, Legal Centre Lesbos, FENIX Humanitarian Legal Aid, ActionAid Hellas and Mobile Info Team, and legal practitioners.

Disclaimer: The information contained in this table reflects the legislative framework and administrative practice at the time of writing. The different elements of the reception and identification procedure often vary according to location – between Evros and the Eastern Aegean islands, or even between different islands – and may fluctuate over time.

Glossary & Abbreviations

Geographical restriction	Restriction of movement within a particular island, applied to all individuals subject to the EU-Turkey deal.
Restriction on freedom	Confinement within the premises of the RIC, amounting to <i>de facto</i> deprivation of liberty.
AIDA	Asylum Information Database
EASO	European Asylum Support Office
EKKA	National Centre for Social Solidarity Εθνικό Κέντρο Κοινωνικής Αλληλεγγύης
EODY	National Public Health Organisation Εθνικός Οργανισμός Δημόσιας Υγείας
FRA	European Union Agency for Fundamental Rights
Frontex	European Border and Coast Guard
GDPR	General Data Protection Regulation
HGC	Hellenic Coast Guard Λιμενικό Σώμα – Ελληνική Ακτοφυλακή
IOM	International Organisation for Migration
IPA	International Protection Act, L 4636/2019 Ν 4636/2019 περί διεθνούς προστασίας
JMD	Joint Ministerial Decision Κοινή Υπουργική Απόφαση
RIC	Reception and Identification Centre Κέντρο Υποδοχής και Ταυτοποίησης
RIS	Reception and Identification Service Υπηρεσία Υποδοχής και Ταυτοποίησης
UNHCR	United Nations High Commissioner for Refugees

Correlation table: Screening procedure | Reception and identification procedure

Screening	Greek legal framework and practice		
Proposal provision	Legislation	Authorities	Implementation
1. Competent authorities			
<p>Art 6(7): designated at national law level, with appropriate staff and resources. Participation of health experts, child protection and anti-trafficking rapporteurs. EUAA and Frontex may support.</p>	<p>Art 8(2) L 4375/2016: RIS is competent for reception and identification procedures.</p> <p>Art 39(9) IPA: Frontex, EASO, IOM may provide support in reception and identification procedures. UNHCR may follow the procedures and provide information and other assistance to persons. The aforementioned actors shall establish MoU with the RIS.</p>		<p>Transparency of actors' involvement: Serious concerns are raised by the lack of legislative provisions vis-à-vis the involvement of EU Agencies in key steps of the process competence. As regards Frontex, which <i>inter alia</i> carries out steps of the registration process in support of the RIS, the only relevant guidance is to be found in an unpublished Manual of Standard Operating Procedures (SOPs) applicable to RIC,¹ which provides that Frontex support includes "identification, registration and debriefing activities" which include registration of personal data and verification of identity and nationality.</p> <p>Specific concerns regarding the verification of identity and nationality are set out in the relevant section below. The procedure conducted by Frontex is neither recorded nor transcribed, despite its legal significance in the asylum procedure. As stated below, Frontex officials do not inform individuals of the possibility to access the Agency's complaints mechanism to seek redress.</p> <p>Capacity gaps: Gaps in the capacity and training of competent authorities are consistently reported. Medical staff shortages are an illustrative example. There were no medical services on Chios for five months in 2019, while in Samos and Lesvos there was a gap in medical services for four months and</p>

¹ RIS, *Manual of Standard Operating Procedures applicable to RIC*, December 2017, cited in FRA, *Update to the 2016 Opinion on fundamental rights in the 'hotspots' set up in Greece and Italy*, February 2019, available at: <https://bit.ly/3c1p5qV>.

			<p>prolonged gaps in psychosocial support, and on Leros for two months.²</p> <p>Severe capacity shortages generally persist to date. In August 2020, the General Hospital of Samos only accepted 10 patients per day, of whom 2 RIC residents.³ Additionally, at the “Vostanio” General Hospital of Mytilene on Lesvos, there have been reported cases of refusal to provide care, including for time-sensitive treatment such as terminating pregnancies, reportedly based on national origin.</p> <p>According to information provided by the Ministry of Migration and Asylum, the number of National Public Health Organisation (EODY) staff available per RIC at the end of November 2020 was as follows:⁴</p> <table border="1"> <thead> <tr> <th>RIC</th> <th>EODY staff</th> <th>Population</th> </tr> </thead> <tbody> <tr> <td>Lesvos</td> <td>36</td> <td>7,200</td> </tr> <tr> <td>Chios</td> <td>18</td> <td>2,503</td> </tr> <tr> <td>Samos</td> <td>15</td> <td>3,774</td> </tr> <tr> <td>Leros</td> <td>11</td> <td>615</td> </tr> <tr> <td>Kos</td> <td>15</td> <td>721</td> </tr> <tr> <td>Evros</td> <td>9</td> <td>195</td> </tr> </tbody> </table>	RIC	EODY staff	Population	Lesvos	36	7,200	Chios	18	2,503	Samos	15	3,774	Leros	11	615	Kos	15	721	Evros	9	195
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2. Location of screening process																								
Art 4(1): no authorisation to enter the territory	The fiction of non-entry does not apply in reception and identification procedures.																							

² AIDA, *Country Report Greece, 2019 Update*, June 2020, 107-108, available at: <https://bit.ly/2KYZgfD>. At times, the RIC of Lesvos had only 3 doctors for over 19,000 residents: RSA, ‘Moria nightmare’, 24 January 2020, available at: <https://bit.ly/3pU2Eb0>.

³ General Hospital of Samos, Doc No 10834, 8 July 2020, cited in Efsyn, ‘Τον άφησαν να πεθάνει λόγω του «κανονισμού»’, 30 July 2020, available at: <https://bit.ly/2LvgzFT>.

⁴ Ministry of Migration and Asylum, Reply to parliamentary question, No 553, 15 December 2020, available at: <https://bit.ly/3b4tNnm>.

during the conduct of the screening at the border			
Art 6(1) : locations at or in proximity to the external borders.	<p>Since the fiction of non-entry does not apply, no distinction is drawn in the law between screening at the external border or on the territory.</p> <p>Art 39(1) and (4) IPA: RIC, upon transport by Police or HCG. Note that, under Art 8(4)(f) L 4375/2016, RIC may operate within the premises of a Closed Controlled Island Facility (KEDN), together with pre-removal detention centres.</p>	RIS	<p>Greece operates 6 RIC, located in Evros, Lesvos, Chios, Samos, Leros, Kos. The Ministry of Migration and Asylum approved works for a substantial expansion of the RIC of Evros at the end of 2020.⁵</p> <p>In a recent instruction, the RIS clarifies that persons arriving in reception facilities across Greece without having undergone reception and identification procedures shall be transferred to a RIC with a view to completing such procedures. Accordingly, no reception centre may offer accommodation to persons who have not been officially referred thereto by the RIS after receiving an International Protection Applicant Card.⁶ Media reports indicate transfers of people from regions such as Serres to Evros at the end of 2020.⁷</p> <p>During the first half of 2020, a total of 7,762 registrations were carried out by the RIS as follows: Lesvos (2,983), Evros (1,966), Samos (1,278), Chios (701), Kos (513), Leros (321).⁸</p> <p>Living conditions in the RIC are consistently reported as far below minimum human rights standards.</p> <p>However, the obligation to immediately transfer new arrivals to a RIC for reception and identification procedures is not consistently complied with:</p>

⁵ Foni Rodopis, 'Εβρος: Οργή για τη νέα δομή φιλοξενίας μεταναστών στην Ορεστιάδα', 3 January 2021, available at: <https://bit.ly/3nbnG37>.

⁶ RIS, 'Διευκρινίσεις αναφορικά με τη διαχείριση αυτόβουλων - μη οργανωμένων αφίξεων Πολιτών Τρίτων Χωρών και Ανιθαγενών χωρίς νομιμοποιητικά έγγραφα στις Δομές Προσωρινής Υποδοχής και Φιλοξενίας στην ενδοχώρα υπό τη διοίκηση της ΥΠ.Υ.Τ.', 3/13625, 26 November 2020.

⁷ Ethnos, '«Βράζει» ο Εβρος για τη δομή μεταναστών - Στα «κάγκελα» κάτοικοι, βουλευτές και εκκλησία', 11 January 2021, available at: <https://bit.ly/38G7W3X>.

⁸ RIS, Ροές καταγεγραμμένων ΥΤΧ (ανά τόπο καταγραφής), 30 June 2020, available at: <https://bit.ly/3mGzsTM>.

		<ul style="list-style-type: none"> ▪ In Evros, due to the limited capacity of the RIC, Police and HCG have continued to unlawfully detain new arrivals by land or sea (e.g. Samothrace, Alexandroupolis) for periods of one to three nights in so-called “pre-RIC detention” prior to their transfer to the RIC. Detention takes place in the pre-removal centre of Fylakio – currently suspended due to expansion works⁹ – or in police, border or coast guard stations.¹⁰ During this time, people are held in grossly substandard conditions with no access to the outside world.¹¹ ▪ On Kos, since January 2020, all new arrivals except persons evidently falling under vulnerability categories are immediately detained in the pre-removal detention centre.¹² In previous years, this practice was applied to groups subject to the “low recognition rate” detention scheme, i.e. persons from countries subject to a rate below 33%¹³ and single adults from Syria. The majority of applicants have undergone rudimentary registration in the RIC prior to being placed in detention. However, applicants arriving from islands other than Kos and Rhodes e.g. Symi, Megisti, Kastellorizo are immediately directed to the pre-removal detention centre, without undergoing reception and identification procedures in the RIC.
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⁹ Ministry of Citizen Protection, Reply to parliamentary question by SYRIZA, 14 December 2020, available at: <https://bit.ly/3bXz9RV>.

¹⁰ RSA, “In this place, we have to help ourselves!” – Malakasa camp, April 2020, 4, available at: <https://bit.ly/3mIEnne>; AIDA, *Country Report Greece, 2019 Update*, June 2020, 185.

¹¹ *Ibid.* See also European Committee for the Prevention of Torture, *Report on the visit to Greece from 13 to 17 March 2020*, 19 November 2020, 17-19, available at: <https://rm.coe.int/1680a06a86>.

¹² TVXS, ‘Οι πρώτοι μετανάστες σε κλειστό κέντρο στην Κω, την ώρα που ο Μηταράκης επισκέτεται το νησί - Πανηγυρίζει ο Βοριδής’, 26 January 2020, available at: <https://bit.ly/3oMEj6W>.

¹³ AIDA, *Country Report Greece, 2019 Update*, June 2020, 185, 179.

			<ul style="list-style-type: none"> On Lesvos, persons subject to the “low recognition rate” scheme were channelled through rapid RIC procedures prior to detention in the pre-removal detention centre located within the RIC of Moria,. The scheme has not been applied since the destruction of Moria. During the suspension of the asylum procedure in March 2020, new arrivals were immediately detained in informal sites on the islands and subsequently in Navy vessel <i>Rhodes</i> and then in detention facilities on the mainland, without undergoing reception and identification procedures.¹⁴
Art 6(2): “any appropriate location within the territory” for in-territory screening.	Art 39(7)(a) IPA: In case of large numbers of arrivals, RIC or other facilities on the mainland continue reception and identification procedures, based on RIS decision taking into account particularly family unity and the best interests of the child.		So far, there have been no known cases where the RIS has ordered transfer of individuals to the mainland with a view to completing reception and identification procedures there. As stated above, during the March 2020 suspension of the asylum procedure, individuals were moved to detention facilities on the mainland, without however having undergone reception and identification procedures.
3. Restriction / deprivation of liberty regime			
Recital 12: national law measures, including detention, to prevent persons from entering the territory.	Art. 39(1) IPA: “Who do not prove their nationality and identity by a public authority shall be subject to the admission and identification procedures. These persons are taken directly to the Reception and Identification Centre under the responsibility of the police or port authorities responsible (Hellenic coast guard). The transfer may also be carried out by the Reception and Identification Service [...]”	RIS, Police, Asylum Service	<p>The initial 5-day “restriction on freedom”, i.e. deprivation of liberty, is applied automatically, as the law requires no decision or individual assessment. This differs from the “geographical restriction” on the island, mentioned below.</p> <p>Moreover, the RIS systematically issues decisions on “restriction on freedom” (<i>απόφαση περί περιορισμού κυκλοφορίας</i>) in the RIC, without conducting an individualised assessment of the case. Decisions are often issued before the expiry of the aforementioned 5-day time limit. Decisions are standardised and contain the following elements:</p> <ul style="list-style-type: none"> Reference to legislative provisions

¹⁴ RSA, *Rights denied during Greek asylum procedure suspension*, April 2020, available at: <https://bit.ly/3ow9cfM>.

	<p>Art 39(4)(a) IPA: Persons are subject to a “restriction on freedom”, consisting of a prohibition on leaving the centre and a duty to remain on its premises.</p> <p>Given the severity of interference with the right to liberty, this measure qualifies as detention. “Restriction on freedom” is imposed by order of the RIS within 5 days of entry of the person in the RIC. The restriction may be ordered for no longer than 25 days from entry, for the purposes of completing reception and identification procedures, with a duly motivated written decision.</p> <p>Accordingly, Greek law is incompatible with the prohibition on detention except for exceptional circumstances, subject to an individualised assessment and consideration of alternatives.</p>		<ul style="list-style-type: none"> ▪ Registration details of the individual, including name, nationality, date of entry in the RIC, photograph, Case Number (Αριθμός Υπόθεσης), File Number (ΔΙΚΑ). ▪ Standardised justification of restriction on freedom “until the completion of the reception and identification procedures foreseen in legislation, for a period not exceeding 25 days” (μέχρι να ολοκληρωθούν οι νομοθετικά προβλεπόμενες ως ανωτέρω διαδικασίες υποδοχής και ταυτοποίησης και για διάστημα που δεν μπορεί να υπερβαίνει τις 25 ημέρες). <p>In practice, as regards the islands, persons are allowed to enter and exit the RIC upon completion of reception and identification procedures, as mentioned below – note persisting uncertainty as to when the process is deemed to be completed. This means that confinement within the premises of the RIC is not imposed in practice. For the purposes of implementing the EU-Turkey deal,¹⁵ persons are placed under a geographical restriction within the respective island and asylum seekers receive a stamp on their International Protection Applicant Card accordingly. A geographical restriction is also imposed by the Hellenic Police on the decisions suspending deportation of newly arrived persons.</p> <p>In Evros, on the other hand, persons are detained in the RIC for the full 25-day period. In some cases in 2020, detention in the RIC has exceeded one month, as an initial quarantine period has been applied.</p>
	<p>Art 39(4)(b) IPA: Persons may challenge their “restriction on freedom” through the “objections” procedure before the Administrative Court.</p>	Courts	<p>Given that persons are not subject to the “restriction on freedom” within the premises of the RIC in practice, the authors are not aware of “objections” against this restriction being lodged before Administrative Courts.</p>

¹⁵ Council of State, Decision 805/2018, 17 April 2018, para 15.

4. Provision of information			
<p>Art 8(1): Succinct information on (a) steps and modalities and (b) rights and duties during screening.</p> <p>Art 8(2): As appropriate, (a) Schengen entry conditions, (b) asylum procedure, if they have applied or wish to do so, (c) obligation to return, (d) options for voluntary departure, (e) conditions for relocation, (f) GDPR.</p>	<p>Art 39(3) IPA: Information is provided on</p> <ol style="list-style-type: none"> rights and duties during the reception and identification procedure, including how to challenge "restriction on freedom" transfer to other reception facilities the possibility to seek asylum, rights and duties in the asylum procedure, and the process for issuance of an applicant card the possibility of assisted voluntary return <p>Information is given in a language the person understands or is reasonably expected to understand.</p> <p>Information is provided by the RIS. In case of mass arrivals, it may also be provided by the Hellenic Police, Hellenic Coast Guard and Armed Forces.</p>	<p>RIS, (Police, HCG, Army), UNHCR</p>	<p>On the islands, UNHCR provides information in the form of information sessions. Where information is provided, it systematically covers the asylum procedure.</p>
5. Registration of personal details			
	<p>Art 39(5)(a) IPA: registration of personal details and fingerprinting</p> <p>Art 13(1)(b) L 4375/2016: The Identification and Screening Office (Κλιμάκιο Ταυτοποίησης και Εξακριβώσης Ιθαγένειας) is responsible for this step of the procedure.</p>	<p>RIS</p>	<p>Errors in the registration of personal details e.g. name, parents' names, date of birth, are frequently reported in the different RIC. In reported cases, the RIS has not corrected errors in personal details where these have been pointed out by the individuals. This creates difficulties in the asylum process and the family reunification procedure under the Dublin Regulation, where applicants have to apply before the Asylum Service to</p>

			<p>get their details corrected in time. It is often the case that such a correction is only possible during the asylum interview.</p> <p>Particularly as regards date of birth, the RIS frequently sets artificial dates such as 1 January. This is especially relevant in the case of alleged minors. In several cases, documents held by individuals are disregarded on the ground that the authorities cannot access the documents' authenticity, and the authorities assign a new date of birth to the applicant. This practice is verified, for instance, vis-à-vis applicants from Afghanistan.</p>
<p>Art 10(1): identity verified based on documents, biometric data, including databases</p>	<p>Art 39(5)(b) IPA: verification of identity and nationality.</p> <p>Art 13(1)(b) L 4375/2016: The Identification and Screening Office (Κλιμάκιο Ταυτοποίησης και Εξακριβώσης Ιθαγένειας) is responsible for this step of the procedure.</p>	<p>RIS, Frontex</p>	<p>Failure to register declared details: Per the Manual of SOPs, in the absence of documents, identity shall be registered based on the person's own declaration. On the islands, however, there have been repeated complaints regarding incorrect registration of individuals' personal data by Frontex officials, without recording the applicants' declared details. This is particularly problematic with regard to nationality e.g. through incorrect registration of stateless Bidoons as Iraqi or Kuwaiti nationals. Complaints also relate to wrong registration of children as adults. Frontex officers are reported to systematically register declared minors as adults, without recording their declared age and without referring them to age assessment procedures.</p> <p>Conduct of document checks by Frontex: Frontex almost exclusively carries out identity and nationality verification, as the RIS lacks the necessary capacity e.g. interpretation services.¹⁶ Per the Manual of SOPs, where the person holds a document, a thorough document check shall be conducted.</p>

¹⁶ AIDA, Country Report Greece, 2019 Update, June 2020, 43.

		<p>As stated above, there have repeated concerns as to the process by which Frontex registers personal details such as age and nationality on the islands.</p> <p>The involvement of the Agency may spill over to subsequent stages in the asylum procedure, where a document check is required by the authorities. The RIS and/or Asylum Service enlist the assistance of Frontex Document Experts when doubts arise as to the authenticity of documents carried by persons e.g. to prove their nationality. This is particularly the case when the person's age is disputed and they procure a document to prove it. Such doubts are frequently expressed by the authorities with regard to Afghanistan identity documents (<i>taskera</i>) in particular.</p> <ul style="list-style-type: none"> ▪ The procedure is not regulated by legislation or publicly available guidelines. ▪ The Asylum Service withholds the original document and transmits it to Frontex without assigning a reference number (αριθμό πρωτοκόλλου) so as to verify that such a submission has been made.¹⁷ ▪ Any conclusion of the Frontex expert on the authenticity of documents, which is subsequently relied upon by the authorities, does not take the form of an individual decision and is not made available to the individual. ▪ No record of the document check is kept in the case file of the person. ▪ Individuals are not informed by Frontex officials of the possibility to lodge a complaint with the Agency in case they believe that their rights have been infringed in the process.
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¹⁷ AIDA, *Country Report Greece, 2019 Update*, June 2020, 113.

6. Medical check			
<p>Art 9(1): systematic unless authorities are satisfied based on the state of health of the person that it is not necessary.</p>	<p>Art 39(5)(c) IPA: Systematic medical check and provision of potentially necessary care and psychosocial support.</p> <p>Art 13(1)(c) L 4375/2016: The Medical and Psychosocial Office (Ιατρικό και Ψυχοκοινωνικό Κλιμάκιο) is responsible for this step in the procedure.</p>	<p>EODY</p>	<p>In practice, there is a degree of uncertainty as to the point upon which the medical check is deemed to have been completed for the purposes of the reception and identification procedure. Partly due to delays in the conduct of the medical check, reception and identification procedures are often deemed as concluded while the individual awaits the medical check and vulnerability assessment or the outcome thereof.¹⁸</p> <p>In the vast majority of cases, if not all, on the very day of issuance of the RIS decision ordering “restriction on freedom” within the RIC pending the completion of the reception and identification procedure, the RIS also issues a referral decision to the competent authorities (i.e. the Asylum Service and Hellenic Police), clearly stating that the reception and identification procedures have been completed and that the applicant has not been identified as vulnerable. In any event, where decisions of restriction on freedom and the referral decisions have not been issued on the same date, the aforementioned referral decisions are issued prior to the conduct of the medical check and vulnerability assessment.</p> <p>Since the end of 2019, the authority competent for carrying out medical checks is the National Public Health Organisation (EODY). Following the destruction of the RIC of Moria on Lesvos in September 2020, EODY is supported by non-governmental organisation Crisis Management Association (CMA),¹⁹</p> <p>The process is marred by severe delays, however, <i>inter alia</i> due to shortages in medical staff, as outlined above. According to Ministry of Migration and Asylum statistics, in 2019, the average</p>

¹⁸ This is a recurring problem: Ombudsman, *Η πρόκληση των μεταναστευτικών ροών και της προστασίας των προσφύγων: Ζητήματα διοικητικής διαχείρισης και δικαιωμάτων*, 18-20, available at: <https://bit.ly/2XuQhG1>.

¹⁹ Crisis Management Association, available at: <https://bit.ly/3nsfXOn>.

		<p>waiting time for the conduct of the medical check and psychosocial assessment was 4 months on Kos, 3-4 months on Leros, 1-8 months on Chios, 2-3 months on Samos and 2-6 months on Lesvos.²⁰ Waiting times are likely to have dropped in 2020 due to the decrease in arrivals and the COVID-19 pandemic.</p> <p>The RIS issues a Foreigner's Medical Card (Κάρτα Υγείας Αλλοδαπού) containing basic medical information. However, in several cases on the islands, medical problems are not recorded on the Foreigner's Medical Card. The lack of recognition of medical issues renders access to special care and facilities extremely difficult. In addition, medical assessments are often incorrect, even for visible conditions such as mobility problems.</p> <p>Crucially, asylum seekers on the islands do not have access to their medical case file, unless an application is filed by their legal representative.²¹ Medical documents and psycho-social reports, whether submitted by the applicant or passed on by public health institutions to the RIS, are in most cases not transmitted to the legal representative. Vulnerability assessment forms and recommendations of the EODY Medical and Psychosocial Unit are often withheld on the islands, on the ground that these documents are only internally transmitted to the Asylum Service.</p> <p>Where needed, EODY may issue a referral note (παραπεμπτικό σημείωμα) to a public health institution for the person to undergo the necessary examinations for identification and/or receive care. In the meantime, however, the RIS declares the person as non-vulnerable before the outcome of medical</p>
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²⁰ AIDA, *Country Report Greece, 2019 Update*, June 2020, 107.

²¹ Legal practitioners have also observed discrepancies between the information contained in the copy of medical card transmitted to the applicant and the one kept on the file of the RIS.

			<p>examinations. Requesting a re-assessment may be difficult in practice, especially for applicants who do not benefit from legal representation.</p> <p>As regards applicants suffering from disabilities or chronic diseases in particular, to the knowledge of the authors, the RIS has never referred an applicant to undergo a medical examination so as to identify the exact nature of disability and to medically certify its percentage by the competent disability certification centre.</p>															
7. Identification of vulnerability																		
<p>Art 9(2): Where relevant, special procedural or reception needs</p>	<p>Art 39(5)(d) IPA: Tailored care and protection to vulnerable groups.</p> <p>Article 61(1) IPA: Victims of torture are certified by medical opinion of public hospitals or other public health institutions, including forensic authorities.</p>	<p>EODY</p>	<p>The observations relating to uncertainty as to the completion of reception and identification procedures pending a medical check apply to the vulnerability assessment as well.</p> <p>Vulnerability assessments are carried out in conjunction with the medical check. Since the end of 2019, they are carried out by EODY. Although no degrees of vulnerability are laid down in legislation, vulnerability was previously categorised in practice as follows: A Vulnerable; B Non-vulnerable with special reception needs; C Non-vulnerable with no need for support. The authors are not aware of this classification being notified to individuals on Lesvos at the moment. However, it remains in use on the other islands.</p> <p>During the first half of 2020, out of a total of 7,762 registered persons, the RIS identified only 872 (11%) as vulnerable:²²</p> <table border="0"> <tr> <td>Unaccompanied children</td> <td>241</td> <td>3%</td> </tr> <tr> <td>Persons with disabilities</td> <td>40</td> <td>0.5%</td> </tr> <tr> <td>Elderly persons</td> <td>23</td> <td>0.3%</td> </tr> <tr> <td>Pregnant / new mothers</td> <td>119</td> <td>1.5%</td> </tr> <tr> <td>Single-parent families</td> <td>338</td> <td>4.3%</td> </tr> </table>	Unaccompanied children	241	3%	Persons with disabilities	40	0.5%	Elderly persons	23	0.3%	Pregnant / new mothers	119	1.5%	Single-parent families	338	4.3%
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²² RIS, Ροές καταγεγραμμένων ΥΤΧ (ανά κατηγορία ευαλωτότητας), 30 June 2020, available at: <https://bit.ly/36zURbz>.

			<p>Victims of violence 61 0.8%</p> <p>Victims of trafficking 0 0%</p> <p>Training of authorities on contact with vulnerable persons: Experience has shown that staff have not received the requisite training in order to fulfil their duties under the law. No training is provided on engaging with victims of trafficking²³ or torture, people suffering from mental disorders or PTSD, or people who use drugs. The parameter of use of psychoactive substances is a factor entirely neglected during the reception and identification procedure. This has direct and serious impact on the applicant's health, since their special needs and circumstances are not met even if identified by the RIS, even in cases where the applicant requests to be referred to a specialised public centre for detoxification or for substitution.</p> <p>Institutional barriers to identification: Certain categories such as victims of torture are systematically not identified as such, where certification does not take place. Certification of victims of torture is impossible in the country in practice, given that public health authorities do not have the processes and capacity in place to carry out certification. The authors have contacted public health institutions on the islands on various occasions to inquire whether they certify victims of torture in accordance with the Istanbul Protocol, victims of rape of other serious form of violence, as well as whether hospital staff is appropriately trained for such a certification and whether the victims are able to receive the necessary care for their rehabilitation. The following replies have been provided by authorities:</p>
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²³ Deficiencies are also witnessed by legal practitioners with regard to referrals of cases to the National Rapporteur on Trafficking.

		<ul style="list-style-type: none"> ▪ Lesvos: In response to requests <i>inter alia</i> by RSA, HIAS and METAdrasi in the course of 2020, the “Vostanio” General Hospital of Mytilene has stated that it does not operate a specialised service for the certification of victims of torture. The hospital referred the applicants to the Northern Aegean Forensic Service (ιατροδικαστική υπηρεσία). Said authority, however, has stated that it solely conducts examinations upon order from police authorities or the prosecutor.²⁴ <p>Regarding the other islands, in response to written requests by METAdrasi lawyers:</p> <ul style="list-style-type: none"> ▪ The “Skylitsio” General Hospital of Chios responded that it does not operate a specialised service for the certification of victims of torture; ▪ The General Hospital of Samos did not provide information on certification and rehabilitation of victims of torture, albeit stating that it applies the practices and guidelines on handling sexual and gender-based violence inside RIC; ▪ The General Hospital of Leros responded that persons are referred to a forensic examination at the nearest hospital that carries out such examinations. In any case, the medical and nursing staff of the General Hospital of Leros would treat anyone who needs medical help; ▪ The General Hospital of Kos stated that the Dodecanese Forensic Service of Kos is able to certify torture and other serious forms of sexual or physical violence only upon order from the prosecutor. According to the Forensic Service, however, the outcome of such an examination is not
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²⁴ RSA & Stiftung PRO ASYL, *Submission in M.S.S. v. Belgium and Greece and Rahimi v. Greece*, July 2020, para 48, available at: <https://bit.ly/2VAa31T>; HIAS, *Communication in the M.S.S. and Rahimi groups v. Greece*, August 2020, 9.

		<p>reliable where a relatively long lapse of time and where offences have been committed in an unknown place.</p> <p>Gaps in special reception conditions: Appropriate care and protection are systematically not provided to vulnerable persons undergoing reception and identification procedures. In addition, when the RIS authorities identify an applicant as belonging to one of the 'evident' categories of vulnerability e.g. pregnancy, single-parent family, elderly, they certify them as vulnerable, without however assessing the applicability other vulnerability categories prescribed by law, which may not be visible e.g. victims of violence or torture. Accordingly, the RIS does not provide the applicant with appropriate special reception conditions. Moreover, as stated above, due to capacity gaps and delays in the conduct of medical checks and vulnerability assessments, many asylum seekers have undergone asylum procedures without a prior identification of vulnerability. Relevant vulnerabilities are thus not identified until the applicant has completed their asylum procedure.</p> <p>RIC lack specialised staff such as psychiatrists, while public hospitals often do not have sufficient capacity to treat all cases referred to them. Additionally, hospitals have referred individuals to hospitals on the mainland for specialised examinations for conditions e.g. HIV, given that antiretroviral treatment may only be provided by Infectious Diseases Units which do not exist on Lesbos, Chios, Samos, Leros or Kos.²⁵</p>
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²⁵ According to applicable guidelines, treatment must start upon the person's diagnosis as HIV positive. On all the islands, however, due to the serious deficiencies in reception and identification procedures, as stated above, it takes a lot of time for an applicant to be diagnosed, even where they have already been diagnosed prior to their arrival in Greece, thereby posing serious risks for their health. Furthermore, applicants who have survived sexual violence are not always referred for HIV, HBV & HCV tests even if originated by counties with high-prevalence HIV rates. Also, the protocol for HIV testing is never respected on any of the islands.

			However, the authors are aware of cases where referral never took place as the geographical restriction was not lifted or where the transfer did not take place promptly, leading to a severe deterioration of the person's health situation. ²⁶
	Art 39(5)(d) IPA: Upon duly motivated recommendation of the Medical and Psychosocial Office, the RIS refers the individual to the competent public authority for social support or protection.	RIS	During the first half of 2020, ²⁷ the RIS referred 289 cases to the National Centre for Social Solidarity (EKKA), presumably all unaccompanied children. Another 156 cases were referred to health services.
Art 9(3): Timely and adequate support in view of physical and mental health	<p>Art 39(5)(d) IPA: Vulnerability solely impacts on immediate coverage of special reception needs.</p> <p>Art 2 JMD 1140/2019: The lifting of the geographical restriction is ordered by the Head of the RIC where the person:</p> <ul style="list-style-type: none"> (a) Is an unaccompanied minor; (b) Falls under the family provisions of the Dublin III Regulation; (c) Has a manifestly well-founded claim; (d) Is vulnerable or in need of special reception guarantees and adequate support cannot be provided. 	RIS	<p>There is no transparency and clarity as to the implementation of the criteria for lifting the geographical restriction in practice. On all islands, the RIS does not inform applicants on the procedure and criteria for lifting the geographical restriction.</p> <p>On Lesvos, there is no process in practice for the individual to formally request the lifting of the geographical restriction by the Head of the RIC. Requests may be made informally through the submission of documents, without records of the request being kept. In addition, such a decision can take several months.</p> <p>Even upon a positive decision or a decision of exemption from the fast-track border procedure, the individual's transfer out of the island can take several months. Note also that the RIS often outsources responsibility for transfers to other bodies such as UN agencies, without ensuring the necessary coordination. For example, in cases concerning applicants on Lesvos (including one for whom the ECtHR had granted interim measures requiring the authorities to ensure appropriate living conditions), the RIS stated that it had referred the person to</p>

²⁶ See ECtHR, *E.F. v. Greece*, App No 16127/20, communicated under *A.R. and others v. Greece*, App No 5984/19, Communicated 4 January 2021.

²⁷ RIS, *Παραπομπές*, 30 June 2020, available at: <https://bit.ly/3qyCNXk>. The RIS indicates that the data on referrals do not include transfers to the mainland.

			<p>UNHCR for his transfer to the mainland and was thereby not in a position to know when he would be transferred.²⁸</p> <p>Furthermore, the RIS has sought the assistance of NGOs operating in Moria to identify asylum seekers to be transferred out of the camp earlier in 2020, advising them to send referrals to the Vulnerability Focal Point of the RIC. However, the RIS does not provide information as to which categories were eligible for the lifting of the restriction and does not follow up to NGOs' referrals.²⁹ More recent requests have also failed to yield clarifications on the applicable criteria for transfers to the mainland.³⁰</p>
8. Age assessment			
-	<p>Art 39(5)(f) IPA refers to JMD 9889/2020:</p> <p>Art 2 JMD 9889/2020: Referral for age assessment by the RIS or the Asylum Service in case of doubts as to the person's age, i.e. when the authority's initial assessment is not consistent with the person's statements.</p> <p>Art 4 JMD 9889/2020: Age assessment conducted by EODY within the RIC, a public health institution, or otherwise a private practitioner under a relevant programme.</p>		<p>The concerns outlined above as regards the involvement of Frontex experts in document checks are particularly relevant to age assessment. In addition, the Asylum Service only deems IDs, passports and original birth certificates, translated and sealed by the embassy of the country of origin, as proof of the applicant's age.</p> <p>Age assessment practice falls far short of legislative standards. Many alleged minors report arbitrary age assessments, conducted in dereliction of legal provisions. Starting from their first registration in the RIC, minors have claimed their minority but have not been considered credible and have been met with mistrust from interpreters and authorities. Responses include phrases such as "you do not look like a minor". Several</p>

²⁸ RSA & Stiftung PRO ASYL, *Submission in M.S.S. v. Belgium and Greece and Rahimi v. Greece*, July 2020, para 10. See ECtHR, *M.A. v. Greece*, App No 18179/20, Order of 5 May 2020, and *E.F. v. Greece*, App No 16127/20. The cases were communicated under *A.R. and others v. Greece*, App No 5984/19, Communicated 4 January 2021.

²⁹ HIAS, *Communication in the M.S.S. and Rahimi groups v. Greece*, August 2020, 12.

³⁰ RIS, 'Παροχή διευκρινίσεων σε ερωτήματα του Legal Aid Sub-Working Group – Lesbos αναφορικά με διαδικασίες εντός της νέας Δομής στη θέση Μαυροβούνι', No 4.2/13331, 18 November 2020, on file with the authors.

			<p>alleged minors have reported that they were not informed of the age assessment process or its consequences; they were only called to the facilities of EODY inside Moria on Lesvos.</p> <p>Furthermore, severe capacity shortages in medical staff on the islands result in prolonged delays in the conduct of age assessments. In one case on Samos, the Asylum Service referred an alleged minor to the General Hospital of Samos to undergo the examination in December 2019. The applicant's lawyer was informed in October 2020 that the examination had not taken place until now because the General Hospital of Samos could only examine 8 persons³¹ and the Asylum Service had decided to give priority to minors who had submitted a family reunification request under the Dublin Regulation. Moreover, the General Hospital of Samos informed the lawyer that it had never received a request by the Asylum Service concerning her client.</p> <p>Treatment pending the outcome of the age assessment: Individuals are not treated as minors during the age assessment procedure. On all islands, the Public Prosecutor does not appoint a guardian for the person, while alleged minors are excluded from safe zones in the RIC. Accordingly, on islands such as Kos, alleged minors remain in the pre-removal detention centre for prolonged periods pending the outcome of the process.³²</p>
	Art 5 JMD 9889/2020: Age assessment methods shall be followed in order:	EODY	Medical methods for age assessment are systematically used, despite well-documented concerns as to their accuracy and reliability. The authorities do not systematically comply with the

³¹ General Hospital of Samos, Doc No 10834, 8 July 2020, cited in Efsyn, 'Τον άφησαν να πεθάνει λόγω του «κανονισμού»', 30 July 2020, available at: <https://bit.ly/2LvzFT>.

³² This was also the case on **Lesvos** when the pre-removal detention centre was in operation.

	<p>a. Assessment of macroscopic features e.g. weight, height, voice, hair</p> <p>b. Psychosocial assessment by a psychologist and social worker</p> <p>c. Wrist and arm or dental X-ray or any other means apt to offer an accurate conclusion according to international literature</p>		<p>procedure set out in secondary legislation.³³ Persons are subjected to an X-ray examination at the First-Line National Health Network Centre (ΠΕΔΥ) or general hospital, without prior assessment by a psychologist and a social worker.</p> <p>Moreover, EODY does not perform a step-by-step process starting from less invasive methods, as established by JMD 9889/2020. The alleged minors go through a one-time appointment which includes an age assessment interview and a medical and psychological evaluation. Many are only asked about aspects irrelevant to age assessment such as their family relationships, country of origin and reasons for fleeing. The sessions take less than 15 minutes and involve no explanation of the procedure or its outcome.</p>
9. Guardianship			
-	<p>Art 16(1) L 4554/2018: Relating to unaccompanied children, referral authorities inform the competent prosecutor without delay. The prosecutor acts as temporary guardian and ensures the immediate appointment of a guardian.</p>		<p>Unaccompanied children are not immediately appointed a guardian for the purposes of reception and identification procedures. However, at different times in recent years, on the basis of a general authorisation of guardians coordinated by METAdrasi by public prosecutors, unaccompanied children on Lesvos, Chios, Leros and Kos have been able to be accompanied by guardians during the aforementioned procedure before Frontex.³⁴ The presence of guardians has had visible impact on the transparency of the registration of the individuals' personal details, including declared age.</p>
10. Legal assistance			
-	<p>Art 71(1) IPA: Asylum seekers grant power of attorney to a lawyer or authorisation to a counsellor through written document,</p>		<p>As regards access to legal assistance, people arriving on the islands and entering the RIC do not come into contact with lawyers prior to undergoing reception and identification</p>

³³ Psychosocial assessments appear to be conducted on **Lesvos** as of August 2020.

³⁴ METAdrasi, 'Ανακοίνωση της ΜΕΤΑδρασης για την επιτροπεία ασυνόδευτων ανηλίκων', 27 February 2020, available at: <https://bit.ly/2LvHzF1>. The Prosecutor of **Samos** did not provide such an authorisation in previous years.

	subject to verification of the authenticity of the applicant's signature before a public authority.		<p>procedures, including in quarantine areas used in 2020 during the COVID-19 pandemic. It is worth highlighting that restrictive rules on authorisation of legal representatives under Article 71 IPA pose additional obstacles to representing persons immediately upon their arrival in the RIC.</p> <p>Difficulties emerge on all islands due to the requirement on applicants to certify the authenticity of their signature before the RIS, the Asylum Service or the Police. The authorities often invoke arbitrary grounds for refusing to perform that service, however. On Chios, the RIS has refused to certify signatures due to lack of dedicated personnel for the procedure. On other islands, police authorities inside the RIC have refused to provide the service on the ground that they lack seals for the procedure. More recently on Lesvos, police authorities have denied certification of signatures for authorisations written in Greek, given that the applicant did not speak the language.</p>
11. Referral to the asylum procedure			
<p>Art 14(2): Referral to asylum authorities together with the de-briefing form</p> <p>Recital 16: The registration of the asylum claim only takes place after the screening has ended.</p>	<p>Art 39(6)(a) IPA: The individual is referred to the competent Regional Asylum Office upon completion of the procedure.</p> <p>Art 39(6)(b) IPA: An application may be submitted at any stage of the procedure. Therefore, the registration of the application is not suspended pending reception and identification procedure.</p> <p>The authorities shall separate asylum seekers from the remainder of the population in the centre.</p>	RIS	<p>The registration of the asylum application under Article 6(1) of the Asylum Procedures Directive, also referred to as pre-registration (<i>προκαταγραφή</i>) or basic registration (<i>απλή καταγραφή</i>), takes place during the reception and identification procedure. The RIS issues a referral note (<i>παραπεμπτικό σημείωμα</i>) to the competent Regional Asylum Office, which contains <i>inter alia</i> an Asylum Pre-Application Number (<i>Αριθμός Προαιτήματος Ασύλου</i>).</p> <p>Several obstacles hinder effective referral from the RIS to the Asylum Service, however. As authorities do not have coordinated access to the national asylum database (<i>Αλκυόνη</i>) maintained by the Police, vulnerability assessments done by the RIS are not immediately visible to the Asylum Service. There have been reported cases of asylum seekers having to receive copies from the RIS to produce them before</p>

		<p>asylum authorities.³⁵ At the end of 2020, the government announced its plan to develop a new integrated asylum database (<i>Αλκυόνη II</i>) with financial support from the Internal Security Fund (ISF).³⁶</p> <p>Pilot lodging of applications by the RIS: Since the end of 2020, a new RIS asylum registration form akin to the de-briefing form presented in the Screening Regulation has been introduced in the RIC of Chios and Evros, where the RIS conducts the lodging of the asylum application in a pilot phase. However, deficiencies have already been identified in the registration pilot due to issues in the coordination between the RIS and the Asylum Service, as well as the lack of competence of the RIS to issue a Temporary Foreigner Insurance and Health Care Number (<i>Προσωρινός Αριθμός Ασφάλισης και Υγειονομικής Περιθαλψης Αλλοδαπού, ΠΑΑΥΠΑ</i>) to asylum seekers upon the lodging of the claim. As the project remains in pilot phase and various deficiencies have emerged, the Asylum Service conducts a repeat interview with the individual following the completion of the reception and identification procedure.</p> <p>The Additional Personal Data Registration Form (<i>Φόρμα καταγραφής συμπληρωματικών προσωπικών στοιχείων</i>) of the RIS largely mirrors the contents of the registration form (<i>φόρμα καταγραφής</i>) used by the Asylum Service for the lodging of applications.</p> <p>However, the “International Protection Application Information” of the RIS form includes entries which touch upon the admissibility of the asylum claim vis-à-vis the “safe third country” concept: “In case of stateless or applicants whose last</p>
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³⁵ RSA & Stiftung PRO ASYL, *Submission in M.S.S. v. Belgium and Greece and Rahimi v. Greece*, July 2020, para 8.

³⁶ Greek Government, *Ολοκληρωμένο σύστημα διαχείρισης ασύλου – Αλκυόνη II*, available at: <https://bit.ly/2JXllon>.

			country of residence may be considered a secure third country: State explicitly all the reasons why you do not wish to return to your country or country of most recent residence. " This entry does not exist in the Asylum Service registration form.
12. Deadlines to complete the process			
Art 6(3): 5 days	Art 39(4)(a) IPA: Although no deadline is set for the completion of procedures, an order of "restriction on freedom" is issued if reception and identification procedures are not completed within 5 days of entry in the RIC.	RIS	As noted above, "restrictions on freedom" are systematically issued in practice for a maximum of 25 days. On the islands, reception and identification procedures are conducted within 3 to 5 days, subject to the aforementioned problems relating to the medical and vulnerability assessment and the point at which the process is deemed to be completed. ³⁷
Art 6(3): 10 days in exceptional cases of disproportionate arrivals	Art 39(4)(a) IPA: Although no deadline is set for the completion of procedures, the order of "restriction on freedom" is issued for a maximum of 25 days from entry in the RIC.	RIS	
Art 14(7): Referral after the deadline, even if screening has not been completed.	Art 39(6)(d) IPA: Where the procedure has not been completed within 25 days, the RIS refers asylum seekers to an appropriate facility for their temporary reception.	RIS	In practice, asylum seekers are never referred to a different facility outside of the island upon expiry of the 25-day time limit. There have been cases of people transferred to other locations on the islands, however the government has declared its intention to phase out alternatives to RIC accommodation on the islands and has proceeded to closure of facilities e.g. on Leros and Lesvos . ³⁸ In addition, the Ministry of Migration and

³⁷ AIDA, *Country Report Greece, 2019 Update*, June 2020, 39-40.

³⁸ Ministry of Migration and Asylum, 'Τερματισμός λειτουργίας προσωρινής δομής φιλοξενίας ΠΙΚΠΑ Λέρου', 27 November 2020, available at: <https://bit.ly/3oswiDW>; RSA, 'Forcible evacuation of ΠΙΚΠΑ in contempt of Strasbourg proceedings: The timeline of a flagrant violation of legality', 3 December 2020, available at: <https://bit.ly/38qylma>.

		<p>Asylum excludes the islands and the Evros region from accommodation schemes such as the ESTIA programme.³⁹</p> <p>In Evros, upon expiry of the maximum time limit, persons are released without a referral by RIS to a reception facility, due to a lack of capacity in the reception system.⁴⁰ This has resulted in substantial numbers of asylum seekers having to reach camps on the mainland on their own means and staying there as unregistered residents under extremely precarious conditions. For example, in April 2020, 65% of the population in the camp of Malakasa were unregistered.⁴¹</p>
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³⁹ Ministry of Migration and Asylum, *Call for proposals: «ESTIA 2021: Στεγαστικό πρόγραμμα για αιτούντες διεθνή προστασία»*, 30 November 2020, available at: <https://bit.ly/369Oawl>.

⁴⁰ AIDA, *Country Report Greece, 2019 Update*, June 2020, 45.

⁴¹ IOM, *SMS Factsheets*, April 2020, available at: <https://bit.ly/3or3prr>.