



**REPORT OF THE GREEK COUNCIL FOR REFUGEES
TO THE UN COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS
IN VIEW OF ITS 55th SESSION**

The Greek Council for Refugees (GCR) is a Greek Non-Governmental Organization, which has been active since 1989, providing legal assistance and social support to persons in need of international protection in Greece. GCR has a Consultative Status in the Economic and Social Council (ECOSOC) of the UN and is an implementing partner of the UN High Commissioner for Refugees (UNHCR).

The present submission concerns particularly the issues arising in relation to the social rights of persons in need of international (or other kind of) protection in Greece, namely the asylum-seekers, the refugees, the persons granted subsidiary protection and the persons granted leave to remain in the country for humanitarian reasons¹.

¹ For definitions of all terms mentioned above, see: The 1951 Geneva Convention Relating to the Status of Refugees and the relevant 1967 New York Protocol, the Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 “on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection for a uniform status for refugees or for persons eligible for subsidiary protection and for the content of the protection granted”, the Greek Presidential Decree 141/2013, transposing the Directive 2011/95/EU in the Greek legislation and art. 28 of the Greek Presidential Decree 114/2010 “on the establishment of a single procedure for granting the status of refugee or of beneficiary of subsidiary protection to aliens or to stateless persons in conformity with Council Directive 2005/85/EC on minimum standards on procedures in Member States for granting and withdrawing refugee status”.

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Observations per article (and cluster):

1. Article 2 par.2: Non-discrimination in economic, social and cultural rights

a. In conjunction with Article 6 par. 1: Right to work

According to Greek law, applicants for international protection are entitled to temporary employment in order to meet life's needs, on the following conditions: (a) that they are holders of a valid asylum seeker's card, showing that they are not staying in a special Temporary Residence Centre intended for aliens seeking asylum, and (b) that, after searching the labour market, no interest has been expressed for the particular post from a Greek national, a European Union citizen, a recognized refugee or a person of Greek descent (art. 4 of Presidential Decree 189/1998, Official Gazette Volume A', Number 140/25.06.1998). The latter precondition constitutes a serious impediment to the exercise of the right to work for most applicants for international protection, since – due to the high unemployment rates currently recorded in Greece - it is extremely difficult to find a post, for which no interest has been expressed by a Greek or EU citizen etc. This priority given to other categories of persons over applicants for international protection constitutes to our view direct discrimination against the latter on the basis of their status, and results in that most applicants for international protection in Greece are barred from working to earn their living, while at the same time there are inadequate reception conditions for this category of persons (see below article 11 of this report). It should be noted that, according to the above provision of Presidential Decree 189/1998, the same requirement, i.e. that no interest was expressed for the particular post from a person belonging to one of the above-listed categories, also applies for the issuance of temporary work permits to persons granted leave to remain in the country on humanitarian grounds.

b. In conjunction with Article 9: Right to social security

The Law 4093/2012 under the title “Ratification of Mid-term Fiscal Strategy 2013-2016 – Urgent Regulations relating to the Implementation of L.4046/2012 and the Mid-term Fiscal Strategy 2013-2016” (Official Gazette Volume A', Number 222/12.11.2012) amended the

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conditions under which uninsured senior citizens are entitled to a monthly pension to cover their needs (first article, par. IA, subpar. IA.6.). According to the new provisions, from 01.01.2013 onwards the monthly pension for uninsured senior citizens is granted on the additional condition that the applicants have been living permanently and legally in Greece for the last twenty (20) years before applying for the pension. Furthermore, the same article stipulates that entitlements to this pension that had been already recognized under the previous legal regime should be reassessed according to the new criteria of Law 4093/2012. As a result, GCR has encountered many cases where recognized refugees, who were uninsured, have attained the prescribed age and their income did not exceed the set limit, ceased to receive the above-mentioned pension due to the fact that they could not meet the criterion of the 20-year permanent and legal residence in Greece.

It should be noted that the requirement that the applicants for this pension prove that they have been living permanently and legally in Greece for the last twenty (20) years constitutes to our view indirect discrimination against recognized refugees, as it has a disproportionate impact and nullifies for many of them the enjoyment of their right to social security. Furthermore, taking into consideration that recognized refugees have no contact with their country of nationality, are deprived of its protection and cannot exercise any rights (e.g. property rights or rights to social security) that they may have established in their country of origin in the past, the above-mentioned pension is often the only means of support for the majority of uninsured over-aged recognized refugees, without which they are exposed to the danger of living in complete destitution.

c. In conjunction with Article 10: Protection of the family

i. Greek law stipulates that the performance of the marriage act, whether civil or religious, requires the issuance of an authorization by the mayor of the last place of residence of each of the spouses (article 1368 of the Greek Civil Code). For the issuance of this authorization, each intended spouse, in case of Greek nationals, shall produce, among other things, an official declaration that there is no legal impediment to his/her marriage (article 1 par. 3 case (c) of Presidential Decree 391/1982, Official Gazette Volume A', Number 73). When one of the intended

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spouses is a foreigner, rather than the official declaration which is provided for Greek nationals, a certificate shall be issued from the relevant consular or other competent authority to the effect that there is no impediment to the marriage of the alien concerned (article 1 par. 3 case (d) of Presidential Decree 391/1982). In its Opinion No 78/2009² on a query as to whether an alien who has applied for asylum is entitled to produce an official declaration that there is no legal impediment to his/her marriage in order to enter into marriage in Greece, the Legal Council of the State stated that an alien who has applied for asylum and wishes to enter into a civil marriage in Greece must produce, according to article 1 par. 3 case (d) of Presidential Decree 391/1982, a certificate by the competent consular or other competent authority that there is no impediment to the marriage. According to the Legal Council of the State, it is not possible to replace such certificate with an official declaration to that effect, as is the case for Greek nationals, because according to the provisions of article 5 par. 3 of Presidential Decree 220/2007, the asylum seeker's document does not confirm the applicant's identity and the official declaration is inherent with the provision of ascertained data of the applicant's identity. In addition, the Legal Council of the State justified this different treatment of aliens who have applied for asylum as compared to nationals in this matter, indicating *inter alia* that the 1951 Geneva Convention Relating to the Status of Refugees and the 1967 New York Protocol regulate only the rights granted to refugees during the process of the examination of their application in line with the respective rights of the country's nationals and that the right to enter into a marital relationship is not included in these rights.

It should be noted that the requirement by the administrative authorities and services of the State for a certificate of celibacy issued by the relevant consular or another competent authority of the country of nationality of the alien attesting the absence of impediment for the marriage, although imposed by law, renders impossible the performance of the marriage act for the asylum seekers, whose relations with the state of their nationality are presumed to have been irretrievably broken. The exclusion of the possibility for asylum seekers, who are really unable to

² <http://www.nsk.gov.gr/webnsk/gnwmodothsh.jsp?gnid=112193>

produce such certificates of celibacy, to submit instead an official declaration that there is no impediment to their marriage puts them in a disadvantageous position and prevents them from entering into marriage and forming a family in Greece.

ii. Recent laws have reformed the family allowance policy in Greece. In particular, the “single child support allowance”, introduced by Law 4093/2012 (Official Gazette Volume A’, Number 222/12.11.2012), replaced a number of pre-existing family benefits. It is paid after taking a number of parameters into consideration: the number of the dependent children, the equivalence scale, the equivalent income and the income category of the family. The amount of the “single child support allowance” is €40 per month for each dependent child (first article, par. IA, subpar. IA.2. of Law 4093/2012). In addition, the “special allowance of €500 for each child per year” was established by art. 40 of Law 4141/2013 (Official Gazette Volume A’, Number 81/05.04.2013) as an additional benefit for families who have three dependent children or more, based on family income criteria [family income up to €45,000 for families with three children, €48,000 for families with four children, increased by €4,000 for each additional child].

Recognized refugees are listed among the categories of persons who are eligible for both of the afore-mentioned allowances. However, the provision that the allowances are paid to the prescribed categories of persons on condition that they reside or stay in Greece permanently and continuously for the last ten (10) years, imposes a requirement which is more difficult for recognized refugees than for e.g. Greek citizens to meet and does not take into account their vulnerable situation and the fact that their relations with their country of origin have been ruptured, while they have established real and legal ties with the country of asylum and not with another country.

2. Article 11: Right to an adequate standard of living

The Presidential Decree 220/2007 “on the transposition into the Greek legislation of Council Directive 2003/9/EC from January 27, 2003 laying down minimum standards for the reception of asylum seekers” (Official Gazette Volume A’, Number 251/13.11.2007) provides that “the

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authorities competent to receive and accommodate shall take adequate measures in order to ensure that material reception conditions are available to applicants for asylum”, and that “these conditions shall provide applicants with a standard of living adequate for their health, capable of ensuring their subsistence and to protect their fundamental rights” (article 12 par. 1). The term “material reception conditions” is defined as “the reception conditions that include housing, food and clothing, provided in kind, or as financial allowances or in vouchers, and a daily expenses allowance” (article 1 case (p) of Presidential Decree 220/2007), while “the provision of all or some of the material reception conditions and health care is subject to the condition that applicants do not themselves have sufficient means, allowing them to maintain an adequate standard of living from a health point of view and making possible their subsistence” (article 12 par. 3 of Presidential Decree 220/2007).

At first, it should be noted that the above-mentioned “daily expenses allowance”, although provided for by law, is not granted in practice, not even to the most vulnerable cases of applicants for international protection. In addition, the non-provision of allowances to asylum seekers is exacerbated by the problems they encounter with regard to the enjoyment of their right to housing, i.e. the inadequacy of the available housing facilities and the long waiting periods. In particular, according to the statistical data for the year 2013 presented by the National Centre for Social Solidarity (hereinafter “E.K.K.A.”)³, which is the competent body for the administration of asylum seekers’ and unaccompanied minors’ applications for housing, the nuclear families that applied for housing were 143 (535 persons) and housing was secured for 55,51% of these persons, while the waiting period was over 7 months. Regarding single-parent families, 87,6% of the 219 applications (567 persons) were granted housing after a waiting period, on the average, of 5 ½ months, while housing was offered to all single-parent families with a woman as the head of the household. With respect to unaccompanied minors, the waiting period until the finding of a place to house them was 13 days, while another 12 days had to pass from the time the E.K.K.A. issued the relevant document till the minor reached the reception centre. Finally, with regard to adults,

³ http://www.ekka.org.gr/portal_docs/forceaccount/picture/21_1065.pdf.

the E.K.K.A. received 888 applications and housing was found for 38,18%, while the waiting period exceeded 6 months.

According to the Social Unit of GCR, presenting long-standing experience in the relevant field, due to the inadequate reception conditions many applicants for international protection have to live in sub-standard conditions, without access to sanitary facilities, facing difficulties in finding food and clothes.

Finally, it should be noted that Greek law does not provide for allowances specifically targeting beneficiaries of international protection (recognized refugees and beneficiaries of subsidiary protection), aiming either at securing an adequate standard of living or at enhancing their smooth integration in the Greek society after their recognition as beneficiaries of international protection.

With regard to the right to housing of refugees, beneficiaries of subsidiary protection and persons granted leave to remain in the country for humanitarian reasons no special accommodation facilities exist. These persons may apply for accommodation to the few shelters administered by the Municipalities or the Ministry of Labour, Welfare and Social Insurance. However, the Social Unit of GCR has observed that due to the inadequate number of accommodation facilities for homeless people many beneficiaries of international (or other) protection continue to lack housing and reside in abandoned houses or in informally rented apartments in bad living conditions. This problem becomes intensified in cases in which a protection status has been granted to persons in need of protection who had never been subjected to reception conditions before, since they applied for international protection and got a residence status while in detention. In addition, the collection of all necessary documentation that the Municipalities may require (e.g. tax declarations, which are often not available or toxicological examinations, which are not performed at hospitals for free) intensifies the problem for homeless beneficiaries of international or humanitarian protection. At the same time the Social Unit of GCR is aware of cases where shelters have rejected applications for housing for language reasons, since the relevant structures are not specialized and cannot provide translation services.



GCR notices that many asylum seekers and third country nationals, beneficiaries of international (or other kind of) protection, face serious problems of subsistence (poverty, no or inadequate housing etc.) and cannot meet not even the basic needs for a decent living. Considering the vulnerable situation in which refugees and persons in need for international protection by definition find themselves, after fleeing their homeland to save their lives and protect their fundamental human rights from being violated, leaving all their properties behind, it is of outmost importance that the reception country offers the protection required, promoting and protecting their rights. Even if major efforts are undertaken by the Greek government in order to correct the shortcomings of the asylum procedure in Greece, the respect of the social rights of refugees needs to come to the attention of the authorities as well.

Athens, 8.1.2015

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