



Protect

The Right to International Protection

Vulnerability and the right to
international protection: The case of
Greece in the current refugee crisis



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Vulnerability and the right to international protection: The case of Greece in the current refugee crisis

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Abstract

Since the 2010s and the start of the increased refugee flows in Europe, Greece has been at the spotlight as a point of entry for refugees and asylum seekers from troubled regions of the Middle East and North Africa who attempt to cross either the land border with Turkey or use the sea routes to find shelter on the Greek islands (Lafazani 2018). The well-being of refugees and asylum seekers in Greece has also been at the spotlight for two reasons: (a) the crossing is largely unsafe either because of the landmines and other geographical characteristics of the land border or the inappropriate conditions of the boats used by traffickers, resulting in a number of deaths; and (b) the conditions of accommodation and detention in refugee camps and temporary facilities which do not meet health and safety standards or increase the vulnerability of certain segments of the refugee/asylum seeking population. As a result, Greece has also faced criticism from its European partners as well as national and international NGOs regarding its inability to cater for those arriving in Greece and for contributing to deportation back to Turkey without taking reasonable safety measures. Nonetheless, the heart of this crisis coincided with the demise of the Greek economy and the prolonged financial crisis (2009-2019) and was topped by the challenges of the pandemic between 2020-2022. This article reflects on those challenges, looking at the intricacies of the Greek case study, and discusses issues of vulnerability, refugee protection and well-being, as well as presenting evidence from our fieldwork on two locations in Thessaloniki and Lesbos between 2020 and 2022 during the H2020-funded project PROTECT.

Keywords: Vulnerability, migration and asylum, humanitarianism, Greece.

Introduction

In Greece, the system of handling refugees and asylum seekers is quite complex, and that complexity is not aided by Greece's geographical fragmentation and its open sea borders. The infrastructure has historically been rather inadequate, not only in terms of handling the actual inflow of refugees but also in terms of providing appropriate facilities to support those seeking asylum and refuge in all points of arrival/entry. The financial crisis has accentuated this problem, considering that Greece had to focus its resources on the fiscal realignment of the country and the support of debt relief measures. Even though Greece had repeatedly highlighted this as a European-wide problem, resources from the EU arrived well beyond the start of the problem, leading to overcrowded accommodation facilities, frequently with abhorrent living conditions, limited access to healthcare and with sanitation hazards (Carastathis et al. 2018).

Beyond the actual living conditions and the poor wellbeing support for refugees and asylum seekers across the camps and detention centres in Greece, an equally important problem has been the fragmentation and frequent changes of, as well as the vagueness in the rules governing asylum application processes and other legal parameters – which was part of the core research agenda of PROTECT, and the core of the field research conducted in Greece. The lack of clarity, the confusing and frequently contradicting rules and legal frameworks and the implementation on the ground of formal regulations (both Greek and EU-driven) has increased the sense of vulnerability, as asylum seekers do not have a clear

overview of their applications and the outcome (Karamanidou 2021). From a public policy point of view, the complex character of asylum policy and the disconnect between central leadership and street-level bureaucrats in terms of their understanding of the application of the policy itself are responsible for the delays, the inappropriate allocation of resources but also mistakes in processing applications and forwarding asylum seekers and refugees to the respective destinations or relevant support services.¹

Finally, looking at the practices of dealing with refugees and asylum seekers in Greece, there have been a series of reports and verified instances of ill treatment of refugees and asylum seekers, in terms of physical and verbal abuse by the Greek and European authorities, impacting their human rights (Barbulescu 2017, Cabot 2019, Tsitselikis 2019). This has proven frequently detrimental in terms of the protection of vulnerable individuals, including women and unaccompanied minors (Kofman 2019), as well as other intersectional groups—which do not receive the appropriate attention because of different understandings of vulnerability (Freedman 2018, Kofman 2019, Spathopoulou 2020). The problem has also been amplified by a lack of integration and social inclusion policies for these groups, preventing or constraining their ability to access education, jobs and health services (Glyniadaki 2021). Despite the best intentions by large segments of Greek society demonstrating solidarity and humanitarianism towards refugees, the political environment has been frequently hostile, especially since the emergence and widespread support for right wing parties (most importantly, Golden Dawn—the far-right wing neo-Nazi party), which have spearheaded organised reactions against refugees but also direct violent attacks, not only in the detention centres but also in the streets of Athens (Karamanidou 2016, Vrakopoulos and Halikiopoulou 2019, Iliadou 2019a) and other Greek cities.

Overall, Greece has taken numerous measures from a public policy point of view. However, despite the clear mandate of several different government agencies and organisations involved, this distinction is not reflected on the ground. The Reception and Identification Service (RIS) oversees the processing of claims and providing support with accommodation, health provision and basic needs, whereas the police itself manages the registration and identification of claimants. To accommodate the increased number of refugees over the past few years (and especially since 2015), the Greek government established additional centres, and changed their purpose, with those on the islands acting as temporary registration facilities, and the ones in Athens and Thessaloniki as transfer centres to either the mainland or further afield in Europe. It has also started to involve in a more meaningful way a variety of national and international NGOs and private stakeholders to provide legal assistance as well as enhance the social inclusion of refugees and asylum seekers. Unfortunately for Greece, its financial challenges and the challenges arising from Covid-19 have put extra strain in managing the flow of arrivals and the involvement of Frontex has been met with criticisms on abuse of human rights and the pushback of small boats (Oztig 2021), even assisting the sinking of boats in collaboration with the Turkish authorities (Tazzioli and Stierl 2021, Dimitriadi 2022).

¹ On the polarization effect of this issue in Greek society see Chatzopoulou and Exadaktylos (2021).

Immigration as a public policy problem

As a driver of social transformation, migration as a social and political phenomenon can be a potential force for sustainable development (Gavonel et al 2021). The *new mobility paradigm* (Sheller and Urry 2006) suggests that “new forms of ‘virtual’ and ‘imaginative’ travel are emerging, and being combined in unexpected ways with physical travel” (ibid., 207). This forms the foundation of our argument, but we expand it to incorporate some assumptions within classic social science (i.e., geography, anthropology and sociology) where *sedentarism* and methodological nationalism (Gellner 2012, Pries and Seeliger 2012) are treated as the norm, as opposed to distance, change, and placelessness which are considered somehow abnormal (Sheller and Urry 2006). Especially when discussing the sociological view of urban life, there has been until recently a gendered assumption (Silvey 2006) to which only certain scales of mobility mattered and the daily forms of mobility that made up the majority of women’s movements did not count in early definitions of migration (e.g., the influential work of Ravenstein which influenced perceptions until late in the 20th century, cf. Alexander and Steidl (2012)). Silvey (2006) suggests that a reproduction of gendered hierarchies in terms of the social arenas was maintained to reflect the national and international as a masculine arena and the household and the body as a feminine arena which was largely ignored.

As such, in reviewing the asylum policy in Greece, certain notions or categories carry with them overtly or covertly, in a subliminal or more direct way, gendered perceptions and by consequence have political and legal implications (Crawley and Skleparis 2017, De Genova 2017). Therefore, despite a general understanding that mobility provides access to jobs, education, healthcare and trade (see for instance the World Economic Forum statement),² contemporary notions of migration and mobility bring along challenges with ambivalent and ambiguous results—and reactions. As a phenomenon, the history of humankind provides us with ample examples of migration as a constant flow of humans across regions of the earth as far back as in neolithic societies (Djurdjevac et al. 2018). However, migration and mobility have accelerated in the 20th century with the proportion of people on the move approaching 174 million at the close of the century, both due to higher interconnectedness and ease of travel alongside violent conflicts leading to displacement and climate change challenges (Chamie 2020). In return, migration flows have transformed into a highly contested political issue internationally, with evidenced impact on social and economic development, requiring legislative and government intervention and shaping the political discourse from mainstream to fringe parties and deciding the outcome of elections leading to the emergence and establishment of both right- and left-wing populism.

Therefore, in the context of this article we take stock of the issue of migration and mobility drawing from the new mobility and transnational feminist paradigms to review asylum policies in Greece. By zooming into the domestic and international actors and the various tensions in our case study, we link with the Global Compacts. The scale of the problem has been identified already in 2015 in a UNHCR report,³ commenting that tackling the phenomenon of global forced displacement is more imperative than before. Therefore, even from a research point of view, we cannot deny or downgrade the challenges of international

² <https://www.weforum.org/platforms/shaping-the-future-of-mobility>

³ UNCHR, *Global Trends: Forced Displacement in 2014*. <https://www.unhcr.org/556725e69.pdf>

migration as this practice cannot make the challenges disappear or mitigate them. In other words, recognising and understanding the determinants and consequences of international migration can facilitate national, regional and international efforts to formulate and implement effective policies and develop appropriate programmes. Greece, in return, becomes an excellent case study to examine the dynamics at play and the issues at stake.

Through the empirical analysis below we serve two purposes: First, shed light on the case of Greece as illustrative of the problems and challenges but also of the way competing regimes may affect the welfare of refugees and asylum seekers. Second, examine the role of ‘street-level’ personnel in applying the principles and guidelines of asylum and refugee policy of the EU within the domestic context, and the way different interpretations and understandings of classifications around vulnerability and vulnerable groups (based on the legal definitions of) can disproportionately affect (a) refugees themselves, and (b) the policy implementation on the ground frequently resulting in multiple standards.

Judging from the policy style and policy response to a crisis (cf. Zahariadis et al. (2021, 2022) on the effects of Covid-19) but also on theories of policy implementation (Exadaktylos and Zahariadis 2014, and Zahariadis and Exadaktylos 2016), ambiguity, clarity of message and multi-pronged approaches to the policy problem are important in mitigating the implications and any unintended consequences from the policy response: in this case, how refugees are classified at the arrival point. The conflict between the domestic context, the European common approach to the refugee inflows, and the international legal order that create a variety of obligations to the host countries and protects certain rights of those claiming asylum, is at the foundation of the ambiguity created on the ground. In this sense, this triangular differential between three different contexts creates pressures on those implementing the policy; and can lead the policy itself to (partly) fail.

Greece faces multiple challenges in conjunction with this triangular differential, including its open borders and the abundance of entry points, its bilateral issues and conflict with Turkey as a feeder country, lack of infrastructure and resources in the aftermath of a deep financial crisis, and limited administrative capacity—not aided from its fragmented geographical landscape. When looking at the factors affecting policy implementation then, it is evident how the street-level bureaucracy can misinterpret or misapply the central policy and how they can simultaneously become policy entrepreneurs through policy feedback. Therefore, the holy triangle of communication, coordination and resources becomes critical in policy success, alongside advocacy coalitions of stakeholders and other policy participants who advocate policy change. Such coalitions can frequently become trapped in political debates and, the subsequent politicisation of civil society actors can jeopardize the policy direction.

Finally, we should not underestimate the role of pressure for policy change and the international spotlight. Greece already had a policy (with its shortcomings) in place, and the problem pressed for change. In addition, the EU response to a common problem creates pressures for change in potentially different directions. As a final layer, the international regime creates additional context. There is hence, a ‘goodness of fit’ logic developing, where the distance from the policy can determine the likelihood to change policy on the ground. Low pressure suggests that the distance to be covered is short and accommodation of new practices is likely to be easier. When pressure is high, that distance becomes considerably

longer and therefore, prone to more veto points or veto players, making the change less likely. Where this discussion becomes more interesting is when there are moderate pressures or multiple smaller pressure points, where change is likely to happen in some areas and not on others. This may largely depend on the implementation side by the street-level bureaucrats.

Methods and research design

This article draws on evidence from the fieldwork conducted on two locations in Greece, the island of Lesbos and the city of Thessaloniki, as part of the H2020-funded project PROTECT: The right to international protections (2020-2023). The purpose of the methodology was to uncover different perceptions of vulnerability and their impact on the implementation of refugee and asylum-seeking policy in Greece and by extension its alignment with the European and international policy regimes/frameworks. Street-level bureaucrats are the key gatekeepers of this information, as they collaborate with both policymakers/political actors, non-governmental actors and refugees and asylum-seekers directly in terms of identification, legal assistance and basic provisions.

The analysis is based on evidence collected both online and on-site in three sets of semi-structured interviews. Four initial interviews as pilots were carried out online in October 2020 with NGO practitioners commissioned by the Greek government to provide legal assistance and basic accommodation services on the island of Lesbos. Seven more interviews were conducted in person on the island in October-November 2021 with international organisation representatives, international NGO and local NGO members including UNHCR and IOM; four interviews with the local authorities (i.e., the Asylum Service, the Reception and Identification Centre (RIC) and security actors); and nine members-representatives of the refugee community in the accommodation structures. Finally, a further set of interviews was carried out in January 2022 in Thessaloniki, with five NGO/INGO practitioners, four interviews with the local authorities (i.e., municipal services for refugees, city council, Greek government and police); and four interviews with representatives of the refugee community in the camp of Diavata.

Non-participant observation was carried out at Kara Tepe camp (known as Moria 2.0) through pre-established networks. A long visit was carried out at the premises of the original Moria hotspot, where we collected additional visual data for the project. The facility is no longer operational following a fire on 8 September 2021 that destroyed it almost entirely. Access to participants in both sites was quite difficult. Greece as a case study is over-researched and most of the participants expressed fatigue in giving interviews to researchers and journalists who have visited the island and the mainland camps multiple times since the beginning of the 2015 refugee crisis. Many expressed fear and suspicion towards both the researchers and the project itself and were less keen to speak and participate in the interviews. Their main concern was getting in trouble and losing their job considering that (a) many practitioners are legally bound through non-disclosure agreements; (b) unemployment is on the rise on Lesbos as many NGOs have stopped operating and the funding for many programmes has ended. Hence, utilising pre-established networks, participants agreed to contribute their views anonymously. In addition, the Covid-19 pandemic and public health crisis with its severe lockdown and mobility restrictions had added to their fatigue. Similar

problems occurred in accessing authorities and other public stakeholders, who were occupied with the effects and aftermath of the pandemic on the refugee populations.

We selected community leaders from Syria and Afghanistan to interview based on their ability to provide information and a clearer picture of the general problems people in the camps are facing. Access was difficult considering the restrictions. Greek authorities allowed refugees out of the camp only once a week for three hours and they normally used this time to meet their lawyers for legal aid and consultation and engage in other activities, such as attending language courses. Many vulnerable refugees living in the accommodation facilities outside the camp were difficult to be reached, while during the period of the fieldwork many of these facilities were shut due to lack of funding (the state-funded HELIOS project ended by October 2021) and many vulnerable refugees had been transferred back to the camps.

Refugee and asylum policy in Greece

Rules of protection in Greece stem from different sources including the 1951 Refugee Convention, national policies and directives and a *de facto toleration* arising from the protection mechanisms themselves. They are also affected by European Union policies. The promise of a Common European Asylum System (CEAS), where all those fleeing persecution of serious harm would obtain equivalent protection across the EU, created dissonance of practice due to disparate administrative traditions and procedures for processing claims. Over the past years, and starting from the Schengen Agreement in 1990s, rules and procedures such as the Dublin and EURODAC regulations, the Asylum Procedures Directive and Reception Conditions Directive are part of the CEAS. Despite efforts for harmonization of processes around efficiency of border control across Schengen members, there are still plenty of issues around fair procedures, high-quality decisions and adequate protection of those entitled to protection in a homogeneous and consistent way across member states.

Greece has historically been a country of migration mainly towards Western Europe, the US and Australia in seeking better living conditions and prosperity. On the other hand, within its own territory it has incorporated a number of ethnic Greeks from Asia Minor following WWI and various ethnic cleansing strategies in Turkey (1919-1922) and, later from Eastern Europe (1970s) and from the former Soviet Union and Balkan countries (1990s) presenting consecutive challenges of social inclusion and integration over the decades (Giannopoulou and Gill 2019). Therefore, various waves of immigration of non-Greeks since the 1990s from Eastern Europe, and later from Africa, the Middle East and Asia have been met with a mixed set of sentiments by the Greek population which on the one hand shows compassion and solidarity and on the other expresses rising xenophobia and racism.

Nonetheless, Greece has never been prepared to be a host country for large numbers of refugees from the Middle East and North Africa following the Arab Spring uprising and the various civil wars. Problems in the defective asylum application procedures of the Greek Ministry of Public Order (now Ministry of Interior) including shortages in personnel, training and resources had been already identified by the office of the UNHCR in Athens in 2002/2003.⁴ At the same time, the UNHCR identified a drop in refugee status recognition rates opposite to the EU trend (Skordas and Sitaropoulos 2004). Part of the criticisms

⁴ Greece became a host country for Iraqi and Afghan refugees following retaliations for the 9/11 attacks.

revolved around the inadequacy of the Greek asylum system to provide all refugees with basic information, interpretation and judicial assistance; the extensive use of detention even for children, and other tactical means to prevent refugees from seeking asylum.

The Schengen agreement and the Dublin regulations created asymmetries in the reception of refugees and on migration governance and implementation, skewed against the peripheral member states (particularly Italy and Greece) which mainly relied on their own means and capacities (Pastore 2014). The financial crisis and the strains on national budgets enhanced the pressures created from the Arab Spring, especially for countries of first entry like Greece, which were geographically closer to the migrants' countries of origin or transit. Therefore, there was an unequal distribution of the actual costs of the responsibility to provide protection and assistance. To that end, the UNHCR intervened at the ECtHR to expose the systemic failures of Greece to provide an acceptable level of basic rights, recommending that Greece should not be hosting until deficiencies are addressed.⁵

Greece set up a National Plan on Asylum and Migration committing to reform its asylum system. EASO and the UNHCR provided considerable financial support, alongside training and knowledge sharing. The complexities of the required legislative and administrative changes coupled with the financial constraints due to the fiscal crisis made reforms slow. 2016 was a turning point when the EU and Turkey signed an agreement around cooperation on accommodation, returns and transfers that brought the Greek asylum policy under the direct EU overview. Nonetheless, there are four distinct procedures within the asylum policy: (a) operations at sea, (b) first reception, (c) second reception and (d) decision.

When looking at the operations at sea, the Hellenic Coast Guard (HCG) is responsible for intercepting vessels and conducting rescue operations at sea, which can sometimes be intertwined (Pastore and Roman 2014). The purpose is the early identification of vessels attempting illegal entry within Greek territorial waters under the jurisdiction of the HCG. This has frequently led to more violent responses as well as violations of human rights (FitzGerald 2019). Most interception operations turn automatically to rescue operations as refugees have been instructed by smugglers to destroy their boats in order to be saved. However, there have been hundreds of instances according to the UNHCR where Greek authorities have been using push-back techniques to Turkey as informal forced returns to avoid admission.⁶ The HCG has been aided by the Greek Air Force and Navy, and by FRONTEX (which has also been accused as an accomplice to the pushbacks).

In terms of first reception, the HCG registers rescued migrants and ensures they undergo health checks and are provided with medical assistance. Until 2010 Greece had no screening facilities to identify those who met the legal requirements for international protection having only four Special Alien Accommodation Sites, ran by the Police (Ioannidis et al. 2021) with police officers acting as case workers. This meant that many cases went unprocessed for years due to either lack of personnel or inadequate training of offices to deal with more complex

⁵ The intervention took place at the hearing of the case *M.S.S v. Belgium and Greece*, Strasbourg, 1 September 2010 (<https://www.unhcr.org/uk/protection/operations/4dec1a79/unhcrs-oral-intervention-european-court-human-rights-hearing-case-mss-v.html>)

⁶ One of the most fatal incidents happened in January 2014, where 12 people died near the island of Farmakonisi when a boat carrying 28 migrants overturned while being towed by an HCG vessel. Survivors accused the HCG of having towed their boat at high speed with bad weather conditions towards Turkish waters with the intention to push them back instead of rescuing them (BBC News, 22 January 2014).

cases (often involving vulnerability). The backlog of cases extended to 52,000 in 2010 (Cabot 2018), well before the peak of the so-called refugee crisis in 2015. Law 3907/2011 introduced the 'First Reception Service' with headquarters in Athens, centres in border areas and mobile units for remote areas or deployed in sudden inflows. Nonetheless, the set-up and operation of those centres was significantly delayed due to the wider instability in the country until 2013. The First Reception Service is responsible to provide basic needs, medical assistance, psychological support, interpretation, and information services on rights, obligations and asylum procedures. These are in conjunction with the UNHCR, EASO and IOM, alongside support subcontracted to Greek NGOs (e.g., Medical Intervention or Metadrasis (Metaction)). Interview evidence suggest that the Service relied heavily on its collaboration with the NGOs which has been both a blessing and a curse in the Service's autonomous development. The Service also undertakes screening procedures handled by trained officers of the Police or the HCG contracted or seconded to the Service.

A second reception service is also available for those waiting their asylum application decisions. The Greek 'Programme for Resettlement and Emergency Intervention' started in November 2015 and was financed by the EU and supervised by UNHCR, to offer accommodation solutions to asylum seekers in apartments and other dwellings with host families or hotel rooms. NGOs/INGOs are also involved in the process of second reception contributing to the work of the RIS. A total of 32 mainland camps, most of which created between 2015-2016, served as temporary accommodation facilities to address reception needs on the mainland on second reception, and following the pandemic they have been reduced to 25. The Programme was integrated in July 2017 into the new Commission-funded programme ESTIA (Emergency Support to Integration and Accommodation) providing housing and financial support to asylum seekers and beneficiaries of international protection. According to our interviews, many asylum seekers endured prolonged stays of up to three years. Yet, due to the absence of procedures when people are transferred to the mainland, they are left without assistance frequently creating unofficial camps, increasing vulnerability for them.

Finally, in terms of the decision stage for recognising refugees, this was a competence of the Ministry of Public Order (and the Police) until 2007. Since then, the competence resides with the Ministry of Interior, still demonstrating that immigration policies are perceived largely as a threat to public order and security or to national sovereignty. Four EU directives governing asylum procedures were transposed into Greek law in 2007, namely Directive 2003/9/EC on minimum standards for the reception of asylum seekers; Directive 2005/85/EC on minimum standards on MS procedures for granting and withdrawing refugee status; Directive 2004/83/EC on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted; and Directive 2003/86/EC on the right to family reunification. Greece also ratified the ECHR and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT). In addition, Presidential Decree 96/2008 introduced the possibility of obtaining legal aid for appeal before the Council of State as the highest national court. The new Appeals Committee, including members from the Ministry of Interior, the Ministry of Foreign Affairs, the UNHCR and the Athens Bar Association, was established as an independent body examining appeals of negative decisions on asylum claims and with full decision-making power.

In addition, despite the Greek Action Plan on Migration Management and Asylum Reform and the establishment of the new independent Asylum Service in 2010/2011, the police retained competence for registration and first-instance Refugee Status Determination (RSD) creating additional points of conflict and delay in the decisions (Nikolopoulou 2020). The New Asylum Service was the first autonomous agency in Greece in charge of the examination of asylum and international protection claims began operating three years after the Plan was introduced in June 2013. Its job description is quite clear: it supports the planning and drafting of a national policy and helps monitor and evaluate its implementation; it has decision powers on protection claims at first instance and informs claimants on the progress of their claims (including rights and obligations); it provides evidence on the countries of origins and monitors developments in these countries; it supplies legal and travel documents to claimants; it processes family reunification claims and facilitates access to in-kind reception benefits in collaboration with co-responsible actors; and cooperates with local actors, other authorities and NGOs, EU agencies and international organisations.

These new services (i.e., the Asylum Service, the Appeals Authority and the First Reception Service) were under the aegis of the Ministry of Public Order and Civil Protection, but since 2015 (PD 24/2015) were incorporated under the new Ministry of Interior and Administrative Reform. In 2016, a new Ministry of Migration Policy was created incorporating these services, which was merged in 2019 with the Ministry of Civil Protection. In 2020 however, it was further established in the organisational structure of the new Ministry of Migration and Asylum, offering additional electronic and remote services to refugees and asylum seekers.

Under both normal and accelerated procedures within the Asylum Service, the claimant is interviewed by a case worker under confidentiality clauses, in a language understood by the claimant, meaning, an interpreter is almost always present. Claimants are provided with preparation time and time to seek legal advice, and the opportunity to express a preference over a male or female case worker. Specially trained case workers are interviewing minors and vulnerable persons. During the interview, the claimant has the right to a legal representative or counsellor and that person can pose questions at the end of the interview. The interview may not be necessary if the case worker is able to reach a decision based on available evidence or the interview itself cannot be conducted due to extenuating circumstances. The audio recording of the interview is officially transcribed alongside detailed minutes which are part of the case file. The case worker is solely responsible for deciding in the first instance on the claim for international protection. Our interviewees suggested that this procedure is problematic, especially in vulnerable cases and should be a joint decision of other parties that should be involved, such as a legal counsellor and a social worker. The issue is examined further in the section below.

Vulnerability in the case of Greece – evidence from the fieldwork

There are slightly different procedures followed in the two fieldwork sites, considering that the facilities serve a different purpose and include refugees and asylum seekers of different status and with different needs. Lesvos operates as a point of entry, and Thessaloniki as a point of second reception. Starting with Lesvos, the vulnerability assessment takes place along with a medical check and psychological assessment during the reception and

identification procedures held in the Reception and Identification Centre (RIC) in the camp of Kara Tepe in Mytilene, Lesvos. The RIC is informally called ‘Mavrovouni’ or ‘Moria 2.0’. A similar process takes place at the RIC of Diavata in Thessaloniki, located on a former military camp facility.

Since the end of 2019, the authority competent for carrying out medical screening and psychological assessment is the National Public Health Organisation (EODY) which was established by Law 4633/2019. Following the destruction of the RIC of Moria on Lesvos in September 2020—which coincided with the height of the second Covid-19 wave in Greece—EODY is supported by a non-governmental organisation called Crisis Management Association (CMA), and in cases where EODY cannot complete a medical or psychological assessment it refers cases to the public hospital. After EODY completes the assessment, the competent authority, namely, the RIS, orders ‘a restriction on freedom’ (which means refugees’ confinement within the premises of the RIC, amounting to de facto deprivation of liberty) in cases where individuals are assessed as non-vulnerable, and then it issues a referral decision to the Asylum Service and the Police. In cases where refugees are assessed as vulnerable special procedural guarantees come into force and the RIS refers vulnerable persons to the competent public agency/authority for social support or protection as the case requires. Lesvos does not have public agencies providing social support to refugees. Therefore, many NGOs collaborate with the Greek state and international organisations that have assumed a leading role in migration governance (such as the UNHCR and IOM) to facilitate the provision of support and housing to vulnerable refugee populations. This is the case in Thessaloniki too, according to local interviewees, however due to the location of the RIC near a big urban centre more public resources and services can become more easily available and with a shorter notice.

Zooming into the way actors collaborate to address and reduce vulnerabilities (in particular, during processes of identification, the provision of legal information and assistance, and the facilitation of access to healthcare and accommodation), there are different programmes that blend public and third-sector actors together. The collaboration between I/NGOs and the Greek state is governed by the implementation of emergency medical programmes and interventions at the hotspots, for instance through the PHILOS project. PHILOS is funded by the Asylum, Migration and Integration Fund (AMIF) and the Migration and Home Affairs of the EU, and EODY was responsible to implement it. The HELIOS programme (mentioned in the previous section) brought together I/NGOs and the Greek state to reduce vulnerabilities through housing, integration, employment and social support projects targeting recognised refugees. HELIOS, which ended in October 2021, was led by IOM with partner NGOs. A good number of joint programmes exist that are implemented jointly by international organisations and NGOs aiming at providing support to vulnerable refugee populations on Lesvos. One example is the collaboration between IOM with a Greek NGO, Metadrasis (Metaction), for the provision of interpretation services in hospitals. The project is sponsored by the EU’s Migration and Home Affairs. Such joint actions, allow international organisations and NGOs to collaborate in formulating common objectives and reducing vulnerabilities that emerge from the dissonance or different perceptions on the implementation of regulations governing asylum seeking claims. For instance, these actors regularly campaign or lobby the government by producing policy briefs and reports on the

state of vulnerable persons living in refugee camps and hotspot or other accommodation facilities, and by providing policy recommendations and feedback to the state.

Most actors oscillate between the ends of three dimension: (a) identity- v. human centric perspectives of international protection; (b) charity v. entitlement perspectives to the right to international protection and (c) solidarity v. interest perspectives to responsibility and burden sharing. These dimensions can be detected in the perceptions, discourses and narratives, as well as the actions of involved actors regarding vulnerability in conjunction with their professional and ethical rules of conduct. In addition, they also operate in the state-centric v. global-pluralist organisation of international protection, and the public- v. private-sector based organisation of international protection, in terms of their governance structures and the way they participate, collaborate or lead international protection tasks.

The main actors involved in migration governance are state actors, including the RIS and the Greek Asylum Service and EASO. They have a more state-centric approach in the way protection to vulnerable populations is granted, for legal grounds and after assessment procedures have taken place, as an entitlement and not a duty. NGOs and international organisations are governed more by the principle of humanitarianism and solidarity, considering protection both as duty and entitlement. They normally advocate a more pluralist approach where responsibility is shared between Greece, the EU and other MS to protect vulnerable refugees.

According to the interviews, the Global Compacts have limited impact on the modus operandi of the collaboration between actors in the protection of vulnerable persons. Most actors participating in the research including formal state actors, NGO practitioners and lawyers had never heard of the Global Compacts (GCR and GCM) – with the exception of the UNHCR and IOM. Those somewhat familiar with the compacts, described them as a ‘Wishlist’ and idealistic to the point that they do not connect with ground-level work.

The pandemic was an additional barrier highlighted by participants in the fieldwork in all sites. At the outbreak of the pandemic, the Greek authorities issued an emergency legislative order, suspending access to the asylum procedure for persons entering the country in March 2020. The document ordered the return of persons to their country of origin or transit ‘without registration.’ During that period, due to quarantine restrictions implemented for refugees in Moria and the RIC of Diavata, the assessment of vulnerability was not taking place in an appropriate way. The measures implemented to contain the virus were used many times by the Greek state as the trigger to impose 14-day quarantines on new arrivals and suspending access to the Asylum Service. Therefore, refugees arriving during the suspension period did not undergo any identification procedure, were not allowed proper registration in accordance with EU law, and any procedures reconvened only after the suspension ended. Despite the ease of restrictions at national level, the Greek state extended the lockdown restrictions for refugees living in Moria/Kara Tepe and in Diavata multiple times.

The concept of vulnerability was introduced in Greece through article 14(8) of Law 4375/2016, stating that all newly arriving persons should be subject to reception and identification procedures, including medical screening and psychosocial assessment (Asylum Information Database 2017). Following the EU-Turkey Statement of March 2016, different identification, asylum and vulnerability procedures are implemented on the Greek islands (like Lesbos) and on the Greek mainland (ECRE 2017). The different yet parallel running

procedures were introduced in the fast-track border procedures policies (article 60(4) / Law 4375/2016) and were framed as exceptional within a state of emergency (Iliadou 2019a, 2019b). Attributing vulnerability hence takes place alongside asylum procedures and consists of an administrative border procedure and assessment. Through these procedures, vulnerable cases are detected, assessed and prioritised to move from Lesvos to the mainland (e.g., from Kara Tepe to Diavata).⁷ Law 4375/2016 includes under the vulnerability definition: unaccompanied minors, persons with disabilities or suffering from incurable/severe illness, the elderly, pregnant women or women who have recently given birth, single parent families, victims of torture, rape or other serious forms of psychological, physical or sexual violence or exploitation, persons with a post-traumatic disorder, (e.g., survivors and relatives of victims of shipwrecks or human trafficking).

Vulnerability assessment is taking place before a refugee applies for international protection, and refugees must undergo a vulnerability screening. A hierarchical classification was applied between persons with ‘evident’ and ‘non-evident’ vulnerabilities, leading to the exclusion of many people in need from the protection schemes. The identification, assessment and screening procedures were initially performed by medical staff, psychologists and social workers by NGO practitioners from Medicines du Monde (MdM), Praksis, and Medin but since mid-2017 this task was assigned to staff from the Ministry of Health (MoH) and the Centre for Disease Control and Prevention (KEELPNO).⁸ From early 2018 onwards, the new National Organisation of Public Health (EODY) undertook this task and a new medical vulnerability classification was introduced, linked to the type of support a vulnerable person should receive. This classification is not embedded into a legal act but rather into a guidelines document provided by the then Ministry of Migration Policy (Reception and Identification Service, 2019) and is as follows:

1. High vulnerability: the occurrence of vulnerability is obvious, and continuation of evaluation and adoption of a care plan are recommended, and further referral is needed for immediate support.
2. Medium vulnerability: the occurrence could develop into high vulnerability if no precautionary measures are introduced.
3. No vulnerability: there is no evidence of vulnerability.

These categories have since been supplemented (Article 20, Law 4520/2018) to include people with mental health disorders and victims of female mutilation, but still excluded people with PTSD. The procedure for certifying persons subject to torture, rape or other serious forms of violence was also amended (Article 23, Law 4520/2018). The International Protect Act (IPA) which came into force in January 2020 (Law 4636/2019) amended the definition of vulnerable persons and persons in need of special procedural guarantees. Articles 39(5)(d) and 58(1) of the IPA considers as vulnerable groups: “children, unaccompanied

⁷ The situation on Lesvos for many years (overcrowd facilities and the overall misery) are to a great extent an outcome of these specific policies and practices. The situation in Diavata was mildly better due to the size and nature of the facility (former military camp site).

⁸ KEELPNO was later fully subsumed under the new National Organisation of Public Health (EODY) right before the pandemic breakout at the end of 2019.

children; direct relatives of victims of shipwrecks (parents and siblings); disabled persons; elderly; pregnant women; single parents with minor children; victims of trafficking; persons with serious illness; persons with cognitive or mental disability; and victims of torture, rape or other serious forms of psychological, physical or sexual violence, such as victims of female genital mutilation.” Again, the IPA excludes PTSD cases, which was highlighted in the interviews with NGO practitioners, as a major factor of vulnerability of refugee populations whose needs are not addressed and who do not receive adequate psychological support.

The IPA was once again reformed in April 2020, with the law on ‘Improvement of Migration Legislation’ (Ministry of Migration and Asylum 2020). This reform is significant as it exempts the prioritisation of vulnerable persons from fast-track border procedures (implemented on the Greek islands) and weakens the protection of vulnerable people. The vulnerability classification process was withdrawn from Lesbos but was still applicable on other islands. ECRE comments that “the amendments do not simply change the way the cases of vulnerable applicants are handled but has restricted the very definition of a person with special procedural needs” (ECRE 2021, 9). Interviewees confirmed that vulnerabilities are often missed or not addressed, with individuals going through the asylum procedure before completing a vulnerability assessment first (AIDA 2021). Interviewees highlighted reports on how this amendment can further exacerbate the applicants’ health status and procedural position by requiring them to stay on the islands and undergo the procedure while being in a disadvantage. In the aftermath of the fires in Moria on 8 September 2020 (Exadaktylos and Iliadou 2020, Guild and Allinson 2020, UNHCR 2020), the situation deteriorated as vulnerability assessment and asylum procedures were suspended once again.

Turning now to the way vulnerability is understood on the ground, from the interviews, both migrants and NGO practitioners converge in their perceptions. Vulnerability for them is understood as an inherent condition related to the risks and trauma of forced displacement, with refugee representatives saying, ‘we are all vulnerable,’ and NGO practitioners making the same assertion. It is also understood as a structural condition relating to external circumstances and conditions. Refugee interviews point out that their vulnerabilities, or the exacerbation of, vary depending on the time period or season of the year, for instance extreme weather conditions during summer or winter, overcrowding of facilities or the pandemic. On the other hand, actors leading migration governance structures, such as the Greek Asylum Service converge more with the legal definition of vulnerability as that is incorporated within Greek legislation, hence taking a narrow view of vulnerability (Interviews with Asylum Service staff). This was not necessarily the personal opinion of the members of staff interviewed but rather the formal view they had to adopt in performing their jobs. Therefore, we detected another conflict between private/personal perceptions and forced perceptions needed to be applied formally. These interviewees also highlighted that vulnerability is not applied in practice at the RIC facilities.

Looking at the intersection of vulnerability and gender, although the Greek legislation includes references to gender, it is not adequately considered in practice. Sexual orientation is neither referenced in law nor considered in practice. This fact highlights the many shortcomings in the way vulnerability assessment procedures take place and the way they may be negatively affecting refugees. For instance, reception and identification procedures may be concluded before an individual undergoes a full medical check or vulnerability assessment

(Refugee Support Aegean 2021). Even during the assessment, case workers may certify a person as vulnerable only if ‘evident’ vulnerabilities are detected without assessing the applicability of other forms of vulnerability as enshrined in the legal documents, and which may not be directly visible for instance, victims of torture. As such, our interviewees confirm that many vulnerabilities go underassessed and missed. This was even more pronounced in the fieldwork on Lesbos who said vulnerability is not operationalised in practice and was a fact confirmed by staff at Diavata.

Overall, refugees arriving on the Greek islands as ‘first reception’ points are subjected to fast-track border procedures by law. This approach was coupled with a nationality-based approach which was introduced as a temporary and extraordinary measure for all those arriving after March 2016 (Greek Council for Refugees 2016), a practice that is largely continuing to date. This procedure in practice immobilises refugees on the Greek islands and facilitates their readmission to Turkey (as a safe third country) on the basis of the 2016 EU-Turkey Statement. Hence, refugees arriving on the Greek islands are forced to seek international protection, otherwise they face the danger of deportation or readmission to Turkey on the grounds of a ‘safe third country’ – hence vulnerability or not, all migrants are asylum seekers upon arrival.

Following these two parameters (intersectional and legal issues), the notions vulnerability and specific needs neither inform nor are informed by local governance networks. There is, arguably, an ad hoc application of the notions of vulnerability and conditions on the ground often inform those decisions. For instance, the Kara Tepe camp is coordinated by the Municipality of Lesbos, rather than the Ministry and was hosting vulnerable persons and families of various characteristics. On the other hand, the facility in Diavata is run by the Ministry of Migration and Asylum and there, vulnerability was largely affected by the legislative framework, also as a point of second reception. The concept of vulnerability was incorporated in the national legislation before the adoption of the GCR/GCM in 2018, and considering the non-binding nature of the pacts, the pacts have not contributed to the legal commitments around vulnerability (Gammeltoft-Hansen et al 2017) rather informed political and practical cooperation. In the case of Greece, the compacts have not expanded the notion of vulnerability. Nonetheless, it was highlighted in the interviews that there are shifting definitions of vulnerability across time, which are underscored as attempts by the Greek state to harmonise its framework work with EU standards and directives, and align its reception, identification and asylum procedures. The interviewees from NGOs were concerned that Greece was failing to comply in general with EU law, and confirmed by ECRE, it cannot guarantee the protection of vulnerable populations (ECRE 2021).

As a final note, the period of research coincided with the height of the pandemic, and some of the most difficult times in terms of the public health crisis resulting out of Covid-19. Interviewees of all types highlighted the exacerbation of vulnerability as a result of the pandemic. Just at the time of the outbreak (January 2020) Greek-Turkish relations became quite tense over the attempted raid of the land border between two countries by alleged refugees handled by the Turkish government. The start of the pandemic in February/March 2020 led to the extension of authority through an emergency legislative order which suspended access to the asylum procedures for persons entering the country. Those entering would be returned to their country of origin or transit without registration, which also meant

that vulnerability assessments were not carried out either properly or at all. In the case of Moria on Lesbos, the situation was even more pronounced as following the destruction of the facility problems were transferred and amplified in the new facility of Kara Tepe (Moria 2.0). The new facility exacerbated the vulnerabilities of an already vulnerable population. Findings from the fieldwork suggest increased incidents of sexual violence in the new camp against girls, women and children (Iliadou and Exadaktylos 2020, and confirmed by Belanteri et al 2020). Our interviews (and visual evidence) indicate the appalling, inhumane and degrading living conditions inside Moria 2.0, which amplify harm and inflict further vulnerability, including the escalation of state violence in trying to curb reactions. Similar incidents have also been confirmed and recorded in the RIC at Diavata, where violent incidents have frequently attracted the local media.

Some concluding remarks

The situation in Greece is confirmed as quite severe both in terms of the ability of the country to respond to the influx of refugees either with regular or extraordinary flows, and in terms of the ability to guarantee the well-being of vulnerable persons. The over-fragmentation of the legislative framework and the multiple reforms, revisions, and amendments have led to a fragmented understanding of the notion of vulnerability, where the practice is often a result of personal views and perceptions rather than a unified, singular and more formal way of doing things. What is included in the national legislative framework does not align with practice on the ground and here is precisely where, from a public policy point of view, implementation fails. Therefore, the role of street-level personnel both from public and NGO actors needs to become well-versed in what the procedures are and attempt to apply those rules in an equitable way to mitigate disadvantages and unintended inequalities.

The lead researcher held two feedback and dissemination workshops reinviting participants to interviews and extending invitations to other interested parties, especially street-level personnel at refugee and accommodation structures. In the first workshop, personnel from the local/regional authorities and police, RIC staff, court and ministry personnel were invited among other academic colleagues. Following a sand pit exercise, participants raised an interest in learning from other fieldwork sites of the PROTECT project, confirmed our findings of shortages in resources, expertise and political willingness to address the problem, and the negative impact of inflexibility that does not allow more activity down to local government. They also confirmed our findings on health, safety and security problems within the structures for those classified as ‘vulnerable’ and the importance of legal case workers to be working in tandem and alongside social workers when interviewing asylum seekers to dig out ‘non-evident’ vulnerabilities.

The second workshop, organised at the premises of one of the major NGOs in Thessaloniki, was targeting the legal and social welfare support. One of the legal coordinators of the NGO led the discussions with the lead researcher and this time participants included NGO practitioners and the public health authorities who all operated in the second location of the fieldwork in Thessaloniki. The presentation of our comparative findings was confirmed in terms of the differences in approaching vulnerability but also underscored the impact of competition for contracts between NGOs and the lack of support by local and national authorities. Their concerns verified those expressed by our interviewees in terms of the need

to have a legal representative, a welfare officer and a medical professional together when assessing vulnerability. The fragmentation of information and other procedures can be prevented by stopping the franchising of camps to different NGOs and have open competitions to run services rather than assigning responsibilities to NGOs who either do not have the expertise or do not have the resources to offer such services.

Notions of vulnerability are subject to change and circumstances, and vulnerability as a concept is not perennial. The concept requires a degree of flexibility to be able to absorb changing circumstances and structural barriers in refugee needs alongside the changing geopolitical landscape and the developments in countries of origin or transit. It has become clear from our research that developments on the ground are faster than the legislative ability of host countries and therefore, wider coordination is required on catching up with more advanced methods of vulnerability assessment and screening, while maintaining basic human rights and extending the right amount of resources to be able to have an effective system of processing claims in a fair and equitable way (as required by GCR/GCM principles) that helps mitigate vulnerabilities rather than exacerbate the conditions that contribute to them.

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