

Access to legal aid for people on the move

January 2022
northern Greece



TABLE OF CONTENT

Introduction	p2
Methodology	p3
Key numbers	p4
Analysis	p5
Things to remember	p12
Recommendations	p13
Lexicon	p14
Appendixes	p15

We would like to **thank all the partner structures that enabled the circulation of our survey** among people on the move in northern Greece, and in particular : *Alkyone Center, Caritas Hellas, Drop In The Ocean, Elpida Home, International Humanitarian Aid, Irida, Lifting Hands International, Mobile Info Team, MFC Red Cross, Northern Lights Aid, Open Cultural Center and Quick Response Team.*

We also want to **thank all the people who made this report possible**: the interpreters, ELA's team members, and especially Priscille Duflos.

The photos in the report were shot during the study in Kavala by Priscille Duflos.



INTRODUCTION

ACCESS TO LEGAL ASSISTANCE: A FUNDAMENTAL RIGHT

With this study, Equal Legal Aid wanted to assess the access of persons on the move to efficient legal assistance in northern Greece (see appendix 1).

People arriving in Europe to seek protection have their rights protected by international and European texts. Among these rights is access to legal assistance. The definition of legal assistance is the following: all the advice and personalised solutions requested by someone and provided by legal staff.

The recognition of international protection comes after a complicated legal and administrative procedure. Beyond its complexity, the asylum procedure is also emotionally challenging.

"In the procedures at first instance Member States shall ensure that, on request, applicants are provided with legal and procedural information free of charge."

Art.19 §1 Directive 2013/32/EU,
Procedure

"Member States shall ensure that free legal assistance and representation is granted on request in the appeals procedures.

They may also provide free legal assistance and/or representation in the procedures at first instance."

Art.20 §1 and 2, Directive 2013/32.EU, Procedure

In general, the case-law of the European Union and the fundamental texts specify that "national procedural rules must not impose an unreasonable burden on applicants to ensure that they can obtain the legal advice they need". In other words, member states do not necessarily have to provide legal assistance during the examination procedure, but they are responsible for ensuring efficient access to it. On the other hand, they must provide free legal aid in the appeal context, meaning after a rejection decision (see appendix 2).

"A refugee shall enjoy in the Contracting State in which he has his habitual residence the same treatment as a national in matters pertaining to access to the Courts, including legal assistance."

(art.16 §2 Convention relating to the status of refugees)

Legal assistance ensures that the procedure runs smoothly, that the rights of the person seeking asylum are respected, and that their vulnerabilities and the particularities of their situation are taken into account. Legal assistance contributes to the respect of the fundamental rights of exiled persons.

METHODOLOGY

This report is based on fieldwork conducted by the Equal Legal Aid team between June and December 2021. Using a 10-question survey (see appendix 3), **we investigated whether people on the move have access to legal aid in northern Greece**. In this region, they are either based in refugee camps, detention or pre-removal centres or urban areas. We conducted this survey with people on the move based in refugee camps and urban areas. To avoid bias in the results of this survey, we did not interview the association's beneficiaries.

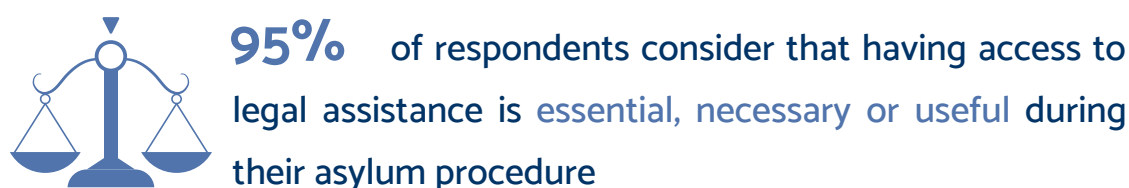
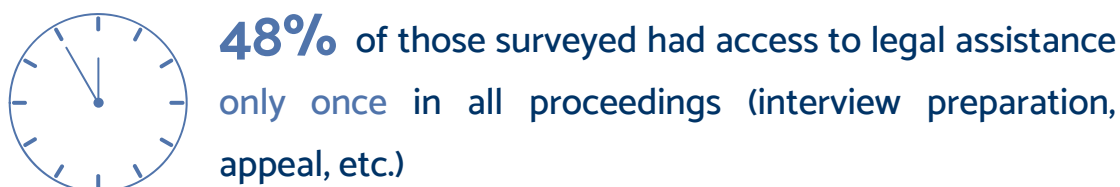
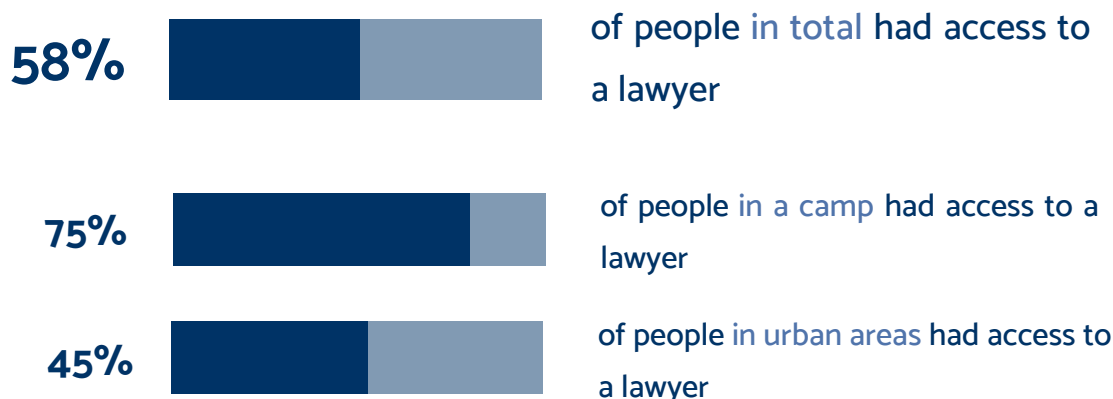
- To interview people in the camps, we went to the premises of partner associations present near the **refugee camps**. We collected testimonies during food distributions or at the end of language classes. We collected data in different places: Lagadikia, Polycastro (Nea Kavala camp), Kavala, Serres, and Diavata.
- To interview people **in urban areas**, we also collaborated with partners in Thessaloniki who agreed to distribute the questionnaire to their beneficiaries in paper format or online.

We decided to use an **anonymous questionnaire** without collecting personal data on the respondents. We first circulated the questionnaire to people in the camps. Then, in a second step, we interviewed people in urban areas. In this way, we can distinguish the results according to the location of the people surveyed.

We translated the survey questions into the ten most widely spoken languages in northern Greece: Farsi, Arabic, French, English, Urdu, Lingala, Turkish, Somali, Sorani, and Kurmanji. Interpreters helped conduct field interviews.

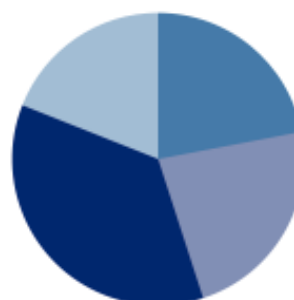
In total, we collected 180 testimonies: 56% were in Farsi, 21% in Arabic, 9% in French, 6% in English, 6% in Sorani/Kurmanji, and 2% in Urdu

KEY POINTS



The main obstacles in accessing legal assistance that were reported by the respondents are as follows:

- 37%** Procedures that take too long
- 23%** Procedures that are too complex
- 22%** A lack of information
- 19%** Limited access to lawyers



RESULTS ANALYSIS

The survey clearly shows how indispensable legal assistance is in the context of an asylum procedure: **95% of the respondents consider legal assistance essential, necessary or useful.** Therefore, as the results are so straightforward, we will not discuss further the indisputable importance of legal assistance for the respondents.

In analysing the remaining results, we sought answers to the following questions:

- **Why do not all people have access to legal assistance when they consider it essential?**
- **When respondents have access, does the assistance they receive meet their needs?**

Limited access, especially in urban areas

42% of the people interviewed in the survey did not access legal assistance during their asylum procedure. In other words, almost 1 out of 2 people do not have access to legal assistance during their procedure. This high percentage demonstrates a general and undifferentiated difficulty in accessing legal counselling. The large number of people who have not had access to legal assistance is outrageous, given the complexity of the procedures and the impact of a negative decision on the very existence of people seeking asylum.

In analysing the survey results in more detail, we found that there was a significant difference in access depending on the location of the respondent:

- **77% of the people in the camps had access to legal assistance**
- **compared to 43% in urban areas.**

We found the start of an explanation for this disparity in access to legal assistance in the type of housing that the respondents find themselves in. Indeed, the place of living often conditions access to legal assistance.

→ Of the respondents residing in a **camp** who received legal advice, **69% got assistance from someone working in a camp**. Organisations run camps. They are in charge of logistics, supplies, and support. Their teams include lawyers who regularly visit the camp, and whose work includes assisting asylum seekers with the examination procedure (see appendix 2).

→ For those in urban areas, two possibilities: Government housing programs¹ or self-accommodation. In the first case, they may be supported by the host organisation, many of whom have a lawyer on staff. In the second case, people are left to their own devices to find the legal help they need. (In the survey distribution, we could not distinguish between these two population samples).

The survey figures confirm this explanation. Of the **urban residents** who had accessed legal assistance, only **31% received legal services from their host organisation**. The rest of the sampled population had to find legal counselling by themselves.

"Maybe the solution would be having legal support in all the NGOs, and in the social services of different actors."

Survey n°105

One consistent point in the survey results is the difficulty accessing legal assistance, with an average of 75% of respondents indicating that it is very difficult or hard to find help, regardless of where they live. Also, even when possible, finding legal assistance remains complex for the vast majority.

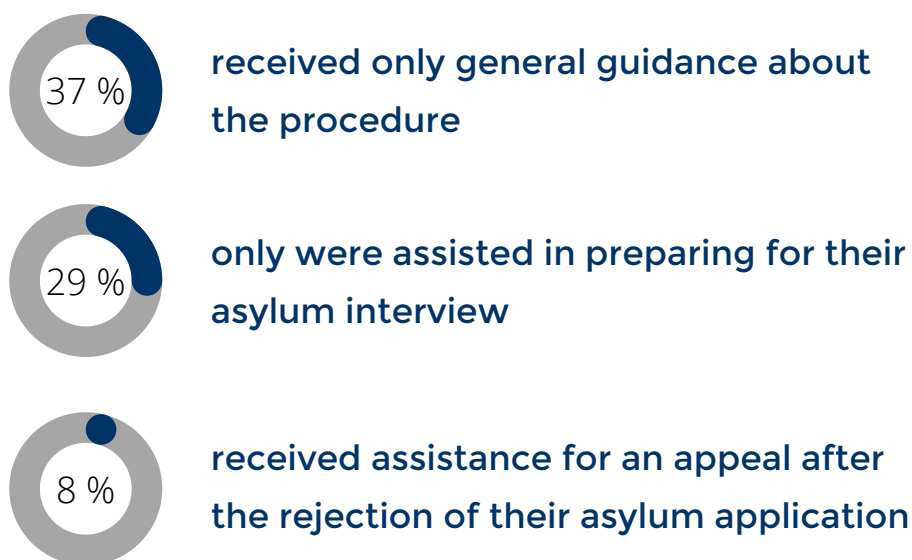
Of those who had access to legal assistance, we wanted to know if the help they received met their specific needs.

1. Programme ESTIA II

An insufficient and untargeted aid

There are several stages in the asylum procedure (see appendix 2), and legal assistance is recommended at each step. However, it is mandatory at the appeal stage.

Of those surveyed and who had access to legal assistance:



Here again, the results are decisive: for more than $\frac{1}{3}$ of the people who received legal assistance, it only consisted of general information at the beginning of the procedure. Very few people received individualised and specific assistance.

$\frac{1}{3}$ of the respondents received some advice regarding their asylum interview. During this interview, people seeking asylum must explain in detail the reasons for their displacement for the authorities to decide on the application and whether or not they will be able to keep living in Greece. It is the essential stage of the asylum application: this interview is the first and only opportunity to explain in person the reasons for the request for protection. This stage is all the more important as it is extremely difficult to obtain asylum after a first rejection decision has been issued (only 4.2% of positive decisions on appeals in 2020).

It is therefore essential that everyone gets the correct preparation for this interview. Unfortunately, **65% of the respondents who were assisted in preparing for their asylum interview, saw their lawyer only once.** This is not enough to effectively prepare applicants for this crucial interview.

In addition, since June 2021, Afghans, Pakistanis, Bangladeshis, Syrians, and Somalis have to undergo two different interviews. One is about the possibility of being sent back to Turkey². The other is about the reasons for fleeing the country of origin. Two interviews, with different notions and issues, require at least two separate consultations for effective preparation, which is far from being the case for the majority of the respondents.

Only 4% of all respondents³ received legal assistance at the appeal stage. Yet 28% of cases/applications were rejected at first instance in Greece in 2020, and to appeal these decisions, the assistance of a lawyer is mandatory. Without it, it is impossible to file an appeal. In practice, this means that people have no way to challenge a decision rejecting their asylum application. **Hence, there is a significant gap between the need for legal assistance at the appeal stage and effective access to a lawyer to file it.**

It is clear from the survey results that the legal assistance received does not always correspond to the realities and needs of an asylum seeker in Greece:

- Not everyone has access to legal assistance;
- When respondents had access to legal assistance, **49% of them reported that they had only met with a lawyer or advocate once;**
- The assistance provided is general and superficial, too punctual, and does not intervene at the most essential stages of the asylum procedure.

The causes of the shortfall and inadequacy of legal assistance to the needs of asylum seekers are nevertheless identified.

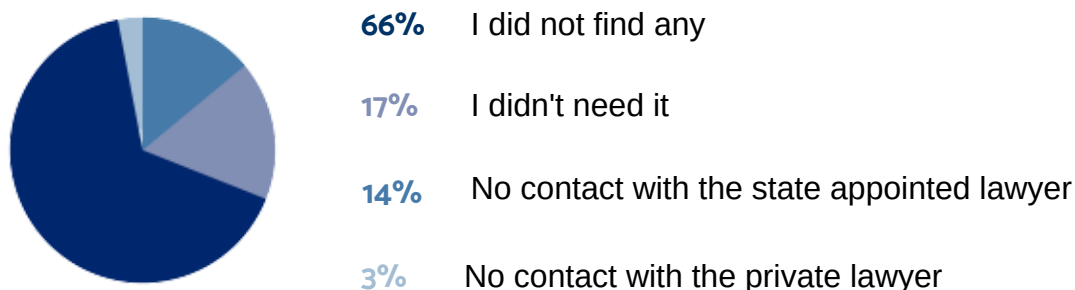
2. Considered by the Greek authorities as a "safe third country" for those nationalities.

3. That is to say those who had and hadn't access to legal assistance.

An explainable lack of access

95% of the respondents think that legal assistance is essential, necessary, or useful in an asylum procedure. There is a real awareness of the importance of such help. However, 42% of the respondents have not received legal assistance. People seek access to it but do not find it.

When asked why they did not access legal assistance, the results are as follows:



66% of the respondents did not find legal assistance, and the majority justified this impossibility by the **prohibitive cost of hiring a private lawyer**. Indeed, when it is not possible to benefit from free legal services, it is necessary to hire a private lawyer. Moreover, half of the people surveyed who had hired a private lawyer whom they had paid themselves, indicated that they had only received one consultation in all, which is insufficient.

"Private lawyers are useful but they ask for a lot of money that we don't have !"

Survey n°112

"People are poor, many can not even afford a lawyer or they will go hungry."

Survey n°97

One of the solutions could be that the States bear the lawyers' fees. Indeed, it is the responsibility of the Member States to guarantee efficient access to a lawyer, free of charge at the appeal stage⁴. **In Greece, state-funded legal aid exists but is unfortunately not sufficiently developed to meet the needs of people on the move.**

- There is no state-funded legal aid during the examination procedure (interview), and it is not mandatory for the State concerned to provide it;
- After a 1st rejection, the asylum office appoints a list of lawyers to undertake 1st appeals, within the broader state-funded legal aid scheme. Their number is very low compared to the needs. **Indeed, between January 2016 and January 2018, Thessaloniki hired only 23 lawyers for 17,633 cases⁵;**
- After a 2nd rejection, the request for state-funded legal aid must be made in person by the applicant to the competent Administrative Court of Appeal. The following obstacles to the filing of such an application exist: the often vast geographical distances and the cost of travel, the language barrier (the person needs to apply in Greek), the danger that travel can represent for applicants who are now undocumented. And even if the request has been correctly filled, the granting of legal aid is not automatic and can be refused.

4. Article 20§1 of Directive 2013/32/EU

5. "As of 31 December 2019 there were 37 registered lawyers on the list managed by the Asylum Service countrywide. On September 2020, an open call has been published in order for the registry of the Asylum Service to be completed. According to the open call a number of 95 lawyers were about to form the Registry of the Asylum Service. More recent data regarding the number of the lawyers present by the end of the year are not available. Moreover, no data are available with regards the number of applicants who received free legal assistance in appeals procedures under the scheme in 2020." Source: Asylum Information Database (AIDA), [report on Greece](#), last update 10/06/21.

Of those surveyed who did not have access to legal assistance, **14% had a lawyer provided by the asylum authorities who never contacted them.** It is because people do not have access to their lawyer's contact information and must wait for initial contact from them.

Therefore, the lack of staff authorised to provide legal aid in the scope of the state-funded scheme has two negative impacts:

- **Not all asylum seekers can access state-funded legal aid at the appeal stage;**
- **The authorised personnel are not able to carry out their mission at best, being overburdened.**

As a result, the possibility to lodge an appeal, which is a fundamental right, is not guaranteed in the majority of cases.

The problem of access to legal aid is generalised regardless of the location of the persons seeking asylum. Indeed, a person can only reside in a refugee camp during the examination procedure and must leave the camp after a decision has been issued. As a result, all asylum seekers are in urban areas after a rejection. They are then left to their own devices to seek legal advice.

"I need a lawyer who is available."

Survey n°122

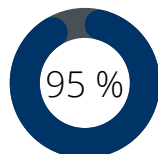
For people in the camps, the problem seems to lie elsewhere and concerns the examination procedure. As explained above, they have access to lawyers in the camp. Unfortunately, the survey again shows that people receive only one consultation on average. **This is mainly due to the lack of qualified staff in the camps: for camps of 500, 800, 1000 people, only 2 to 4 lawyers are present.** The ratio of cases to lawyers is too high for a regular follow-up to be put in place.

The lack of legal personnel, the unaffordable cost of private lawyers, and a defective legal aid scheme are the main reasons that explain, in our opinion, the gap between the expression of a need for legal assistance and the actual access to it.

THINGS TO REMEMBER:



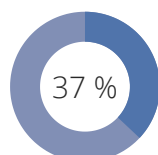
Nearly one in two people have never had access to legal assistance



95% believe that legal assistance is essential, necessary or useful



Nearly one in two people have only met their counsellor once



37% received only a general guidance

Legal aid is therefore indispensable for the respondents, but generally insufficient when it is provided. The difficulties in accessing legal aid seem to be linked to a systemic problem. However, the work done by lawyers to defend the rights of asylum seekers, often in difficult conditions, is admirable.

Improving legal assistance implies intervening at two levels in our opinion:

- Firstly, **by guaranteeing real access to legal assistance for asylum seekers**, at all stages of the procedure:
- Secondly, **by improving the conditions in which it is provided so that it can be truly relevant to the needs**

RECOMMENDATIONS

In view of the enlightening results of this survey, ELA proposes the following recommendations to improve access to effective legal assistance for exiles in northern Greece:

- **Increased awareness among exiled persons of their rights and existing legal services:** It is important that people know and understand their rights, including their right to a legal assistance of their choice.
- **Strengthening the number and training of legal personnel in organisations:** Regardless of the organisation (international, non-governmental, Greek, etc.), legal personnel are essential to the accompaniment of exiled persons, yet they are in constant decline.
- **Consolidation of the state-funded legal aid system:** Asylum seekers should be able to benefit from a lawyer paid for by the State in the same way as Greek nationals. However, the Greek state-funded legal aid scheme is not sufficiently developed or equipped to respond to these specific needs.

LEXICON

For the purposes of this survey and report, we used the following terms. They can have different meanings but we will retain those defined in this glossary.

Legal assistance: System allowing a person to be assisted by a lawyer whose fees are paid by the State (under certain conditions).

Greek private lawyer: A lawyer registered at a bar association in Greece and whose fees will be paid directly by the person receiving assistance.

Greek lawyer working for an NGO: A lawyer registered with a bar association in Greece working for an organisation that provides free legal services.

International Volunteer Lawyer working for an association: A lawyer or an advocate who is not registered with a bar association in Greece and who works for a non-governmental or non-profit organisation that provides free legal services.

State appointed defendant: A lawyer appointed under the legal aid scheme to accompany a person during the proceedings. The Greek State covers the remuneration of public defenders. During the first appeal, the asylum service establishes the list of accredited lawyers annually and appoints the lawyer who will undertake the appeal for the applicant. During the second appeal, it is the Court of Appeal that determines whether a lawyer will be appointed or not, taking into account their annual income.

Information on the asylum procedure: information session during which a legal professional will inform the person seeking asylum on the course of the asylum procedure as well as on the generalities of the procedure.

Asylum interview: During this interview, asylum seekers must explain in detail the reasons for their exile, so that the authorities can then decide on their application for international protection.

Appeal against a decision of rejection/Appeal: A legal remedy to challenge a rejection decision. The person applying for asylum can challenge a rejection of their application for protection following the asylum interview before the appeal committee with the help of a lawyer. The person can challenge a negative decision of the appeal committee before the competent administrative court of 1st instance, again with the help of a lawyer (see appendix 2).

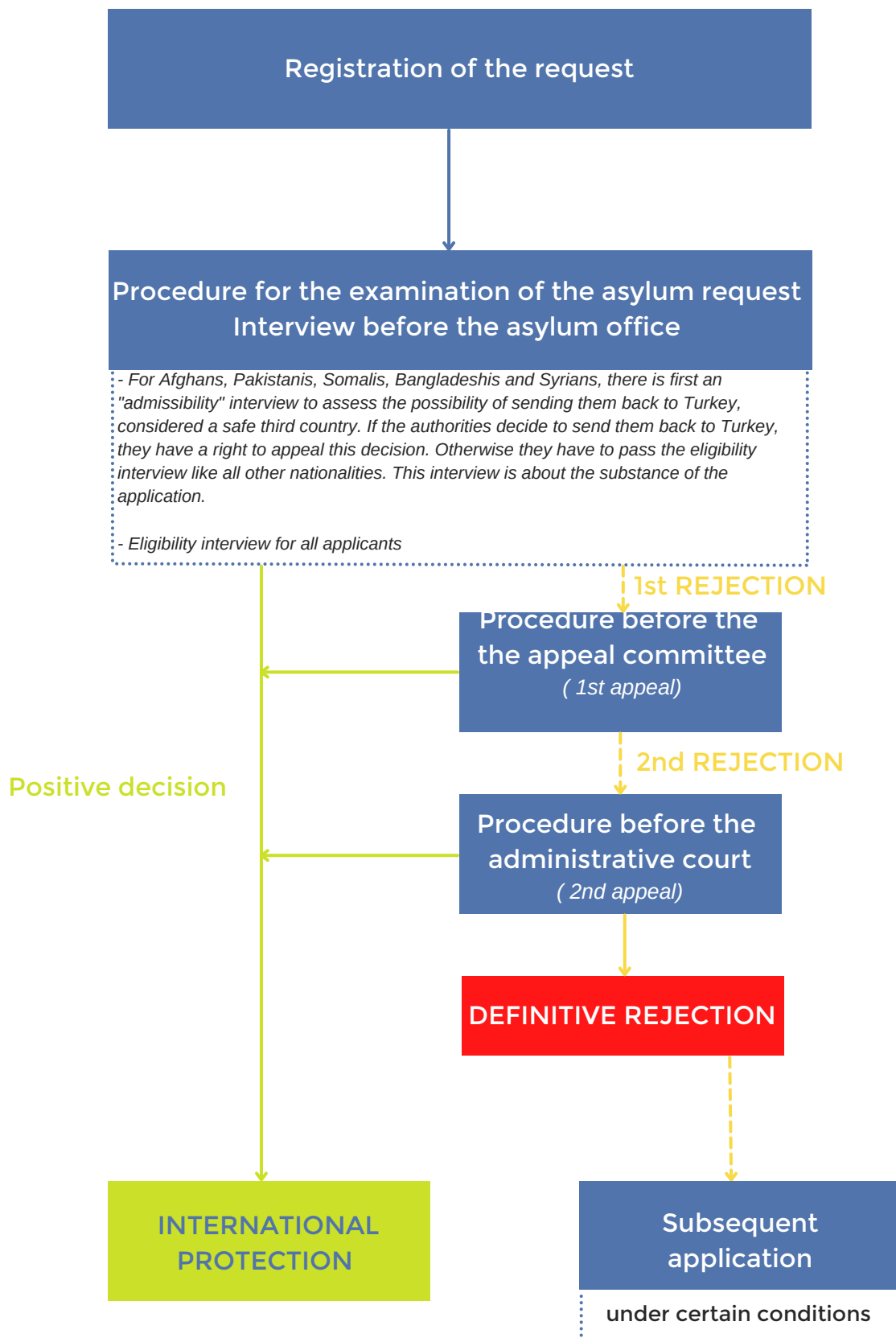
Appendix 1: Map of Greece



- Northern Greece
- Camps in which we displayed the survey
- Urban areas in which we displayed the survey

Appendix 2:

Simplified chart of the asylum procedure in Greece



Appendix 3:

Survey questionnaire

1. Since your arrival in Greece, have you received any legal assistance?

YES (answer everything except question 7)

NO (answer from page 2)

2. If you received some, who did provide you this legal assistance?

A greek private lawyer

A greek lawyer working for an NGO

An international volunteer lawyer working for an association

Other : _____

3. How did you know about this lawyer/association?

I found this lawyer/association by my own means

A friend recommended this lawyer's/association's services

This lawyer/association provides legal aid in a place where I spend my time or a camp where I live

Other: _____

4. How did this lawyer/association help you?

(Check all options that apply)

(S)he gave me information about the asylum procedure

(S)he helped me prepare for my asylum interview

(S)he helped me prepare my appeal against a decision rejecting my instance

(S)he helped me prepare a request for family reunion with family members in other European countries

(S)he helped me with another procedure (family, criminal, administrative)

(S)he helped in another way (please specify)

5. On average, how many times did you have contact with this lawyer or association? (through the phone, email, or appointment)

Once

Between 1 and 5

Between 5 and 10

More than 10

6. Are you satisfied with the help you received?

I am very satisfied, I received all the information and help I needed.

I am satisfied, I received all the useful help

I am not satisfied, I would have liked to have more information and follow-up

I am not satisfied at all, I did not receive the help I needed

7. Why did you not seek the help of an attorney since your arrival in Greece?

I did not need it

I did not find an attorney

I was provided a state-appointed defendant but I did not see him/her or talked to him/her (--> why ?)

I found an attorney but I did not see him/her or talked to him/her(--> why ?)

Other (please specify): _____

8. Do you think a lawyer's help is necessary at your arrival in Greece or during the asylum procedure?

I think a lawyer's help is essential

I think a lawyer's help is necessary

I think a lawyer's help is useful

I think a lawyer's help is useless

(--> why ?): _____

9. In your opinion, is it easy to find a lawyer or a legal aid association in Greece?

It is very easy to find a lawyer or legal aid

It is easy to find a lawyer or legal aid

It is hard to find a lawyer or legal aid

It is very hard to find a lawyer or legal aid

10. What legal obstacles did you have since your arrival in Greece?

Lack of information about procedures

Procedures are too complicated

Procedures are too long

No access to lawyers or legal aid associations

What do you need in terms of legal aid ?

Appendix 4:

Results of the questionnaire

Access to legal aid (Q1)	
Yes	58,33%
No	41,67%
Total of answers	100,00%

Type of legal assistance (Q2)	
A greek private lawyer	19,19%
A greek lawyer working for an NGO	54,55%
An international volunteer lawyer working for an association	18,18%
Other	8,08%
Total of answers	100,00%

How did you know about this lawyer/asso ? (Q3)	
I found it by my own means	19,15%
A friend recommended it	22,34%
It provides legal aid where I live	53,19%
Other	5,32%
Total of answers	100,00%

How did this lawyer/asso helped ? (Q4)	
Infos about procedures	37,11%
Preparation interview	28,87%
Appeal	8,25%
Family reunification	2,06%
Other procedure	23,71%
Total of answers	76,29%

How many time did you see this lawyer/asso ? (Q5)	
Once	48,96%
Between 1 and 5	22,92%
Between 5 and 10	14,58%
More than 10	13,54%
Total of answers	100,00%

Are you satisfied ? (Q6)	
Very satisfied	16,00%
Satisfied	24,00%
Not satisfied - more info	36,36%
Not satisfied - not help I needed	24,24%
Total of answers	100,61%

Why no lawyer ? (Q7)	
I did not need one	17,50%
I couldn't find a lawyer	66,25%
I was provided a state-appointed defendant but I did not see him/her or talked to him/her	13,75%
I found an attorney but I did not see him/her or talked to him/her	2,50%
Total of answers	100,00%

What do you think about lawyer's help ? (Q8)	
It is essential	53,18%
It is necessary	23,70%
It is useful	18,50%
It is useless	4,62%
Total of answers	100,00%

Is it easy to find ? (Q9)	
Very easy	11,30%
Easy	13,56%
Hard	35,59%
Very hard	39,55%
Total of answers	100,00%

Legal obstacles (Q10)	
Lack of information about the procedure	21,69%
Procedure are too complicated	23,39%
Procedure are too long	36,27%
No access to lawyers or legal asso	18,64%
Total of answers	100,00%

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