OBJECTS**BODIES**TERRITORIES

The Financial Calculations of Border Regimes and Humanitarian Governance

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This body of research began with my postgraduate studies, in which I was introduced to an alternative way of engaging with the discipline of architecture—one that interrogates the built environment not only through the composition of materials, through design and construction, but also as an instrumentalised component of the social, political, and environmental paradigms that shape, and are shaped by the world we live in.

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Abstract

Marked by unprecedented numbers of forcibly displaced individuals from the Middle East, the African continent, and Asia, the intricacies of European humanitarian governance and border regimes have become critical components of contemporary geopolitics. This thesis contends that a financial logic underpins these mechanisms, investigating the legal and architectural processes involved in producing and assigning statuses—refugee, asylum applicant, detainee, or deportee—to displaced individuals. While these processes may appear purely administrative, they instead act as catalysts for intricate assemblages that extract financial and biopolitical value from displaced bodies. A value that transcends conventional financial transactions, and encompasses the allocation of resources, the exertion of control, and the shaping of public opinion.

Through its chapters, the thesis seeks to uncover these financial machinations, where naming operates as a strategic tool for categorisation, segregation, and exploitation. It also examines how economic calculations infiltrate every phase of displacement: from the initial act of flight, through perilous journeys, arrival in foreign lands, incarceration, and internment in various facilities, to eventual settlement in urban or rural settings for some—or, more often, repatriation for others deemed ineligible.

Central to this research is the development of a material and visual practice that exposes the violence inherent in the *regime of calculations* perpetuated by humanitarian governance and border apparatuses. Through iterative interviews with aid workers, live-action recordings of sites, and the use of physical (architectural) models, this practice seeks to document and testify to systemic violence. Physical models, in particular, are more than mere tools of representation; they serve as evidentiary media, capable of measuring, studying, and analysing these calculations while amplifying the voices of those ensnared in extractive systems.

By employing physical models, this thesis underscores their ability to embody and articulate the spatial, material, and corporeal relationships that define the migrant experience. Thus, I argue that these models can function as operative objects that are able to reframe advocacy discussions, generating a field through which claims and counterclaims can be articulated, exposing the financial and biopolitical dimensions of displacement, and offering the potential to inspire new policies and practices aimed at dismantling the regime of calculations. Ultimately contributing to a more equitable response to the challenges faced by displaced populations worldwide.

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1. Humanitarian Governance: An Industry Defined by Naming Practices

1.1 Context

"A Liberian displaced person who lived in 2002-03 (at the height of the civil war between Charles Taylor and the LURD rebels) in a camp for the internally displaced, on the outskirts of Monrovia, became a refugee in 2003 if he then fled to a UNHCR camp in the forest region of Guinea and was given the qualification, then an illegal if he left in 2005 to seek work in Conakry, where he would come across many compatriots living in the Liberian quarter of the Guinean capital. Then, after spending days at the bottom of a cargo boat, he might try to enter Europe, ending up in one of the hundred or so ZAPIs (waiting zones for persons under review) at the French ports and airports. He will now be officially considered a detainee, before he can be registered as an asylum applicant, with a 90 percent chance of being rejected, his demand being classified by the OFPRA agent as 'manifestly unfounded'. He will then be taken to the frontier and expelled from France, or else held in a CRA while waiting for the administrative procedure necessary for his expulsion to be finalised (which may take weeks or months), or again left at liberty in the situation of a non-expellable irregular. He then becomes a sans-papier, a status somewhat close to that of tolerated, which is given in Poland to a person in a situation similar to his own – generally, in that case, to Chechens. If he makes a further request for asylum, he runs a heavy risk of being rejected again, as Liberia is no longer considered a dangerous country since the peace agreement of 2004 and the surrender of Taylor."[1]

To set the scene, this quote by anthropologist Michel Agier, describing a hypothetical displaced person, gives us an overview of the problem that this thesis engages with: due to conflict, climate change, or other forms of upheaval, people become displaced and in turn are forced to migrate.

As a result, people in transit pass through systems that seek to deter, impede, intern, confine, sort, and accommodate them, as well as being subjected to technologies that aim to detect, count, identify and track them. These systems establish thresholds in space and in the law. As an individual passes through a camp, detention centre, or internment facility, they also cross thresholds that transform their status as legal subjects: they are made illegal, they become a displaced person, a detainee, or an asylum applicant. Their patterns of movement, their biological and social needs, their physical and mental

1 Excerp from Agier, M. (2016). Managing the Undesirables. Polity Press.

vulnerability, are not only managed along a spectrum of securitisation and humanitarianism, but are also harvested.

Border regimes and border practices are often framed in terms of an opposition between asylum claimants and securitisation. However, this occludes the lived experience of a displaced person, and the complex economic dependencies that are formed as a result of their mobility, which are taken advantage of by a multitude of actors, including technology companies, security contractors, non-governmental organisations (NGOs), charities, design firms, construction companies, mobile phone companies, lenders, media organisations, and, most importantly, state and inter-state organisations, as well as supranational unions. In that sense, seeing the architecture of the camp, the detention centre or internment facility as the solution to the practical problem of displacement erases the way that the aforementioned actors now see people in transit as a resource, albeit one that passes through phases that trigger different economic formations and extractive processes that cohere around them.

In an effort to explore this hypothesis further, this thesis first presents a literature and contextual review, to situate the research within the broad field of migration studies (Chapter 2). It then interrogates the interplay between architecture and law in the production of legal statuses, and how these very identities are essential in producing potential value through the mobility, aid provided to, and accommodation of displaced people (Chapter 3). The thesis goes on to discuss the current modalities of contestation of migration dynamics, along with their respective evidentiary practices (Chapter 4), in order to then develop an alternative form of evidentiary practice that is aimed at contesting extractive regimes (Chapter 5). Finally, this new practice is tested by applying it to the context of Calabria in southern Italy (Chapter 6).

Chapter 3 focuses on what is deemed the largest population movement in history: that which followed the anti-government movements arising in North Africa and the Middle East from 2011 onwards – commonly known as the Arab Spring[2] – through an analysis of the legal and architectural apparatuses deployed on the island of Lesvos (Greece) in the years 2015 and 2016. Chapter 6 then shifts the focus to the region of Calabria in southern Italy. The situation in Lesvos offers insights into the financialised considerations of migrant accommodation and mobility from an institutional perspective – i.e. through camps, registration centres, and intergovernmental agreements

2 The Arab Spring was a series of anti-government protests, uprisings and armed rebellions that spread across much of the Arab world in the early 2010s. It began in response to corruption and economic stagnation and was influenced by the Tunisian Revolution, from where it spread to countries such as Morocco, Syria, Libya, Egypt and Bahrain.

– while the Calabrian context offers us the chance to understand financialised activities that emerge through undocumented labour markets.

Situated across Greece and Italy, two out of three countries (alongside Spain) within the European Union that have experienced large numbers of migrant arrivals, this body of research aims to foreground how law and architecture come together in the production of the aforementioned identities, and how these identities transform people into a resource. The research posits architecture as both an actor within, and a register of, a contested political and social force field. In discussing the infrastructure of humanitarian governance as a collaboration between the laws (both national and international) that govern it and its architecture, this thesis forms a dialogue within which the relationship between the inanimate objects of our built environment are instrumentalised.

By interrogating the series of laws that have been implemented on the island of Lesvos in a bid to manage surging migrant flows, we can identify direct links between those laws and the construction of architecture in the form of camps, detentions centres, deportation zones, blockades and barriers (Chapter 3.1). A study of the European Commission algorithm developed to ensure an "equitable" distribution of displaced populations among European member states, as part of its effort to share the "burden" of migrant arrivals, allows us to draw out the financial logic behind that endeavour (Chapter 3.2).

Such encounters between architecture and law – in so far as they are complicit in the production of identities and their attribution to migrant bodies – expose people fleeing conflict to new forms of discrimination, be they institutional or otherwise.

Through research into migrant dynamics in the region of Calabria, we can identify these forms of discrimination (Chapter 6) – which are not unique to the area, but are symptomatic of a broader ecology of value extraction and exploitation of migrant bodies across the globe.

In understanding the dominant discourse around forced migration and migrants (Chapter 2), along with studying the forums that are charged with developing and advocating migration policies, including their evidentiary practices (Chapter 4), this body of research leads to the articulation of a practice that aims to contest the regime of calculations that is inherent in humanitarian governance (Chapter 5).

I argue that the identities produced and enforced on displaced people are the direct result of this collaboration between law and architecture, wherein the material realities of this infrastructure not only include architecture but also those pieces of paper on which law is inscribed. The semiotic nature of law is not only reserved for policies

and protocols but includes forms of digital governance, such as the European Commission algorithm. Understanding the processes by which a displaced person is attributed identities as a result of specific assemblages allows us to tease out the complexities and nuances of border regimes. The example of a hypothetical displaced Liberian and his travails, put forward by anthropologist Michel Agier, lays bare these assemblages and their naming practices.

1.2 An Industry Defined by Naming Practices

In the 1950s, the United Nations estimated the number of "refugees" concentrated in Europe and the Middle East to be 1.5 million – as a result of the Second World War, labour migration from east to west Europe and the occupation of Palestine.

Today, the worldwide figure for victims of forced displacement stands at 108.4 million – of whom 62.5 million are classified as internally displaced, 35.3 million as refugees, 5.4 million as asylum applicants, and 5.2 million as people in need of international protection. Over half of all refugees and people in need of protection (52%) originate from Afghanistan, Syria and Ukraine. 38% of all refugees and those in need of protection reside across five countries: Turkey, Iran, Colombia, Germany and Pakistan. 43.3 million of the overall figure are classified as minors under the age of 18. 70% of all refugees and people in need of international protection are hosted in countries that neighbour their own.[3]

Given these large figures, we must consider what we understand to be a "refugee", and how this is determined and produced both legally and spatially. This term, heavily used by the United Nations and international humanitarian organisations, affords certain rights to anyone who falls under this category. As defined by the Convention and Protocol Relating to the Status of Refugees, first published in 1951, a person qualifies as a refugee if they are unable or unwilling to go back to their home country due to a justified apprehension of facing persecution based on factors such as race, religion, nationality, affiliation with a particular social community, or political beliefs. The Convention also emphasises that, except under particular circumstances, refugees should not face penalties for entering or residing in a country illegally, acknowledging that seeking asylum might necessitate refugees

3 UNHCR. (2022). Refugee Statistics.
Retrieved from https://www.unhcr.org/refugee-statistics/

breaking immigration regulations.[4]

The principle of non-refoulement within the Convention is of such paramount importance that it cannot be modified and there are no exceptions to it. It establishes that forcibly expelling or repatriating a refugee to a region where they perceive risks to their life or liberty, against their consent, is strictly prohibited, under any circumstances. Additionally, the Convention sets out fundamental baseline requirements for the treatment of refugees, without setting limits on countries providing more advantageous treatment. These entitlements encompass the right to legal recourse, primary education, employment, and the issuance of documentation, which includes a refugee travel document, in the form of a passport.[5]

However, this definition of a "refugee" is – and remains – open to interpretation by governments and institutions. Differing interpretations have made humanitarian governance increasingly complex. Certain EU member states have cited particular interpretations as justifications for xenophobic acts of denial and non assistance. In the summer of 2015, having ordered the construction of a four-metre-high wall along its 175 km border with Serbia,[6] the government of Hungary argued that the "inevitable culture clash between Muslim migrants and their host country" risks the harmony of the latter.[7] This clearly highlights the malleability of the legal status that is "refugee" in favour of, or indeed against, displaced people.

When we dig a little deeper into the processes to which a displaced individual is subjected throughout the non-linear, temporally and spatially protracted series of events they experience, we are confronted with the multiple names used to identify a person that are in fact anything but "refugee". The use of this term to define a multitude of displaced people across a variety of public and political domains is entirely erroneous, as they are not and cannot all be considered refugees in the legal meaning of the term – owing to the fact that they have not been granted this status. The myriad of names, assigned across varying legal and spatial settings, are in fact identities that suspend or withhold the possibility of reaching the identity of a refugee. By investigating these naming practices, this thesis aims to develop a

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4 Convention and Protocol Relating to the Status of Refugees. (1951/2010). The Office of the United Nations High Commissioner for Human Rights. Retrieved from https://www.unhcr.org/3b66c2aa10

5 Convention and Protocol Relating to the Status of Refugees. (1951/2010). The Office of the United Nations High Commissioner for Human Rights. Retrieved from https://www.unhcr.org/3b66c2aa10

6 Kingsley, P. (2015, June 22). Migrants on Hungary's border fence: "This wall, we will not accept it". The Guardian. https://www.theguardian.com/migration/2015/jun/22/migrants-on-hungarys-border-fence-this-wall-we-will-not-accept-it

7 LeBor, A. (2015, 17 September). We must keep Europe Christian says Hungarian PM. The Times. https://www.thetimes.co.uk/article/we-must-keep-europe-christian-says-hungarian-pm-2b56rfxkf2r

deeper understanding of the political and economic calculations of border regimes.

What we can deduce quite easily from these considerations, as well as from the quote from Michel Agier at the start of this chapter, is that naming practices are the result of a broader ecology of law and architecture, and their historical legacies. This leads us to recognise that there is a need to discuss the relationship between language and power, in order to understand the consequences and politics around this relationship in all their nuances.[8]

I would argue that we can comprehend better what is at stake as a result of the naming practices of border regimes by also looking at the naming practices of colonial regimes. For instance, in the formulation and definition of the term "animism", and its attribution to cultural practices that are non-secular, that incorporate spirituality, other-worldly and non-human relationships, and religious practices other than Christianity, we see the enforcement of a specific political and social agenda which reproduces notions that feed into the imagined perception of the uncivilised, un-secularised, uneducated other.[9]

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8 A discussion that has been widely present in African studies in regard to the naming of the African continent by the Greeks and Romans as "Africa" (upon their conquest of countries along the south coast of the Mediterranean Sea in 332 BC and 146 BC respectively). Philosopher Dr Magobe Ramose argues that this act was somewhat "baptismal" in its nature, in so far as "the one who baptised it, did so by virtue of a certain power" – a power that made unjustified use of violence in order to establish itself and its epistemological paradigms. What underlines Dr Ramose's writings and theories that argue for the existence of an African philosophy (in the sense of "a way of life", rather than an academic definition of the term) is a sense of historical injustice, stemming from this very act of the naming of "Africa" by its colonisers. In arguing for the existence of an African philosophy, however, Dr Ramose is not pointing to a Western academic construct of philosophy, but to a philosophy in the sense of "a way of life" – which is a way of life that is not deemed civilised and rational by Africa's European colonisers.

9 In his practice and in his book entitled *Animism*, Anselm Franke describes the ways in which animism has come to be understood, pointing to a conception/understanding of animism that is negatively constituted as a means of qualifying Western modernity. This modernity is rooted in objective rationalist ideology, and is contrasted to the inability of non-Western societies to differentiate between culture (subjectivity) and nature (objectivity), and to dislocate the one from the other, which renders said societies "primitive" and therefore places those societies that hold this bond as part of their belief system on the other side of a "Great Divide" – that between pre-modern (primitive) societies and modern civilisations. This line of thought, which aims to characterise and categorise bodies that are seen to be incapable of performing this separation, is also evident in the ways in which identities are inscribed onto persons in flight. Especially if we consider the role of politics and the media at large as regards the ways in which persons from cultures and religious backgrounds other than that of a receiving nation are perceived – in the name of legitimising Western imperial modernity – we begin to see a link between the politics deployed in Western societies and the identities attributed to bodies (of so-called primitive persons). Franke continues to describe how certain colonial practices utilised animist practice in the formation of religious imaginaries during their conquest of the New World. This double-edged propagation of animism – that which defines it to legitimise Western modernity and that which is utilised to legitimise colonisation of a primitive society – resonates with the same forms of appropriation and extractivism that exist in the operations of borders, camps, detention centres, registration centres, and deportation waiting zones. For this reason, the extractive operations that this thesis intends to interrogate can be classified into two strands: those that negate non-Western practice and aim to separate objectivity from subjectivity in order to subjugate, and those that deploy animist practices in relation to their primitive subjects to transform existing modes of living.

Along these lines, Frantz Fanon, in his seminal book *Black Skin, White Masks*,[10] begins with a declaration that the affordance of power comes hand in hand with the mastery of a language. Although he is speaking in terms of the aspirations and internalised racism of a black community striving to become white, and subsequently accepted by their colonisers – the first step being the mastery of the language of the white man – we can look at the ways in which language is used in the field of migration and politics through this lens. In this regard, a person in flight is subjugated and othered on two fronts: through their insufficient knowledge of a given language (both as a form of communication and as the language in which technical legal terminology is expressed) and the mastery of that language by the administrators of the varying legal and architectural assemblages to which a displaced person is subjected.[11] This produces an imbalance, affording an advantage to the state institution that is charged with processing, accommodating and deciding the future of displaced lives.

Naming practices, the politics enforced through them, the extractions that they enable, and the precarious situations in which they place lives, are present and ingrained in contemporary humanitarian governance, and have been for some time. Naming humanitarian issues a "migrant crisis" reflects a negative constitution of the problem at hand. In turn, it obscures the underlying causes of, and exacerbates factors that contribute to, the situation; it stigmatises and places blame on displaced populations for the situation that they find themselves in; it dehumanises individuals while presenting them as a mass; it leads to policy responses that prioritise security and deterrence measures over humanitarian assistance and protection; it diverts attention away from the structural and systemic issues that contribute to forced migration; and it overshadows the specific vulnerabilities that displaced persons might have.

For this reason, this thesis takes the so-called migrant crisis as its focal point, through presenting an historical analysis of the legal and architectural apparatuses on the Greek island of Lesvos in 2015-2016 that are complicit in the production of legal statuses, alongside research into undocumented migrant labour markets in the Italian region of Calabria wherein new forms of discrimination and exploitation of migrant bodies materialise.

The significance of Lesvos is multifaceted. A primary factor here is the direct impact of the Syrian conflict on the island, which lies at a critical point on the migrant route to Europe. In 2015, over

Franke, A. (2010). Animism. Sternberg Press.

10 Fanon, F. (1952). Black Skin, White Masks. Grove Press.

11 Ibid.

416,000 Syrians arrived on the Greek island,[12] while in February 2016 alone, 30,000 displaced persons from Syria, Iraq and Afghanistan arrived there.[13] It is on this island that we see a large concentration of architectural and institutional infrastructure, each with their own form of calculus - ranging from those that have come to exist as a direct consequence of the influx of migrants (small local NGOs and new businesses with financial objectives) to institutions and corporations (such as the United Nations High Commissioner for Refugees (UNHCR) and media companies, to name a few).[14]

The events that take place on and around the island are characterised by the multiple legal frameworks that are marked by financial and biopolitical calculations in regard to the accommodation, processing and mobility of people in transit: a law that defines a set of criteria aimed at determining which member state within the European Union is responsible for processing asylum applications, which in turn places financial burden, while also affording financial support to the nation of first entry (Dublin III Regulation); a political agreement between the European Union and the Republic of Turkey which sets the framework for cooperation between the two parties in managing migration flows, while offering Turkey a significant financial incentive for providing assistance through preventative measures (EU-Turkey Statement); legislation which was instrumental in the creation and functioning of "hotspots", in which NGOs and private contractors are mobilised (Joint Ministerial Decision 55184/2015); a law that defines the process for evaluating applications for international protection encompassing refugee status and subsidiary protection (Greek Law 3907/2011); a law that focuses on expediting processes and facilitating returns (Greek Law 4374/2016); and a framework that establishes additional parameters for the acceleration of asylum procedures and the establishment of new bodies to examine applications (Greek Law 4375/2016).[15]

A study of the Calabrian context, on the other hand, brings attention to the other end of the spectrum: i.e. after the naming practices

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12 Leadbetter, C. (2016, March 3). Which Greek islands are affected by the refugee crisis? The Telegraph. https://www.telegraph.co.uk/travel/galleries/refugee-crisis-which-greek-islands-are-affected/

13 Amin, L. (2016, March 24). Lesbos: a Greek island in limbo over tourism, refugees – and its future. The Guardian. https://www.theguardian.com/travel/2016/mar/24/lesbos-greece-island-in-limbo-tourism-refugees-future

14 What makes the island of Lesvos an even more intriguing case is its close proximity to Turkey via the Aegean Sea – 10 km away. In the middle of this 10 km strip of sea, the European frontier begins and ends - this line, which marks the maritime borders of Greece and Turkey, has been highly contested since Greece gained its independence from the Ottoman Empire.

15 Greek Laws 3907/2011, 4374/2016 and 4375/2016 are financial and biopolitical instruments that seek to expedite processing, in an effort to minimise long stays within "hotspots", which in turn reduces the costs associated with migrant accommodation.

that are enforced through humanitarian governance, the displaced are exposed to new forms of calculus. The region of Calabria, known primarily for its agriculture, has become a zone in which undocumented migrants and those within the asylum process are exploited. Here, all aspects of a displaced person's daily life – accommodation, mobility, labour, social relationships and dependencies – become sites of financial and biopolitical extraction.

This thesis contends that forms of calculus run through every aspect of a displaced person's journey, from the instant they are forced to migrate. This calculus never ceases to exist, as the statuses assigned to displaced people, which transform along the way, remain long after they have settled in their desired, or perhaps enforced, destinations. A major contributor to this cycle is humanitarian governance and border regimes, its financial nature, and the legacies it produces in regard to the bodies of displaced populations.

1.3 The Financial Nature of Humanitarian Governance

Existing scholarship on management and governance of people in transit through the assignment of identities within camps and detention centres has tended to ignore the fact that these operations are not only administrative but also inherently extractive. This thesis argues that names and identities are the result of extractive processes of a financial and biopolitical nature that are conducted through operations by both state and inter-state organisations (such as Frontex), as well as non-state entities (such as corporations and criminal enterprises), that draw out a form of value from the body of a displaced person through biometric and logistical processes, converting the person and their body into a resource for financial or political gain. This regime of calculations operates as a mechanism for assigning various legal statuses, such as refugee or asylum applicant, to displaced individuals, thereby rendering them legal entities. These legal classifications then determine the type of assistance provided: for instance, through camps or detention, distinct forms of value come into play.

The accommodation of displaced individuals in camps takes on a financial value, due to the aid and support delivered within these facilities. Additionally, there is the potential for increased value associated with the mobility and labour contributions of successful asylum applicants who relocate to urban and rural

settings. Furthermore, the accommodation, mobility, and integration of successful applicants hold biopolitical value as they signify the acceptance and assistance extended by the state to individuals in distress, which may influence the perception of voting populations.

Conversely, the non-assistance and confinement of those categorised as illegal can generate financial value, particularly when they are confined within privatised detention facilities. It also carries biopolitical value, appealing to an electorate that supports measures aimed at preventing an influx of individuals perceived as a potential threat to the local labour market, among other considerations.

I contend that this regime of calculations fundamentally aims to extract value from the body of a displaced individual. This regime, in turn, is perpetuated along a displaced person's entire journey, commencing from the instant they are forced to migrate and engage with the calculations of smuggling networks, humanitarian organisations, NGOs, national and international bodies, local labour markets, and numerous other stakeholders that aim to gain from the movement and settlement of these communities.

To give an example of an inter-state operation that has an extractive motive, we can consider the Cash Assistance Programme of the UNHCR currently being implemented in Greece, under which prepaid debit cards are distributed to the displaced as a means of providing financial support. Political scientist Martina Tazzioli argues that at first glance the programme allows for humanitarian actors to track the displaced in real time through their financial transactions, but in fact this masks their primary objectives in using the real-time data collected which is to produce general statistics about "refugee" consumption.[16] Tazzioli argues that this example of technological migration governance feeds and supports a wider financial system, through the way in which the data collected is circulated between multiple actors that are spread across the European Union. This circulation produces what she calls "biopolitical value" – forms of value that are not the result of *direct* economic profit arising from incarceration, but that are the *indirect* outcome of the mobility of displaced people and their use of the cash assistance afforded to them.[17]

It is understandable that, in order for a person to be given aid within a "refugee" camp, that person would need to be categorised. For example, the village of Moria, located 5 km north of Mytilini, the capital of the island of Lesvos, is home to two very distinct camps, which are divided by a road. On one side of the road is a UNHCR camp – heavily

16 Tazzioli, M. (2019). Refugees' Debit Cards, Subjectivities, and Data Circuits: Financial-Humanitarianism in the Greek Migration Laboratory. International Political Sociology, 13(4), 392-408. https://doi.org/10.1093/ips/olz025

17 Ibid.

fortified, with barbed wire fences, armed forces, watchtowers and a four-metre-high concrete retaining wall – comparable to a prison in its setup. On the other side of the road, there is an informal "refugee" camp that has formed in response to the fortification of the United Nations camp opposite. The only piece of infrastructure on this site linking the two camps is the registration building situated between the two – which everyone must visit to register their arrival and to make a formal application to leave the island and carry on through Europe to their desired destination. Registration requires each person to present identification (ideally in the form of a passport); in doing so, their country of origin can be taken into consideration. This procedure holds great value: people that are not from countries deemed to be experiencing conflict (namely Syria, Iraq and Afghanistan in the years 2015 and 2016) are immediately refused passage from the island to mainland Greece. The registration centre in this case performs a series of categorisations of new arrivals: firstly by their country of origin, then by their gender, followed by their marital/family status.

What is of interest to this research is the limitations and ambitions of the regime of calculations in so far as it deals with politics and life, which manifest after these initial forms of categorisation, and also how judgement regarding these categorisations are, in turn, influenced by the regime of calculations they will play a part in. While requests for a passport, citizenship details, and other primary information contributing to establish a category of person do not hold direct value in themselves, this information is of great significance in terms of determining who is eligible for assistance and who is not within the existing asylum system. If we take nationality as an example, displaced populations arriving on Lesvos with Syrian, Iraqi and Afghan nationality are (in 2015 and 2016) immediately declared eligible, transforming their legal statuses into that of asylum applicants, handing them a place within camps, and affording them legal assistance. Those who fall outside of these nationalities are immediately assigned the legal status of illegal immigrant, detainee and/or deportee, which in effect sees them placed in detention facilities, pending repatriation. In both cases, there exists an immediate value in the accommodation of displaced people, through the running costs associated with these facilities, the private contracts given to the organisations that run them, the funding given to NGOs that support on-the-ground aid initiatives, the governmental institutions that police displaced people, and the international agreements that play a role in repatriating them through providing financial initiatives.

This example of the island of Lesvos is revealing of a wider apparatus of identity production and attribution at border conditions that take place in a variety of temporal and spatial settings – such as

enclaves, exclaves, maritime and terrestrial borders, international waters and so on.

The financial nature of humanitarian governance highlighted here is considered by this thesis as an instance of systematic violence manifested through the structure of seemingly administrative processes and the institutions that sustain and reproduce them. This is a form of violence that has far-reaching implications (prior to, during, and after forced migration), preventing the satisfaction and fulfilment of the basic needs of its victims – those that are granted to persons in flight under the 1951 Convention as well as the 1948 Universal Declaration of Human Rights.

1.4 Sites for Advocacy

This thesis deals with three key concepts that correspond to three key problems which traverse and inform the entirety of the research: (1) the production and attribution of differential identities through humanitarian governance and border regimes, (2) the financial calculus that is formed around the legal statuses assigned to displaced people, and (3) the forms of value that they produce.

Neither architecture nor law alone is capable of producing and attributing identities to the displaced. They work together in each and every setting. For instance, a national border, the laws that define citizenship on either side of that border, and the accessibility of one from the other via a series of protocols, are considered as part of the infrastructure of humanitarian governance. The attribution of identity – i.e. the series of names that are assigned to persons in flight at various intervals over the course of a person's journey – is a direct function of the infrastructure of humanitarian governance. For instance, a displaced person is only a refugee once they are afforded this status after a successful asylum application, and thereafter the rights and protection that come with it. On the other hand, if a person crosses a national border without following legal protocols, they are considered an illegal immigrant. As a consequence of these naming practices, there emerges a potential biopolitical and financial value that is sought from the body of the displaced. To give examples: the status of refugee has a financial value, through a person's integration in initiatives funded by the European Union within cities and towns; the status of illegal immigrant has a financial value through undocumented labour markets; the status of asylum applicant has a value in support networks and NGO activities,

as well as in legal representation that aims to aid the applicant through legal processes; and the status of deportee holds a value for privatised detention facilities.

This thesis argues that there is a need to evidence the violence of the extractive processes of border regimes in order to contest them in various types of forums: focusing in particular on the role of art and advocacy forums. I argue that the discourse around forced displacements and the displaced should be shifted from administrative considerations – i.e. what to do with them, or even how to "educate" them with European ideals – to consideration of the issues that pertain to the very processes they administer: the problem of value extraction.

The development of a practice in which the systematic violence of humanitarian governance is evidenced is crucial in order to foreground the extraction of value in question. The consequences of this extraction from the displaced is ultimately a question of traces between objects, bodies and territories. It is imperative that these traces are evidenced through testimonies describing the lived and embodied experiences of humanitarian aid workers: those individuals who hold key positions within humanitarian activities, who pivot between interactions with people in transit and interactions with governmental institutions. The evidence that is intended here is not necessarily (or only) evidence that is brought to a court of law, but rather evidence that can affect lobbying in relation to the contestation of the processes highlighted here.

In order to contest the extractive processes of border regimes, I identify art and advocacy forums as sites within which the practice of this thesis can be tested – each, in their own capacity, allowing for different conversations to emerge.

Forums for advocacy are crucial in that they afford a direct and more controlled dialogue with the stakeholders of the issue at hand: that is to say, those that have an influence over policy on migration. As this research and its focus relates to the European community and those that border it, rather than any single state within its confines, the United Nations, and more specifically the activities of its humanitarian arm, the UNHCR, as a supranational institution, is an ideal site of intervention. The UNHCR is of further importance not only because it is embedded in all humanitarian operations in Europe, and on its periphery, but also because it stages regular advocacy meetings, symposiums and forums with international humanitarian organisations and states in which it discusses state-level forced migration and immigration policies.[18]

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18 UNHCR is a United Nations agency that is mandated to aid and protect refugees, forcibly displaced communities, and stateless people, and to assist in their voluntary repatriation, local integration or resettlement in a third country.

Although evidencing practices within these forums for advocacy abide by strict rules, they differ greatly to the practices of legal forums: defined as spaces within which the performance of facts – who can speak, what is spoken, how it is spoken, and when facts are verified – is highly governed. Both legal forums and forums for advocacy rely on evidence entering their domains in an effort to advance the proceedings that take place in them. However, the highly regulated nature of legal forums, especially chains of custody and narrowly defined rules around admissibility makes them constrained and less amenable and accessible to forms of knowledge and expertise outside of the legal domain. Forums for advocacy on the other hand, hold more potential in this regard due to their less constrained approach to evidence making and less adversarial approach to the presentation of said evidence. In this thesis, these considerations have directed work and attention toward evidentiary practices (Chapter 4.3) within forums for advocacy and the role of evidencing through them rather than traditional legal domains.

When we look at art forums – such as museums, galleries and exhibitions – in relation to the advocacy that can be mobilised through them, a discussion arises around the types of power relations they entail, through their financial and political affiliation with state institutions, private corporations and/or patrons. These relationships have historically dictated the social and political agendas of these institutions, administering a form of soft power,[19] which constitutes a slow, protracted method of influencing politics through culture. These forums are not and cannot be impartial, unbiased and apolitical. Though in recent years - in the name of inclusivity and diversity - there has been a marked shift in both operational and institutional practices in this regard; from curatorial and social agendas to staffing structures and hierarchies, many argue that there is a long way to go.[20] Within these struggles and transformations, art forums can be sites of subversion of the structures that govern them, their own histories, and their social and political interests. They are sites where artists, activists and cultural agents can forge practices of solidarity, where existing imaginaries of social, political and environmental issues are interrogated, exposed and challenged – sites in which the very tool of soft power and modes of public diplomacy are hacked and appropriated, where things that cannot be articulated in other spaces are encouraged to be said.[21]

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19 In politics (and particularly in international politics), soft power is the ability to co-opt rather than coerce (in contrast to hard power). In other words, soft power involves shaping the preferences of others through appeal and attraction.
Nye, J. (2004). Soft Power: The Means to Success in World Politics. Public Affairs.

20 Otero, M. (n.d.). Masquerade: On the success and failure of institutions. Pavilionrus. https://pavilionrus.com/en/voices/marina-otero

21 Ibid.

It is important to consider that in forums for advocacy, as well as in art forums, all forms of documentation (of evidence) are highly mediated. For instance, if testimony evidencing the lived experience of a person is utilised, it is mediated in the form of a transcript. If the testimony is presented live, in person or in the form of a sound recording, in a foreign language, it is mediated through translation. Both of these forms can never convey the nuances of testimony that is evidenced and understood in the original language in which it is spoken. This thesis does not consider mediation as a malpractice, but it does posit that it represents a limitation of conventional modes of evidence production and presentation within forums for advocacy – i.e. transcripts, text-based reports, and statistics presented in Excel sheets, to name a few. As translation and mediation are present in the forms of the evidence produced, and in turn utilised, within UNHCR forums for advocacy, it is quite clear that any practice that demands to be situated in the same forum for conveying the extractive processes of border regimes must also be through a series of meditations that become a field through which claims and counterclaims can be articulated.

The outcome of forums for advocacy depends upon the strength and admissibility of evidence, including physical proof, scientific evidence, and expert testimonies. In order to be admitted, evidence must be relevant, material and of a sufficiently high standard. To be relevant, evidence must reasonably help to prove or disprove a fact. Evidence is material if it is offered to prove a fact that is in dispute and if it falls within certain standards of reliability. The production of evidence, the admission of that evidence in an advocacy forum, and speaking on behalf of that evidence, are therefore extremely crucial in the articulation of claims and counterclaims that contest the regime of calculations that is inherent in humanitarian governance.

Art institutions, on the other hand, are forums within which a variety of mediation practices proliferate. Although we cannot argue that art institutions have a more focused and more direct audience as compared to advocacy forums, their capacity to open their doors to a variety of practices and forms of mediation sets them apart. In addition, what art forums can offer is a certain form of accessibility to a project and what it entails, both in terms of the language that it deploys in order to be understood, and the forms through which it manifests – as an artefact, a physical model, moving images, an animation, a performance, a soundscape, an installation, etc. This accessibility afforded through language, and audio-visual and multi-sensory material, is in stark contrast to the rules and regulations that govern what evidence can be and how it is delivered within forums for advocacy.

1.5 Hypothesis

The attribution of identities to displaced populations has far-reaching discriminatory implications. This makes it imperative to foreground the systematic violence inherent in humanitarian governance and border regimes, the identities that are produced and then attributed through its infrastructure, and in turn the forms of biopolitical and/or financial value that are extracted from the bodies of the displaced.

I hypothesise that an alternative form of evidentiary practice which foregrounds this violence can hold transformative potential within art forums and forums for advocacy. The transformative potential that is desired here is that which modifies these forums and their operational capacities, thereby altering the discussions held within them, fundamentally highlighting the extractive modalities of humanitarian governance and border regimes. Currently, the discussions that take place within forums for advocacy revolve around administrative and logistical issues in regard to migrant aid, accommodation and mobility. In this context, Martina Tazzioli contends that displaced individuals are transformed into commodities within financial systems, in the form of biopolitical value.[22] In alignment with this thesis, which suggests that the act of naming is not merely an administrative procedure but also serves an extractive purpose, it becomes crucial for discussions within advocacy and art forums to consider the financial mechanisms that are an integral part of humanitarian governance. In essence, recognising the economic aspects of humanitarian operations is essential when discussing and addressing the plight of displaced populations. With this alteration and nuancing of the discourse, I believe that there is potential to alter humanitarian governance and its policies – thereby allowing the displaced to break out of the cycle of calculus into which they are placed.

22 Tazzioli, M. (2019). Refugees' Debit Cards, Subjectivities, and Data Circuits: Financial-Humanitarianism in the Greek Migration Laboratory. International Political Sociology, 13(4), 392-408. https://doi.org/

1.6 Research Questions

The research questions for this thesis are divided into a primary question that relates to the extractive nature of border regimes across Europe and its peripheries, and secondary questions divided between the analytical (architecture and law) and propositional (practice) components of the research.

Primary research question:

1) Can new evidentiary practices contest the extractive processes of border regimes? What kinds of evidentiary/aesthetic strategies can be used to re-draw debates within art forums and forums for advocacy around refugee rights and the regime of calculations in which they find themselves?

Secondary research questions:

2) How are displaced persons classified through the architecture of camps, borders, detention centres, registration centres and deportation waiting zones? How does the extraction of value from the body of the displaced depend on the architecture of the regime of calculations?

3) What kinds of physical traces do border regimes produce when they extract value from displaced persons? What insights into border practices does evidence of these traces offer?

1.7 Outline of Chapters

To interrogate the premises outlined in this introduction, this thesis presents the following: a literature and contextual review which aims to situate the research precisely within the field of migration studies (Chapter 2); an analysis of the architecture and law implemented on the island of Lesvos, alongside an analysis of the European Commission algorithm for distributing refugees among EU member states (Chapter 3); a discussion around the competences of art and advocacy forums as sites of intervention, and their evidentiary practices (Chapter 4); an introduction of a new evidentiary practice proposed through this thesis (Chapter 5); and an examination of the implementation of this practice (Chapter 6).

Chapter 2 is formulated as a literature and contextual review, utilising a series of theoretical arguments and concepts from scholars that are essential to draw out the theoretical framework necessitated by this thesis: Michel Foucault's concept of normalisation and biopolitics; Saskia Sassen's work on territoriality and control; Stuart Hall's analysis of language and societal communication; Eyal Weizman's exploration of governance and the influence of technology on political dynamics; Giorgio Agamben's concept of the "state of exception"; Martina Tazzioli's work on spatial politics and the monitoring of migrant communities; Franz Fanon's writings on postcolonial theory; Wendy Brown's analysis of borders and border politics; Sandro Mezzadra and Brett Nielson's investigations into critical geopolitics; Aihwa Ong's work on neoliberalism and globalisation; Ernesto Laclau and Chantal Mouffe's contributions to discussions on hegemony; Bonaventura de Sousa Santos' work on human rights; Michel Agier, Didier Fassin, and Saba Mahmood's investigations into humanitarian aid; and Matteo Pasquinelli's inquiries into algorithmic governance. Throughout the chapter, the theories and writings of these authors are situated in a real-world context, from border conditions, camps and detention facilities, to urban settings and legal frameworks – in this way, the chapter aims to ground these concepts within the sites that they appear.

Chapter 3 examines how legal apparatuses and architecture situated on the island of Lesvos interact with financial considerations in regard to migrant accommodation, aid and mobility. As the pressure grew on Greece to tackle the surging influx of migrant crossings from the shores of Turkey to the island of Lesvos, a series of legal frameworks were implemented, and, through each, a variety of spatial apparatuses were mobilised.[23] By analysing these legal provisions, the objective of this chapter is to pinpoint the financial considerations that shape and are shaped by humanitarian governance, thus supporting

23 These legal frameworks include the following: EU Regulation No. 604/2013 (Dublin III Regulation); the EU-Turkey Statement of 2016; Greece's Joint Ministerial Decision 55184/2015; Greek Law 3907/2011; Greek Law 4374/2016; and Greek Law 4375/2016.

the premise that there exists a financial logic to the management of migrant flows. In this way, this analysis helps to tease out and form a detailed understanding of the operations that are inherent in the act of producing and assigning differential identities.

The second part of the chapter examines another mode of financial calculus: the formulation and use of an algorithm applied to migrant allocation procedures. During the peak of the migration of Syrian people in 2015, the European Commission initiated the creation of an allocation algorithm with the objective of distributing refugees among the 28 European Union member states and its four associated states. While initially intended to ensure an equitable distribution of refugees, the algorithm employs diverse criteria involving populations, GDP, asylum requests, and unemployment rates of a given state. However, under close scrutiny, there is a noticeable inclination towards a range of economic concerns. A deeper reading of the algorithm's distinct financial focus reveals how economic priorities overshadow the essential task of offering assistance to those in urgent need, underpinning the financial machinations inherent in the accommodation, aid and mobility of displaced populations.

Chapter 4 discusses the operations of UNHCR advocacy forums,[24] their capacities and modes of evidentiary practices, drawing out their shortcomings in evidencing lived experiences while prioritising data-driven evidence. The chapter then discusses complementary practices that operate across art, advocacy and legal forums, and their modes of enquiry. This section is supported through a series of interviews with practitioners who engage in practices and/or apply methodologies that are similar or related to my own.

The practitioners chosen for the interviews occupy a space between academia, activism and on-the-ground research operating through methodologies such as interviews, photography, filmmaking, animation, and curation. Interviews were conducted with (1) the artist and filmmaker Ana Vaz, (2) the photographer and filmmaker Armin Linke, (3) the architect and researcher Lorenzo Pezzani, (4) the architect, curator and researcher Marina Otero Verzier, (5) the artist Michael Wang, and (6) the architect and researcher Nabil Ahmed.

Each of these interviewees offer insights into the challenges

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24 UNHCR convenes four forums. (1) The Executive Committee (ExCom): This committee is composed of 101 states and oversees the agency's work. It meets annually to discuss and adopt conclusions on specific refugee and internally displaced persons issues. (2) The High-Level Dialogue on Protection Challenges: UNHCR convenes this forum to bring together governments, NGOs, and other stakeholders to discuss challenges related to protection, and to seek solutions. (3) The Global Refugee Forum: This platform, held every four years, gathers governments, international organisations, and civil society to share best practices and pledges for supporting refugees and host communities. (4) Regional Consultations: UNHCR organises regional consultations to discuss specific displacement situations, exchange information, and foster cooperation among countries in the region.

they face in relation to their practices, ethical considerations, subject-community engagement methodologies, their aesthetic practices and choice of medium, and relationships to forums – in terms of how they occupy and engage with them. The diverse backgrounds, professions, practices and projects that each of these participants bring to the conversation are vital in developing an understanding of a wide range of methodologies.

Chapter 5 unpacks the practice developed through this thesis: a form of evidentiary practice, through which claims and counterclaims around the regime of calculations can be made. Finally, Chapter 6 follows through with supporting research conducted in Calabria (Italy), applying the practice outlined in chapter 5, presenting evidence of the extractive operations through which displaced people are financialised.

1.8 Methodology

This thesis proposes a form of documentary practice that is composed of multimedia enquiries: namely, the use of interviews, audio-visual materials, and physical models. Through all of these enquiries, it aims to evidence how a displaced person is subsumed into a regime of calculations via naming practices that are administered by humanitarian governance and border management.

The regime of calculations persists and is manifested in different sites and settings well beyond the calculations' catalytic origins at borders and camps (such as those in Lesvos), informing and transforming modes of social relations across a variety of urban and rural settings. One such example is agricultural labour markets that involve a labour force consisting of undocumented migrants – those who are assigned the legal status of illegal immigrant.

Calabria, southern Italy, is a suitable site through which we can test this practice, as it offers significant insights into the financial apparatuses that absorb the body of a migrant, and its financially productive capacity. This is evident when we take a closer look at the vast agricultural industry present throughout the region. The landscape of Calabria is utilised for various forms of agriculture, including crop cultivation, orchards, and livestock farming. Calabria's diverse climate and fertile land make it suitable for growing a wide range of products, such as olives, citrus fruits, vegetables, cereals, and grapes.[25] Coupled

25 Cottineau, C., & Arnaud, A. (2016). Agricultural landscapes as socio-ecosystems: the spatial organisation of agricultural practices in a Mediterranean landscape. Landscape

with the region's well-publicised irregular migrant activity – particularly due to its proximity to the Mediterranean Sea and its strategic location for migrant crossings[26] – the agriculture industry has increasingly relied on seasonal migrant labour for the harvesting of crops.

Therefore, interviews were conducted with humanitarian aid workers Rosanna Liotti and Fabio Saliceti, both based in Calabria. They work closely with Associazione Comunità Progetto Sud, an organisation managing social services, creating support networks, and implementing reception systems and innovative social initiatives. Their scope of work encompasses aiding victims of human trafficking and forced migration, offering guidance from initial consultations in Gioia Tauro to legal protocols for asylum applications in Catanzaro and Cosenza, and even assisting with asylum hearings in Rome. Their focus is on informing migrants about their rights, due process, naturalisation, work contracts, accommodation, and overall well-being while residing in the region. The interviewees' decade-long role as aid workers in Calabria positions them well as regards to analysing undocumented labour markets, and, most importantly, testifying on how migrant identities inform and give rise to value extraction.

Conceived as iterative, the process involved conducting multiple interviews over a period of time, with the aim of building a rapport, deepening understanding, and developing a more comprehensive perspective on the regime of calculations embedded throughout Calabria.[27] The iterative process allowed for a gradual exploration of events and sites, fostering a dynamic and evolving relationship between the interviewer and the interviewees – including building trust, increasing understanding of nuances that were particular to the area of interest, addressing sensitive topics, allowing for flexible exploration, providing time for reflection, providing the opportunity to grasp changes during the time of the research, strengthening collaboration, and offering myself the time to adapt to local customs and cultural norms.[28]

While the interviews with key stakeholders began to detail forms of calculus between displaced people and employers, landlords, caregivers, local communities, intermediaries, aid workers, social workers, law enforcement, and those that exist between the displaced themselves, sites of inquiry began to emerge. As part of

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Ecology, 31(5), 1051-1068.

26 Triandafyllidou, A. (2017). Irregular Migration Flows to Italy: Challenges and Responses. European University Institute, Robert Schuman Centre for Advanced Studies.

27 Crafter, S. (2015). Learning through life: Troubling, unsettling, and opening spaces in participatory migration research with young people. In L. Winters & D. Clifford (Eds.), Researching migration and childhood: Methodological issues and innovations (pp. 90-104).

28 Morrice, L. (2018). Researching migration and multiculturalism: Reflections on qualitative research practice in contested fields. In M. Tyrrell & D. Cowen (Eds.), A Research Agenda for Critical Political Economy (pp. 154-173).

this methodology, these sites were documented through audio-visual recordings. While there is no lack of visual documentary work that aims to foreground the lived experiences of displaced populations, this medium has not often been used to tease out and document financial and biopolitical calculations. To do this, the audio-visual work conducted through this methodology utilised what is known as the locked-off shot,[29] or immobile shot. The static nature of this shot, coupled with an extended exposure of a particular site, perspective or object, affords a duration within which we can observe the details of the space of interest. It allows us to spend time with, and to read, the built environment, the landscape, and the traces, whether visible or implied by the interviews, that speak to the series of calculations that permeate the migrant experience, extracting value wherever it can.

While the audio-visual work allowed myself to document accessible spaces informed by the interviews, the third and most important component of this method, physical models, came into play through documenting sites of inquiry that were inaccessible for various reasons – be they restricted sites, or closed off buildings – or offering views of landscapes and urban settings seen from a perspective unattainable with a camera, on the ground.

These physical models operated differently to the audio-visual work. In order to tease out the financial and biopolitical calculations, the latter focused and spent time on a specific site, view or object, while the former provided reconstructions of sites of inquiry which could be scaled up, measured and annotated. The reconstruction and performativity of the physical object began to reveal different forms of spatial relationships, across large landscapes, within urban settings, and the interiors of buildings.

Together, these multi-media enquiries (interviews, audio-visual material, and physical models) are complementary and interdependent, forming a practice that aims to evidence the regime of calculations.

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29 A "locked-off shot" in filmmaking refers to a camera shot that remains completely still or stationary, without any movement or panning. It is often used to capture a stable and unchanging frame, typically for specific stylistic or narrative purposes.
Bordwell, D., & Thompson, K. (2010). Film Art: An Introduction. McGraw-Hill Education.

1.9 Researcher Subjectivity

As the child of a migrant family who relocated to the United Kingdom from the Republic of Turkey in the late 1970s, my subjectivity as a researcher is deeply intertwined with the duality of my cultural belonging.[30] Navigating the spaces between two distinct cultures, each with its own traditions, languages, and ways of life, I developed an acute sensitivity to the complexities faced by minority communities. This awareness was further shaped by the solidarity I witnessed within the Turkish community that I am a part of, and with members of other minority communities—Arab, Bangladeshi, Ghanaian, Indian, Kurdish, Nigerian, Pakistani, Jamaican, among many others—that constituted a network of friends and acquaintances. These connections made evident the shared struggles of carving out a place within a society that often felt alien, and at times, overtly antagonistic.[31] From these collective experiences, I gained a heightened understanding of the systemic barriers and societal biases that perpetuate marginalisation.

Growing up in an environment that oscillated between inclusion and exclusion, I witnessed firsthand the resilience required to bridge cultural divides. From the struggles of family members to adjust to local customs and ways of life while maintaining their heritage, to friends who embarked on precarious journeys to escape economic or political instability—one story involved a relative who traveled to the UK hidden in a damp barrel at the bottom of a cargo ship for several days; another tells of a young man who purchased a series of fraudulent identity cards to move from Turkey to Northern Cyprus, then to the Republic of Cyprus, to mainland Greece, and finally to London; and another involves my father, who sold a Turkish rug, a gift from a close friend, in order to purchase a bus ticket from Istanbul to Cologne, Germany—these experiences, regardless of the reason for flight, provided a nuanced understanding of migration as both a necessity and an act of endurance. This positionality informed my decision to examine the intersections of migration, governance, and humanitarianism within systems designed to exclude. It has also underscored the importance of reflexivity in acknowledging how my own background shapes the questions I ask and the narratives I prioritise in my research.

However, my experiences in the UK are undoubtedly framed by

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30 The experience of growing up within two distinct cultural frameworks can profoundly shape one's identity and worldview, as discussed in Gillian Rose's critique of the "goddess-trick" in reflexivity, which emphasises fragmented, negotiated identities over coherent selfhood.
Rose, G. (1997). Situating Knowledges: Positionality, Reflexivities, and Other Tactics. Edinburgh University.

31 Migrant solidarity and the shared experience of exclusion underscore the structural dynamics of marginalisation, aligning with Hester Parr's exploration of "messy research" as a relational and performative process of negotiating power and belonging.
Parr, H. (1996). Mental health, ethnography and the body: implications for geographical research. Paper presented at a conference on feminist methodologies, Nottingham.

a point of privilege when compared to the sites of my research in Greece and Italy. Growing up in a relatively stable environment has afforded me a vantage point that, while empathetic, is necessarily distanced from the immediate and often brutal realities faced by displaced individuals in these regions. This privilege imposes limitations on my subjectivity; my interpretations of the lived experiences of migrants, as mediated through aid workers, are inevitably shaped by the cultural, socio-political, and economic contexts that define my own upbringing. Reflecting on Farhana Sultana's[32] emphasis on positionality and reflexivity, I recognise the importance of critically engaging with these limitations—questioning how my cultural background, gender, and professional training intersect with the identities and experiences of those I encounter in the field.

Belonging to an institution such as the Royal College of Art, School of Architecture, in London further complicates my positionality. This affiliation brings with it another layer of privilege, as well as the academic frameworks and their limitations that shape the lens through which I approach my work. Engaging in this research as an academic practitioner demands a dual awareness: to acknowledge the detachment that institutional privilege can create, while striving to render this work operative within non-academic contexts—that is to say, the real world. Hence, the goal of this research is to intervene and affect change by bringing to the surface the violence and exploitation inherent to the systems I interrogate. By leveraging the academic platform I belong to, my aim is not merely to critique but rather, to amplify the voices of those marginalised and exploited by humanitarian governance and border regimes.

My work also necessitates situating knowledge and understanding knowledge production as inherently collaborative processes. The insights I derive are shaped by the relationships I cultivate with humanitarian aid workers, whose expertise and proximity to both migrants and systemic structures offer a critical perspective. These collaborations allow for the co-construction of knowledge that is grounded in practice and attuned to the complexities of lived experiences. Humanitarian workers, situated at the confluence of migrant struggles and state mechanisms, are uniquely positioned to articulate the systemic, legal, and spatial violence of border regimes. Unlike displaced persons, who risk being retraumatised or exploited further, humanitarian workers are trained to navigate

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32 Sultana's work illustrates how reflexivity necessitates grappling with the researcher's positionality, particularly in cross-cultural contexts, to ethically navigate power dynamics in knowledge production.
Sultana, F. (2007). Reflexivity, positionality, and participatory ethics: Negotiating fieldwork dilemmas in international research. ACME: An International Journal for Critical Geographies, 6(3), 374-385.

these intersections of trauma and bureaucracy. Their dual role—as intermediaries who foster relationships with migrants and as operatives who negotiate with state institutions—provides a critical perspective for understanding the mechanisms that underpin exclusion and the spaces where resistance might emerge.

This preference to engage with humanitarian workers is not intended to diminish the agency of displaced persons but instead, it is to approach their experiences through a lens that is mediated by professionals adept at contextualising trauma. Displaced persons demonstrate remarkable agency in negotiating survival, often resisting the oppressive architectures of detention centers and border controls through everyday acts of defiance, adaptation, and solidarity. Their actions highlight the creative and collective strategies employed to reclaim autonomy within spaces of constraint.

Humanitarian workers, however, act as translators of this agency within a broader systemic framework. Their ability to articulate the nuances of both migrant resilience and institutional violence provides a bridge between the personal and the political.[33] Their accounts can reveal the tensions within humanitarian governance itself—how the very systems designed to aid can inadvertently perpetuate the violence they seek to mitigate. This duality is crucial to my research, as it underscores the contradictions inherent in humanitarianism while shedding light on the structural dimensions of exclusion.

Conducting fieldwork with foreign communities, aid workers from different cultural backgrounds, and about migrants whose identities, genders, and traumas diverge significantly from the context to which I belong, further complicates my role. The cross-cultural nature of these encounters demands a heightened reflexivity—not only to navigate linguistic and cultural differences but also to remain attuned to the power dynamics at play. My position as an outsider necessitates a careful negotiation of trust, empathy, and representation. The stories I gather are not mine to own; they are mediated through layers of interpretation, filtered through my own subjectivity and the institutional frameworks within which these narratives are constructed.

As an interviewer and researcher, I remain conscious of my own positionality within these exchanges. While my background as a child of migrants inherently influences the lens through which I interpret their narratives, this positionality demands a reflexive approach, acknowledging the privileges and biases I bring to the field while

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33 Humanitarian workers, situated at the intersection of systemic violence and migrant agency, reflect Rose's concept of the fragmented, co-constituted identities inherent in reflexive knowledge production.
Rose, G. (1997). Situating Knowledges: Positionality, Reflexivities, and Other Tactics. Edinburgh University.

striving to center the voices and experiences of those navigating the fraught terrains of migration. The awareness of limits to knowledge, its situatedness, also extends to the aid workers whose expertise inform my research. Their own positions, shaped by their backgrounds, experiences, and roles within humanitarian systems, also influence their interpretations.

It is crucial to consider positionality, reflexivity, the production of knowledge, and the power relations inherent in research processes, especially in fieldwork that purports to conduct ethical collaborative work.[34] Therefore, the reflections and considerations made here, guide and inform the analysis in the ensuing chapters, ensuring that the research remains grounded in an ethical framework that acknowledges and incorporates positionality and reflexivity.

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34 This reflection aligns with critiques of transparent reflexivity, which challenges the notion of fully knowable identities or contexts in research, as discussed in the feminist geography tradition.
Gibson-Graham, J.-K. (1994). `Stuffed if I know!' Reflections on post-modern feminist social research. Gender, Place and Culture 1, 205±24.

2. Migration Discourse, A Review

This chapter presents a literature review, which serves to contextualise the research, to evaluate existing scholarship, and to construct a conceptual framework to guide the trajectory of this thesis. The overarching objective of this review is to position the thesis firmly within the discourse of migration. However, it deviates from the conventional focus on aid and governance, which has been extensively addressed in existing literature. Instead, it adopts a distinct vantage point – one that scrutinises the financial and biopolitical calculations underpinning the production and attribution of identities to people in transit. As previously stated, these calculations are not merely administrative in nature but are imbued with the intent of extracting potential value[1] from the bodies of those who have experienced displacement.

In general, literature on migration is broad and covers an array of pressing topics, including, but not limited to, the following: the causes and drivers of forced migration[2] (Alexander Betts, Gil Loescher, James Milner, Karen Jacobsen); protection and legal status[3] (UNHCR, Susan Forbes Martin, Katy Long); humanitarian response and aid[4] (Kilian Kleinschmidt, Paul Spiegel, Michel Agier, Didier Fassin); asylum and legal frameworks[5] (James C. Hathaway, David Cantor, Jane McAdam); mental health and well-being[6] (Paul Bolton, Lynne Jones, Courtland Robinson); gender and forced migration[7] (Susan Forbes Martin, Nira Yuval-Davis, Uma Kothari); migration policy and politics[8] (Alexander Betts, Khalid Koser, Susan Forbes Martin); forced migration and development[9] (Michael Collyer, Loren B. Landau, Nicholas Van Hear); environmental displacement[10] (Walter Kälin, Jane McAdam, François

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1 An example of this potential value being the formulation of undocumented and poorly compensated migrant labour markets with individuals classified as "illegal immigrants".

2 This topic covers the diverse factors that push individuals and communities into displacement, ranging from conflict and persecution to environmental triggers and economic instability.

3 This topic provides insights into issues concerning protection, legal status, and the preservation of rights within vulnerable populations like "refugees" and IDPs.

4 This topic discusses the crucial roles played by aid organisations, the complexities of refugee camps, and the humanitarian imperative of addressing the impacts of forced migration.

5 This topic advances our understanding of asylum and the intricate legal frameworks that determine the status of, and protection mechanisms for, displaced individuals.

6 This topic explores the domains of mental health, trauma, and physical well-being, revealing the effects of forced migration on the health and resilience of affected populations.

7 This topic explores the gender-specific challenges and vulnerabilities faced by women and LGBTQ+ individuals, and the intersecting dynamics within forcibly displaced communities.

8 This topic provides insights into the formulation of national and international migration policies, the political dimensions of migration governance, and the securitisation of borders in a changing global context.

9 This topic investigates the multifaceted impacts of forced displacement on economic, social, and cultural dimensions, exploring the complex relationships between displacement and broader developmental processes.

10 This topic draws attention to the emerging issue of environmental displacement, highlighting the connections between environmental change, climate-induced displacement,

Gemenne); conflict-induced displacement[11] (Robert Muggah, Joanne van Selm, Jeff Crisp); media and representation[12] (Heaven Crawley, Alison Phipps, Agnes Woolley); and urban displacement[13] (Loren B. Landau, Caroline Wanjiku Kihato, Darren Byler).

While the aforementioned topics are undeniably of vital importance within the domain of migration studies, it is imperative to expand our exploration to adjacent fields in order to tease out the specificities of the extractive operations and methods of humanitarian governance. Additionally, it is essential to foreground the key political and conceptual questions raised by the infrastructure of humanitarian governance that gives aid to, confines, and expels displaced persons. To achieve this, we must construct a theoretical framework, through an examination that incorporates a spectrum of theories and perspectives, including the following: theories of biopolitics and governmentality, which shed light on the regulation of populations and the exercise of power; neoliberalism and globalisation theories, which illuminate the economic and global interconnections that shape migration dynamics; postcolonial theory, which aids in understanding the historical legacies and power imbalances influencing migration; critical geopolitics, which offer insights into the geopolitics of migration and border control; the ideas of hegemony and proportionality, which provide lenses through which we can analyse the power dynamics at play in migration governance; the lens of human rights, which underscores the importance of protecting the rights and dignity of displaced persons; humanitarian aid perspectives, which dive into the complexities of humanitarian interventions; and insights into algorithmic governance, which highlight the role of technology in migration management.

To structure this review, it is organised according to the distinct legal and spatial contexts that are typically encountered by individuals in transit. Each setting opens up specific debates and scholarship, offering a contextual backdrop to the theoretical framework. In this sense, this chapter also operates as a contextual review, positioning the theoretical apparatus within the events and spaces where they manifest.

The chapter therefore proceeds as a series of discussions around spatial typologies that litter the path of a person in flight, incorporating the aforementioned theories. It begins with considerations of borders and borderlands (2.1), and then of detention

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and global migration governance challenges.

11 This topic examines the intricate relationship between armed conflict, violence, and displacement, offering insights into conflict resolution and peacebuilding efforts.

12 This topic explores the role of media and representation in shaping narratives surrounding forced migration, and how these narratives influence public perceptions and policy discourse.

13 This topic examines the challenges posed by forced migration in urban settings, from informal settlements to urban planning, emphasising the need for effective policy responses.

centres, camps and forms of incarceration (2.2), it continues with the legal and social abstraction of refugees through the European Union (EU) allocation algorithm (2.3), and it then considers the production of identities (2.4), culminating in the assertions of this thesis and its positioning within the wider context of migration discourse (2.5).

This review is instrumental in guiding the design of the ensuing thesis project, while also highlighting the key concepts that support the assertions laid out here – i.e. that people are named for seemingly administrative reasons, but in fact this naming practice is underlined by financial and biopolitical forms of calculus that further discriminate against, and exploit, migrant bodies and lives.

Figure 1 . Hungarian-Serbian border.
Source: Reuters.

2.1 Borders and Borderlands

National borders separating one sovereign nation from another exist in many shapes and forms. Border walls, fences, posts and checkpoints, customs facilities, bollards and barriers, military installations, markers and monuments, canals, bridges, trenches, roads, paths, control towers and security installations make up an array of physical, man-made obstacles that demarcate borders in an effort to control, regulate and impede mobility, while also exercising security measures and power over a national territory.

The European Schengen area and its peripheries present a unique case of border management. While the internal borders between states within the area have been abolished, the peripheries of the area are littered with differing border architectures.[14] As a multilateral accord, the Schengen Agreement encompasses 26 states, most of which are European countries. The remainder consists of European Economic Community (EEC) countries, such as Norway, Switzerland, and Iceland. Within this area, the elimination of border controls among party states, permits individuals physically present in one state to travel to another without encountering law enforcement obstacles, even if they lack the legal right to enter another member state.

For individuals deemed "illegal" – due to a lack of documentation or permission – seeking to migrate to a Schengen area member state, it can be more practical to enter through a neighbouring country. Notably, Greece has been a significant point of entry for over 80% of displaced people classified as illegal.[15]

While EU countries outside the Schengen Agreement (Bulgaria, Cyprus, Ireland, and Romania) are obliged to permit lawful entry for citizens of other EU countries, they retain the discretion to implement border controls. This discretion can pose a considerable barrier to those attempting to enter these countries without authorisation.

It is important to note that the Schengen Agreement itself does not regulate the treatment of individuals who enter through means that are deemed to be illegal. Instead, this responsibility falls on each individual member state, in accordance with the relevant international agreements and European case law. Each Schengen area state, such as France and Greece, may apply differing processes and considerations in

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14 Border checkpoints have been established on the border between Greece and Turkey, where travellers are subject to passport and visa checks; Spain utilises surveillance technology and border patrols to monitor its coastal borders on the Mediterranean; Italy has customs facilities at its ports for inspecting goods arriving by sea from non-Schengen countries; the border between Poland and Ukraine features vehicle inspection points for cargo and passenger vehicles; Bulgaria has border control towers along its border with Turkey, to enhance security; the Mediterranean Sea serves as an external maritime border where European vessels, such as those from Frontex, conduct patrols and checks; and, most notably, Hungary's 175 km fence along its border with Serbia was erected to control and stem the flow of migrants and refugees during the 2015 European migration crisis.

15 BBC. (2012, 9 June). Journey across crisis-hit Greece: Immigration challenge.

addressing illegal immigration, a subject that has received widespread attention and reportage.

In 2013, approximately 11,000 individuals made attempts to cross the border from Turkey into Bulgaria.[16] The Bulgarian border authorities did not believe their intention was to stay in Bulgaria but rather to continue their journey to other European countries. Regardless of this assertion, in November 2013, Bulgaria initiated the construction of a razor wire fence along its border with Turkey, a project that was finalised in 2015.[17]

In 2014, Hungary recorded the registration of 43,000 asylum seekers, with an additional 80,000 registered by July 2015. During the summer of 2015, Hungary initiated the construction of a four-metre tall fence spanning its 175 km border with neighbouring Serbia. This measure aimed to prevent the entry of tens of thousands of individuals from the Middle East who were seeking to reach the EU.[18] On 15 September 2015, Hungary officially sealed its border, and the following day, reports emerged of an attempted breach of the fence by people in transit.[19]

The erection of a barrier wall not only highlights the diverse approaches taken by states when dealing with displaced populations but also signifies a rejection of the obligations set forth in the Dublin Regulation,[20] which mandates that states provide aid to individuals in transit. Hungary, in alignment with other EU member states, has exhibited a readiness to employ selective interpretations of these criteria to justify xenophobic actions of denial and lack of assistance.

The Hungarian-Serbian border became a focal point in the public eye in this period, notably due to the actions of the Hungarian prime minister, possibly as a strategy to garner support for upcoming elections. This strategy involved accentuating the perceived "inevitable clash of cultures between Muslim migrants and the host country", which was portrayed as a threat to the nation's harmony.[21] Viktor Orban, who served as Hungary's Prime Minister at the time, positioned himself as the "protector of Hungary" and Europe against Muslim migrants.

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16 The Independent. (2015, August 8). Bulgaria builds the final part of the razor wire fence to keep out refugees.

17 Ibid.

18 Womack, H. (2015, July 17). Iron Curtain: Bewildered migrants confronted with new Hungary-Serbia border fence. Sydney Morning Herald.

19 The Globe and Mail. (2015, September 16). Hungary repels refugees with tear gas, batons, water cannons.

20 European Parliament & Council of the European Union. (2013). Regulation (EU) No. 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (Dublin III Regulation). Official Journal of the European Union, L 180(29), 31-59.

21 BBC. (2018, April 6). The Man Who Thinks Europe Has Been Invaded.

In early 2018, he secured a third consecutive term in office, placing national sovereignty as his utmost priority. Rather than characterising those seeking to enter the country as "refugees" in need of assistance, he depicted them as migrants seeking employment, effectively framing the situation as a threat to Hungarian labour. This narrative struck a chord with Hungarians, who have historical recollections of foreign invasions by the Turks, Austrians, and Russians.[22]

Borders possess a dual nature: that is to say, they are exclusive and inclusive at the same time. They have a complex and contradictory character. On the one hand, they serve as barriers that define and restrict access, preventing certain individuals or groups from crossing into a particular territory. This can manifest as immigration restrictions, customs checks, and security measures aimed at controlling who enters or exits a country. On the other hand, borders can also be inclusive, by demarcating the boundaries of a political community or jurisdiction. They establish the parameters within which a specific legal and social framework operates. In this manner, they create a sense of belonging and identity for those residing within the defined territory, offering them certain rights, privileges, and protections. This dual nature of borders reflects the tension between the desire to maintain sovereignty, security, and order within a nation state and the recognition of the interdependence of people and economies in a globalised world. It highlights how borders simultaneously act as mechanisms of inclusion and exclusion, shaping the dynamics of immigration, trade, and societies.

To comprehend the rationale behind such thinking, it is essential to grasp the underlying motives behind territorial delineations and national interests. The concept of territory is significant because it is perceived as the space within which sovereignty is exercised, an extension of a state's authority, and the very definition of the state itself. Throughout the last century, before and after World War I, disputes over territory and the establishment of boundaries were prevalent. Stuart Elden, in his book *Terror and Territory*, posits that this intrinsic connection between sovereignty and territory necessitates the implementation of closed and regulated borders.[23] This perspective can be applied to elucidate Hungary's ambition to establish and fortify its borders with walls, despite demonstrating overtly xenophobic justifications. From this vantage point, it becomes evident that the pursuit of internal control is unattainable with open and permeable borders.

Sandro Mezzadra and Brett Nielson, in their book *Border as*

22 BBC. (2018, April 6). The Man Who Thinks Europe Has Been Invaded.
23 Elden, S. (2009). Terror and Territory. University of Minnesota Press.

Method,[24] engage in extensive discussions on the multifaceted meanings and effects of borders within a globalised world. Their discussions encompass the intricate dynamics of migration, globalisation, neoliberalism, and even conventional concepts relating to the idea of nation states, such as citizenship and the notion of "illegals". Through their work, they shed light on how borders impact society, the environment, and the economy.[25]

At the heart of their exploration of contemporary global dynamics lies a paradox: while the world has witnessed a surge in the free movement of capital and goods, the movement of human beings has faced increasing restrictions. Amidst this dilemma, they point to the existence of a unique commodity that is closely intertwined with the human body – a commodity that holds the key to unravelling this contradiction. This commodity, they argue, is labour power, a concept that encapsulates both the capabilities of human bodies and their role as tradable goods across various global markets. For them, labour power stands apart from other commodities due to its distinctive nature, while the markets in which it is traded exhibit peculiar characteristics. They argue that borders play a prominent role in shaping these labour markets, imposing processes of filtering and differentiation upon labour forces across diverse territories. However, the abstract form of labour power is inherently tethered to living bodies, setting it apart from commodities like tables or chairs. Unlike these inanimate objects, the boundary between the commodity form of labour power and the corporeal bodies in which it is manifested must be continually reaffirmed and redrawn. This intricacy gives rise to a unique challenge within a labour market's abstract structure. Mezzadra and Nielson stress that the very definition and delineation of the border separating the commodity form from its "container" necessitate constant reassertion. Consequently, the political and legal frameworks governing labour markets entail the shifting deployment of power over human life. This, in turn, blurs the conventional boundaries between sovereignty and governmentality. Moreover, they underscore that this dynamic is telling of the emergence of labour struggles within the framework of these markets that inevitably grapple with the question of borders. As labour power continually interacts with and is shaped by ever-evolving border dynamics, it becomes clear that the concept of borders is central to understanding the multifaceted nature of labour markets and the complexities of human mobility in our globalised world.[26]

In *Walled States, Waning Sovereignty*,[27] Wendy Brown presents

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24 Mezzadra, S., & Neilson, B. (2013). Border as Method. Duke University Press.
25 Ibid.
26 Ibid.
27 Brown, W. (2014). Walled States, Waning Sovereignty. MIT Press.

an argument that sees the construction of physical barriers as symbolic representations of diminishing state sovereignty. Brown contends that these walls signify a growing disconnection between sovereignty and the nation state, allowing for the unchecked dominance of capital and politically sanctioned violence. Additionally, she explores the idea that, for certain individuals, walls and border security measures can be perceived as a form of "security theatre". In this context, walls function as psychological barriers that instil a sense of confidence and safety, but do little to effectively prevent the movement of people, especially in the face of ongoing economic drivers of migration.

Furthermore, Brown emphasises that these contemporary borders carry a deeper meaning, highlighting the erosion of state sovereignty. She asserts that it is precisely the weakening of state sovereignty and its detachment from the nation state that has fuelled the current frenzy of wall construction. Contrary to being symbols of resurging nation state sovereignty, these new walls serve as indicators of its decline. Brown views walls as symbols of vulnerability, representing a loss of control. However, Brown also notes that differing perspectives on borders exist, with some people viewing them as protective barriers against external threats.[28]

While there are notable parallels between Wendy Brown's work in W*alled States, Waning Sovereignty*[29] and that of Mezzadra and Nielson, "Border as Method" highlights a fundamental distinction. It underscores that borders encompass far more than mere lines etched on a geopolitical map, tasked with delineating an array of state territories. According to Mezzadra and Nielson, borders function as both a social method of division and a catalyst for the multiplication of labour. They not only demarcate geographical space but also carve up social domains, fostering the proliferation of socially constructed distinctions. Thus, Mezzadra and Nielson's theorisations expand the notion of borders beyond the spatial conditions that we associate with markers of boundaries – i.e. walls, fences, posts and checkpoints, customs facilities, bollards and barriers, etc.

From this standpoint, borders serve as powerful tools that have epistemic and ontological implications. They play a pivotal role in shaping the conceptual landscape of society and in determining who is recognised as a member of a society (citizens), as well as who is framed as being a challenge to, or dilemma for, that society (migrants, refugees).

The main differences between the approaches of these two texts can be pinned down to a technical analysis of the border as an instrument of power exercised by the nation state (for Mezzadra and Nielson) and an approach that sees the erection of walls as a retaliation

28 Brown, W. (2014). Walled States, Waning Sovereignty. MIT Press.
29 Ibid.

against globalisation (for Brown).

The former text, however, explores the intricate dynamics of borders, revealing that their role transcends simple demarcation between inclusion (citizens) and exclusion (non-citizens). Mezzadra and Nielson emphasise that borders also function to differentially include certain non-citizens, subjecting them to intense subordination as a source of labour power through the establishment of distinct legal categories, such as "illegal".[30] Furthermore, they scrutinise how racism, sexism, and class distinctions contribute to the creation of borders among individuals, ultimately serving the commodification of human labour power for capital owners.[31] In their exploration of the proliferation and diversification of borders, denoting the emergence of diverse identities and legal statuses, Mezzadra and Neilson highlight the interconnections between material and ideological aspects within bordering practices. Their goal is to deconstruct the artificial division between the interior and exterior imposed by borders, while emphasising the enduring connections that persist among people across these boundaries. This perspective offers a conception of societal space that challenges the prevailing geopolitical order. In essence, they argue that borders are not static objective facts to be observed but are instead complex material relationships.

Referencing the works of Carl Schmitt, Thomas Hobbes, and Jean Bodin, Brown highlights that enclosure is an act of asserting ownership, which serves as the foundational link connecting sovereign power to the divine. According to Brown, the walls enclosing a particular territory are perceived as constructs that project an image of political sovereignty and stability, offering reassurance to citizens grappling with the array of global forces and flows that permeate nations in the present era.[32]

Border conditions have biopolitical effects, shaping access to healthcare, education, and social services for people in transit. Naming practices can determine who receives medical care or access to education, impacting not only individual well-being but also broader public health and societal dynamics. A displaced person who arrives at a city without authorisation of the host nation will be deemed undocumented or illegal. Considering that healthcare services are typically provided to legal residents, citizens, and documented migrants, due to their legal classification, those who are undocumented are often denied access to essential healthcare services. Their status becomes a barrier to receiving medical care, even in emergency situations. This exclusion from healthcare can lead to illnesses going untreated,

30 Mezzadra, S., & Neilson, B. (2013). Border as Method. Duke University Press.
31 Ibid.
32 Brown, W. (2014). Walled States, Waning Sovereignty. MIT Press.

exacerbating health issues within migrant communities.

The naming practices exercised through border conditions influence the biopolitical governance of populations. These practices can lead to differential treatment, surveillance, and control of specific groups, affecting their access to rights and resources. The insights of Mezzadra, Nielson, and Brown offer valuable theoretical frameworks for understanding how border conditions methodically construct bordering mechanisms.

Considering the case of the Hungarian walled border, a critical question arises: what are the consequences of this border for the migrant body? The act of crossing the wall by a person who is not permitted to do so instantaneously transforms that very person's legal status into that of an "illegal immigrant". The wall in this case is the instrument which allows for the transformation. As a consequence of this, forms of valorisation, related to labour, for example, begin to emerge. This thesis argues that it is the dimensions and materiality of this wall, along with the law that provides legitimacy for its existence, that give form to this transformation. And once this person is deemed an "illegal immigrant" – regardless of the legitimacy of their breach – their presence within the confines of the territory (and possibly in neighbouring territories) becomes extremely precarious. The designation of an individual as an "illegal immigrant" is a key biopolitical act. It signifies the state's exercise of its power to categorise and control human lives based on their legal status. This classification has consequences for the person's existence within the state's territory, leading to further calculations through humanitarian infrastructure – such as camps, detention centres, deportation zones, and prisons, to name a few – and, through each, to further transformations of that person's legal status, i.e. asylum applicant, detainee, deportee, etc. These legal transformations have clear biopolitical effects. For instance, an "asylum applicant" may have access to certain rights and protections that an "illegal immigrant" does not. Conversely, a "detainee" is subject to confinement and surveillance.

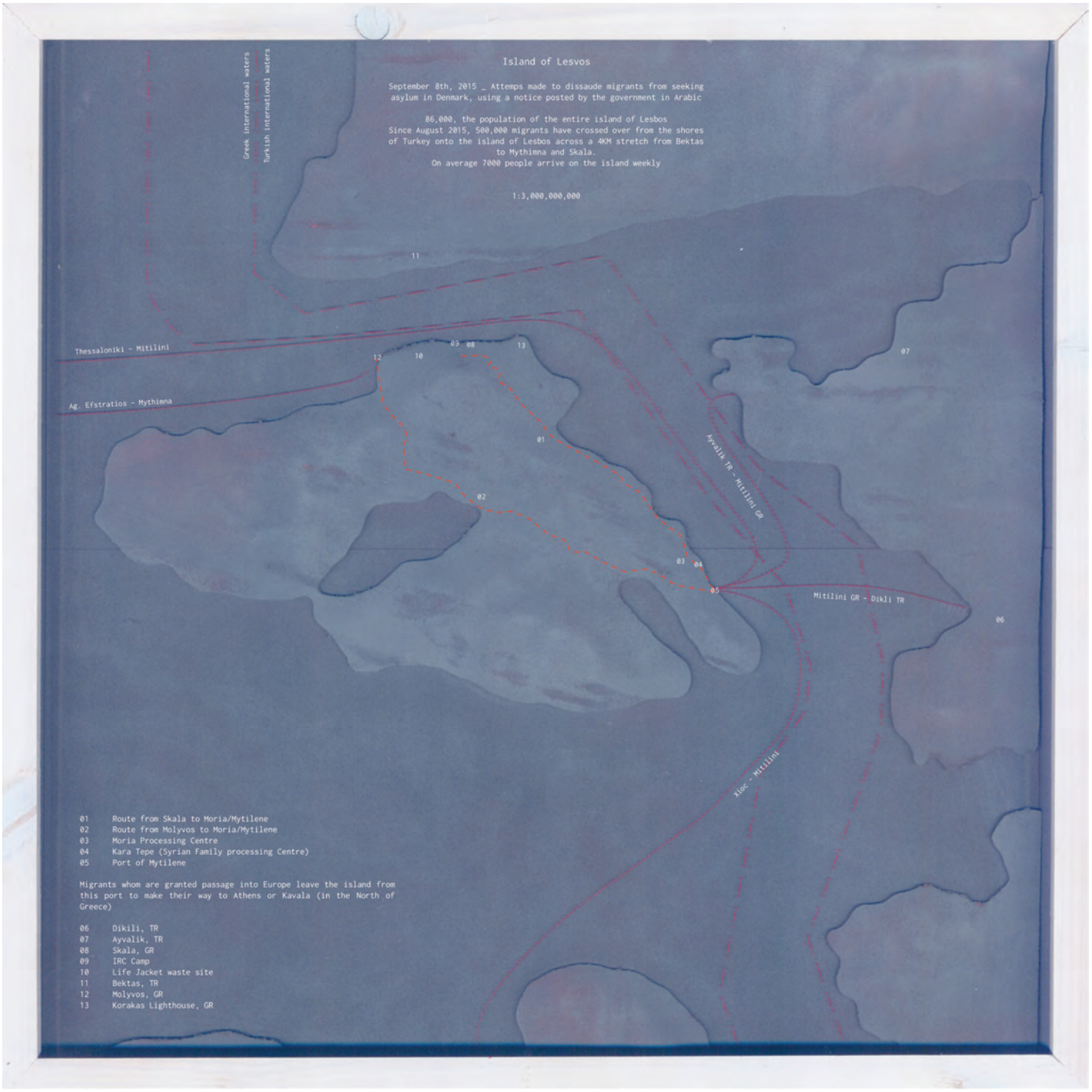

Figure 2 . Physical model of Lesvos and the shores of Turkey (2016).
Source: Kamil Dalkir.

2.2 Camps, Detention Centres, and Forms Of Incarceration

Based on field work that I conducted on Lesvos in the spring of 2016, I identity three crucial sites on the island (Korakas, Moria, and Mitilini) that function as integral components of a larger infrastructure. This infrastructure plays a pivotal role in both legally and spatially constructing the distinct identities assigned to displaced individuals. Consequently, this subsection discusses the entire island of Lesvos as an exceptional case wherein financial calculations are intricately woven into its fabric. The descriptions of Lesvos provided here reflect my first-hand observations, resulting from the field work conducted in 2015 and 2016.

Intermittence plays a pivotal role in the experience of migration, extending from what is commonly perceived as a person's country of origin to their sought-after destination. Throughout their arduous journey, individuals of all ages, genders, and nationalities encounter specific spatial and legal conditions that relegate their lives to a state of suspension. Here, I discuss these diverse settings, which encompass registration centres, camps, detention facilities, deportation zones, prisons, and a myriad of other variations in terms of their physical structures, configurations, and procedural functions.

It is important to note that the contents of this section depart significantly from conventional notions of bordering. Spaces of intermittence need not be confined solely to the peripheries of a country or territory, as per Mezzadra and Neilson's definition of borders. In this context, all forms of architectural structures that a person in transit interacts with along complex migratory trajectories are considered as bordering regimes.[33]

The distinct features of these regimes become readily apparent when observing the humanitarian landscape of the island of Lesvos during the years 2015 and 2016. At this time, the ongoing conflict in Syria exerted a direct influence on Lesvos, which stood as a critical juncture along the migrant route to Europe. The year 2015 alone witnessed the arrival of over 416,000 Syrians on the island, highlighting its pivotal role.[34] In February 2016 alone, an additional 30,000 displaced individuals hailing from Syria, Iraq, and Afghanistan landed on Lesvos.[35]

Within the confines of the island, we encounter a dense concentration of a diverse range of infrastructure, each driven by its unique set of calculations. These infrastructures are formed of entities that have emerged in response to the island's rapid transformation, including small local NGOs and opportunistic islanders in pursuit of valuable materials, as well as larger-scale institutions and corporations,

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33 Mezzadra, S., & Neilson, B. (2013). Border as Method. Duke University Press.

34 Leadbetter, C. (2016, March 3). Which Greek islands are affected by the refugee crisis? The Telegraph.

35 Amin, L. (2016, March 24). Lesbos: a Greek island in limbo over tourism, refugees – and its future. The Guardian.

such as the UNHCR and telecommunications giant Vodafone.

The island of Lesvos offers a particularly intriguing case, due to its proximity to Turkey, a mere 10 km away and separated only by the Aegean Sea. Somewhere within this 10 km stretch, lies the European frontier.[36]

Along this passageway and across the island, individuals undergo a transformation to their legal status, commodified and abstracted within the domain of smuggling networks, financial systems, legal frameworks, and human rights discourse. The various identities ascribed to people in flight, including but not limited to IDPs, refugees, undocumented migrants, detainees, asylum seekers, and deportees, are not inherent to them but are rather the product of intricate calculations. These calculations are devised within the infrastructure that displaced people encounter as they make their way towards and across Europe.

Korakas

Korakas is a small point on the northeast corner of Lesvos. Dominating this landscape is a lighthouse, originally constructed to warn vessels away from the rocky terrain it occupies. However, at Korakas, this lighthouse serves as a guide for those who have been forced to cross the sea in pursuit of Europe's nearest frontier, whether independently or with the assistance of smugglers.

Near the lighthouse stand three near-identical abandoned buildings, once the residence of former lighthouse keepers. These structures house the operations of the Lighthouse Relief NGO,[37] named after its location. Each building serves a distinct purpose: one stores provisions and medical supplies, another functions as a medical assistance area, and the third serves as a lounge and sleeping quarters. Comprising a team of volunteer lifeguards from various European countries, the NGO maintains a continuous watch over the waters, both day and night. Upon spotting an incoming vessel, the team springs into immediate action to ensure all passengers are safely and swiftly accounted for. Lifeguards deploy rescue boats to guide these vessels safely towards the rocky shores, where passengers disembark and receive immediate medical attention.[38]

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36 The precise demarcation of this boundary has remained a subject of intense dispute since Greece's independence from the Ottoman Empire.

37 Lighthouse Relief. Accessed September 7, 2023. https://www.lighthouserelief.org

38 Here, a tension emerges: while the displaced are mobile throughout their crossing, they often find themselves in a state of immobility upon arrival. For the displaced arriving at

Figure 3 . Lighthouse at Korakas, with the Turkish shores visible in the distance (2016).
Source: Kamil Dalkir.

At Korakas, the arrival of migrants necessitates the management of the health and well-being of a vulnerable and diverse population. The displaced often arrive having endured an arduous journey, exposure to harsh conditions, and traumatic experiences. These circumstances can result in a range of health issues, including physical injuries, communicable diseases, mental health challenges, and malnutrition.[39] NGOs and healthcare providers become key actors in addressing the healthcare needs of these individuals, operating within a complex biopolitical landscape. Didier Fassin's work emphasises the politics inherent to healthcare delivery, particularly in contexts where the provision of medical care intersects with issues of migration, displacement, and humanitarianism. In his book, *When Bodies Remember: Experiences and Politics of AIDS in South Africa*,[40] Fassin explores how health interventions are not only about treating diseases: they are also about shaping social and political relationships, identities, and inequalities. Similarly, in the case of Korakas, the medical assistance provided by NGOs is not solely a matter of clinical care but also a manifestation of biopolitical governance, which involves decisions about who receives care, what resources are allocated, and how healthcare is delivered.[41]

Here, we witness the beginning of the extractive mechanism which subsumes a person in flight. NGOs operating at the island's arrival points meticulously record the details of each person, so as to be able to offer better aid and medical care. Due to the direct rapport between NGOs and those they assist, the collection of information from each individual is viewed as less intrusive compared to interactions with law enforcement or military entities. However, under pressure from the EU and internal challenges, the Greek state retrieves data from these NGOs[42] – including information regarding the citizenship of displaced

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Korakas, their initial mobility is marked by the endeavour to cross the sea, driven by the hope for a more secure and prosperous future. However, upon reaching their destination, these individuals often encounter a state of immobility, characterised by confinement, restrictions on movement, and intensive scrutiny. NGOs and state authorities, responsible for managing the arrival and settlement of migrants and refugees, employ various measures to control and regulate their mobility. These measures encompass processes such as registration, asylum application procedures, detention, and border checks. These forms of immobility can limit the agency and autonomy of migrants and refugees, imposing a sense of confinement and vulnerability.

39 Daynes, L. (2016). The health impacts of the refugee crisis: A medical charity perspective. Clinical Medicine (London), 16(5), 437-440. https://doi.org/10.7861/clinmedicine.16-5-437

40 Fassin, D. (2007). When Bodies Remember: Experiences and Politics of AIDS in South Africa. University of California Press.

41 Doctors Without Borders. (May 2023). Lesvos, Greece: Denies Healthcare to Children in Moria Camp. https://www.doctorswithoutborders.ca/lesvos-greece-denies-healthcare-to-children-n-moria-camp/

42 Greek Law 4648/2020 and Joint Ministerial Decision 10616/2020 introduced new legal requirements and conditions for the registration of NGOs wishing to operate in Greece and to work with migrants and refugees. This new registration law demands that these NGOs hand over data retrieved from displaced people for processing purposes. European Council

people, their age, gender, marital status, level of education, and health. This information is then used for asylum determination (whether asylum is granted or refused), and the appraisal of each individual, effectively rendering aspects of them as quantifiable or what Deleuze refers to as "dividuals".[43]

This situation leads to a tension between humanitarian aid workers and the Greek government, which arises due to their differing approaches to data collection, and their different use of that data. Humanitarian aid workers collect personal information from individuals they assist in a manner that is focused on providing aid and medical care. This approach prioritises the well-being of the individuals. In contrast, the Greek government relies on this data for security purposes. Immigration processes are conducted by the Greek Police, making the retrieval of the aforementioned data inevitable, as this data is required for any processing to take place[44] – after which, a displaced person's legal status may be altered.

The tensions between humanitarian aid workers and the Greek government on Lesvos reflect the struggle for influence and authority in shaping border policies and practices. Humanitarian organisations often advocate for more inclusive and compassionate approaches to border management, while state authorities prioritise security and control. These differing agendas and perspectives contribute to the fluid and contested nature of bordering practices in the Mediterranean.[45] Fassin's work emphasises that these data-driven practices are not merely administrative but are deeply embedded in the exercise of power and control over marginalised populations.[46] It thus becomes essential to unpack data politics within migration discourse.

The Greek state's involvement in data extraction reveals how states seek to exercise control not only over the mobility of displaced people but also over the information and knowledge that circulate within Greek territories, and the EU at large. The registration of irregular migrants and asylum seekers, along with the collection of biometric data in EU member states, has taken on increasing importance within the context of migration and border management.

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on Refugees and Exiles. (2021). Concerning the lawfulness of Greek legislation regulating the registration of non-governmental organisations (NGOs) on the Registry of NGOs working with refugees and migrants in Greece. Expert Opinion upon request from the ELENA Coordinator in Greece. Retrieved from: https://ecre.org/wp-content/uploads/2021/12/Expert-opinion-NGO-Registry-final.pdf

43 Deleuze, G. (1992). Postscript on Societies of Control. October, 59, 3-7.

44 Koulocheris, S., Verheyen, M., Paspati, M., & Greek Asylum Service. (2014). Greece: National country report. In ECRE (Ed.), Aida asylum information database. Retrieved September 2023, from https://asylumineurope.org/wp-content/uploads/2015/08/report-download_aida_greece_second_update_revisedasylumservice_ final_uploaded_0.pdf

45 Elden, S. (2013). The Birth of Territory. University of Chicago Press.

46 Fassin, D. (2011). Humanitarian Reason: A Moral History of the Present. University of California Press.

Three key databases – namely the European Asylum Dactyloscopy (Eurodac), the Schengen Information System (SIS II), and the Visa Information System (VIS) – facilitate the exchange of data among national authorities within the EU. These activities are supervised by the European Data Protection Supervisor (EDPS) and the data protection authorities of each EU member state.[47] In particular, Eurodac plays a central role by storing, processing, and comparing the digitised fingerprints of asylum seekers, and migrants apprehended at the EU's external borders, and undocumented migrants apprehended within EU Member States (with the latter group's data not being stored). The Eurodac regulation mandates that all countries fulfil their obligations regarding the collection and transmission of biometric data from undocumented migrants and asylum seekers.[48]

Here, we can observe a greater European apparatus at play, which prioritises the extraction, retrieval, and circulation of data. As this data circuit flourishes, layers of calculations begin to mount: first at the site where the immediate decision is taken regarding a person's legal status; and later, following another level of calculations based on a given status, such as asylum applicant or illegal immigrant (as we will see later).

Moria

Individuals arriving on the island often gravitate toward one of its "refugee" encampments. One of these is situated in Moria, approximately five kilometres north of the island's capital, Mytilini. This location comprises two markedly different camps, separated by a road. On one side lies a UNHCR camp, resembling a prison with its heavy fortifications, including barbed wire fences, armed security personnel, watchtowers, and a four-metre-high concrete retaining wall. On the opposite side of the road is an informal "refugee" camp that emerged as a response to the fortifications of the other. Managed by the NGO Better Days for Moria,[49] this camp features more adaptable and spontaneous planning. The camp, spread out over a large field, with clusters of tents for housing, sustenance, and congregation, bears no signs of a master

47 IOM. (2018). Registration and identity management of irregular migrants in the EU. Global Migration Data Analysis Centre Data Briefing Series, 12. International Organization for Migration (IOM). Retrieved from: https://publications.iom.int/system/files/pdf/gmdac_data_briefing_series_issue_12.pdf

48 Ibid.

49 Better Days NGO. Accessed September 7, 2023. https://www.betterdays.ngo

Figure 4 . Physical model of Moria campsite (2016).
Source: Kamil Dalkir.

plan, other than zonal demarcations. A cabin for distributing clothing, another for health checks, and another for offering general advice mark a series of locations across the area where inhabitants of the camp interface with aid workers. Phone charging stations become points of congregation, while food trucks, taxis and buses line the periphery of this area, creating an atmosphere akin to a bustling street market. In contrast to the UN camp, the quality of life and vibrancy of this site is readily apparent.

The UN camp relies on the presence of law enforcement personnel. Although the UNHCR oversees security, it is enforced through the Greek national police, military forces, the UNHCR's own services, or UN forces. One of the insights from Didier Fassin's essay, "Humanitarianism as a Politics of Neighbourliness: Beyond the State and the Global," is the idea that humanitarian actors may become complicit in practices that involve security and control.[50] In contexts where the state or host government deploys security measures within refugee camps or reception centres, humanitarian organisations may have to navigate a delicate balance between providing aid and adhering to the security demands of the host authorities. This can result in limitations on the freedom of movement and autonomy of displaced populations. The presence of barbed wire fences and armed personnel in camps serves as a visible manifestation of the securitisation of humanitarian spaces. While these measures may be intended to ensure safety and order within the camps, they can also contribute to a sense of confinement and vulnerability among displaced individuals. Humanitarian actors often grapple with ethical dilemmas when confronted with such security and control measures, as they seek to fulfil their mission of providing assistance while operating within complex political and security contexts.[51]

This security setup is put in place to assert the direct authority of these international organisations over the lives they intend to safeguard, aligning closely with humanitarian aid, which essentially functions as a form of policing without intermediaries.[52] For instance, humanitarian organisations collaborate with governments to provide assistance at border regions. While the objective may be to alleviate suffering, this can inadvertently support border control and surveillance efforts. Humanitarian actors can be pressured to cooperate with border security measures, such as identity checks and screenings.[53] However, the democratic ideals of humanitarian actors can obstruct the

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50 Fassin, D. (2011). Humanitarianism as a Politics of Neighbourliness: Beyond the State and the Global. Humanity, 2(1), 1-18.

51 Ibid.

52 Agier, M. (2016). Managing the Undesirables. Polity Press.

53 Werker, E., & Ahmed, F. Z. (2008). What Do Nongovernmental Organisations Do? The Journal of Economic Perspectives, 22(2), 73-92. http://www.jstor.org/stable/27648242

fundamental principle of impartial emergency relief. This is because, in an emergency, the primary focus is to alleviate the suffering of the affected individuals. In humanitarian terms, these individuals are seen as devoid of political and social affiliations, hence they lack a voice.[54]

Additional concepts further complicate this depiction and substantiate the idea that the contemporary issue at hand revolves around the management of undesirable individuals on a global level. In their diverse explorations of sociological exclusion and spatial segregation, authors such as Zygmunt Bauman[55] discuss "human refuse", Walter Benjamin[56] and Giorgio Agamben[57] explore "bare life", while authors like Varikas[58] and Wacquant[59] examine "pariahs". What unites these perspectives is an anthropological understanding of the modern-day creation of "undesirables".

The consequences of refining and advancing policing are evident in the categorisation of "undesirables" at a particular moment and within a specific context. The assignment of labels is inherent in the registration process, which in the case of Moria is the sole element connecting the two adjacent campsites. Every individual must visit this centre to record their arrival and apply for permission to leave the island and continue their journey through Europe to their intended destination. During registration, individuals are required to provide identification, preferably in the form of a passport, which allows their country of origin to be taken into account. This procedure carries significant weight, as individuals not hailing from recognised conflict-afflicted nations (in 2015 and 2016, this was Syria, Iraq, and Afghanistan) are promptly denied passage from the island to mainland Greece.

Boaventura de Sousa Santos's concept of "abyssal thinking", as introduced in "Beyond Abyssal Thinking: From Global Lines to Ecologies of Knowledges", provides a valuable framework for understanding the inherent hierarchies and exclusions within global governance and legal systems. This concept is highly relevant in analysing the role of legal and administrative mechanisms in categorising individuals. de Sousa Santos's concept invites us to scrutinise the divide between those who enjoy rights and recognition and those who are relegated to the margins of society because of this categorisation. This division is not accidental

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54 Agier, M. (2016). Borderlands. Polity Press.
55 Bauman, Z. (2003). Wasted Lives. Wiley.
56 Benjamin, W. (2021). Toward the Critique of Violence: A Critical Edition. Stanford University Press.
57 Agamben, G. (1995). Homo Sacer. Stanford University Press.
58 Varikas, E. (2009). The outcasts of the world: images of the pariahs. Estudos Avançados, 24, 31-60. https://doi.org/10.1590/S0103-40142010000200003
59 Wacquant, L., & Banks, R. (2009). Pariahs in America: A Conversation with Russell Banks. Salmagundi, 162/163, 148–157. http://www.jstor.org/stable/40550064

Figure 5 . Entrance to Moria campsite, guarded by Greek police (2016).
Source: Kamil Dalkir.

but is inherent in the structures and hierarchies of global governance.[60] While useful, this perspective fails to capture the gradients that are formed through naming practices – that is to say, there is no clear bilateral divide. Each name, category, or legal status forms a bifurcation. The categories of refugee, asylum applicant, illegal immigrant, detainee, and deportee each offer different nuances when it comes to rights. But if we are to consider that one legal status might lead to another – illegal immigrant, then detainee, then deportee, or perhaps asylum applicant then refugee – we see that de Sousa Santos's abyssal line can function through a branch formation. Acknowledging that the end goal is to be naturalised in a new country, we can anticipate a potential bifurcation after each assignment, either towards that goal or away from it altogether.

These identities, labels, or legal statuses can also form immediate openings for extracting financial and biopolitical value from the bodies of the displaced. This is particularly apparent in the extractive economic processes that are activated due to the presence of a camp and its residents: in Moria, a Vodafone booth, positioned at the entrance of the two camps, sells SIM cards to the displaced, often bundled with discounted ferry tickets to Athens as a promotional offer – exemplifying how private companies seek to capitalise on the displaced population's need for communication and transportation. This approach is a form of opportunistic marketing that leverages the vulnerabilities of the displaced. Nearby food trailers cater to volunteers, journalists, and the displaced, charging prices that are higher than the average for similar items and goods elsewhere on the island. While these vendors may argue that they are simply responding to increased demand, their pricing practices are exploitative. In addition, taxi drivers form queues to transport the displaced to the harbour at exorbitant rates – these drivers take advantage of the urgent need for transportation, placing an economic burden on displaced individuals. These transactions in principle serve as economic functions that exploit the presence of displaced populations. Instead of addressing the core structural issues of the situation, both the island's residents and local/international companies and organisations resort to reactive interventions.

Economic exploitation is closely intertwined with border controls and migration policies. As individuals attempt to cross borders or access services, they are compelled to pay substantial sums to navigate bureaucratic obstacles or evade law enforcement. This intersection of border controls and economic exploitation exacerbates the challenges faced by people in transit, depleting their already limited resources, increasing their indebtedness, and exposing them to life

60 Sousa Santos, B. (2007). Beyond Abyssal Thinking: From Global Lines to Ecologies of Knowledges. Review (Fernand Braudel Center), 30(1), 45-89.

Figure 6 . SIM cards for sale, at the entrance to the Moria campsite (2016).
Source: Kamil Dalkir.

Figure 7 . Taxi's await customers at the Moria campsite (2016).
Source: Kamil Dalkir.

threatening risks and dangers. This economic vulnerability further compounds the hardships of displacement.

The emergence of camps for migrants and displaced people during the latter part of the 20th century represented a political tactic that was designed to anticipate and manage the movement of displaced individuals amid the decolonisation of Africa.[61] This management was carried out under the guise of humanitarian aid, safeguarding, reconstruction, and the promotion of peace by various NGOs and UN agencies. It is this phenomenon that prompted Michel Agier to dive into a worldwide system he terms "humanitarian governance" – A form of governance that exercises authority over regions beyond national borders, and over a segment of the global populace.[62]

In "Humanitarianism: A Nongovernmental Government", Didier Fassin explores the idea that humanitarianism operates as a distinct form of governance. This concept challenges the conventional understanding of government as solely the domain of states, highlighting how humanitarian actors play a significant role in shaping the lives of displaced individuals and managing crises. Regarding the use of camps as a governance tactic, Fassin's work emphasises that these spaces are not merely places of refuge but are also sites where humanitarian governmentality is exercised. In camps, humanitarian actors, including NGOs and UN agencies, provide essential services such as shelter, food, and medical care. However, these spaces also entail forms of control, regulation, and surveillance, as authorities seek to manage the movements and behaviours of displaced populations.[63]

The acknowledgement, authentication, and portrayal of individuals who are deemed eligible for humanitarian assistance can open the door to an exploration of identities and recognition, topics that have been examined by the social sciences for several decades.[64] Nonetheless, their efforts have been marred by the actions taken by authorities on the ground, as they aim to legally and practically delineate categories of identity. These categories are ultimately employed to classify individuals as disaster victims, refugees, displaced persons, tolerated individuals, detainees, or those who have been "rejected". These categorisations serve the purpose of integrating or expelling people, or indeed containing them in a state of limbo.

In the article "Refugees' Debit Cards, Subjectivities, and Data Circuits: Financial-Humanitarianism in the Greek Migration Laboratory", Martina Tazzioli explores the politics of categorisation,

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61 Agier, M. (2016). Managing the Undesirables. Polity Press.

62 Ibid.

63 Fassin, D. (2012). Humanitarianism: A Nongovernmental Government. In M. Feldman & I. Geiger (Eds.), The Humanitarian Condition: Law, Politics, Morality (pp. 407-425). Cambridge University Press.

64 Agier, M. (2016). Managing the Undesirables. Polity Press.

showing the ways in which individuals are labelled, defined, and sorted into specific categories that have significant implications for their experiences and opportunities. In the context of migration, categorisation can determine access to asylum, legal protections, social services, and, ultimately, the ability to move freely. Through the camp, the categorisation of individuals within these spaces is instrumental in managing and controlling displaced populations.[65] Those who are categorised as refugees or asylum seekers may receive certain rights and protections, albeit often limited, while those categorised as detainees may face more significant restrictions on their mobility and access to resources.[66]

This process of categorisation can be seen as a form of bordering practice, as it effectively creates internal borders even within the camp or reception centre. These internal borders are based on a perceived identity or status, which in turn regulates the movement and interactions of individuals within the facility. For example, individuals categorised as asylum seekers may be permitted limited freedom of movement in and out of the camp, while those categorised as deportees will experience stricter confinement as they will be considered a flight risk.

Tazzioli's work emphasises that categorisation is not a neutral or objective process but is deeply political and shaped by the interests and agendas of state authorities, international organisations, and humanitarian actors. The categorisation of people in transit often reflects broader policies and narratives surrounding migration and displacement. Tazzioli's research underscores the impact of categorisation on individuals' identities and experiences. Being categorised as a refugee, asylum seeker, or another label can shape one's legal status, social identity, and access to support networks.[67]

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65 Tazzioli, M. (2019). Refugees' Debit Cards, Subjectivities, and Data Circuits: Financial-Humanitarianism in the Greek Migration Laboratory. International Political Sociology, 13(4), 392-408.

66 Ibid.

67 Tazzioli, M. (2015). Spaces of Governmentality, Autonomous Migration, and the Arab Uprisings. Antipode, 47(5), 1223-1241.

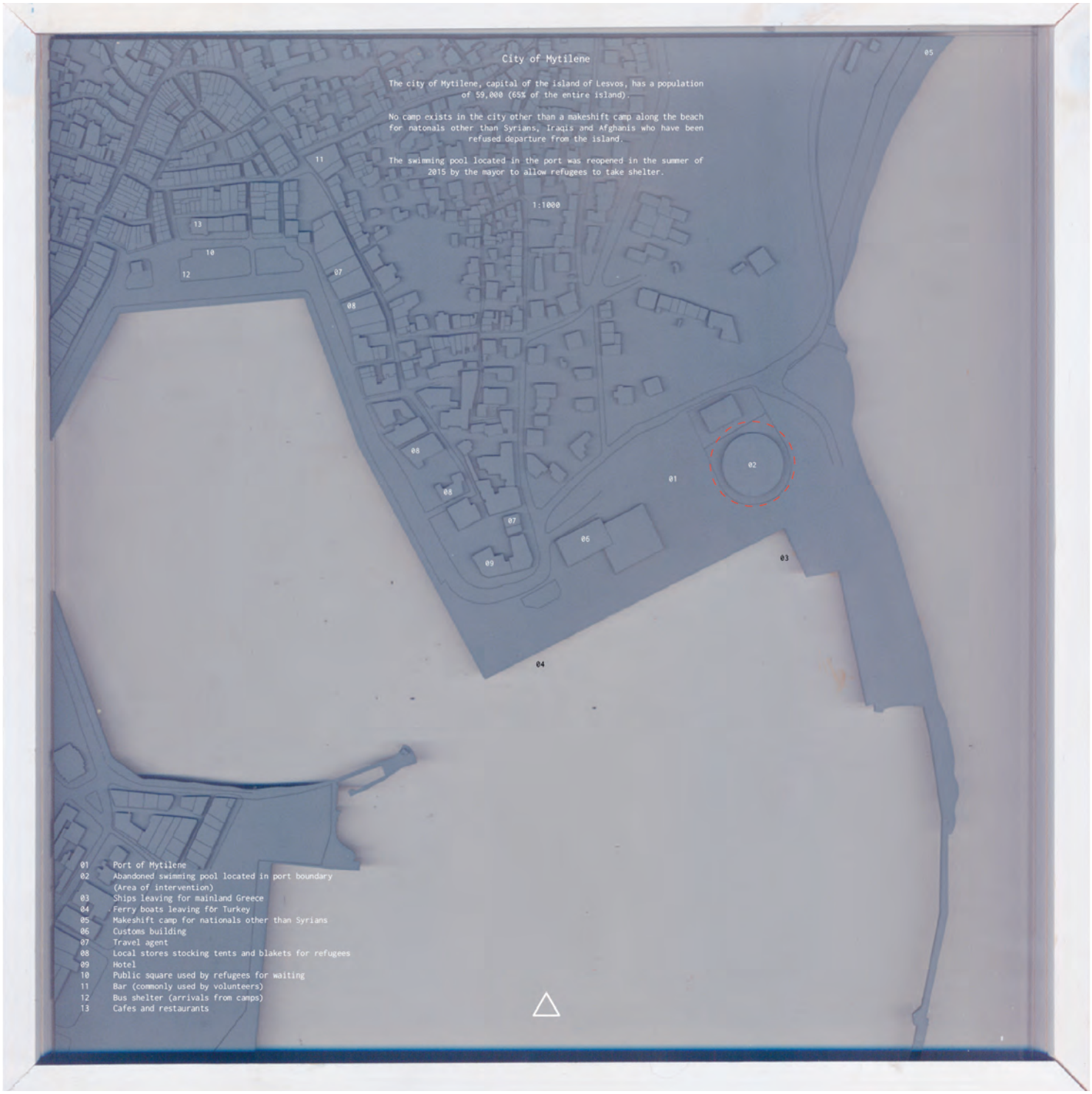

Figure 8 . Physical model of Mitilini (2016).
Source: Kamil Dalkir.

Mitilini

The city of Mitilini serves as the primary departure point from Lesvos to the rest of Greece, playing a pivotal role in the journey of displaced individuals. Mytilini, the island's capital, is inhabited by nearly 50% of its population, which totalled around 30,000 people in 2016, not including "refugees". In the summer of 2015, as autumn and winter approached, with no long-term solution to the ensuing situation, the city's mayor took the initiative to reopen an abandoned indoor swimming pool situated in the harbour area as a shelter for transient "refugees". Spanning approximately 2,800 square metres, the building had fallen into disrepair and was completely neglected. Elsewhere in the harbour area, there are local travel agencies which display signs and posters translated into the Arabic language, catering to the emerging travel market fuelled by the presence of displaced people. If they do not obtain official approval from the registration centre situated in Moria, migrants who have recently arrived on the island lack a lawful avenue for leaving, resulting in an extended state of uncertainty and discontinuity. At this point, they become either detainees (with incarceration used to prevent their flight), deportees (if they are to be repatriated), or undocumented (if they do not pose a risk and are given hope that they may progress on their journey beyond the island).

Aihwa Ong's research on the effects of globalisation on local dynamics, particularly her work in the book *Flexible Citizenship: The Cultural Logics of Transnationality*,[68] details how global processes intersect with and influence local responses to migration. Exploring how globalisation reshapes local contexts and dynamics, Ong explores the intricate relationship between globalisation, capitalist opportunism, and the cultural meanings that emerge in response to these forces. Beginning with a telling anecdote about Hong Kong business leaders who, faced with the impending political shift as Hong Kong returned to China in 1997, sought foreign passports not just for convenience but, as one inadvertently revealed, as a source of confidence, this work conveys the ambivalence inherent in the movement of both people and capital across the Pacific. For Ong, the Hong Kong business elite embodied a concept she terms "flexible citizenship", in the aftermath of Tiananmen Square and in anticipation of Hong Kong's return to China. She observes: "Many Hong Kongers chose to work in China while pursuing citizenship elsewhere. Caught between the discriminatory practices of British racism and China's opportunistic assertions of racial loyalty,

68 Ong, A. (1999). Flexible Citizenship: The Cultural Logics of Transnationality. Duke University Press.

as well as between Britain's diminishing economic influence and Asia's burgeoning capitalism, they sought a flexible position within the multifaceted landscape of the global economy."[69] Ong's exploration unravels how this flexibility becomes both a product and a condition of late capitalism.

This research can help shed light on the underlying dynamics of the opportunistic practices observed across Lesvos, particularly in regard to catering to displaced individuals. It provides insights into how these actors embody the convergence of global migration patterns and localised economic activities.[70]

de Sousa Santos, in his essay "The Processes of Globalization", underscores that globalisation is a multifaceted process, and its impacts on various regions and communities can vary significantly. This is evident on Lesvos, as the island's unique geographical location places it in a distinct position, exerting a substantial influence on the island's pre-existing communities. This influence is often manifested through the development of adaptive strategies by local actors in response to global challenges presented by the influx of displaced populations.[71]

Crucially, these local actors are not passive recipients of global forces. Instead, they actively navigate the intricate landscape that is shaped by the influx. They engage with both economic opportunities and humanitarian imperatives, contributing actively to the ongoing transformation of the island's dynamics. By doing so, they also contribute to shaping the evolving situation on the island. And through these evolutions, the displaced become subjects of apparently precise economic and legal abstractions and classifications.

This concentration of financialised activities formed through the presence of people in transit on Lesvos serves as a symptomatic example of the legal and spatial infrastructure at work not only in Greece but also in those nations that neighbour it, and in the broader European context.

Ultimately, this infrastructure seeks to oversee and regulate the lives of those in need of assistance, subjecting human rights to a systematic process of endorsement and rejection. Statistically, the probability of rejection to asylum applications stands at 90% across Europe. As the management of the application process becomes increasingly privatised, companies that fail to meet denial quotas established by individual countries face the risk of contract non-renewal or termination, thereby making the approval and denial process both

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69 Ong, A. (1999). Flexible Citizenship: The Cultural Logics of Transnationality. Duke University Press.

70 Ibid.

71 Sousa Santos, B. de. (2002). The Processes of Globalization. In M. A. Graham & M. L. Miller (Eds.), Globalization and the Politics of Development in the Middle East (pp. 19-42). Palgrave Macmillan.

Figure 9 . Interior of the abandoned sports hall, Mitilini (2016).
Source: Kamil Dalkir.

systematic and financially driven.[72]

The extractive operations facilitated within these three sites – Korakas, Moria, and Mitilini – coupled with the regulatory frameworks imposed upon them, give rise to unique identities that are ascribed to individuals in transit.

Ong's concept of "strategic essentialism"[73] offers a framework for comprehending the formation of migrant identities, shedding light on how authorities and institutions categorise individuals into specific groups such as "refugees", "displaced persons", or "detainees", with a strategic essentialisation that serves administrative purposes. This essentialism involves the purposeful utilisation of essentialised identities or categories to achieve distinct political or administrative goals. It acknowledges that identity categories, such as nationality, ethnicity, or migration status, are not inherent or fixed traits but are strategically constructed and employed across different contexts. Authorities and institutions employ these categories to sort displaced individuals into specific groups based on administrative criteria. These designations, such as "refugees" or "detainees", extend beyond mere labels, carrying substantial legal and administrative consequences. They can determine access to asylum procedures, entitlements to rights, and eligibility for services. These identity categories are strategically wielded by authorities to attain specific objectives. For instance, labelling individuals as "refugees" can trigger international legal obligations to offer asylum and protection – such as the 100,000 Palestinian refugees who were forced to flee to Lebanon because of the 1948 Arab-Israeli war.[74] Similarly, categorising individuals as "detainees" may serve to justify particular forms of detention and the curtailment of certain rights.[75]

In situations where the boundaries of power over human lives are pushed to their extremes, Agier contends that the humanitarian domain can assume characteristics of totalitarianism. Within this context, it wields the authority of life and death over individuals whom it perceives as the ultimate victims, much like the domain of kinship imposes its own form of totalitarianism by defining identity, lineage, and responsibilities in absolute terms. Agier goes on to assert that this totalitarian fiction manifests on two levels: firstly, through the notion of the unity of humanity, and secondly, through a belief in ideological

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72 Agier, M. (2016). Managing the Undesirables. Polity Press.

73 Ong, A. (1996). Cultural Citizenship as Subject-Making: Immigrants Negotiate Racial and Cultural Boundaries in the United States. Current Anthropology, 37(5), 737-762.

74 Suleiman, J. (2006, April). Marginalised Community: The Case of Palestinian Refugees in Lebanon. Development Research Centre on Migration, Globalisation and Poverty. University of Sussex.

75 Ong, A. (1996). Cultural Citizenship as Subject-Making: Immigrants Negotiate Racial and Cultural Boundaries in the United States. Current Anthropology, 37(5), 737-762.

universal principles and the globalisation of organisational structures.[76]

What is happening on Lesvos represents an intensification of the universal concepts of human dignity and the organisational methods employed by European citizens and institutions, respectively.

Due to its geographical island formation, its distance from other European territory, and the concentration of governmental and aid efforts that impede, slow down, and, in the most part, block migration, I argue that Lesvos can be considered a state of intermittence – viewed here as the epitome of a humanitarian space that is theoretically all-encompassing. This state embodies a complex power structure involving profiling, documenting, monitoring, and confining individuals within a governing space that does not necessarily rely on democratic principles. The camp serves as both a metaphor and a tangible realisation of the exceptional treatment of individuals who lack a voice and a place – a method of "managing the undesirables",[77] where humanitarian governance operates as a subsidiary form of government.

These pervasive conditions which apply across the island of Lesvos enable the formation and assignment of distinct identities. And, in turn, people in transit are exposed to numerous instances of financial exploitation.

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76 Agier, M. (2010). Humanity as an Identity and Its Political Effects (A Note on Camps and Humanitarian Government). Humanity: An International Journal of Human Rights, Humanitarianism, and Development, 1(1), 29-45. https://doi.org/10.1353/hum.2010.0005.

77 Ibid.

2.3 Navigating Identity, Negotiating Positionality

Navigating the complexities of fieldwork on Lesvos was a constant reminder of the need for persistent reflexivity, both as a researcher and as an individual immersed in the fraught realities of a humanitarian crisis.[78] As a Turkish person, my presence on the island was inevitably imbued with the weight of the historic and contemporary tensions between Turkey and Greece. While this geopolitical dynamic was not the central focus of my fieldwork, it nonetheless shadowed every aspect of my visit.

The enduring legacies of the Greco-Turkish War, population exchanges, and territorial disputes lent an unspoken charge to my interactions.[79] This awareness shaped how I approached conversations, particularly with aid workers, local residents, and state officials. It required a careful negotiation of my positionality—balancing an understanding of shared regional histories with a sensitivity to present-day hostilities. This geopolitical context introduced an additional layer of complexity to an already challenging research setting. Lesvos was more than a transit point in the global migration crisis; it was a site where national narratives, EU border policies, and humanitarian efforts collided.[80] My identity as a researcher with Turkish roots in this space added nuance to the dynamics of power, perception, and legitimacy. I was simultaneously an insider to certain cultural and regional understandings, yet an outsider to the Greek national and local experiences of the crisis.

While I was not confronted about this (perhaps due to my low profile and heightened awareness) this duality compelled me to reflect deeply on how my presence might be interpreted[81]—not just by the individuals I interacted with but also within the broader historical and political frameworks that have long defined relations between Turkey

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78 Reflexivity is central to ethical research practice, particularly in humanitarian contexts. It involves acknowledging the researcher's positionality, as well as the power dynamics inherent in their interactions with the people and systems they study. This reflects feminist and postcolonial critiques of research that challenge neutral or detached stances.
Rose, G. (1997). Situating Knowledges: Positionality, Reflexivities, and Other Tactics. Edinburgh University.

79 The historical tensions between Turkey and Greece continue to shape contemporary political and social dynamics in the region. These legacies influence how individuals from both nations perceive each other, often in the context of migration and border relations.
Parr, H. (1996). Mental health, ethnography and the body: implications for geographical research. Paper presented at a conference on feminist methodologies, Nottingham.

80 Lesvos, as a key point in the European migration corridor, epitomises the convergence of global, national, and local narratives surrounding migration, border control, and humanitarian aid. The EU's policies, particularly its Dublin Regulation, and the national politics of Greece, play significant roles in shaping the lived realities of migrants on the island.

81 The tension between insider and outsider roles in cross-cultural research is a significant challenge. Researchers must navigate their own identity while being mindful of how they are perceived within the socio-political context they are studying. The complexities of identity negotiation, particularly in ethnographic fieldwork, can influence access, trust, and the authenticity of the data gathered.
Rose, G. (1997). Situating Knowledges: Positionality, Reflexivities, and Other Tactics. Edinburgh University.

and Greece. In this sense, my fieldwork became an exercise in navigating these intersecting layers of identity and context, through which I remained critically aware of the ways my positionality influenced my observations, my interactions, and ultimately, my understanding of the events that were unfolding across this Island.

Before heading to Lesvos, I made two deliberate decisions: I would not interview or photograph migrants, and I would focus solely on documenting the spatial and architectural dynamics present on the island. These architectures, for me, ranged from natural elements such as the shoreline and landscape—key sites of arrival and transition—to structures erected in response to the crisis, including tents, camps, and other makeshift interventions. My decision not to photograph or directly engage migrants stemmed from a reflexive awareness of the ethical complexities of representation and the power dynamics that come with any form of engagement.

The island had already become a global spectacle, its image dominated by the media's portrayals of overcrowded boats, shipwrecks, discarded life jackets, among others.[82] These images, while poignant, often stripped the displaced populations of their agency and humanity, reducing their stories to a collective symbol of despair. I was deeply uncomfortable contributing to this reductive narrative. To photograph or interview migrants felt not only invasive but complicit in the commodification of their suffering, perpetuating a cycle where their experiences were consumed as fleeting moments of global attention.

However, this decision came with its own set of challenges. By choosing not to directly engage migrants or document their stories, my understanding of their lived experiences became mediated—filtered through the accounts of aid workers, my observations of spatial arrangements, and the material traces left behind in the physical landscape. This approach, while grounded in ethical intent, introduced a layer of abstraction that distanced me from the immediate human realities of the crisis. It meant that my work would focus on the broader systems and infrastructures shaping the migratory experience, rather than the deeply personal and often harrowing stories of the individuals navigating these spaces.

The ethical stance I took required a careful negotiation. While it was meant to uphold the dignity and privacy of migrants, it also risked sidelining their voices in favor of structural and spatial analyses. I was constantly reminded of the tension between my commitment to

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82 The representation of migration in the media often commodifies suffering, reducing the migrant experience to sensational images of peril and tragedy. This process can strip migrants of their agency, framing them as passive victims rather than active agents in their own journeys.
Parr, H. (1996). Mental health, ethnography and the body: implications for geographical research. Paper presented at a conference on feminist methodologies, Nottingham.

respectful documentation and the limitations it imposed on the depth and immediacy of my insights. It underscored the broader ethical dilemmas inherent in researching humanitarian crises, where the lines between observation, representation, and exploitation are often perilously thin.[83]

Having made these choices and identified the key sites I wanted to visit, I set off for Korakas, a remote arrival point on Lesvos that had become emblematic of the migrant crossings from Turkey. Reaching this site was far from straightforward. Situated on a rugged and inhospitable stretch of coastline, the journey to Korakas involved navigating steep, winding roads and uneven terrain. The isolation of this place reflected the perilous conditions of the Aegean crossing and the stark reality of displacement—where survival depended on reaching such unforgiving shores.

Upon arriving, I encountered members of an international rescue agency— the Lighthouse NGO—stationed there. Their willingness to share insights about their operations offered an invaluable glimpse into the life-saving work being carried out in such challenging circumstances. They spoke candidly about the logistical difficulties of maintaining their presence there and the sheer scale of need they were attempting to address while dealing with the pressures exerted on them by the Greek state which demanded that they conduct first contact data collection.

Yet, even in this moment of engagement, I couldn't shake a growing discomfort. The site was not only a place of critical humanitarian intervention but also, inadvertently, a stage for observers. Other visitors were present— perhaps researcher like myself, there to witness and document. The atmosphere, while far from chaotic, carried a subtle tension. The presence of outsiders risked transforming the site into a spectacle—a space where suffering could be viewed, interpreted, and consumed. This unease lingered with me. While it was not as pronounced as what I would later experience at other locations on the island, it marked my visit to Korakas. It forced me to confront my role as an outsider in this humanitarian landscape, someone whose purpose, however well-intentioned, could inadvertently replicate the dynamics of observation and distance that I sought to prevent. This tension became a recurring theme in my fieldwork, shaping how I approached each site and how I reflected on the ethics of my presence and my research.

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83 Ethical dilemmas in research, particularly in humanitarian contexts, often involve the tension between observing suffering and representing it. Researchers must consider the potential harm in representing others' experiences and the risk of reinforcing power imbalances. The ethical stance involves navigating these dilemmas while prioritising respect for the dignity and autonomy of those who are at the centre of the research.
Sultana, F. (2007). Reflexivity, positionality, and participatory ethics: Negotiating fieldwork dilemmas in international research. ACME: An International Journal for Critical Geographies, 6(3), 374-385.

Moria amplified my discomfort even further. Having never set foot in a camp prior to this visit, it soon became a stark confrontation with the grim realities of displacement. The camp's dire living conditions were dehumanising to say the least. Overcrowded tents and makeshift shelters spilled into muddy walkways, while the despair of people was readily visible. The militarised control imposed by the Greek state further compounded the oppressive atmosphere, with guards and surveillance pointing to the camp's status as a space of confinement rather than refuge. This backdrop of systemic neglect and control made it painfully evident that Moria was less a sanctuary and more a liminal zone of suffering and bureaucracy. The site was further complicated by the palpable tension between those living in the camp and those who flocked around them—journalists, television crews, activists, and aid workers. Each group brought its own motives and methods, but collectively their presence seemed to highlight the spectacle of suffering. Cameras clicked while activists organised protests, and aid workers moved briskly between tasks. The attention given to the camp, though well-meaning, risked reducing its inhabitants to objects of pity or just symbols of the broader crisis.

In the midst of this chaotic environment, I encountered an aid worker I had met the previous day in Mytilini under entirely different circumstances. Our initial meeting had been in a casual, social setting. During that conversation, they had recounted how they first came to Lesvos, intending to engage in an artistic project that sought to interpret the migrant experience. Over time, however, they were deeply affected by the overwhelming needs they observed and transitioned to volunteer work, assisting with logistics and support in the camp—a decision that would later make the situation worse given their lack of training and language skills.

This shift from artist to volunteer revealed both the fluidity of roles in such crises and the uneasy dynamics of intention versus action. What surprised me more was that many had arrived at Lesvos for the same reason. This story unsettled me, raising questions about the motivations and ethics of presence in such events. Was their initial artistic endeavor an attempt to grapple with the crisis or to capitalise on it? An internationally renowned artist, having relocated to Lesvos at the start of the crisis and opened an art studio there, demonstrated the latter. What was more critical to me was how their honesty in sharing their journey prompted an uncomfortable reflection on my own role and purpose. It laid bare the ethical dilemmas of documenting such spaces, where every act, however well-intentioned, risks perpetuating the very dynamics of exploitation it seeks to critique. Had I, too, crossed the line from observer to participant in this spectacle?

My Turkish background, the privilege afforded to me by a

university affiliation in a foreign country, and the freedom I had to move in and out of areas across and away from the island cannot be separated from any reflection on this fieldwork. As a researcher, I was there to observe and analyse, but as a person, I was deeply affected by the suffering, inadequacies and systemic failures I witnessed. The guidance of the aid worker, who walked me through Moria and explained the camp's settings, areas, and processes, was invaluable. Their willingness to share their experiences offered critical insights into the inner workings of humanitarian aid in such a tense context. Yet, their dual role as both a volunteer and someone initially drawn to the island for artistic purposes mirrored the tensions I grappled with myself. This fieldwork ultimately forced me to confront uncomfortable truths about the intersection of research, ethics, and agency. The spectacle of suffering, the inadequacy of existing systems, the resilience of migrants and those aiding them in the crisis all coalesced into a deeply introspective experience. It compelled me to question the effectiveness of my methods, the analysis I would do once I had returned to the UK, and the advocacy I sought to advance.

2.4 A Legal and Social Abstraction of Migrant Bodies

In September 2015, the European Commission devised an algorithm to determine the quota for asylum applicants that are to be allocated to each member state.[84] This algorithm generates what it terms a "fair share" by employing a series of equations that consider the population, GDP, and unemployment rates of each state. This data is analysed to calculate values for an "asylum effect", thereby arriving at a numerical value for distributing displaced populations among the EU's members.

The asylum applicant and the refugee are pivotal legal statuses for the algorithm – as only those identified with these statuses are considered for allocation within the EU. In the discussion that follows, we will see how territoriality and control is exercised through technocratic methodologies such as this algorithm.

I argue that the algorithm provides a pertinent example of how the displaced are portrayed by state and inter-state organisations. When we scrutinise it further, we can see the ways in which it reflects broader concerns: the algorithm categorises and optimises the allocation of asylum applicants, attempting to normalise and mobilise their presence. It encapsulates the complexities of the political, economic, and logistical considerations that shape the treatment of people and their bodies. It underscores how the body of the displaced becomes a data point within a larger calculus, often detached from its lived experiences and individuality. While the algorithm purports to provide a fair distribution of the displaced across EU states, it also contributes to the homogenisation and categorisation of people in flight, perpetuating stereotypes and challenges surrounding their treatment and integration.

Saskia Sassen's research, in her book *Territory, Authority, Rights: From Medieval to Global Assemblages*,[85] places a significant emphasis on the examination of territoriality and control within contemporary landscapes of governance and globalisation. Her scholarly contributions offer us a perspective for comprehending the diverse methods in which territoriality materialises, particularly with the emergence of technocratic methodologies that have gained prominence in modern governance structures. Her consistent emphasis is on how state power has been transformed: it is no longer confined solely to the realm of physical borders, but extends into abstract and technologically mediated domains. The European Commission's utilisation of algorithmic processes serves as a compelling example of this, revealing how digital technologies and data-driven methodologies have become

84 Traynor, I., & Kingsley, P. (2015, September 22). EU governments push through a divisive deal to share 120,000 refugees. The Guardian.

85 Sassen, S. (2006). Territory, Authority, Rights: From Medieval to Global Assemblages. Princeton University Press.

integral components in shaping and overseeing territoriality and control dynamics within the European context. Sassen's research underscores the intricate exchange between the digital landscape, data analysis, and contemporary governance. It reinforces the idea that traditional notions of sovereignty and territoriality are facing significant challenges, provoking critical questions regarding the future of governance amidst the complexities of globalisation and advanced technology.[86]

Matteo Pasquinelli's article "The Eye of the Algorithm: Cognitive Anthropocene and the Making of the World Brain"[87] underscores that the incorporation of technology into governance practices transforms not only administrative procedures but also the very identities and potentialities of individuals. It sheds light on how technology, through its capacity to categorise and control, can shape the experiences and opportunities of those subjected to its influence.[88] Agreeing with Pasquinelli, I would argue that the European Commission algorithm serves as a concrete example of how these issues play out in real-world policies and practices.

In this algorithm, displaced populations are represented solely in the form of a single figure: that of the total number of displaced people to be allocated. The algorithm does not consider an individual person, the reasons for their flight, their struggles, traumas, culture, or their affiliation to a larger social group. This homogenisation eliminates the social element. What remains is a mass of individuals. This resonates with the writings of Deleuze and his "Postscript on the Societies of Control".[89] In describing the way in which societies of control operate, Deleuze claims that "we no longer find ourselves dealing with the mass-individual pair. Individuals have become 'dividuals', and masses, samples, data, markets, or banks".[90]

However, even the consideration given by the algorithm to the total number of people in need (approximately 4,500,000 Syrian people in 2016) is marginal, as its main concern is the economic and administrative burden they place on member states. This is visible through the "GDP effect", "unemployment effect", and "asylum effect" equations. While the "GDP effect" acknowledges that countries with larger populations and higher GDP may have different capacities and capabilities in regard to reception, the "unemployment effect" considers the burden on local labour markets, and the "asylum effect" focuses its attention on asylum applications to that country over the last five

86 Sassen, S. (2006). Territory, Authority, Rights: From Medieval to Global Assemblages. Princeton University Press.
87 Pasquinelli, M. (2014). The Eye of the Algorithm: Cognitive Anthropocene and the Making of the World Brain. Fall Semester.
88 Ibid.
89 Deleuze, G. (1992). Postscript on the Societies of Control. October, 59, 3-7.
90 Ibid.

years (whether successful or not). The resulting neglect and unequal weighting in favour of member states becomes evident when examining the chart in Annex 5 of the "Progress Report on the Implementation of the European Agenda on Migration" (2018). This reveals that, of those who were stranded across Europe and its periphery, the total number of people to be relocated in July 2015 amounted to a mere 22,504. An additional 39,839 pledges were made in 2018.

The use of economic data within the algorithm reflects a broader trend in which economic considerations play a pivotal role in migration management decisions. This intersection between data capitalism and migration management is a critical aspect of contemporary migration governance.[91]

Along these lines, Pasquinelli elucidates that algorithmic governance constitutes a paradigm in which intricate computations and data-centric decision-making processes shape the management of populations. The European Commission's algorithm serves as a clear manifestation of this concept, grounded in its reliance on such calculations. Mirroring the contemporary landscape whereby sophisticated algorithms are harnessed as instruments of governance, and computational methodologies are deployed to optimise the allocation of resources, services, or, as emphasised here, displaced communities.[92]

Simultaneously, the production and execution of these algorithms raise fundamental questions around the normalisation of technocratic decision making tools. Pasquinelli's concept of "calculative governance", which is detailed in his essay "The Number of the Collective Beast: Value in the Age of the New Algorithmic Institutions of Ranking and Rating",[93] underscores this significance in shaping and standardising modes of governance. The European Commission algorithm, in turn, can also be seen to play a role in the standardisation and mobilisation of the presence of displaced populations. In this sense, the employment of algorithms and data can contribute to legitimising certain practices by presenting them as objective and rational. In the context of refugee allocation, the algorithm's calculations create the illusion of fairness and efficiency, while in fact masking political decisions and priorities. The normalisation of these technologies constitutes an important characteristic of contemporary governance, streamlining and validating various actions.[94]

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91 Pasquinelli, M. (2019). Data Capitalism and Migration. In C. Casilli & D. Tubaro (Eds.), Social Media, Datafication, and the Global Economy (pp. 205-226). Oxford University Press.

92 Pasquinelli, M. (2014). The Number of the Collective Beast: Value in the Age of the New Algorithmic Institutions of Ranking and Rating. Unpublished.

93 Ibid.

94 Ibid.

ANNEX 5 - Resettlement - State of Play as of 7 March 2018

Member State / *Associated State*	*Pledged*[1] *under the Conclusions of 20 July 2015*	Resettled[2] under the Conclusions of 20 July 2015	*Pledged under the "50,000" scheme*	Resettled under the "50,000" scheme	Resettled[3] under the EU-Turkey Statement	Total resettled under EU schemes (2015-2018)
Austria	*1,900*	1,900	*0*		210 *(210)*	**1,900**
Belgium	*1,100*	1,100	*2,000*	164	823 *(252)*	**1,835**
Bulgaria	*50*	0	*110*		0	**0**
Croatia	*150*	40	*200*	36	76 *(76)*	**76**
Cyprus	*69*	0	*69*		0	**0**
Czech Republic	*400*	52	*0*		0	**52**
Denmark	*1,000*	481	*0*		0	**481**
Estonia	*20*	20	*80*		41 *(20)*	**41**
Finland	*293*	293	*1,670*	60	1,002 (5)	**1,350**
France	*2,375*	2,375	*10,200*	584	1,394 *(443)*	**3,910**
Germany	*1,600*	1,600	*0*		4,313 *(1,600)*	**4,313**
Greece	*354*	0	*0*		0	**0**
Hungary			*0*		0	**0**
Iceland	*50*	*50*				***50***
Ireland	*520*	520	*1,200*		0	**520**
Italy	*1,989*	1,612	*1,000*	6	327 *(327)*	**1,618**
Latvia	*50*	46	*0*		46 *(46)*	**46**
Liechtenstein	*20*	*20*				***20***
Lithuania	*70*	32	*74*	52	84 *(84)*	**84**
Luxembourg	*30*	28	*200*		206	**234**
Malta	*14*	14	*20*		17 *(14)*	**17**
Netherlands	*1,000*	1,000	*3,000*	13	2,602 *(564)*	**3,051**
Norway	*3,500*	*3,500*				***3,500***
Poland	*900*	0	*0*		0	**0**
Portugal	*191*	136[4]	*1,010*	43	142 *(99)*	**222**
Romania	*80*	43	*146*		0	**43**
Slovakia	*100*	0	*0*		0	**0**
Slovenia	*20*	0	*60*		0	**0**
Spain	*1,449*	1,360	*2,250*	64	440 *(440)*	**1,424**
Sweden	*491*	491	*8,750*	833	753 *(269)*	**1,808**
Switzerland	*519*	*519*				***519***
United Kingdom	*2,200*	2,200	*7,800*		0	**2,200**
TOTAL	*22,504*	**19,432**	*39,839*	**1,855**	**12,476** *(4,449)*	**29,314**

[1] Several Member States carried over a part of their unfulfilled pledges to the year 2018. These are now counted under the new "50,000" scheme in line with the Commission's Recommendation of 27 September 2017.
[2] During the same period some Member States and Associated States resettled additional persons, outside the EU scheme.
[3] The bracketed figure denotes the number of people resettled under the EU-Turkey Statement which is already counted under the EU scheme of 20 July 2015 or under the new "50 000" scheme.
[4] Final Portuguese figure under the Conclusions of 20 July 2015 still to be confirmed.

Figure 10 . Progress report on the Implementation of the European Agenda on Migration (2018). Source: European Commission.

In addition to this, the algorithm's role in refugee allocation represents a manifestation of the state of exception as defined by Giorgio Agamben. During this process, individual stories and circumstances are detached and depersonalised. The algorithm operates as a tool for governance that is employed outside the boundaries of typical legal and ethical considerations. It prioritises expediency and administrative efficiency over individual rights and human narratives. This detachment and the reliance on automated calculations echo the state of exception's characteristic of suspending normal legal and ethical standards during moments of crisis. Agamben's concept draws out the potential dangers of such exceptional measures becoming the norm, where the suspension of rights and ethical considerations can become normalised, raising questions about the long-term impact on human rights and governance practices.[95]

2.5 The Production of Differential Identities

Throughout this chapter, I have referred to the assignment of identities to people in transit at different intervals along their journey. I have also noted how this allows for extractive processes of different kinds. To capture this process I use the term "differential identities", which refers to the interchangeable, transformable, and immutable legal statuses that are assigned to persons in flight – i.e. refugee, illegal immigrant, asylum applicant, and so on.

The migrant body is the foremost important register of the various forces at play in the production of these differential identities. A closer study of the processes to which a migrant is subjected reveals how law and architecture work together in producing specific consequences over bodies. This encompasses a range of intricate processes, such as the EU's algorithmic procedures for allocating refugees, the logistical and economic considerations underlying smugglers' activities, the complex calculations related to economies, labour, security, and politics that govern border operations, and the financial computations intertwined with the economies that emerge around the presence of displaced populations. All of these processes share a common underlying goal: to categorise, optimise, normalise, and mobilise.

Ernesto Laclau has offered significant insights into the construction of identities. In Laclau's work, particularly in *Emancipation(s)*, he argues that identities are not stable attributes of individuals or groups but, rather, are discursively articulated within

95 Agamben, G. (2005). State of Exception. University of Chicago Press.

specific socio-political contexts.[96] He emphasises that identities are contingent, meaning they depend on the political conditions at a given time. This contingency implies that identities can shift, transform, or even be created or erased, through discursive practices. In the context of the displaced, their identities as refugees or asylum seekers are not inherent but are socially and politically constructed. These identities emerge as a result of complex interactions between legal systems, governmental policies, media representations, and public discourse. For instance, a person fleeing conflict in their home country may come to be labelled a "refugee" or "asylum seeker" based on legal definitions and political decisions. Moreover, Laclau's notion of discourse as a site of identity construction emphasises the role of power in shaping these identities. Discourse, according to Laclau, is not a neutral or transparent medium but a site of contestation and power struggles. The construction of migrant identities therefore involves power dynamics, as different actors and institutions engage in discursive practices that can reinforce or challenge these identities.[97]

We can also refer here to the work of Frantz Fanon, who deeply explored the influence of colonialism on the formation of identities among colonised communities. Fanon's theories emphasise that colonialism played a pivotal role in imposing a sense of "otherness" upon colonised people, ultimately shaping their identities in stark contrast to that of the coloniser.[98] As legal and political apparatus contribute significantly to the construction of migrant identities, they often carry vestiges of colonial legacies. In *Black Skin, White Masks* and *The Wretched of the Earth*, Fanon offers insights into the psychological and socio-political consequences of colonialism. He argues that colonialism not only subjugates colonised persons but also impacts their sense of self and identity. And so, we can argue that migrant identities are constructed through a complex exchange between legal definitions and political decisions. This resonates with Fanon's assertion that the colonised are forced into a position of "otherness" by the coloniser, as migrants are often seen as outsiders in host nations. Moreover, Fanon's analysis underscores the role of power and domination in identity construction. In the colonial context, the colonisers hold power over the colonised, defining their identities in opposition to their own. Similarly, in the context of the displaced, legal and political systems wield power in classifying individuals as refugees, asylum seekers, or migrants, shaping their identities within host societies and across the world.[99]

Legal statuses confer the ability to abstract, thereby enabling

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96 Laclau, E. (1996). Emancipation(s). Verso.
97 Ibid.
98 Fanon, F. (1952). Black Skin, White Masks. Grove Press.
99 Fanon, F. (1963). The wretched of the earth. Grove Press.

the extraction of potential value. Ernesto Laclau and Chantal Mouffe's work, particularly their influential book *Hegemony and Socialist Strategy*,[100] introduces the concept of empty signifiers as a central aspect of discourse theory. Empty signifiers are linguistic or symbolic terms that lack a fixed or inherent meaning. Instead, they derive their significance from the context in which they are used and the discourse that surround them. These terms are "empty" in the sense that they can be filled with various meanings, ideologies, or interests, depending on the socio-political context and the power relations at play. The concept of empty signifiers can be applied to migrant legal statuses. The term "illegal immigrant" is an example of an empty signifier. Its meaning is not inherent but depends on the context in which it is used and the discourse surrounding immigration. In some contexts it is used to describe individuals who have entered a country without proper authorisation or who have violated immigration laws. However, the term can also be used pejoratively to criminalise and dehumanise migrants. Its meaning is contingent on political, social, and cultural factors. In humanitarian discourse, the term may be critiqued for oversimplifying complex situations and failing to recognise the reasons why people migrate, such as fleeing violence or seeking better economic opportunities. And in political discourse centred on strict border control, the term may be employed to emphasise the importance of upholding immigration laws and national sovereignty. Similarly, the term "refugee" is also an empty signifier. It is often used to describe someone who has been forced to flee their home country due to persecution, conflict, or violence. However, its meaning can vary depending on the legal and political framework of a given country or international organisation. In international refugee law, a refugee is defined by specific criteria outlined in the 1951 Refugee Convention. This legal definition is context-specific and may not encompass all individuals who are forcibly displaced. In broader humanitarian discourse, "refugee" may be used more broadly to refer to anyone fleeing their home for safety reasons, even if they do not meet the legal definition. This usage highlights the human rights and protection aspects of the term. Finally, in political discourse, the term "refugee" can be politicised and selectively applied to certain groups while excluding others based on geopolitical considerations.

In this sense, these legal statutes serve as abstract categories that can be manipulated to extract financial or biopolitical value. They are not fixed or immutable but are open to interpretation and contestation. Different actors, such as governments, policymakers, and advocacy groups, can invest these legal categories with diverse

100 Laclau, E., & Mouffe, C. (2001). Hegemony and Socialist Strategy: Towards a Radical Democratic Politics (2nd ed.). Verso.

meanings and interests to advance their agendas. Laclau and Mouffe's theory of empty signifiers underscores the dynamic and contingent nature of language and categorisation in political discourse. It emphasises that words and categories are not neutral but are sites of political struggle and contestation.[101] In the context of migrant identities, this theory supports my argument that legal classifications, and the spaces through which they are generated, can be wielded as tools of power, and that the meanings attributed to them can be manipulated to serve various interests.

Echoing Michel Foucault's concept of "disciplinary societies", both state and non-state infrastructure, and their activities along the migrant journey, "initiate the organisation of vast spaces of enclosure".[102] Displaced populations consistently transition from one space of enclosure to the next, each operating under its own set of regulations. For instance, camps are established for humanitarian purposes, providing temporary shelter and essential services to displaced populations, such as refugees or IDPs. And in these camps, the displaced are afforded services to meet their basic needs, a safe environment, and legal rights and protections under international and national laws. Detention centres, on the other hand, are primarily punitive and restrictive in nature. They are associated with legal processes, enforcement, and control. They are designed to hold individuals, often detainees or deportees, who are deemed a security or flight risk. Individuals are held due to immigration violations or pending deportation. Their legal status is often precarious, and they may not enjoy the same legal rights and protections as those in camps. It is through these enclosures that we can observe a relationship with naming practices and architecture: the law and regulations that define who these enclosures contain, how they are treated, and what measures they are subjected to is a result of the legal status that is assigned to an individual.

I would argue that Laclau and Mouffe further elucidate this issue through their discussions around hegemony. For them, hegemony involves the articulation and unification of various social demands and interests within a single discourse. This discourse, often championed by dominant groups or institutions, seeks to establish itself as the "hegemonic" ideology. In doing so, it shapes the prevailing norms, values, and practices within a society. Humanitarianism is no exception. The discourse surrounding migrant identities is shaped and formed through the work of organisations such as the UNHCR. While these organisations may present themselves as neutral actors driven

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101 Laclau, E., & Mouffe, C. (2001). Hegemony and Socialist Strategy: Towards a Radical Democratic Politics. Verso.

102 Foucault, M. (1975). Discipline and Punish: The Birth of the Prison. Vintage Books.

by altruistic motives, their actions and interventions have political implications. They contribute to the framing of the displaced within specific categories, and influence how these individuals are treated and perceived by society. The framework of Laclau and Mouffe underscores the power dynamics inherent in hegemony. Dominant actors and institutions seek to consolidate their influence by framing social issues in ways that serve their interests. In the case of humanitarianism, this may involve framing migration as a humanitarian crisis and positioning themselves as the primary actors in addressing it. This, in turn, affects the construction of migrant identities and the policies and practices surrounding their treatment.[103,104]

2.6 Contributions

Agier's account of a hypothetical migrant and his travails (introduced at the start of Chapter 1) illuminates the intricate forces at play, both financial and biopolitical, throughout the various stages of displacement, seeking refuge, and attempting to navigate immigration and asylum procedures.

The narrative begins with the person's experience in a camp for IDPs on the outskirts of Monrovia during the civil war of Liberia, sometime between 1989 and 1996. Through this, it highlights the role of categorisation and qualification in determining the legal status and treatment of displaced individuals. This person's status changes from being an IDP to a refugee, then to an illegal immigrant, and

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103 Laclau, E., & Mouffe, C. (2001). Hegemony and Socialist Strategy: Towards a Radical Democratic Politics. Verso.

104 In support of this, Ernesto Laclau highlights the centrality of discursive struggles in the construction of political meaning and identities, arguing that political actors and institutions engage in a constant battle to shape and control dominant discourse in society. This struggle involves the articulation of diverse social demands into a unified discourse, aiming to establish hegemony. In presenting the crisis as a struggle against migration flows suggests a profound antagonism toward the interpretation and treatment of migrants. Laclau's framework prompts us to critically analyse the discourses surrounding migration, including how different actors seek to frame the issue. For instance, governments, humanitarian organisations, advocacy groups, and media outlets may employ terms such as "victim" strategically to advance their respective narratives and interests (McCann, K., Sienkiewicz, M., & Zard, M. (2023). The role of media narratives in shaping public opinion toward refugees: A comparative analysis. Migration Research Series, No. 72. International Organization for Migration (IOM), Geneva). Laclau's theory underscores that language and discourse are not neutral but are imbued with power. The way terms are framed and deployed can influence public perception, policy decisions, and the treatment of the displaced. Examining the discursive struggles surrounding migration helps us understand the contestation of meanings and the political stakes involved.
Laclau, E. (1990). New Reflections on the Revolution of Our Time. Verso.

subsequently to a detainee or asylum applicant. These shifts in status reflect the biopolitical mechanisms at work, where governmental agencies, such as the UNHCR and the French Office for the Protection of Refugees and Stateless Persons (OFPRA), exercise control over individuals' lives by assigning legal categories that dictate their rights and mobility.

The individual's journey underscores the significance of borders in the biopolitical management of migration. Moving from one geographical location to another triggers changes in legal status and the application of different sets of rules. Borders, whether international or within a country, serve as sites of control and surveillance, where state authorities decide who can enter, stay, or be expelled. This control over mobility is a key aspect of biopolitical governance.

The account also hints at the financial interests embedded in this system. The reference to "ZAPIs" at French ports and airports suggests the existence of detention facilities that are part of a larger apparatus of border control. These facilities have associated costs, and they are often managed by private companies, which can be financially lucrative. The rejection rate of asylum applicants (90%) indicates a desire to minimise the financial burden of providing support to refugees and asylum seekers.

The individual's attempt to seek work in Conakry (the capital of Guinea) reflects the economic dimension of migration. Economic considerations drive many individuals to leave their home countries in search of better livelihoods. However, the account also highlights the challenges faced by economic migrants, who are often subject to harsh immigration policies and may end up in a precarious situation. The term "illegal" signifies the spatial dynamics of exclusion, as individuals without legal documentation are often marginalised in regard to accessing basic services, and are vulnerable to detention and deportation.

The mention of Liberia's changing status from a dangerous country to one with a peace agreement underscores the influence of shifting political dynamics on migration. Biopolitical decisions, such as asylum rejections, can be influenced by geopolitical factors and international relations.

The hypothetical migrant's evolving status, from refugee to detainee to sans-papier (undocumented), reflects the shifting spatial categorisations that governments and institutions impose on individuals. These categorisations influence a displaced person's access to rights, resources, and space.

The example of Agier's hypothetical displaced person reveals that the processes leading to the transformation of a person's legal status are not strictly sequential. These pathways and the architectural

settings encountered can vary in their order, and at times an individual may spend an extended period in each of them, even experiencing them repeatedly.

At this point, it is crucial to emphasise that two constant elements persist in any route taken: the body of a migrant and architecture. Architecture serves as the framework within which calculations occur, while also giving form to these calculations themselves. Through architecture, calculations can be performed, measurements can be extracted, and data can be generated that can be used both internally and externally to that architectural context – i.e. the strategic design and positioning of a corridor can afford the possibility of counting individual bodies moving from one space to another, while doorways and other forms of thresholds can allow for the measurement of bodies and objects. The laws enforced within these spaces not only define the purpose of the architecture in question but also derive their legitimacy from the authority vested in them by state and inter-state institutions.

This thesis contends that these architectural structures, coupled with the laws enacted within and through them, collectively contribute to a system with a singular objective: the extraction of value from the body of a migrant. This is the point at which the research establishes the legal-spatial continuity among all the cases examined in this review: border politics between Hungary and Serbia, humanitarian efforts on the island of Lesvos, and the extractive operations of the European Commission algorithm.

My aim in this chapter has been to understand how law and architecture collaborate to produce and perpetuate the different identities assigned to migrants. Through this collaboration, migrants are ensnared in a never-ending financial and biopolitical cycle characterised by discrimination and exploitation. In the ensuing chapters, this thesis offers a multidimensional perspective on migration governance, highlighting the interconnections between legal, spatial, and technological factors in shaping the experiences of displaced people within contemporary societies.

3. Material and Semiotic Assemblages

Building upon the preceding chapter, in which I explored an array of literature in order to construct a foundational framework for navigating the extractive logics inherent in border regimes, this chapter dives into two specific methodologies that illuminate the financial intricacies inherent in the operations of both state and inter-state institutions. Specifically, the chapter explores the legal frameworks crafted and employed to address humanitarian concerns on the island of Lesvos, and the utilisation of the European Commission algorithm in relocating displaced populations.

At this point, I would like to introduce a concept: material and semiotic assemblages. This refers to assemblages of material and immaterial parts which form a network, an organisation, or a form of social relationship. The key idea is that such assemblages are not fixed, stable entities but are fluid and evolving configurations of interconnected parts. These parts can include architecture and legal frameworks, algorithms, technologies, institutions, and more. What makes this concept important to consider is that architecture alone is not capable of impeding, incarcerating or interning people in transit. Rather, this is achieved through complex relationships that are formed through humanitarian governance.

Material and semiotic assemblages allow us to make further conceptual moves. Space is multifaceted, comprising both tangible, physical elements (material) and intangible, symbolic meanings and representations (semiotic). The concept of material and semiotic assemblages allows me to bind the legal (semiotic) and spatial (bodily) together. Power operates through both material arrangements (architecture, urban planning) and semiotic strategies (discourse, narratives) to produce and control space. The concept acknowledges that power is exercised not only through physical force but also through a broad range of communicational semiotics (signs, icons, representations, texts), all of them contributing to enforcing legal determinations. The concept also implies that spaces are contested and negotiated. People and communities have agency to shape and reinterpret space, whether through everyday practices or active resistance. This agency operates within the intertwined material and semiotic domains. The concept emphasises the dynamic exchange between practices that occur within a space and the meanings attributed to those practices. It reflects how the use and interpretation of space is shaped by broader socio-political forces.

Additionally, the concept of material and semiotic assemblages recognises the multidimensional nature of space as a site where social, political, and cultural forces converge. This concept is vital for understanding how societies are constructed, controlled, and transformed through spatial arrangements and the semiotics that

produce architecture, and, inversely, that which is produced by architecture.

This concept is inspired by the work of many authors, including, but not limited to, Foucault, Lefebvre, and Weizman.

Michel Foucault extensively interrogated the intricate relationship between space, architecture, and law. His explorations, particularly evident in his lecture series *Society Must Be Defended*[1] and *Security, Territory, Population*,[2] unveil the pivotal role of architecture in shaping legal and political frameworks. Foucault's concepts of "biopower" and "governmentality" scrutinise how institutions, including architecture and urban planning, contribute to the exertion of power and control over populations. He contends that the designs of spaces such as prisons, hospitals, and schools, serve as a tangible manifestation and enforcement of societal norms, regulations, and legal structures. Additionally, Foucault introduced the concept of "heterotopia", referring to spaces outside the norm, such as asylums, cemeteries, and museums, which both reflect and challenge established societal norms and legal systems.[3]

Foucault's insights further emphasise the complexities that exist in architecture and law. Architecture becomes the spatial enactment of legal systems, providing physical platforms for their enforcement. Simultaneously, legal frameworks wield the authority to mould architectural design, usage, and control. This perspective offers a nuanced framework that unravels the interactions between the constructed environment and the legal domain, with each influencing the other's dynamics. It underscores that spatial configurations are not merely passive reflections of legal principles; rather, they actively shape the way these principles are experienced and upheld by society.

Henri Lefebvre, in his seminal work *The Production of Space*,[4] explores further the connection between space, society, and the built environment. Lefebvre elucidates how space is not an inert backdrop for human activities, but a product that is moulded by intricate social, economic, and political processes. He highlights that space is an active entity, dynamically shaped by, and shaping, social practices. This perspective has profound implications for comprehending the role of architecture and urban planning, which Lefebvre asserts are inseparable from the reproduction of social order and ideology.

Eyal Weizman's investigation of border regimes and legal landscapes illuminates the complex nexus involving architecture, law, and border control. His research exposes how physical structures and

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1 Foucault, M. (1976). Society Must Be Defended. Picador.

2 Foucault, M. (1978). Security, Territory, Population. Picador.

3 Foucault, M. (1967). Des espaces autres [Of Other Spaces]. Lecture delivered at the University of Paris.

4 Lefebvre, H. (1974). The Production of Space. Wiley.

spatial layouts are harnessed to regulate movement, while also revealing how legal norms are etched into the very fabric of the built environment. This exploration forms a vital component of his overarching critique of power dynamics through architecture. In his book *Hollow Land: Israel's Architecture of Occupation*,[5] Weizman examines the architecture of the Israeli occupation in Palestine. He dissects how the strategic design of walls, checkpoints, settlements, and other structures reshape the region's geography while governing human mobility. This analysis underscores how architecture serves as a potent instrument in executing intricate systems of legal and political dominance.

Weizman's concepts of border regimes and legal landscapes underscore architecture's role as a conduit for the enactment and contestation of legal authority. His investigations expose how physical structures are imbued with political and legal connotations. Through a study of architectural and spatial compositions, Weizman contributes to a clearer understanding of the multilateral exchange that takes place between law, space, and political control within contemporary contexts.

We can therefore use the concept of material and semiotic assemblages to analyse (1) the architecture and law of migration, as witnessed on the island of Lesvos (Greece) as a result of the influx of displaced populations in the years 2015 and 2016, during the so-called "European migrant crisis", and (2) the establishment of a crisis relocation mechanism in the form of an algorithm for allocating individuals to each European member state and associated state.

5 Weizman, E. (2007). Hollow Land: Israel's Architecture of Occupation. Verso Press.

3.1 Lesvos – The Architecture and Law of Migration

The well-publicised "migrant influx" on the island of Lesvos throughout the years 2015 and 2016 was a significant event that unfolded as a result of the ongoing Syrian civil conflict, and other conflicts and crises in the Middle East and North Africa. The island of Lesvos became a focal point for displaced populations attempting to reach the European Union (EU).

During this period, Lesvos saw a large surge in arrivals of forcibly displaced people (in 2015 alone 500,018 people arrived),[6] many of whom were fleeing violence, persecution, and instability in their home countries. The primary route taken by these individuals involved embarking on perilous journeys across the Aegean Sea, aided by traffickers, in overcrowded and often unsafe vessels, with the hope of reaching the shores of the Greek islands, and in particular the island of Lesvos.

Several key factors contributed to this intensification of the situation on Lesvos: (1) The aforementioned ongoing Syrian civil war and other conflicts in the region, coupled with declining socio-economic conditions, forced a large number of people to flee their homes in search of safety and a better life. Turkey became a prominent destination, due to its shared border with Greece, as well as it being a country at the frontier of the EU. (2) This frontier was seen as even more desirable due to the proximity of Lesvos to Turkish shores, making it a relatively accessible destination for those seeking refuge in Europe. The short distance between Turkey and the Greek island (10 km at its closest point) encouraged those in flight to attempt the dangerous sea crossing. (3) Criminal networks and smugglers took advantage of the situation, offering transportation in exchange for exorbitant fees – leading to dangerous and often life-threatening sea crossings. (4) The lack of accessible and safe legal pathways for seeking asylum in Europe pushed many individuals and families to resort to irregular migration.

The sheer volume of arrivals – almost nine times the population of Lesvos in 2015, which stood at 58,937 – placed an immense strain on Lesvos' resources, infrastructure, and local population. Overcrowded reception and identification centres, commonly referred to as "hotspots", were established to process and accommodate those arriving on the island. These facilities often operated well beyond their intended capacity, leading to dire living conditions and humanitarian concerns.

The situation garnered significant international attention and highlighted the urgent demand for coordinated efforts to address the humanitarian needs of those in flight. It also underscored the complex nature of forced migration, as well as the challenges faced by both the individuals seeking refuge and the communities tasked with receiving

6 Lesvos island snapshot, 31st December 2015. Source: UNHCR.

and assisting them.

The events on Lesvos in 2015 and 2016 prompted discussions and debates within the EU about migration policies, asylum procedures, and burden-sharing among its members. The crisis also emphasised the need for comprehensive solutions that address the root causes of migration, provide safe and legal pathways for asylum seekers, and ensure the humane treatment of those seeking refuge. As a result of these concerns and attempts to solve the issue at hand, several laws and regulations (old and new, national and international) were implemented throughout Greece, including its islands. By looking at each of these laws and regulations, we can analyse the material and semiotic assemblages – the power dynamics they entail, the complex relations between space and law that they reveal, the spatial practices that they enable, and how these spaces are indeed negotiated and shaped by these very relations and practices – that operate in the name of humanitarianism, stemming, controlling, incarcerating, and repatriating people as part of a system that is financial to its core.

It is important to note that the so-called crisis was a complex and dynamic situation, and the response involved not only legal measures but also humanitarian efforts, international agreements, and cooperation between various stakeholders. The laws, regulations, and statements explored below represent the most critical of the legal frameworks and administrative measures put in place during and prior to the years of 2015 and 2016 in order to address the challenges faced on the island of Lesvos, and in Greece as a whole.

EU Regulation No. 604/2013 (Dublin III Regulation)[7]

EU Regulation No. 604/2013, commonly referred to as the Dublin III Regulation, outlines a set of criteria aimed at determining the member state within the EU that is responsible for processing asylum applications. The regulation's objective is to establish a systematic approach that will prevent multiple applications and streamline the process. The criteria for establishing the responsible country are detailed in Article 8[8] of the regulation and encompass several factors.

The first objective aims to ensure family unity: if an applicant has immediate family members legally present in a member state, particularly parents, a spouse, or children, that state assumes responsibility for examining the asylum application. This provision underscores the importance of preserving family cohesion. A second criterion considers irregular entry: when an applicant has entered a member state's territory irregularly, that state becomes accountable for processing the application. This measure aims to discourage irregular migration and allocate responsibility to the initial point of entry. The third criterion involves previous lawful residence: if an applicant has held legal residency in a member state due to a residence permit or visa, that state is designated as responsible. This guideline seeks to maintain consistency in residence and prevent what it calls "asylum shopping".[9] In situations where an applicant possesses a valid visa issued by a member state, the regulation designates that state as responsible. This aims to prevent the exploitation of visas for asylum-seeking purposes. Another criterion concerns humanitarian reasons: if transferring the applicant to the responsible state would result in a breach of fundamental rights, particularly putting them at risk of being subject to inhuman or degrading treatment, the member state where the application was made assumes responsibility. And finally, in cases involving unaccompanied minors, the regulation designates the

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7 European Parliament & Council of the European Union. (2013). Regulation (EU) No. 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (Dublin III Regulation). Official Journal of the European Union, L 180(29), 31-59.

8 Ibid.

9 "Asylum shopping" refers to the practice where asylum seekers deliberately seek to submit their application for international protection in a particular country with the expectation of more favourable asylum procedures, better living conditions, or improved social benefits. This term implies a strategic approach by asylum seekers in selecting their destination based on perceived advantages, often in relation to the level of protection, reception conditions, or potential for integration in a specific host country. Source: Spijkerboer, T.P. (2013). Selecting by Origin: Ethnic Discrimination in Asylum Admissions. International Journal of Refugee Law, 25(2), 207-232. doi:10.1093/ijrl/eet004

member state where a sibling, relative, or guardian is legally present as responsible, contingent on the minor's best interests.

This set of criteria collectively guide the allocation of responsibility for processing asylum applications under the Dublin III Regulation – which aims to maintain a balance between safeguarding the rights of asylum seekers and ensuring what it desires to be an equitable distribution of responsibilities among EU member states.

This regulation played a great role in determining the processing and potential relocation of the displaced who arrived on Lesvos during 2015 and 2016. Leading to the establishment of temporary camps, materialising the intent of assigning responsibility to first entry states declared by the Dublin III Regulation. Following the confinement of migrants within these designated "hotspots" across the island, another criterion of the Regulation comes into play: the processing of asylum applications.

Figure 11 . Aerial view of the Moria camp site, Lesvos (2020).
Source: Unknown.

Looking at the Moria United Nations High Commissioner for Refugees (UNHCR) camp, located in the Moria district of the island of Lesvos, we can see how the Dublin III Regulation played a significant role in shaping its function, or lack thereof – through a material and semiotic assemblage. The camp was initially formed as a small facility but quickly expanded to accommodate the growing number of arrivals. The architectural design lacked a comprehensive master plan, leading to a sprawling and chaotic layout. Makeshift shelters, tents, and prefabricated containers were clustered together, resulting in crowded and congested living spaces. This disorganisation made it challenging to maintain order, ensure safety, and provide efficient services. The camp's architecture primarily consisted of basic tents and prefabricated containers. While these structures offered some protection from the elements, they lacked proper insulation and ventilation, leading to uncomfortable living conditions during extreme weather. Overcrowding and limited space within the containers compromised residents' privacy and dignity. The camp's architecture struggled to support the basic infrastructure and services needed for a large and diverse population. Sanitation facilities were inadequate, leading to hygiene and health issues. Access to clean water, medical care, and education was limited, further exacerbating the hardships faced by residents. As the camp exceeded its capacity, informal settlements emerged on its outskirts. These informal settlements were characterised by makeshift structures built by residents themselves, reflecting their desire for a sense of permanence and autonomy. However, the lack of planning and formal design of these settlements, and their sprawling layout, posed additional safety and security challenges. All of this was compounded by the lack of adequate lighting and clear pathways, exposing the camp to criminal activities and interventions, which placed vulnerable populations, such as women and children, at greater risk.

The Dublin III Regulation's attempt to establish a just distribution of responsibility brings to the foreground a tension between cosmopolitan ideals and their practical implementation through the Regulation's spatial manifestations on Lesvos. The assignment of responsibility through physical border structures and containment zones perceives individuals as ends in themselves, while the confinement itself raises questions about the inhumane treatment of people.[10] It is evident that the Regulation's spatial implications embody a struggle to balance ethical imperatives with the urgent desire to manage borders.

Resulting from these issues, the Dublin III Regulation has been subject of significant critique, with scholars and experts raising various

10 Kant, I. (2011). Immanuel Kant: Groundwork of the Metaphysics of Morals. Cambridge University Press.

concerns about its structure and implications.[11,12] The regulation's principle of assigning responsibility based on the "first country of entry" has faced scrutiny for its potential arbitrariness and its failure to consider important familial and humanitarian factors.[13,14] This criticism highlights a structural issue that is rooted in the geographical allocation criterion, which increases the risk of inequitable distribution of asylum seekers among EU member states, placing a disproportionate burden on countries such as Greece, Spain and Italy.[15,16] Drawing from theories of spatial injustice, scholars argue that the regulation's rigid geographic focus overlooks the social and individual dimensions of asylum needs, perpetuating further unequal treatment.[17,18] Others have pointed out that its operation produces disparities in living conditions and reception capacities among member states, emphasising a tension between the regulation's claim to human rights objectives and its actual outcomes.[19,20] The potential for asylum seekers to be detained in, or deported to, states with inadequate infrastructure or where there are safety concerns reflects broader critiques of securitisation within migration governance.[21,22] Using a securitisation lens provides insights into the power dynamics at play, where security considerations overshadow protection imperatives.[23] Moreover, the complex procedures and rigid allocation rules of the regulation have been identified as sources of administrative inefficiency and bureaucracy.[24,25] This

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11 Johnston, D. (2019). The Dublin III Regulation and Asylum Responsibility-Sharing in the European Union. Journal of European Integration, 41(7), 867-884.

12 Smith, T. (2020). The Dublin III Regulation: A Critical Assessment. Refugee Survey Quarterly, 39(3), 295-312.

13 Brown, M. (2018). Examining the Dublin III Regulation: Family Unity and Humanitarian Factors. European Journal of Migration and Law, 20(1), 23-45.

14 Jones, K. (2017). Family Unity and the Dublin III Regulation. Refugee Survey Quarterly, 36(3), 33-50.

15 Adams, L. (2016). Revisiting the Dublin Regulation: A Geographical Perspective. Migration Studies, 4(1), 94-112.

16 Williams, B. (2019). The Dublin III Regulation and Asylum Seekers' Rights. International Journal of Human Rights, 23(9), 1243-1262.

17 Greenwood, E. (2015). Spatial Dimensions of Injustice: The Dublin III Regulation and Asylum Seekers in the European Union. The British Journal of Politics and International Relations, 17(1), 153-168.

18 Carter, R. (2018). Spatial Injustice and the Dublin III Regulation. Geopolitics, 23(4), 809-827.

19 Miller, A. (2017). The Dublin III Regulation and Asylum Seekers' Reception Conditions. Journal of Ethnic and Migration Studies, 43(2), 201-219.

20 Robinson, J. (2016). The Dublin III Regulation and Asylum Seekers' Reception Conditions. European Journal of Migration and Law, 18(1), 77-95.

21 Ellis, T. (2018). Securitization and Migration Governance in the European Union. Journal of Common Market Studies, 56(5), 1142-1157.

22 Patel, R. (2019). Securitization and European Disunion: The Impact of the Dublin III Regulation. European Politics and Society, 20(3), 328-342.

23 Jackson, R. (2018). Securitization and the Dublin III Regulation. European Security, 27(1), 77-94.

24 Walker, H. (2020). Administrative Challenges of the Dublin III Regulation." European Journal of Migration and Law, 22(4), 542-560.

25 Turner, L. (2019). Procedural Justice and the Dublin III Regulation. Journal of Common Market Studies, 57(6), 1376-1393.

administrative critique aligns with theories of procedural justice, highlighting the impact of inconvenient processes on the fair treatment of asylum seekers.[26,27] All of these concerns reveal the regulation's structural flaws, the administrative challenges they pose, and their impact on the treatment of the displaced.

The Dublin III Regulation, viewed as a material and semiotic assemblage, encompasses significant financial and extractive components. Through its criteria for determining the member state responsible for processing asylum applications, the regulation carries financial implications, as it designates which state will incur the costs related to asylum processing and care. States identified as responsible must allocate resources for various aspects of asylum procedures, such as legal representation, housing, and social services. The primary goal of the regulation is to prevent multiple asylum applications being made by the same individual, and to streamline the process by assigning responsibility to a single member state. However, this approach imposes a significant economic burden on the designated states, especially those with adjoining borders with the periphery of the EU. Countries such as Greece, Italy, and Spain have encountered difficulties in meeting the financial obligations associated with processing and accommodating asylum seekers. The strain on these countries' finances can limit their ability to provide adequate support and services.

Furthermore, the establishment of temporary camps and "hotspots", as seen on islands such as Lesvos, represents a considerable financial investment in itself. Constructing and maintaining camp infrastructure, including shelters, sanitation facilities, and security measures, require substantial resources, while inadequate planning and design can lead to inefficiencies and increased costs.

Asylum seekers require various services beyond housing, such as medical care, education, and social support, and the Dublin III Regulation's implications for the allocation of responsibility compounds the financial burden. States that are deemed responsible for processing applications must allocate resources to ensure the well-being of those it is charged with protecting.

The regulation's complex procedures and allocation rules can also result in additional financial costs. The administrative inefficiencies and bureaucratic processes associated with the regulation require expanded staffing and resources for administrative tasks, thereby adding to the fiscal burden.

Moreover, the potential for asylum seekers to be detained in,

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26 Clark, S. (2017). Procedural Justice and Asylum Seekers' Rights. International Journal of Refugee Law, 29(1), 128-148.

27 Foster, P. (2018). Theorising Procedural Justice in Asylum Adjudication. The International Journal of Human Rights, 22(7), 885-905.

or deported to, states with inadequate infrastructure or safety concerns adds to the financial considerations. The expenses associated with detention facilities, legal proceedings, and deportation measures can be substantial.

Thus, the implementation of the regulation has created economic opportunities for businesses and organisations involved in supporting asylum seekers. These entities provide essential services, such as legal aid, transportation, accommodation, and humanitarian assistance. While these services are crucial, they nonetheless involve financial transactions and machinations.

Figure 12 . Greece installed floating barriers in its national waters as a preventative method (2020).
Source: Greek City Times.

EU-Turkey Statement[28]

The EU-Turkey Statement, issued on 18 March 2016, is a political agreement between the EU and the Republic of Turkey. While not a law itself, it sets the framework for cooperation between the two parties in managing migration flows, due to Turkey's geographical significance in regard to the ensuing situation.

Under the agreement set out in the statement, all irregular migrants arriving on the Greek islands after 20 March 2016 are to be returned to Turkey. This is to occur based on a case-by-case assessment of their asylum applications. For every Syrian returned to Turkey from the Greek islands, the EU agrees to resettle one Syrian from Turkey to the EU. This allegedly aims to provide legal and organised pathways to the EU for refugees, while discouraging irregular migration. Additionally, the EU pledges financial support to Turkey to assist it in addressing the needs of refugees on Turkish soil. This includes providing funding for humanitarian aid and projects to improve the living conditions of refugees. The EU also agrees to accelerate the fulfilment of visa liberalisation requirements for Turkish citizens travelling to the Schengen area, contingent on Turkey meeting certain conditions. And finally, the EU and Turkey aim to re-energise the accession process for Turkey's membership of the EU. This involves opening new chapters in Turkey's EU accession negotiations.[29]

It is evident by this arrangement that they are aimed at managing the influx of displaced populations, particularly through the Eastern Mediterranean route, and at providing incentives for Turkey to cooperate in stemming irregular flows. However, the implementation of some aspects of the EU-Turkey Statement has been criticised by human rights organisations and legal experts as raising concerns about the protection of refugees' rights and the legality of certain measures – illuminating broader theoretical perspectives on migration governance.

In line with the intent of the EU-Turkey Statement to control unauthorised crossings, barriers and structures have been erected along Lesvos' shoreline and within its waters.

Considering these floating barriers as a material and semiotic assemblage, we can uncover the nuances of an architectural manifestation of this agreement. Constructed using robust and durable materials, the barriers aim to withstand the harsh marine environment, including waves, currents, and saltwater exposure. Made

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28 European Union. (2016, March 18). EU-Turkey Statement: The European Union and Turkey leaders' statement on the refugee crisis.

29 Ibid.

of steel, reinforced concrete, and other robust materials, to ensure their longevity and effectiveness, the barriers are designed to float on the water's surface, forming a line that stretches across the designated area. This line consists of interconnected segments or a continuous structure – depending on the available resources – across lengths of the island's shoreline. To keep the barriers in place and prevent them from drifting due to water currents, they are equipped with a secure anchoring system. This system involves heavy anchors or weights attached to the bottom of the barriers to maintain their position and stability. The height and length of the barriers are strategically determined to prevent boats and people from crossing while still allowing for the navigational safety of authorised vessels. Their height is sufficient to deter attempts to climb or breach them, while their length covers a significant stretch of the sea border. The barriers feature warning signs and visual markers to alert approaching boats and people of its presence, serving as a deterrent and emphasising the intent to prevent unauthorised crossings. The barriers are also equipped with surveillance technology, such as cameras and radar systems, to monitor and detect any attempts to breach them – aiding in the enforcement of border control measures. The architectural design of the barriers aligns with international maritime laws and conventions, so as to ensure the safety and rights of all parties involved. Their compliance with legal standards aims to avoid disputes or accusations that they endanger human lives, especially in such a contentious sea as the Aegean.

The implementation of the EU-Turkey Statement has also led to the establishment of confinement zones where individuals are held pending decisions. Foucault's exploration of power and knowledge can shed light on the statement's deployment of spatial strategies. The creation of controlled migration zones along Lesvos' shores serves as a disciplinary mechanism that shapes the movement of bodies. These zones function as a "heterotopia",[30] where the legal and spatial intersect and migrant bodies become subjects of power. The establishment of deportation waiting zones is an exercise of biopower, wherein the state exerts control over migrants' lives, placing them in a temporal and spatial limbo.

One central critique of the EU-Turkey Statement pertains to its violation of refugees' rights, particularly the principle of non-refoulement. The agreement's provisions, including the potential return of refugees to Turkey without proper assessment of their protection needs, raise serious questions about the EU's commitment to upholding fundamental rights. This perspective underscores the power dynamics between states, where refugees' rights are compromised for the sake of

30 Foucault, M. (1967). Des espaces autres [Of Other Spaces]. Lecture delivered at the University of Paris.

political expediency and border management.[31]

Moreover, the EU-Turkey Statement has been criticised as a manifestation of neoliberal governmentality and algorithmic control, aligning with the theoretical perspective of Matteo Pasquinelli. The statement's reliance on a structured mechanism for the return and resettlement of migrants echoes Pasquinelli's concept of "algorithmic capitalism", where economic and political interests become intertwined. Critics argue that the emphasis on orderly migration management and the use of financial incentives to encourage Turkey's cooperation sidelines the genuine humanitarian needs of refugees, perpetuating a system that prioritises economic considerations over human rights.[32]

The statement's focus on externalising borders and outsourcing migration management to Turkey reflects the broader dynamics of sovereignty and territorial control. The statement contributes to the creation of a border externalisation regime that maintains global inequalities and reinforces the dominant position of EU member states.

The EU-Turkey Statement also perpetuates a regime of calculations and extractive methodologies. It outlines a one-for-one resettlement scheme: for every Syrian returned to Turkey from the Greek islands, the EU commits to resettling one Syrian from Turkey to the EU. This framework transforms refugees, who possess distinct identities, into commodities that are available for exchange. Additionally, the financial aid pledged to Turkey, framed as humanitarian assistance, is without doubt a form of financial leverage over Turkey, leading to the prioritisation of economic interests over refugee rights.

The statement also offers further financial incentives, such as visa liberalisation and progress in Turkey's EU accession negotiations. These incentives imply a financial dimension by linking migration cooperation with economic advantages, raising questions about the motivations underpinning the agreement, which, once again can be seen to overshadow its humanitarian aspects.

The implementation of physical barriers at sea borders, alongside surveillance technology, necessitates substantial financial investments. These measures aim to discourage irregular crossings and exert control over migrant mobility, underscoring the financial aspect of border enforcement.

The establishment of controlled migration zones and deportation waiting areas also involve financial considerations. These zones require infrastructure, personnel, and resources for their operation. The confinement of migrants in these spaces serves as a

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31 Tazzioli, M. (2020). Migrant illegality and the deportation trap. Environment and Planning D: Society and Space, 38(4), 597-614.

32 Pasquinelli, M. (2018). The Capitalocene: Algorithmic regulation, borders, and the planetary grid. In The Wealth of Data: A Theory of Information Capitalism (pp. 63-93) Routledge.

means of managing migration.

The EU-Turkey Statement reflects a neoliberal approach to governmentality, where economic and political interests take precedence over humanitarian concerns. The structured mechanisms for returns and resettlements can be viewed as part of an economic approach to migration management, with financial considerations at its core.

Moreover, the emphasis on externalising borders and outsourcing management of displaced populations to Turkey has significant financial implications. It allows the EU to maintain control over migration while shifting fiscal and operational responsibilities to Turkey, once again reflecting the financial and political dynamics of border control.

Figure 13 . Kara Tepes, Mavrovouni pre-removal facility, Lesvos.
Source: Greek Ministry of Migration and Asylum.

Joint Ministerial Decision 55184/2015[33]

Joint Ministerial Decision 55184/2015, enacted on 23 December 2015, marked a pivotal moment in Greece's response to the migrant situation, notably impacting the approach taken on islands such as Lesvos. This decision was instrumental in the creation and functioning of what became colloquially known as "hotspots". These material and semiotic assemblages operate as reception centres on Greek islands, playing a crucial role in the processing of displaced populations. The core objective of this decision was to streamline the identification and registration process, encompassing activities such as fingerprinting and documentation. These hotspots were designed to efficiently manage displaced people, aiding the recognition of potential asylum applicants and the subsequent processing of their claims. Moreover, the decision facilitated the evaluation of relocation possibilities for these individuals to other EU nations, aligning with broader EU strategies aimed at distributing the burden of asylum seekers across member states or, inversely, refusing passage to mainland Greece and subsequently through to the rest of Europe.[34]

The decision led to the creation of waiting zones (and what can be considered as spatial separation/segregation) on the island of Lesvos, where individuals not approved for passage to mainland Greece await deportation. One such example was the Moria pre-removal facilities, now suspended due to widespread damage from fires in September 2020.

Situated in the vicinity of the Moria Reception and Identification Centre on the island of Lesvos, the architectural layout of these facilities was designed to accommodate a significant number of individuals, with the aim to serve as a temporary holding centre during the removal process. The pre-removal facilities consisted of various detention buildings or units constructed with basic materials, in the form of prefabricated structures, to provide quick and cost-effective solutions for accommodating detainees. Given the nature of this space, security was a crucial aspect of its architectural design. Fencing, surveillance cameras, and security checkpoints were incorporated to ensure strict control over the movement of individuals in and out of the buildings. While the primary purpose of the pre-removal centre was to detain individuals pending deportation, basic amenities, such as sleeping quarters, toilets, and limited communal spaces, were also

33 Greek Government. (2015). Joint Ministerial Decision 55184/2015: Establishment of reception and identification centres for refugees and migrants.

34 Hellenic Republic Ministry of Migration and Asylum, "The Establishment and Operation of Hotspots," 2021, migration.gov.gr

provided. The centre included space for legal consultations, where detainees could interact with legal representatives or asylum advisors. These spaces were critical in order to allow detainees to understand their rights and have access to legal remedies.

It is within the walls of these facilities that those entering Greece in a fashion deemed illegal and/or not eligible for international protection are detained and processed in order to fast-track their removal. The emphasis of the Joint Ministerial Decision to streamline the identification and registration process, afforded a central role to the Moria pre-removal facilities by providing a controlled environment through which it prioritised return procedures.

While the Decision was conceived as establishing a methodical framework for addressing the challenges arising from new arrivals, its execution and the conditions within the hotspots have drawn extensive criticism and raised significant human rights concerns – predominantly revolving around issues of overcrowding, substandard facilities, and prolonged delays in the adjudication of asylum requests. Philosophical critiques can be applied to this decision, from various ethical perspectives. One of which centres around the notion of human dignity and the treatment of migrants and refugees within the context of the hotspots established by the decision.

Hannah Arendt's concern for human rights and citizenship resonates with the segregation methodologies implicit within Joint Ministerial Decision 55184/2015. The decision's implementation through specific facilities spatially isolates migrants, hinting at the creation of a stateless space, akin to Arendt's notion of the "world alienated from itself".[35] Here, Arendt argues that this alienation is a form of statelessness that denies individuals a place within the political community and strips them of their rights and protections. The establishment of hotspots and the processing of refugees through them can be seen as perpetuating a state of statelessness, where refugees are subjected to a condition of legal limbo and a lack of meaningful political existence. Should the conditions and procedures within these centres neglect to uphold the fundamental rights and dignity of refugees, there is a potential risk of erosion of their human rights.

Understanding the spatial manifestations of Joint Ministerial Decision 55184/2015 allows us to tease out its financial and extractive aspects. The construction and upkeep of the "hotspots" necessitate substantial financial investments, covering infrastructure development, staffing, and operational expenses. Furthermore, the creation of detention centres like the Moria pre-removal facilities, although built using basic materials to minimise costs, their construction, and

35 Arendt, H. (1951). The Origins of Totalitarianism. Harcourt, Brace and Company.

provision of essential amenities (such as sleeping quarters and toilets) still require significant financial resources.

Similarly, finance is directed towards maintaining rigorous control and surveillance over the individuals held in these facilities. Security checkpoints, surveillance technology, and fencing are integral components of the architectural design to ensure strict control. While establishing and operating spaces for legal consultation also require financial resources to guarantee individuals' access to legal remedies.

As the decision underscores the importance of streamlining the identification and registration process, while primarily serving administrative purposes, this involves further financial considerations for staffing and the operational needs.

Having placed a priority on return procedures for individuals not eligible for international protection, the implementation of these returns entails the need for financial resources for coordination, transportation, and logistical support.

Despite the substantial financial investments highlighted above, there are growing concerns regarding overcrowding and substandard conditions within these types of facilities. Underscoring a critical point about the inadequacy of the financial resources toward maintaining humane living conditions.

Figure 14 . Registration facility located at Moria campsite, Lesvos (2016).
Source: Kamil Dalkir

Greek Law 3907/2011[36]

Law 3907/2011 established the Greek Asylum Service, which is the civil service entity dedicated to matters of asylum in Greece. Its core function is to evaluate submissions for international protection encompassing refugee status and subsidiary protection. The Service extends administrative assistance to the Appeals Authority, facilitating the appeals process. Conceived under the same legislative framework, the Appeals Authority takes on the role of scrutinising appeals lodged by applicants seeking international protection. These appeals pertain to initial determinations that either dismiss applications for protection or retract previously granted statuses.

The law introduces a comprehensive legal framework for the detention and temporary holding of individuals who have entered or stayed in Greece irregularly. The main criteria for detention under this law include the following. Irregular entry or stay: detention can be imposed on individuals who have entered or stayed in Greece irregularly, without the necessary legal documents or authorisation. Risk of absconding: detention may be ordered if there is a reasonable belief that the individual is likely to evade the asylum process or to disappear before immigration procedures are completed. Public order and national security: detention is deemed permissible if the individual poses a threat to public order or national security. Facilitating return: detention can be used to ensure the proper execution of return decisions for individuals subject to removal. Health concerns: if there is a risk to public health, detention may be considered to prevent the spread of infectious diseases. Asylum applications: detention is granted during the process of examining an asylum application if the individual is a flight risk or poses a threat to public order.[37]

The law in theory emphasises the principle of proportionality,[38] and states that detention should only be applied when there are no

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36 Greek Law. (2011). Law 3907/2011: Establishment of the Greek Asylum Service and Appeals Authority and other provisions. Hellenic Parliament. Retrieved from https://ec.europa.eu/migrant-integration/library-document/law-no-39072011-gg-726012011-establishment-asylum-service-and-s ervice-first_en.

37 Greek Law 3907/2011, Measures on the Arrest and Detention of Irregular Migrants and Members of Trafficking Networks, Official Gazette of the Hellenic Republic, Issue A' 248/2011, Article 5.

38 The legal principle of proportionality is a fundamental concept in administrative and constitutional law. It requires that any action or measure taken by a public authority must be proportionate to the objective it seeks to achieve. In other words, the means employed to achieve a legitimate goal should not be excessive or go beyond what is necessary in the circumstances. Source: European Court of Justice. (2003). Case C-112/00, Schmidberger. ECLI:EU:C:2003:333. Retrieved from:https://curia.europa.eu/juris/document/document.jsf?text=&docid=50222&pageIndex=0&doclang=EN&mode=req&dir=&occ=first&part=1&cid=3120283

less coercive measures available. It also takes into account vulnerable individuals, such as minors, pregnant women, and persons with serious health conditions, mandating that their best interests be considered.

Critiques of this law, centre on its impact on human rights, migrant well-being, and broader legal and ethical considerations. The law's provisions relating to detention have raised concerns among human rights advocates, legal scholars, and international organisations as the law allows for the detention of individuals primarily based on their irregular entry or stay in Greece. This approach disregards the individual circumstances experienced by migrants, including vulnerabilities, such as those of victims of trafficking, who may be subject to detention despite requiring protection rather than punishment. Such a practice runs contrary to the principle of proportionality and the respect for human dignity.

The detention of irregular migrants is a manifestation of biopolitics, where the state exercises its authority over bodies and populations. Applying Foucault's concept of governmentality further elucidates how the law reflects a governance strategy that prioritises security and border control over individual rights.[39]

Furthermore, the law's criteria for detention, particularly the risk of absconding and considerations of public order, have been criticised as lacking clarity and consistency. This ambiguity creates room for arbitrary decisions and may lead to the unjust detention of migrants. Such arbitrary detention is an example of the "state of exception", where the normal legal order is suspended and individuals are subjected to unchecked sovereign power.[40] From the perspective of Judith Butler's ethics of vulnerability, such treatment perpetuates a cycle of precarity, where vulnerable persons are exposed to harm and denied their basic rights.[41] While the law aims to address border security and irregular migration, its current form raises significant ethical and legal concerns that warrant thorough reconsideration and revision.

The establishment of the Greek Asylum Service and the Appeals Authority, encompasses numerous financial and extractive elements. Financial resources are necessary for the initial setting up of these administrative bodies, along with their recurring maintenance. This includes funding for personnel, infrastructure, and day-to-day operational costs.

Additionally, the detention and temporary holding of individuals who have entered or are staying in Greece irregularly hold great financial burden (as we have seen earlier in this chapter). Investments are required towards the construction and upkeep of

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39 Foucault, M. (1976). Society Must Be Defended. Picador.
40 Agamben, G. (2003). State of Exception. The University of Chicago Press.
41 Butler, J. (2009). Frames of War: When Is Life Grievable? Verso.

these detention facilities, encompassing expenses related to security measures, infrastructure development, and the provision of basic amenities. The procedures for detention, including assessments related to risks, public order, and health concerns, coordination of detention-related activities, and legal proceedings compound this further, with the necessity for allocating resources to facilitate the administrative processes involved in making detention decisions.

While the law acknowledges the imperative need to consider the best interests of vulnerable individuals – such as minors, pregnant women, and those with significant health conditions – further resources are essential to offer specialised care and support for these individuals during their detention, including the provision of medical services and accommodation that is tailored to their specific needs.

The prioritisation of border security and control over individual rights made by this law, leads once again to the need for the allocation of financial resources to support these security measures and border control efforts, including funding toward border enforcement agencies and necessary infrastructure.

As I mentioned above, critics have raised concerns about the law's criteria for detention, particularly regarding their lack of clarity and consistency, which can result in arbitrary decisions being taken. Addressing these issues require financial investments in legal reforms and the training of personnel to ensure the fair and consistent application of this law.

Greek Law 4374/2016[42]

This law introduces significant amendments to the asylum procedure outlined in the previous law (Greek Law 3907/2011), with a focus on expediting processes and facilitating returns. The law aims to enhance Greece's response to migration challenges and bring its practices into line with EU directives.[43]

In addition to the criteria set out by its predecessor, the law introduces the concept of "safe third countries", allowing for the return of asylum seekers to EU-designated safe nations. This provision is intended to discourage further movement while also encouraging individuals to seek asylum in the first safe country they enter. Additionally, the law establishes a list of safe countries of origin: nations in regard to which there is a presumption that individuals do not require international protection. Asylum applications from persons originating from these countries undergo expedited processing, leading to potential rejection. The law also outlines revised guidelines for the detention of individuals, including vulnerable groups, while underscoring alternatives to detention. The law aims to align with the Dublin III Regulation, mirroring procedures for determining the responsible member state for processing asylum applications. And, finally, the law enhances procedural safeguards for applicants, ensuring access to legal representation, interpreters, and comprehensive information about their rights and obligations during the asylum process.

In accordance with the provisions of this law, detention centres were established on Lesvos (as explored through the previous laws), and an emphasis was put on the integration of refugees, through resources and spaces aimed at facilitating assimilation processes, in a bid to foster social inclusion.

One such example of an integration service is the Migrant Integration Centers (M.I.C.), located in Mitilini (the capital of Lesvos). The Centers provide guidance and support to third-country nationals lawfully residing on the island, beneficiaries of international protection holding a residence permit, and asylum applicants. The services offered aim to help individuals with their lawful residence in the country and

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42 Greek Law 4374/2016. (2016). Published in the State Gazette on 3 April 2016, the New Asylum Law adapts the Greek legislation to the provisions of EU Directive 2013/32 on common procedures for granting and withdrawing international protection. It includes provisions on residence permit (Article 22) for humanitarian reasons. It also establishes a General Secretariat of Reception and details the organisation and operation of the Asylum Service as well as that of the Appeals Authority and the Reception and Identification Authority, 2-8-2016, 1701.

43 Greek Asylum Service, "Reform of the Asylum System," asylo.gov.gr

related documentation, such as residence permits, refugee identification cards, and the issuance of Greek social security numbers. Additionally, the centre provides essential social and psychological assistance, with special attention given to vulnerable groups, such as women and children. Support for the education of children of third-country nationals is also afforded, along with information about adult language courses within municipal areas. The M.I.C. also actively engages in raising awareness within local communities about diversity, addressing social issues, including xenophobia, racism, and human trafficking. They actively promote volunteering and encourage the participation of third-country nationals in groups, associations, and intercultural organisations, in a bid to foster a sense of community and belonging. Intercultural mediators play a critical role in facilitating communication and understanding between staff and displaced communities, drawing on their languages and cultural backgrounds. Social workers with expertise in migrants, minorities, or socially excluded individuals provide essential social support. Legal advisors with knowledge of migrant and labour laws assist with legal issues. Additionally, psychologists with training in post-traumatic stress disorders and catering to the needs of vulnerable individuals, such as women, children, and those with special needs, provide crucial mental health support. Through these services and a dedicated team of professionals, the M.I.C contributes significantly to what they deem to be the successful "integration" of third-country nationals in Greece, with the aim of promoting social cohesion. Although the efforts of this non-government organisation are admirable, the M.I.C. only assist individuals who have either received legal refugee status, or are in the process of doing so – leaving a large population of displaced people held within detention facilities.

While Greek Law 4374/2016 reflects Greece's efforts to manage migration and harmonise its asylum procedures with EU standards, the law's provision on detention raises significant human rights concerns. The potential for prolonged detention of vulnerable individuals, including children and victims of torture, has been seen as a violation of international human rights standards. The emphasis on control and confinement within the law reflects the exercise of power and discipline over migrant bodies, echoing the dynamics of the panopticon.[44] The implementation of the "safe third country" concept, particularly regarding its practical implications in returning asylum seekers to designated safe countries, may expose them to further risks and rights violations. This reflects the complex spatial and temporal dynamics of migration governance, where the law may contribute to the

44 Foucault, M. (1975). Discipline and Punish: The Birth of the Prison. Vintage Books.

externalisation of border control and the shifting of responsibilities to countries with potentially less robust protection frameworks.[45] The law's emphasis on efficiency also raises concerns about potential limitations on access to asylum and procedural safeguards. The expedited procedures hinder thorough assessments of asylum claims and restrict individuals' ability to present their cases effectively. The constraints on the public sphere and the right to be heard diminish the agency and political participation of asylum seekers.[46] The potential for accelerated procedures and detention raises questions about the best interests of a displaced person and their rights, as the law's implementation may lead to the creation of spaces of exception where certain rights are suspended or undermined, even in the case of minors.[47] Furthermore, Greek Law 4374/2016, when considered alongside the EU-Turkey Statement, contributes to the externalisation of borders and shifts responsibility to non-EU countries, reflecting the influence of algorithmic capitalism on governance, where economic and political interests shape migration management, while simultaneously sidelining humanitarian considerations.[48]

The economic interests that are entwined within Greek Law 4374/2016 are diverse and multifaceted. Firstly, the establishment of detention centres necessitates financial commitments for their construction, ongoing maintenance, staffing, and the implementation of security measures (as previously explored). Secondly, the introduction of integration services, exemplified by the M.I.C. in Mitilini, require resources for sustaining these services, covering expenses such as staff salaries, language courses, awareness-raising initiatives, which are subsidised by both state and intergovernmental agencies. Thirdly, the efforts to align Greece's asylum procedures with EU directives inherently entails financial investments in legal reforms, administrative enhancements, and infrastructure development to meet the stringent standards and regulations set by the EU. Moreover, the expedited asylum procedures (introduced through the previous law, and emphasised here), which, while potentially reducing the administrative burden, require financial investments to ensure efficient processing, adequate staffing, and legal support for applicants.

The introduction of the concept of "safe third countries" within the law carries further financial implications relating to coordinating and executing returns to designated safe nations, which

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45 Tazzioli, M. (2014). Spaces of Governmentality: Autonomous Migration and the Arab Uprisings. Rowman & Littlefield Publishers.

46 Arendt, H. (1958). The Human Condition. University of Chicago Press.

47 Agamben, G. (2003). State of Exception. The University of Chicago Press.

48 Pasquinelli, M. (2018). The Capitalocene: Algorithmic regulation, borders, and the planetary grid. In The Wealth of Data: A Theory of Information Capitalism (pp. 63-93). Routledge.

entails allocating resources for return procedures and negotiating with third countries (a consequence we explored through the Dublin III Regulation).

This law, in essence, reflects the influence of economic and political interests on migration management, as financial considerations exercise significant influence over governance decisions – often at the expense of humanitarian considerations.

Greek Law 4375/2016[49]

This law introduces expedited examination procedures for asylum applications that are deemed unfounded or inadmissible, with the aim of streamlining the processing of certain cases, particularly those that are unlikely to meet the criteria for international protection. The law also establishes Appeals Committees, composed of experts with legal, administrative, and social expertise, to review decisions made on appeals against asylum rejections. These committees are tasked with providing a second instance examination of cases. Similar to Greek Law 4374/2016, this law also details the safe third country concept, while including provisions that allow for the detention of applicants on national security grounds. And, finally, it establishes the legal framework for the interconnection of Greek authorities with relevant European databases, such as the Eurodac system,[50] which aims to enhance information sharing and cooperation among EU member states.[51]

The assessment criteria laid out by this law reflects the desire to expedite asylum procedures, enhance efficiency, and address the challenges posed by increased migratory flows. However, when viewed through the lens of Agamben's exploration of states of exception and bare life, we can draw out many concerns relating to the establishment of detention centres and housing facilities under Greek Law 4375/2016. These spaces signify a suspension of legal norms, where migrants' lives are reduced to mere existence.[52] The threshold between human rights and sovereign power illuminates this union between law, space, and the

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49 Greek Law 4375/2016. (2016). Published in the State Gazette on 3 April 2016, the New Asylum Law adapts Greek legislation to the provisions of EU Directive 2013/32 on common procedures for granting and withdrawing international protection. It includes provisions on residence permits (Article 22) provided for humanitarian reasons. It also establishes a General Secretariat of Reception and details the organisation and operation of the Asylum Service, as well as that of the Appeals Authority and the Reception and Identification Authority, 2-8-2016, 1756-1761.

50 Eurodac is an EU fingerprint database established to facilitate the application of the Dublin III Regulation and to support the efficient processing of asylum seekers' asylum applications within the EU. It serves as a tool for sharing and comparing the fingerprints of asylum seekers and certain irregular migrants among EU member states, aiding in the determination of the member state responsible for examining an asylum application. The primary goal of Eurodac is to prevent asylum seekers from lodging multiple applications in different EU countries (asylum shopping) and to ensure that each application is examined by a single member state, typically the one where the individual first entered the EU or where they have family ties. Source: European Union Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice (eu-LISA). (n.d.). Eurodac. Retrieved from https://www.eulisa.europa.eu/OurWork/ITSystems/Eurodac/Pages/default.aspx

51 Greek Council for Refugees (2018). The reform of the asylum system and the externalisation of EU borders. gcr.gr

52 Agamben, G. (1995). Homo Sacer. Einaudi.

state of exception they form – which constitutes a material and semiotic assemblage.

The emphasis on expedited procedures and border processing under this law compromises the right of asylum seekers to due process.[53] Accelerated examination limits the time available for applicants to gather evidence and present their cases adequately, potentially leading to erroneous decisions being made – exacerbating tensions between efficiency and fairness in migration governance. The provision allowing for the return of asylum seekers to safe third countries raises concerns about the principle of non-refoulement, which prohibits returning individuals to territories where they face a risk of persecution or serious harm.[54] The broad criteria for detention based on national security grounds can lead to the confinement of individuals who genuinely seek protection.[55] The accelerated procedures also hinder a comprehensive assessment of vulnerabilities, such as those faced by survivors of torture, victims of trafficking, and unaccompanied minors. The law's focus on efficiency overlooks crucial factors that necessitate specialised attention and protection.[56] The interconnection of Greek authorities with European databases raises privacy concerns and questions about data protection, and the sharing of personal information across borders exposes asylum seekers to risks, especially if information is mishandled or misused.[57]

This law, too, embodies a range of economic interests and considerations. The establishment of Appeals Committees require funding for their functioning, including compensation for committee members, legal expertise, and administrative support. The execution of returns to designated safe nations necessitates financial resources for coordination, transportation, and negotiations with these countries. Detention on national security grounds entails financial investments in detention facilities, security measures, and the legal procedures associated with incarceration. In cases where detention periods are prolonged, the financial implications concerning meeting the basic needs of detainees and the implementation of security measures also increase. Moreover, the legal framework for interconnecting Greek authorities with European databases, such as the Eurodac system is an undertaking that demands financial resources to support technological infrastructure, data management, and compliance with data protection regulations.

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53 Kant, I. (2011). Immanuel Kant: Groundwork of the Metaphysics of Morals. Cambridge University Press.

54 Arendt, H. (1951). The Origins of Totalitarianism. Harcourt, Brace and Company.

55 Foucault, M. (1978). Security, Territory, Population. Picador.

56 Nussbaum, M. (1999). Women and Human Development: The Capabilities Approach. Cambridge University Press.

57 Foucault, M. (1975). Discipline and Punish: The Birth of the Prison. Vintage Books.

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The convergence of EU Regulation No. 604/2013 (Dublin III Regulation), the EU-Turkey Statement, Joint Ministerial Decision 55184/2015, Greek Law 3907/2011, Greek Law 4374/2016, and Greek Law 4375/2016 reflects a complex assemblage of legal instruments, policies, and their respective architectural manifestations, which collectively shape humanitarian governance on the island of Lesvos. Within this entanglement of regulations and decisions, a discernible thread emerges – one that underscores the financial nature of humanitarian governance.

At its core, while ostensibly driven by humanitarian concerns, the criteria for allocating responsibility under the Dublin Regulation based on the first point of entry aligns with a cost-sharing rationale, wherein the initial receiving country bears the financial burden of processing and hosting displaced populations. This financial load plays a significant role in shaping the reception and processing of migrants on Lesvos, as the island's status as a primary entry point amplifies its role in the Dublin system. Thus, Lesvos becomes not only a geographical gateway but also a fiscal focal point in the distribution of financial obligations within the EU's strategy for migration governance.

The EU-Turkey Statement further underscores this financial dimension. The provision of financial assistance to Turkey as part of the agreement serves dual purposes. While aimed at supporting humanitarian efforts relating to refugees in Turkey, this financial support also reflects the EU's strategy of externalising border control. By incentivising Turkey to curb irregular migration, the EU effectively transfers its border management responsibilities to a non-EU country. This transaction impacts the migration dynamics on Lesvos, as the island becomes a site where the implications of this arrangement manifest. The establishment of temporary camps and containment zones aligns with the financial logic of burden-sharing: Lesvos becomes a spatial embodiment of the calculations that underpins the EU-Turkey Statement.

Joint Ministerial Decision 55184/2015 adds another layer to this. While concerned with establishing reception and identification centres, the decision's implementation and conditions bring to the fore financial constraints and considerations. Overcrowding, inadequate facilities, and delays in processing asylum claims point to the financial strain involved in managing large numbers of displaced people. The decision's focus on streamlining processes and managing arrivals reflects a cost-efficiency imperative that shapes the island's humanitarian response. As Lesvos grapples with limited resources and capacities, the financial aspect becomes a significant driver in the design and operation of the hotspot system.

Additionally, while the primary aim of Greek Law 3907/2011 is to ensure fair and effective procedures, it has an implicit financial dimension. The allocation of resources, funding, and administrative support is crucial for the functioning of the Asylum Service and the Appeals Authority. These considerations play a role in determining the capacity to process applications, provide legal assistance, and ensure procedural safeguards. Thus, the financial aspects of the law intersect with its humanitarian objectives, influencing the overall quality and efficiency of the asylum process on Lesvos. Greek Laws 4374/2016 and 4375/2016 continue this trajectory by introducing accelerated procedures, the concept of safe third countries, and detention regulations. These legal measures, while serving humanitarian and administrative goals, also reflect fiscal motivations. Expedited procedures and quick returns are not only about efficiency but also about reducing costs associated with prolonged stays and processing. The safe third country principle, while intended to manage migratory flows, has a major financial dimension, as it determines where the fiscal responsibility for asylum seekers lie. Detention facilities also rely primarily on economics, impacting the allocation of resources for maintaining detention centres and ensuring basic living conditions.

In summary, the financial nature of humanitarian governance on Lesvos emerges as a consistent theme across these legal instruments and policies, and their architectures. Driven by humanitarian and administrative concerns, these frameworks underpin the financial deliberations in decision-making and in implementing those decisions. Lesvos, as a site of intense migration activity, is a locus where the intersection of financial imperatives and humanitarian responses shape the lived experiences of displaced communities in search of refuge.

$$\text{Population effect}_{MS/AS} = \frac{\text{Population}_{MS/AS}}{\text{Population}_{EU+32}}$$

$$\text{GDP effect}_{MS/AS} = \frac{\text{GDP}_{MS/AS}}{\text{GDP}_{EU+32}}$$

$$\text{Asylum effect}_{MS/AS} = \min \left\{ \frac{\frac{1}{\text{Average (5 preceeding years) applicants per Million inhabitents}_{MS/AS}}}{\sum_{i\,-1}^{32} \frac{1}{\text{Average (5 preceeding years) applicants per Million inhabitents}_{MS/ASi}}} \;,\; 30\%(\text{Population effect}_{MS/AS} + \text{GDP effect}_{MS/AS}) \right\}$$

$$\text{Unemployment effect}_{MS/AS} = \min \left\{ \frac{\frac{1}{\text{Unemployment rate}_{MS/AS}}}{\sum_{i\,-1}^{32} \frac{1}{\text{Unemployment rate}_{MS/ASi}}} \;,\; 30\%(\text{Population effect}_{MS/AS} + \text{GDP effect}_{MS/AS}) \right\}$$

$$\text{Capped Quota}_{MS/AS} = \text{Allocation} * (40\%\ \text{Population effect}_{MS/AS} + 40\%\ \text{GDP effect}_{MS/AS} + 10\%\ \text{Asylum effect}_{MS/AS} + 10\%\ \text{Unemployment effect}_{MS/AS})$$

$$\text{Residual Quota}_{MS/AS} = (\text{Allocation} - \sum_{i\,-1}^{32} \text{Capped Quota}_{MS/ASi}) * (50\%\ \text{Population effect}_{MS/AS} + 50\%\ \text{GDP effect}_{MS/AS})$$

$$\text{Final Allocation Quota}_{MS/AS} = \text{Capped Quota}_{MS/AS} + \text{Residual Quota}_{MS/AS}$$

$$\text{Final Share}_{MS/AS}\ (\text{de facto key}) = \min \frac{\text{Final Allocation Quota}_{MS/AS}}{\text{Allocation}} * 100\%$$

Figure 15 . European Commission. (2015, September 9). Proposal for a Regulation of the European Parliament and of the Council establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (COM(2015) 450 final) (2015/0208 (COD)). Brussels.

3.2 Algorithmic Governance – "Establishing a Crisis Allocation Mechanism"

At the height of the so-called Syrian migrant crisis (2015), the European Commission embarked on developing an allocation algorithm aimed at distributing the displaced across EU member states (28) and its associated states (4). While at first sight the algorithm aims to achieve an equitable distribution, utilising a variety of factors and calculations, based on states' populations, gross domestic product (GDP), number of asylum applications, and unemployment rates, in fact it has a striking bias towards an array of economic interests. In what follows, I will examine the algorithm's pronounced financial orientation, which reveals how economic considerations eclipse the imperative of providing aid to those who are in dire need.

I contend that the algorithm constitutes a material and semiotic assemblage due to the intricate connections it forges among state institutions, inter-state organisations, physical urban landscapes, camp infrastructure, individual rooms, the mathematical functions inherent in its components, and the human bodies it seeks to relocate.

We can also consider the algorithm as a manifestation of what Matteo Pasquinelli terms "algorithmic capitalism".[58] This mode of capitalism advances not just by shaping economic transactions, but also by embedding economic considerations in the very algorithms that govern resource management and distribution. The algorithm's preoccupation with economic interests, as opposed to humanitarian aid, is emblematic of a broader logic where algorithms become agents of capital accumulation. By applying the lens of Stuart Elden's work in *The Birth of Territory*[59] we can uncover intricate layers of spatial politics and the manipulation of territories. Through Elden's insights we can unravel how the algorithmic allocation framework operates as a spatial technique that is deeply embedded in the dynamics of sovereignty and territorial control. And by incorporating Martina Tazzioli's perspectives from her book *Spaces of Governmentality: Autonomous Migration and the Arab Uprisings*[60] into the analysis of this algorithm, we can unveil its intricate role within the broader context of migration governance. Tazzioli's emphasis on the spatial and temporal dynamics of migration management provides a lens that can be used to examine how the algorithm operates as a mechanism of border control and spatial technique, drawing attention to the intersecting power relations that underpin its design and implementation.

The "establishment of a crisis relocation mechanism",[61] as it has

58 Pasquinelli, M. (2018). The Capitalocene: Algorithmic regulation, borders, and the planetary grid. In The Wealth of Data: A Theory of Information Capitalism. Routledge.

59 Elden, S. (2013). The Birth of Territory. University of Chicago Press.

60 Tazzioli, M. (2014). Spaces of Governmentality: Autonomous Migration and the Arab Uprisings. Rowman & Littlefield Publishers

61 European Commission. (2015, September 9). Proposal for a Regulation of the European Parliament and of the Council establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international

been called, unmistakably tilts towards financial concerns. Collectively, the perspectives of Pasquinelli, Elden and Tazzioli illuminate the complex relationships formed by the algorithm: an alliance through which economic motivations intertwine with power dynamics and territorial notions (a material and semiotic assemblage, if you will), ultimately influencing the fate of those most in need, rendering them a resource when desirable, or a burden when not.

$$\text{Population effect}_{MS/AS} = \frac{\text{Population}_{MS/AS}}{\text{Population}_{EU+32}}$$

Figure 16 . Population effect equation.[62]

The Population effectMS/AS function calculates the effect on the population of a specific member state (MS) or associated state (AS) relative to the combined population of the EU and its associated states. This information is significant in the context of determining quotas as it takes into account the demographic weight and capacity of a particular nation to accommodate and integrate incoming individuals.

$$\text{GDP effect}_{MS/AS} = \frac{\text{GDP}_{MS/AS}}{\text{GDP}_{EU+32}}$$

Figure 17 . GDP effect equation. [63]

GDP effectMS/AS represents the same relative ratio, but this time using the GDP of a state against that of the EU as a whole, plus its four associated states (Iceland, Norway, Switzerland and Liechtenstein). Its significance lies in the fact that it considers the economic resources of a particular country and its capacity to financially support and integrate incoming refugees. It acknowledges that countries with larger populations and higher GDP may have different capacities and capabilities in regard to receiving displaced persons.

The prioritisation of the Population effectMS/AS and GDP effectMS/AS parameters amplifies the algorithm's financial inclination. These two functions inherently favour wealthier nations. In this way, the algorithm strategically reflects the economic influence of affluent states, by favouring them, sidelining the humanitarian obligation to assist vulnerable refugees.

protection lodged in one of the Member States by a third-country national or a stateless person (COM(2015) 450 final) (2015/0208 (COD)). Brussels.

62 Ibid.

63 Ibid.

This underscores how the algorithm is utilised in order to wield computational power so as to enhance and multiply the accumulation of capital. Here, it leverages these two parameters to further economic interests by aligning the allocation of refugees with the influence of wealthier states. The algorithm becomes a tool that reinforces the financial status quo by privileging economic power over human needs.[64] These two functions, without even considering the remaining parts of the algorithm, already enforce economic territoriality. They mirror the economic dominion of any given state, contributing to the stratification of territories based on economic power. The algorithm reasserts economic sovereignty, with the distribution of refugees mirroring broader spatial hierarchies.[65] The reliance on economic indicators reinforces the dominance of affluent states, perpetuating a hierarchisation of people in transit based on their potential economic contribution. Through just these two functions, it is quite easy to see that bordering practices are embedded in broader structures of global capitalism.[66]

$$\text{Asylum effect}_{MS/AS} = \min \left\{ \frac{\frac{1}{\text{Average (5 preceeding years) applicants per Million inhabitents}_{MS/AS}}}{\sum_{i\,-1}^{32} \frac{1}{\text{Average (5 preceeding years) applicants per Million inhabitents}_{MS/ASi}}} \; ,30\%(\text{Population effect}_{MS/AS} + \text{GDP effect}_{MS/AS}) \right\}$$

Figure 18 . Asylum effect equation.[67]

This equation for the calculation of the asylum effect is split into two components. The first takes into account the historical average of asylum applicants per million inhabitants in a specific state (MS/AS) over the preceding five years. It compares this value to the sum of historical average applicants per million inhabitants across all European states (MS/AS). The second component, on the other hand, is a 30% weighting assigned to the sum of the population effect (Population effectMS/AS) and GDP effect (GDP effectMS/AS). This indicates that the allocation of asylum quotas takes into account both population size and economic capacity, in addition to the historical asylum application rates.

64 Pasquinelli, M. (2018). The Capitalocene: Algorithmic regulation, borders, and the planetary grid. In The Wealth of Data: A Theory of Information Capitalism. Routledge.

65 Elden, S. (2013). The Birth of Territory. University of Chicago Press.

66 Tazzioli, M. (2017). Containment through mobility: migrants' spatial disobediences and the reshaping of control through the hotspot system in the Mediterranean. Journal of Ethnic and Migration Studies, 44(16), pp. 2764-2779. ISSN 1369-183X

67 European Commission. (2015, 9 September). Proposal for a Regulation of the European Parliament and of the Council establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (COM(2015) 450 final) (2015/0208 (COD)). Brussels.

However, the two components are preceded by a minimum function (min), which indicates that the lower value between the two must be selected. This ensures that the asylum effect is not solely determined by the individual states' (MS/AS) performance but also considers the overall distribution of asylum applicants across the EU. By considering historical data, the overall distribution of applicants, and population and GDP factors, the equation aims to provide a more balanced approach to allocating asylum quotas among states (MS/AS). It attempts to distribute the responsibility for asylum seekers based on a combination of past trends, population size, and economic capacity.

$$\text{Unemployment effect}_{MS/AS} = \min \left\{ \frac{\frac{1}{\text{Unemployment rate}_{MS/AS}}}{\sum_{i-1}^{32} \frac{1}{\text{Unemployment rate}_{MS/ASi}}} \; ,30\%(\text{Population effect}_{MS/AS} + \text{GDP effect}_{MS/AS}) \right\}$$

Figure 19 . Unemployment effect equation.[68]

Similar to the asylum effect, this term considers the unemployment effect within a given country. It calculates the ratio between the unemployment rate for that country and the sum of unemployment rates across all EU states, including associated states. Once again, a minimum function sits at the start of the equation, indicating the need to select the lower of the two: the unemployment rate ratio versus 30% of the combined population and GDP effects for a given state. This function therefore seeks to distribute the responsibility for refugees based on various factors related to employment and economic conditions.

At this point, we can see how economic calculations further permeate the algorithm through the Asylum effectMS/AS and Unemployment effectMS/AS components. The algorithm's emphasis on states with lower historical asylum applicant rates per million inhabitants serves as an avenue for pursuing economic self-interest. It implicitly favours countries with a lower burden on resources, channelling displaced people towards more financially stable hosts. This governance technique is directed not just at managing the displaced but at optimising the allocation process in favour of states with lower burdens. While this optimisation is ethical in principle, as regards how it affects states with lower or no resources, the emphasis on economic calculus reveals the algorithm's role in perpetuating

68 European Commission. (2015, 9 September). Proposal for a Regulation of the European Parliament and of the Council establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (COM(2015) 450 final) (2015/0208 (COD)). Brussels.

economic stratification.[69] The algorithm not only allocates people: it also constructs a territorial order that reflects economic and political interests. This ordering mirrors the states' desire to safeguard their economic and social structures, treating the displaced as potential disruptors to their territorial integrity.[70] The emphasis on economic utility marginalises the needs of people in transit, ensuring that migration governance prioritises control over the well-being of migrants. It highlights how the algorithm's design embodies a form of biopolitics that commodifies migrant bodies.[71]

At this point in the algorithm, we see a confluence of the preceding functions, leading up to the calculation of a capped and residual quota.

$$\text{Capped Quota}_{MS/AS} = \text{Allocation} * (40\% \text{ Population effect}_{MS/AS} + 40\% \text{ GDP effect}_{MS/AS} + 10\% \text{ Asylum effect}_{MS/AS} + 10\% \text{ Unemployment effect}_{MS/AS})$$

Figure 20 . Capped Quota equation.[72]

This term is a crucial step in the algorithm, representing the maximum number of people that can be allocated to a particular country. The equation starts by multiplying the allocation (a predetermined number or percentage representing the total number of refugees to be distributed) by a combination of the different percentages assigned to the population effect (40%), GDP effect (40%), asylum effect (10%), and unemployment effect (10%).

By assigning different percentages to these factors, the equation aims to balance the distribution of refugees based on population size, economic capacity, historical asylum applications, and unemployment rates. The percentages reflect the relative importance of each factor in the overall allocation process. The result of the equation, the capped quota, represents the upper limit or maximum number of people that can be assigned to a particular country based on the specific characteristics and factors mentioned above.

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69 Pasquinelli, M. (2018). The Capitalocene: Algorithmic regulation, borders, and the planetary grid. In The Wealth of Data: A Theory of Information Capitalism. Routledge.

70 Elden, S. (2013). The Birth of Territory. University of Chicago Press.

71 Tazzioli, M. (2014). Spaces of Governmentality: Autonomous Migration and the Arab Uprisings. Rowman & Littlefield Publishers.

72 European Commission. (2015, 9 September). Proposal for a Regulation of the European Parliament and of the Council establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (COM(2015) 450 final) (2015/0208 (COD)). Brussels.

$$\text{Residual Quota}_{MS/AS} = (\text{Allocation} - \sum_{i-1}^{32} \text{Capped Quota}_{MS/ASi}) * (50\% \text{ Population effect}_{MS/AS} + 50\% \text{ GDP effect}_{MS/AS})$$

Figure 21 . Residual Quota equation.[73]

This term represents the residual quota for a specific country, which is the remaining allocation after deducting the sum of capped quotas for all 32 members. The residual quota is calculated based on a combination of the population effect (50%) and GDP effect (50%). By multiplying the difference between the initial allocation and the sum of all capped quotas by a weighted average of the population and GDP effect of a given country, the equation calculates the residual quota for that country - which represents the additional number of people that can be allocated to that country beyond the capped quotas assigned to others.

The Capped QuotaMS/AS and Residual QuotaMS/AS provisions solidify the algorithm's pro-economic stance. By allotting a percentage of the total allocation based on a blend of financial factors (population and GDP effects) and humanitarian variables (asylum and unemployment effects), the algorithm perpetuates a lopsided distribution that leans towards economically prosperous member states. This inherently negates the core interest of providing aid to people in flight.

The mechanisms of capped and residual quotas can be viewed through Pasquinelli's lens of "algorithmic rent".[74] In this light, the algorithm becomes a mechanism that extracts value by allocating people in a way that maintains economic hierarchies. By establishing a two-tiered approach that combines economic factors with humanitarian variables, the algorithm essentially creates a system of algorithmic rent, benefiting states with greater economic power.[75] Elden's examination of "territorial politics" also applies here. These mechanisms create a complex spatial configuration where states exercise control over the allocation process. The allocation algorithm embodies a form of territorial politics, allowing states to maintain economic dominance while projecting a façade of humanitarian engagement.[76] When these

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73 European Commission. (2015, 9 September). Proposal for a Regulation of the European Parliament and of the Council establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (COM(2015) 450 final) (2015/0208 (COD)). Brussels.

74 Pasquinelli, M. (2009). Google's PageRank Algorithm: A Diagram of the Cognitive Capitalism and the Rentier of the Common Intellect. In Deep Search: The Politics of Search Beyond Google (pp. 152-163). Institute of Network Cultures.

75 Ibid.

76 Elden, S. (2013). The Birth of Territory. University of Chicago Press.

algorithms are applied to issues such as resource allocation, urban planning, or even immigration policies, as we see here, they can have direct territorial implications. If, as argued by this thesis, a displaced person becomes a site for potential value, a resource, the allocation of the body of this person across varying territories, and its investment in labour markets, is a form of territorial politics.

Tazzioli's notion of "migration dispositifs" sheds light on the capped and residual quotas. The mechanisms employed in the management of migration play a role in structuring and organising the physical presence and mobility of migrants within a territory. This, in turn, aligns with an argument proposed by Tazzioli, which asserts that migration management is not just about controlling migrants but also about using specific strategies to maintain social and economic stability within a society or nation. In essence, migration policies and practices are not haphazard: they are designed to serve broader goals related to stability, which can encompass maintaining order, managing labour markets, and addressing social and economic concerns.[77] The algorithm becomes a spatial instrument for bordering as a technology of governance.

$$\text{Final Allocation Quota}_{MS/AS} = \text{Capped Quota}_{MS/AS} + \text{Residual Quota}_{MS/AS}$$

Figure 22 . Final Allocation Quota equation.[78]

By adding the capped quota and the residual quota together, the equation determines the final allocation for a given state (MS/AS), representing the total number of refugees that can be assigned to that country, ensuring that each state (MS/AS) has a clear and comprehensive understanding of the total number of refugees it can accommodate according to the algorithm's calculations.

$$\text{Final Share}_{MS/AS}\,(\text{de facto key}) = \min \frac{\text{Final Allocation Quota}_{MS/AS}}{\text{Allocation}} * 100\%$$

Figure 23 . Final Share equation.[79]

77 Tazzioli, M. (2019). Spaces in Migration: Postcards of a Revolution. Routledge.
78 European Commission. (2015, 9 September). Proposal for a Regulation of the European Parliament and of the Council establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (COM(2015) 450 final) (2015/0208 (COD)). Brussels.
79 Ibid.

This equation calculates the final allocation of displaced people to a specific state (MS/AS), represented as a percentage of the total allocation.

*

The refugee allocation algorithm, as evidenced by its intricate design, lays bare a disconcerting reality: the financial priorities of economically robust EU members take precedence over the dire needs of displaced communities. By weaving economic considerations into its fabric, the algorithm underscores a shift away from its intended humanitarian ethos. As the algorithm continues to guide refugee distribution, its financial nature casts a shadow over the EU's professed commitment to aiding those in crisis, placing the economic welfare of member states above the plight of vulnerable individuals seeking refuge and assistance.

Although it is a tool that has been devised to ensure perceived efficiency and optimisation, the algorithm, as a form of technocratic governance, relies heavily on quantitative data and predefined formulas. This reliance on standardised metrics reinforces a linguistic domination by privileging a specific language of measurement and calculation. The reliance on numerical data, giving priority to quantifiable indicators over qualitative aspects, strengthens the bias towards measurable metrics and neglects the richness of subjective experiences, cultural contexts, and contextual nuances. It assumes that complex social problems can be adequately captured and addressed solely through these measurements, undermining the value of diverse forms of knowledge and alternative ways of understanding the world. The algorithm simplifies complex social issues, such as population dynamics, economic factors, asylum applications, and unemployment rates. This reductionism neglects the historical, cultural, and political factors that shape these parameters.[80] Overlooking the diverse and multifaceted nature of human experiences, and oversimplifying the multidimensional character of migration and asylum issues, eventually leads to a distorted understanding of reality. This in turn further highlights the failure of the algorithm to adequately consider the socio-political and historical contexts in which migration and asylum issues arise, along with the urgent response they demand, ultimately reproducing existing inequalities and exclusionary practices that perpetuate socio-economic disparities and overlook the structural

80 Pasquinelli, M. (2018). The Capitalocene: Algorithmic regulation, borders, and the planetary grid. In The Wealth of Data: A Theory of Information Capitalism. Routledge.

factors that drive forced migration.[81]

This formula emerges here as a clear embodiment of algorithmic capitalism's influence on governance and resource distribution. It not only mirrors a broader economic landscape but actively contributes to the consolidation of capital and power among the wealthy. We can recognise the influence of an algorithmic enterprise, where even humanitarian concerns are subordinated to economic imperatives, reinforcing the primacy of capital accumulation.[82] The algorithm operates as a spatial technique, intricately woven into the geopolitical fabric of state interests. It reflects the broader spatial politics of sovereignty, control, and domination. It is easy to see the spatial arrangements that are manipulated to reinforce economic dominance and perpetuate the dynamics of power within the refugee allocation process.[83]

As a material and semiotic assemblage, the algorithm initiates and orchestrates a network that encompasses various components: the physical infrastructure of the camp where an individual awaiting relocation is temporarily held; the registration centre where essential information is gathered to support their asylum claim; the intricate chain of bureaucratic relationships linking an individual to the border agent responsible for approving their application; the official document that validates this decision; the digital record, such as one of many European biometric databases, containing the names and statuses of those granted asylum, which, in turn, categorises this individual as part of a larger group slated for relocation to a member state; and, finally, extending to the urban environment where these relocated individuals will ultimately settle.

The algorithm illustrates a complex web of spatial, temporal, and economic dynamics that shape the management of displaced populations and their mobility, underscoring the interchange between border control, capitalism, and the struggle for migrant rights in an EU that is marked by unequal power relations.[84]

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81 de Sousa Santos, B. (2014). Ecology of Knowledge. Wiley.

82 Pasquinelli, M. (2018). The Capitalocene: Algorithmic regulation, borders, and the planetary grid. In The Wealth of Data: A Theory of Information Capitalism. Routledge.

83 Elden, S. (2021). Terrain, politics, history. Dialogues in Human Geography, 11(2), 170–189.

84 Tazzioli, M. (2014). Spaces of Governmentality: Autonomous Migration and the Arab Uprisings. Rowman & Littlefield Publishers.

4. Making Public

Following on from the previous discussion around the extractive, financialised nature of the legal apparatuses deployed throughout the island of Lesvos, and the algorithmic distribution of displaced people across European member states, there is a need to foreground the systematic violence that is inherent in humanitarian governance, the identities that are produced and then attributed through it, and the forms of biopolitical and/or financial value that are extracted from the bodies of the displaced.

I propose a novel approach to an evidentiary practice that places a spotlight on the violence inherent within humanitarian governance. I argue that such an approach can bring about a transformation, particularly within the domains of art and advocacy forums. The sought-after transformation is one that reshapes these forums and their functionalities, and consequently shifts the conversations that take place within them. The aim is to move discussions away from peripheral matters and to refocus them on the core issue at hand: the fact that people in transit are named, and through this naming practise a form of value is extracted from their bodies.

Currently, discussions within advocacy forums tend to revolve around administrative and logistical matters related to migrant aid, shelter, and mobility. However, it is essential to recognise that naming is not merely a bureaucratic procedure: it also serves an extractive purpose. Therefore, it becomes imperative for discussions within both advocacy and art forums to explore the financial mechanisms that underlie humanitarian governance. In essence, acknowledging the economic dimensions of humanitarian operations is vital when addressing the predicament of displaced populations.

By reframing and enriching the discourse in this manner, I believe there is the potential to reshape humanitarian governance and its policies. This shift has the potential to emancipate the displaced from the regime of calculations in which they find themselves trapped.

In order to develop this proposal further, this chapter (in Sections 1 and 2) provides an analysis of the competences and affordances of advocacy forums, (in Section 3) details the operational capacity of conventional evidentiary practices within advocacy forums, and (in Section 4) highlights the productivity of alternative methods of evidence production and presentation through complementary forums.

4.1 The Forum

"Evidence is an event that has been rendered public. This publicity is often achieved through the act of making a claim, which is subsequently scrutinised by others, whose validation of the claim transforms it into evidence." Eyal Weizman[1]

Forums, as conceptualised by Eyal Weizman, are dynamic spaces where claims are made, scrutinised, and validated, ultimately shaping the trajectory of events and narratives. These spaces are critical for democratic engagement, negotiation, and contestation; they provide a space for voices to be heard and ideas to be debated. Forums encompass a diverse range of contexts, from art institutions to legal proceedings, advocacy platforms, and beyond, each offering a distinct environment for dialogue and political action.

Art galleries, museums, and exhibitions function as forums for creative expression and reflection, wherein artistic practices and investigative research merge to contest a variety of issues relating to society, politics, and the environment, among other interests. Activist groups, non-governmental organisations (NGOs), and community initiatives create forums for advocating change and raising awareness by empowering marginalised voices and challenging systemic inequalities. Academic gatherings provide forums for scholars and researchers to share findings, challenge established theories, and engage in intellectual exchange. Public squares, town hall meetings, and protest rallies serve as physical forums where citizens come together to voice opinions and challenge governmental policies. Legal spaces, such as courts and tribunals, serve as forums for the presentation and assessment of evidence through engaging in evidentiary practices that seek to establish what they deem to be truth and justice.

All of these forums afford a space for politics, negotiation, and contestation, albeit some more so than others. Each, to varying degrees, plays a pivotal role in the presentation of evidence supporting the claims that are made in them, ultimately influencing a course of events and the narratives that emerge from them.

However, a practice that wishes to contest and counter the regime of calculations within border management must intervene through the advocacy forums in which refugee and migration policies are drawn and redrawn, such as those convened by the United Nations High Commissioner for Refugees (UNHCR).[2]

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1 Weizman, E. (2020). Forensic Architecture: Notes from Fields and Forums. Zone Books.

2 UNHCR is a United Nations (UN) agency mandated to aid and protect refugees, forcibly displaced communities, and stateless people, and to assist in their voluntary repatriation, local integration, or resettlement to a third country.

4.2 Advocacy Forums (UNHCR)

Intergovernmental advocacy forums play a crucial role in international relations by providing a platform for governments and relevant stakeholders to discuss, negotiate, and collaborate on various global issues. One notable and influential actor in convening intergovernmental forums is the UNHCR, which focuses on matters related to refugees and displaced populations.

UNHCR forums utilise specific operational capacities and practices to address the complex challenges of forced displacement. In accordance with its principles, it works to ensure the protection and well-being of refugees, internally displaced persons (IDPs), and stateless individuals. This includes providing humanitarian assistance, advocating for their rights, and addressing issues such as asylum, resettlement, and repatriation. It collaborates with governments, other UN agencies, NGOs, and other partners to coordinate and deliver essential services to displaced populations. With the aim of ensuring a comprehensive response to humanitarian crises, it engages in advocacy efforts to raise awareness about the plight of refugees and IDPs, promote respect for their rights, and influence policies at national and international levels. It works to strengthen the capacity of governments and local communities to respond to displacement situations effectively, including through training government officials, developing legal frameworks, and providing technical support. It also gathers data on displacement trends, needs, and vulnerabilities to inform its response strategies and advocate for necessary resources.[3]

To achieve this, the UNHCR convenes four forums: (1) The Executive Committee (ExCom): this committee is composed of 101 states[4] and oversees the agency's work. It meets annually to discuss and adopt conclusions on specific refugee and IDP issues.[5] (2) The High-Level Dialogue on Protection Challenges: UNHCR convenes this forum to bring together governments, NGOs, and other stakeholders to discuss challenges related to protection and to find solutions.[6] (3)

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3 UNHCR. (n.d.). About UNHCR. Retrieved from https://www.unhcr.org/about-us.html

4 All members are listed here, as stated in the UNHCR Global Report of 2008: Algeria, Argentina, Australia, Austria, Bangladesh, Belgium, Benin, Brazil, Canada, Chile, China, Colombia, Costa Rica, Côte d'Ivoire, Cyprus, Democratic Republic of the Congo, Denmark, Ecuador, Egypt, Estonia, Ethiopia, Finland, France, Germany, Ghana, Greece, Guinea, Holy See, Hungary, India, Iran (Islamic Republic of), Ireland, Israel, Italy, Japan, Jordan, Kenya, Lebanon, Lesotho, Luxembourg, Madagascar, Mexico, Montenegro, Morocco, Mozambique, Namibia, Netherlands, New Zealand, Nicaragua, Nigeria, Norway, Pakistan, Philippines, Poland, Portugal, Republic of Korea, Romania, Russian Federation, Serbia, Somalia, South Africa, Spain, Sudan, Sweden, Switzerland, Thailand, The former Yugoslav, Republic of Macedonia, Tunisia, Turkey, Uganda, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, United States of America, Venezuela (Bolivarian Republic of), Yemen, Zambia.

5 United Nations High Commissioner for Refugees. (n.d.). Executive Committee (ExCom). Retrieved from https://www.unhcr.org/excom.html

6 United Nations High Commissioner for Refugees. (n.d.). High-Level Dialogue on Protection Challenges. Retrieved from https://www.unhcr.org/high-level-dialogue-on-protection-challenges.html

Figure 24 . 73rd session of the UNHCR Executive Committee (ExCom) Geneva (2022). Source: UNHCR.

Figure 25 . Closing plenary session at the High Commissioner's Dialogue on Protection Challenges in Geneva (2022). Source: UNHCR.

The Global Refugee Forum (GRF): this platform, held every four years, gathers governments, international organisations, and civil society to share best practices and pledges for supporting refugees and host communities.[7] (4) Regional Consultations: UNHCR organises this forum to discuss specific displacement situations, exchange information, and foster cooperation among countries in a given region.[8] These key forums play pivotal roles in shaping refugee protection policies and addressing challenges.

ExCom is a central and influential platform, composed of diverse UNHCR member states that are directly involved in refugee matters. Meeting annually in Geneva, ExCom adopts conclusions on refugee and displacement issues, reflecting its significance in guiding UNHCR's work. While ExCom's composition is based on demonstrated commitment to refugee protection, decision-making power within the platform primarily lies with member states, with the inclusion of civil society and refugees remaining limited.[9]

In a similar vein, the High-Level Dialogue on Protection Challenges gathers high-level representatives from various stakeholders, fostering comprehensive and multifaceted discussions. This forum operates over several days, addressing themes impacting refugees, from conflict-induced displacement to statelessness. The Dialogue promotes knowledge-sharing through workshops, case studies, and policy presentations, resulting in outcome documents that set out recommendations and commitments. This approach incorporates diverse actors, yet ultimate decision-making remains primarily vested in participating states.[10]

Meanwhile, the Global Refugee Forum (GRF) significantly extends the scope of engagement within the forum compared to the others. With the aim of improving the lives of refugees and host communities, GRF invites participation from UN member states, international organisations, and various stakeholders, transcending geographic boundaries. Held over several days, GRF's structured agenda comprises plenary sessions, thematic discussions, and side events, all driven by collaborative efforts. One notable feature is the incorporation of refugee perspectives, emphasising their lived experiences and endorsing tangible commitments.[11]

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7 United Nations High Commissioner for Refugees. (n.d.). Global Refugee Forum. Retrieved from https://www.unhcr.org/global-refugee-forum.html

8 United Nations High Commissioner for Refugees. (n.d.). Regional Consultations. Retrieved from https://www.unhcr.org/regional-consultations.html

9 United Nations High Commissioner for Refugees. (n.d.). Executive Committee (ExCom). Retrieved from https://www.unhcr.org/excom.html

10 United Nations High Commissioner for Refugees. (n.d.). High-Level Dialogue on Protection Challenges. Retrieved from https://www.unhcr.org/high-level-dialogue-on-protection-challenges.html

11 United Nations High Commissioner for Refugees. (n.d.). Global Refugee Forum.

Figure 26 . Inaugural session of the Global Refugee Forum in Geneva (2019).
Source: UNHCR.

UNHCR's Regional Consultations address challenges at localised levels, drawing insights from a wide array of stakeholders. Government officials, NGOs, and occasionally refugees partake in these dialogues, with the aim of formulating strategies tailored to specific regions. The consultations, spanning several days, involve plenary sessions, workshops, and group discussions. Internal procedures prioritise open exchanges, with the aim of creating equitable platforms for meaningful discussions. While UNHCR facilitates these consultations, decision-making processes involve diverse inputs, with the aim of preventing hierarchical limitations.[12]

In some instances, the UNHCR integrates refugees' voices, enhancing the consultative nature of these forums. This inclusivity acknowledges the importance of lived experiences in shaping protection strategies. Notably, the Africa Regional Consultations have actively incorporated refugee voices, enabling direct sharing of insights on protection and solutions.

However, despite these positive strides toward inclusivity, limitations persist across these forums. Decision-making authority remains primarily with member states, constraining the actual influence of non-state actors. The scope of participation varies, with refugees' involvement often framed as consultation rather than true co-creation toward solutions. As Nancy Fraser argues, forums that bring together diverse stakeholders risk reproducing systemic inequalities if the power dynamics among participants are not adequately addressed. She contends that marginalised groups often face barriers to meaningful participation due to structural inequalities, which inhibits their ability to influence decision-making processes.[13] While these forums serve vital roles in shaping policies and strategies, overcoming these limitations requires continued efforts to amplify marginalised voices and foster genuine inclusivity.

Language barriers, cultural differences, and power dynamics can also impact the extent to which refugee perspectives are accurately conveyed and comprehensively integrated into policy considerations. This challenge of adequately incorporating the voices of marginalised groups within refugee populations echoes Gayatri Chakravorty Spivak's conception of Gramsci's "subaltern". Spivak highlights the difficulty of representing the perspectives of historically marginalised individuals within dominant discourses. In the context of the UNHCR forums, refugees' experiences, particularly those of subgroups such as women and children, remain unheard due to structural barriers that inhibit

Retrieved from https://www.unhcr.org/global-refugee-forum.html

12 United Nations High Commissioner for Refugees. (n.d.). Regional Consultations. Retrieved from https://www.unhcr.org/regional-consultations.html

13 Fraser, N. (2007). Transnationalizing the Public Sphere: On the Legitimacy and Efficacy of Public Opinion in a Post-Westphalian World. Theory, Culture & Society, 24(4), 7-30.

their representation and expression.[14]

While these forums provide avenues for dialogue and policy formulation, translating their work into an impact on ground-level implementation remains a challenge. The recommendations and commitments generated in these discussions do not always translate seamlessly into tangible actions. The complexities of refugee crises often demand context-specific solutions, which may not fully align with the broader policies outlined in these forums. Additionally, the very structure of these forums can inadvertently contribute to their limitations. The time-bound nature of sessions, the need for consensus among diverse stakeholders, and the formal procedures involved can sometimes hinder deep engagement and genuine exploration of solutions. The focus on formalities can overshadow the urgent need to address immediate concerns faced by refugees and host communities. These constraints of time-bound sessions and the need for consensus mirror Jürgen Habermas's notion of the "colonisation of the lifeworld"[15] by formal systems. According to Habermas, the formal rationality of bureaucratic procedures can crowd out meaningful communicative action, impeding the genuine exploration of diverse perspectives.

Most significantly, the UNHCR advocacy forums play a pivotal role in upholding the regime of calculations inherent in both border management and humanitarian governance. These forums provide crucial platforms for the deliberation and formulation of policies, strategies, and approaches to address the complexities of refugee and displacement issues. While this structured approach is essential for effectively responding to crises, it can inadvertently strengthen a standardised methodology that may not sufficiently account for the unique intricacies of diverse displacement scenarios. This standardisation essentially mirrors the regime of calculations that is aimed at optimising responses but potentially neglects the specific requirements and nuances prevalent within border regimes.

Within these forums, extensive discussions often take place around the allocation of resources, including financial assistance, to support humanitarian endeavours. Resource allocation relies on various calculations, encompassing factors such as the magnitude of displacement, needs assessments, and commitments made by governments and organisations. However, the distribution of resources may at times be influenced by political considerations rather than exclusively humanitarian principles, thereby perpetuating a regime of calculations that does not align entirely with the ideals of neutrality and impartiality.

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14 Spivak, G. C. (1988). Can the Subaltern Speak? In C. Nelson & L. Grossberg (Eds.), Marxism and the Interpretation of Culture (pp. 271-313). University of Illinois Press.

15 Habermas, J. (1984). The Theory of Communicative Action. Beacon Press.

The pivotal role of data and statistics is evident in these forums, with statistical information pertaining to displacement patterns, demographic composition, access to essential services, and other pertinent indicators playing a central role in shaping decision-making processes. While the incorporation of data-driven decision-making is invaluable for fostering evidence-based approaches, it carries the risk of oversimplifying intricate situations and prioritising quantifiable outcomes over qualitative considerations. Consequently, this approach may result in decisions that do not comprehensively account for the human dimensions of displacement, and the intricacies of border regimes.

Power dynamics within these forums further contribute to the reinforcement of the regime of calculations. As previously mentioned, decision-making authority predominantly rests with member states, enabling them to wield their political influence to promote their individual interests. This power asymmetry can restrict the capacity of non-state actors, including civil society groups and refugees, to effectively shape policies and strategies. Consequently, the calculations formulated within these forums may ultimately reflect the priorities of the powerful rather than adequately addressing the needs of the most vulnerable.

4.3 Evidentiary Practices (UNHCR)

The forms of evidence that can be admitted to the various UNHCR forums reveals an attempt to adopt a multifaceted approach to substantiating discussions and decisions.

The UNHCR claims that evidence plays a pivotal role within ExCom during its deliberative process. With member states contributing substantially by presenting comprehensive state reports and data, thereby shedding light on their policies and the challenges they encounter. These contributions take various forms, including statistical data, case studies, and narratives. Furthermore, UNHCR reports and analyses, are said to offer an additional perspective by encapsulating trends concerning refugees and the difficulties involved in ensuring their protection. According to the UNHCR, these reports frequently include case studies, success stories, and personal accounts of the hardships faced by refugees, thereby enhancing the discussions with evidence-based insights.[16]

The UNHCR also posits that ExCom benefits from stakeholder input, including contributions from NGOs, civil society organisations, and, on occasion, refugees themselves. According to them, these inputs are typically shared through participation in events, seminars, and dialogues, serving to present a diverse range of perspectives. While the UNHCR acknowledges that they may not always occupy the central focus of ExCom deliberations, it argues that they make significant contributions to the broader understanding of refugee-related issues.[17]

Additionally, the UNHCR suggests that expert consultations constitute another vital component of ExCom's evidentiary process. They claim that experts, including academics and practitioners, are at times invited to present their research findings, analyses, and recommendations. These expert presentations, the UNHCR contends, provide valuable insights into the dynamics of displacement and humanitarian responses.[18]

Lastly, the UNHCR points out that discussions within ExCom often rest upon international legal frameworks, drawing from established legal instruments and conventions pertaining to refugees and human rights. These legal frameworks, the UNHCR maintains, serve as substantive evidence to bolster arguments advocating for the need to protect and provide assistance to refugees.[19]

However, this approach exhibits several limitations and omissions that impede a comprehensive critical evaluation of border regimes and migration policies. The current evidentiary process predominantly centres on data, reports, case studies, and narratives.

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16 United Nations High Commissioner for Refugees. (n.d.). Executive Committee (ExCom). Retrieved from https://www.unhcr.org/excom.html

17 Ibid.

18 Ibid.

19 Ibid.

While undoubtedly valuable, these forms of evidence tend to narrow the focus to immediate challenges and individual perspectives. Consequently, this approach often neglects the broader structural factors contributing to refugee crises, including geopolitical conflicts, economic disparities, environmental concerns, and, notably, the enduring humanitarian governance-driven regime of calculations. Without acknowledging these underlying determinants, a critical assessment of border regimes and their extractive attributes will encounter significant obstacles.

While the UNHCR invites stakeholder input, including those from NGOs and civil society organisations, there is often a power imbalance in these discussions. Member states hold significant influence, and the voices of refugees themselves may not always receive equal attention. This power dynamic can limit the critical examination of border regimes, as the perspectives of those who are most affected may not be fully integrated into decision-making processes. The emphasis on evidence-based discussions is essential, but evidence can be used selectively to support predetermined positions. This practice can hinder a critical assessment of border regimes, as evidence may be cherry-picked to align with certain policies or interests. The evidentiary process described by the UNHCR does not explicitly mention a thorough exploration of alternative approaches to refugee management and border regimes.[20]

The High-Level Dialogue on Protection Challenges follows a similar approach to that of ExCom, encompassing various elements in order to comprehensively address issues surrounding migration. According to the UNHCR, these components encompass real-life stories and case studies of displaced individuals and communities that focus on specific challenges and vulnerabilities. They also claim that expert testimonies encompass a wide range of fields related to refugee protection, including international law, human rights, humanitarian assistance, and conflict resolution, all of which contribute to discussions. An emphasis is made to explain that statistical data and trends related to displacement, asylum, statelessness, and other protection challenges underpin evidence-based dialogues. While contending that policy analysis aims to scrutinise existing policies, legal frameworks, and practices concerning refugee protection and displacement, identifying gaps and potential avenues for improvement. The UNHCR further asserts that information is shared about successful initiatives, programmes, and projects that have effectively addressed protection challenges and that are able to provide insights alongside visual components, including photographs, videos, and artistic

20 United Nations High Commissioner for Refugees. (n.d.). Executive Committee (ExCom). Retrieved from https://www.unhcr.org/excom.html

expressions, that offer a unique perspective on the refugee experience.[21]

The same limitations that we observe in the ExCom forum also apply here: a limited focus on structural factors, due to primarily concentrating on immediate challenges and individual stories; a power imbalance between stakeholders, as member states hold significant influence; a risk of selective use of evidence, due to predetermined positions and policies; and a lack of exploration of alternatives to refugee management and border regimes.

The Global Refugee Forum is also said to adopt a comprehensive approach to evidence gathering, utilising diverse types of evidentiary practices. Refugees are given a platform to share their first-hand testimonies, expressing their experiences, challenges, and needs. The UNHCR contends that these personal stories offer insights into the real-life situations faced by refugees. According to them, governments, international organisations, and NGOs are also given the opportunity to present data and statistics to emphasise the scale of the refugee crisis, the specific requirements of affected populations, and the effectiveness of particular interventions. They maintain that these quantitative insights contribute to a comprehensive understanding of the refugee context, asserting that academic research, studies, and reports provide evidence-based insights into various facets of the refugee situation, encompassing aspects such as health, education, livelihoods, and social integration. The UNHCR claims that these studies facilitate a deeper understanding of challenges and potential solutions. They also state that visual materials, such as photographs, videos, and documentaries, are employed to depict refugees' living conditions, challenges, and achievements, as well as the humanitarian response to their plight. These visual representations, according to the UNHCR, effectively convey the realities experienced by refugees. They maintain that governments and organisations may disseminate reports outlining their policies, programmes, and initiatives directed towards addressing refugee issues. According to them, these reports serve as evidence of commitments, progress made, and specific actions taken to support refugees. They also claim that innovative approaches, technological advancements, and novel practices are showcased as evidence of effective strategies aimed at supporting refugees and improving their circumstances, contending that these innovations highlight ongoing advancements in refugee assistance. The UNHCR suggests that evidence of collaborations and partnerships involving governments, NGOs, private sector entities, and various stakeholders underscores collective efforts in tackling refugee challenges, asserting that these collaborations emphasise the significance of a cooperative approach to

21 UNHCR. (n.d.). High-Level Dialogue on Protection Challenges. Retrieved from https://www.unhcr.org/high-level-dialogue-on-protection-challenges.html

addressing the refugee crisis.[22]

In the context of the Regional Consultations, familiar practices reemerge, mirroring those we have previously examined. These practices include the sharing of refugee testimonies and personal narratives, and the presentation of academic research studies, surveys, and reports, often carried out by NGOs and research institutions. Additionally, statistical data is utilised, covering aspects such as displacement statistics, demographic profiles, access to vital services, and other relevant metrics. Case studies that spotlight particular challenges, instances of successful interventions, and innovative approaches are also featured prominently, providing real-life examples.[23]

According to the UNHCR, the use of a varied evidentiary landscape within their forums underscores their commitment to well-rounded and substantiated discussions, promoting policies and strategies that are grounded in empirical realities. It must be noted, however, that these forums favour data, statistics, and official reports over other forms of evidence – due to spatial hierarchies, procedural and systematic considerations, and a desire to generate documents and policies that try to find solutions to administrative problems for humanitarian governance, as well as the rhetorical power of numbers themselves. In doing so, they render the presentation of other forms of material that are able to testify to the systematic issues in relation to border regimes, humanitarian governance, and their extractive imperatives, less objective.

While data, statistics, and official reports are valuable tools for understanding the scope of challenges, they mirror the same epistemic logic as is applied in the regime of calculations (as we saw in regard to the algorithm in Chapter 3). Both algorithmic governance and the use of data, statistics, and official reports play crucial roles in shaping our understanding of complex systems and informing decision-making processes. They serve as powerful epistemic tools that influence various aspects of society, yet they also raise important questions about objectivity, bias, and accountability. In both cases, data, statistics, and official reports are often perceived as objective sources of information. Algorithms process data to generate insights or make predictions, while official reports aim to document and analyse real-world events. This shared goal of producing objective knowledge highlights their epistemic parallel. Algorithmic governance systems and data-driven decision-making rely on the processing of large datasets to guide actions. Similarly, official reports and statistical analyses provide the evidence

22 UNHCR. (n.d.). Global Refugee Forum. Retrieved from https://www.unhcr.org/global-refugee-forum.html

23 UNHCR. (n.d.). Regional Consultations. Retrieved from https://www.unhcr.org/regional-consultations.html

base for policy decisions. In both cases, the goal is to enhance decision support and improve outcomes. At the same time, both algorithmic systems and data-driven analyses can be susceptible to biases present in data. Biassed or incomplete datasets can lead to skewed results and discriminatory outcomes. Likewise, official reports may be influenced by the perspectives and interests of those producing them, potentially introducing bias into policy recommendations. Algorithms often model complex systems, and the insights derived from data-driven analyses help us understand these systems better. Similarly, official reports purport to provide a comprehensive understanding of complex societal issues, such as economic trends, public health, or environmental changes.

The tension between data-driven decision-making and the complexities of border regimes brings to mind the writings of Donna Haraway: the former abstracts and masks the reality on the ground through the use of charts and lists of information that do not convey the extractive qualities and operations of the latter. Haraway's advocacy for "situated knowledge" underscores the need to acknowledge the partiality and context-dependent nature of all claims to knowledge.[24] Consequently, any approach to gathering evidence that is meant to address the systemic violence ingrained in border regimes – such as the financial extractions that result from naming practices within humanitarian governance explored through this thesis – cannot operate effectively when it essentially severs the evidence from the very context it intends to elucidate.

There exist further limitations to the evidentiary practices within these UNHCR forums, which can be illuminated through the lens of critical theories and scholarly insights.

Postcolonial theorists, such as Gayatri Chakravorty Spivak, have underscored the challenges of ensuring representation and voice. While the UNHCR forums attempt to include refugees' testimonies, these voices are filtered through translators, cultural biases, or predetermined agendas, potentially distorting their narratives. Power dynamics between interpreters and refugees can shape the narrative in unintended ways, leading to a "strategic essentialism" that reinforces Western paradigms rather than truly representing refugees' experiences.[25]

Feminist scholars, such as Linda Tuhiwai Smith, have highlighted the potential for power imbalances and epistemic violence in the process of gathering and presenting evidence. In the UNHCR

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24 Haraway, D. J. (1988). Situated Knowledges: The Science Question in Feminism and the Privilege of Partial Perspective. Feminist Studies, 14(3), 575-599.

25 Spivak, G. C. (1988). Can the Subaltern Speak? In C. Nelson & L. Grossberg (Eds.), Marxism and the Interpretation of Culture (pp. 271-313). University of Illinois Press.

forums, the inclusion of female refugee voices might be limited, leading to an incomplete understanding of gender-specific challenges. Additionally, the selection of evidence and narratives can inadvertently reinforce gender stereotypes or ignore intersectional experiences, perpetuating systemic inequalities.[26]

Critical refugee studies scholars have critiqued the dominant humanitarian narrative for obscuring structural injustices. While the UNHCR forums aim to address immediate protection needs, they might overlook the underlying geopolitical and economic factors that contribute to displacement. The focus on case studies and narratives can inadvertently reinforce a depoliticised view of refugee crises, diverting attention from systemic solutions.[27]

Scholars in visual studies and ethics emphasise the ethical challenges involved in using visual materials. Through the UNHCR forums, photographs and videos might inadvertently exploit refugees' suffering or perpetuate harmful stereotypes. Ethical considerations about informed consent, privacy, and cultural sensitivity are essential when utilising visual evidence, as the dignity and agency of refugees must be preserved.[28]

Scholars who engage in participatory action research caution against tokenistic involvement. While the UNHCR forums may include refugees in discussions, the level of influence they have in decision-making remains questionable. Genuine participatory engagement requires power-sharing and the incorporation of refugees' perspectives into policy formulation and implementation, rather than just symbolic inclusion.[29]

Critical humanitarian scholars emphasise the need to challenge the technocratic and managerial approach of traditional humanitarian practices. The UNHCR forums might inadvertently perpetuate a top-down approach by prioritising expert testimonies and quantitative data, sidelining the agency and local knowledge of refugees and host communities.[30]

All of these theoretical perspectives foreground the need for reflexivity, inclusivity, and contextual understanding in utilising evidence within the UNHCR forums. While these forms of evidence are crucial for informed discussions, they should be approached with

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26 Smith, L. T. (1999). Decolonizing Methodologies: Research and Indigenous Peoples. Zed Books.

27 Loescher, G., Milner, J., & Newman, E. (Eds.). (2008). Protracted Refugee Situations: Political, Human Rights and Security Implications. UNHCR.

28 Pink, S. (2007). Doing Visual Ethnography: Images, Media, and Representation in Research. SAGE Publications.

29 Reason, P., & Bradbury, H. (Eds.). (2008). The SAGE Handbook of Action Research: Participative Inquiry and Practice. SAGE Publications.

30 Chandler, D. (2010). Critical Perspectives on Global Governance: Rights and Regulation in Governing Regimes. Routledge.

a critical perspective that acknowledges the potential biases, power dynamics, and limitations inherent in their use.

In the book *Forensis: The Architecture of Public Truth*,[31] Thomas Keenan provides insights into the limitations and issues associated with certain forms of evidence, particularly in the context of human rights and humanitarian practices. Keenan's work emphasises the complexities of representing and interpreting evidence, highlighting the potential pitfalls and challenges that can arise. Through his lens, we can explore how the forms of evidence discussed earlier may fall short in regard to capturing the full scope of refugee experiences.

One key aspect Keenan addresses is the inherent subjectivity and interpretation involved in presenting evidence. He argues that evidence is not a straightforward reflection of reality but is shaped by various perspectives, biases, and agendas. This is clear when we view the limitations of testimonies and personal narratives presented in the UNHCR forums. While these narratives provide insights, Keenan would caution that they can be influenced by emotional factors, distortions of memory, or selective storytelling, potentially obscuring a comprehensive understanding of refugee situations.[32]

Moreover, Keenan's emphasis on the visual and the role of images in bearing witness to atrocities brings attention to the potential pitfalls of relying solely on visual documentation. While photographs and videos can be powerful tools, they can also be subject to manipulation, misrepresentation, or misinterpretation. This aligns with concerns about the authenticity and context of visual evidence presented in the UNHCR forums, where the origin and circumstances of such visuals might not always be fully scrutinised.[33] Keenan's exploration of the "crisis of witnessing" is particularly relevant when considering the limitations of data and statistics. He raises questions about the effectiveness of evidence that might be quantifiable but that lacks the emotional and ethical resonance required to prompt action. This mirrors the challenge of primarily using statistical data to convey the complex and deeply human dimensions of displacement and refugee experiences within the UNHCR forums.[34]

Keenan's insights underscore the need for a critical approach to various forms of evidence presented within a given forum. His emphasis on subjectivity, interpretation, and the complexities of

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31 Keenan, T. (2012). Evidence is an event that forms a narrative. In Seeing Justice Done: The Age of Spectacular Capital Punishment in France (pp. 51-63). University of Michigan Press.

32 Keenan, T. (2014). Getting the dead to tell me what happened. In Grusin, R., & Millner, J. (Eds.), Forensis: The Architecture of Public Truth (pp. 87-103). Sternberg Press.

33 Keenan, T. (2017, 26 October). Watching Without Seeing [Lecture]. Video lecture series. The European Graduate School.

34 Keenan, T. (2018, 27 October). How to Make a Refugee [Lecture]. Video lecture series. The European Graduate School.

witnessing remind us of the need to carefully navigate the limitations of testimonies, visual documentation, data, and legal frameworks. Keenan's work encourages us to adopt a nuanced view of evidence, prompting us to consider how these limitations can impact the effectiveness of the UNHCR forums in addressing the complex and multifaceted experiences of refugees.

The limitations of evidentiary practices within the UNHCR forums reflect inherent constraints and challenges embedded within the forums themselves – as they stand, there is no provision for challenging the regime of calculations that is perpetuated through border management and humanitarian governance.

Evidence is not a neutral or objective entity but is shaped by social, political, and cultural factors.[35] In the context of the UNHCR forums, the forms of evidence that are prioritised or accepted may be influenced by the dominant narratives of member states or powerful actors within the international community. This can result in critical systematic issues, such as the regime of calculations that arise from naming practices, being overlooked.

In the UNHCR forums, the presentation of evidence is subject to formal procedures and protocols, which may favour certain types of evidence over others. This formalisation can exclude alternative forms of evidence, such as visual documentation or artistic representations, which might in fact unveil what is really at stake with regard to the operations of border regimes – i.e. the fact that they perpetuate extractive methodologies.

The limitations in regard to the diversity of evidence that is admitted can consequently restrict the forums' capacity to engage with the full spectrum of refugee experiences. Through the UNHCR forums, the target audience primarily includes member states and policymakers. This focus on producing evidence for specific stakeholders can lead to the prioritisation of certain topics or narratives that align with their interests. As a result, the voices and concerns of refugees and non-governmental actors, and evidence that can testify to the extractive qualities of border regimes, may be marginalised.

This being considered, it is evident that the UNHCR advocacy forums do indeed allow for alternative forms of evidence to be presented, even though it might be challenging to accord them a prominent position, given the prevalent emphasis on data-driven evidentiary practices. Nonetheless, this imperfect scenario allows for an entry point. This leads us to a pragmatic approach to forums, of the kind suggested

35 Keenan, T. (2012). Evidence is an event that forms a narrative. In Seeing Justice Done: The Age of Spectacular Capital Punishment in France (pp. 51-63). University of Michigan Press.

by Weziman in "Savage Objects: Notes on Political Imagination."[36] He says that "the lesson seems to be that you need not affiliate yourself to the forum. One has to engage with often-imperfect scenarios, but always in order to open new possibilities, constantly re-adjusting."

4.4 Complementary Forums

Building on the preceding section, which emphasised the significance of an intervention within UNHCR advocacy forums, this section explores complementary forums and their ability to amplify the arguments put forth in this thesis. While the UNHCR forums provide a direct and focused audience, complementary forums, such as art institutions, galleries, public spaces, and protests, to name a few, can serve as sites in which we can advance our claims and counterclaims, supported by the presentation of evidence that can attest to the extractive nature of border regimes and humanitarian governance.

To illustrate this clearly, we will unpack this premise through discussing three exemplary projects, each displaying different complementary practices and sites of intervention.

The first project, named "Left to Die Boat",[37] undertaken by research initiative Forensic Oceanography,[38] exemplifies a complementary relationship between multiple forums and the methodologies that exist among them. The project focuses on a tragic incident in the Mediterranean Sea where a boat carrying people in transit was left to drift, leading to numerous deaths. Through a detailed analysis of available data, including distress calls and satellite images, the project aimed to reconstruct the events, shedding light on the inadequate response of the authorities. This initiative highlighted the humanitarian crisis and the need for more effective search and rescue operations.[39] The project involved the compilation of a comprehensive written report, around 60 to 70 pages long, meticulously reconstructing the events. The report also analysed the varying degrees of responsibility of different nations, international corporations, and

36 Weizman, E., & Pereira, G. (Eds.). (2012). Savage Objects: Notes on Political Imagination. Guimarães 2012 – European Capital of Culture in Partnership with Imprensa Nacional-Casa da Moeda.

37 Forensic Oceanography. (n.d.). Left to Die Boat. Retrieved from http://www.forensic-architecture.org/case/left-to-die-boat/

38 Forensic Architecture. (n.d.). Forensic Oceanography Projects. Forensic Architecture. https://forensic-architecture.org/category/forensic-oceanography

39 Forensic Oceanography. (n.d.). Left to Die Boat. Retrieved from http://www.forensic-architecture.org/case/left-to-die-boat/

agencies that could have aided in rescuing these people. It included maps and visualisations that illustrated the reconstruction process. Presented in court a year later, the report circulated through multiple courts across different countries, due to the complexity of identifying responsible entities. Finally, after 12 years, a French judge declared that a case should be opened on the matter.[40]

In 2013, when Forensic Oceanography was invited to make a contribution to an exhibition, they transformed the report into a video, which served to disseminate the research and its findings to a wider audience. This video, with its unique narrative and aesthetic, offered a distinct perspective on the migration crisis at sea, contrasting with sensationalised media portrayals. The project's evolution into a video allowed it to reach diverse contexts, including museums and exhibitions. While the written report retained its significance as a legal instrument in court proceedings, the video contributed to a broader cultural conversation on the issue of migration.[41]

What is important to note is that the video practices of Forensic Oceanography and the initial written report for this project did not converge within legal forums – wherein the language of this domain, the predominant method of evidence permitted is the report. In contrast, these two forums – that of art and law – played a complementary role within the practice of Forensic Oceanography: mobilising and making one forum work against – or, for that matter, with – the other forum. Lorenzo Pezzani, one of the founders of Forensic Oceanography, along with Charles Heller, explained: "I guess the aspiration would be through the practice and the work to contribute to and to create different forums. A more hybrid forum perhaps, or one that sits between the existing and new or that extends the existing in different ways."[42]

The "Left To Die Boat" case is an excellent example of this: since the publication of the video in April 2013, it has been presented in a total of 31 exhibitions worldwide. Pezzani explained: "I feel that the video manages to keep together and explore that tension between the more narrative, poetic engagement with the event. But also, it does that through a very dry and reduced to the bone kind of aesthetic and attitude. It also offered, at the time, what was a very different image of migration at sea. Which, still today, in a sense really revolves around the iconic imagery of sensationalism."[43] What was created was intentionally distinct from the familiar media and public portrayals. This uniqueness is telling through the two separate elements: the written report and the video, produced at different intervals, each circulating through

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40 Conversation with Lorenzo Pezzani, 22nd June 2023 (See Appendix).
41 Ibid.
42 Ibid.
43 Ibid.

complementary forums. There exist multiple forms of understanding and knowing, each implying a different form of aesthetics. Whether one is watching a video, reading a report, or reviewing a fact sheet, the same narrative can be conveyed. However, the way we grasp the narrative may be fundamentally distinct, even if each form of evidence aims to communicate the same essence.[44]

My second example showcases a proactive involvement with challenging forums, embracing imperfections, and uncovering opportunities within such contexts: it is the inaugural project by the research agency INTERPRT.[45] This project, which ran from 2014 to 2016, investigated genocide and environmental catastrophes in West Papua orchestrated by the Indonesian government. Collaborating with organisations such as Stop Ecocide and the United Liberation Movement for West Papua, and actively engaging indigenous leaders from the Pacific region, INTERPRT conducted pioneering mapping and counter-mapping studies of the West Papuan conflict, employing innovative techniques. Their dedication and groundbreaking work earned them an invitation to showcase their investigations at an exhibition during a side event hosted within the UN headquarters in New York. This event took place in advance of a summit involving all UN member states.

Nabil Ahmed, the founder and director of INTERPRT, explained: "Just before we could set up the exhibition, the Indonesian government started employing obstructive tactics. Access was denied, and opportunities that were available one day vanished the next. We engaged in diplomatic manoeuvring with this country, but ultimately we couldn't stage the exhibition or the side event, featuring the leader of the West Papuan liberation movement and Baltasar Garzon, within the UN premises. We found ourselves in an unimaginable situation, physically relocating the exhibition materials from the UN building to the office of the Pacific Island UN representatives a few blocks away. This became one of the most unconventional, guerrilla-style exhibitions we've ever orchestrated. We set up the panels in just half an hour, with all the Pacific Island leaders and Baltasar Garzon gathered around the table. We guided them through the exhibition."[46]

The relocation of exhibition materials can be seen as an example of creating a counter-space[47] within existing power structures and due to adversarial tactics employed by the representatives of Indonesia. By moving their exhibition to the office of the Pacific Island UN representatives, INTERPRT effectively carved out a complementary

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44 Conversation with Lorenzo Pezzani, 22nd June 2023 (See Appendix).

45 Interpret. (n.d.). Homepage. Retrieved 7 September 2023, from https://www.interprt.org

46 Conversation with Nabil Ahmed, 24 May 2023. (See Appendix).

47 Counter-spaces are areas or moments where marginalised voices and dissenting perspectives can challenge dominant narratives and power structures.

Figure 27 . Exhibition view of the Left to Die Boat project. MACBA, Barcelona (2017). Source: Forensic Oceanography.

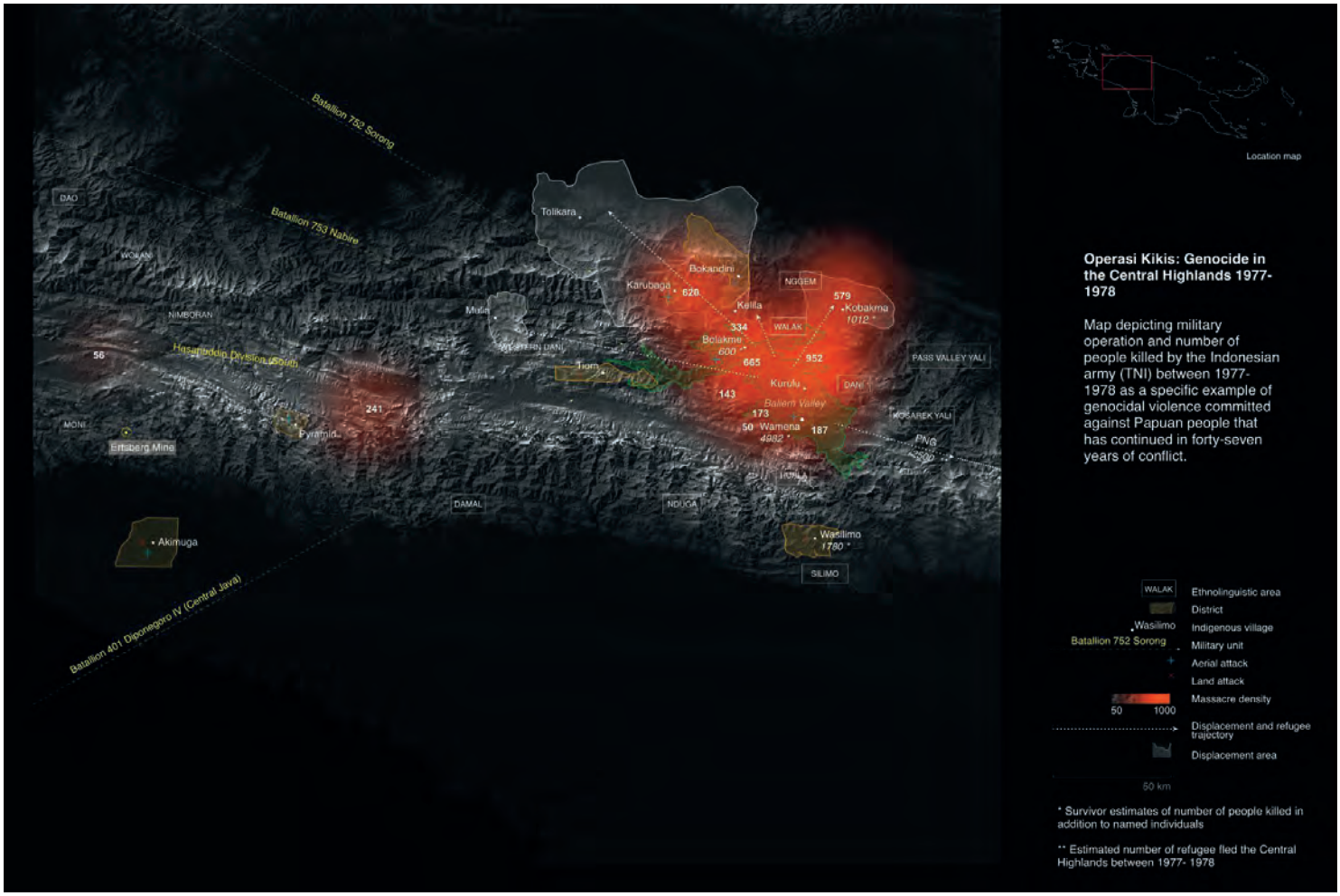

Figure 28 . A drawing depicting military operations and the number of people killed by the Indonesian army (TNI) between 1977-19781. Source: INTERPRT.

forum where the evidence that they had produced on behalf of the victims of genocide and ecocide could be presented and deliberated on. This unconventional and adaptive strategy represents a form of asymmetrical resistance to bureaucratic obstacles. By guiding key actors, including Pacific Island leaders, through their exhibition, INTERPRT engaged in a form of performative resistance. They used the act of presenting evidence and narratives as a performative tool to challenge the prevailing discourse and draw attention to the West Papuan cause.

My final example is a project implemented by the Migrant Image Research Group.[48] In November 2010, the photographer and filmmaker Armin Linke was invited to participate in a research expedition with the Migrant Image Research Group to Lampedusa, Italy's southernmost island. They were tasked with investigating the surge of migrant arrivals on the island and examining the role of photography – both photography by migrants and by others – in shaping the visual narratives that are closely associated with migration. Linke's primary objective within this endeavour was to create a series of photographs while exploring the impact of visual imagery on the public perception of migration and its influence on political discourse.[49]

In the project's early stages, the team centred their efforts on connecting with image producers, namely people in transit, to uncover the motivations behind their photography. Emphasis was especially placed on those who had undertaken treacherous sea voyages in their quest to reach Lampedusa. Their objective was to gain insights into why these individuals crafted these images, their reasons for carrying them, and their utility on social platforms in regard to communicating with their respective communities and families back in their home countries. The team discovered that these images served a dual purpose: beyond conveying information, they also acted as tools for processing emotions, offering a therapeutic means of expression.[50]

Concurrently, research group members took the initiative to gather images found on migrant boats – visual records that law enforcement and government institutions had largely overlooked, despite their significance for immigration and asylum processes. The team aimed to establish a local museum showcasing these images, but ethical issues emerged: the act of displaying images of individuals without their consent raised questions about their right to privacy.[51]

Due to these considerations, and in partnership with Spector Books, the project eventually took the form of a book titled *Lampedusa:*

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48 Migrant Image Research Group, Leipzig. (2017). Lampedusa [en]: Image Stories from the Edge of Europe (1st ed.). Spector Books.

49 Conversation with Armin Linke, 30 May 2023. (See Appendix).

50 Ibid.

51 Ibid.

Image Stories from the Edge of Europe.[52] Instead of using the images they had taken and found, they decided to commission illustrators to redraw these photographs. The aim was to avoid compromising the privacy and security of those who might have secured asylum, potentially subjecting them to discrimination by revealing their illicit entry into Italy and Europe as a whole.[53]

This project illustrates an evolution in the Migrant Image Research Group's choice of forum in which to participate – drawing parallels with the adaptive techniques displayed by INTERPRT. This adaptation allowed them to convey their findings and visual narratives in a controlled and ethical manner. Choosing to use commissioned illustrations instead of original photographs demonstrated their adaptability and commitment to respecting the rights and privacy of the subjects.

These three examples demonstrate the importance of participating in different forums, and exploring complementary practices, adaptive methodologies, and ethical stances in order to push forward claims and counterclaims.

While this thesis, and the practice developed through the following chapters, primarily targets UNHCR advocacy forums as sites of intervention, I argue that it is also important to make claims and counterclaims in complementary forums. Through these forums, the evidence that is produced through the practice can become a field through which the regime of calculations that is inherent to humanitarian governance and border management is contested.

52 Migrant Image Research Group, Leipzig. (2017). Lampedusa [en]: Image Stories from the Edge of Europe (1st ed.). Spector Books.

53 Conversation with Armin Linke, 30 May 2023. (See Appendix).

Figure 29 . Internal pages of Migrant Image Research Group, Leipzig. (2017). Lampedusa [en]: Image Stories from the Edge of Europe (1st ed.). Spector Books.
Source: Migrant Image Research Group.

5. An Alternative Form of Evidentiary Practice

This chapter introduces a novel documentary practice, encompassing a diverse range of multimedia methodologies, including interviews, audio-visual materials, and physical models. Within this framework, the primary objective is to provide evidence conveying the processes and instances through which a displaced individual becomes enmeshed within the regime of calculations discussed through the preceding chapters. This entanglement occurs through a series of naming practices orchestrated by humanitarian governance and border regimes. Ultimately leading to the extraction of value from the bodies of displaced populations by a wide array of entities, including states, inter-state agencies, national and international corporations, local businesses, technology firms, security contractors, non-governmental organisations, law enforcement agencies, charitable organisations, design firms, construction companies, mobile phone providers, financial institutions, travel agencies, media outlets, among many others.

I have discussed in detail the limitations and shortfalls of the evidentiary practices accommodated in the UNHCR forums for advocacy (4.3), with the prevailing evidentiary process primarily taking the form of data and reports, case studies and personal narratives, although valuable, often having a narrower scope, concentrating on immediate issues and individual stories. This approach tends to overlook the larger structural forces that give rise to refugee crises, and specifically the enduring regime of calculations that is driven by humanitarian governance itself. Failing to recognise these fundamental drivers, data- and report-driven practices present substantial barriers to critically evaluating border regimes and their extractive characteristics.

Furthermore, data-driven decision-making and algorithmic governance reflect the epistemic logic of the regime of calculations. This logic emphasises quantification, measurement, and prediction as central to understanding complex systems, potentially overlooking qualitative aspects. While data, statistics, and official reports are often seen as objective sources of information, they can be biassed, and biases in data or the perspectives of report authors can lead to skewed results and discriminatory outcomes, undermining their purported objectivity. Shifting the analytic unit to a material semiotic assemblage, rather than a quantity, a variable or dividual entails a different order of evidence making, one that takes into account the situational dimension of asylum, its complex mediations and the imbrication of spatial and symbolic forces.

For these fundamental reasons, an alternative form of evidentiary practice must be multimedia, – not as the sign of interdisciplinary artistic practice – but as the registration of the multidimensional mediations that attend to asylum seeking. It must incorporate key stakeholder voices and narratives, must document

the spaces within which extractive regimes are perpetuated, and must mobilise physical models as a means to register, measure, and annotate the regime of calculations that is inherent in border management and humanitarian governance.

5.1 40 cm^3

The body of an individual in transit serves as a critical gauge of the dynamics at play from the moment they embark on their journey towards a better life. As they set off, they become entangled in an unrelenting cycle of calculations designed to derive profit from their presence in various forms. Numerous instances discussed in the preceding chapters illustrate this phenomenon, ranging from the financial intricacies of smuggling networks, reception centres, internment facilities, detention centres, deportation zones, and prison cells, to the financial considerations of legal apparatuses, such as the European Commission algorithm that is used to calculate the distribution of bodies based on economic factors, and the financial incentives offered to states at the peripheries of the European Union to prevent migrant mobility. These calculations extend to labour markets, housing markets, and commodities tailored to displaced populations. In each of these cases, there is a spatial dimension, and within these spaces, the body of a person in transit is reduced to its most fundamental attributes: its size and volume – the physical space it occupies.

66.6 litres. 40 cm^3, the volume of an average person.

This object, the cube (depicted on the previous page), conveys the common denominator in all of the extractive calculations of border regimes and humanitarian governance. Without this volume, the mass of a person, there is no other calculation. All of the ensuing social and political relationships encountered by a person in flight – be it through reception facilities or within undocumented labour markets – depend on this building block. Once it is in place, a series of considerations come into play, as part of a regime of calculations.

I produced the cube pictured as a form of material enquiry. This was a first step in what was to become a larger body of work. And as part of this work, I have speculated about a practice that utilises physical models and objects in order to evidence the extractive nature of border regimes. The new evidentiary practice proposed here is the result of this process.

Figure 30 . 66.6 litres. 40cm³, the volume of an average person (2016).
Source: Kamil Dalkir.

5.2 Interviews, Recordings, and Physical Models

As indicated at the onset of this chapter, the practice unfolds through three methodologies – interviews, audio-visual materials, and physical models. While all three components are crucial for this multimedia practice, the interviews and audio-visual work serves to set up the most important element of this approach: physical models.

The practice begins with the interview process, which is designed to be iterative. This approach aims to enhance the depth of research engagement. It involves conducting multiple interviews over an extended period of time, with the aim of establishing a strong rapport, gaining insights, and developing an understanding of the regime of calculations under investigation. This method permits a gradual and dynamic exploration of a research landscape, fostering an evolving and reciprocal relationship between the interviewer and the interviewees.[1]

One crucial aspect of the iterative process is establishing trust. Through repeated interactions, interviewees become more comfortable sharing their perspectives, experiences, and sensitive information. Building this trust is essential for accessing nuanced and context-specific insights that are often unique to the research area and site in question. The iterative nature of the interviews also allows for flexibility. It gives the opportunity to adapt questions and exploration as the researcher uncovers new information and themes.[2] This adaptability is particularly important when addressing complex areas related to the regime of calculations within humanitarian governance and border management.

Time for reflection is another significant benefit of the iterative process. Both interviewers and interviewees have the opportunity to review the discussions and insights gathered during previous interactions. This reflective element can lead to deeper insights and more thoughtful responses in subsequent interviews. Moreover, the iterative approach accommodates changes over time. It recognises that the research context may evolve during the course of the study, and researchers can adjust their inquiries accordingly. This adaptability ensures that the research remains relevant and up to date.[3]

Strengthening collaboration is another advantage of iterative interviewing. As the relationship between the interviewer and interviewees deepens, it becomes easier to engage in collaborative efforts. This collaboration can lead to further insights and a more comprehensive understanding of the regime of calculations.

Finally, the iterative process allows time to adapt to local

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1 Brinkmann, S., & Kvale, S. (2014). InterViews: Learning the Craft of Qualitative Research Interviewing. Sage Publications.

2 Hesse-Biber, S. (2010). Qualitative Approaches to Mixed Methods Practise. Qualitative Inquiry - QUAL INQ. 16. 455-468. 10.1177/1077800410364611.

3 Fontana, A., & Frey, J. H. (2007). The Interview: From Formal to Postmodern. Routledge.

customs and cultural norms. Researchers can develop a sensitivity to the cultural context, ensuring that interviews are conducted respectfully and in a culturally appropriate manner.[4] This cultural awareness is crucial for building trust and rapport with the interviewees.

In summary, the iterative interview process is a strategic approach that offers numerous benefits, including trust-building, flexibility, reflection, adaptability, collaboration, and cultural sensitivity. These advantages collectively contribute to a more comprehensive and nuanced exploration of the research topic at hand.

When contemplating the participants of the interview process, consideration of the ethics of conducting interviews with displaced people can apply the theoretical framework of "vulnerability", as proposed by philosopher Martha Nussbaum.[5] Nussbaum's approach emphasises the importance of protecting an individual's basic human capabilities, which include the capacity to lead a life that they have reason to value. When applying this approach to the context of interviews with people in transit, an ethical concern emerges regarding the potential exploitation and harm that they might face during the interview process. Such interviews are problematic due to existing power dynamics and the potential for exploitation. The displaced often find themselves in vulnerable positions due to economic, legal, and social factors. Conducting interviews under such circumstances can exacerbate their vulnerability by exploiting their need for employment, legal documentation, or other forms of assistance. The power imbalance between interviewers (often researchers or officials) and migrants can lead to undue influence, where they might feel compelled to share sensitive information or narratives in exchange for promised benefits. This exploitation can undermine a persons' agency and dignity, contravening the principles of the Nussbaum's approach, which emphasise the importance of safeguarding individuals' autonomy and well-being.[6]

Additionally, interviews with displaced people can raise concerns about informed consent. They might not fully understand the implications of sharing their stories or they might be unaware of how the information will be used. Language barriers, unfamiliarity with local customs, and limited legal knowledge can all contribute to migrants providing information without comprehending the potential consequences. This challenges the ethical principle of autonomy, as individuals should have the capacity to make informed decisions about their participation without coercion or manipulation. If migrants are not

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4 Fontana, A., & Frey, J. H. (2007). The Interview: From Formal to Postmodern. Routledge.

5 Nussbaum, M. C. (2011). Creating Capabilities: The Human Development Approach. Harvard University Press.

6 Ibid.

adequately informed and do not have the freedom to decline interviews without negative repercussions, their autonomy is compromised.[7]

These ethical concerns provide a strong case to critically evaluate the practice of conducting interviews with displaced persons. For these reasons, this practice proposal turns to the lived experiences of humanitarian aid workers who can testify to the extractive regime of humanitarian governance.

Focusing on a methodology for conducting interviews with humanitarian aid workers, rather than the displaced, can offer valuable insights and address ethical concerns, while still contributing to a comprehensive understanding of migration dynamics. This approach recognises the complexities of the migration context, respects the agency and vulnerabilities of people in transit, and ensures that research is conducted in an ethical and responsible manner.

Humanitarian aid workers are often positioned as intermediaries between migrants and broader societal structures. By interviewing aid workers, researchers can explore the challenges, successes, and ethical dilemmas faced by those who are directly engaged in providing assistance. As mentioned above, while conducting interviews with the displaced involves ethical considerations related to informed consent, potential exploitation, and cultural sensitivity, shifting the focus to humanitarian aid workers can help to better manage these ethical concerns, or avoid them altogether. This is because aid workers are more likely to have the experience, training, and sensitivity required to navigate these issues, thereby reducing the risks of causing harm or discomfort to vulnerable individuals. Moreover, humanitarian aid workers have unique perspectives and insights relating to the migration process. They witness the challenges, needs, and coping strategies of people firsthand, and their experiences can provide valuable context and nuance to the discourse. Interviews with aid workers can therefore shed light on systemic issues, gaps in support, legal frameworks, and the impact of policies on people in transit. Aid workers are also involved in implementing policies, programmes, and interventions that directly affect migrants. These insights can shine a light on the financial apparatus of humanitarian aid. Finally, engaging with humanitarian aid workers can provide a form of ethnographic insight into the experiences and challenges of people in flight because aid workers often build relationships with migrant communities, offering a more direct view of their lives and struggles.

Thus, while interviewing the displaced, and particularly those who are in vulnerable situations or have experienced trauma, can potentially re-traumatise them or compromise their safety, focusing on

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7 Rubin, H. J., & Rubin, I. S. (2011). Qualitative Interviewing: The Art of Hearing Data. Sage Publications.

the perspective of aid workers affords the possibility of engaging with the topic at hand without putting the well-being of migrants at risk. This methodology allows the researcher to gain a deeper understanding of the challenges faced by both migrants and aid workers, in a bid to evidence the financial calculations inherent in migrant accommodation, labour, and mobility.

Interviews with these key stakeholders play a crucial role in uncovering the network of calculations that exist between various parties involved in the lives of displaced individuals. These calculations are undertaken by employers, landlords, caregivers, local communities, intermediaries, aid workers, social workers, law enforcement, and even by one displaced person in relation to another. Through these interviews, a detailed and nuanced understanding of the regime of calculations can begin to emerge – based on which a study can then focus on specific sites where these calculations manifest. These sites serve as tangible examples of the abstract financial and biopolitical calculations discussed in the interviews. In the proposed documentary practice, to document these sites effectively, audio-visual recordings are employed.

It is important to note that while there is a substantial body of visual documentary work that aims to highlight the lived experiences of displaced populations, there is a notable gap in using this medium to document the financial and biopolitical calculations that underlie these experiences. In other words, while visual documentaries often capture the human stories and emotional aspects of displacement, they may not necessarily explore the intricate financial transactions, power dynamics, and decision-making processes that shape the lives of displaced persons. The incorporation of audio-visual recordings into the research methodology addresses this gap. These recordings offer a visual and auditory dimension that complements the interview data. They allow the researcher to capture not only the physical settings and interactions at these sites but also the non-verbal cues, gestures, and contextual details that may be missed in written or verbal descriptions alone. By documenting the sites of inquiry through audio-visual recordings, the research can provide a more comprehensive and multi-dimensional perspective on the regime of calculations. This visual documentation becomes a valuable tool for conveying the complexities of financial transactions, power negotiations, biopolitical dynamics, and their traces that often remain hidden beneath the surface of displacement narratives.

The combination of interviews with key stakeholders and the use of audio-visual recordings help to unearth and document the intricate calculations at play within the lives of displaced individuals and their interactions with various actors and institutions. This

approach enhances the researcher's ability to evidence the financial and biopolitical dimensions of displacement.

To achieve a deeper level of detail, the audio-visual component employs a specific camera technique known as the locked-off shot[8] or immobile shot. This technique involves keeping the camera stationary, essentially fixed in one position, without any movement during the recording. The static nature of the shot is intentional and serves a specific purpose within the research framework. The primary advantage of using a locked-off shot is that it allows for an extended and uninterrupted observation of a particular site, perspective, or object. Unlike dynamic camera movements or rapid changes in focus, which can sometimes distract from the details of the subject, an immobile shot maintains a steady focus on the chosen element of interest. This prolonged duration provides researchers with a unique opportunity to thoroughly examine and scrutinise the intricacies of a given space or object.[9]

One of the key objectives of employing a locked-off shot is to enable a deep engagement with the environment being studied. An extended amount of time can be spent with the visual data, carefully analysing and interpreting various elements within the frame. This includes closely observing the built environment, the natural landscape, and any visible or implied traces that may signify the presence of financial and biopolitical calculations.[10] By maintaining a fixed perspective and allowing for an extended exposure of the subject, the locked-off shot offers the researcher the time and space needed to "read" the environment. It permits a nuanced exploration of the physical surroundings and the subtle cues that may not be immediately apparent but that carry significant information. These cues may include architectural features, spatial arrangements, material conditions, or even the absence of certain elements – all of which can speak to the series of calculations that shape the experience of people in transit.[11]

In essence, an immobile shot serves as a patient and contemplative tool for visual inquiry.[12] It is an aid to the research

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8 A "locked-off shot" in filmmaking refers to a camera shot that remains completely still or stationary, without any movement or panning. It is often used to capture a stable and unchanging frame, typically for specific stylistic or narrative purposes. Bordwell, D., & Thompson, K. (2010). Film Art: An Introduction. McGraw-Hill Education.

9 Allen, R. (2014). "There Is Not One Realism, But Several Realisms": A Review of "Opening Bazin." October, 148, 63-78. http://www.jstor.org/stable/24586620

10 Timothy Pachirat's book "Every Twelve Seconds: Industrialised Slaughter and the Politics of Sight" delves deeply into the visual aspects of a specific environment, reflecting on how visual perspective and technology can affect our understanding of a given space. Pachirat, T. (2011). Every Twelve Seconds: Industrialised Slaughter and the Politics of Sight. Yale University Press.

11 Andrew, D., & Joubert-Laurencin, H. (Eds.). (2011). Opening Bazin: Postwar Film Theory and Its Afterlife. Oxford University Press.

12 In "Tales of the Field," Van Maanen explores the nuances of ethnographic research, emphasising the significance of detailed observations and storytelling in qualitative studies.

objective of uncovering how value is extracted at various intervals within the migrant journey and across the built environment. Through this method, the researcher can capture and analyse the spatial and material manifestations of these calculations, shedding light on the relationships between displacement, economies, and power dynamics. Overall, the use of a locked-off shot within the audio-visual component of the research methodology enhances the capacity to document and interpret the visual evidence of calculations through a series of settings, contributing to a more comprehensive understanding of the central theme within the research.

The interview process and audio-visual documentation are instrumental in gathering specific information about the extractive operations, their methods, and how they manifest spatially. This wealth of detail forms the foundation for the third and most critical component of this research methodology: *physical models.*

Physical models serve a distinct purpose that is separate to that of the audio-visual work. While the audio-visual component concentrates on a particular site, perspective, or object in order to explore the financial and biopolitical calculations in depth, the use of physical models takes a different approach. It involves the reconstruction of the sites investigated during the research process, allowing for scalability, precise measurements, and annotations. These physical objects are created and manipulated to unveil various spatial relationships, spanning vast landscapes, urban environments, and interior spaces. This hands-on approach provides a unique perspective on the spatial aspects of extractive operations, shedding light on the exchanges between elements within these spaces.

Models have the capacity to embody measurements, and in doing so they reveal critical aspects of bodily, spatial, and material relationships.[13] Models provide a means to explore and understand these bodily relationships. By representing the dimensions and proportions of objects or spaces, models highlight how different elements interact with the human body or other relevant entities. This can be crucial in sites where extractive methodologies are implemented through designed objects and spaces that accommodate human physiology. Through spatial representations, models offer insights into the spatial relationships between various components.[14] For

Van Maanen, J. (1988). Tales of the Field: On Writing Ethnography. University of Chicago Press.

13 Leon Battista Alberti emphasised the importance of accurate representation in architecture. Physical models, in his view, served as tools for architects to represent three-dimensional structures in a tangible and comprehensible manner. These models were instrumental in conveying the intended dimensions of buildings to both clients and contractors. Alberti L. B. Rykwert J. Leach N. & Tavernor R. (1988). On the art of building in ten books. MIT Press.

14 Juhani Pallasmaa's writings underscore the importance of a holistic sensory experience in architecture. By engaging multiple senses, including touch, architects can create

instance, the use of scale models can visualise how buildings, streets, and landscapes interact within an environment. This can aid in the understanding of how a regime of calculations may optimise spatial layouts and functionality. Models are not mere visual aids: they convey calculations and measurements that are inherent in the subject matter.[15] Quantitative data is encoded within a physical scale model, which can enable precise analysis. Models can foreground the role of a human body within a given context. For instance, in the design of vehicles, interiors, or workstations, physical models help assess how the body interacts with the environment. This emphasises the importance of considering the body's measurements and ergonomics. Conversely, it also allows us to understand the design logic within those spaces, which consider how efficiently a body will perform there.[16] Thus, models can reveal the material extractions and commodifications of a regime of calculations. They can also reveal certain extractive qualities of border regimes and humanitarian governance. Models can lead to unconventional or "strange" scalar transformations. For instance, small structures can be magnified to reveal intricate details that might otherwise go unnoticed. These scalar shifts can offer novel perspectives.[17] Models inherently incorporate measurements, distances, and material properties. They can bring these aspects to the forefront, emphasising their significance within a given context.[18] Models make measurements, distances, relationships, and materiality visible through carefully chosen scales. Scaling down allows for detailed examination, while scaling up can reveal patterns and trends that might be imperceptible at the original scale. This adaptability can enhance our understanding of complex extractive systems.

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environments that resonate with human experience on a profound level. Physical models serve as a means to synthesise sensory perceptions and integrate them into the design process. Pallasmaa J. (2010). The thinking hand: existential and embodied wisdom in architecture. Wiley.

15 Pallasmaa also suggests that physical models provide a unique way for architects to understand the scalar and dimensional aspects of their designs. By creating tangible models, architects can experience the spatial relationships and proportions in a more direct and embodied manner. This experiential understanding goes beyond what can be achieved through two-dimensional drawings or digital representations. Pallasmaa J. (2010). The thinking hand: existential and embodied wisdom in architecture. Wiley.

16 "The Measure of Man and Woman" provides anthropometric data and guidelines for designing products and spaces that accommodate the dimensions and movements of the human body. The book covers various aspects of design, including furniture, tools, workspaces, and more. While it is a practical resource for designers, it also critically examines how design impacts the human experience and the relationship between the body and the designed environment. Tilley A. R. & Henry Dreyfuss Associates. (2002). The measure of man and woman: human factors in design (Rev.). Wiley.

17 Leon Battista Alberti recognised that architects required a way to communicate the intended scale of a building. Physical models allowed architects to create scaled-down replicas, providing a visual and tactile understanding of how the building's proportions would translate to the full-scale structure. Alberti L. B. Rykwert J. Leach N. & Tavernor R. (1988). On the art of building in ten books. MIT Press.

18 Ibid.

Once these models are constructed, the final component of this practice is to carry out a performance using the model. This involves conducting a dynamic reenactment of the calculations and bodily and spatial relationships depicted, yet not explicit, within the physical model. This performative aspect adds an experiential dimension to the otherwise static representation. Through performance, the models come to life,[19] allowing for a more vivid understanding of the financial and biopolitical calculations embedded within the spaces they speak of. To carry out a performance using the model also serves as a means of critique and reflection.[20] It allows for a critical examination of the extractive operations and power dynamics at play within the spaces under investigation. The performance of a model serves as a powerful tool for conveying the logic of such extractive methodologies, prompting discussions about the ethical and political dimensions of displacement and the extractive practices littered along routes of migration. It is only through this performativity that models can become powerful tools that not only embody measurements but also serve as a dynamic means of inquiry,[21] enabling us to explore the intricate network among bodily, spatial, and material relationships, shedding light on the extractive qualities of border regimes and humanitarian governance.

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In this new form of evidentiary approach, interviews, audio-visual materials, and physical models work collectively to form a comprehensive practice that is dedicated to documenting the regime

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19 Pallasmaa places a strong emphasis on the tactile and haptic qualities of architectural models. Tactility refers to the sense of touch, and haptic perception involves the entire body's engagement with the environment. Physical models, in this context, become more than visual representations; they are tools to physically interact with space. Pallasmaa J. (2010). The thinking hand: existential and embodied wisdom in architecture. Wiley.

20 Within the context of Gilles Deleuze and Félix Guattari's machinic assemblages, physical models are seen as entities that capture and convey information. These models are not passive representations but active components that participate in the process of information exchange within a larger assemblage. They embody specific forms, structures, or configurations that contribute to the overall functioning of the machinic assemblage in question. Thus, their utility through performance aids critical reflection. Deleuze G. Guattari F. & Massumi B. (2013). A thousand plateaus: capitalism and schizophrenia (Reprinted paperback). Bloomsbury.

21 Bruno Latour's work on Actor Network Theory emphasises that knowledge and reality are not pre-existing entities waiting to be discovered; rather, they are actively constructed through the interactions and associations of various actors. This includes the performative role of objects, technologies, and other non-human entities in shaping our understanding of the world. In Actor Network Theory, the term "performativity" refers to the idea that actors not only represent but also perform and enact. Physical models, for example, can be seen as performative elements within networks. They actively contribute to the construction of knowledge by embodying certain ideas, facilitating communication, and influencing the actions of other actors in the network. Latour B. (2005). Reassembling the social: an introduction to actor-network-theory. Oxford University Press.

of calculations explored throughout this thesis. Each component complements and relies on the other, creating an interdependent approach to evidence collection. The interview process is the foundation of this practice. It allows for the gathering of firsthand accounts, perspectives, and insights from key stakeholders, such as humanitarian aid workers. These interviews provide the qualitative and human dimension of the regimes of calculations, offering narratives and context that cannot be captured through other means. The audio-visual component supplements the interviews by visually documenting sites of interest. It extends the reach of inquiry by allowing the researcher to explore accessible spaces informed by interview data. By using techniques such as the locked-off shots, this medium provides an extended and detailed view of these spaces, enabling the observation of spatial nuances and traces that reflect the financial and biopolitical calculations at play. Physical models add another layer to the evidence-gathering process. They serve as reconstructions of sites of inquiry, especially those that may be inaccessible for various reasons. These models can be scaled, measured, and annotated, providing a tangible record of spatial relationships within landscapes, urban settings, and interiors, and among bodies. They offer a unique perspective, allowing the researcher to examine and understand the spatial manifestations of extractive operations through a hands-on and interactive methodology.

Together, these three components create an interdependent approach to documentation. The interviews provide the human context, the audio-visual material captures visual evidence, and the physical models offer a tangible, measured, and scalable rendition of the sites themselves, along with the human interactions that take place within them. This comprehensive practice ensures that the multiple facets of these regimes are thoroughly examined, providing a more nuanced understanding of the complex forces at play.

Figure 31 . A alternative form of evidentiary practice, day 1 of experimentation (2023).
Source: Kamil Dalkir.

6. A Regime of Calculations: Calabria

Throughout this thesis, I have shown how individuals in transit are frequently categorised for what appear to be administrative purposes, often labelled as illegal immigrants or asylum seekers, to name but two. And these labels subject them to various forms of financial and biopolitical exploitation, all of which are designed to extract value from their existence. This process of extraction can commence as soon as they are assigned a specific identity. For instance, when an individual's legal status is altered to that of a detainee, they are swiftly placed in confinement. This transformation initiates a cascade of financial considerations, encompassing their housing and sustenance, as well as the maintenance and security measures within the detention facility.

However, the regime of calculations persists and manifests in different sites and settings well beyond its catalytic origins at borders and camps, informing and transforming modes of social relations across a variety of urban and rural settings.

Therefore, if an individual's legal status is transformed into that of a refugee, affording them the opportunity to relocate to a major city in northern Europe, such as Paris, or if they are cast as illegal and forced to seek refuge through illicit means in a rural area in southern Europe, like Calabria, both scenarios expose them to further calculations within labour markets.

This process of redeploying displaced individuals, which forms a network of financial calculations, plays out across diverse labour markets within the various nations, landscapes, cultures, and languages of the European Union (EU). In Paris, they may find employment opportunities in the hospitality sector, while in Calabria, and across much of the Mediterranean region, they are highly likely to secure work in the agricultural industry.

6.1 Situating Calabria

After completing an analysis of Lesvos as an illustrative case (as discussed in Chapter 3), which underscored the extractive mechanisms within humanitarian governance, I now shift my attention to Italy.

In recent years, Italy has once again emerged as a focal point for displaced populations arriving from Africa, driven in part by factors such as climate change, ongoing conflicts, and established migration routes from North Africa to the Italian coastline. Therefore, the practice adopted by this thesis aims to explore the process through which the pursuit of asylum is turned into a financially productive endeavour in Italy, with a particular focus on agricultural labour within the region of Calabria.

The arrival of migrants in southern Italy has been a multifaceted and recurring phenomenon over the years, characterised by a range of humanitarian, social, and political complexities. This issue has a historical context spanning several decades and is influenced by factors including economic disparities, conflicts, and geographical proximity. Since the latter half of the 20th century, and specifically in the regions of Sicily and Calabria, southern Italy has functioned as a key point of entry for the displaced crossing the Mediterranean Sea in pursuit of better prospects and refuge.[1]

The significant influx of people to southern Italy began in earnest during the 1970s and 1980s. This period witnessed the emergence of irregular migration routes, with boat crossings becoming a prevalent method. The early 2000s witnessed a surge in arrivals, primarily originating from North Africa and the Horn of Africa. Italy's geographical proximity to these regions and its extensive coastline made it a natural and accessible destination.[2]

A noteworthy turning point occurred in 2011 with the overthrow of regimes in Libya and Tunisia during the Arab Spring, leading to a substantial increase in migrant arrivals. The years 2014 and 2015 marked a dramatic escalation due to conflicts in Syria, Libya, and other nations in the Middle East and North Africa, as well as the proliferation of smuggling operations. The so-called Mediterranean migrant crisis gained global attention as numerous people embarked on perilous sea journeys, resulting in tragic incidents of shipwrecks and loss of life.[3]

In response to this, EU member states initiated search and rescue operations in the Mediterranean, exemplified by Operation Mare Nostrum. However, these efforts proved difficult due to challenges related to coordination, legal responsibilities, and fears that such efforts

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1 BBC News. (2015). Migrant crisis: Migration to Europe explained in seven charts. Retrieved from: https://www.bbc.com/news/world-europe-34131911

2 United Nations High Commissioner for Refugees (UNHCR). (2022). Italy Situation. Retrieved from: https://www.unhcr.org/it/italy-situation.html

3 International Organization for Migration (IOM). (2021). Migration Flows - Europe. Retrieved from https://migration.iom.int/europe

might inadvertently incentivise more migrants to undertake dangerous sea crossings. Subsequently, the EU and its member states pursued measures to curb irregular migration, resulting in shifts in the routes undertaken. The 2016 EU-Turkey deal, aimed at reducing migration from Turkey to Greece, subsequently prompted an increase in migration from Libya to Italy. The Central Mediterranean route became a focal point once again, with smuggling networks exploiting the instability in Libya to organise these perilous crossings.[4]

This reactivation of routes leading to the Italian shore necessitates a more in-depth examination of the immediate arrival regions, with a particular focus on Calabria. This region has seen the emergence of extractive mechanisms as a consequence. While the analysis of Lesvos primarily addressed forms of value extraction related to the humanitarian accommodation and processing of arrivals, such as those within camps and registration centres, the Calabrian context provides insights into value extraction that takes place through the exploitation of the labour of asylum seekers and undocumented persons.

Calabria is a suitable site for testing the proposed practice, as it offers significant insights into the apparatuses that captivate the migrant's body, and its financially productive capacity. This is evident when we take a closer look at the vast agricultural industry present throughout the region. The landscape of Calabria is utilised for various forms of agriculture, including crop cultivation, orchards, and livestock farming. Calabria's diverse climate and fertile land make it suitable for growing a wide range of produce, such as olives, citrus fruits, vegetables, cereals, and grapes.[5] Coupled with the region's well-publicised irregular migrant activity – particularly due to its proximity to the Mediterranean Sea and its strategic location for migrant crossings[6] – the agriculture industry has increasingly relied on seasonal migrant labour for the harvesting of crops.

For these reasons, I conducted iterative interviews with humanitarian aid workers Rosanna Liotti and Fabio Saliceti, both based in Calabria. They work closely with Associazione Comunità Progetto Sud,[7] an organisation that manages social services, including creating support networks and reception systems, and implementing social initiatives. Their scope of work encompasses aiding victims of human trafficking and forced migration, offering guidance from initial

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4 International Organization for Migration (IOM). (2021). Migration Flows - Europe. Retrieved from https://migration.iom.int/europe.

5 Cottineau, C., & Arnaud, A. (2016). Agricultural landscapes as socio-ecosystems: the spatial organisation of agricultural practices in a Mediterranean landscape. Landscape Ecology, 31(5), 1051-1068.

6 Triandafyllidou, A. (2017). Irregular Migration Flows to Italy: Challenges and Responses. European University Institute, Robert Schuman Centre for Advanced Studies.

7 Comunità Progetto Sud. (n.d.). Home. https://www.comunitaprogettosud.it

consultations in Gioia Tauro to legal protocols for asylum applications in Catanzaro and Cosenza, and even assisting with asylum hearings in Rome. Their focus is on informing migrants about their rights, due process, naturalisation, work contracts, accommodation, and overall well-being while residing in the region. Their decade-long role as aid workers in Calabria puts them in a strong position in regard to analysing undocumented labour markets, and most importantly, testifying as to how migrant identities inform and give rise to value extraction.

6.2 In Practice

Since the summer of 2021, I have engaged in ongoing discussions with Rosanna and Fabio, and during this time I have made numerous trips to Calabria, spent extended periods of time with them, and dived into conversations about my research and their humanitarian work in the region. The practice described here has been significantly influenced by these dialogues. Without the invaluable input of Rosanna and Fabio, this thesis would not have unfolded in Calabria as it did. Consequently, what follows – the detailed descriptions of events and sites – represents the culmination of our discussions, which have led to site-specific inquiries conducted using the multimedia methodology developed as part of this thesis.

From these interviews and discussions, three crucial sites emerged that support the research claims concerning financial calculations in the accommodation, labour, and mobility of people in transit across Calabria. These sites are located in the region's capital, Catanzaro, as well as the towns of Amantea and Cassano all'Ionio.

Catanzaro, one of the largest cities in the region, is situated east of Lamezia Terme, along the Ionian coast. This city is marked by unexpected and unusual migrant arrivals and features a makeshift processing facility in the impoverished neighbourhood of Corvo.

Amantea, a small town situated on the Tyrrhenian Sea to the northwest of Lamezia Terme, is home to a significant Bangladeshi community, primarily consisting of young single men. They live in overcrowded conditions and are predominantly engaged in agricultural labour.

Cassano all'Ionio, located in the northeastern part of the region, lacks public transportation connections. The town is notable for a protest by migrant workers that took place there in 2019, and houses a regional office of the Territorial Chamber of Labour (Camera Del Lavoro Territoriale), which assists displaced individuals, both documented and undocumented, with their legal proceedings.

Catanzaro

Catanzaro, the capital city of Calabria is situated atop a hill that overlooks the waters of the Ionian Sea. This hillside setting typically does not serve as a conventional arrival point for boats carrying individuals who have embarked on the arduous journey across the Mediterranean Sea. However, the summer of 2022 brought about an exceptional and unprecedented situation that unfolded against the backdrop of Catanzaro's distinctive landscape. During this period, a significant event occurred when a boat carrying a substantial number of passengers, approximately 500 young men and children, arrived on the shores of Catanzaro Lido, having sailed from Libya. This exceptional arrival was a departure from the norm and presented an entirely unique set of circumstances. The large number of individuals on board the vessel required immediate attention and response.

Figure 32 . Still frame from video footage showing Catanzaro Lido, where the boat arriving from Libya was docked in the summer of 2022.

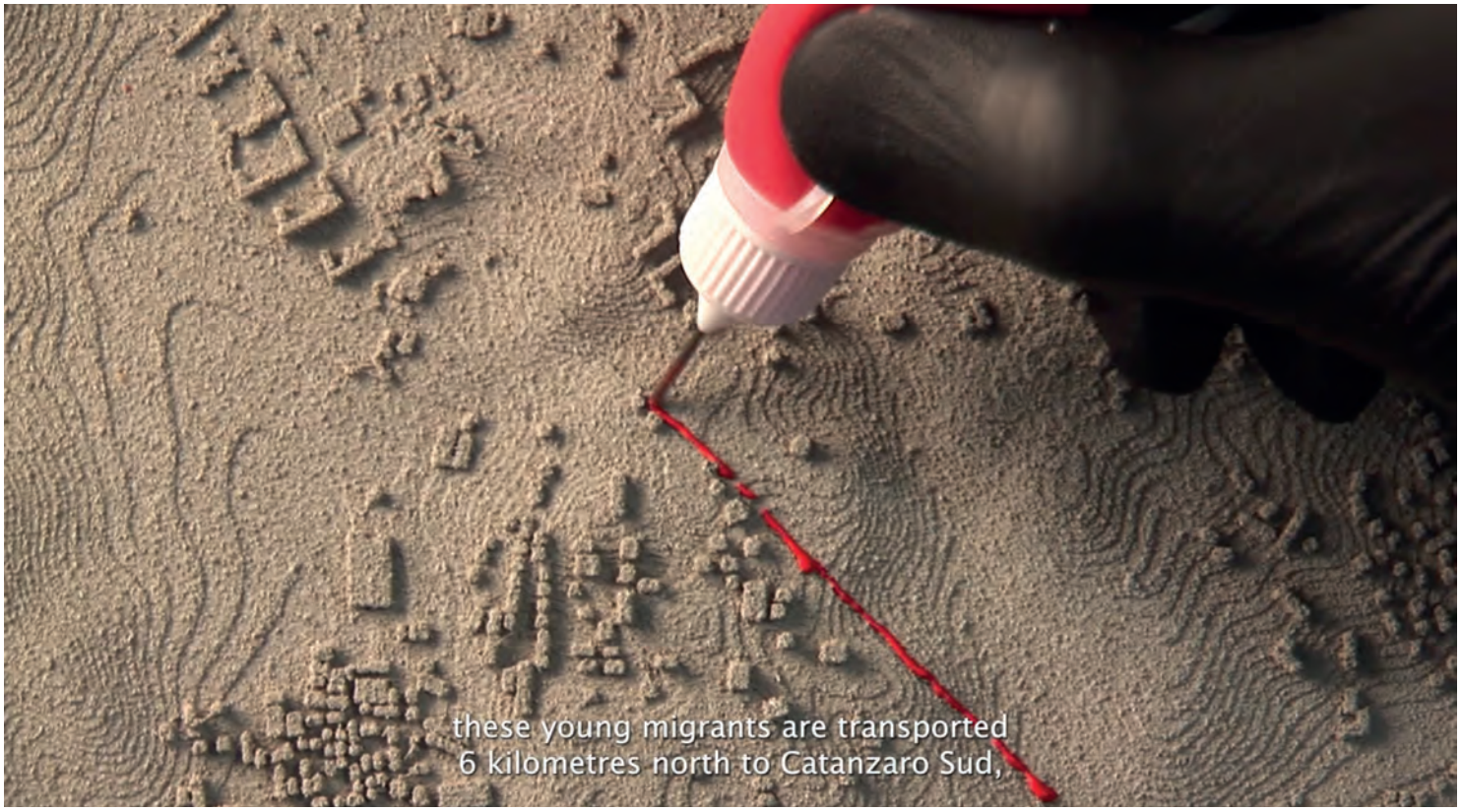

Figure 33 . Still frame from video footage tracing the trajectory of the movement of people from the Lido to the neighbourhood of Corvo.

After initial attention at the arrival point, these young men and children were transported 6 km north to Catanzaro Sud (the southern district of the city), and specifically to the neighbourhood of Corvo.

The relocation from Catanzaro Lido to Catanzaro Sud was a significant move, for several reasons. Firstly, this geographical shift presented more than just a change in location: it involved moving from the coastal area of Catanzaro to the southern part of the city, which is situated inland. This relocation has both practical and symbolic implications. One important geographical feature contributing to the significance of this move is the presence of a hill that separates Catanzaro Sud from the northern part of the city. This hill not only creates a physical barrier but also serves to isolate Catanzaro Sud from the historical centre of Catanzaro. This separation underscores the spatial division within the city, with Catanzaro Sud existing as a distinct area, both in terms of physical location and cultural identity.

Within Catanzaro Sud, the neighbourhood of Corvo stands out as a notable example. Often overlooked and underserved, Corvo faces particular challenges and disparities as compared to other parts of the city. One physical marker of its dislocation is the presence of a road boundary that encircles the neighbourhood. This circular road serves as a tangible symbol of Corvo's geographical – and by extension social – isolation.

The relocation from Catanzaro Lido to Catanzaro Sud involved more than just an act of humanitarianism: it reflected an intent to hide the arrival, reception, and processing of the displaced population, taking them out of sight. Considering the impoverished nature of Catanzaro Sud, which is also home to organised crime syndicates, the dislocation of this site from the rest of Catanzaro holds great significance in regard to the relocation. Catanzaro Sud is a place where the undesirables of the local area live, and it was also where the undesirable bodies of the displaced were accommodated, pending their processing and dispersal into society.

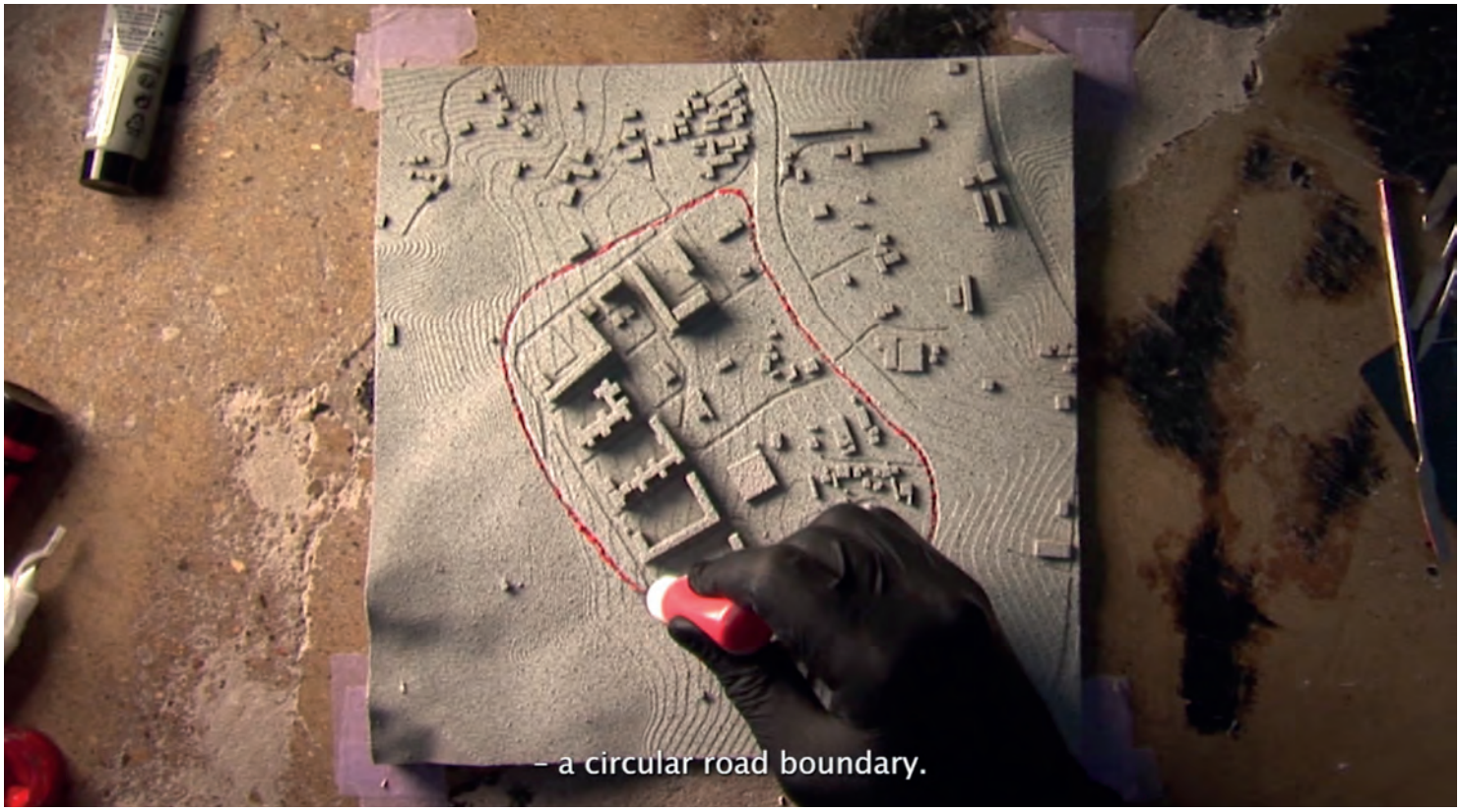

Figure 34 . Still frame from video footage tracing the infrastructural boundary that dislocates the neighbourhood of Corvo from its surroundings.

Figure 35 . Still frame from video footage showing the derelict sports hall located at the centre of the neighbourhood of Corvo.

A derelict sports hall that stands at the heart of this neighbourhood holds a dual symbolism, representing both solidarity and confinement in the context of migrant reception. This facility, originally intended for sports and recreational activities, has been temporarily repurposed to serve as a processing and housing centre for those in need. Its transformation highlights the adaptive nature of local communities and humanitarian efforts, while shining a light on the shortcomings of the national government which has not given enough attention to such regions and constructed facilities that are more adequate for such emergencies.

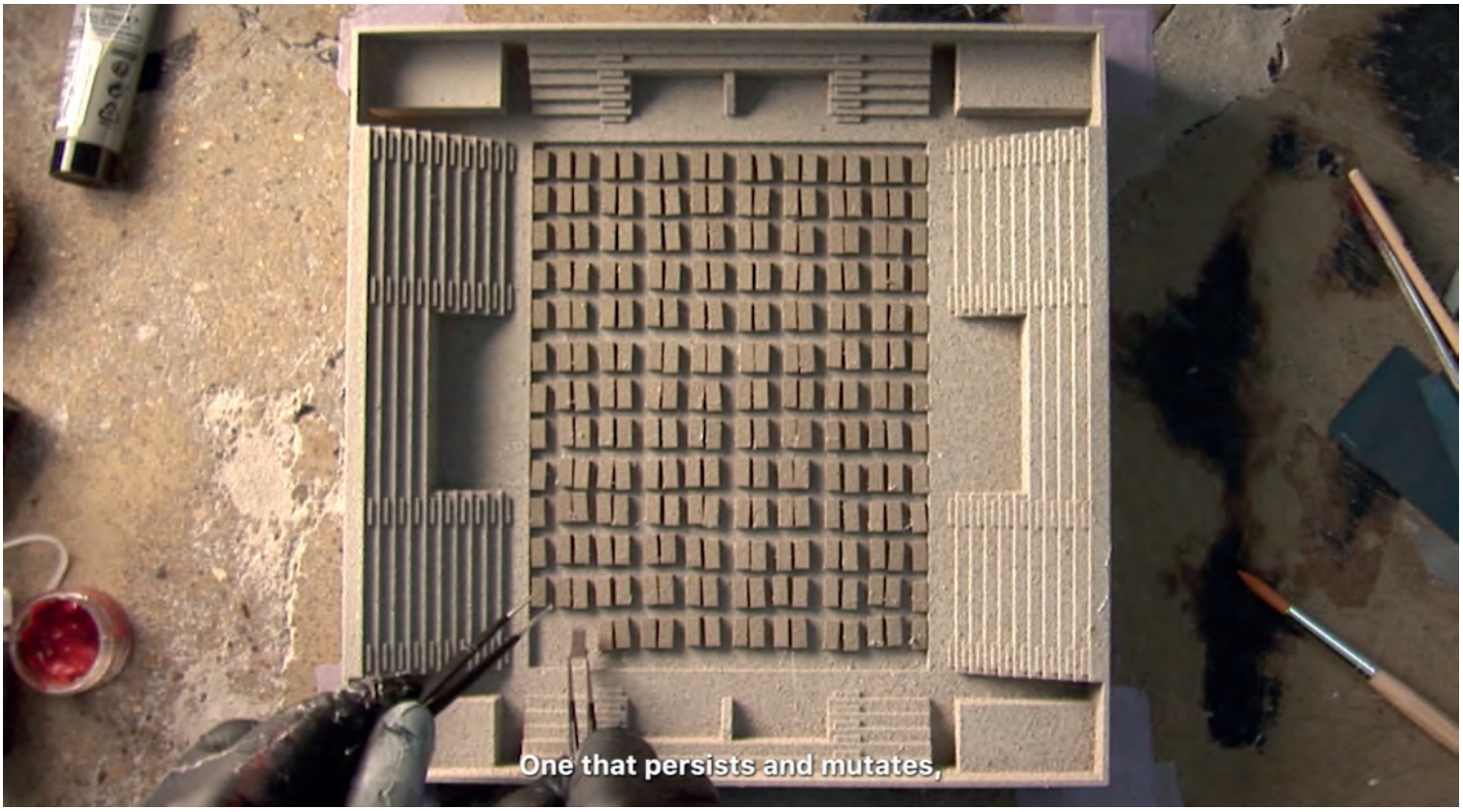

Figure 36 . Still frame from video footage showing the placement of beds within the main hall of the sports hall.

Inside the sports hall, one can observe a carefully organised arrangement of rows of beds, each placed with precision and attention to detail. These beds, approximately 500 in number, occupy the entirety of the main hall. This setup reflects the sheer scale of the urgency for temporary accommodation to address immediate needs.

On the one hand, the sports hall stands as a symbol of solidarity, representing the local community's commitment to providing shelter and support to those in distress. It serves as a physical manifestation of the willingness to assist displaced individuals during their time of need. Conversely, the hall also embodies confinement, as it becomes a temporary residence for migrants who have embarked on perilous journeys and are now subject to a process of registration and assessment. While offering shelter and essential services, it underscores the restrictions and challenges that people in transit face as they navigate through the bureaucratic procedures and uncertainties of their legal status. In essence, the repurposed sports hall encapsulates the complex relationship between humanitarian efforts, community support, and the realities of displacement. It serves as a symbol of both compassion and the limitations imposed on migrants within the context of their arrival and reception.

As humanitarian actors provide aid and assistance to these young migrants, they engage in a comprehensive data collection process. This process involves recording essential information, including, but not limited to, nationality, first name, last name, gender, age, level of education, and current health condition. This data collection serves as a vital preparatory step for subsequent registration processes that are designed to evaluate and determine the legitimacy of a migrants' arrival in Italy.

The collected data not only helps establish a basic profile of each person but also forms a foundational dataset for various administrative and legal procedures. It is instrumental in confirming their identity, assessing their eligibility for asylum or other forms of legal status, and facilitating their placement within the Italian immigration system. Additionally, this information may be shared with relevant authorities, immigration agencies, and governmental bodies to ensure proper documentation and adherence to legal procedures, each constituting different potential avenues for the extraction of value from the body of the displaced.

It is argued that this data collection process is a critical component of humanitarian efforts aimed at providing assistance to migrants, while also ensuring compliance with legal and regulatory requirements. It underscores the importance of accurate and thorough record-keeping in managing migration flows, while purporting to upholding the rights and well-being of displaced individuals.

Conflict, climate change, and various upheavals lead to the displacement of people. Thereafter, the displaced navigate systems that are designed to discourage, obstruct, detain, confine, categorise, and accommodate them. These systems establish spatial and legal thresholds. As individuals traverse camps, detention centres, or internment facilities, they cross these thresholds, undergoing transformations of their legal status. They become undocumented, displaced individuals, detainees, or asylum seekers. In the paragraphs that follow, we will see how these identities and legal statuses form extractive economies around the presence of displaced populations in the sites identified across Calabria.

Figure 37 . Still frame from video footage showing Amantea, from the top of the hill down to the Tyrrhenian Sea.

Figure 38 . Still frame from video footage showing a physical model of Amantea, indicating the extent of agricultural fields that mark its immediate surroundings.

Figure 39 . Still frame from video footage showing parts of the transport infrastructure that links Amantea to neighbouring towns and cities.

Amantea

Amantea, a town nestled in the province of Cosenza, lies along the Tyrrhenian Sea. It benefits from convenient transportation links, including a nearby highway and public transport connections to the commune of Lamezia. This strategic location has made it an attractive destination for displaced people arriving from the southern regions of Italy, leading to a notable concentration of migrants within the town.

One prominent displaced community in Amantea primarily comprises young Bangladeshi men. These individuals have settled in apartments scattered throughout the town, often in overcrowded living conditions. Within this setting, we witness the emergence of a complex interplay of financial and biopolitical dynamics. These dynamics are no longer orchestrated solely by state or inter-state institutions but have rooted themselves deeply in the local context. They revolve around the economic imperatives of individuals who are in dire need of income.

It is here that enters the figure of the "caporale", who is typically a migrant who has lived in the region for an extended period, working in the fields and becoming well-versed in local customs, and who is now proficient in the regional Italian dialect. Having experienced the system of exploitation himself over a decade of residency and labour, the caporale is now transformed into an agent who applies the same extractive techniques to new arrivals. These newcomers, having made their way to Calabria, often fall prey to the caporale's tactics.

The caporale initiates contact with the newcomer through a seemingly friendly gesture: offering them a beverage. This initial act of kindness is designed to build trust and rapport with the young man. It creates a sense of indebtedness or obligation in the newcomer, as he may feel inclined to reciprocate or trust the caporale due to this friendly interaction. Once the caporale has gained trust, he adopts the role of a mentor or guide. He presents himself as an experienced individual who can help the migrant find employment and navigate their new environment. This mentorship approach plays on the newcomer's vulnerability and desire for assistance during their transition to a new place and a new life. The caporale promises assistance and support in finding work, and may describe success stories of other people they have helped, creating a false sense of hope and opportunity. This deceptive narrative is used to lure the newcomer further into their scheme.

Unbeknownst to the migrant, the caporale's real intention is to exploit them financially. The caporale typically arranges for the newcomer to work in low-paying or exploitative jobs, often in the agricultural sector. However, instead of them receiving their full wages, the caporale intercepts a significant portion of their earnings. For example, a day's labour worth 40 euros is reduced to just 20 euros after

the caporale takes his share.

Once the caporale has successfully exploited this newcomer, he continues to seek out other new arrivals to ensnare in this cycle of exploitation. The caporale's network extends to multiple newcomers who are all unaware of the deceptive practices at play.

Each day at 3 a.m., at the base of a hill, on a street corner, young Bangladeshi men gather, waiting for transportation arranged by the caporale. The caporale plays a central role in coordinating transportation for the migrants. He arranges for vehicles to pick up and drop off the labourers at the fields where they will work. This logistical organisation ensures that the migrants are transported efficiently. However, this service comes at a cost to these young men. They are required to pay for their transportation to and from the fields: of the 20 euros earned for a day's labour, they end up with only 15 euros once transportation expenses are deducted.

Figure 40 . Still frame from video of a zoomed in model of Amantea, tracing the site where labourers are collected for work, and the trajectory of their departure.

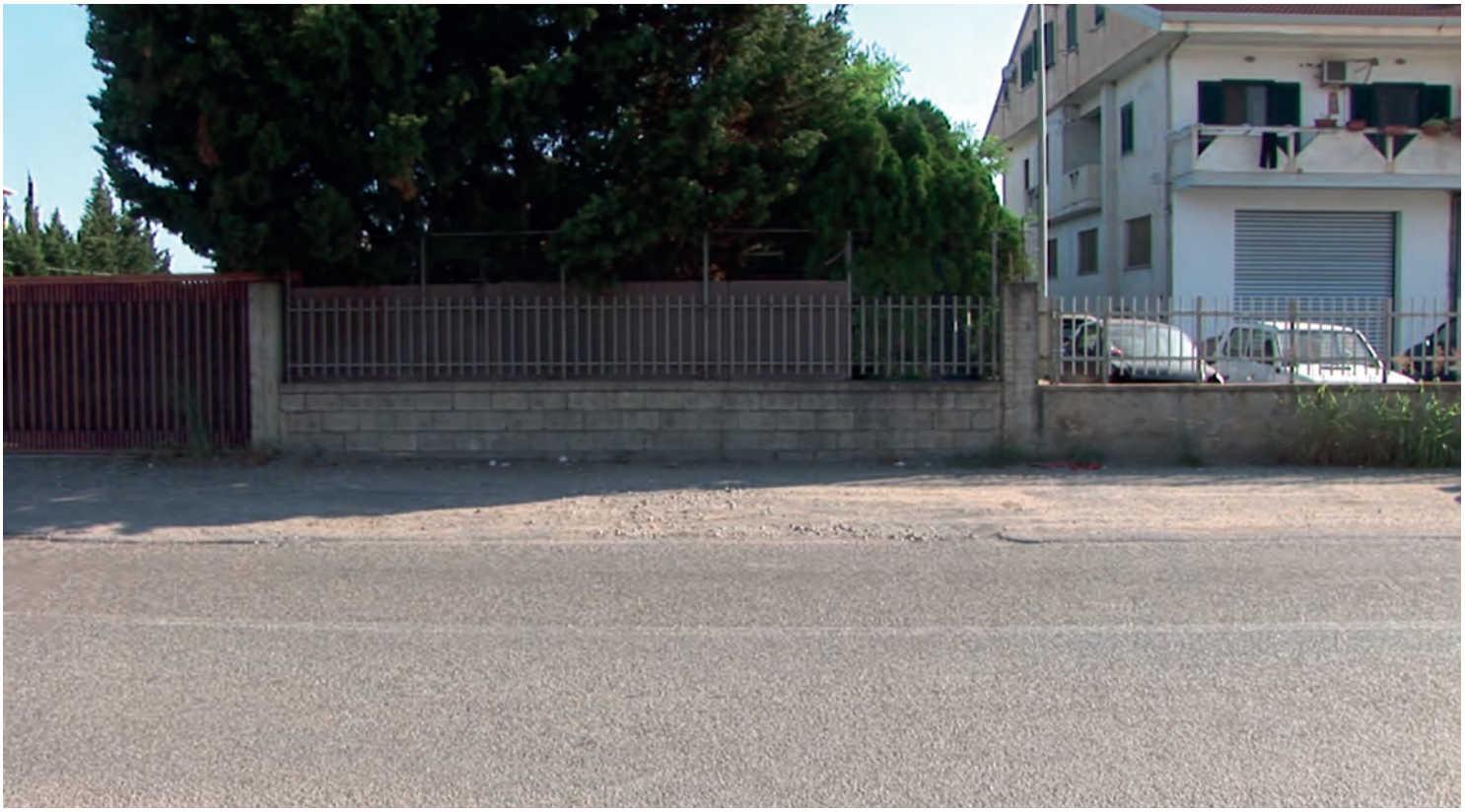

Figure 41 . Still frame from video footage showing the site where labourers are collected for work.

Over time, as the labourers become more familiar with the extractive system in which they are caught, they begin to recognise opportunities for themselves. They realise that providing transportation services can be highly profitable due to the consistent demand for such services among their fellow migrants. They collectively pool their resources to purchase vehicles that can be used to offer transportation services to others in their community. While this collective action empowers them, by reducing their dependence on the caporale's services and allowing them to retain a larger portion of their wages, they thereby become agents within the regime of calculations.

Figure 42 . Still frame from video footage showing a view down a typical residential road in Amantea.

Figure 43 . Still frame from video footage, showing a closeup shot of an apartment in Amantea.

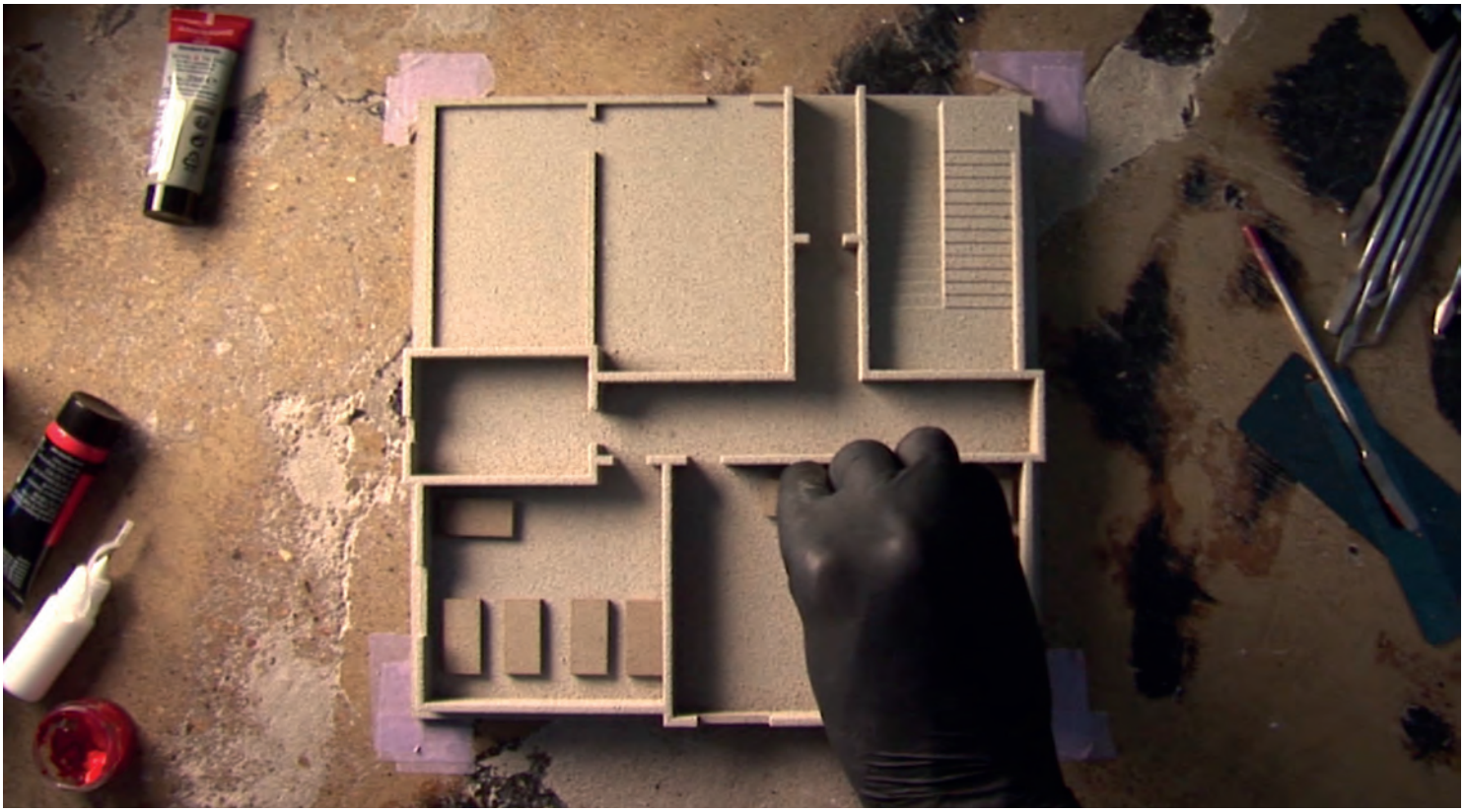

Figure 44 . Still frame from video footage showing an interior of a typical apartment layout in Amantea, which traces the potential configurations for overcrowded accommodation.

This economic logic extends to the labourers' living situation, especially considering that new arrivals often encounter obstacles when trying to rent apartments, for various reasons, including a lack of documentation or a landlord's reluctance to rent to individuals with uncertain employment prospects. This situation reflects the broader difficulties people in transit face in accessing stable housing.

In response to these challenges, those who have already settled in the area come up with a resourceful – yet extractive – solution: they open their homes to newcomers, offering them a place to stay, but for a price. By doing so, they extend a helping hand to those facing similar difficulties, albeit in exchange for monetary compensation.

They do this by accommodating extra beds, couches, or even sleeping bags on the kitchen floor. An average 90 m^2 apartment, designed for a family of four, is transformed into a space of opportunity, where every square metre offers the potential for additional financial accumulation. In this way, the extractive cycle continues.

Cassano all'Ionio

Cassano all'Ionio, situated between the Ionian Sea and the Sila Mountains, offers a distinct advantage to illicit networks engaged in transporting migrants, both documented and undocumented, into southern Italy. This advantage arises from the town's limited public transportation infrastructure: it is mainly dependent on a bus network that connects it to nearby towns. Isolated by agricultural fields, Cassano alll'Ionio serves as both a home and a hub for the displaced, contributing to a broader biopolitical framework that encompasses their transportation, accommodation, and eventual recruitment as a labour force.

Figure 45 . Still frame from video footage showing the landscape surrounding Cassano all'Ionio, and its dislocation from nearby towns.

Figure 46 . Still frame from video footage with a view onto Cassano all'Ionio.

Displaced communities in this region often find themselves in a state of confinement, unable to move about freely due to the geographical constraints imposed by the surrounding landscape. Many of those residing in smaller towns on the outskirts of Cassano all'Ionio face arduous journeys on foot to reach the town, spanning distances that can range up to 15 kilometres. The challenges in mobility further exacerbates their already precarious circumstances, as they navigate the physical barriers of the terrain in pursuit of opportunities and assistance.

Figure 47 . Still frame from video footage showing a view onto a public square, the site of the migrant sit-in.

Figure 48 . Still frame from video footage indicating the strategic location of the migrant sit-in.

The sit-in protest organised by migrants in Cassano all'Ionio in 2019 was a noteworthy event for several reasons. Firstly, the location of the protest was chosen strategically. By staging the protest in one of the town's prominent squares, the migrants drew attention to their demands from a central point in the town. This square also serves as a gathering point for labourers who are transported to their daily work sites, which makes it a symbolic and practical location for their demonstration.

The demands made by the protestors were also significant. They sought improved wages, better working conditions, and recognition of their rights. These demands reflect the challenges and hardships faced by the migrant labour force in the region. Many people endure long hours of labour in difficult conditions, often for meagre pay. By collectively voicing their demands, the protestors aimed to draw attention to these issues and to advocate for better treatment and fair compensation. The protest serves as an example of collective action among displaced people who, despite their vulnerable status, organise to seek better conditions and rights within their labour force. It highlights the agency and resilience of these communities in the face of challenging circumstances.

The sit-in protest organised in Cassano all'Ionio had a significant effect, as the protestors' voices reverberated throughout solidarity networks across the region. Rather than gaining recognition from those exploiting their labour, it was humanitarian and social workers who took notice of the protestors' demands. This shift in attention led to a series of subsequent meetings held in public spaces throughout the town. These meetings were crucial in giving the migrant labourers a platform to express their concerns and needs. They provided a forum where the displaced, regardless of their legal status – whether they were undocumented, awaiting asylum status, or fell into other classifications – could come together. During these gatherings, they discussed a wide range of issues, including legal procedures, ways to secure stable living conditions through contractual arrangements, finding suitable housing, building connections with peers facing similar situations, and gaining access to various forms of assistance.

Figure 49 . Still frame from video footage showing the Territorial Chamber of Labour (Camera Del Lavoro Territoriale) in Cassano all'Ionio.

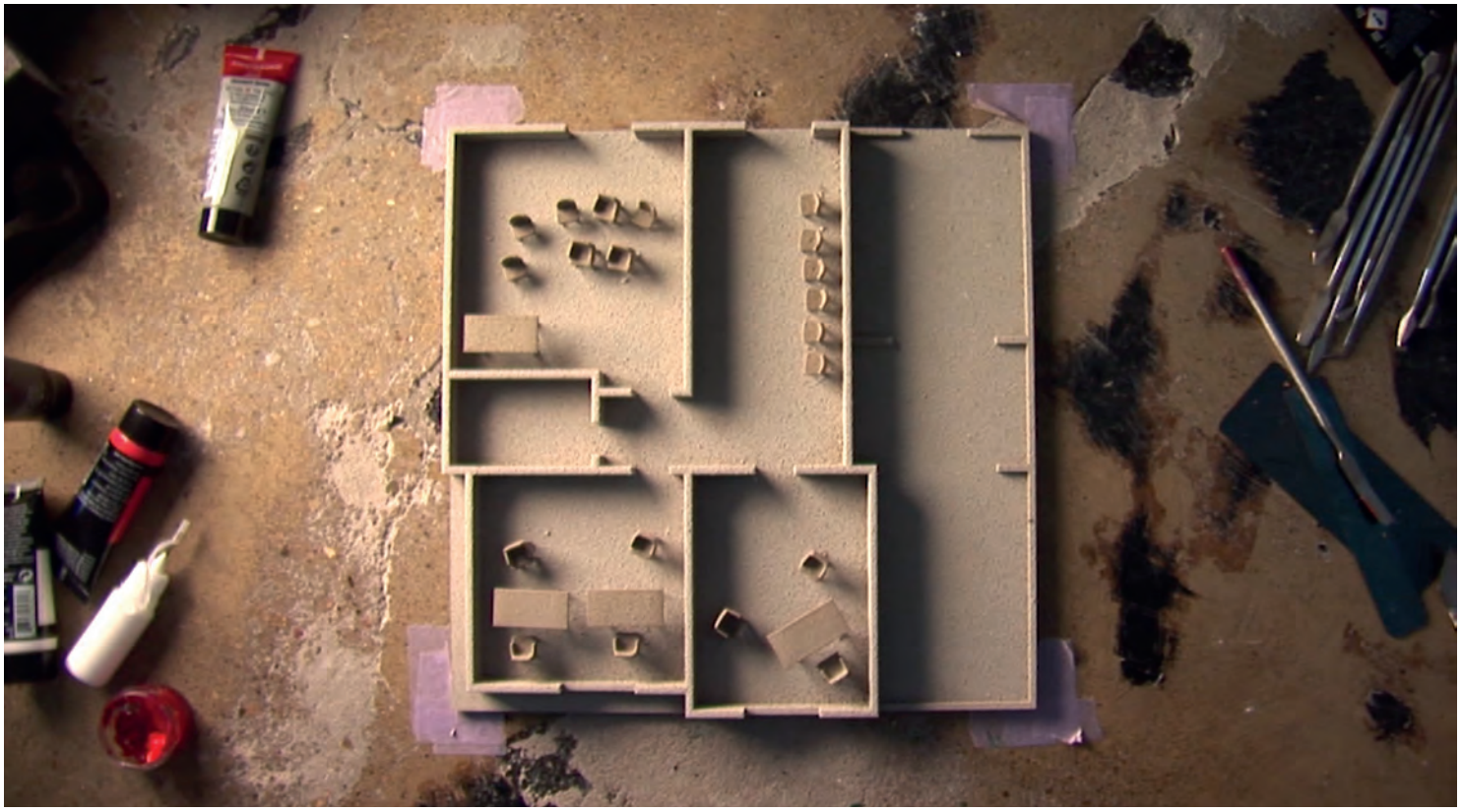

Figure 50 . Still frame from video footage showing an interior model (Camera Del Lavoro Territoriale), conveying the spatial setup through which aid workers interact with displaced people who seek advice.

One notable outcome of these meetings was the establishment of a dedicated space for consultations and aid, known as the Territorial Chamber of Labour (Camera Del Lavoro Territoriale). This facility became a resource for migrants in the vicinity, offering them support and guidance in navigating their complex circumstances. It played a critical role in helping migrants understand their rights and options, facilitating connections within their community and providing access to essential assistance.

The protest initiated a series of events that led to improved conditions and support for migrant communities in Cassano all'Ionio. It not only raised awareness of their demands but also created a platform for dialogue and assistance, ultimately benefiting the migrant population, particularly those in vulnerable legal situations.

The extractive practices that involve labelling, categorising, and identifying people using varying legal statuses – such as illegal immigrant, asylum seeker, undocumented migrant, detainee, and deportee – contribute to an unrelenting cycle in which migrant bodies are financialised.

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While the preceding paragraphs have presented the findings from the iterative interview process with Rosanna and Fabio, the following paragraphs describe the implementation of both the audio-visual work and, perhaps most significantly, the physical models produced for this case. These ultimately serve as vital tools for capturing the regime of calculations that revolves around the bodies of displaced individuals in Calabria.

The image shown in Figure 51 zooms in on Catanzaro Lido, the location where the boat from Libya bearing 500 young men and children, mentioned above, moored in 2022. This particular framing not only sets the scene for our discussion but also helps visualise the physical surroundings and the disembarkation area, even though the boat itself is no longer present. This recording serves as a means of exploring the spatial relationships of the site. Through its depiction of the environment and its components, it constructs a visual narrative that leads us through the layout, structures, and configurations of the location where the group of young men and children made their arrival.

Figure 51. Site of disembarkation, Catanzaro Lido.

Figure 52. Model of greater Catanzaro area.

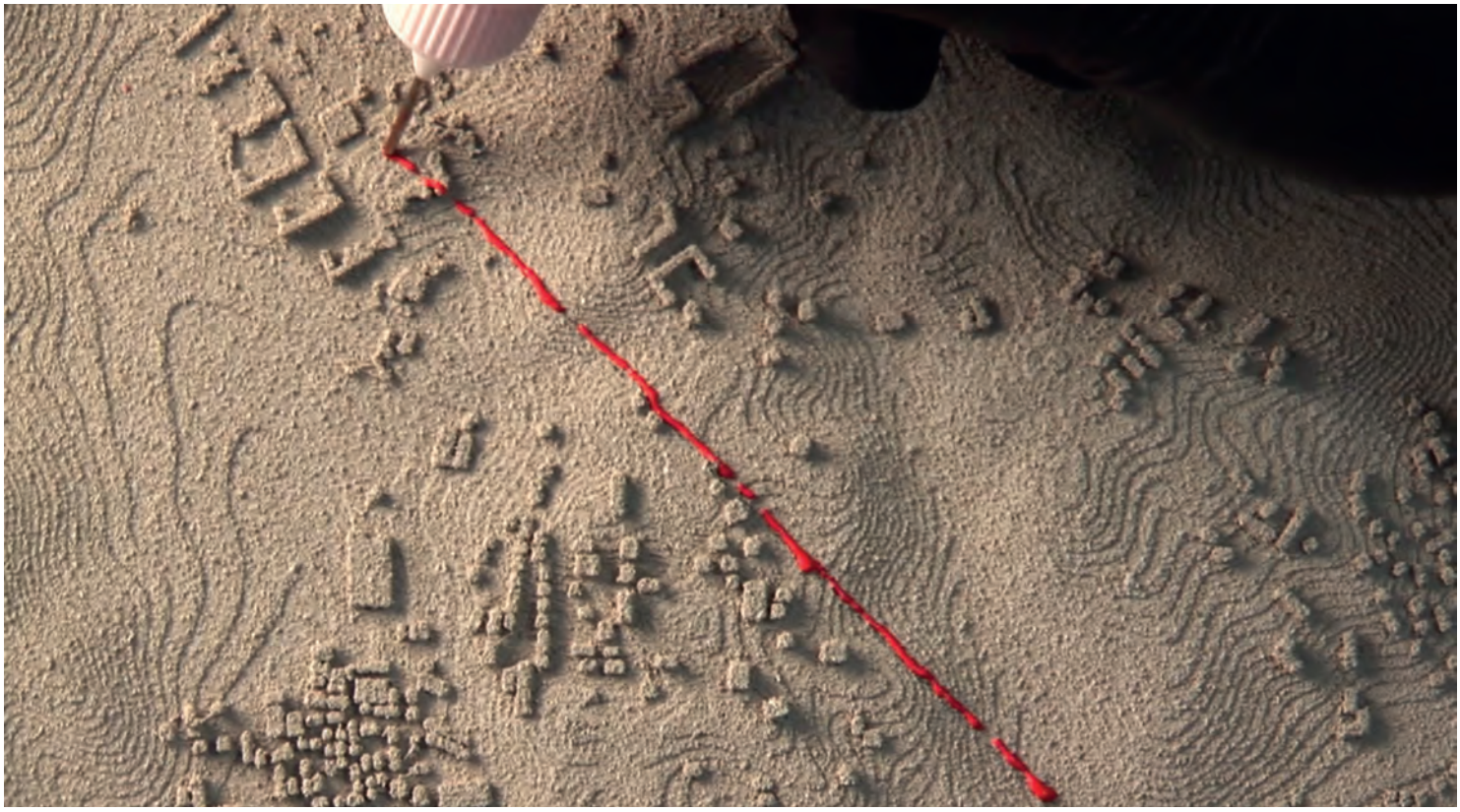

Figure 53. Model of greater Catanzaro area, tracing the translocation of new arrivals to the neighbourhood of Corvo.

Figure 54. View past the sports hall in Corvo, showing the empty landscape surrounding this "island" neighbourhood.

Figure 52 introduces a physical model of the broader Catanzaro area, within which both the Lido and Catanzaro Sud, including the neighbourhood of Corvo are made visible. The downscaled representation of Catanzaro presented in this model allows us to discern relationships and details that are imperceptible through audio-visual recordings. It unveils the form of the landscape, and the concentration of the built environment along the Lido and in Catanzaro Sud. By tracing the translocation of the newcomers from the Lido to the neighbourhood of Corvo along a 6 km path across this model, we begin to see the emergence of biopolitical and financial considerations. These factors suggest that these individuals are being relocated to a less prominent location, which makes housing them more cost-effective and less disruptive to the city's tourism industry, on which it relies heavily.

The inherent dislocation of the Corvo neighbourhood from the rest of Catanzaro, primarily due to the sparse development surrounding it, reveals how the decision to relocate these arrivals to this area is indicative of the prevailing regime of calculations. Upon returning to the specific site under discussion (Figure 54), our attention is directed towards the neighbourhood's periphery, extending beyond the sports hall to the right. Here, we encounter a physical boundary presented by the hills in the distance. Figure 55 introduces another model, this time focusing on the neighbourhood itself, presented at a larger scale than the previous models. Through this increase in scale, we can clearly observe the pronounced physical isolation of this neighbourhood from its surroundings, emphasised by the presence of a circular boundary road.

Figure 55. Model of the neighbourhood of Corvo, tracing the boundary road which isolates the area from the rest of Catanzaro.

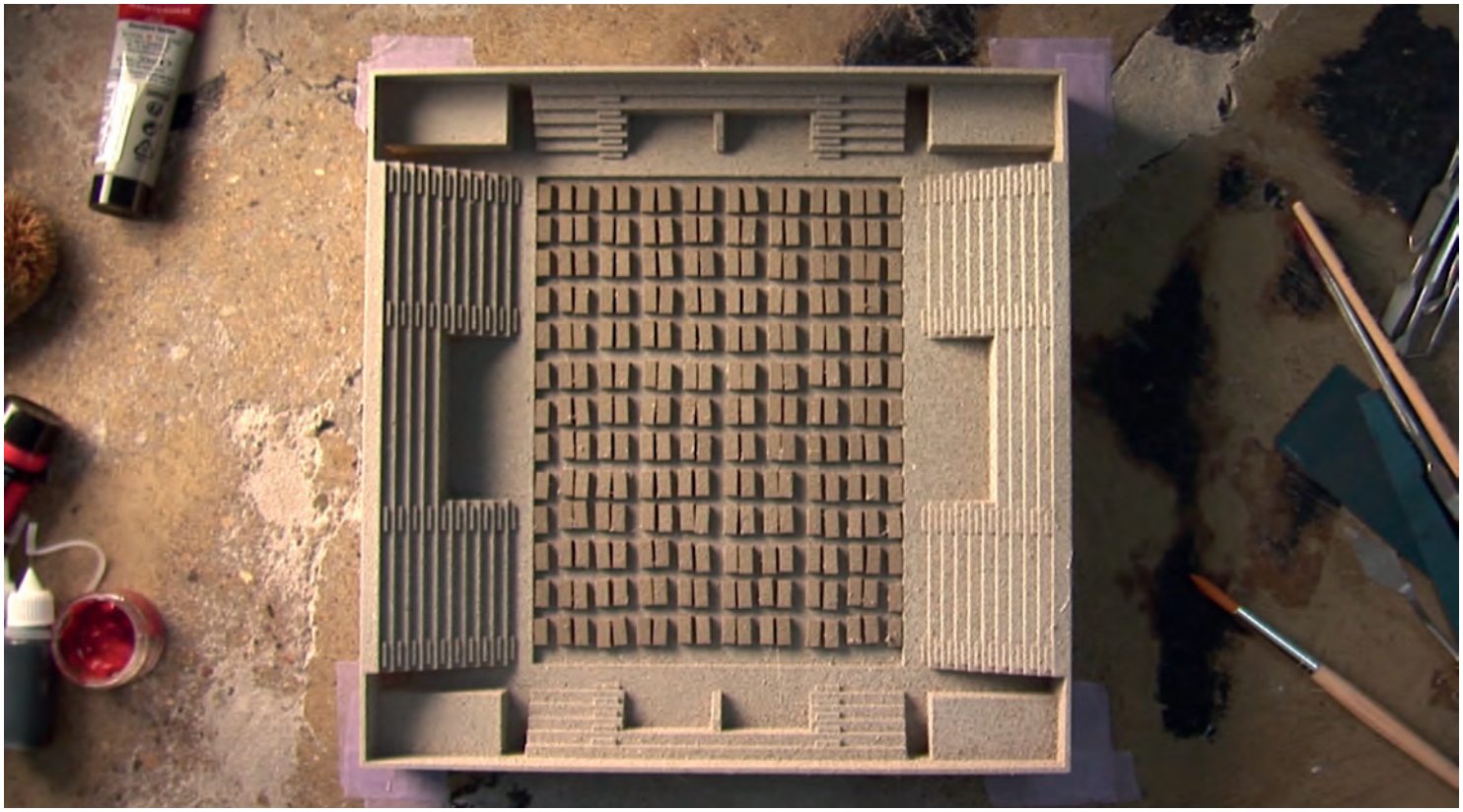

Figure 56. Model of the interior of the sports hall, located in the neighbourhood of Corvo; the video shows the researcher performing the placement of beds.

Figure 56 presents us with an interior model, specifically a model of the sports hall located in the heart of Corvo. Within this model, we can observe a performative action: the systematic arrangement of individual beds. If we consider the common thread that ties together each extractive moment within the regime of calculations, this model embodies a pivotal aspect of this regime: the examination of bodily relationships. By presenting the dimensions and proportions of the beds and the spatial layout of the main hall within this structure, this model underscores the interactions between various elements and the human body. In aiming to accommodate human physiology, the extractive methods implemented here rely on meticulously designed objects and their precise placement. The performance depicted in this video, using the model, centres on the act of counting and positioning each bed.

Figure 57. View of the arterial road and railway infrastructure that connects Amantea to the surrounding towns and cities.

Figure 58. View of an agricultural field, which sits between Amantea and the coast.

Figure 57 captures the periphery of Amantea, focusing on an arterial road. As we take in this scene, it offers us the opportunity to uncover multiple layers of information within this frame: a prominent road in the foreground, with numerous vehicles in motion, a backdrop of rolling hills and mountains adorned with diverse shades of vegetation, and, in between, overhead cables suggesting the presence of a train line. By dedicating time to this view, we can understand the details of this space and infer several insights that shed light on the broader area. The bustling road implies significant traffic through the town, indicating its integration with the surrounding region. The varied hues of green in the distant landscape hint at a rich diversity of vegetation, characteristic of the polyculture practices that are common in this region. Lastly, the existence of a train line highlights the town's access to transportation networks.

Figure 58 transports us to an agricultural landscape. Yet again, by immersing ourselves in this view, in accordance with the methodology of extended static audio-visual recordings, we have the opportunity to unpack the intricacies of the space and understand the relationships of which it provides evidence. The landscape can be dissected as follows: three distinctive horizontal sections on the ground, each displaying varying stages of vegetation growth, signifying different planting intervals; in the distance, a row of wooden poles meticulously arranged to support the burgeoning crops beneath; further in the background, extending beyond these vertical elements, a glimpse of the sea comes into view; and, amid this observation, the distant sound of passing vehicles hints at our location, situated between the arterial road illustrated in Figure 57 and the sea on the horizon.

Figure 59. View down the street where labourers are picked up and dropped off as they commute to work on a daily basis.

Figure 60. A model which traces the position where labourers are picked up, and the trajectories along which they are dispersed.

Figures 59 and 60 engage in a dialogue between an audio-visual piece and a physical model. Although both direct our focus to the location where Bangladeshi labourers are picked up for work and dropped off when they finish each day, they offer distinct sets of information. Figure 59, with its recorded physical space, firmly anchors the scene within the built environment. Conversely, Figure 60, showing the model, allows us to grasp a broader narrative by connecting the residential area of these labourers, the collection point at the intersection of an arterial road, and the routes taken by their transportation. Of particular interest here is the observation of the departure point's strategic placement. Primarily discernible through the model and partially evident in the audio-visual recording, we can appreciate how this departure point is strategically chosen, with the aim of minimising disruption to the residential area at 3 am, rendering the presence of this community of labourers invisible, especially considering that they will not return home until the late hours of the evening.

Figure 61. A view of the housing in Amantea.

Figure 62. A close-up of a part of a model, focusing on the residential area.

Figure 63. An interior model of a typical house, while the furnishing arrangements are being adjusted (performed by the researcher).

Figures 61, 62, and 63 bring us to the housing in Amantea in which displaced communities are accommodated. Figure 61 directs our gaze towards the external architectural aspects of the residential area, while Figure 62, presented as a model, immerses us within the residential zone, facilitating an exploration of spatial relationships across this segment of Amantea. In contrast, Figure 63 provides an intimate view inside a typical 90 m² apartment.

At this point, we actively observe the researcher performing adjustments to the model. It initially portrays the arrangement of beds within a space designed for a family of four. After this, there follows the reconfiguration of sleeping arrangements, shedding light on the financial calculations and exploitative practices prevalent in the living conditions of labourers. Much like the model of the sports hall and the bed arrangement depicted in Figure 56, this presentation emphasises the interaction between interior spaces and the human body. The extractive techniques employed here rely on optimising every available space to maximise financial accumulation.

Figure 64. View of greater Amantea, showing the agricultural landscape that surrounds it.

Figure 65. View of a model showing greater Amantea, and the extent of the agricultural nature of the surroundings.

Figure 64 redirects our focus to the terrain encompassing Amantea. A careful examination of this frame unveils insights about the landscape. It attests to the agricultural productivity that characterises the area, evidenced by the diverse vegetation that signifies the practices of polyculture - a method of agriculture that encourages diversity of crops, enhancing agricultural yields while also fostering soil health.

Furthermore, we discern the presence of infrastructure scattered across the landscape, underscoring the connectivity of this terrain. This comprehensive view of the surroundings in Figure 64 emphasises the relationship between the environment, agriculture, and infrastructure in the vicinity of Amantea.

Figure 65 depicts a scaled-down model of the identical terrain, showcasing the performance conducted in relation to this model through strokes and colouration applied to the landscape. These brushes serve to unveil the proportions of the built environment and the agricultural terrain in which the town sits.

Figure 66. View of greater Cassano, indicating its dislocation and isolation.

Figure 67. View of greater Cassano, indicating its dislocation and isolation.

Figure 68. Model view of greater Cassano, indicating its dislocation and isolation.

Moving on to Cassano all'Ionio, in contrast to Figures 64 and 65, here the audio-visual recordings and physical model serve to quantify and present the remoteness and lack of accessibility of this town. Figures 66 and 67 depict a view into the expansive agricultural landscape surrounding Cassano all'Ionio, while Figure 68 condenses this landscape into a scaled model, providing us with a clear depiction of the terrain and the town's connections to its surroundings. Through these presentations of the environment, with its layered terrain extending into the distance, distinct patches of land marked by their different colours and patterns, and the scattering of buildings as the camera's gaze shifts away from the town, a visual narrative is constructed. This narrative guides us through an exploration of the spatial relationships within the town, making us acutely aware of its remoteness and inaccessibility to displaced communities who must commute here each day for agricultural work, particularly due to the fact that the transportation to these fields originate from the town centre.

It is crucial to highlight that Cassano all'Ionio is deliberately selected as a departure point for travel to the agricultural fields due to a distinct calculation: the region lacks sufficient, and in some instances any, public transportation. This absence is advantageous for illicit networks that exploit migrant labour, as it leaves the workforce with no means of escape. Consequently, these labourers become entirely reliant on the caporale for any form of mobility. As we have observed, the caporale is an integral part of the regime of calculations, rendering the labourers dependent on him.

Figure 69. View of a main square in Cassao, the site of the migrant sit-in.

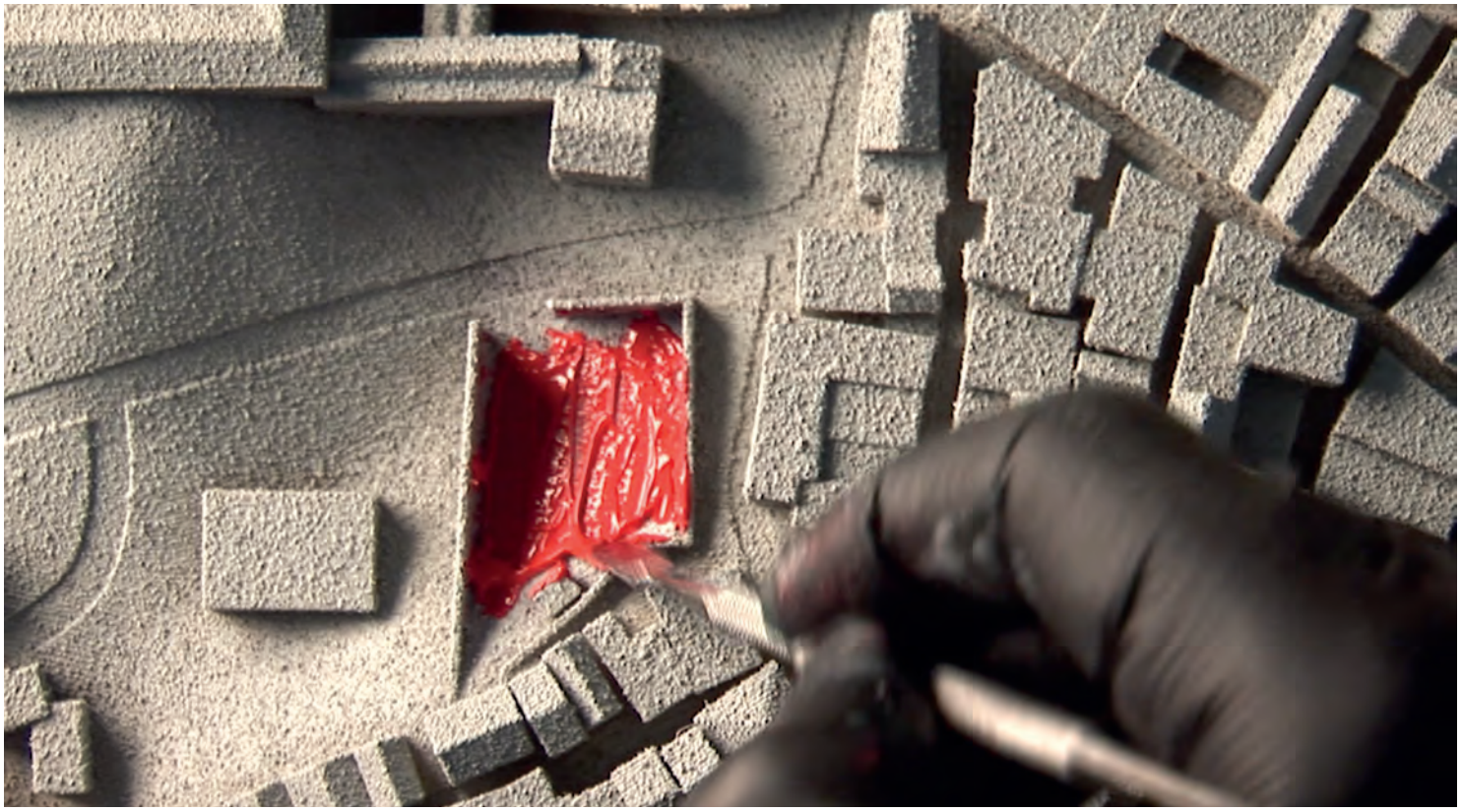

Figure 70. Model view of a main square in Cassao, the site of the migrant sit-in.

Having explored the isolation and remoteness of Cassano all'Ionio, Figure 69 immerses us in the town's central square, where the sit-in protest was staged in 2019. This square serves as the pivotal point of departure from the town to the fields where labourers work each day. During the protest by the migrant community in this square, they effectively blocked the departure of transport vehicles, demanding recognition of their grievances.

While Figures 69 and 70 may not directly illustrate the regime of calculations by showing the protest itself, they do so by depicting the site that was selected for the protest. Figure 70, featuring a site model that unveils the topography, urban layout, and road configuration, and the central prominence of the square, prompts us to question the spatial relationships within this location. It acts both as a node within the regime of calculations and a site of contention.

Figure 71. View of the Territorial Chamber of Labour.

Figure 72. View of an interior model of the Territorial Chamber of Labour.

Figures 71 and 72 shed light on the aftermath of the successful protest that took place in the central square: the much-needed intervention by local NGOs in the region of Calabria. As awareness grew about the migrant labour force residing in and around the town, these organisations arrived in Cassano, bringing strategies designed to counter the extractive and exploitative practices of the local labour markets.

In Figure 72, we gain insight into the interior layout of the facility, emphasising the human scale and its relationship to its immediate surroundings. The arrangement of furnishings within this space foster a constructive and secure environment, allowing aid workers to build trust while assisting with legal procedures and processes aimed at stabilising the presence and legal status of displaced communities in the Cassano area and throughout Calabria.

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In conclusion, combining audio-visual recordings and physical models as research methodologies, as shown in the preceding discussion focusing on Calabria, holds potential for unveiling critical aspects of bodily, spatial, and material relationships within complex extractive systems. These methodologies provide a multi-dimensional lens through which we can measure, examine, and comprehend various facets of the regime of calculations.

Physical models, in particular, offer a means of exploring and understanding the intricacies of bodily relationships. By showcasing the dimensions and proportions of objects and spaces, models can vividly depict how various elements interact with the human body. In the case of Calabria, this takes on particular significance when we consider the interior models of the sports hall in Corvo, in which the meticulous arrangement of beds are performed, and the apartment in Amantea, where the organisation of sleeping arrangements accommodate human physiology. Thus, models act as a conduit between theory and practical application, allowing us to deconstruct the spatial consequences of extractive methodologies.

Examining my application of the methodology to the situation in Calabria, we can assert that models encapsulate the calculations and measurements intrinsic to the subject matter. This is evident when we scrutinise the models of the terrain of Catanzaro, where we can discern the movement of newcomers, the trajectory delineating their journey from one place to another, and the circular boundary encompassing the Corvo neighbourhood. These elements effectively capture the calculations and measurements utilised in the decision-making process

in regard to selecting this location for the temporary accommodation of displaced individuals.

Furthermore, the changes in scale depicted in all of the terrain models reveal intricate details that might otherwise escape our attention. These shifts in perspective provide fresh insights, enabling us to delve deeper into the biopolitical and financial considerations embedded in the calculations revolving around the presence of displaced individuals.

6.3 Shifting Subjectivities

The fieldwork in Calabria provided a potent lens with which to understand labor exploitation as an extension of border violence. The iterative nature of my interview process, informed by an emphasis on reflexivity, allowed me to approach this research with a deep sensitivity to the systemic dimensions of the issues at hand. The multiple trips I took to Calabria, spending time with humanitarian aid workers Rosanna Liotti and Fabio Saliceti, were guided by a belief in cultivating relationships that could foster trust, mutual understanding, and the co-construction of knowledge. After many years of work in the field, they had clearly developed a demeanor characterised by humor and cynicism. It became apparent to me that this was a coping mechanism for managing the profound disconnect between their on-the-ground efforts and the systems of governance shaping those efforts in Calabria and other regions of southern Italy. In many ways, their lived experiences provided a critical lens through which I could interpret the systemic barriers faced by migrants residing in or passing through Calabria.

Yet, during the fieldwork, my subjectivity was challenged and reshaped at various moments. Witnessing the arrival of 500 young men in Catanzaro, quarantined in a derelict sports hall due to a single positive COVID-19 test, was particularly unsettling. This moment crystallised the violence inherent in border regimes—through the perilous crossings of the Mediterranean in vessels clearly unfit for long-distance travel, as well as the conditions awaiting migrants upon their arrival.[1] The atmosphere, marked by the presence of law enforcement, medical personnel, NGOs, and local residents offering aid, resembled a disaster zone, embodying a stark contrast to the eeriness I encountered during my subsequent visit to document the same site.

Standing in Corvo amidst the midday heat of late June, surrounded by apartment blocks known to be controlled by the 'Ndrangheta (a criminal syndicate rooted in the region of Calabria), my subjectivity shifted once again. The act of filming, a technical task, became fraught with questions of safety, visibility, and intent. My decision to utilise a static shot while filming, primarily to adhere to a methodological choice, took on a dual purpose—capturing the spatial dimensions of exploitation while navigating the risks of working in an environment steeped in tension. Despite my efforts to minimise my visibility, I clearly stood out with a tripod and camera. Shortly after I began filming, a police car patrolling the neighborhood arrived, interrogated me, and warned me about the gangs operating in the area.

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1 Donna Haraway's critique of the "god-trick" in scientific knowledge production challenges the notion of objective, detached perspectives. She argues that all knowledge is situated, shaped by the knower's context and positioning, thus highlighting the importance of acknowledging power relations in any research process.
Haraway, D. (1988). Situated knowledges: The science question in feminism and the privilege of partial perspective. Feminist Studies, 14(3), 575-599.

This further underscored the precariousness of my presence. In that moment, my identity as a researcher was eclipsed by my position as an outsider, acutely aware of my vulnerability and the privilege that allowed me to leave the site with my recordings intact.

This experience in Corvo emphasised the fluidity of subjectivity in the field, reminding me, as Sultana[2] reflects in her own research, that our positions as researchers are never fixed but constantly evolve in response to the dynamics of the spaces we inhabit, the people we interact with, and the power structures we must navigate. My initial confidence—rooted in my fluency in Italian, my academic background, and my methodological preparation—was challenged in ways I had not anticipated. What began as a planned and structured academic investigation into labor exploitation and border violence became a complex negotiation of trust, identity, and positionality that I had to navigate continuously.

In the early stages of my fieldwork, I felt a certain security in my ability to communicate effectively in Italian and to approach Rosanna and Fabio with a clear understanding of my research goals. However, as I advanced deeper into the realities of the migration experience in Calabria and engaged with these aid workers, I became acutely aware of the limits of my position. Theoretical frameworks and well-prepared questions could only take me so far; the lived realities of the people I was encountering required me to reassess my assumptions and adapt to the evolving circumstances of the field.

One of the most significant ways in which my subjectivity shifted was in my relationship with Rosanna and Fabio. While our mutual understanding of the issues at hand initially created a strong foundation of trust, I soon recognised how our respective positions as researcher and aid worker shaped the nature of our interactions. As someone conducting academic research, I was aware that my role—despite my best intentions—carried a certain level of authority and distance. This dynamic was complicated by the fact that I was a foreigner in Calabria, an outsider in a region with its own complex social, political, and economic fabric. The power structures within which we operated—those between humanitarian aid workers and migrants, between state institutions and NGOs, and between foreign researchers and local populations—created a landscape of varying degrees of access, power, and trust.

This sense of being both an insider and an outsider—an

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2 Farhana Sultana, in her research on water management and arsenic contamination, underscores that positionality is not static. The researcher's identity and role shift in response to changing dynamics within the field, illustrating the complexities of fieldwork. Sultana, F. (2007). Reflexivity, positionality, and participatory ethics: Negotiating fieldwork dilemmas in international research. ACME: An International Journal for Critical Geographies, 6(3), 374-385.

academic conducting research but also a visitor to Calabria, trying to understand a world that was not my own—became particularly evident during my encounters in Corvo. While documenting the sports hall, I felt the weight of my perceived identity as a foreigner, especially when I became aware of the tensions and dangers surrounding me. The police questioning and the possibility that 'Ndrangheta affiliates might be nearby forced me to confront the precariousness of my position. In this environment, the trust I had built with Rosanna and Fabio, and the way they viewed my role as an academic, did not guarantee the same rapport with the residents of Corvo or with law enforcement.[3]

My fieldwork in Corvo made glaringly obvious the limits of my positionality.[4] I was reminded that the research process is never just about documenting; it is also about positioning oneself within the field, understanding how power and authority are distributed, and recognising that the subjectivity of the researcher is constantly in flux.[5]

In contrast, my trips to sites in Amantea and Cassano unfolded with relative ease. The urban and open-field settings, coupled with the low-profile nature of my presence, allowed me to navigate these spaces without incident. However, this lack of disruption also highlighted the variability of fieldwork experiences and the ways in which context, geography, and power relations shape our interactions. The interviews with Rosanna and Fabio became a crucial counterbalance, enabling me to contextualise these moments within the broader systemic patterns of exploitation and governance.[6]

Ultimately, the insights gained in Calabria were not solely the result of what I observed or recorded but were indeed shaped by the relationships I built and the iterative processes I utilised. This

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3 Feminist geography, as explored by Gillian Rose and others, stresses the importance of relational identities in shaping the dynamics between the researcher and their subjects. Trust is not a fixed element but is negotiated through interactions that are informed by geography, power relations, and the historical context of the field.
Rose, G. (1997). Situating Knowledges: Positionality, Reflexivities, and Other Tactics. Edinburgh University.

4 Judith Butler's theory of performativity, which posits that identity is not fixed but rather constituted through repeated actions and societal norms, mirrors the notion that the researcher's role is constantly negotiated within the field. This understanding highlights the evolving nature of identity and positionality in fieldwork.
Butler, J. (1990). Gender trouble: Feminism and the subversion of identity. Routledge.

5 Gillian Rose also argues that the researcher's subjectivity is fluid, shaped by both the personal and political contexts within which the research is situated. She critiques the assumption of stable knowledge, emphasising the relational and performative aspects of identity and knowledge production.
Rose, G. (1997). Situating Knowledges: Positionality, Reflexivities, and Other Tactics. Edinburgh University.

6 Sandra Harding's work on feminist epistemology and "epistemic injustice" suggests that marginalised groups, including migrants, often face challenges in having their voices and experiences recognised within mainstream knowledge systems. This is extremely relevent when considering how Rosanna and Fabio's insights allow for a more nuanced understanding of migrant experiences in Calabria.
Harding, S. (1991). Whose science? Whose knowledge? Thinking from women's lives. Cornell University Press.

approach points to the necessity of continually re-examining our subjectivities in the field, ensuring that the narratives we assemble remain grounded in an ethical and collaborative praxis. One must shift their understanding of positionality recognising that what was once thought to be a stable and secure position—grounded in language skills, academic expertise, and methodological preparation, to name but a few—will inevitably be tested by the unpredictable dynamics of the field. We must also understand that being a researcher is not a static position, but a constant negotiation. It is simultaneously important to remain aware of how one's presence and research influence the dynamics of the field. Even acts of documentation—filming, photographing, recording interviews—are never neutral; they are shaped by power, identity, and structures of knowledge production.

My time in Calabria highlights how subjectivities shift in response to the field's demands. It is therefore crucial to remain open to the re-negotiation of trust, identity, and power, especially in politically charged environments. Fieldwork is not a passive observation, but active engagement with shifting realities.

7. Conclusion

This doctoral thesis explores the relationships between architecture, law, and the legal statuses assigned to people in transit. Central to this research is the concept of material and semiotic assemblages—a complex exchange between tangible and intangible elements that collectively shape the forces governing social interactions within humanitarian governance and border regimes. These assemblages encompass a diverse array of components, including the built environment, legal frameworks, algorithms, technologies, institutional structures, and more, all seamlessly interconnected.

One of the key notions of the concept of material and semiotic assemblages is the recognition that architecture, when considered in isolation, does not, on its own, account for or explain the processes of obstructing, confining, or detaining people in transit. Rather, architecture exists as a vital component within a larger ecosystem of influences. It serves as both a physical and symbolic element within this network, contributing to the broader dynamics that shape the experiences of displaced populations.

The interdependence of architecture, law, and legal statuses becomes evident when we consider how these elements interact. Architecture, through its design and spatial configurations, gives form to the law that is enforced through it, while legal structures and regulations dictate how architecture is employed in the context of migration. These legal frameworks establish the boundaries within which architecture operates, outlining the rules and procedures that govern the treatment of people.

The identities that result from the assemblages discussed in this thesis, which include “undocumented migrant”, “asylum seeker”, “detainee”, “deportee”, and “refugee”, play a pivotal role in shaping what at first glance may seem like bureaucratic or administrative conventions within the domain of humanitarian governance. However, this research argues that these routine and mundane practices carry far-reaching significance, acting as a catalyst for a cascade of financial and biopolitical deliberations that only materialise when displaced individuals are physically placed within systems and structures of governance.

Each legal status applied to a displaced person carries specific connotations and implications. They have tangible consequences, not only for the broader mechanisms of governance and control but most importantly for the displaced themsleves. When individuals are categorised under such labels, a series of events are set in motion within the machinery of governance—including legal proceedings, detention, deportation, or the granting of asylum, each carrying profound financial, legal, and ethical implications.

These naming practices are not passive: they actively

construct the identities of those subjected to them. They shape how people are perceived, treated, and governed. These identities are more than markers of legal status, they are also indicators of vulnerability, entitlement, human rights, and potential financial or biopolitical value.

Naming practices, as discussed in this thesis, fundamentally give rise to a series of extractive cycles that are driven by a concerted effort to extract various forms of value from the bodies of people in transit. They are pervasive and manifest in various aspects of governance. In one facet of these cycles, authorities and organisations responsible for managing accommodation facilities for displaced individuals engage in financial and biopolitical machinations revolving around issues such as funding, security, and logistics. While their goal is to ensure the smooth functioning of these facilities, through cost-benefit analyses, security considerations, and the allocation of resources, they are also responsible for the spatial conditions imposed on those they accommodate.

Another aspect of these cycles is the negotiations and interactions between nation-states and intergovernmental organisations, often revolving around their responsibilities towards asylum seekers, refugees, and migrants. They inevitibly result in agreements, or indeed disagreements, regarding burden-sharing, funding, and legal frameworks. Here, the identities and legal status of displaced individuals become critical in determining which entity assumes responsibility and to what extent, leading to calculations that define international obligations and political considerations.

Within the context of labour markets in southern Europe, extractive cycles play out in the employment of undocumented migrants. These individuals often find themselves in vulnerable positions, where employers exploit their precarious legal status to extract economic value by paying them low wages and exposing them to poor working conditions. In this context, the identities and labels assigned to these people effectively influences their access to labour rights, human rights and the social protection that come with it.

In each of these scenarios, the names that are attributed are not merely bureaucratic or descriptive: they become integral to the calculations that determine how resources are allocated, responsibilities are assigned, and rights are upheld or denied altogether. These extractive cycles, driven by a combination of economic, political, and social factors, are deeply intertwined with the identities and legal categorisations of those who are at the receiving end what is called "humanitarian assistance".

As a result, these extractive cycles perpetuate inequalities and vulnerabilities for people in transit by prioritising cost saving, security measures, and political interests over well-being and rights—giving

rise to situations where the value extracted from the bodies of those in transit comes at a significant human cost.

To support these arguments, this thesis has conducted a literature and contextual analysis, placing its investigation within a broader research landscape that includes architecture, migration studies, geopolitics, and postcolonial studies. It has also explored the intricacies of migration laws, with a particular focus on their impact on humanitarian efforts on the island of Lesvos. Furthermore, it has examined intergovernmental mechanisms, such as the European Commission's algorithm for allocating displaced individuals to member states, reinforcing the contention that administrative procedures within humanitarian governance are fundamentally driven by financial considerations, that habitually sideline the primary humanitarian goal of alleviating suffering.

The research has also evaluated the efficacy of UNHCR advocacy forums in influencing migration law and policy changes, critically analysing their existing evidentiary practices and constraints. This analysis has provided insights into the potential for reform within these forums.

The culmination of this research has resulted in the formulation of an alternative evidentiary practice aimed at producing evidence capable of challenging the prevailing regime of calculations perpetuated by border management and humanitarian governance. This approach seeks to disrupt the status quo by shedding light on the inherent violence associated with the extractive methodologies that are rooted in the assignment of distinct, and often discriminatory, identities to displaced populations.

One crucial component of the fieldwork carried out in Calabria involved conducting iterative interviews. Unlike one-off interactions, which can only offer a static snapshot, iterative interviews unfold as dynamic, ongoing dialogues. This method creates space for deeper engagement, allowing both the researcher and participants to revisit, refine, and expand on key themes over time. For me, this approach became invaluable for developing a nuanced understanding of the regime of calculations that subsumes displaced people, as well as the broader systemic dimensions of border management and humanitarian governance.

In practice, the iterative interviews allowed me to build a sustained dialogue with the key participants—Rosanna Liotti and Fabio Saliceti—of my fieldwork,[1] whose lived experiences and professional

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1 The iterative nature of the interviews reflects the fluidity and relational aspect of knowledge production, highlighting how researcher and participant perspectives evolve in response to shifting contexts and power dynamics. This aligns with feminist geographical approaches to reflexivity, where researcher subjectivities are continually shaped and renegotiated through interaction with participants and the field. In her work, Gillian Rose

insights provided a critical lens through which I could interpret the dynamics of the field. The evolving nature of our conversations mirrored the flux of the environments we sought to analyse. As their perspectives shifted in response to unfolding events, so too did my own understanding of the complexities between aid work, state governance, and the precarious realities faced by migrants in Calabria.

This iterative process underscored the fluidity of my own positionality and subjectivity as a researcher. Each return to Calabria brought with it a deeper awareness of the limitations and privileges inherent to my role. My academic background and fluency in Italian initially provided a sense of confidence, allowing me to approach Rosanna and Fabio with a clear articulation of my research goals. Yet, as our conversations deepened and my exposure to the realities of the field increased, I became acutely aware of the power imbalances embedded in our interactions.[2] While my role as a researcher afforded me certain privileges—such as the ability to leave the field—Rosanna and Fabio navigated these spaces daily, bearing the emotional and physical burdens of their work.

This realisation was particularly striking during moments when the iterative nature of our interviews revealed tensions or contradictions in our perspectives. For instance, this process illuminated how the context of our conversations—whether in the relative calm of an office setting or amidst the tensions of a migrant quarantine site—shaped the nature of our exchanges. In controlled environments, I often felt a degree of authority, able to guide the conversation with well-prepared questions and theoretical frameworks. Yet, in more volatile or politically charged settings, such as that in Corvo and the bay of Catanzaro, my subjectivity shifted. My identity as a researcher was overshadowed by my position as an outsider. These shifts underscored the importance of adaptability in fieldwork, as well as the necessity of remaining attuned to the evolving dynamics of power, trust, and vulnerability.

Nonetheless, the iterative interviews enabled me to trace the

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critiques the idea of fixed researcher subjectivity, emphasizing the relational, context-dependent nature of fieldwork. The iterative dialogue between researcher and participants in this thesis reflects the shifting nature of positionality and power, as discussed in feminist geography.
Rose, G. (1997). Situating Knowledges: Positionality, Reflexivities, and Other Tactics. Edinburgh University.

2 This recognition of power imbalances highlights the importance of reflexivity in fieldwork, where the researcher's position as an outsider can influence both the relationship with participants and the interpretation of their narratives. This awareness aligns with the feminist geographical critique of 'transparent reflexivity,' which questions the assumption of fully knowable, static power dynamics in research. Farhana Sultana's work explores how researcher positionality influences the dynamics of fieldwork, stressing the ethical complexities of navigating power and subjectivity in research with marginalised groups.
Sultana, F. (2007). Reflexivity, positionality, and participatory ethics: Negotiating fieldwork dilemmas in international research. ACME: An International Journal for Critical Geographies, 6(3), 374-385.

evolving narratives and challenges faced by those directly impacted by border regimes and humanitarian governance in Calabria. This process not only enriched my understanding of the systemic barriers faced by migrants but also deepened my awareness of the ethical complexities of knowledge production. Each interaction served as a reminder that research is not a neutral act but a collaborative and iterative process, shaped by the subjectivities of all participants. By engaging with Rosanna, Fabio, and others over time, I was able to co-construct a grounded and multifaceted narrative, one that acknowledged both the systemic dimensions of exploitation and the lived realities of those entangled within it.

Another vital element of the proposed evidentiary practice of this thesis is the use of audio-visual documentation, which entails the recording of sites of interest identified through the interview process. This element, characterised by the locked-off shot as the primary mode of recording, afforded extended time with each site, allowing for a careful and deliberate visual examination of bodily, spatial, and environmental relationships. The locked-off shot—a static frame that captures the environment without panning or movement—was utilised as both a methodological and ethical choice. Its stillness allows the viewer to stay with the materiality of the space and to consider the spatial dynamics at play. By avoiding rapid cuts or the movement of the camera, I sought to encourage a slower, more contemplative engagement with the footage, focusing attention on the architectural and environmental elements that bear witness to systemic exploitation.

However, this mode of filming was not without its challenges and limitations. While the static nature of the locked-off shot minimised my physical intrusion into the scene, the act of framing inherently reflected my choices. The placement of the camera, the angle of the shot, and the decision to include or exclude certain elements were all shaped by my subjectivity, revealing the inescapable presence of the researcher even when absent from the frame.

The decision to exclude human bodies, including the bodies of migrants, from the scenes was a deliberate ethical stance. I was acutely aware of the aesthetic regimes perpetuated by mainstream media, which often reduce migrants to symbols of suffering or struggle, stripping them of their individuality and complexity. By avoiding the inclusion of human subjects, I sought to resist this reductive visual economy and to focus instead on the spatial and material contexts that underpin systems of exploitation. While this choice allowed me to sidestep the risk of perpetuating harmful stereotypes, it also risked erasing the very individuals whose lives and struggles I aimed to document. The absence of human bodies in the footage can be interpreted as a form of depersonalisation, shifting attention away from the lived experiences of

migrants and the corporeal realities of border violence.[3]

The precariousness of my position as a researcher also shaped my approach to filming. The sites I documented, such as those in Corvo, were imbued with tension and unease. In environments controlled by the 'Ndrangheta, the presence of a tripod and camera rendered me conspicuously visible, raising questions about safety, surveillance, and intent. Despite efforts to maintain a low profile, I was regularly reminded of my position as an outsider, subject to the scrutiny of both local residents and law enforcement. This precariousness was underscored by moments of direct confrontation, such as being questioned by police about my activities and warned of the presence of illicit organisations operating in the area. These encounters served as stark reminders of the vulnerability inherent in fieldwork within politically charged and high-risk environments.

The tension between the need to document and the ethical considerations of doing so was a constant negotiation. The absence of human subjects in my footage reflected my commitment to avoiding the reproduction of exploitative visual narratives, yet it also limited the ability of the recordings to fully convey the human impact of the systemic issues I sought to address. The locked-off shot, while methodologically precise, constrained the dynamism of the visual narrative, emphasising spatial and material elements at the expense of capturing the human interactions within these spaces.

Despite these limitations, the audio-visual documentation provided a means to document and analyse the traces of financial and biopolitical extraction embedded within the built environment. The locked-off shot enabled a detailed examination of how architecture and spatial arrangements are complicit in systems of control and exploitation.[4] The absence of human bodies, while ethically motivated, places the onus on the viewer—directed by the voice-over—to imagine the lives and struggles that unfold within these spaces, thereby inviting a

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3 The omission of human bodies in the visual representation echoes broader ethical dilemmas in research, especially in relation to the representation of vulnerable subjects. This choice reflects concerns raised in feminist and postcolonial thought about the risks of objectifying or erasing the humanity of marginalised individuals in visual media, where the absence can sometimes amplify the abstraction of their struggles. Donna Haraway critiques the reduction of complex subjects to symbols, arguing for a more nuanced, embodied approach to representation that avoids the erasure of individual subjectivities.
Haraway, D. (1988). Situated knowledges: The science question in feminism and the privilege of partial perspective. Feminist Studies, 14(3), 575-599.

4 The use of the locked-off shot as a method of capturing spatial dynamics reflects an ethical and methodological commitment to stillness and contemplation. The technique avoids the imposition of the researcher's body, aligning with an approach that privileges materiality over dynamic human interaction, as discussed in the reflexive methodologies of feminist research. Judith Butler's concept of performativity challenges traditional distinctions between the subject and object, which is evident in the use of static shots in this thesis to both reveal and obscure the subjectivity of the spaces being documented.
Butler, J. (1990). Gender trouble: Feminism and the subversion of identity. Routledge.

more active and reflective engagement with the material.

The incorporation of physical models (the final and most important component of the practice) adds a multifaceted dimension to the research approach, yet it also opens a space for critical reflection—particularly regarding its capacity to testify to the complex narratives chronicled in the interviews. While models are undeniably powerful tools, allowing us to visualise and examine relationships, they also have inherent limitations. In their static form, models risk functioning solely as objects—detached and inert, unable to fully capture the dynamism and subjectivity of the stories they aim to represent.

Reflecting on my positionality and subjectivity as a researcher, I am aware that the physical models I created are shaped by my perspective, informed by the narratives shared during fieldwork. Despite the intention to centre these lived experiences, the models themselves—through their scale, the colours and textures with which they are made—unavoidably reflect my biases, choices, and interpretative framework.[5] The process of selecting what to include, what to leave out, and how to structure these spatial reconstructions highlights the duality of the model as both an object and a subject.

When perceived as an object, the model becomes a static representation of architecture, along with its measurements and proportions. It captures spatial relationships, such as the dimensions of a detention centre or the optimisation of space for exploitative purposes, offering a material testimony to the biopolitical and financial extractions that occur within these sites. Yet, as an object, it is bound by its physicality—it cannot speak, move, or fully embody the struggles embedded in its form. It presents a singular, fixed interpretation, one that may inadvertently obscure the fluid and dynamic realities of the people and the processes it seeks to portray.

However, the model as a subject emerges through its animation and performance. By engaging with the model—whether through tactile interaction, visual observation, or performative acts—we can evoke its narrative potential.[6] This performativity allows the static form to

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5 This reflection on the limitations of physical models aligns with poststructuralist critiques of representation, where even seemingly objective tools (such as architectural models) are shaped by the subjectivity of their makers. The models, as both objects and subjects, highlight the tension between representation and reality, emphasising the partiality of any visual or material representation. Gillian Rose's critique of transparent reflexivity suggests that even material forms of research, like models, are implicated in the power dynamics of knowledge production, revealing the researcher's biases despite their apparent objectivity. Rose, G. (1997). Situating Knowledges: Positionality, Reflexivities, and Other Tactics. Edinburgh University.

6 This recognition of the performative role of models emphasise the dynamic nature of research objects. Following feminist approaches to research, models are not static objects but performative tools that engage with the researcher's and viewer's subjectivity, highlighting the relational nature of knowledge production in architectural research. The performative aspect of the model echoes Farhana Sultana's emphasis on the researcher's evolving subjectivity, where the act of engaging with research tools can evoke new understandings of

transcend its limitations, bringing to life the calculations, relationships, and subjectivities embedded within their designs. The act of performing with the model becomes a way to reintroduce movement, temporality, and human experience, bridging the gap between spatial abstraction and lived reality.

Even this performative approach is laden with challenges. As mentioned before, the choice to avoid including human bodies—either in physical form or through their representation in the models—was ethically motivated by a desire to reject the aesthetic regimes perpetuated by media portrayals. Instead, my aim was to foreground the spaces and structures that facilitate these dynamics, allowing viewers to imagine the lives and struggles that unfold within them. However, by omitting human bodies, I risk reinforcing the abstraction of the spaces, detaching them from the corporeal realities they shape and constrain. The absence of bodies invites reflection but also demands a level of imaginative engagement that may not always be accessible to viewers unfamiliar with the context at hand. In this way, the models themselves, while intended to convey subjectivity, can be perceived primarily as objects—precise yet ultimately silent witnesses to the realities they seek to document.

This duality invites me to re-evaluate the role of models in the research process. How might they better convey the subjectivities they aim to represent? How can I, as a researcher, navigate the tension between abstraction and embodiment, ensuring that these tools remain faithful to the stories from which they derive from and seek to present? These questions are central to the ongoing reflection on my positionality, the ethical dimensions of my work, and the responsibility inherent in attempting to represent the complexities of border regimes and humanitarian governance.

In closing, this thesis has demonstrated the far-reaching impact of naming practices initiated by state and inter-state institutions, practices that persist even as individuals in transit seek to settle and rebuild their lives. By exposing the financial and biopolitical dimensions of displacement, this research and its practice aims to reframe advocacy discussions. It offers the potential to inspire new policies and practices aimed at dismantling the regime of calculations, ultimately contributing to a more equitable response to the challenges faced by displaced populations worldwide.

The iterative approach developed here underscored the importance of viewing positionality as a fluid and context-dependent

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the research subject.
Sultana, F. (2007). Reflexivity, positionality, and participatory ethics: Negotiating fieldwork dilemmas in international research. ACME: An International Journal for Critical Geographies, 6(3), 374-385.

experience. Researcher roles are never fixed but are continuously renegotiated in response to dynamics of fieldwork. For me, this meant reassessing assumptions, adapting to new insights, and acknowledging how my subjectivity was shaped by the evolving realities of the spaces and people I encountered.

The alternative practice that I set out to formulate also highlighted the complexities of representing systemic exploitation through visual media, emphasising the need for ongoing reflexivity in navigating the ethical and methodological challenges of documentation. It reinforced the importance of recognising the researcher's subjectivity as an integral part of the process. In embracing these complexities, I sought to develop an evidentiary practice that prioritises ethical engagement, challenges reductive visual regimes, and foregrounds the spatial and material dimensions of border violence and labour exploitation. However, the limitations and tensions inherent in this approach remain critical areas for reflection, calling for continuous dialogue in regard to the ethics and politics of visual representation in research.

The physical models, in turn, serve as a medium that embodies the tensions inherent in research itself—between objectivity and subjectivity, representation and reality, abstraction and experience. Their value lies not only in what they reveal but also in what they challenge us to confront: the limits of our methods, the biases in our perspectives, and the ethical imperatives of our work.

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9. Appendix

9.1 Transcript – *Regime of Calculations*

00:00:29:07 - 00:00:31:01
Spiagge di sabbia,
Sandy beaches,

00:00:31:21 - 00:00:33:17
coste rocciose,
rocky shores,

00:00:34:12 - 00:00:35:13
paludi.
wetlands.

00:00:36:08 - 00:00:38:06
Ricche di vita marina,
Rich in marine life,

00:00:39:01 - 00:00:41:08
dimora ideale per uccelli.
and habitat for birds.

00:00:44:05 - 00:00:45:16
Terreni brulli,
Rugged terrains,

00:00:46:02 - 00:00:47:13
foreste,
forests,

00:00:47:24 - 00:00:48:24
distese d'erba.
meadows.

00:00:49:23 - 00:00:53:07
Habitat ideali per varie specie di piante
Home to diverse plant

00:00:53:07 - 00:00:54:16
e animali.
and animal species.

00:00:55:14 - 00:00:59:14
Condizioni uniche per le coltivazioni e la biodiversità.
Unique conditions for farming and biodiversity.

00:01:02:13 - 00:01:03:09
Volatili,
Birds,

00:01:04:06 - 00:01:05:19
piccoli mammiferi.
small mammals.

00:01:07:08 - 00:01:08:20
Fauna acquatica,
Waterfowl,

00:01:09:12 - 00:01:11:00
uccelli acquatici.
aquatic life.

00:01:12:12 - 00:01:13:09
Api,
Bees,

00:01:13:24 - 00:01:15:00
farfalle,
butterflies,

00:01:15:15 - 00:01:16:16
insetti.
insects.

00:01:18:05 - 00:01:21:03
Cruciali per la riproduzione delle colture.
Crucial for crop reproduction.

00:01:22:11 - 00:01:23:18
Coccinelle,
Ladybugs,

00:01:24:04 - 00:01:25:01
vespe.
wasps.

00:01:26:00 - 00:01:28:08
Controllo naturale dei parassiti.
Natural pest control.

00:01:33:14 - 00:01:35:05
Calabria.
Calabria.

00:01:37:06 - 00:01:40:09
Un paesaggio agricolo sfaccettato.
A diverse agricultural landscape.

00:01:41:16 - 00:01:44:12
La stagione della crescita si estende,
With extended growing seasons,

00:01:45:12 - 00:01:48:17
allineamento dell'agricoltura con i ritmi della natura.
aligning farming with nature's rhythms.

00:01:52:04 - 00:01:53:15
La semina viene anticipata,
Allowing early planting,

00:01:53:15 - 00:01:56:13
e produce raccolti tardivi.
and late harvests.

00:01:58:00 - 00:02:02:01
Il soleggiamento prolungato alimenta la fotosintesi.
Prolonged sunshine fuels photosynthesis.

00:02:03:01 - 00:02:06:08
Il clima produce un'uva saporita,
The climate nurtures grape,

00:02:07:04 - 00:02:10:16
un olio dal sapore ricco, degli agrumi gustosi.
quality olive oil, and vibrant citrus.

00:02:12:04 - 00:02:14:07
Una stagione estiva secca,
Dry summers,

00:02:14:23 - 00:02:17:06
promuove un'agricoltura sostenibile.
promoting sustainable farming.

00:02:20:07 - 00:02:22:09
Varietà di colture autoctone,
Indigenous crop varieties,

00:02:22:19 - 00:02:25:03
resistenti e diversificate.
resilient and diverse.

00:02:26:23 - 00:02:28:19
La rotazione delle colture,
Crop rotation,

00:02:29:07 - 00:02:33:02
mantiene il suolo in salute, accresce la biodiversità.
sustains soil health and biodiversity.

00:02:36:16 - 00:02:39:05
Ma cosa accade a chi lavora la terra.
But what of those who work the land.

00:02:41:04 - 00:02:43:06
Il bracciante.
The labourer.

00:02:43:06 - 00:02:45:05
Il mietitore.
The harvester.

00:02:48:04 - 00:02:49:21
L'agricoltura della Calabria
The agricultural industry of Calabria

00:02:49:21 - 00:02:51:17
dipende dai corpi dei migranti.
relies on migrant bodies.

00:02:53:17 - 00:02:56:10
Questi corpi vengono messi al lavoro.
These bodies are put to work.

00:02:57:10 - 00:03:00:15
Legati a doppio filo in una serie di calcoli.
Entrenched in a series of calculations.

00:03:03:24 - 00:03:06:17
E questi calcoli innescano un dialogo
And these calculations initiate a dialogue

00:03:06:17 - 00:03:09:03
in cui il rapporto tra questi corpi
within which the relationship between these bodies

00:03:09:03 - 00:03:12:07
e gli oggetti inanimati del nostro ambiente costruito
and the inanimate objects of our built environment

00:03:13:07 - 00:03:19:23
viene strumentalizzato.
are instrumentalised.

00:04:12:13 - 00:04:14:08
Catanzaro.
Catanzaro.

00:04:16:13 - 00:04:18:05
Capitale della Calabria,
Capital of Calabria,

00:04:18:05 - 00:04:20:17
affacciata sul Mar Ionio.
overlooking the Ionian Sea.

00:04:23:19 - 00:04:26:04
Un punto di arrivo irregolare
An irregular arrival point

00:04:26:04 - 00:04:29:00
per i migranti che attraversano il Mediterraneo.
for migrants crossing the Mediterranean.

00:04:29:23 - 00:04:34:11
Gli sbarchi di portata maggiore infatti avvengono nella Locride,
Typically, arrivals of notable scale land in Locride,

00:04:34:11 - 00:04:35:23
a Soverato,
Soverato,

00:04:35:23 - 00:04:37:12
a Crotone.
and Crotone,

00:04:38:12 - 00:04:43:04
Dove si può accedere ad un sostanziale servizio di sostegno umanitario.
where substantial humanitarian support is available.

00:04:46:19 - 00:04:48:16
Nell'estate del 2022,
In the summer of 2022,

00:04:48:16 - 00:04:51:17
un barcone proveniente dalla Libia,
a boat arriving from Libya,

00:04:51:17 - 00:04:55:01
con a bordo 500 giovani e bambini,
carrying 500 young men and children,

00:04:55:01 - 00:04:57:18
ha innescato una serie di calcoli.
triggered a series of calculations.

00:04:57:18 - 00:05:02:17
Mobilitando il paesaggio unico di Catanzaro.
Mobilising the unique landscape of Catanzaro.

00:05:08:24 - 00:05:12:05
Ricevuta attenzione immediata al punto di arrivo,
After immediate attention at the point of arrival,

00:05:12:05 - 00:05:14:12
i giovani migranti vengono trasportati
these young migrants are transported

00:05:14:12 - 00:05:16:23
6 chilometri a nord,
6 kilometres north to Catanzaro Sud,

00:05:16:23 - 00:05:20:12
to the neighbourhood of Corvo.
to the neighbourhood of Corvo.

00:06:17:06 - 00:06:23:24
Isolato dalla parte nord della città, il suo centro storico, da una collina.
Isolated from the north of the city, its historical centre, by a hill.

00:06:23:24 - 00:06:31:02
Nel suo piano urbanistico, Corvo rivela un segno fisico distintivo della sua dislocazione.
In its master plan, Corvo reveals a distinct physical marker of its dislocation

00:06:32:15 - 00:06:37:16
– un confine stradale circolare.
– a circular road boundary.

00:06:40:05 - 00:06:44:24
Un palazzetto dello sport cadente si erge al centro di Corvo,
A derelict sports hall stands at the centre of Corvo,

00:06:44:24 - 00:06:47:21
Temporaneamente riadattato
temporarily repurposed for processing

00:06:47:21 - 00:06:50:03
per il trattamento e l'alloggio dei migranti.
and housing the migrants.

00:06:51:09 - 00:06:57:22
Rappresentando contemporaneamente uno strumento di solidarietà e confinamento.
Simultaneously becoming an instrument of solidarity and confinement.

00:07:31:24 - 00:07:36:09
All'interno, vi sono 500 letti
Inside, 500 beds

00:07:36:09 - 00:07:39:06
disposti in modo ordinato.
are arranged in an orderly fashion.

00:07:40:23 - 00:07:45:20
Gli operatori umanitari si impegnano nella raccolta di dati,
Humanitarian actors engage in data collection,

00:07:45:22 - 00:07:49:10
richiedono informazioni quali nazionalità,
requesting information such as nationality,

00:07:49:10 - 00:07:50:18
genere,
gender,

00:07:50:18 - 00:07:52:13
età,
age,

00:07:52:13 - 00:07:54:16
livello d'istruzione,
education,

00:07:54:16 - 00:07:57:16
condizioni di salute.
and health condition.

00:07:57:16 - 00:08:02:16
Questi dati svolgono un ruolo cruciale nelle successive fasi di registrazione
This data plays a crucial role in later registration processes

00:08:03:18 - 00:08:06:22
che aspirano a definire la legittimità
that seek to define the legitimacy

00:08:06:23 - 00:08:11:12
della loro illegale entrata in Italia.
of their illegal entry into Italy.

00:08:11:14 - 00:08:13:23
Assegnando una varietà di nomi,
Assigning a variety names,

00:08:13:23 - 00:08:18:00
trasformando i loro status legali.
transforming their legal statuses.

00:08:19:09 - 00:08:22:00
Richiedente asilo,
Asylum applicant,

00:08:22:00 - 00:08:25:12
se risultano idonei all'assistenza.
if found eligible for aid and assistance.

00:08:25:14 - 00:08:27:20
Immigrato illegale,
Illegal immigrant,

00:08:27:20 - 00:08:29:22
se non lo sono.
if not.

00:08:30:21 - 00:08:33:15
E tramite questa pratica di denominazione,
And through this naming practice,

00:08:33:15 - 00:08:36:21
che iniziano ad emergere numerose forme di calcoli
numerous forms calculations begin to emerge

00:08:36:24 - 00:08:38:09
finanziari
financial

00:08:38:09 - 00:08:39:24
e biopolitici.
and biopolitical.

00:08:40:16 - 00:08:43:21
Un regime che persiste, muta,
One that persists and mutates,

00:08:43:23 - 00:08:47:23
mentre una persona sfollata passa da uno stato legale all'altro,
as a displaced person moves from legal status to legal status,

00:08:48:10 - 00:08:50:21
da un recinto all'altro.
from one enclosure to another.

00:08:52:09 - 00:08:55:07
E ad ogni intervallo, questi calcoli
And at each interval, these calculations

00:08:55:17 - 00:08:59:11
tentano di estrarre forme di valore dai loro corpi.
seek to extract forms of value from their bodies.

00:09:00:01 - 00:09:02:12
Attraverso l'alloggio.
Through accommodation.

00:09:02:12 - 00:09:05:08
Attraverso la mobilità.
Through mobility.

00:09:05:08 - 00:09:09:04
Attraverso il lavoro.
Through labour.

00:09:50:02 - 00:09:51:07
Amantea.
Amantea.

00:09:52:10 - 00:09:54:05
Provincia di Cosenza,
Province of Cosenza,

00:09:54:24 - 00:09:57:07
una città sul Mar Tirreno.
a town along the Tyrrhenian Sea.

00:10:00:04 - 00:10:05:11
Collegata da una vicina autostrada e da mezzi pubblici al comune di Lamezia.
Connected by a nearby highway and public transport to Lamezia.

00:10:07:03 - 00:10:10:15
Questa posizione strategica l'ha resa una meta ideale
Its strategic location has made it an ideal destination

00:10:10:15 - 00:10:13:02
per i migranti che arrivano dal sud,
for migrants arriving from the south,

00:10:13:02 - 00:10:17:03
come si evince dalla sua composizione demografica.
resulting in a significant migrant population.

00:10:19:02 - 00:10:23:06
Amantea è sede di una consistente comunità bangladese,
Home to a substantial Bangladeshi community,

00:10:23:06 - 00:10:26:14
principalmente giovani uomini soli
primarily young single men

00:10:26:14 - 00:10:29:10
he vivono in appartamenti sparsi per la città,
residing in apartments scattered across the town,

00:10:29:17 - 00:10:33:01
spesso in condizioni di sovraffollamento.
often in overcrowded conditions.

00:10:38:00 - 00:10:44:21
Ad Amantea, si osserva un intensificarsi del calcolo finanziario e biopolitico,
Here, we observe a deepening of financial and biopolitical calculus,

00:10:45:04 - 00:10:50:15
non più messo in atto da istituzioni statali o interstatali.
no longer enacted by state and interstate institutions.

00:10:50:15 - 00:10:55:07
Ma da coloro che mirano a trarre vantaggio dalla presenza dei migranti,
But by those who aim to benefit from the presence of migrants,

00:10:55:07 - 00:10:57:16
e dalla loro situazione precaria.
and the unstable situation that they find themselves in.

00:11:00:06 - 00:11:05:08
Il sistema corrotto del caporalato entra in gioco quando i migranti più esperti
The caporale system comes into play as experienced migrants

00:11:05:08 - 00:11:08:00
coloro che parlano il dialetto regionale
who speak the the regional Italian dialect

00:11:08:00 - 00:11:10:10
e che hanno più esperienza del paesaggio,
who understand the local landscape,
00:11:10:10 - 00:11:14:21
delle tradizioni e del mercato del lavoro locale,
who now know the traditions and labour markets,

00:11:14:21 - 00:11:18:19
diventano agenti che sfruttano i nuovi arrivati,
transition into agents who exploit new arrivals

00:11:18:21 - 00:11:22:13
utilizzando le stesse tecniche che un tempo avevano subito.
using techniques once applied to them.

00:11:24:17 - 00:11:27:20
Il caporale fa amicizia con i nuovi arrivati,
The caporale befriends newcomers,

00:11:27:20 - 00:11:32:12
offrendo loro cibo e bevande come gesto in apparenza amichevole.
offering them food and beverages as a seemingly friendly gesture.

00:11:33:17 - 00:11:36:01
Ignari, i nuovi arrivati accettano,
Unbeknownst to the newcomers,

00:11:36:16 - 00:11:42:14
dando inizio ad un ciclo estrattivo di indebitamento nei confronti del caporale.
this marks the beginning of an extractive cycle where they become indebted to the caporale.

00:11:44:12 - 00:11:48:16
La sua esperienza, i suoi racconti, sono affascinanti.
His experience, his stories are seductive.

00:11:48:23 - 00:11:54:12
Il caporale prosegue con un altro gesto mascherato da generosità
He advances with another gesture disguised as goodwill

00:11:54:18 - 00:11:56:17
- trova un lavoro per il giovane.
- he finds the young person a job.

00:11:58:10 - 00:12:02:07
Ciò che il giovane non sa è che una volta ottenuto il lavoro,
What the young person doesn't know is that once the job is secured,

00:12:02:07 - 00:12:06:21
il suo stipendio passerà attraverso il caporale.
their salary will go through the caporale.

00:12:06:21 - 00:12:10:11
I 40 euro corrisposti per una giornata di lavoro,
The 40 euros owed for a day's labour,

00:12:10:11 - 00:12:12:06
diventano 20.
becomes 20.

00:12:14:18 - 00:12:18:24
Il caporale continua con il reclutamento.
The caporale continues on his recruitment.

00:12:27:09 - 00:12:29:07
3 del mattino.
3 am.

00:12:29:07 - 00:12:30:20
Ai piedi della collina.
At the bottom of the hill.

00:12:30:24 - 00:12:33:08
All'angolo di un'arteria stradale.
On a corner of an arterial road.

00:12:34:02 - 00:12:37:12
I migranti sono in attesa di un mezzo di trasporto.
Migrants wait for their transport.

00:12:37:12 - 00:12:39:07
Organizzato dal caporale.
Organised by the caporale.

00:12:40:07 - 00:12:44:14
Li passa a prendere, puntuale come un orologio.
Picking them up like clockwork.

00:12:44:14 - 00:12:48:20
Trasporta manipoli di lavoratori migranti nei campi agricoli
Transporting each group of migrant labourers to fields

00:12:48:20 - 00:12:52:10
in cui lavoreranno fino a 15 ore al giorno.
on which they will work the ground for up to 15 hours of that day.

00:12:53:16 - 00:12:58:08
L'organizzazione di questo servizio logistico non è gratuita.
This logistical organisation is not free.

00:12:58:08 - 00:13:03:17
Il viaggio da e per i campi è a carico di ciascun passeggero.
The journey to and back from the fields are paid for by each passenger.

00:13:03:17 - 00:13:07:18
I 20 euro di salario diventano 15.
20 euros of income now becomes 15.

00:13:10:10 - 00:13:14:10
I migranti iniziano a familiarizzare con il nuovo ambiente,
As migrants settle and familiarise themselves with everything,

00:13:14:12 - 00:13:18:02
comprendono il sistema di sfruttamento in cui sono incappati,
grasping the exploitative system they are trapped in,

00:13:18:07 - 00:13:21:24
iniziano ad identificare opportunità di guadagno,
they begin to identify opportunities for financial gain,

00:13:22:15 - 00:13:26:01
Riproducendo lo stesso ciclo di sfruttamento.
reproducing this exploitative cycle.

00:13:26:18 - 00:13:31:12
Alcuni addirittura si coalizzano per acquistare delle vetture così da poter
Some even come together to purchase vehicles,

00:13:31:12 - 00:13:35:06
offrire servizi di trasporto ai compagni migranti.
offering transportation services to fellow migrants.

00:13:40:15 - 00:13:44:18
Questa logica si estende anche alle loro condizioni abitative,
This logic extends to their living arrangements,

00:13:45:17 - 00:13:51:01
dato che non di rado i migranti hanno difficoltà ad affittare appartamenti
as migrants may struggle to rent apartments

00:13:52:06 - 00:13:55:01
a causa della mancanza di documentazione
due to a lack of documentation

00:13:56:02 - 00:14:00:15
o alla riluttanza delle comunità locali a concedere le loro proprietà
or to the unwillingness of local communities to let their properties

00:14:01:11 - 00:14:05:22
a persone con poca o nessuna sicurezza lavorativa.
to a person with little or no job security.

00:14:23:13 - 00:14:25:06
Ancora una volta,
Once again,

00:14:25:12 - 00:14:33:03
i primi arrivati identificano un'opportunità redditizia lucrativa nel
subaffittare degli spazi aggiuntivi.
those who have come before find a lucrative opportunity in subleting extra
space.

00:14:43:09 - 00:14:44:16
Un letto,
A bed,

00:14:46:10 - 00:14:49:02
un divano in soggiorno,
the sofa in the living room,

00:14:50:21 - 00:14:53:21
un sacco a pelo per terra
a sleeping bag on the floor

00:14:55:15 - 00:15:01:07
così un appartamento medio lentamente diventa sovraffollato.
are numerous forms through which an average apartment slowly becomes overcrowded.

00:15:02:19 - 00:15:05:02
90 metri quadrati,
90 square metres,

00:15:06:21 - 00:15:12:18
non più uno spazio confortevole per una famiglia di quattro persone,
no longer a space of comfort for a family of four,

00:15:13:23 - 00:15:16:16
ma uno spazio di opportunità
but instead becomes a space of opportunity

00:15:18:10 - 00:15:26:14
– dove ogni metro quadrato contiene in potenza la possibilità di ulteriori accumuli finanziari.
– every square metre has the potential for further financial accumulation.

00:15:29:05 - 00:15:35:04
L'ex sfruttato diventa ora un agente del regime di calcoli.
The exploited now becomes an agent of the regime of calculations.

00:16:02:03 - 00:16:04:17
Cassano all'Ionio.
Cassano all'Ionio,

00:16:06:10 - 00:16:09:14
situata tra il Mar Ionio e le montagne della Sila.
situated between the Ionian Sea and the Sila Mountains.
00:16:12:21 - 00:16:17:19
Questa città presenta sfide uniche per le popolazioni sfollate.
This town presents unique challenges for displaced populations.

00:16:24:00 - 00:16:27:01
Le limitate opzioni di trasporto pubblico,
This town's limited public transport options,

00:16:27:01 - 00:16:30:13
una rete di autobus di collegamento con le zone limitrofe,
primarily relying on a bus network connecting nearby towns,

00:16:30:19 - 00:16:36:20
creano opportunità per le reti illecite coinvolte nel trasporto e nel reclutamento di migranti,
create opportunities for illicit networks involved in the transportation and recruitment of migrants,

00:16:37:07 - 00:16:40:14
a prescindere dal loro status giuridico.
regardless of their legal status.

00:16:46:23 - 00:16:48:23
Isolato dai campi agricoli,
Isolated by agricultural fields,

00:16:48:23 - 00:16:53:20
Cassano all'Ionio è il luogo in cui i migranti abitano e si concentrano,
Cassano all'Ionio serves as both a home and a hub for migrants,

00:16:54:20 - 00:16:58:13
rivelando un calcolo biopolitico di portata più ampia
which reveals a greater biopolitical calculus

00:17:00:13 - 00:17:07:08
che implica il trasporto, l'alloggio ed infine il reclutamento dei mi- granti come forza lavoro.
that transports migrants, accommodates them, and then recruits them as a labour force.

00:17:09:24 - 00:17:13:12
Chi risiede nelle città più piccole circostanti
Those residing in surrounding smaller towns

00:17:13:21 - 00:17:21:17
si trova a camminare a piedi per distanze che variano dai 2 ai 15 chilometri per raggiungere Cassano.
may trek on foot for distances ranging from 2 to 15 kilometres to reach Cassano.

00:17:23:23 - 00:17:25:02
Bloccati,
Blocked,

00:17:25:16 - 00:17:27:23
incapaci di muoversi liberamente
unable to move freely

00:17:28:12 - 00:17:31:11
a causa dei vincoli geografici del paesaggio.
due to the geographical constraints of the landscape.

00:17:41:08 - 00:17:46:02
Nell'estate del 2019, i migranti che si erano stabiliti in quelle zone
In the summer of 2019, the displaced who were settled here and its peripheries

00:17:46:02 - 00:17:50:13
hanno organizzato una protesta in una piazza centrale della città. staged
a protest in a prominent town square.

00:17:52:05 - 00:17:55:23
Il luogo da cui vengono portati ogni giorno al lavoro.
The site from which they are taken to work on a daily basis.

00:17:56:12 - 00:17:58:08
Chiedono migliori salari,
Demanding better pay,

00:17:59:04 - 00:18:00:23
migliori condizioni,
better conditions,

00:18:01:18 - 00:18:04:09
il riconoscimento dei loro diritti.
and recognition of their rights.

00:18:05:07 - 00:18:09:07
Le loro voci si amplificano attraverso reti di solidarietà
Their voices resonated through solidarity networks

00:18:09:07 - 00:18:10:19
in tutta la regione.
across the region.

00:18:14:08 - 00:18:17:24
Le loro richieste vengono ascoltate.
Their demands were heard.

00:18:19:15 - 00:18:21:09
Non dai loro sfruttatori,
Not by those who exploit them,

00:18:21:09 - 00:18:24:21
che estraggono valore dalla loro esistenza.
who extract value from their existence.

00:18:25:08 - 00:18:27:17
Ma da chi regolarmente aiuta migranti
But by those who help migrants

00:18:27:17 - 00:18:30:01
in situazioni simili alla loro
in similar situations to their own

00:18:31:17 - 00:18:34:13
operatori umanitari
humanitarian aid workers

00:18:34:13 - 00:18:37:14
assistenti sociali.
and social workers.

00:18:39:06 - 00:18:42:09
Questa protesta ha innescato una serie di incontri
This protest ignited a series of meetings

00:18:42:09 - 00:18:44:14
in vari spazi pub- blici della città.
in various public spaces across the city.

00:18:45:02 - 00:18:50:10
Fino a quando è stato loro destinato un luogo per consultazioni ed assistenza.
Until a space was allocated for consultations and aid.

00:18:51:20 - 00:18:57:00
Attraverso questo luogo, tutti i migranti, documentati o meno, Through which, all migrants, documented or otherwise,

00:18:57:00 - 00:19:01:04
classificati come illegali o con status in sospeso,
classified as illegal or those who have statuses pending,

00:19:01:04 - 00:19:04:04
hanno trovato lo spazio e l'opportunità
were given the space and opportunity

00:19:04:21 - 00:19:07:00
per discutere esigenze,
to discuss their needs,

00:19:07:18 - 00:19:09:11
processi legali,
legal processes,

00:19:09:11 - 00:19:13:14
e i possibili percorsi verso la stabilità.
and pathways to stability.

00:19:14:12 - 00:19:16:02
Creando una rete,
Creating a network,

00:19:16:02 - 00:19:19:10
tra persone che condividono una condizione simile
with others in similar situations

00:19:19:10 - 00:19:20:15
e coloro che offrono assistenza.
and those offering assistance.

00:19:29:22 - 00:19:32:07
Pratiche estrattive,
Extractive practices,

00:19:33:04 - 00:19:36:11
che vengono amministrate attraverso la denominazione,
those that are administered through naming,

00:19:37:13 - 00:19:39:16
categorizzazione,
categorisation,

00:19:40:09 - 00:19:45:02
identificazione dei migranti attraverso una varietà di status giuridici.
identifying migrants with varying legal statuses.

00:19:47:06 - 00:19:50:00
Immigrato illegale.
Illegal immigrant.

00:19:50:00 - 00:19:52:22
Richiedente asilo.
Asylum applicant.

00:19:52:22 - 00:19:55:21
Migrante indocumentato.
Undocumented migrant.

00:19:55:21 - 00:19:57:24
Detenuto.
Detainee.

00:19:57:24 - 00:20:00:17
Espulso.
Deportee.

00:20:03:21 - 00:20:06:12
Perpetuando un ciclo senza fine
Perpetuating a never ending cycle

00:20:06:12 - 00:20:11:23
attraverso il quale i corpi dei mi- granti vengono finanziarizzati. through which migrant bodies are financialised.

00:20:13:16 - 00:20:17:11
Iniziando prima della migrazione forzata.
Beginning prior to forced migration.

00:20:18:12 - 00:20:23:03
Un viaggio attraverso il quale la figura del migrante viene inventata,
A journey through which the figure of the migrant is invented,

00:20:23:20 - 00:20:25:14
e reinventata,
and reinvented,

00:20:26:03 - 00:20:28:14
più e più volte.
again and again.

00:20:31:12 - 00:20:35:03
Fino a quando non rimarrà più nulla da estrarre.
Until all potential value is extracted.

FINE.
END.

9.2 Image Archive

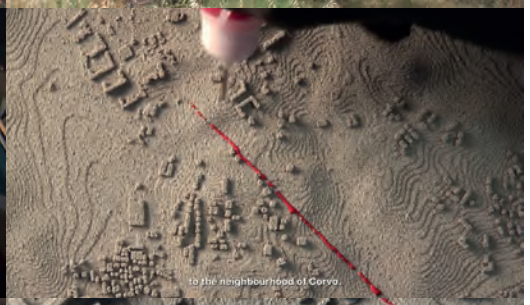
Image sequence from *Regime of Calcualtions* (all scenes).
Source: Kamil Dalkir.

aquatic life

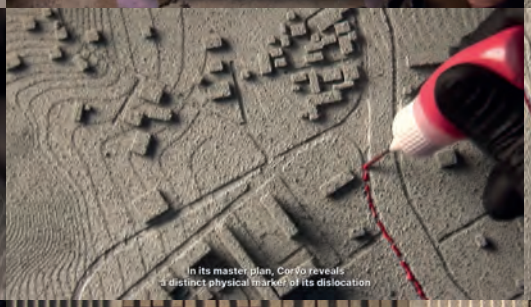
Prolonged sunshine fuels photosynthesis

Sei più bella del mare.
a boat arriving from Libya,

After immediate attention at
the point of arrival,

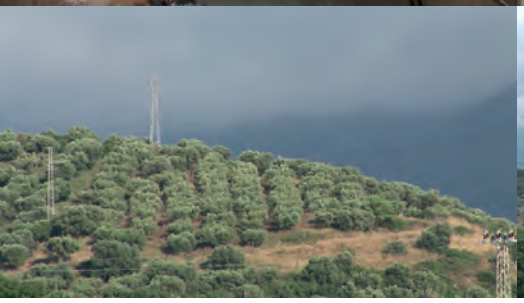

to the neighbourhood of Corvo.

isolated from the north of the city,
its historical centre, by a hill.


In its master plan, Corvo reveals
a distinct physical marker of its dislocation

This data plays a crucial role
in later registration processes

Asylum applicant



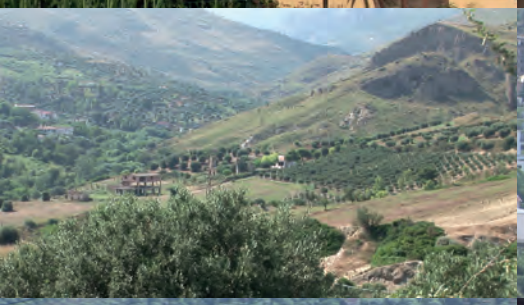
Here, we observe a deepening of financial
and biopolitical calculus.

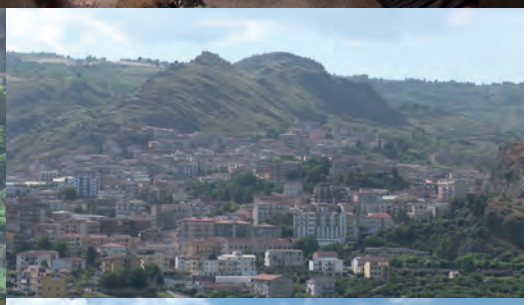
Image sequence from *Regime of Calcualtions* (all scenes).
Source: Kamil Dalkir.

At the bottom of the hill,

on which they will work the ground
for up to 15 hours of that day.

or to the unwillingness of local
communities to let their properties





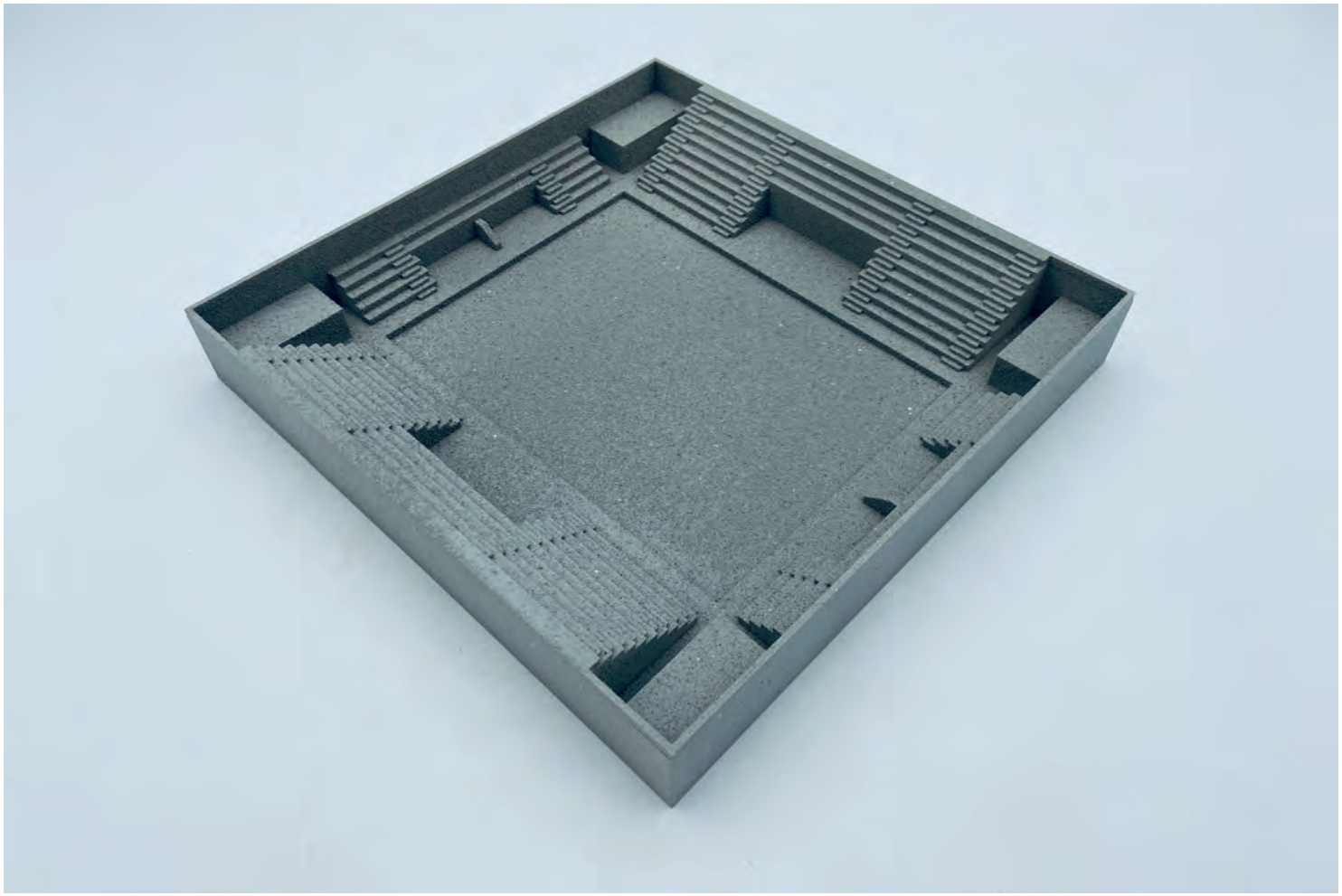
due to the geographical constraints
of the landscape.

better conditions,

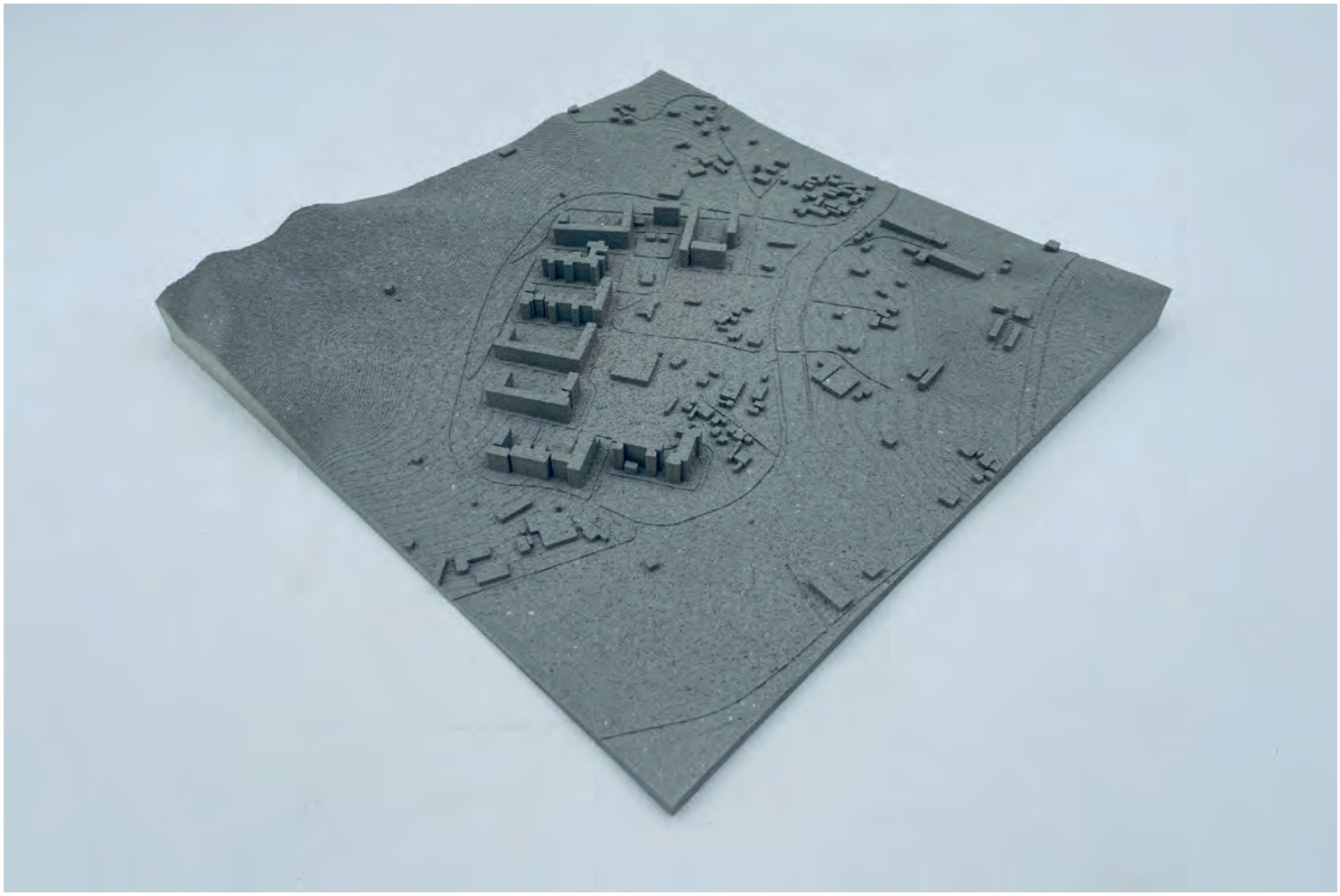
classified as illegal or those
who have statuses pending,

and pathways to stability.

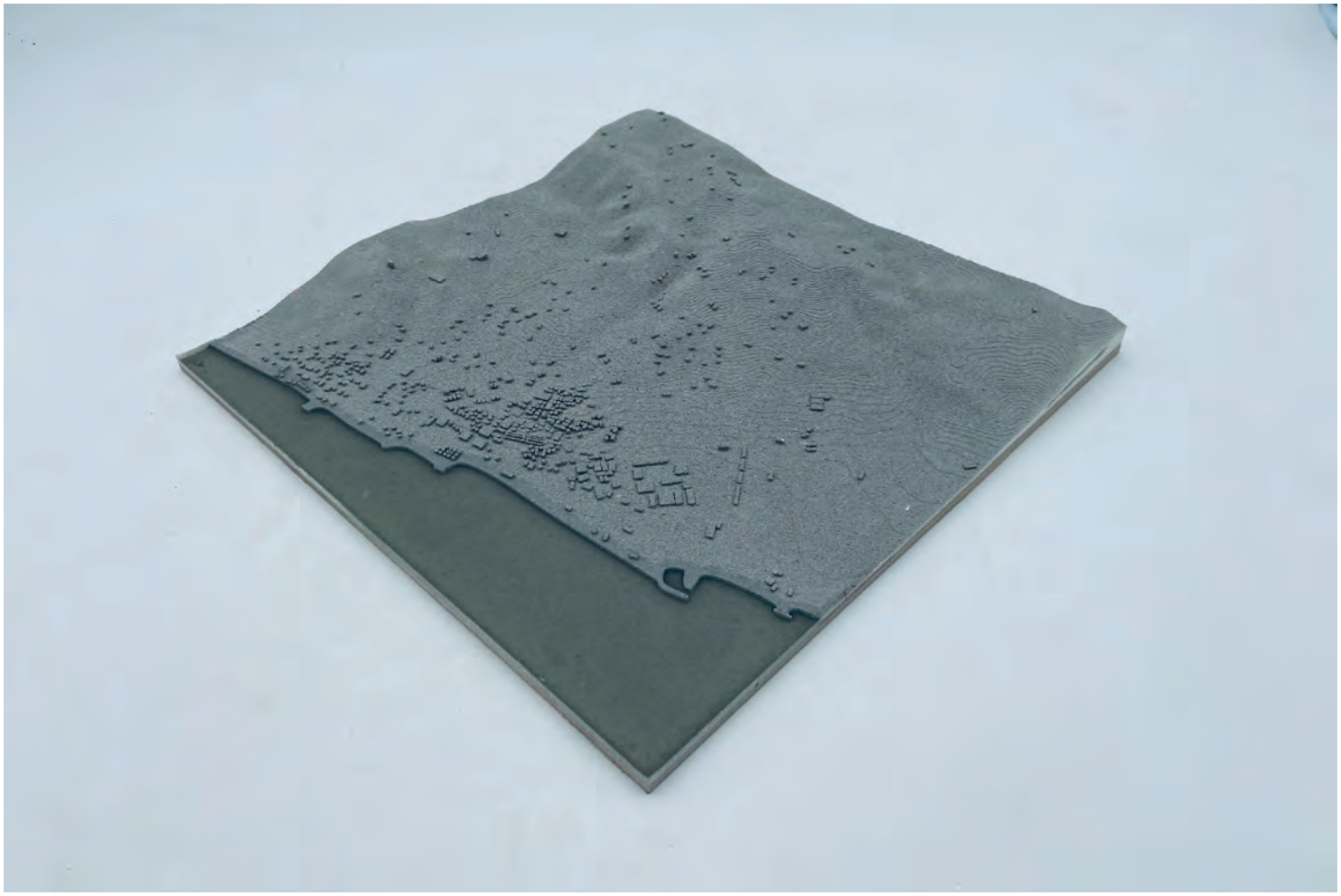
Extractive practices,



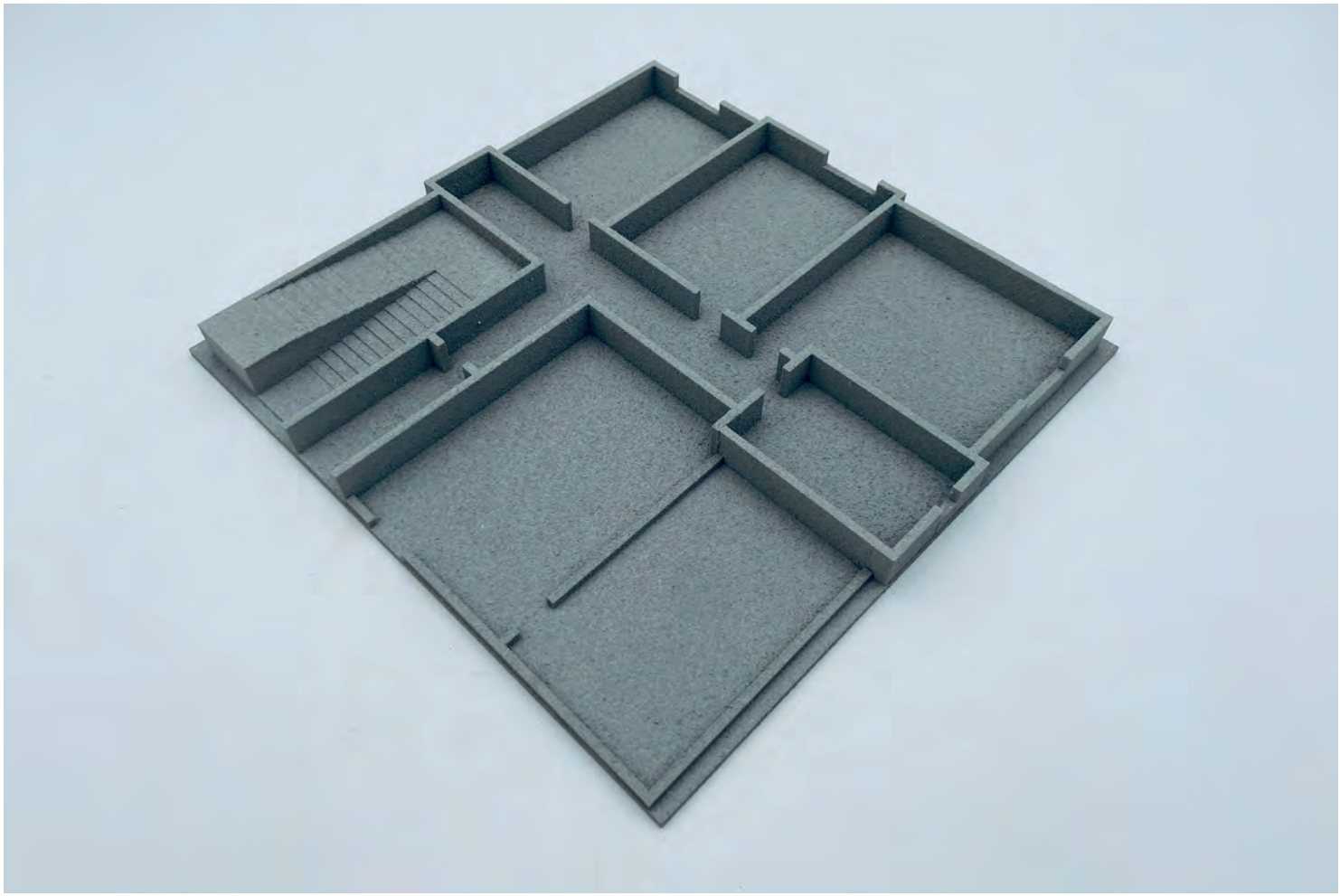
Interior model of sports hall, Corvo, Catanzaro Sud.
Source: Kamil Dalkir.



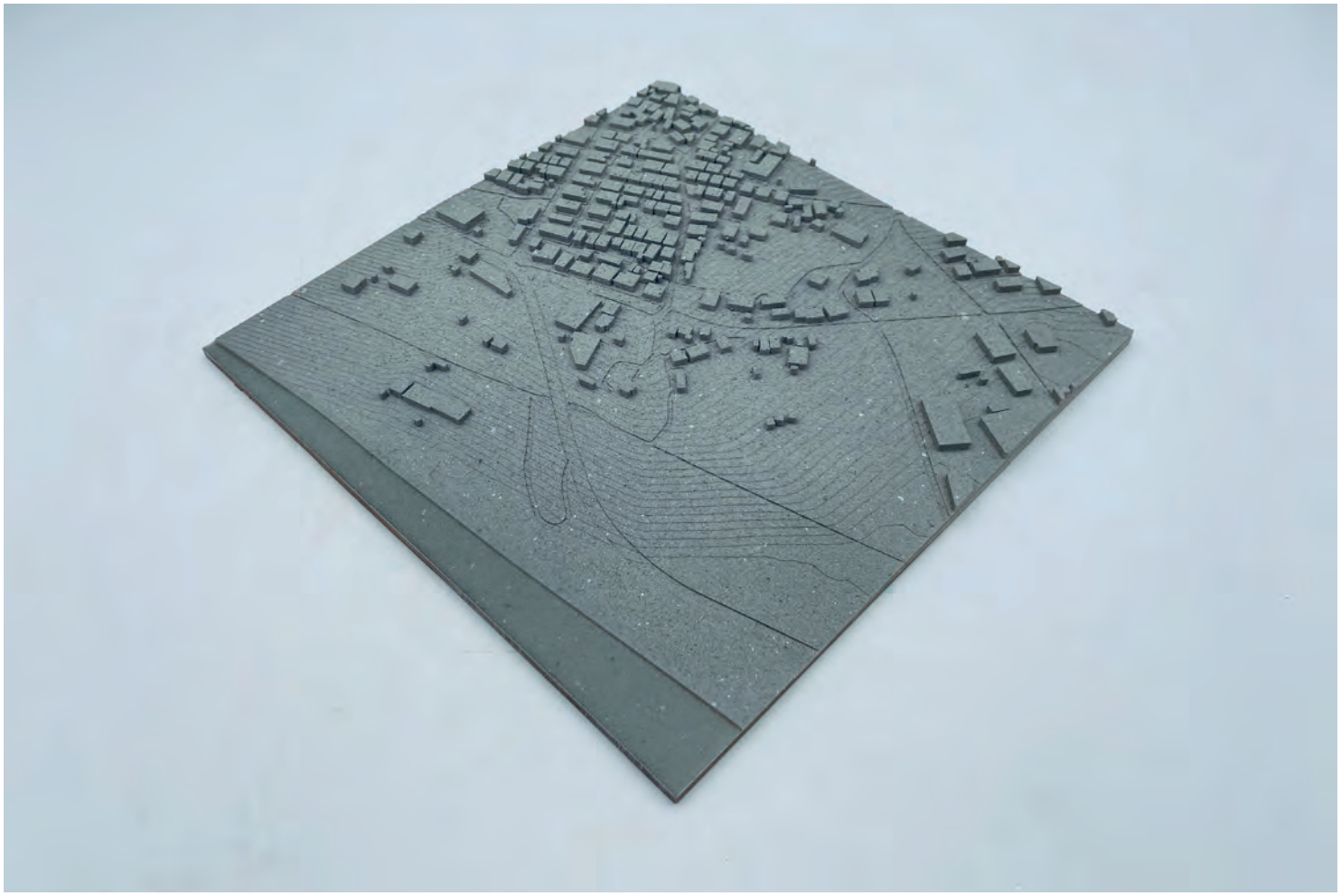
Model showing the Corvo neighborhood, Catanzaro Sud.
Source: Kamil Dalkir.



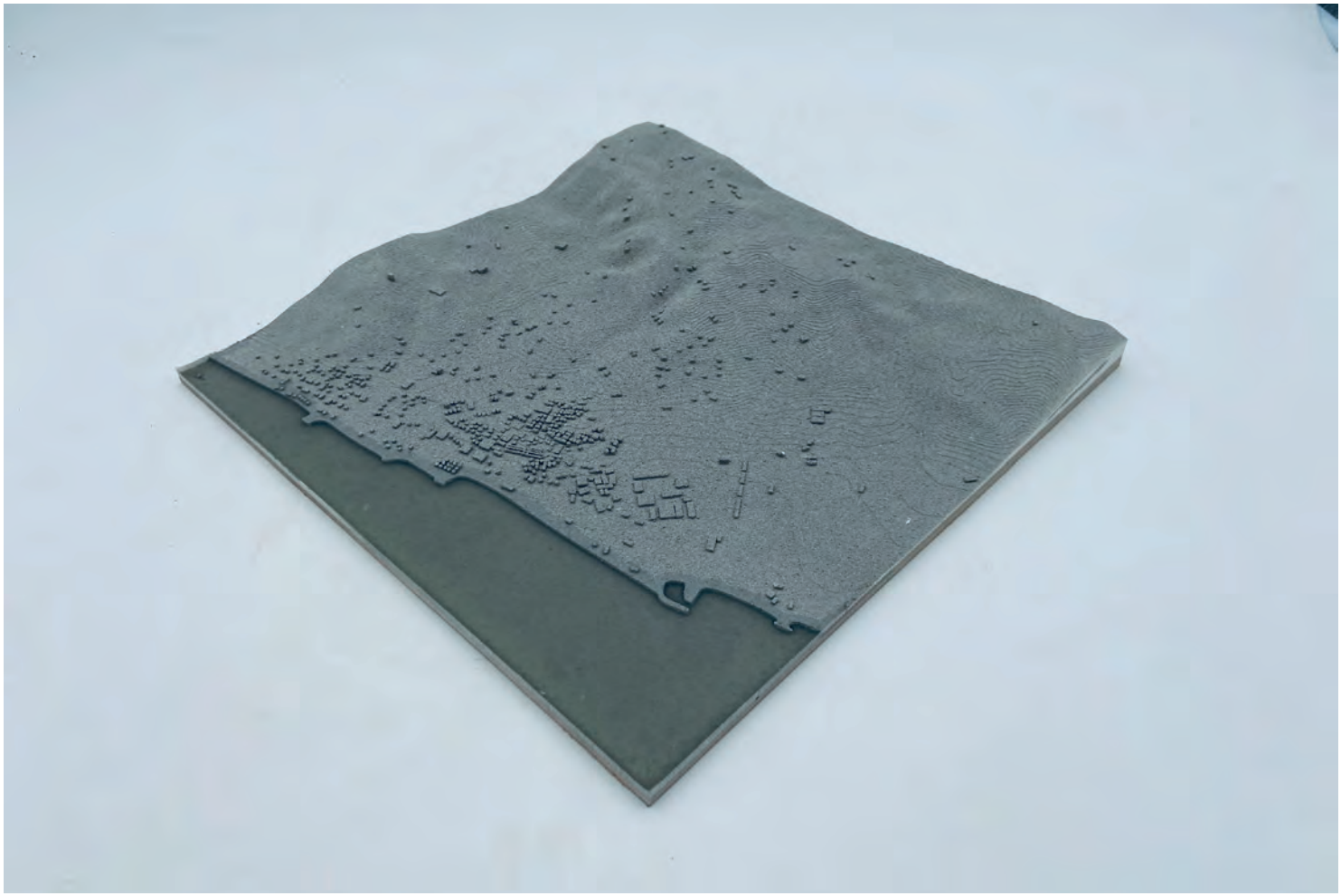
Landscape model showing Cantanzaro Lido and the greater Catanzaro area.
Source: Kamil Dalkir.



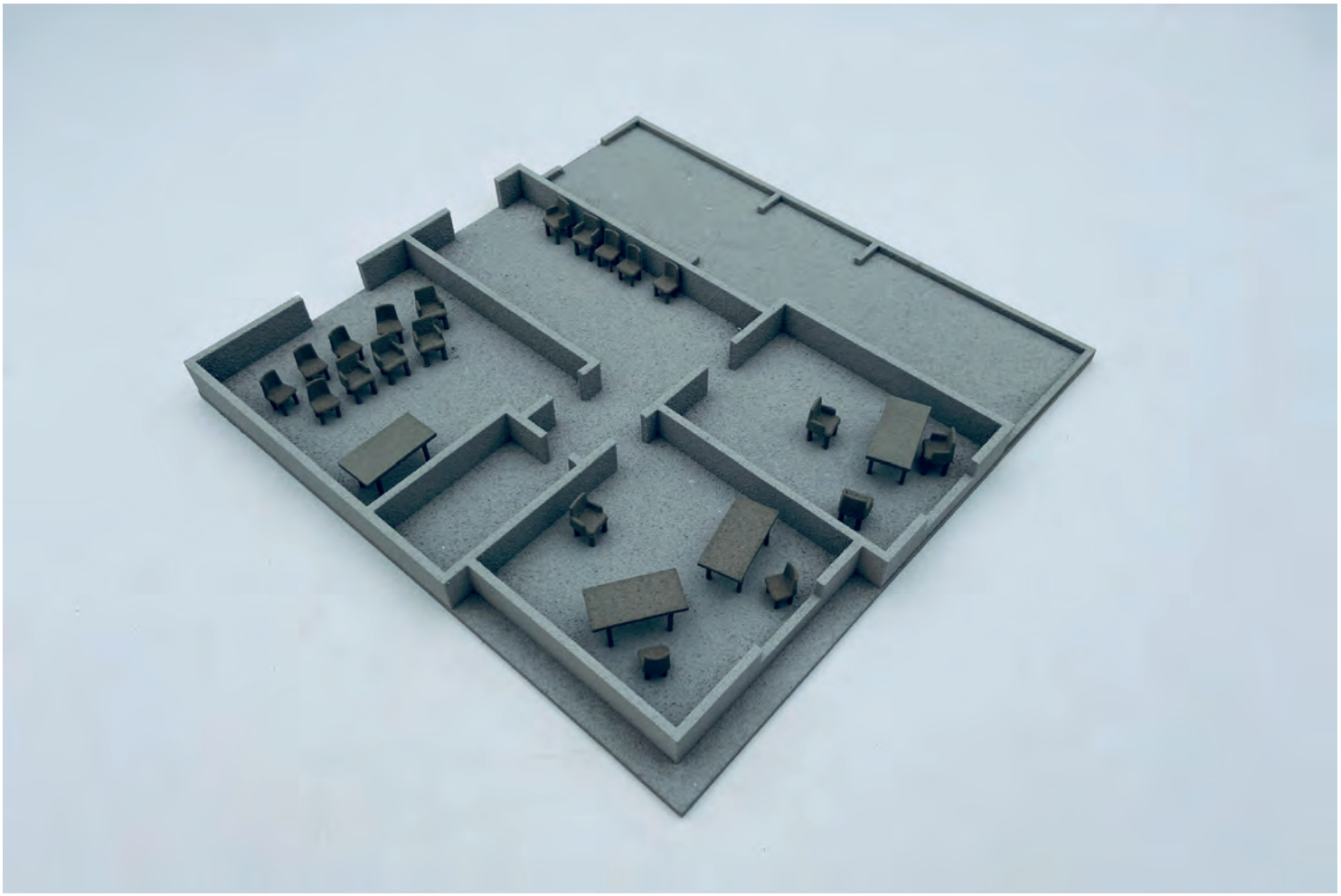
Interior model of a typical two-bed apartment, Amantea.
Source: Kamil Dalkir.



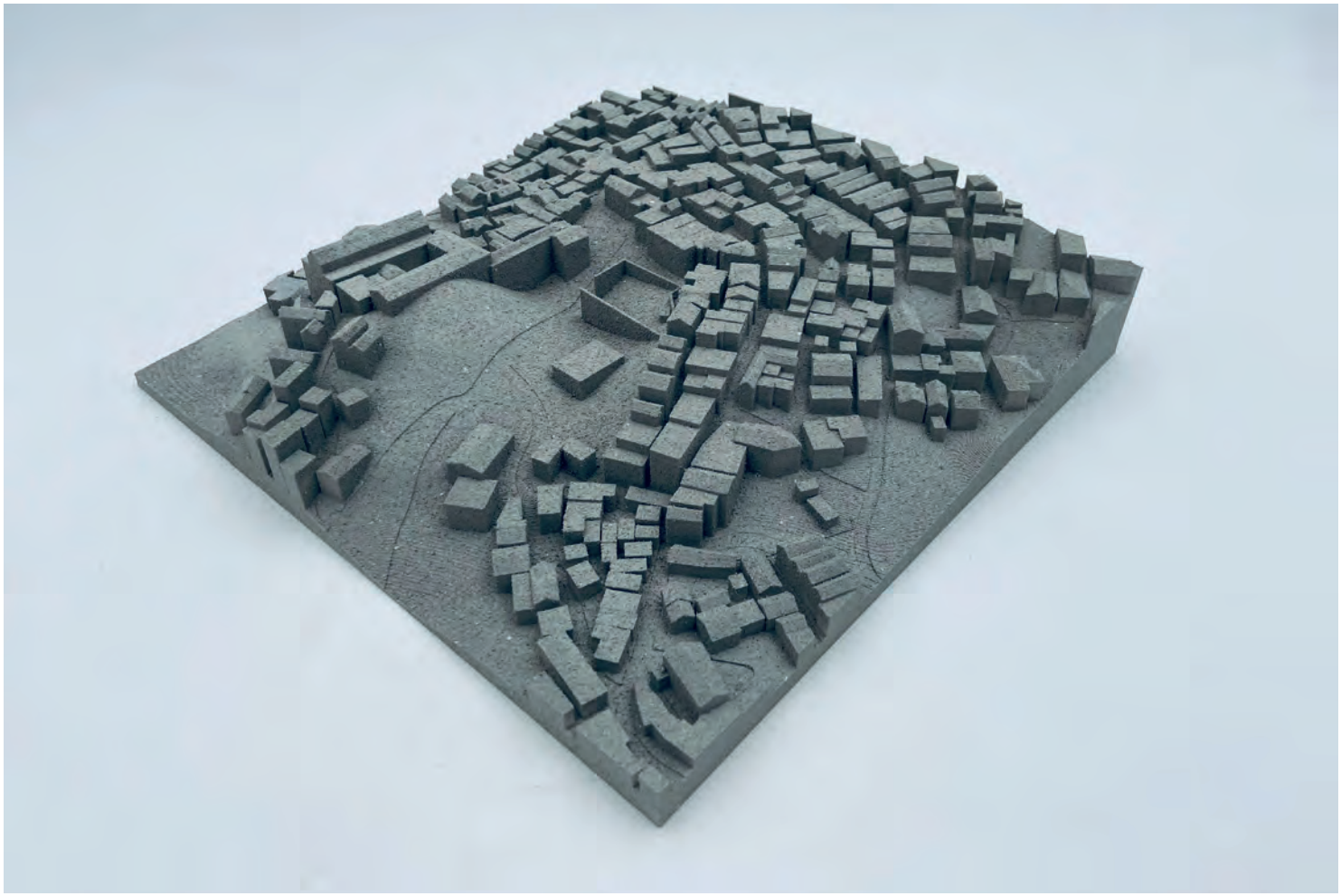
Model showing the coastal and residential areas of Amantea.
Source: Kamil Dalkir.



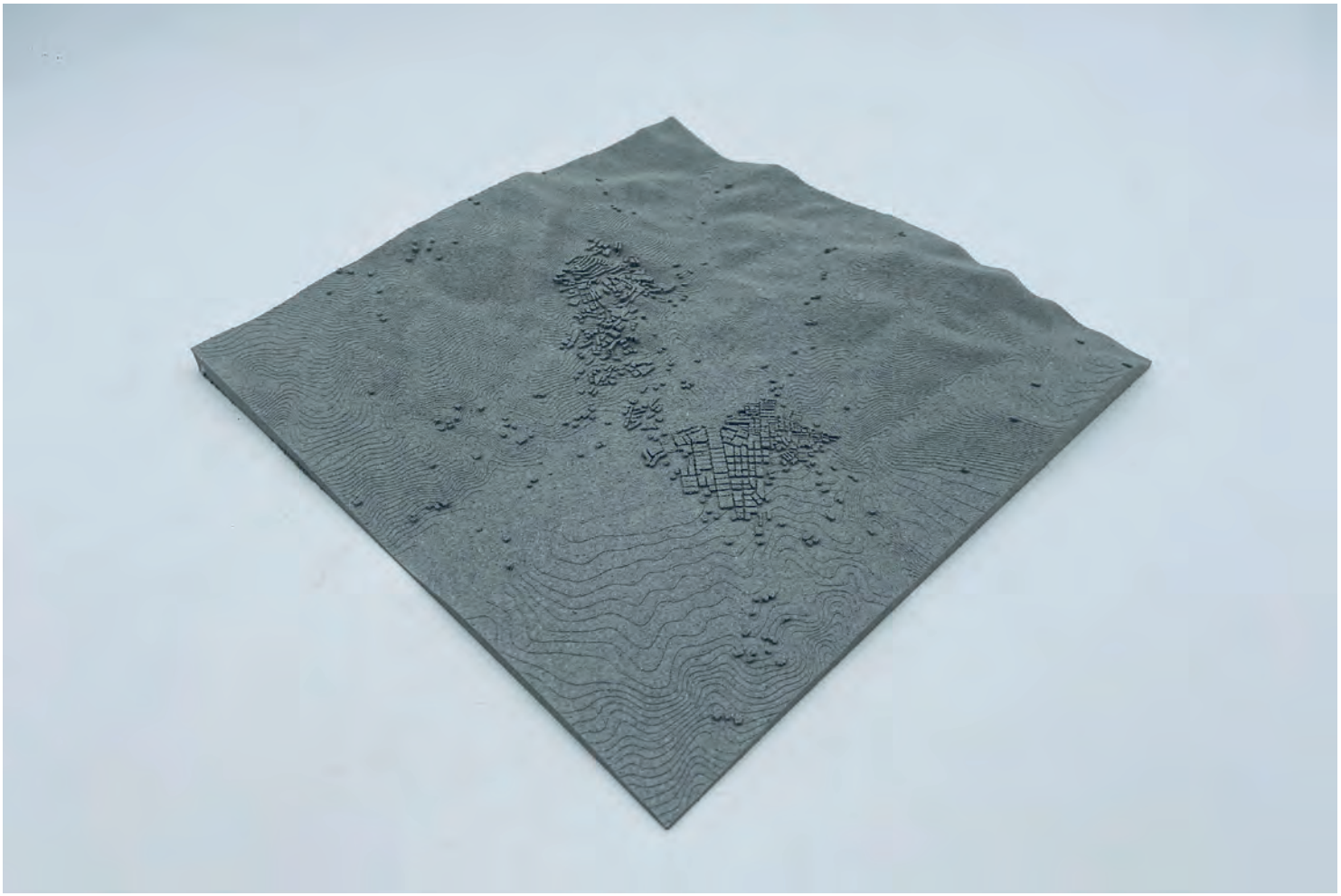
Model showing the greater Amantea area.
Source: Kamil Dalkir.



Interior model of Territorial Chamber of Labour (Camera Del Lavoro Territoriale) Cassano all'Ionio. Source: Kamil Dalkir.



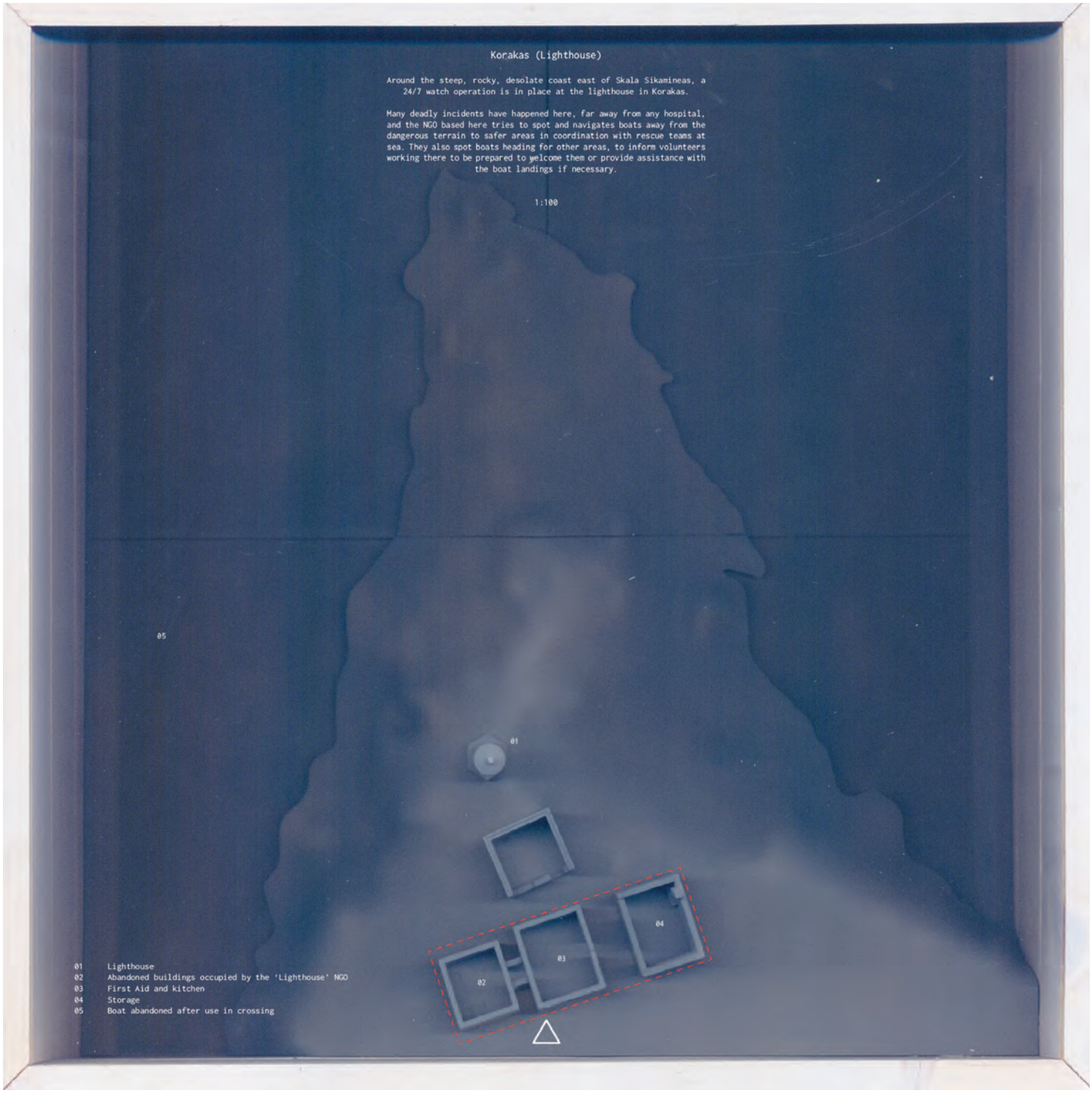
Model showing part of Cassano all'Ionio.
Source: Kamil Dalkir.



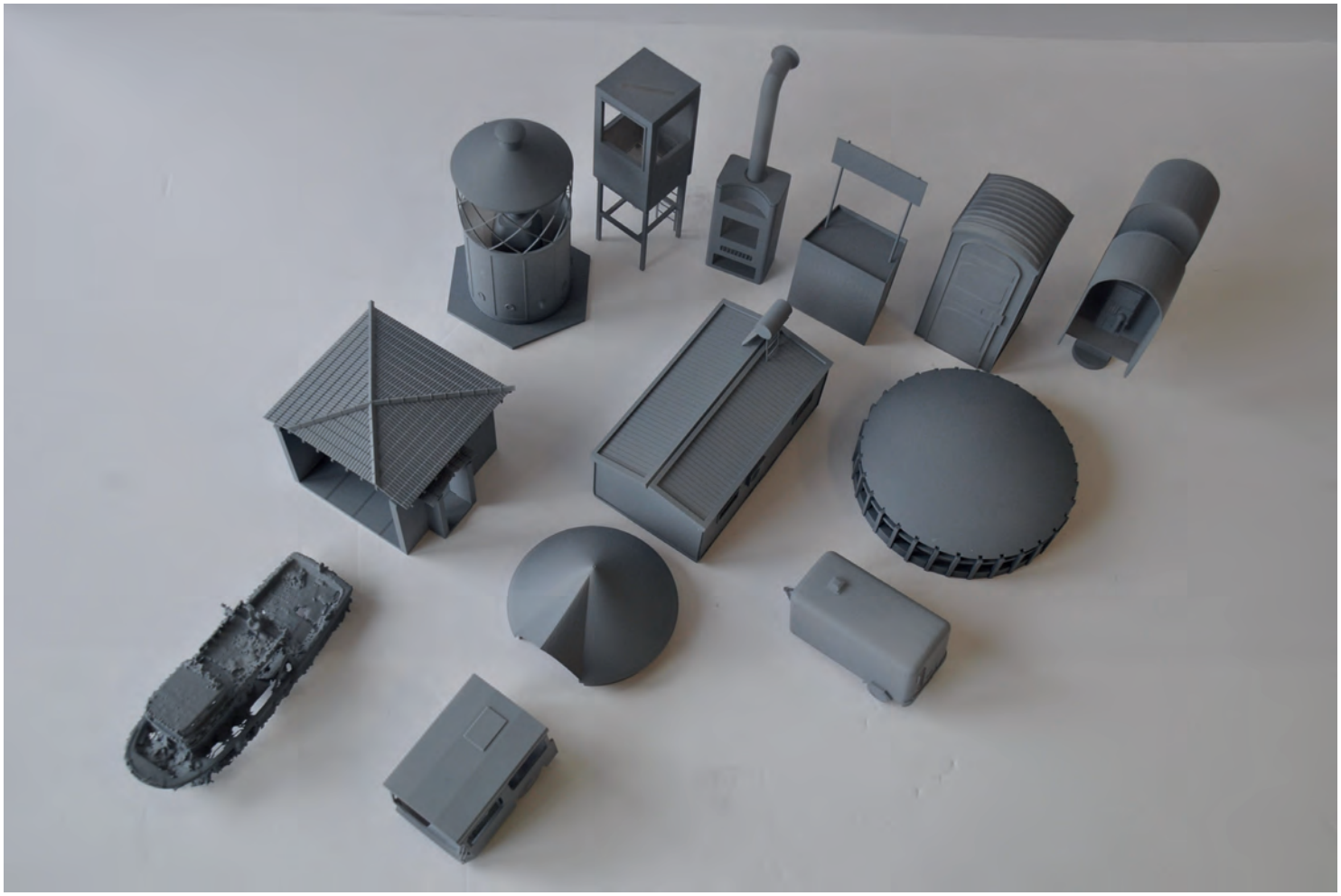
Model showing the greater Cassano all'Ionio area.
Source: Kamil Dalkir.

Set of complete models.
Source: Kamil Dalkir.

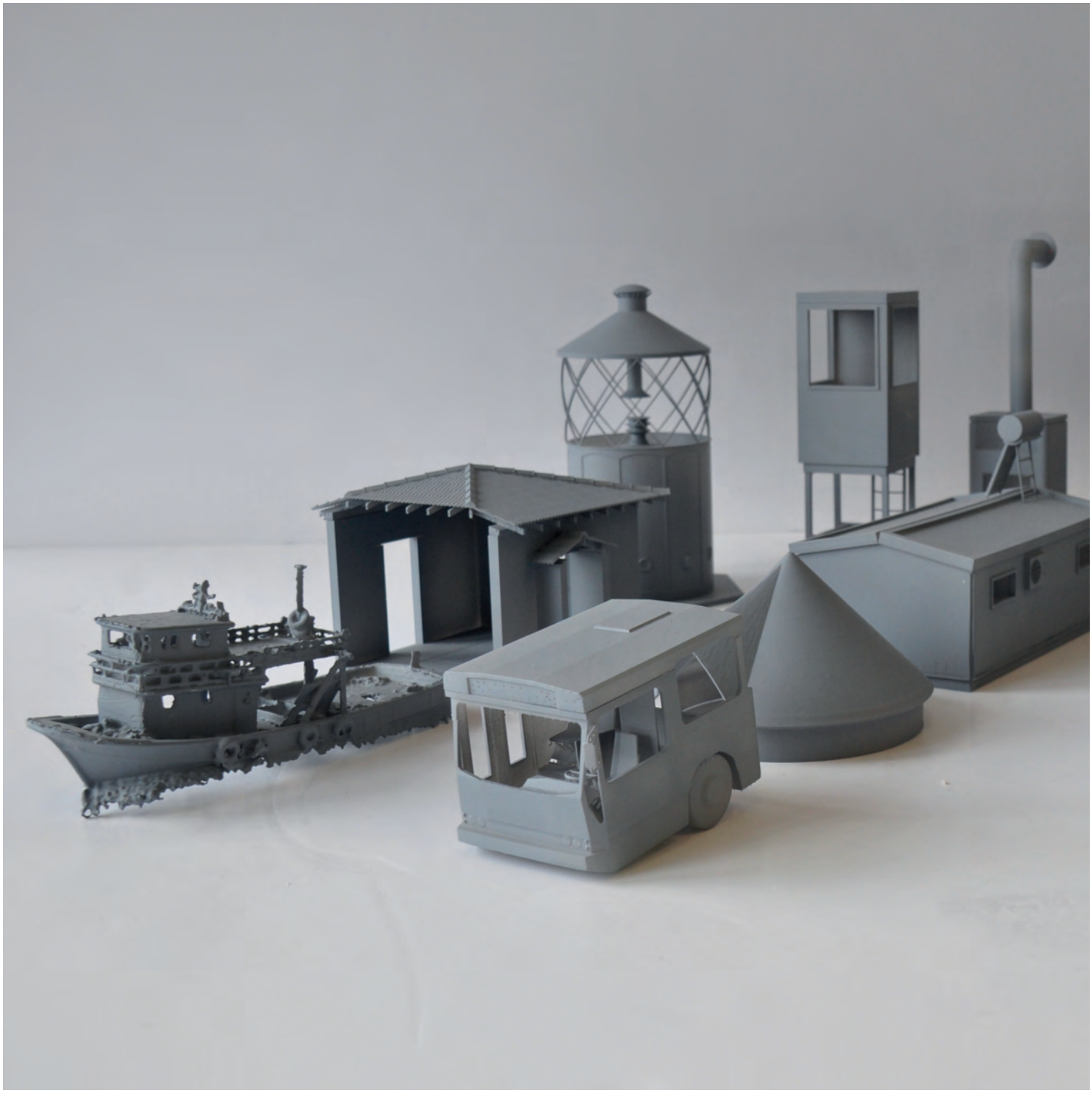
Set of complete models.
Source: Kamil Dalkir.



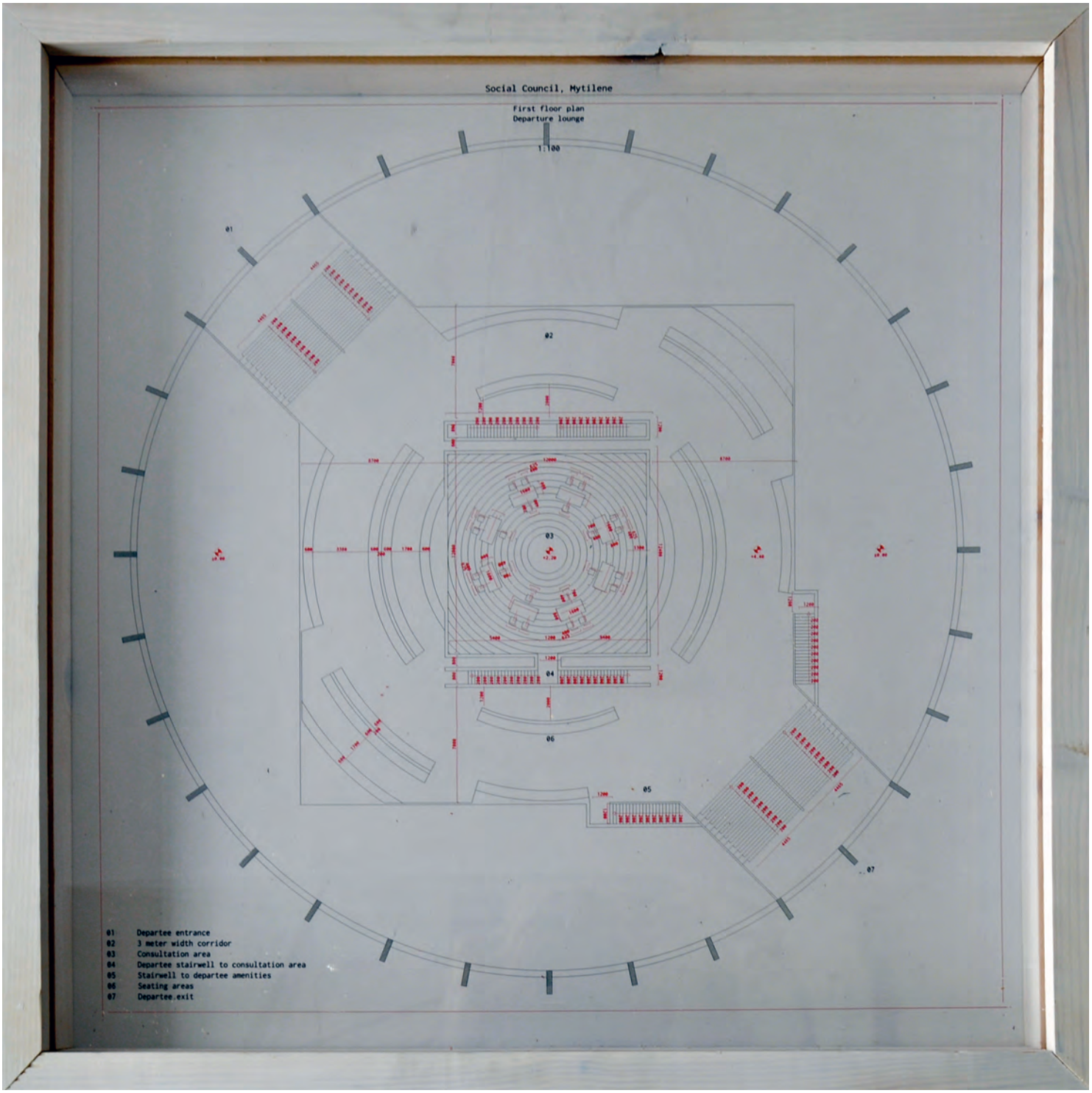
Model of Korakas point, Lesvos. Showing the lighthouse and the derelict houses in its vicinity.
Source: Kamil Dalkir.



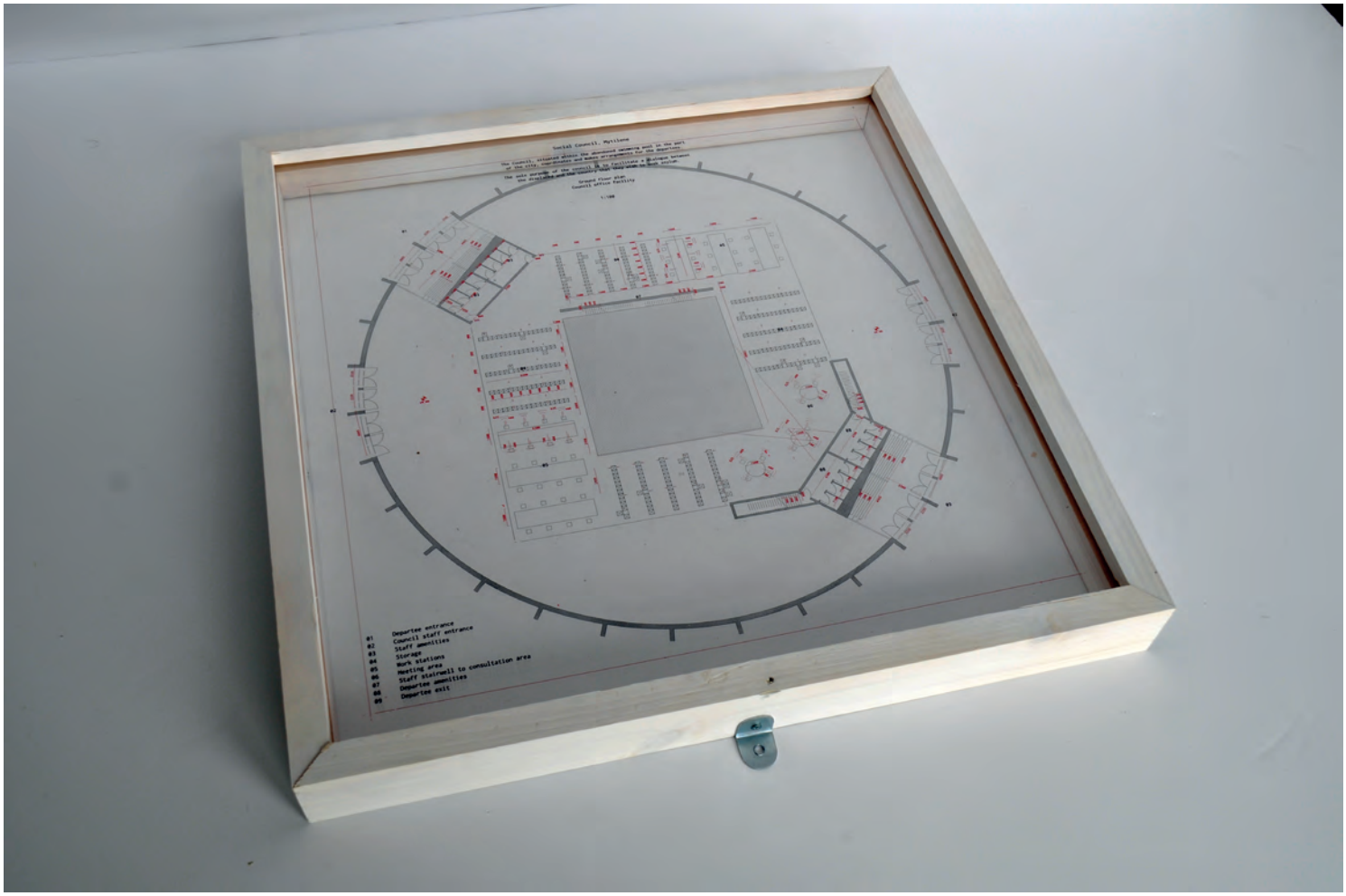
Set of models, each of different equipment through which value is generated as a result of the presence of the dispalced. Source: Kamil Dalkir.



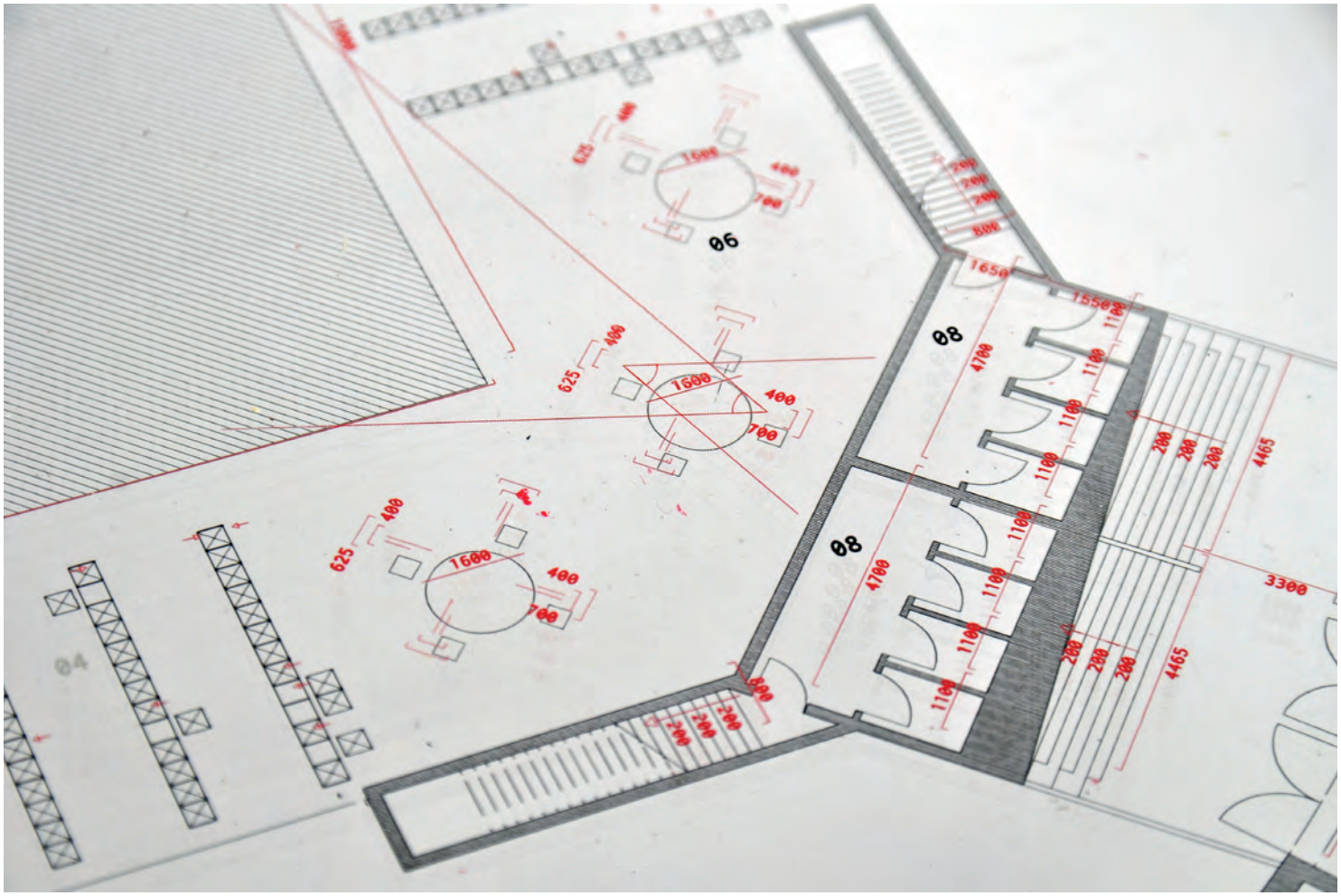
Set of models, each of different equipment through which value is generated as a result of the presence of the dispalced. Source: Kamil Dalkir.



Model / drawing of the derelict swimming pool at the port of Mytilini.
Source: Kamil Dalkir.



Model / drawing of the derelict swimming pool at the port of Mytilini.
Source: Kamil Dalkir.



Close-up of model / drawing of the derelict swimming pool at the port of Mytilini. Here, we can see the use of dimensions to indicate the presence of bodies. Source: Kamil Dalkir.

After close inspection of the life jackets used by refugees making the perilous journey across the Aegean Sea from Turkey to the Greek islands, it is evident that they were manufactured from materials inadequate for ensuring buoyancy. Source: Kamil Dalkir.

Life jackets being returned to Turkish shores for redistribution, port of Mytilini. Source: Kamil Dalkir.

Life jacket waste site, Mythinma, Lesvos.
Source: Kamil Dalkir.

The 10km stretch of sea between the shores of Lesvos to the left, and Turkey to the right. Source: Kamil Dalkir.

Remnants of boats, life-saving equipment, and belongings, Korakas.
Source: Kamil Dalkir.

Remnants of boats, life-saving equipment, and belongings, Korakas.
Source: Kamil Dalkir.

The derelict residence of the lighthouse keeper, repurposed as a base of operations for the Lighthouse NGO, Korakas. Source: Kamil Dalkir.

View of the retaining wall / barbed wire fence surrounding the camp in Moria.
Source: Kamil Dalkir.

Migrants line the internal fence, seated, awaiting their allocation to a room in the camp.
Source: Kamil Dalkir.

Typical container used for housing migrants.
Source: Kamil Dalkir.

A watchtower, reminiscent of a prison.
Source: Kamil Dalkir.

This / opposite page_ View of the alternative camp located adjacent to the UNHCR camp in Moria, administered by the Better Days for Moria NGO. Source: Kamil Dalkir.

This / opposite page_ Scenes of a peaceful protest at the entrance to the UNHCR camp. Source: Kamil Dalkir.

Scenes of a peaceful protest at the entrance to the UNHCR camp.
Source: Kamil Dalkir.

The Greek military arriving at the protest as reinforcements for the local police force.
Source: Kamil Dalkir.

A food trailer, positioned at the entrance to the camp in Moria, selling food to migrants at double the cost. Source: Kamil Dalkir.

Other vendors sell towels, tents, and other necessities for the encrouching winter.
Source: Kamil Dalkir.

Other vendors sell towels, tents, and other necessities for the encrouching winter. Source: Kamil Dalkir.

Taxi's line the streets, waiting for migrants who have been given permission to depart the camp and move on to mainland Greece. Taxi fares costing three times the rate for them, compared to local / European customers. Source: Kamil Dalkir.

9.3 Conversations

9.3.1 Ana Vaz (Artist, Filmmaker)

Kamil Dalkir

I would like to begin by discussing your practice through your political intentions, how you see the agency of your filmmaking work, the subject matter that you choose to engage with along with the forms they take.

Ana Vaz

I think that my experiences and my relationship to the territories that I traverse and live in are intrinsic to the way in which I think about form. Form is always a political statement despite the usual belief that political content has prominence over form. The enormous atmospheric pressure of our times, a time of war, and a war happening in this time-space but also in other time-spaces, seem to ask for complex forms that can deal with this complexity. The imprint of colonial modernity on our minds and souls has many threads and layers of time, space and history that are neither linear, nor simple. So, for me form is way to navigate, to travel between these dimensions in multiple scales of time and space – the very essence of cinema.

Kamil Dalkir

That's really interesting to hear, and it aligns with what I've observed in some of your films. As we see in films from 1960s experimental French cinema or the works of filmmakers like Jean-Daniel Pollet or Pedro Costa, where architectural spaces are often portrayed poetically, your films don't rely heavily on didactic voice overs or overt narratives. Your work carries underlying layers that may require some understanding of its background. For instance, I had the opportunity to see "The Voyage Out'' at Palais de Tokyo about eight months ago, a project not currently listed in your filmography. What struck me about it was how you used the medium of film to unveil the experiences of individuals who were restricted from leaving a land scarred by the consequences of the Fukushima Daiichi meltdown in 2011. Your films, in a way, blend experimental filmmaking with a collaborative investigative approach. This approach involves the people whose lives are at the centre of the narrative, creating a more inclusive dialogue rather than an outsider's detached observation. Could you elaborate on this aspect of your practice?

Ana Vaz

One of the most significant shortcomings in the history of cinema, which remains largely unaddressed, is the deep divide inherited from cartesianism between the subject and the object. This is even more profound in cinema, where there's a clear separation between the person observing and the one being observed. The camera tends to act as a passive bystander, capturing scenes, environments, or narratives, all the while feigning its absence. This illusion of a neutral camera aligns with the way Western modernity treats the subject as neutral, thus concealing the violence of imposing a certain point of view as the privileged perspective. A quick glance at early ethnographic experiments in the 20th century illustrates how the voiceover and camera operate to shape manipulative relationships with the subjects being filmed. This deficiency lies in the absence of reciprocity, a critical element. The issue revolves around reciprocity more than anything else. Claims of care and collaboration in the arts today, often touted as given attributes, are not inherently present. Initiating any project with the expectation of creating horizontal collaboration or reciprocity is a challenge. The world is shaped by various forces in constant motion. Yet, reciprocity stands as a crucial aspect to challenge this underlying violence.

In my films, you'll frequently witness this principle. I'm sharing this insight because each filmmaking experience has taught me the importance of reciprocity and its role in countering this inherent violence. There isn't a pre-written theory behind any of these works. I wouldn't be sharing these thoughts with you if I hadn't immersed myself in the same environment, breathing the same air, eating the same food, experiencing wonder, stumbling, and facing frustration. So, at times this idea of reciprocity, which is embodied in my films, may stem from a simple frustration. An interesting example happens in "The Age of Stone." This film is crucial to me as it inaugurates some of the recurring questions and gestures that permeate my other works: the indiscernibility between past, present and future, real and imagined, unearthing and constructing. It's also intertwined with my ongoing struggle with the legacy of Brasilia, a place haunted by its own history. I'm not speaking from an abstract standpoint. My perspective emerges from an inherently entrenched place, marked by imposed rigidity. Brasilia, like many utopian visions, dismissed the existing landscape, the relationships that predated its arrival in the heart of Brazil's hinterlands. Much of my work addresses this. "The Age of Stone" strives to expand the discourse of this utopia, making it specific and territorial while also encompassing broader

dimensions. The film introduces us to Ivonete dos Santos Moraes, a young girl native to the Brazilian midwest. This region has a history of resource extraction – crystal, quartz, gold – much like the rest of Brazil's hinterlands, colonised as a means to reach the Amazon rainforest. It was a hurried transit, marked by extraction, theft, and departure, rather than "development". Ivonete, being from this area, navigates it as if it's an extension of herself. We spent an extensive time together, walking through these spaces for a month. We rehearsed an unfamiliar text from Clarice Lispector, her take on Brasilia, envisioning it as a future ruin even during her initial visit. Ivonete's laughter echoed as Brasilia remained a ghostly presence in the minds of those around this place. This collaboration aimed to reflect the scars left by a history of extraction and movement within this environment.

We dedicated a lot of time to envisioning where the film would unfold. After thorough rehearsals, our crew of seven, which is relatively small and intimate, was ready to film. However, the close bond I had established with Ivonete seemed to dissipate as the shoot commenced. I, who had been deeply involved, wasn't operating the camera. Instead, a director of photography, someone I trusted but unfamiliar to our 14-year-old protagonist, took charge. This shift in dynamics, with seven of us behind the camera and only one in front, created a certain imbalance. What deeply disappointed me was the growing disconnect. The dialogues and interactions we had cultivated felt distant, except for a pivotal moment near the film's end. You might recall the scene where we follow her from behind as she recites a text. I halted the shoot, instructing her to look at me and deliver the final sentence. It was a pause in the film, an eerie interlude as she walked amidst the ruins. When she looked directly at us, her confrontational gaze struck a chord. In that instant, I realised, "Alright, something meaningful is taking shape here." It was the closing shot, concluding the film.

This experience spurred a persistent reflection: Why does the profound connection formed during the creative process seemingly dissolve during filming? Why can't there be a more reciprocal, circular relationship between those behind and in front of the camera? I don't mean a staged performance, but rather, how can we establish a different foundation? This question stayed with me until I completed the film and returned to that region to share it with her. This journey is deeply personal, but it explains why it holds such significance.

I realised I needed to go and show her the film. I went to her mother's house, a place I was familiar with. However, she wasn't living there anymore. Her mother chuckled and asked where I had

been all this time. She reminded me that I, a filmmaker, had come, spent time, and then disappeared. I apologised for the delay and explained that I finally returned with the film and a strong desire to share it with Ivonete.

Her mother informed me that Ivonete had moved in with her father, who had decided to join the MST, which stands for the Movement of People Without Land. This movement is significant in Brazil, originating in the 1940s. It's centred around the idea that a collective group can reclaim lands historically taken due to colonial agreements between Portugal and different parts of Brazil. These lands, even today, have ties to the belated colonial monarchy. By occupying these lands over time and navigating various government programs, the movement gains legal rights to the land, providing a crucial way for people to live out of and with the land in different parts of Brazil.

So, when she tells me that Ivonete has joined the MST, I'm taken aback. This is the reality that our film hadn't captured at all. Ivonete's story revolved around her ancestors, her great-grandparents who were involved in mining gold. The land was eventually turned into a natural park as a compensation deal for the environmental damage caused by building the city of Brasilia. This park was meant to restrict intense activities like farming, but in reality, some parts were still controlled by descendants of local authorities called "coronels." I realised that the MST, the movement Ivonete's father had joined, is a continuation of this colonial history into the present. It wasn't coincidental that she went there. I decided to go looking for her. Ivonete's mother gave me vague directions, like "take this road, turn right," and look for a red flag as a marker. I embarked on this journey with my sister, who had also helped with my first film. After some confusion and driving, I spotted the MST flag. I approached a shack, called out her name, and Ivonete emerged, laughing at the serendipity of my finding her there. She welcomed us in, and that's where the journey for the film "Ha terra!" began. This film truly captures the essence of this encounter.

Ivonete and her father don't have access to electricity, so we had to go to the small town where her mother lives to watch the film. During the screening, Ivonete commented on how the film presented an intriguing blend of past and future. She noticed some odd moments but overall found it interesting. I took this opportunity to discuss my concerns with her. I asked if she felt comfortable with the film crew, and she admitted that while it wasn't a big issue, it wasn't particularly engaging for her either. This led me to a pivotal question: how could we create something meaningful and interesting for both of us?

I had a roll of expired film stock with me, and I proposed a new idea. I suggested that we work on something together, just her and me. I would be on camera this time, and she would handle recording sound. Our plan was to improvise and have a candid conversation near her father's house. Ivonete agreed, and we embarked on this creative journey. We spent an enjoyable afternoon together, starting with a swim in a waterfall. The region's natural beauty, a crucial water source that feeds into the Amazon rainforest, provided a serene backdrop. Ivonete talked about her everyday life, sharing stories about landowners and various aspects of her experiences. This conversation, which you can witness in the film, led to a co-fabulation. The title of the film, "Ha Terra!" carries a dual meaning. In Portuguese, it translates to "There is land," signifying both the physical presence of land and as well as the settler's calling "Land Ahoy".

The film is feverish and concise, capturing the energy of our encounter. Throughout the film, I play a game with Ivonete that contrasts with traditional ethnography. Instead of portraying the camera as a skilled hunter, we turn it into an inefficient one, almost entrapped by the enchantment of our meeting. The film uses a continuous 360-degree pan, always searching but never quite catching. This feverish approach creates a haunting atmosphere and a feeling of impermanence. Due also to limited film stock, we knew we had to work with what we had. All my films share a theme of something missing or incomplete, prompting us to fill in the gaps. They are oftentimes a rehearsal for different ways of seeing, a consistent process, not a simple revelation followed by an explanation. These films oppose the authoritative approach of modernity. Modernity brings spaceships of knowledge, claiming authority and truth. I've always resisted authority, and my films echo this sentiment. They stand against dominance.

Kamil Dalkir

I'm really grateful for your insights because this anecdote beautifully captures the essence of these two films and the flexibility in your approach. It shows how you are willing to step away from my traditional methods to better capture the stories of the people you are working with. Ultimately, what matters to me, and it seems to align with your practice as well, is storytelling. Through these films, we can explore a wide range of topics like architecture, agriculture, land, sky, animals, and people's lives. The research focus or the specific interest, whether it's a person or a place, becomes the driving force that shapes the way the film is put together. It's like these structures

or rules can crumble in the face of the real stories we want to tell. This dynamic allows for a more organic and authentic approach to filmmaking. So, this free-flowing reaction to the territory and the people becomes a vital aspect of the process.

Ana Vaz

It's a freedom that's bound by limitations and boundaries. When I take the images we captured in the camp and bring them to Brasilia, it hits me. I'm in this modern city, a symbol of power and control in the country, a place defined by order and authority and I'm connected to this city, I'm part of its legacy. So, from this introspective moment, the second part of the film unfolds. This section delves into how these stories, their stories, are captured, domesticated and packaged. Modernity moulds them to fit into its frameworks – museums, encyclopaedias, archives, all of these structures that modernity uses to assert its dominance over land and its people. The more it destroys, the more it erects institutions to control and contain: the more it erases, the more it conserves.

Kamil Dalkir

Navigating this intricate web as an artist and filmmaker is quite a journey. Your work spans different formats – from traditional film to immersive video installations in galleries. Each setting brings a distinct context and audience. In cinemas, films can reach a broader public, but there's a challenge in bridging the gap between an artistic message and mainstream expectations. Then, in galleries, your installations offer a spatial experience, engaging viewers in a unique way. This can be more intimate, allowing for deeper reflection. But here, accessibility becomes a factor; not everyone frequents galleries. The political essence in each film is there, but its interpretation varies among viewers. What you intend to convey might differ from what the audience receives. As the creator, you are faced with decisions. Do you project a film on a building in Brasilia, connecting directly with the community? Or do you opt for a cinematic release, potentially reaching a wider audience? Each choice has its implications. If the work is to be thought-provoking, regardless of where it's shown, then it is also about embracing the diversity of platforms and audiences. Every setting offers a chance for dialogue and impact, even if the negotiation between artistic intent and audience reception is complex.

Ana Vaz

I'm increasingly allergic to the concept of the author or the artist who solely makes and thinks. I've come to see myself less as a sole creator and more as a channel, an instrument for ideas and experiences to manifest. The traditional notion of the artist crafting everything doesn't sit well with me. What I make is not solely about myself or my desires, but it involves a complex interplay of forces beyond myself. I believe in the movement of things, the currents that guide us. So, I keep experimenting, hoping that the amalgamation of elements might resonate with the interconnected dimensions I navigate. These films, or experiences as I prefer to call them, aren't mere representations. They're more like manifestations of lived moments. I'm not peering through a window; I'm immersed in the world. These are things you feel deeply, beyond the reach of voice overs or explanations. Language can only capture so much; there's an elusive essence within these films that escapes words, the medium I am using to communicate with you now. There's always something else, beyond the surface of our conversation.

But to continue answering you, how do you share these "films-as-experiences"? Well, there's the classic cinema setting, which I still value greatly. Why? Because it relies on an artificial but communal realm where societal norms momentarily fade. Yes, there's a certain authority in play – we're in the dark, silence is demanded – but this environment also permits a departure from customary rules. It's a break that allows us to slip into another dimension. Even though you're physically seated, there's a tactile experience to viewing films in this setting. The dim lighting, the presence of others around you – it all contributes to an immersive encounter. And whether you're watching on 35mm, 16mm, or digital, the experience can differ greatly. Outdoors or indoors, in a multiplex or an experimental film club, each determines how we receive it. These spaces, I'm fond of them, you see, for the camaraderie they foster. They form an assembly, a political agora of cinema-goers. We watch, then we converse. There's a sort of obligation to share thoughts. You can't just walk away. People want to hear, discuss, even debate. You're responsible for your opinions, gestures, and forms. It's an invigorating practice I deeply appreciate.

However, as Cinema is one of the world's largest industries, it also operates under very rigid rules – rules about form, narrative, and what constitutes "cinema." The industry labels what it doesn't want or understand as "experimental" as a means to discredit it. This is limiting because it confines you within narrow genres and hierarchies and doesn't align with the rich and intricate worlds I'm

trying to exhume or fabulate through my films.

So, I think we must forge alternative spaces. To answer your question, strangely, the realm of the arts offers me the flexibility that the film industry denies. Also, I am interested in considering space, the space of reception, as an additional layer of meaning to the narratives that the films propose, akin to experiments in expanded cinema. Take, for example, the installation "The Voyage Out: Embrace Tiger Return to Mountain" presented at Palais de Tokyo in 2022. There I decided to use multiple screens as a means to multiply perspectives, realities and even Suns – a statement for the need of other Suns. In this version of the film, we aren't confined to just one perspective, one "godson." So, throughout this experience we may ask where do we focus? How do we perceive? How do we listen? It was a really potent experience to explode this monster of a film in such a way. And I'm speaking of a monster because the film is a shape-shifting, formless, enraged, delicate and difficult being in the making. So, the installation gave the film a new direction and the closest yet to its original intention of fragmentation, partiality and suspended time. The film is composed of countless small moments, simple interactions, like having tea with someone in a small town.

Kamil Dalkir

I once had a conversation with a creative duo, Atelier Bildraum, who use models and theatre to tell stories. They shared an intriguing perspective about the interview process that I hadn't considered before. It's like how you hinted at through the "The Voyage Out" project, where things can't be rushed. The initial conversation is just the start – there are multiple dialogues that gradually build understanding. It's a journey of getting to know each other's perspectives, interests, and finding that pivotal question.

This notion applies not only to the interview process, but also to the artistic process you're describing. Take "Age of Stone" and its sequel, for instance. The relationships you foster during your research are incredibly valuable. These connections go beyond just taking something from a community. They involve reciprocity, ethical bonds, and co-creation. You're not swooping in and extracting; you're nurturing these connections over time. In essence, it's about the careful cultivation of relationships that underpins your work – an insight that I find really meaningful to reflect upon.

I wanted to touch on something you mentioned earlier, the idea of conversation. You see, when we're in a cinema or any viewing setting, there's more to it than just observing. It involves addressing people's feelings and engaging with their perspectives, whether

it's a big screen or a smaller platform. We can recognise that there is always a political element, even in the construction of a project. It's not just about observing – it's about making a change in the discourse. This is crucial.

Your work, along with similar experimental pieces, has a unique ability to shed light on important issues. Even though they might not fit the traditional mould of documentary or filmmaking practices, they can play a significant role in elevating subjects and prompting discussions. It is really important to argue that this work, all of your work and any other type of political work in this manner can also be brought into a legal forum, a courtroom, places where certain conversations are being held, and for this work to be seen as a form of evidence of lived experiences. These spaces, legal forums and state institutions, rely on written reports. They rely on legal and sometimes academic readings of a certain situation rather than a subjective truth of lived experiences.". It can serve as evidence of real experiences, a subjective truth that complements, or perhaps even contradicts, the objective statistics and written reports typically used.

I'm not saying it's merely about raising awareness. That term doesn't capture the depth of efforts, especially those that involve years of active engagement with communities. Take your work "It is Night in America" as an example; its exquisite portrayal demonstrates the power to transform conversations and influence discourse. Even though humans might not be visually present in the footage, their existence is implied through architecture, vehicles, animals, and the care they receive. It's a thought-provoking aspect, and I'd like to share a reflection with you.

Ana Vas

Your consideration on how cinematic works that escape the evidentiary logic of the courtroom or a legal forum can be used in dealing with social justice is very significant as such a suggestion implies that the customary systems of justice in the West are never questioned as a form. While there's extensive anthropology focused on non-Western cultures, we must also address the anthropology of the West with its courtrooms and so called legal forums. This perspective is particularly evident in a film of mine called "Apiyemiyekî?" which is relevant to our discussion about forensic and legal contexts.

This film was created for an exhibition in Brazil in 2019, which was a significant event, particularly given the political context. It took place shortly after a far-right president, whom I'd rather not

name, came to power, raising concerns about a potential return to a military dictatorship. The exhibition, titled "Meta Archive 1964 to 1985: A Space for Listening and Witnessing Stories of the Military Dictatorship in Brazil," aimed to expand our understanding of this period by exploring different regions of the country. Typically, discussions about Brazil's military dictatorship focus on around 425 people who "were disappeared" during the regime . However, these cases mainly come from the economic hub of the nation, leaving other areas overlooked. The curator of the exhibition, Ana Pato, a dedicated researcher delving into the connection between archives and fiction to reimagine the historical unconscious of the country, provided me with a pivotal resource. It was a report, particularly authored by a Jesuit missionary and progressive militant named Egydio Schwade. This report, written in the early 2000s, held a wealth of information prone to shock any of its readersIt detailed the genocide committed against the Waimiri-Atroari people living in the Amazon during the regime.

The purpose of this brutality was to construct a major highway connecting two cities: Manaus, the capital of the Amazon, and Boa Vista, the capital of the adjacent state to the north. The consequence of building this highway was that it sliced through the lands of the Waimiri-Atroari splitting their territory into two parts.

The construction of this highway led to the loss of over 2000 lives, both directly and indirectly. The severity of this situation even involved the use of napalm, a type of incendiary weapon, heavily used by the US military. Remarkably, the report written with Egydio uncovers these events in the context of truth and justice investigations that took place across South America. These investigations aimed to address the violences of military dictatorships in South America, often revealing their sponsorship by the United States and other countries. In essence, this report serves as a vital record of the horrendous acts committed against this indigenous community during a dark chapter in Brazilian history. It highlights the complex dynamics and tragic consequences brought about by the construction of a highway, which not only physically divided their land but also tore apart lives and cultures.

What makes this report particularly unique is that the crimes surfaced throughout the first literacy experience conducted by Egydio and his belated wife Doroti Schwade with the Waimiri-Atroari in the 1980's. Notably, this program was bilingual, conducted in both Portuguese and Kiña, which is the native language of the Waimiri-Atroari, who self-designate as Kiña.

They began their literacy program using a method developed by an important educator named Paulo Freire. He was known for his

involvement in decolonisation efforts in various places like Brazil, Angola, and Mozambique. Freire's approach focused on empowering learners, especially in colonial contexts.. Instead of just imparting information, his method aimed to give autonomy to students as thinkers rather than mere receivers. In this program, the initial technique they employed involved drawings. Students of all ages, survivors of this genocide used drawings to express their thoughts and culture. Interestingly, instead of only illustrating their myths or traditions, they quickly started depicting white men, symbolising the events related to the construction of the highway. Their drawings depicted helicopters, cars, rifles, and napalm falling from the sky —a visual iconography of the Kamña, the White Man. The drawings made by the Kiña became a mirror of Kamña. The students then began bringing the drawings to class in order to ask: Why did Kamña kill Kiña? Apiyemiyekî?

The film, which carries this question in its title, Apiyemiyekî? (2019) features Egydio Schwade, who I interviewed, and aims to bring these drawings to life, connecting them to the places they depict. The film starts along the BR-174 highway responsible for the tragic events and the only possible route to access the archives which document the events. The film is made in a circular structure, going from there to Brasilia, as a centre of power implicated in the Westward March, a movement aiming to colonise the hinterlands with the ultimate goal of "developing" (sic) the Amazon region. The film focuses on the impossibility for justice, in traditional terms, and of a necessity for a rite, a wake in the face of these brutal and omitted crimes. Surprisingly, the drawings used in the report are not legally considered forensic evidence, revealing the formal constraints and biases of the justice system.

Kamil Dalkir

I think this is a meaningful point to conclude on. In a conversation with Marina Otero Verzier, a curator and researcher, we discussed how to engage the institutions you collaborate with considering one's political intentions. Even if you may not agree with the history of a gallery, like the Tate, which has a contentious legacy linked to slavery and sugar plantations, it is complex. There's a risk of compromising your mission by showing your work there. Yet, there's an intriguing artistic strategy to consider: using the funds they provide to fuel your own projects or to explore other avenues.

Multimedia practices, especially those engaging directly with communities, have much power. They allow people to be co-authors and collaborators, making them visible and active in the

project. This approach brings individuals back into the picture and avoids alienating both the audience and the subject matter. The question comes back to which architectures and spaces can truly support, engage, and enhance works that strive for social justice and represent minority stories. This issue is critically relevant now as we witness the art world often reducing these narratives into a marketable commodity. Everything seems to be replicable and commodified, and the responsibility partly lies with the art market. So, it's crucial to explore alternatives to these traditional spaces and institutions if we genuinely value what we claim to. Making the pursuit for new forms and practices urgent, especially if we truly want to make a positive impact.

9.3.2 Armin Linke (Filmmaker, Photographer)

Kamil Dalkir

Given your array of work, as a photographer and filmmaker, can you talk about your practice and its political intentions, and how you view image making as a political act?

Armin Linke

Perhaps diving into a project that aligns closely with your research interests could help us converge on specific forms of political action through artistic practices.

In November 2010, I received an invitation to join a research group bound for Lampedusa, the southernmost island of Italy. Our mission was to delve into the surge of migrant arrivals on the island and the role of photography (by migrants and others) in crafting the imagery now inseparable from migration. My primary task was to produce a series of photographs in Lampedusa. However, beyond this, I was tasked with pondering the coexistence of photography, my role as a photographer, and this subject. We aimed to explore how the production of images influences the perception of migration and the political discourse surrounding it. It was, in essence, an analytical endeavour. One might consider it a form of media anthropology, employing artistic production tools or leveraging the art sphere as a mechanism of production. Whether this work was fundamentally political or artistic remains a question. Yet, its inspiration was drawn, in part, from Bertolt Brecht's approach. Much like him, we aimed to dissect media images, albeit in a more poetic manner. In our case, the intention was to foster interaction.

During the initial phase of the project, our focus was on engaging with image producers to unravel the motives behind their imagery, particularly those who embarked on perilous journeys by boat to reach Lampedusa. Understanding why they created these images, carried them, and employed them on social platforms for communication within their communities and families back home were pivotal inquiries. These images were not solely informative but also functioned as tools of emotional processing, offering a form of therapeutic outlet.

Meanwhile, artists began collecting images from migrant boats, images ignored by the police and government institutions, despite their relevance to immigration and asylum requests. These images were simply left on the vessels. On one hand, this artistic endeavour aimed to create a local museum, but on the other, it raised ethical concerns. Displaying images of individuals without consent questioned the concept of privacy. From this context, we

embarked on an exploration of image distribution. This included conversations with journalists, as we sought to unravel the broader image dissemination mechanism. Engaging with local photojournalists revealed that, despite their initial intention to raise awareness through denunciatory images, they often succumbed to the demands of the media market. These demands led to the production of sensationalised or simplified images, failing to capture the intricacies of the situation.

We conducted interviews with figures such as Giovanna Calvenzi and Robert Koch. Giovanna, a prominent photographic curator and photo editor, is closely associated with Famiglia Cristiana Carita Maceira and Lost Art. We engaged in discussions with her about the intricacies of photo distribution. Similarly, we conversed with Robert Koch from the agency Contrast Magnum to gain insights into how these matters were deliberated within the photo agency.

I must emphasise that this project was a collective effort that initially involved students from the Art and Design Institute in Karlsruhe. It was collaborative, also including alumni from institutions in Venice.
Subsequently, in partnership with Spector Books, we sought to refine some of this material and give it form. This led us to explore the press coverage of the topic in North African countries. Eventually revealing additional complexities, including issues within internal African distribution and even discrimination across different nations.

Furthermore, a form of North-South discrimination within Africa emerged, coupled with the concept of spectacle. Interestingly, we chose to minimise the utilisation of original images we had gathered. Instead, we commissioned illustrators to depict these photographs. This guideline aimed to avoid compromising the privacy of those who might have secured asylum, potentially subjecting them to discrimination by revealing their history. The entire project unfolded as a complex and extensive endeavour, marked by a robust collaboration across various groups and stages. It hinged upon harnessing the tools inherent to the art world. The project culminated in an exhibition where illustrators and artists were invited to directly draw on the walls. This approach transcended the conventional notion of an exhibit as a static arrangement; instead, it adopted a performative dimension in the production of the display.

Kamil Dalkir

I believe there are insights within this context, particularly concerning how one harnesses and directs imagery. This encompasses the types of images produced and their mobilisation. While I am engaged in a critique of national and international media through my research, which often oversimplifies complex issues for sensational effect, my primary focus is to advocate for the recognition of an artistic practice as a mode of evidence production. These photographs serve as evidence, substantiating the migration experiences – even if self-captured – and verifying their presence within specific locations. Simultaneously, one can argue that these images function as tools to cope with trauma, connecting individuals with their origins and families. By conceptualising them as evidence, their potential to bring about transformation within realms or contexts that may traditionally exclude or discourage artistic practices becomes apparent.

Your film further exemplifies this distinctiveness. Notably, the deliberate use of long exposures offer a unique perspective. This technique facilitates a profound absorption of the space itself, capturing its essence and establishing a relationship that you intend to convey.

My research advocates for the transformative potential inherent in various forms of artistic practice, whether it takes the shape of photography, film, models, or objects. The nature of these practices vary based on the project's context. However, particularly within the discourse of migration, I seek to establish them as credible forms of evidence. This credibility can stem from projects informed by migrant testimonies or visual documentation of pertinent locations linked to the exploitation of human lives. This evidence should be recognised whether within a gallery setting or an advocacy platform, enabling meaningful engagement and dialogue on pressing issues.

Armin Linke

The approach, perhaps, is more refined, as seen in the work of Forensic Architecture. They focus on a single event, collating media and materials, they synchronise these elements to establish evidence for a particular occurrence, suitable for presentation in court. Simultaneously, they engage in media efforts using this material, frequently drawn from social platforms or what can be termed as operational photography. This approach imbues operational photography with a newfound dignity, as it is juxtaposed with other types of imagery. This process allows for an exploration of media

history and deeper insights into the images.

Allow me to share another project I was involved in, which isn't linked to immigration but is centred on media production. Around 15 years ago, Stefano Boeri invited me to give a lecture in Sardinia as part of an architecture festival. Uncertain of the topic, I reached out to a friend who was a paparazzo, a Cronaca Rossa photographer, in Milan. He generously provided his archive of roughly 30,000 images captured in Costa Smeralda over five to seven years. Examining this collection, I found it intriguing how he consistently crafted his work. During the lecture, I observed a remarkable reaction from the local Sardinian audience, who vehemently contested my presentation, asserting that this depiction wasn't representative of their Sardinia. The essence of my point was that Corrado's work was incredibly political, surpassing even my own practice. His photographs conveyed multifaceted concepts of private and public spaces, gender dynamics, and privacy. These nuanced portrayals emerged precisely where one would least expect them, challenging the conventional notions associated with such photography.

Considering the reaction, I found it intriguing to further the project. As we delved deeper into the images, a notable aspect emerged. Corrado consistently produced sequences of 150 to 200 images. Out of these, about 20 would be given to an agency, which then narrowed it down to ten for the newspaper. Subsequently, a journalist would select three or four, and a graphic designer would make the final cut, presenting what we perceive as the author's work. However, this process truly reveals the distribution chain within the information industry.

An incident involving a sequence that depicted Berlusconi leaving his villa and boarding his yacht by the carabinieri added another layer to this project. It turned out that during the same period, another photographer named Zappadu had sold images of orgies inside the villa to a Colombian agency, beyond Berlusconi's control. Consequently, both sequences got entangled in legal matters. Our analysis encompassed legal documentation surrounding this incident. Ultimately, the disputed sequence was released back to Corrado. The contention pivoted on the fact that Berlusconi was in a port, not his private villa. In Italy, a portion of the shoreline is public even if a personal port is constructed, due to a concession. Although Berlusconi's lawyer argued Corrado violated privacy by using a telephoto lens, privacy advocates contended that both were in public spaces and Berlusconi, being a public figure, was subject to a higher journalistic right to information than a client's privacy right.

While seemingly non-political, this episode offers significant political insights. It underscores how the information system

functions, intertwining with various activities. This confiscated sequence eventually appeared in a Mondadori magazine, owned by Berlusconi. This highlights how the production of images isn't solely informative but rather designed to generate information for the purpose of advertising. Moreover, it unveils a paradox: a football player depicted in Corrado's photographs might play for a team owned by Berlusconi, or an actor depicted could feature in a TV series under the same ownership. This intertwining constructs a cycle of information creation to facilitate advertising. In essence, this perspective seeks to reveal unexpected political facets within ostensibly unrelated domains - an approach akin to media anthropology.

Kamil Dalkir

t's intriguing to observe how within this distribution chain of image production, there's a transformation of the original content. The process involves initial selection to condense a series of images, followed by cutting and potential manipulation of individual images. This indicates a distinct media practice governed by industry norms.

Forensic Architecture operates within a similar context. While they focus on specific cases and moments, their work is shaped by the regulations of the context in which they present. Thus, their work conforms to a predetermined format, which may not be the most fitting or representative. In a conversation with Lorenzo Pezzani of Forensic Oceanography regarding the "Left to Die Boat" case, a thought-provoking insight emerged. Despite their widely circulated multimedia film, complete with animations, testimonies, and forensic mapping, it had no influence in the courts where they sought legal recourse. Curiously, a comprehensive 70-page traditional written document proved more effective over a decade of persistence in securing a court hearing. The film, rich in artistic and multimedia elements, remained relegated to the realm of art, as the courts demanded adherence to legal language and the written word for formal proceedings.

This situation underscores a parallel and dialogue between the artistic and legal domains. I comprehend your political intent in your choice of projects, collaborators, clients, and institutions. Within this framework, there appears to be a deeper intention beyond mere awareness-raising. Drawing inspiration from Bruno Latour's notion of "making public," your work seems poised to potentially trigger consequential effects. Whether there exists an ideal scenario or if your focus is on the ongoing process and practise you have cultivated over the years, encompassing content creation and collaborative

efforts, remains a question. Perhaps this could serve as a fitting point of culmination for our discussion.

Armin Linke

I just want to circle back to conclude the media discussion. Both of the projects I mentioned earlier can be seen as forms of media archaeology, given their inception 15 years ago and the profound shifts in media distribution since then. Classical publishing systems, now comprising only 70% of the landscape, have been transformed by the rise of social media platforms. An interesting point arose during my recent conversation with colleagues from Yale, just after Paolo Tavares' prize. They highlighted the complexities arising from the need to remove metadata and sources from images to safeguard contributors, rendering these images unusable in legal contexts. This change is emblematic of the rapid evolution in media distribution, where everything is becoming part of media history. Now, moving on to your second query...

Institutions often prompt inquiry. Let me begin with a project dating back around 12 years for the Rome Corpo Dello Stato magazine. During its initial phase, the magazine proposed a unique approach: not purchasing images, but collaboratively producing a work. We focused on the Italian constitution and catalogued Rome's institutions. What seemed like a simple exercise took eighteen months to gain access to these democratic establishments. A similar perspective echoes in the ocean project I worked on, delving into diverse stakeholders connected to deep-sea mining. From the International Seabed Authority to the lawyers shaping its legal framework, the Lithuanian influence prompts an exploration of information flow across politics, art, religion, and the legal sphere. The project interweaves these languages, offering a cohesive voice across parliaments, expert opinions, and local communities. This may be viewed as institutional anthropology, or perhaps design anthropology, exposing how laws are conceived and their impact on various communities.

Kamil Dalkir

It's interesting you bring this up. In a recent conversation with Nabil Ahmed from INTRPRT, he arrived at a similar conclusion, albeit from a distinct architectural standpoint. He views INTRPRT's role as aggregating and presenting these elements. A notable example lies in their current engagement with the Helsinki Biennial. Despite receiving funds for the exhibition, they chose not to create

something exclusively for the event. Instead, they collaborated with Sami communities, who are currently litigating against wind energy firms. They opted to allocate the exhibition funds to translate specific Sami cultural concepts. This facilitates their integration into the courtroom, concurrently making them accessible to the exhibition's audience. In a compelling turn, they've even been invited as expert witnesses due to this systematic approach. Ahmed describes their work as pragmatic and non-aesthetic, aiming for precise communication. I discern a recurrent theme – a need to synthesise diverse components. As you mentioned, this entails orchestrating distinct voices, stakeholders, and parliamentary perspectives to forge a unified dialogue. While there's an undeniable drive to share these practices with the public, there's also a pivotal political decision involved in juxtaposing these viewpoints within a singular media framework.

Armin Linke

Speaking of Nabil, it reminds me of our collaboration in French Polynesia, where we conducted an interview. Regrettably, I can't recall the name of the French doctor who extensively researched the repercussions of atomic bomb testing in that region and subsequently published the findings. Our joint effort led to that interview. Yet, Nabil's steadfast determination spurred him to persist with the project, culminating in the publication of a comprehensive work centred on the French Polynesian sites. This underscores the importance of tenacity required for each undertaking.

Kamil Dalkir

Lorenzo and Nabil shared similar sentiments. Lorenzo, especially after the protracted process of the "Left to Die Boat" case, emphasised the gradual and lengthy nature of engagement and compilation. Your mention of projects dating back many years, even amid significant shifts in media dynamics, echoes this principle of prolonged commitment and evolution. With the evolution of media distribution and practices, I assume you constantly adapt your technological tools. I'm intrigued by how you choose the appropriate tools for documenting your projects. Do you continue using older formats when necessary, or does your selection depend on the specific project's requirements?

Armin Linke

I would say I tend to be somewhat traditional in my approach to media. For instance, in filmmaking, I've even used 16 millimetre film. I do explore newer tools and techniques, like now I'm experimenting with editing using AI. In recent projects, such as the one about lunar resources presented in Venice, I've blended historical media with modern methods. My photographic practice involves activating archives, as seen in my project "Phenotypes, Limited Forms" from 15 years ago. This approach isn't always directly political, but it does challenge institutions to consider what level of interaction the public should have with their archives. For instance, in an exhibition where visitors could touch the original prints, the museum's insurance situation became complex. Another instance was a project called "The Appearance of Which Cannot Be Seen." Initially, Bruno Latour requested images for his website, and I was intrigued by how he interpreted them. I then used his text and audio commentary in the exhibition, repeating this process with other contributors. This became a form of media anthropology, examining how my own images could generate diverse discussions. The aim was to not just display the artworks, but to make the entire discourse process visible within the exhibition. It's about designing the exhibition to showcase the ongoing discussions as part of the experience.

Kamil Dalkir

As architects, discovering new tools beyond traditional drawings and models is already exciting. There's often an investigation into the tool itself. It seems that due to your diverse background, you continuously reflect on the tools you use, whether it's through archival media or the equipment you employ.

9.3.3 Fabio Saliceti, Rosanna Liotti (Aid Worker)

Rosanna Liotti

Ecco la Regione Calabria, e ci occupiamo dell'immigrazione qui a Lamezia Terme. In generale, la Calabria non è un'area con un'immigrazione molto diffusa, ma è comunque coinvolta in diversi fenomeni rilevanti. In particolare, c'è un forte sfruttamento lavorativo. Un altro aspetto importante è la questione degli sbarchi, che è diventata particolarmente rilevante in questi giorni. La Calabria è diventata un punto di ingresso per le imbarcazioni provenienti dalla Turchia e dall'Egitto, soprattutto lungo la costa ionica.

Here is the Calabria Region, and we are dealing with immigration here in Lamezia Terme. In general, Calabria is not an area with widespread immigration, but it is still involved in several significant phenomena. In particular, there is a strong labour exploitation. Another important aspect is the issue of arrivals, which has become particularly relevant in recent days. Calabria has become an entry point for boats coming from Turkey and Egypt, especially along the Ionian coast.

Fabio Saliceti

In relazione agli sbarchi attuali a Catanzaro Lido, va notato che alcuni anni fa c'era stato uno sbarchi proveniente dall'Egitto. Attualmente non è ancora chiaro da dove provengano le persone coinvolte negli sbarchi odierni. Tuttavia, in passato, ricordo che si era verificato uno sbarchi da parte dell'Egitto a Catanzaro Lido. Al momento, ci sono circa 500 persone coinvolte nello sbarco di oggi.

Regarding the current arrivals at Catanzaro Lido, it should be noted that a few years ago there had been an arrival from Egypt. Currently, it is still unclear where the people involved in today's arrival come from. However, in the past, I remember that an arrival had occurred from Egypt at Catanzaro Lido. At the moment, there are approximately 500 people involved in today's arrival.

Rosanna Liotti

Si tratta di una situazione insolita, poiché solitamente in quest'area arrivano piccole barche, come barchini o barche a vela, con un numero di persone che non supera le 70 o 80. Quindi, l'evento odierno con 500 persone è piuttosto eccezionale. Non è comune lungo questa costa, poiché generalmente nelle zone della Locride,

Soverato e Crotone giungono piccole imbarcazioni simili.

This is an unusual situation, as typically in this area, small boats like dinghies, or sailboats arrive with a number of people not exceeding 70 or 80. Therefore, today's event with 500 people is quite exceptional. It is not common along this coastline, as generally in the areas of Locride, Soverato, and Crotone, similar small boats arrive.

Fabio Saliceti

Nella zona, gli sbarchi di dimensioni significative e numerose sono stati prevalentemente quelli degli anni '90 a Badolato. Si trattava principalmente degli arrivi della comunità curda, avvenuti negli anni '90, che furono accolti in modo positivo. Località come Badolato e Riace, lungo questa parte di costa, ebbero una notevole presenza di arrivi. Quelli furono sbarchi di considerevoli dimensioni.

In the area, significant and numerous arrivals were mainly those of the 1990s in Badolato. These were primarily the arrivals of the Kurdish community, which were positively received. Locations like Badolato and Riace, along this stretch of coast, experienced a considerable influx of arrivals. They were of considerable size.

Rosanna Liotti

Abbiamo assistito a un cambiamento recente in questa parte, in particolare dopo la cessazione delle operazioni di salvataggio in mare. In passato, quando c'erano queste operazioni, le imbarcazioni venivano dirottate verso altri porti in Sicilia o verso i porti del Sud interessati. La nostra area di lavoro è principalmente Vibo Valentia. In passato, le navi più grandi attraccano a Vibo, ma questa dinamica si è interrotta e ora si è riorientata. Attualmente, le imbarcazioni più piccole arrivano in questa zona. Questa mattina, a Catanzaro, si è verificato uno sbarco significativo con 500 persone, il che aggiunge ulteriore rilevanza alla situazione di confine.

We have witnessed a recent change in this region, particularly after the cessation of sea rescue operations. In the past, when these operations were ongoing, vessels were redirected to other ports in Sicily or or those to the South. Our working area is primarily Vibo Valentia. In the past, larger ships used to dock at Vibo, but this dynamic has shifted and reoriented now. Currently, smaller boats arrive in this area. This morning, a significant landing occurred in Catanzaro with 500 people, adding further significance to the border

situation.

La questione principale su cui ci concentriamo è lo sfruttamento lavorativo e ci sono tre aree chiave in cui questo fenomeno è molto evidente. Queste tre grandi pianure sono Gioia Tauro, questa zona qui; poi c'è la zona di Lamezia, che si estende da Pizzo ad Amantea; e infine c'è la zona della Sibaritide, che è anche piuttosto ampia. In queste tre aree, l'agricoltura è molto presente e vi è una forte presenza di sfruttamento lavorativo. Va notato che noi non operiamo in questa zona, poiché lavorano altri colleghi. La nostra attenzione principale è rivolta invece alla zona di Lamezia.

The main issue we focus on is labour exploitation, and there are three key areas where this phenomenon is highly evident. These three large plains are Gioia Tauro, this area here; then there's the Lamezia area, stretching from Pizzo to Amantea; and finally, there's the Sibaritide area, which is also quite extensive. In these zones, agriculture is very prominent, and there is a significant presence of labour exploitation. It should be noted that we do not operate in this area as other colleagues are working there. Instead, our primary attention is directed towards the Lamezia area.

Un'area su cui ci siamo concentrati fino a un certo punto, ma ora abbiamo interrotto e passeremo il testimone entro il 30 settembre, è la piana di Sibari. Questa comprende l'intera zona di Corigliano, che inizia da Corigliano e arriva fino a Rossano e Castelluccio, incluso Castel Ionio. Attualmente, operiamo principalmente in questa zona. Un esempio significativo è la coltivazione della cipolla rossa di Tropea, che avviene in tutta questa area, da Tropea a Pizzo e poi ad Amantea. Tra l'altro, la zona su cui ci concentriamo principalmente si estende da Lamezia ad Amantea. In questa zona, lavoriamo da molto tempo e c'è una significativa comunità di cittadini del Bangladesh, soprattutto ad Amantea.

An area that we focused on up to a certain point, but now we have discontinued and will hand over the responsibility by September 30th, is the Sibari plain. This encompasses the entire Corigliano area, starting from Corigliano and extending to Rossano and Castelluccio, including Castel Ionio. Currently, we primarily operate in this area. A significant example is the cultivation of the red onion of Tropea, which takes place throughout this area, from Tropea to Pizzo and then to Amantea. By the way, the main area we concentrate on extends from Lamezia to Amantea. In this zone, we have been working for a long time, and there is a substantial

community of Bangladeshi citizens, especially in Amantea.

Fabio Saliceti

Nella regione, molte persone migranti sono coinvolte nel settore agricolo, e la produzione della cipolla, insieme ad altre colture, è molto diffusa. Nel corso degli anni, c'è stato un aumento dell'occupazione di persone migranti nel lavoro agricolo, spesso sostituendo i lavoratori italiani. Questo fenomeno è rilevante in tutto il territorio. Per affrontare questa situazione, abbiamo condotto attività di unità di strada e sportelli sul territorio. Questi ci permettono di raggiungere i lavoratori nei luoghi in cui vivono o lavorano e di comprendere le difficoltà che affrontano, così come i bisogni che hanno, al fine di offrire il nostro aiuto.

In the region, many migrant individuals are involved in the agricultural sector, and onion production, along with other crops, is widespread. Over the years, there has been an increase in the employment of migrant workers in agricultural labour, often replacing Italian workers. This phenomenon is significant throughout the territory. To address this situation, we have carried out on-site outreach activities and established local assistance centres. These initiatives allow us to reach out to workers where they live or work, understand the challenges they face, as well as their needs, in order to provide our assistance.

Rosanna Liotti

La caratteristica principale di queste piane, compresa questa, è che sebbene possano apparire disagiate a prima vista, come nella zona di Gioia Tauro con la sua baraccopoli centrale, e nella zona di Sibari con situazioni simili, la situazione abitativa disagiata è evidente anche a occhio nudo. Tuttavia, a Lamezia Terme, non si vedono facilmente le persone o situazioni disagiate, anche se possono esserci.

The main characteristic of these plains, including this one, is that although they may appear disadvantaged at first glance, such as in the Gioia Tauro area with its central shantytown, and in the Sibari area with similar situations, the disadvantaged housing situation is also evident to the naked eye. However, in Lamezia Terme, disadvantaged individuals or situations are not easily visible, although they may exist.

Fabio Saliceti

Sembrerebbe a prima vista che tutto sia tranquillo e in ordine, ma in realtà molte persone vivono in campi e baracche, il che potrebbe non essere immediatamente evidente.

At first glance, everything might seem calm and in order, but in reality, many people live in fields and shacks, which may not be immediately apparent.

Rosanna Liotti

La presenza di situazioni insolite qui a Badolato è rara. Mentre nella zona di Cassano, che abbiamo attentamente esaminato, abbiamo individuato casi di sfruttamento lavorativo precario, incluso il traffico di persone. Questo fenomeno coinvolge persone non direttamente portate qui dal loro paese d'origine per essere sfruttate. Queste situazioni non sono state riscontrate altrove. Abbiamo osservato questa realtà sia per i cittadini del Bangladesh che per quelli provenienti dalla Bulgaria, quindi sia per paesi comunitari che non. Questa scoperta è significativa qui, anche se all'apparenza sembra un luogo tranquillo, soprattutto ad Amantea, dove i cittadini del Bangladesh vivono insieme nelle case. Quindi, anche se non è evidente a prima vista, ci sono gravi problemi. Questa situazione è particolarmente interessante perché apparentemente non sembra che ci siano problemi ovunque, ma basta fermarsi e osservare per scoprire che c'è molto di più. Ad esempio, alcuni colleghi stanno esaminando la zona di Crotone, dove sono stati rilevati casi di caporalato.

The presence of unusual situations here in Badolato is rare. While in the Cassano area, which we have closely examined, we have identified cases of precarious labour exploitation, including human trafficking. This phenomenon involves individuals not directly brought here from their country of origin to be exploited. These situations have not been found elsewhere. We have observed this reality for both Bangladeshi citizens and those from Bulgaria, both from EU countries and non-EU countries. This discovery holds significance here, even though it may appear to be a peaceful place, especially in Amantea, where Bangladeshi citizens live together in overcrowded houses. Therefore, even though it is not evident at first glance, there are serious issues. This situation is particularly interesting because there seem to be no problems anywhere, but just stopping and observing reveals that there is much more. For

instance, some colleagues are investigating the Crotone area, where cases of labour exploitation by intermediaries have been identified.

Fabio Saliceti

Inoltre, abbiamo notato che alcuni lavoratori si spostano da una piana all'altra in diversi periodi. Ad esempio, dalla piana di Lamezia Terme, qui al centro della Calabria, si dirigono verso la piana di Gioia Tauro più a sud e viceversa. Questi spostamenti avvengono anche perché alcune aziende possiedono terreni sia nella piana di Lamezia che in quella di Gioia Tauro, quindi impiegano i lavoratori in entrambe le zone. Questo fenomeno è interessante poiché lavoratori che risiedono in una piana spesso si recano a lavorare anche nell'altra.

Furthermore, we have noticed that some workers move from one plain to another during different periods. For example, from the Lamezia Terme plain, here in the centre of Calabria, they head towards the Gioia Tauro plain further south, and vice versa. These movements also occur because certain companies own land in both the Lamezia plain and the Gioia Tauro plain, so they employ workers in both areas. This phenomenon is interesting as workers residing in one plain often travel to work in the other as well.

Rosanna Liotti

Ho scoperto che l'azienda Veltri nel Campora non è più di Veltri Vecchi, ma è stata acquisita da qualcuno proveniente da Gioia Tauro in quest'ultimo anno.

I have discovered that the Veltri company in Campora is no longer owned by the Veltri family, but it has been acquired by someone from Gioia Tauro in the past year.

Fabio Saliceti

Alcune aziende, come questa, possiedono terreni...

Some companies, like this one, own land...

Rosanna Liotti

Questo fenomeno è confermato in parte da esperti del settore, ed è piuttosto strutturale. In un certo senso, è un sistema che dipende

dalla presenza di queste persone che lavorano, come ad esempio i migranti e gli sfruttati. Questa situazione sembra convenire a tutti, poiché il sistema stesso potrebbe avere difficoltà a sopravvivere senza questa dinamica, oltre alla presenza dei migranti, poiché vi è un sistema che dipende da questo tipo di dinamica.

This phenomenon is partly confirmed by industry experts, and it is rather structural. In a way, it is a system that relies on the presence of these working individuals, such as migrants and exploited labourers. This situation seems to benefit everyone, as the system itself might struggle to survive without this dynamic, apart from the migrants' presence, since there is a system dependent on this type of dynamic.

Fabio Saliceti

Non sono d'accordo con questo punto di vista, poiché lo sfruttamento sta diventando sempre più evidente e chiaramente rappresenta un elemento strutturale della società in cui viviamo. Anche gli atti e i documenti governativi stessi ne parlano come di un fenomeno intrinseco e profondamente radicato nella società in cui viviamo.

I disagree with this perspective, as exploitation is becoming increasingly evident and clearly represents a structural element of the society we live in. Even government acts and documents themselves speak of it as an intrinsic and deeply rooted phenomenon in the society we live in.

Rosanna Liotti

Ma la domanda è: cosa fa lo Stato? Non si tratta di un fenomeno circoscritto solamente all'Italia, è un fenomeno che purtroppo coinvolge l'intero mondo, penso.

But the question is: what does the State do? This is not a phenomenon limited only to Italy; it is a phenomenon that unfortunately involves the entire world, I believe.

Fabio Saliceti

Questa situazione riguarda l'intero mondo e coinvolge tutti i settori lavorativi, non solo l'agricoltura. Attualmente, potremmo essere focalizzati sull'agricoltura poiché è il settore primario in

Calabria, nonché quello su cui interveniamo e lavoriamo, ed è quindi quello che conosciamo meglio. Tuttavia, anche in altri settori lavorativi, come ad esempio il turismo alberghiero, l'edilizia e la logistica, soprattutto in questo periodo, nessun settore lavorativo è esente da questa situazione.

This situation concerns the entire world and involves all sectors of work, not just agriculture. Currently, we might be focused on agriculture because it is the primary sector in Calabria, as well as the one where we intervene and work, and therefore the one we know best. However, even in other sectors of work, such as hospitality tourism, construction, and logistics, especially in this period, no sector of work is exempt from this situation.

E riguardo al governo, cosa sta facendo o cosa senti? Anche posizioni ideologiche molto spesso cercano di minare lo stato sociale, cercano di mettere gli uni contro gli altri. Cercano di far passare i migranti come quelli che causano problemi, quelli che portano malattie, quelli che indeboliscono lo stato sociale, cercano di creare divisioni. Siamo in un clima elettorale, quindi ad esempio, temi come la migrazione potrebbero essere affrontati meglio dopo le elezioni.

And regarding the government, what are they doing? Even ideological positions often try to undermine the welfare state, trying to pit one group against another. They try to portray migrants as the ones causing problems, bringing diseases, weakening the welfare system, and attempting to create divisions. We are in an electoral climate, so for example, issues like migration might be addressed more effectively after the elections.

Già anche in merito allo sbarco attuale a Catanzaro, ci sono già commenti del tipo "non fateli arrivare, portano malattie", considerando che siamo già in una situazione difficile con i problemi nel settore sanitario. Insomma, cercano di...

Already concerning the current landing in Catanzaro, there are comments of the type "don't let them come, they bring diseases," considering that we are already in a difficult situation with issues in the healthcare sector. In short, they are trying to...

Rosanna Liotti

Siamo in una situazione difficile. Quest'anno, ad esempio, il settore turistico-alberghiero ha affrontato numerosi problemi. Se

non ci fossero stati gli stranieri, i servizi si sarebbero interrotti. La maggior parte degli operatori, specialmente quelli nelle cucine, sono immigrati.

We are in a difficult situation. This year, for instance, the hotel and tourism sector has faced numerous issues. If it weren't for foreigners, services would have come to a halt. The majority of operators, especially those in the kitchens, are immigrants.

Fabio Saliceti

Effettivamente, l'economia è sostenuta sia dalle persone migranti che da coloro che non seguono ragionamenti ideologici, ma c'è anche chi alimenta una lotta tra poveri. In sostanza, si tratta di una mancanza di prospettive a lungo termine. Le politiche migratorie rispondono alle situazioni attuali senza una visione a lungo termine. Non offrono una vera garanzia di accoglienza e integrazione delle persone sul territorio.

Indeed, the economy is supported both by migrant individuals and those who don't engage in ideological reasoning, but there are also those who fuel a fight among the less privileged. Essentially, it's a lack of long-term perspectives. Migration policies respond to current situations without a long-term vision. They don't provide a genuine assurance of welcoming and integrating people into the territory.

Rosanna Liotti

Un altro aspetto da considerare è che, per esempio, riguardo allo sfruttamento, sono stati erogati cospicui finanziamenti per numerosi progetti. Ci sono molte iniziative in corso, ma il problema è che la loro continuità è incerta. Inoltre, spesso manca coesione tra questi progetti e non c'è una connessione effettiva. Potrebbe esserci sovrapposizione di attività simili nello stesso territorio, portando a uno spreco di risorse. Se invece queste iniziative fossero coordinate, i finanziamenti potrebbero essere utilizzati in modo più efficace.

Another aspect to consider is that, for instance, concerning exploitation, substantial funding has been allocated for numerous projects. There are many ongoing initiatives, but the issue is that their continuity is uncertain. Furthermore, there is often a lack of cohesion among these projects and there is no effective connection. There might be overlapping of similar activities in the same territory,

leading to a waste of resources. If these initiatives were instead coordinated, the funding could be used more effectively.

Fabio Saliceti

Sì, questo rappresenta un'importante problematica. Attualmente, su tutto il territorio nazionale, non solo in Calabria, c'è un notevole impegno di risorse sul tema dello sfruttamento lavorativo. Tuttavia, manca un'adeguata integrazione tra questi progetti, spesso sconosciuti l'uno all'altro. Inoltre, manca una direzione o supervisione territoriale che favorisca il coordinamento tra tali iniziative.

Yes, this represents a significant issue. Currently, across the entire national territory, not just in Calabria, there is a considerable allocation of resources towards the issue of labour exploitation. However, there is a lack of adequate integration between these projects, often unaware of each other. Furthermore, there is a lack of territorial direction or supervision that would facilitate coordination among these initiatives.

Rosanna Liotti

Questo rappresenta il dilemma: fino al 31 dicembre, hai una serie di concetti e azioni, ma cosa succede dopo? Manca una visione a lungo termine. Sempre presente è l'incertezza, con progetti che sorgono e poi svaniscono. Magari oggi ne abbiamo dieci contemporaneamente, ma spesso non c'è comunicazione tra di loro.

This represents the dilemma: until December 31st, we are developing a series of concepts and actions, but what happens afterwards? There is a lack of long-term vision. Uncertainty is always present, with projects that arise and then fade away. Perhaps today we have ten of them simultaneously, but often there is no communication between them.

Fabio Saliceti

Sì, certo. Questi sono alcuni dei problemi che riguardano la gestione dei flussi migratori. Al di là degli argomenti ideologici, la migrazione è un elemento concreto. Nel nostro territorio, abbiamo sempre conosciuto il fenomeno migratorio, soprattutto con persone che lasciano la nostra terra, poiché per noi la migrazione è principalmente un atto di partenza.

Yes, of course. These are some of the issues concerning the management of migration flows. Beyond ideological arguments, migration is a concrete element. In our region, we have always been familiar with the migratory phenomenon, especially with people leaving our land, because for us migration is primarily an act of departure.

Rosanna Liotti

Devo sottolineare che per noi, che siamo migranti, questa terra non è più una zona di emigrazione. In generale, possiamo dire che c'è una certa stabilità, ma spesso coloro che giungono da noi poi se ne vanno verso altre regioni. Non rimangono qui a lungo termine. La scelta di lavorare è una decisione presa, poiché molte persone che arrivano qui hanno una bassa qualifica o non sono scolarizzate. Di conseguenza, mancano spesso di competenze spendibili, non avendo necessariamente conoscenza della lingua e altre abilità utilizzabili.

I must emphasise that for us, this land is no longer an area of emigration. In general, we can say that there is a certain stability, often those who come to us move on to other regions. They do not stay here in the long term. The choice to work is a decision made, as many people who arrive here have a low qualification or are not educated. As a result, they often lack marketable skills, not necessarily having knowledge of the language and other usable abilities.

Inoltre, la decisione di lavorare nel settore agricolo è spesso dettata dalla volontà di lavorare in agricoltura e dalle opportunità che il territorio offre in quel momento, per un periodo determinato. Successivamente, una volta ottenuto il permesso o giunto il momento opportuno, molte persone decidono di andarsene perché non intendono stabilirsi qui a lungo. Questo è accentuato dal fatto che, personalmente, conosco solo pochi ragazzi - al massimo due o tre - che abbiano lavorato nell'agricoltura. Una volta ottenuto il documento che permette loro di spostarsi, sulla carta hanno la possibilità di andare anche all'estero.

Furthermore, the decision to work in the agricultural sector is often dictated by the desire to work in agriculture and the opportunities that the territory offers at that moment, for a specific period. Subsequently, once they obtain the permit or when the right time comes, many people decide to leave because they do not intend to settle here for long. This is accentuated by the fact that, personally,

I know only a few young men - at most two or three - who have worked in agriculture. Once they obtain the document that allows them to move, on paper they have the possibility to go abroad as well.

Fabio Saliceti

Oppure, decidono di spostarsi e cercare lavoro in altri settori, magari dopo aver imparato l'italiano o aver ottenuto documenti più validi che garantiscono maggiore sicurezza e stabilità. L'agricoltura, in un certo senso, rappresenta una sorta di primo passo una volta che arrivano sulle coste o sul territorio, poiché molti giungono anche attraverso la frontiera settentrionale, ad esempio, lungo la rotta balcanica. È nel settore agricolo che trovano immediatamente occupazione, perché è uno dei settori che non richiede particolari competenze.

Alternatively, they decide to move and seek work in other sectors, perhaps after learning Italian or obtaining more valid documents that provide greater security and stability. Agriculture, in a sense, represents a sort of first step once they arrive on the coasts or on the territory, as many also come through the northern border, for example, along the Balkan route. It is in the agricultural sector that they find immediate employment, because it is one of the sectors that does not require specific skills.

Rosanna Liotti

Non c'è molta manodopera italiana in questa parte, è già coperta; da noi, la maggior parte degli italiani non svolge queste mansioni, sono davvero pochi quelli che lo fanno. Non voglio creare una legge sul lavoro, ma questi lavori sono a basso livello e sono svolti principalmente da persone che non sono italiane, ma fanno parte del sistema. È una situazione comune che si trova in molti posti. Ti ripeto, quando qualcuno riesce a trovare lavoro in queste catene, può rimanere intrappolato in esse, magari a causa dello status di richiedente asilo che non riesce a regolarizzarsi e a uscirne. Tuttavia, se qualcuno riesce a liberarsi da questo ciclo, lo fa. Nel settore agricolo, mi è capitato di osservare questa situazione.

There is not much Italian workforce in this part; it's already covered. Most Italians here do not perform these tasks; very few actually do. I don't want to create a labour law, but these jobs are low-level and are mostly carried out by non-Italians who are part of the system. It's a common situation found in many places. I'll

repeat, when someone manages to find work in these chains, they can get trapped in them, maybe due to their status as asylum seekers, unable to regularise and break free. However, if someone manages to break free from this cycle, they do. In the agricultural sector, I have observed this situation.

Fabio Saliceti

Sì, hai ragione. Ad esempio, ora sembra che stiamo osservando meno questa circolarità, ma in passato era ancora più evidente, soprattutto tra diverse aree e piane agricole. Le persone si spostavano a seconda delle stagioni di raccolta. Molti, per esempio...

Yes, you're right. For example, now it seems that we are observing less of this circularity, but in the past, it was even more evident, especially between different areas and agricultural plains. People would move according to the harvest seasons. Many, for instance...

Rosanna Liotti

A Lamezia Terme, questo aspetto è meno evidente. Come ho detto, la produzione di cipolle è costante durante l'anno, quindi non c'è una grande variazione. Qui, le persone che sono presenti non sono stabili; alcune vengono da Romania o Bulgaria per alcuni mesi all'anno, magari durante la raccolta delle olive. Tuttavia, non c'è la stessa mobilità che si potrebbe osservare a Rosarno o Sibari, dove le coltivazioni sono più stagionali, come le arance e le pesche, legate a periodi specifici.

In Lamezia Terme, this aspect is less evident. As I mentioned, onion production is consistent throughout the year, so there isn't a significant variation. Here, the people present are not stable; some come from Romania or Bulgaria for a few months each year, perhaps during the olive harvest. However, there isn't the same level of mobility that you might observe in Rosarno or Sibari, where the crops are more seasonal, like oranges and peaches, tied to specific periods.

Fabio Saliceti

Nella piana della Sibaritide, ad esempio, durante la raccolta dei mandarini, molte persone lavorano d'inverno. Queste stesse persone potrebbero poi trovarsi in Puglia durante l'estate per la raccolta dei pomodori. C'è una forte circolarità delle persone tra

diverse regioni, non solo nel Sud. Alcuni lavoratori possono anche spostarsi in Piemonte o in altre regioni per periodi specifici, quindi c'è una notevole mobilità dei lavoratori in tutto il Paese. Ad esempio, alcuni dei lavoratori del Bangladesh che incontriamo nella piana di Lamezia durante la raccolta delle cipolle, potrebbero aver lavorato nei mesi precedenti nel mercato ortofrutticolo di Milano, che è una realtà molto grande. Questo dimostra che la mobilità è molto diffusa su tutto il territorio nazionale ed è guidata dai tempi e dalle esigenze del lavoro. Non è una mobilità dettata dalle opportunità di reale inserimento nel territorio.

In the Sibaritide plain, for instance, during the mandarin harvest, many people work in the winter. These same individuals might then find themselves in Puglia during the summer for the tomato harvest. There is a strong circular movement of people between different regions, not just in the South. Some workers may even move to Piedmont or other regions for specific periods, so there is significant labour mobility across the entire country. For example, some of the Bangladeshi workers we encounter in the Lamezia plain during the onion harvest could have worked in previous months in the fruit and vegetable market of Milan, which is a sizable entity. This illustrates that mobility is widespread across the national territory and is driven by the timing and labour demands. It's not driven by genuine integration opportunities within the territory.

Rosanna Liotti

Non è un'attività illegale, è legale. Il movimento delle navi è l'aspetto illegale. Il movimento all'interno del territorio è legale.

It's not an illegal activity, it's legal. The movement of the ships is the illegal aspect. Movement within the territory is legal.

Fabio Saliceti

Per coloro che non hanno il permesso di soggiorno, è un'attività illegale. Tuttavia, nella maggior parte dei casi, è legale poiché una persona con il permesso di soggiorno può spostarsi dalla Calabria alla Lombardia. Non è obbligata a rimanere in Calabria.

For those who do not have a residence permit, it is an illegal activity. However, in most cases, it is legal because a person with a residence permit can move from Calabria to Lombardy. They are not obliged to stay in Calabria.

Rosanna Liotti

È solo quando si tratta di sbarchi. Quella è una cosa tecnicamente illegale. Questo è illegale, è illegale tutto ciò che riguarda lo sfruttamento, eccetera. Queste cose sono reati che vengono puniti, anche se in misura minore. Certo, alcune di queste poi sono... A seconda del caso, però questo poi rientra nell'ambito dell'illegalità. In generale, possiamo dire che gli spostamenti da un luogo all'altro, nel momento in cui entri nel territorio, sono considerati illegali se non hai alcun documento. In Italia, essere senza un permesso di soggiorno è considerato un reato.

It is only when it comes to landings. That is technically an illegal act. This is illegal, everything related to exploitation, etc. These things are offences that are punished, even if to a lesser extent. Of course, some of these then are... Depending on the case, however, this falls under the realm of illegality. In general, we can say that movements from one place to another, once you enter the territory, are considered illegal if you don't have any documents. In Italy, being without a residence permit is considered a crime.

Fabio Saliceti

Al momento, li conducono al palazzetto dello sport o al Corvo, dove vengono sottoposti a screening di identificazione e successivamente vengono collocati nel luogo di accoglienza. Da lì, a seconda delle circostanze, vengono indirizzati a casa di qualcuno o al CARA di Crotone, da dove poi vengono distribuiti.

Currently, they are taken to the sports hall in Corvo, where they undergo identification screening, and subsequently, they are placed in the reception centre. From there, depending on the circumstances, they are either directed to someone's home or to the CARA in Crotone, from where they are then distributed.

Rosanna Liotti

Già qui inizia la prima fase, capisci? Ti prelevano le impronte, quindi in base alla tua nazionalità si comprende se sei un richiedente asilo o se sei una persona che deve ottenere il foglio di via. Ad esempio, con tutti i marocchini e tunisini che arrivano, non permettono di fare la richiesta d'asilo, ma ci consegnano subito il foglio di via, che indica che devono lasciare l'Italia. Questi che prendono il treno e arrivano a Lamezia Terme hanno questa guida

intelligente.

Already here, the first phase begins. They take your fingerprints, then based on your nationality, it's determined whether you're an asylum seeker or someone who needs to obtain a deportation order. For instance, with all the Moroccans and Tunisians who arrive, they don't allow them to apply for asylum, but they immediately issue a deportation order, indicating they must leave Italy. Those who take the train and arrive at Lamezia Terme have this smart guide.

Qui si effettua sia lo screening sanitario che quello legato allo status. In pratica, si stabilisce se puoi rimanere come richiedente asilo, perché non ci sono altre alternative una volta che arrivi qui. Non è possibile arrivare in Italia e decidere improvvisamente che ho un amico a Lamezia che mi ha detto che c'è lavoro e quindi voglio rimanere. Non funziona così, anche se trovi lavoro e un contratto, questo non ti garantisce la regolarizzazione. In Italia, il sistema delle quote regola tutto. Se vuoi lavorare qui, il datore di lavoro deve attendere un decreto. Deve essere emesso un decreto legge, un decreto legislativo, sono entrambi.

Here, both health screening and status-related screening are carried out. In practice, it's determined whether you can stay as an asylum seeker, as there are no other alternatives once you arrive here. It's not possible to arrive in Italy and suddenly decide that I have a friend in Lamezia who told me there's work and I want to stay. It doesn't work like that, even if you find a job and a contract, it doesn't guarantee regularisation. In Italy, the quota system regulates everything. If you want to work here, the employer must wait for a decree. A law decree must be issued, a legislative decree, they are both required.

Un decreto è in realtà un compagno segreto delle quote flussi. Questo decreto indica quanti lavoratori di una determinata nazionalità sono richiesti per quell'anno. Ad esempio, potrebbe esserci bisogno di 10.000 cittadini del Bangladesh per lavoro stagionale. Devi quindi recarti all'ambasciata, ottenere il visto e entrare in modo regolare. Se trovi lavoro qui, non sarai in grado di regolarizzare la tua posizione, a meno che non si verifichino sanatorie straordinarie. In genere, quando arrivi, puoi fare varie richieste d'asilo, ma non è l'unico percorso. In alcuni casi, quando arrivano sbarchi, le cose possono essere diverse.

A decree is actually a secret companion to the quota system.

This decree indicates how many workers of a specific nationality are required for that year. For example, there might be a need for 10,000 citizens from Bangladesh for seasonal work. You must then go to the embassy, obtain the visa, and enter in a regular manner. If you find work here, you won't be able to regularise your status unless extraordinary regularisation measures occur. Typically, upon arrival, you can make various asylum requests, but it's not the only path. In some cases, when arrivals occur, things can be different.

Dicevamo prima che potrebbero raccogliere i più deboli, magari c'era qualcuno che ti informava, dicendoti che hai il diritto di presentare una richiesta d'asilo, hai diritto a questo o a quello, potresti essere una vittima di tratta. Non so se in questi sbarchi attuali esista ancora questo sistema di informazione sulla possibilità di fare richiesta d'asilo, eccetera. Non sono sicuro se questa pratica sia ancora presente oggi.

As we were saying earlier, they could target the most vulnerable, perhaps there was someone who informed you, telling you that you have the right to apply for asylum, you're entitled to this or that, you could be a victim of trafficking. I'm not sure if in these current landings, this system of information about the possibility of applying for asylum still exists, etc. I'm not sure if this practice is still present today.

Fabio Saliceti

Ci sono, ad esempio Frontex e altre agenzie dell'Unione Europea che dovrebbero avere dei progetti in corso per monitorare la situazione e intervenire. Vediamo se al momento c'è qualche progetto in corso o in fase di pianificazione.

There are, for example, Frontex and other agencies of the European Union that should have ongoing projects to monitor the situation and intervene. Let's see if there are currently any projects underway or in the planning phase.

Rosanna Liotti

In realtà, molte di queste questioni dovrebbero essere affrontate da chi ti informa sulle possibilità disponibili. Molti dei migranti che sbarcano, ad esempio, potrebbero trovarsi con fogli di via e non essere consapevoli se possono o meno richiedere asilo. Questa confusione è comprensibile. Ad esempio, se sbarco a Roccella e tra

sette giorni devo spostarmi, senza un passaporto, è difficile capire come farlo. Così, spesso rimangono nell'irregolarità sperando di regolarizzare la loro situazione.

In reality, many of these issues should be addressed by those who inform you about the available possibilities. Many of the migrants who land, for instance, might find themselves with deportation orders and not be aware whether they can apply for asylum or not. This confusion is understandable. For example, if I land in Roccella and I have to move within seven days without a passport, it's difficult to understand how to do so. As a result, they often remain in irregular situations, hoping to regularise their status.

Un motivo per cui molte persone si recano alla stazione di Lamezia è che spesso devono cambiare treno lì. Molte persone provenienti dal Maghreb, ad esempio da Roccella, passano da Lamezia per poi proseguire chissà dove. Molti richiedenti asilo, invece, potrebbero avere parenti in altri paesi europei come Svezia o Germania, e quindi potrebbero eventualmente partire. Tuttavia, l'iter normale prevede che, dopo uno screening, vengano temporaneamente sistemati in un luogo e poi, diciamo, potrebbero essere inseriti in un'agenzia che si occupa di queste questioni.

One reason why many people go to Lamezia station is that they often have to change trains there. Many people coming from the Maghreb, for example from Roccella, pass through Lamezia before continuing who knows where. Many asylum seekers, on the other hand, might have relatives in other European countries like Sweden or Germany, and therefore they might eventually depart. However, the normal process involves being temporarily accommodated in a place after screening, and then, let's say, they could be placed under the care of an agency that deals with these matters.

Fabio Saliceti

La prima cosa che viene fatta è l'applicazione di una sorta di procedura di identificazione, la quale non è esclusiva dell'Italia, ma è parte di una politica europea. Questa è parte dell'agenda europea che prevede la gestione delle frontiere. Questa procedura di identificazione è ciò che comunemente viene chiamato hotspot, il cui nome stesso suggerisce l'obiettivo reale di tale procedura. Essa mira essenzialmente a distinguere i migranti considerati economici da quelli che hanno diritto o potrebbero avere diritto a richiedere

protezione internazionale, a seconda del paese di provenienza.

The first thing that is done is the implementation of a sort of identification procedure, which is not exclusive to Italy but is part of a European policy. This is part of the European agenda that entails border management. This identification procedure is commonly referred to as a hotspot, and its very name suggests the actual goal of this process. It essentially aims to differentiate migrants considered economic from those who are entitled or could be entitled to seek international protection, based on their country of origin.

Rosanna Liotti

Tuttavia, ribadisco, c'è un'altra possibilità da considerare. Quello che stiamo attualmente osservando è qualcosa che richiede una visione più ampia. Le strutture incaricate dello screening per i richiedenti asilo possono condurre a un riconoscimento di asilo, ma ciò dipende dalla situazione specifica del richiedente e dal paese di provenienza. È vero che rispetto a quanto discusso precedentemente, la questione dei richiedenti asilo è influenzata dal paese di origine. Spesso, purtroppo, in Italia rappresenta uno dei pochi, se non l'unico, modi per una possibile regolarizzazione. Anche se la richiesta d'asilo non viene accettata, ciò può comunque portare a una temporanea regolarizzazione e all'attesa di miglioramenti nella situazione. In alcuni casi, potrebbe anche verificarsi una sanatoria, sebbene ciò sia un processo complesso. Pertanto, è l'unico modo attraverso il quale è possibile ottenere uno status legale.

However, I reiterate, there is another possibility to consider. What we are currently observing is something that requires a broader perspective. The facilities responsible for screening asylum seekers can lead to asylum recognition, but this depends on the specific situation of the applicant and the country of origin. It is true that, compared to what was discussed earlier, the issue of asylum seekers is influenced by the country of origin. Often, unfortunately, in Italy, it represents one of the few, if not the only, ways to potential regularisation. Even if the asylum application is not accepted, it can still lead to temporary regularisation and waiting for improvements in the situation. In some cases, there might even be an amnesty, although this is a complex process. Therefore, it's the only way through which obtaining legal status is possible.

In effetti, non esiste un altro modo legale per spostarsi o trasferirsi in un altro paese in modo regolare. Qui in Italia, è così che funziona il processo di regolarizzazione e di spostamento. Abbiamo avuto molti casi di persone provenienti da Paesi considerati "sicuri", secondo una sorta di lista di controllo, ma questo è un approccio europeo. L'Italia si è allineata con queste politiche europee ed ha designato alcuni paesi come "sicuri", cioè paesi dai quali si presume che le persone non abbiano motivi validi per cercare protezione internazionale in un altro paese. Tuttavia, abbiamo osservato molti casi in cui persone provenienti da questi paesi "sicuri", come ad esempio il Marocco, alla fine sono state riconosciute come aventi diritto a protezione internazionale. Questo dimostra quanto sia complesso il percorso di vita di una persona che decide di lasciare il proprio paese e cercare una via sicura per stabilirsi altrove. La procedura hotspot rende tutto ancora più complicato. Noi abbiamo recentemente assistito a uno sbarco a Catanzaro, ma in passato abbiamo partecipato a operazioni simili in altri luoghi, come ad esempio Vibo Valentia. Anche lì, è stata applicata la procedura hotspot: le persone arrivavano e venivano indirizzate in diversi settori delimitati da recinzioni e segnaletica, a seconda della loro situazione - ad esempio, se fossero richiedenti asilo o destinatari di relocamento.

Indeed, there is no other legal way to move or relocate to another country in a regular manner. Here in Italy, this is how the process of regularisation and relocation works. We have had many cases of people from countries considered "safe" according to a kind of checklist, but this is a European approach. Italy has aligned itself with these European policies and designated some countries as "safe," meaning countries from which it is assumed that people do not have valid reasons to seek international protection in another country. However, we have observed many cases where people from these "safe" countries, such as Morocco, have ultimately been recognized as eligible for international protection. This demonstrates how complex the life journey of a person who decides to leave their country and seek a safe path to settle elsewhere is. The hotspot procedure makes everything even more complicated. We recently witnessed a landing in Catanzaro, but in the past, we have been involved in similar operations in other places, such as Vibo Valentia. There too, the hotspot procedure was applied: people would arrive and be directed to different sectors delineated by fences and signs, depending on their situation – for example, whether they were

asylum seekers or relocation beneficiaries.

Rosanna Liotti

In alcuni altri paesi europei, c'erano recinti dove le persone venivano radunate in base al loro status, che era chiaramente visibile poiché erano suddivise in quadrati distinti in cui entravi e poi facevi la procedura.

In some other European countries, there were enclosures where people were gathered based on their status, which was clearly visible as they were divided into distinct squares where you entered and then underwent the procedure.

Fabio Saliceti

Più o meno oggi avverrà allo stesso modo. Ad esempio, queste persone dal porticciolo di Catanzaro Lido vengono trasferite in un palazzetto dello sport adibito alla prima assistenza, soprattutto all'identificazione e allo screening sanitario per valutare eventuali bisogni medici particolari. L'obiettivo principale è distinguere le persone in base al paese di provenienza e trattarle in base alla nazionalità. I migranti economici probabilmente affrontano l'ostacolo di una notifica di un foglio di via. Quelli ritenuti potenzialmente idonei a ricevere protezione internazionale saranno probabilmente trasferiti nei centri di accoglienza, che solitamente sono grandi strutture, prima di eventualmente essere inseriti in progetti. Per i minori, la situazione è diversa, specialmente per i minori stranieri non accompagnati.

More or less, today it will happen in the same way. For instance, these individuals from the Catanzaro Lido harbour are transferred to a sports facility designated for initial assistance, mainly for identification and health screening to assess any specific medical needs. The primary goal is to differentiate individuals based on their country of origin and treat them according to nationality. Economic migrants probably face the obstacle of a notification for a deportation order. Those considered potentially eligible for international protection will likely be transferred to reception centres, which are usually large facilities, before potentially being integrated into projects. For minors, the situation is different, especially for unaccompanied foreign minors.

Non hanno punti di riferimento. Puoi vedere che c'è un altro

recinto in cui vengono collocati i minori in attesa di essere accolti nelle comunità per minori o nei progetti dedicati ai minori. Questa procedura è simile al processo di sbarco. In Italia, se non erro, abbiamo quattro centri hotspot: uno a Lampedusa, uno a Pozzallo, uno a Taranto. Tuttavia, questa procedura è applicata effettivamente in tutte le situazioni di sbarco, anche nei territori in cui non c'è fisicamente questa struttura hotspot.

They don't have reference points. You can see that there is another enclosure where minors are placed while awaiting placement in youth communities or projects dedicated to minors. This procedure is similar to the disembarkation process. In Italy, if I'm not mistaken, we have four hotspot centres: one in Lampedusa, one in Pozzallo, one in Taranto. However, this procedure is effectively applied in all landing situations, even in territories where this hotspot structure doesn't physically exist.

Rosanna Liotti

Uno dei luoghi che rivestono particolare importanza e su cui ci focalizziamo da diversi anni, soprattutto a partire dal 2015, è praticamente...

One of the places that holds particular importance and that we have been focusing on for several years, especially since 2015, is essentially...

Fabio Saliceti

Operiamo intensamente qui a Lamezia, in particolare nella vasta Piana di Sant'Eufemia che si estende da Pizzo ad Amantea. Questa regione costiera è oggetto di molti dei nostri interventi in quanto presenta una produzione agricola significativa, specialmente nell'ambito della coltivazione delle cipolle. Abbiamo notato la presenza di aziende, anche di medie dimensioni, impegnate in questa attività, con alcune riunite in un consorzio dedicato alle cipolle. In tali aziende lavorano numerosi migranti, soprattutto nella zona di Amantea e nella frazione di Campora San Giovanni.

We operate intensively here in Lamezia, particularly in the extensive Sant'Eufemia Plain that stretches from Pizzo to Amantea. This coastal region is the focus of many of our interventions as it boasts significant agricultural production, especially in onion cultivation. We have observed the presence of companies, including

medium-sized ones, engaged in this activity, with some of them forming a consortium dedicated to onions. Numerous migrants work in these companies, especially in the Amantea area and the Campora San Giovanni district.

Quest'area ospita una considerevole comunità di lavoratori provenienti dal Bangladesh. Qui è emerso che oltre alle situazioni di lavoro sommerso e irregolare, esistono anche problemi più gravi. Abbiamo scoperto casi di tratta di esseri umani, in cui individui erano stati condotti in Italia da trafficanti legati agli sfruttatori locali. Questi lavoratori migranti spesso subivano violenze sia nell'area di impiego che nei loro paesi d'origine. Situazioni in cui le persone non cedevano al ricatto o agli sfruttamenti dei trafficanti portavano spesso a ritorsioni contro i familiari rimasti nel paese d'origine.

This area hosts a significant community of workers from Bangladesh. It has come to light that in addition to situations of hidden and irregular labour, there are also more serious issues. We have uncovered cases of human trafficking, where individuals were brought to Italy by traffickers connected to local exploiters. These migrant workers often experienced violence both in the area of employment and in their countries of origin. Situations where individuals resisted the blackmail or exploitation of traffickers often led to reprisals against family members remaining in the home country.

Lavoriamo su questo territorio da molti anni e intraprendiamo varie iniziative. Ad esempio, abbiamo istituito un'unità di contatto che opera con cadenza settimanale. Organizziamo questi incontri con frequenza quindicinale, in particolare quando i lavoratori escono di casa al mattino per raggiungere il luogo di lavoro, sia in modo autonomo che attendendo i pulmini che li trasportano nei campi, soprattutto nella zona di Campo da San Giovanni.

We have been working in this area for many years and undertake various initiatives. For instance, we established a contact unit that operates on a weekly basis. We organise these meetings biweekly, especially when workers leave their homes in the morning to reach the workplace, either independently or by waiting for the vans that transport them to the fields, primarily in the Campo da San Giovanni area.

Oltre all'unità di contatto, abbiamo anche istituito sportelli

presidiari dove incontriamo i lavoratori e conduciamo colloqui più approfonditi per conoscere meglio le loro storie. Poiché gli incontri dell'unità di contatto sono brevi e immediati, dato che i lavoratori devono recarsi al lavoro, utilizziamo questi appuntamenti programmati per esplorare ulteriormente le loro esigenze. Questi bisogni possono riguardare aspetti sanitari, alloggio o altre questioni.

In addition to the contact unit, we have also set up stationed offices where we meet with the workers and conduct more in-depth interviews to better understand their stories. Since the contact unit meetings are brief and immediate, given that the workers need to go to work, we use these scheduled appointments to further explore their needs. These needs may involve health aspects, accommodation, or other issues.

Rosanna Liotti

In questa zona, c'è una notevole presenza di lavoratori provenienti dal Bangladesh, costituendo una comunità consistente che vive nel territorio. Oltre a questa comunità, si possono individuare cittadini marocchini e bulgari, anche se tendenzialmente i bulgari sono più stanziali. Tuttavia, si verificano spostamenti da Lamezia e persino da Gioia Tauro per lavorare qui. Da evidenziare che ci troviamo in una zona di confine tra le province di Cosenza e Catanzaro. La zona di Amantea rientra nella provincia di Cosenza, mentre subito dopo Campora San Giovanni si accede alla provincia di Catanzaro. Pertanto, si verificano spostamenti sia interprovinciali, sia da Catanzaro che da Reggio, per lavorare in questa zona.

In this area, there is a significant presence of workers from Bangladesh, forming a sizable community residing in the territory. In addition to this community, Moroccan and Bulgarian citizens can also be identified, although Bulgarians tend to be more settled. However, there are movements from Lamezia and even from Gioia Tauro to work here. It's worth noting that we are in a border region between the provinces of Cosenza and Catanzaro. The Amantea area falls within the province of Cosenza, while immediately after Campora San Giovanni, you enter the province of Catanzaro. Therefore, both interprovincial and movements from Catanzaro and Reggio occur to work in this area.

È importante sottolineare il ruolo cruciale di questi lavoratori. Senza di loro, quale sarebbe il nostro scenario lavorativo? La

produzione agricola, in particolare di cipolle rosse, è una componente essenziale qui. In passato, c'erano anche agrumeti, ma le cipolle costituiscono ora il fulcro dell'attività agricola grazie alla loro natura non stagionale e alla loro redditività. La cipolla rossa è un prodotto protetto che viene coltivato solo in questa regione, da Tropea ad Amantea, grazie alle specifiche qualità del terreno e del clima.

It's important to emphasise the crucial role of these workers. Without them, what would our working scenario be like? Agricultural production, especially of red onions, is an essential component here. In the past, there were also citrus orchards, but now red onions are at the heart of agricultural activity due to their non-seasonal nature and profitability. Red onions are a protected product grown only in this region, from Tropea to Amantea, thanks to the specific qualities of the soil and climate.

L'IGP, che sta per Indicazione Geografica Protetta, denota un prodotto di alta qualità e, come menzionavo precedentemente, le cipolle sono disponibili tutto l'anno. Non sono limitate solo al periodo invernale, ma si coltivano e raccolgono in diverse fasi, inclusi i cipollotti. In certi periodi dell'anno, specialmente a luglio, c'è un'intensa attività lavorativa. Alcune persone che incontriamo ci raccontano di lavorare incessantemente, sia di giorno che di notte, spesso per 12 ore al giorno, dalle sette del mattino alle sette di sera, oppure dalle sette di sera alle sette del mattino, in turni alternati.

The IGP, which stands for Protected Geographical Indication, signifies a high-quality product, and as I mentioned earlier, onions are available throughout the year. They are not limited to the winter period but are cultivated and harvested in various stages, including scallions. During certain times of the year, especially in July, there is intensive work activity. Some people we meet tell us about working tirelessly, both day and night, often for 12 hours a day, either from seven in the morning to seven in the evening or from seven in the evening to seven in the morning, in alternating shifts.

I cipollotti richiedono cure particolari poiché sono più delicati e devono essere raccolti immediatamente. Questi periodi di intenso lavoro offrono opportunità di impiego a diverse persone, ad esempio quelle che arrivano da altre zone. Ovviamente, la zona che frequento è molto coinvolta in questo contesto e spesso interveniamo per fornire supporto. È interessante notare che molti lavoratori si spostano da altre zone per partecipare alla raccolta delle verdure, soprattutto in questa area. Durante il periodo di dicembre, ad esempio, iniziano la

giornata presto, intorno alle sei del mattino, e lavorano fino a tardi, solitamente fino alle otto di sera. Questa dinamica rappresenta una parte significativa del nostro territorio e osserviamo da vicino queste attività, intervenendo spesso per garantire il benessere dei lavoratori coinvolti.

Scallions require special care as they are more delicate and must be harvested immediately. These periods of intense work offer employment opportunities to various individuals, such as those coming from other areas. Of course, the area I frequent is deeply involved in this context, and we often step in to provide support. It's interesting to note that many workers move from other areas to participate in vegetable harvesting, especially in this region. During the December period, for instance, they start their day early, around six in the morning, and work until late, usually until around eight in the evening. This dynamic constitutes a significant part of our territory, and we closely observe these activities, frequently intervening to ensure the well-being of the involved workers.

Fabio Saliceti

Anche qui, a Magda, c'è una significativa comunità di persone bulgare, molte delle quali parlano turco. Inoltre, abbiamo identificato la presenza di fenomeni gravi, come la tratta di esseri umani e la riduzione in stato di schiavitù delle persone. Questi sono temi di grande preoccupazione e richiedono particolare attenzione.

Also here, in Magda, there is a significant community of Bulgarian people, many of whom speak Turkish. Furthermore, we have identified the presence of serious phenomena, such as human trafficking and the enslavement of individuals. These are topics of great concern and require special attention.

Rosanna Liotti

Un esempio con l'immigrazione è rappresentato dalle diverse situazioni. Ad esempio, ci sono uomini singoli, ma ci sono anche nuclei familiari, ovvero famiglie che arrivano magari dalla Bulgaria e includono bambini. Successivamente, queste famiglie lavorano entrambi i genitori, il che porta a lasciare a casa i bambini più piccoli che non vanno ancora a scuola, mentre i bambini più grandi devono prendersi cura dei più piccoli. Tutto ciò può rendere la situazione abbastanza complessa.

An example related to immigration is represented by the diverse situations. For instance, there are single men, but there are also family units, meaning families that may come from Bulgaria and include children. Subsequently, both parents in these families work, which leads to leaving the younger children at home who are not yet of school age, while the older children have to take care of the younger ones. All of this can make the situation quite complex.

In realtà, abbiamo lavorato sulla piana di Sibari dal 2016 e termineremo definitivamente il 3 settembre. Durante il periodo, durante il cosiddetto Codice d'Europa e il primo lockdown, le persone hanno continuato ad andare a lavorare, ma la situazione è diventata insostenibile. Non venivano pagate e non ricevevano il materiale di protezione necessario. Alla fine di aprile, è scoppiata una rivolta da parte di questi lavoratori.

In fact, we have been working in the Sibari plain since 2016, and we will conclude our activities definitively on September 3rd. During this period, amid the so-called European Code and the first lockdown, people continued to go to work, but the situation became untenable. They were not getting paid and didn't receive the necessary protective equipment. At the end of April, a revolt broke out among these workers.

Fabio Saliceti

Un gruppo di circa quaranta lavoratori subsahariani.

A group of around forty Sub-Saharan workers.

Rosanna Liotti

Io ho visto queste situazioni e sono andato lì perché ritenevamo che la nostra competenza riguardasse lo sfruttamento lavorativo in quest'area. Abbiamo cercato di comprendere la situazione nel suo insieme. Non è la prima volta che affrontiamo questo fenomeno, anche se abbiamo già esperienza poiché lavorare come ente antitratta da solo non risolverebbe il problema. Il problema è complesso, specialmente quando non c'è un grave sfruttamento lavorativo o una tratta su cui possiamo agire. Abbiamo quindi cercato di sviluppare un modello diverso, esaminando se potevamo intervenire sul fenomeno in modo non convenzionale. Abbiamo coinvolto altri enti sul territorio per collaborare e affrontare la questione insieme. La prima assemblea che abbiamo organizzato con

i lavoratori ha coinvolto anche noi come ente.

I have witnessed these situations and went there because we believed that our expertise pertained to labour exploitation in this area. We tried to understand the situation as a whole. This is not the first time we have dealt with this phenomenon, even though we already have experience, as working solely as an anti-trafficking organisation wouldn't solve the problem. The issue is complex, especially when there is no severe labour exploitation or trafficking that we can directly address. Therefore, we tried to develop a different model, exploring if we could intervene in an unconventional way. We engaged other local organisations to collaborate and tackle the issue together. The first assembly we organised with the workers also involved us as an organisation.

Fabio Saliceti

La prima assemblea si è svolta in questa piazza, solo per fare un esempio.

The first assembly took place in this square, just as an example.

Rosanna Liotti

Poi, inoltre, la scelta di svolgere l'assemblea proprio presso il luogo in cui di mattina partivano i pulmini per condurli alle diverse campagne aveva anche un valore simbolico, poiché rappresentava una sorta di ribellione. In questa piazza c'erano anche alcuni rappresentanti del Comune, cittadini interessati alla questione, noi come ente antitratta e i sindacati.

Furthermore, the choice to hold the assembly right at the place where the vans departed in the morning to take them to various fields had a symbolic value as well, as it represented a form of rebellion. In this square, there were also some representatives from the Municipality, citizens concerned about the issue, us as an anti-trafficking organisation, and the labour unions.

Fabio Saliceti

Alle spalle di questo gruppo c'erano i pulmini fermi, destinati a guidare i lavoratori pakistani. Non stavano partendo.

Behind this group, there were the parked vans intended to

transport the Pakistani workers. They were not leaving.

Rosanna Liotti

Mancava la manodopera, ovvero i lavoratori non erano presenti perché il Covid aveva esacerbato una situazione già difficile. Questo è accaduto a Cassano all'Ionio, un Comune nella Sibaritide, appositamente scelto per la sua isolazione geografica. Cassano è un luogo isolato, privo di collegamenti con altre aree, e ciò ha influenzato la mobilità delle persone, soprattutto dei richiedenti asilo o dei lavoratori irregolari. Molti di loro erano originari proprio di Cassano o di casolari isolati nelle campagne circostanti.

There was a lack of workforce, meaning the workers were not present because the Covid had exacerbated an already difficult situation. This happened in Cassano al'Ionio, a municipality in the Sibaritide region, specifically chosen for its geographical isolation. Cassano is a secluded place, lacking connections to other areas, and this has influenced the mobility of people, especially asylum seekers or irregular workers. Many of them were originally from Cassano itself or isolated farmhouses in the surrounding countryside.

Queste persone non avevano documenti validi e spesso erano sottoposte a una forma di dipendenza dai caporali, a causa delle difficoltà di lingua, dei collegamenti limitati e delle carenze abitative. I caporali fornivano loro servizi essenziali come alloggio, cibo e servizi domestici in cambio di lavoro. Tuttavia, questo lavoro non era regolare e le condizioni erano estremamente stressanti, specialmente durante l'epidemia di Covid-19. Le persone erano costrette a lavorare solo un certo numero di giorni al mese per ripagare i debiti contratti con i caporali.

These individuals did not have valid documents and often were subject to a form of dependency on the "caporali" (labour intermediaries), due to language barriers, limited connections, and housing shortages. The caporali provided them essential services like accommodation, food, and household services in exchange for work. However, this work was not regular, and the conditions were extremely stressful, especially during the Covid-19 epidemic. People were compelled to work only a certain number of days per month to repay the debts incurred with the caporali.

Questa situazione ha portato a una ribellione da parte di circa quaranta lavoratori subsahariani. In risposta a questa situazione,

è stato creato un modello di intervento chiamato “multi agenzia di comunità”, che coinvolge diverse organizzazioni e agenzie per affrontare la complessità dei problemi.

This situation led to a rebellion by about forty Sub-Saharan workers. In response to this situation, an intervention model called “community multi-agency” was created, involving various organisations and agencies to address the complexity of the issues.

Fabio Saliceti

Nel senso che tutte le organizzazioni, i soggetti territoriali, il Comune, i sindacati, la parrocchia e il terzo settore devono sentirsi responsabili di questa situazione. Questo perché la questione non riguarda solamente il campo lavorativo, ma coinvolge profondamente l’aspetto sociale, in senso completo.

In the sense that all organisations, local entities, the Municipality, labour unions, the parish, and the third sector must feel responsible for this situation. This is because the issue doesn’t only concern the work field but deeply involves the social aspect in its entirety.

Rosanna Liotti

Ciò che stiamo cercando di fare è contrastare lo sfruttamento lavorativo, ma seguendo il nostro approccio, che implica che solo coloro che denunciano possono essere aiutati. Questo è già un problema perché molte persone potrebbero non voler denunciare il proprio lavoro informale. Inoltre, anche se aiutiamo qualcuno a denunciare e lo trasferiamo altrove, spesso viene semplicemente sostituito da un altro lavoratore, mantenendo lo stesso ciclo. In pratica, questo significa che non ci sarà mai un vero cambiamento sul territorio. Inoltre, abbiamo notato che alcune persone irregolari stavano firmando contratti a nome di altri per poter lavorare.

What we are trying to do is counter labour exploitation, but following our approach, which implies that only those who report can be assisted. This is already a problem because many individuals might not want to report their informal work. Furthermore, even if we help someone to report and relocate them, they are often simply replaced by another worker, maintaining the same cycle. In practice, this means that there will never be a real change on the ground. Additionally, we have noticed that some irregular individuals were

signing contracts on behalf of others to be able to work.

Oggi giorno, molte persone operano in modo poco chiaro. Ad esempio, utilizzano il permesso di soggiorno di altre persone per stipulare contratti a nome loro, consentendo loro di lavorare in modo illegale. Il nostro obiettivo è mettere in rete gli enti che operano nel territorio in modo che possano comunicare tra loro e lavorare insieme. Se una persona si rivolge a me per un problema, potrebbe poi rivolgersi a un'altra organizzazione o al sindacato per la stessa questione. Lavorando in rete, ogni ente può prendersi cura della persona sotto vari aspetti, poiché le sfide da affrontare non riguardano solo questioni legali, ma potrebbero includere la necessità di un alloggio o l'assistenza del sindacato per trovare un nuovo lavoro. È un approccio che sfrutta le competenze specifiche di ogni organizzazione per affrontare complessivamente il benessere della persona coinvolta, cercando di ricollocarla nello stesso territorio con opportunità lavorative presso aziende locali. È una scommessa, ma stiamo cercando di far funzionare questo modello collaborativo per affrontare tutte le sfaccettature della situazione.

Nowadays, many people operate in unclear ways. For instance, they use someone else's residence permit to sign contracts on their behalf, allowing them to work illegally. Our goal is to network the organisations operating in the area so that they can communicate with each other and collaborate. If someone approaches me with a problem, they could then turn to another organisation or the union for the same issue. By working in a network, each entity can take care of the individual from various angles, as the challenges to address involve not only legal matters but could also include the need for housing or the assistance of the union in finding new employment. It's an approach that leverages the specific expertise of each organisation to comprehensively address the well-being of the involved person, aiming to reintegrate them into the same territory with job opportunities in local companies. It's a challenge, but we are trying to make this collaborative model work to address all facets of the situation.

Stiamo attualmente scrivendo un articolo in cui spieghiamo il nostro approccio. In passato, non avevamo competenza su questo territorio e non potevamo prendere in carico la situazione in quanto mancavano altre associazioni. Ora, con la formazione di un'associazione dedicata, questa responsabilità verrà assunta da loro. Tuttavia, noi crediamo fortemente in questo modello e riteniamo che possa essere replicato in altre aree. Non possiamo affrontare

tutto da soli, ma è necessaria una collaborazione tra istituzioni, forze dell'ordine e diverse agenzie. Ognuna di queste entità dovrebbe assumersi la responsabilità di un aspetto specifico, in modo che il problema possa essere affrontato in modo completo. Stiamo parlando di situazioni serie, ma anche quando si tratta di un singolo individuo che potrebbe non voler denunciare in una città come Genova, è importante creare una rete di soggetti che possano affrontare globalmente le diverse sfaccettature della situazione.

We are currently writing an article in which we explain our approach. In the past, we lacked jurisdiction over this territory and couldn't take on the situation as there were no other associations. Now, with the formation of a dedicated association, this responsibility will be taken up by them. However, we strongly believe in this model and think it can be replicated in other areas. We can't tackle everything on our own, but collaboration is needed among institutions, law enforcement, and various agencies. Each of these entities should take responsibility for a specific aspect so that the problem can be comprehensively addressed. We are talking about serious situations, but even when it comes to an individual who might not want to report in a city like Genoa, it's important to create a network of stakeholders who can collectively address the various facets of the situation.

Fabio Saliceti

Da queste esperienze, che sono in corso, stanno emergendo anche situazioni positive. Ad esempio, è stata introdotta una linea di autobus che aiuta i lavoratori a spostarsi tra luoghi di residenza e luoghi di lavoro in determinati orari. Questa esperienza rappresenta solo una parte delle iniziative intraprese. Molte persone stanno cercando di sganciarsi dai caporali e stanno progressivamente stabilendo contatti diretti con i datori di lavoro. Questo è un processo che richiede tempo ma sta avvenendo con continuità.

From these ongoing experiences, positive situations are also emerging. For instance, a bus line has been introduced that helps workers commute between their residences and workplaces at specific times. This experience represents only a part of the initiatives undertaken. Many individuals are trying to break away from the labour intermediaries and are gradually establishing direct contacts with employers. This is a time-consuming process but is happening consistently.

9.3.4 Lorenzo Pezzani (Architect, Researcher)

Kamil Dalkir

> We know that each type of forum holds the potential to become a political arena, wherein the types of work we produce, the mediums we choose to convey certain stories and events and the very space of the forum can be mobilised for our desired outcomes. Can you talk about the types of forums that you aspire your work to be in?

Lorenzo Pezzani

> If I was to summarise the aspiration in one sentence, I would say that it is to somehow create different, new forums. So not only intervene within the existing ones. But to try to operate within them in a way that shifts them, that connects them and that creates other spaces that would not exist prior to this.
>
> I guess the aspiration would be through the practice and the work to contribute to and to create different forums. A more hybrid forum perhaps, or one that exists in between the existing and new or that extends the existing in different ways. Right. We [Forensic Oceanography] definitely also intervened within existing forums. But it is more about the direction of the intervention as well. It's a strange process and it is a tension that is constantly there between the need to fit into those forums, in order to be heard, in order to be deemed credible. And in order to have some agency within those forums, you need to know how to speak the language of the forum. And so to conform and to fit within certain sets and categories, a certain way of understanding. But at the same time, trying to insert within that even with a small and modest shifts, but at the same time hoping to contribute to breaking a bit, or to enlarging, or to operating a bit at the margins of various forums.
>
> And often those shifts and those non-alignments in a sense are quite small and modest, if you look at them in a kind of singular way. The hope is, together with other interventions, hopefully they can build up to something that is more substantial and that contributes to larger change. And eventually, does expand and extend the limits of what can be said and done within those existing forums. So, if I were to summarise very schematically the legal forum has been a very important one for us. We often try to intervene within existing legal procedures, but also there, at different levels, It's not always tribunals in a classic sense. There are a variety of tribunals. There are national courts. There are administrative and criminal courts, and there are international courts and international organisations that have a kind of quasi legal status. So it's not really kind of legal in a classic sense, but they have various kinds of declinations. So even

speaking of a legal forum, in fact, there's a world in there. And we try to consider quite carefully at what point and at what level we can work in there.

Then of course, the more artistic / cultural forum in a sense has always been very important and quite essential. I mean mostly I would say because it offers for us a space to reflect on the aesthetics of borders and the aesthetics of border violence. Which, we have always argued, is a key component of how border violence operates and the creation of conditions of visibility and invisibility or audibility and inaudibility and so on and so forth. These are all strategies and tools that are implicit and that are fundamental to how borders and border violence operate. And so, more artistic cultural forums allow us to explore that dimension. As opposed to a legal forum where instead you need to restrain yourself.

Kamil Dalkir

Thinking about legal forums in particular, we are confronted with their heavy regulations. In particular, who is permitted to enter and who gets to speak, what they can bring in with them and how they can actually deliberate. Compounded by the specialised language of the law, it is clear how Forensic Oceanography is set up to negotiate these tensions through legal forums as well as art forums. Can you speak a bit to the progression, if any, of a particular research or investigation that has made or is making an impact through the conversations that your work has ignited?

Lorenzo Pezzani

One thing I wanted to add, we spoke about the legal, we spoke about the artistic / cultural, and the other one that you mentioned already but I haven't really touched upon it yet is, that which is associated with policy and advocacy. It's a very it's a galaxy of its own in a sense. So, there are more established and formal forums like the European Parliament, or inversely, those that are extremely informal and more grassroots. And so, there is a huge variety there, but it is a very important variety. And I think, partially in answer to your last question, if I have to look inside and reflect on the effects of some of our projects and the ways in which they have circulated. Ultimately for me, what was the most meaningful intervention was that some of the projects became a crossing point between these different entities, forums, and people that gravitate around it.

In the best case scenario, somehow they all contributed to creating tools and a way of operating that also reverberated and

expanded the repertoire of struggles of a whole movement, such as migrant rights. Which in itself is very wide and very diverse. But still, there have been important waves of different activists and NGOs or institutions that have pushed that discussion forward. And, again, I think one of the most interesting interventions that some of the work that we have done was to also show people who have been there, doing that kind of work for a long time, even before we were there, that it's possible also to intervene with other means.

And, then seeing them adopting some of those tools we introduced. So, for instance, some of the people that we have been working with, who look at more historical migrant rights, organisations or activist groups, until early 2010 / 2011. They never heard or they never thought about using vessel tracking or to understand what was going on at sea. And now, it is commonplace. It's like everyone in that field knows how to do it. And in fact, the level of knowledge, technical, but also political reflection about what's going on in the Central Mediterranean has grown exponentially. There are a lot of people that are much more knowledgeable right now.

Kamil Dalkir

From this then we can see the emergence of two types of strategies; a short term strategy which envisages or desires a quick change, an immediate impact; and the other, which is a longer term impact that not just for the project at hand, but also for the agency and practices of other stakeholders.

Lorenzo Pezzani

Absolutely. As I mentioned earlier, a project is a crossing point of practices, different traditions or forms of interventions in the world. So, this is obviously the best case scenario. It doesn't always work like this, but hopefully sometimes. There is this kind of moment of coalescing and converging or at least an intersection of experiences. And, each one can take a different piece and bring it with them, and your own and other people's practices are transformed by that. And, that seems to me, one of the most important outcomes of the practice itself. Because, if you look at the legal victories it's a disaster. You hardly ever get to court, let alone win a case.

And also, the moment of the exhibition, however important and useful it is to carry on, as I was mentioning earlier, that kind of exploration or that side of things in allowing to experiment with

different modalities of intervention, it is very difficult to evaluate what is a success and what is not. I tend to look at it in a kind of quite opportunistic way of just, if it's useful for me, if I learn something while doing it, then it's good and it's worth doing it.

Kamil Dalkir

In a way, the art institution, the gallery and exhibition is a test bed for your work, in terms of the development of the medium, the aesthetic practice, as well as a site for learning and self reflection on the work that you choose to develop.

The "Left to Die Boat" case is well known and has travelled quite a bit to biennials and triennials across the globe over the years. The visual material developed for this project, its narration and aesthetics have inspired many types of media practices in academic settings and through experimental filmmaking. Can you speak about this project and its political dimensions, especially given that this project has been around for a while now?

Lorenzo Pezzani

The"Left to Die Boat" case is actually the first project we did and probably the most interesting in that respect as well, because in fact what we did there was to initially write a report. So a written report that was 60 or 70 pages long accounting a reconstruction step by step of what happened. And various kinds of considerations about the analysis of the events in a sense. So not only what happened, but also how it unfolded and the various degrees of responsibilities. And then there was an annex which consisted mostly of maps and visualisations of different kinds explaining how we got to that kind of reconstruction. It was the first thing we did in 2012, the very beginning of Forensic Oceanography. At the time Forensic Architecture didn't really exist. It was a research project. Now it is a lot more standardised, there's a kind of canon. But at the time, there was no point of reference in a sense. So we were experimenting or inventing this way of intervening.

So we produced that and we brought it to court on the first anniversary of the case, in early April 2012. The legal case is actually still ongoing. There was a large coalition of lawyers in different countries for legal reasons, because we didn't know the identity of the ships or the helicopters that did not provide rescue and assistance. So the lawyers decided to multiply the legal cases in various countries which had assets that were present in the area. So there's a case in France, in Belgium, there's one in the US and so on

and so forth. And some of those cases are still ongoing. Especially the one in France – the initial case lodged – after ten or twenty different kinds of rejections and appeals, moving through various stages of legal bureaucracy, a judge decided they should open an investigation on this. So now there might be a trial, 12 years years after we presented that case.

This was the written report that we prepared, and this was its life in a sense. It's kind of still somehow operating in court with a very long temporality. A year after we produced the report, there were a number of reasons.

One practical reason being that we were invited to do this exhibition at the Haus of Kulturen der Welt which presented the opportunity to develop and present that work in a different way. But turning the report into a video was something that we have always wanted to do in some way or another. This gave us an opportunity to do it. So we produced the video, which then circulated and travelled to various museums, exhibitions, biennials and so on. It's certainly been the most successful in that sense, circulating widely. And I feel that the video manages to keep together and explore that tension between the more narrative, poetic engagement with the event. But also, it does that through a very dry and reduced to the bone kind of aesthetic and attitude. It also offered, at the time, what was a very different image of migration at sea. Which, still today, in a sense really revolves around the iconic imagery of sensationalism.

There's an entire repertoire. But what we produced, and it obviously was very intentional, was something that had a very different look and feel to what we were used to through the media and more public representation of what was happening. So it's interesting, because you have these two different things; the written report and the video that were made at different times, and that had their own circulation which was partly independent. I'm not even sure if the video was ever presented in court. I don't think so. Now that there is the possibility of a case, there might be an opportunity to show it. But what was the actual legal document or instrument was this written document.

Kamil Dalkir

What's interesting here is how through sheer necessity and practicality two forms of mediations exist, in complementary fashion to one another, and yet extremely contradictory in their formats, the forums that they engage with and aesthetics that they convey. They bring into contention two different spaces and their constituents, each operating through different scales and temporalities.

This is very essential, something I have been thinking about alot. Especially the fact that there are very different ways of knowing. If you watch something, if you engage with a written script, if you look at a fact sheet, these are all documents that can tell the same story. But you know those stories in very different ways, even if they try to say the same thing. There are fundamentally diverse ways of knowing the world. Sometimes I get a bit frustrated with people who say 'but we know that the border is violent,' 'we know that capitalism is this and that.' Yes, of course. But one thing is a more abstract general knowledge about something, and another is knowing that thing through other forms of knowledge systems. Which can be something that is multimedia, it can be something more poetic or iit can be many different things.

And it can be evidence of different sorts. So those ways of knowing are all fundamental in a sense. In a sense, there's not one that is necessarily better than the other, in abstract terms.

In this respect, it would be interesting to see how we can develop practices that would be able to intervene differently not only in forums but also modalities without necessarily privileging one over the other.

9.3.5 Marina Otero Verzier (Architect, Curator)

Kamil Dalkir

I would like to begin by asking you about your thinking behind how to mobilise an exhibition practice toward a political claim, and to discuss perhaps a more ideal forum through which you can obtain a level of impact not possible through exhibition making.

Marina Otero Verzier

Through my first exhibitions, I was not thinking about how to mobilise the exhibition space for other purposes. Instead, I believe this approach emerged from the fact that I do not describe myself as a curator, which gave my practice some flexibility in how I approach exhibition-making.

For the most part, my work has been connected to institutional practices. Within that domain, there are various forms of distribution within public institutions. For many reasons, certain endeavours and communities do not receive funding from public or government institutions, perhaps because they are deemed criminalised or untrustworthy.

Nevertheless, what these communities do is extremely important. In various ways, through my work in institutions, I try to redistribute resources and act as a channel to provide what I believe legitimately belongs to these communities but which they cannot access. For instance, the squatting community [referring to her book "Architecture of Appropriation: On Squatting as Spatial Practice" (2019), which investigates the squatting movements in the Netherlands and posits it as an architectural practice]. This is indeed problematic because I am positioning myself as the one who has access to these resources and decides where they go. There are many difficulties and contradictions involved, but I try to address them by making all these issues visible.

I think a turning point was the project we convened in Oslo [referring to the 2016 Oslo Architecture Triennale], where we used institutions, including exhibitions, as platforms for political expression and action. Through this, I learned that artistic practices sometimes receive opportunities that other fields might not. For example, for the Oslo Triennale, when we, along with Jonas Staal, organised the New World Embassy: Rojava, a temporary embassy of Rojava inside the City Hall of Oslo, it was an intensely political action made possible by the triennale's framework. We asked the City Hall for permission to hold an art performance as part of the Oslo Architecture Triennale, curated by artists and architects. However, for the people involved—the people of Rojava—the larger infrastructure that

brought them to Oslo was unimportant. What mattered to them was the representation of Rojava in an official site like the City Hall in Oslo, which has a significant history related to human rights and international claims. The art and triennale framework allowed this to happen, but ultimately, that was only a means to a larger end.

There was a kind of suspension of regulations made possible for the sake of art, enabling a highly political act. Many only grasped the full significance of this action when we entered the parliament, and the highest representatives of the government of Rojava came specifically to Oslo to participate. If they hadn't deemed it relevant, they wouldn't have attended.

This made me realise something important. With the pretext of art, and sometimes architecture, you can create openings in the system. You can exploit these openings to carve out space. I see this as a method to create space for important political debates

The exhibition practice has been a learning process. For instance, the last exhibition I curated in Porto [referring to "Compulsive Desires: On Lithium Extraction and Rebellious Mountains" (2023) at the Galeria Municipal do Porto] was a significant example. I was invited to curate an exhibition about lithium extraction in Portugal, but I felt it was more relevant to create a project with the community of Covas do Barroso, who are facing dispossession due to extractivism. We agreed to the exhibition on the condition that we could first engage with these communities long-term to understand how best to serve them. The organisers, and in particular the Gallery's director Filipa Ramos, agreed and managed to allocate extra funds for a seminar I co-organised with Susana Calo and Godofredo Pereira, allowing us to connect struggles in Portugal with those in Spain, Chile, and other regions, creating alliances between territories. The exhibition became an active political space for debates around extractivism, which was interesting given it was organised by the municipality of Porto—a government-led institution that generally supports lithium mining with European Union backing.

An important conversation emerged around trust and how we could support the community. We transformed the exhibition space in the centre of Porto into a forum for political engagement, open to as many people as possible. One key decision was to involve the community directly, and they agreed. We asked how we could support their struggle, and they highlighted the need for certain documents, such as a video created by Grupo de Investigacao Territorial (G.I.T.) that explained the mine's implications—information neither the government nor mining companies provided.

We decided that the exhibition would feature mostly existing

works that resonated with the community's concerns, allocating most funds to projects that served as resources for them. This funding strategy was clear from the start. We wanted to include artistic practices that offered discussion avenues and strategies for addressing these issues. While inviting artists, we made it clear that the exhibition's primary goal was to support the local anti-mining struggle. Only new commissions with this intent were considered.

Another crucial element was ensuring the community's presence at the opening, which had to be both a celebration and a space for protest. People from Covas attended, talked, and sang, and their presence was significant. I felt it was not my place to give a curatorial speech and overshadow the community's message. The event was emotional and allowed many to learn about the case and mobilise.

During guided tours, I made it clear that the exhibition was a public space for open conversation, even with those in favour of lithium extraction. My position - against the lithium mine in Covas - was stated upfront, but everyone was encouraged to express their views and engage in dialogue that might not happen otherwise.

I see the exhibition as a space for redistribution, political engagement, and public discourse. It includes participants from various backgrounds, including artisans, psychologists, sociologists, and others, creating a heterogeneous mix. This approach risks the integrity of the discourse, but I embrace it. I believe it's necessary to bring different forms of intervention together, rather than aiming for a highly curated and smooth experience.

Kamil Dalkir

From what you describe, there is something profound that we can synthesise in terms of a practice that is under the guise of the artist which affords you the mobility. For instance, Andreco, an environmental artist, based in Rome, who is in fact also an environmental engineer, uses this mobility granted by his artistic practice which incorporates processions and performances in urban and suburban settings. To him, his performances are indeed protests. But in order to gain access to certain places, to obtain permits and permission for large scale performances, he presents his work as an artistic practice, which in turn opens up many possibilities that would otherwise be shut off to him.

What is evident from your practice, and the way you aim to mobilise public institutions is this very tactic to transform the forum, whether inside the confines of a building or through the urban fabric of a city, such as in the case of the Oslo Triennial.

Therefore introducing a method that allows a mobilisation of the institution in order to to talk about things in a different way.

Marina Otero Verzier

This is what my practice is about because I've been working in institutions for a long time, since 2010/11, and it's been more than ten years of navigating institutional systems. I know how institutions operate and how to make them operate differently. However, I find myself too exhausted from trying to effect change from within. Much of my work involved attempting to alter institutional dynamics and structures, but it's like trying to move a very large stone with great inertia—once you loosen your grip, it pulls back in the opposite direction. Now, I focus on collaborating from the outside, using my institutional experience to serve other causes. This approach, though imperfect, seems to work.

For example, in Porto, we faced significant challenges trying to pay the community for their participation with a video they authored.Their work deserved compensation, just like any other artists. However, they had to be paid as an association through a donation, which the municipality wouldn't be able to accommodate even if they wanted to. The entire project nearly fell apart because of this bureaucratic absurdity. In the end, I bypassed the issue and made the donation. Such situations blur the lines between personal and professional roles. And these complexities often force you to take stances that transcend your professional capacity.

I was thinking about what you mentioned, and there are two artists I greatly admire: Nomeda and Gediminas Urbonas. They are brilliant. For instance, they wanted to protest against the destruction of important cinemas in Lithuania but couldn't do so directly due to potential legal charges. They asked for permission to protest, which was denied. So, they requested permission to shoot a movie about a protest. They received permission to film for one day in the city center and staged a protest within the movie. This type of work, which artistically subverts public space and its regulations, is absolutely fantastic—combining creativity with measured risks and the invention of new practices.

Kamil Dalkir

These examples and ways of thought allow us to think about alternative practices and the mediums through which these practices exist. The medium, be it a physical object, an animation, a performance, or even a soundscape among many things, is crucial

in developing new knowledge in regards to a topic as well as their potential for being effective storytelling mechanisms.

Marina Otero Verzier

Indeed, especially with 3D objects, the aim is often to create a seamless reality reflective of the real world. In the case of the video work produced by Godofredo Pereira and G.I.T for the Compulsive Desires exhibition, it was crucial to create something that could function both as an artwork and as a documentary. This work needed to be suitable for exhibition, publication, and review in art-related forums while also being able to circulate in general media, as it did in Público, a Portuguese national newspaper.

Sometimes, a 3D model circulates more easily than a physical model. This may be because a 3D model involves a form of labour that is not easily recognised. There is a more tangible connection with our bodies when manipulating a physical model—holding it, opening it, accessing it—providing a sense of agency in its creation. This process reveals how spaces are designed and that they can be redesigned. A physical model makes this much clearer than a 3D model, which often obscures its forms of production. In projects that render labour invisible, it's best not to use a medium that further conceals labour, like a 3D object. Physical models, with their details, production movements, scratches, and imperfections, all bear traces of the working hand.

Kamil Dalkir

In considering these traces of labour in the making of an object (whether physical or digital) that can speak as evidence, there is also a discussion to be had about whether they are permissible in certain types of forums. Each holding their own norms and regulations, some more so than others, as we have seen with the work of Forensic Architecture.

Marina Otero Verzier

Forensic Architecture operates through various forums and forms of engagement, using objective methods to testify to a certain type of legal truth. However, some claims don't align with Western Constructions of truth. Consider indigenous cosmologies and the tension between indigenous worldviews and the Western legal framework. Certain things remain extremely important for a community, yet we struggle to present them as evidence. The work

of Elizabeth Povinelli or Marisol de la Cadena, among others who have engaged with communities (such as Aboriginal communities in Australia or indigenous communities in Peru), highlights the tensions that arise when navigating Western systems to make legal claims based on belief systems that aren't recognised by Western law.

In the context of an exhibition, I think it is important to leave room for tensions between languages, disciplines, aesthetics, mediums, and belief systems. This may result in a less cohesive presentation, but it allows for diverse forms of political engagement.

9.3.6 Michael Wang (Artist)

Kamil Dalkir

What intrigued me greatly while observing your research project "Extinct in New York," particularly how you contextualised it within a New York art gallery and, in doing so, deconstructed the operational dynamics of the gallery in relation to this artwork. I'd be interested to hear about your methodology and your practice's inclination to challenge such spaces.

Michael Wang

These questions are really important and I'm actually asking them myself. I'm not just answering, I'm exploring them too. The work of Forensic Architecture is really interesting because they manage to work in different areas and find connections between them. It's interesting how there's a lot of work trying to figure out how art projects can go beyond the usual limits or boundaries they're given.

So, I ask these questions in two ways: one is more philosophical, and the other is practical, focusing on the actual process of creating the work. The context usually becomes clearer as I work on the project, and I learn more as I interact with institutions and partners. Maybe to explain more, I can tell you about some of the institutional aspects that influenced my work before it became a reality.

Kamil Dalkir

Perhaps another way to ask is how did they react to the idea behind the project? I imagine initially it might have been difficult for them to accept.

Michael Wang

Before I worked on "Extinct in New York," I did a project called "Extinct in the Wild," which had a global focus. I was looking at the extinction of animals and plants around the world. These extinctions mean that certain species can only be found in places like zoos or gardens, not in their natural habitats. The idea behind this project started with a fantasy I had about bringing living things into a conservation department, like a place where they take care of artworks. I was thinking about how these conservation techniques could be used for living creatures, like animals and plants, too. Then, when it came to showing this work, I wanted to rethink how exhibitions happen. I thought about exhibitions as a way of

taking care of things. For example, I imagined using vitrines (glass display cases) that also act like greenhouses, controlling things like temperature and humidity. This way, the exhibition space becomes a place that supports and takes care of life. But there was a challenge. Some of these artworks couldn't be collected or kept in a gallery. So, I had to find other places for them to go after the exhibition. Some pieces went to places like Botanical Gardens, and others went back to where they were borrowed from, like an aquarium. The whole idea started with my curiosity about mixing conservation techniques with art exhibitions. It's about caring for both artworks and living things in new and creative ways.

So, about what happened after "Extinct in New York," I was more prepared for it. I knew the exhibition was temporary from the beginning. Because I was focusing on a local level, I thought about the idea of these artworks returning to their original context where they had been pushed out due to city development. Originally, I had a different plan. I wanted to create a permanent outdoor setup to support these species. But that didn't work out, so I worked with different green spaces in Lower Manhattan. I arranged for the artworks to become a part of existing plantings after the exhibition. There's also a financial aspect to it. The art space on Governors Island, where the exhibition was held, is connected to part of a greater plan for real estate development. I tried to make use of that and create something that might not otherwise exist. The Lower Manhattan Cultural Council manages the space on Governors Island. They used to be in the World Trade Towers but now have a dedicated space on Governors Island. This was the first show in that space. It's closely linked to the vision for Governors Island, which is connected to ideas like climate change innovation and environmental narratives.

So, the narrative of this artwork aligns with that overall vision for Governors Island. But to be completely open, my understanding of the work usually has two sides. One side fits well with that narrative – it feels good, like we're bringing things back and it's redemptive. But then there's another side that's a bit critical. I want to show that the return isn't simple. The species are being brought back in high-tech greenhouses with special lights, which doesn't make it an easy process. I want it to feel like they're being supported in a complex system. This deeper aspect for me highlights how much these species no longer fit into the landscape. It needs a lot of artificial infrastructure to bring them back. I try to balance a somewhat utopian perspective with a more dystopian one. I'm searching for a middle ground where both sides can coexist. This is a mix of ethics and aesthetics for me. On one hand, the work can be seen as a model

of a city that welcomes back species it once displaced. But at the same time, I want to question what that says about the city. It's not a simple or easy return, and I want to emphasise that.

Kamil Dalkir

Reflecting on your words, there's a pivotal moment when this thing enters a space and inevitably changes how things work. You mentioned "curation", to "care," which goes back to the word's roots. What's especially fascinating is that beyond the critical aspect during creation, there's a strong political dimension in what follows. When you discuss the idea that it shouldn't have an easy return, you're essentially saying it shouldn't overlook the original problem. If it seamlessly returns, especially if tied to real estate ventures like Governor's Island, it needs to evolve to be more than a symbolic act. This is what captivates me about the project – its transformative potential within and the broader political implications it carries beyond its installation.

Another project of yours, "10000 li, 100 billion kilowatt-hours", is intriguing. It addresses the misleading notion of renewable energy systems, and interestingly, it employs the language of the system it critiques. Your project uses power generated by climate change, which raises a thought-provoking paradox. How do you navigate this dynamic? Moreover, your project itself is energy-intensive. How do you reconcile this aspect? Could you also delve into the energy aspect of projects such as "Extinct in the Wild" and "Extinct in New York"? How does your artistic intent connect with your stance on the energy used to maintain these environments?

Michael Wang

This is a complex question, and it really varies from project to project. Let's start with a couple of important points that shape my approach. First, my work differs from many other artists because I want the elements I'm focusing on to be more than just subjects in my exhibitions. I aim for them to become the actual medium of the work. For example, in the "Extinct in New York" project, I didn't want to simply take pictures of the creatures that used to live there. I wanted them to return to the city in a meaningful way. This approach connects my work more closely to performance art and even architecture, creating a real-world impact. This setup also makes me part of existing systems. I'm not just an outsider looking in; I'm deeply involved in these structures. This can sometimes feel confining, but it's also where I see the potential for change, even

though it's challenging. I don't want to sound insincere, but it's a bit like aiming to make an unconventional impact from within, almost like a non-traditional form of influence.

This approach leads me to consider questions about energy. Take the Shanghai glacier project as an example. Here, the energy from the grid is both the medium and the subject. It's used because it embodies what the work is about. This direct connection is quite distinct from many other artistic practices. So, as I'm deeply embedded within these systems, I'm striving to make a positive mark, although it can feel complicated. It's like trying to change something from the inside, but not in a disruptive way. It's about effecting change while respecting the framework I'm working within. This leads to something important, and I'll expand on this idea.

I often find myself in a position where I'm deeply immersed in a complex situation. The challenge lies in creating art from this vantage point, where the boundaries aren't always clear. This is a common starting point for most of my projects. The "10000 li, 100 billion kilowatt-hours" project is part of a series exploring the roots of modern energy and its impact. I've delved into projects related to coal and hydropower, aiming to engage directly with these energy sources. When I was in Shanghai, I realised how interconnected the city is with the river – both geographically and in terms of resources. The city's tap water and a significant portion of its energy come from the river and its dams. I wanted to visually depict this link between daily life in Shanghai and the distant origins of its resources, like a way of reconnecting the urban environment with its natural foundations. The sight of a glacier in subtropical Shanghai is almost surreal, emphasising the disconnection from the natural world.

Now, regarding your question about the ethics of energy consumption, it's something I grapple with. Living and working within these complex systems prompts me to consider the ethical implications of our energy use. It's a question that I continually explore and contemplate in my work. When I consider the role of art, I often draw inspiration from the concept of excess. This means that for a powerful artistic experience, there needs to be something more than the ordinary, something that goes beyond the everyday. In my view, the aesthetics of energy infrastructure lack this artistic dimension, which makes them feel somewhat incomplete. This led me to the decision of using a small portion of energy generated by a dam to create an artwork that highlights the connection between daily energy use and its origin. While I felt comfortable using a small amount of energy to power a refrigerator and spray water for the installation, I was more concerned about the physical aspects of creating the artwork. I aimed to use modular components from

disassembled industrial refrigerators, with the intention of reusing them. However, I faced challenges in tracing the exact process of reuse beyond that point, which raised important considerations during the fabrication process. I was more concerned about what would happen to the materials afterward. My aim was for the artwork to vanish, essentially, and be repurposed in a productive way. I envisioned the components of the refrigerator being reused after disassembly. Although I couldn't track their journey beyond that point, the use of water and energy for the installation felt justifiable to me. It provided a tangible connection to their origin.

Of course, many energy discussions these days revolve around carbon emissions. While the work didn't focus solely on that conversation, it centred on a dam – the world's largest power plant – which has had significant environmental consequences. The artwork's form, resembling the dam's jets of water replaced with ice, symbolises this transformation. It's a fusion of machine and nature, a kind of hybrid creation.

Kamil Dalkir

I want to interject here because a crucial part of my argument is that exhibition practices, whether in a courtroom or an art gallery, are forums for presenting evidence. My belief is that an art practice can present information in various ways. In migration discourse, almost all evidence is in written form such as statistics or reports. These industries primarily operate with text-based content. When you introduce elements like videos, sound recordings, animations, or physical objects, they often fall outside their usual scope for considering evidence. You could have approached the Glacier Project by compiling data or creating a historical overview of the melting glacier. However, the core of the project goes beyond that. It extends further than the visible aspects. It's about experiencing, feeling, and comprehending the issue. What I'm trying to suggest is that there's always a deeper layer to explore, whether it involves community engagement or sparking conversations related to these topics. And I'm not suggesting this just for the sake of raising awareness.

Let me clarify this point. I'm not only focusing on raising awareness, because these projects with political intentions go beyond mere awareness. They can lead to action and change. This aspect is evident in your Extinct projects, and it also applies to the context we're discussing here, like the Glacier Project. When you explain the Extinct project, it becomes clear that it has a lasting impact due to the considerations of what happens after and the potential challenges when you are no longer directly involved. Reflecting on my

conversations with other practitioners like Armin Linke and Lorenzo Pezzani, they emphasise the lengthy nature of their investigative projects. Some of their efforts only bear fruit after a decade or more. This insight also leads me to think that a third iteration of the Extinct series could emerge, possibly pushing the boundaries even further.

Moving on, can you discuss the location of the intervention for the glacier project in Shanghai?

Michael Wang

The refrigerator was actually placed in a public area, like an outdoor shopping mall in Shanghai, not within an official art institution. I wanted it to blend into the city's infrastructure, almost like it was a part of it, not something obviously artistic. It wasn't clear to people that it was an art piece, which was intentional. Another aspect of my approach, and this might be unique to my perspective, is that I often see my work from two angles. One side is like the essence of the work itself, a gesture within existing structures, almost like the philosophical question of a tree falling in a forest with no one around. Then there's the other side, where I consider how the work will be encountered and understood by an audience. These two aspects are somewhat separate in my mind. The core occurrence of the work is often more crucial to me than its audience reception. Sometimes, due to the site-specific nature of the work, people may only experience it through videos, photos, or documentation, which can feel somewhat diminished compared to the actual encounter. However, even the experience itself is not as central to me as the inherent occurrence of the work. It's as if I aim for the work to have an existence of its own, almost as if it exists beyond the artist. This is, of course, a bit of a conceptual perspective, but it helps shape how I think about my projects.

Kamil Dalkir

This ties back to what we discussed earlier: the purpose of the institution or the space you're dealing with. Your two projects, the Shanghai Project and the Extinct series, inhabit different types of spaces. The Shanghai Project being part of a larger biennial might have eased the process of obtaining permission compared to, say, placing an installation on a busy street like Fifth Avenue to recreate an extinct natural element. Your point about the tension created by placing the Extinct series in a gallery challenges the conventional setup of a gallery, where interactions with the artworks

are limited. The clash between bringing a living object into such a space sparks questions about the gallery's role. Whether the gallery fully comprehends this deeper layer is a separate matter. For me, the significance lies more in the intention than in the success or failure of the installation itself. It's not just about creating the work but also considering the space, collaboration, and the long-term impact or legacy of the project. This idea of viewing art as a form of evidence, representing lives, histories, and even futures, adds a profound dimension.

Michael Wang

That's a constant question in my mind too. I think more people are starting to consider it now, but it wasn't as common a question in the art world around ten years ago. Back then, people didn't often ask, "What does the artwork actually achieve?" It's something I always think about, probably because I see artworks as having a kind of active, performing role. It's intriguing because artworks can have numerous impacts and outcomes, yet this perspective isn't always the main way art is examined.

Kamil Dalkir

We can see this consideration clearly through the practice of Forensic Architecture, who tend to focus on specific cases, dissecting a single event, be it a homicide, climate issue, or forms of violence. They adhere closely to the rules of the context where their project will exist, like an international courtroom. They need to work within that framework because if their work doesn't meet those rules, it can't be considered as evidence, therefore inadmissible. However, in a gallery setting, the rules are different. Galleries may have trends or financial considerations, which can influence the type of work they exhibit. These different rules, whether in governmental or art institutions, are what intrigue me. The contrast between the strict adherence of Forensic Architecture and their artistic practice can exist more independently, still presenting evidence but not tied to specific rules, is a compelling point of exploration.

There's a potential to find a middle ground, where a project aligns with the criteria of both an art context and the rules of a courtroom. On the other hand, I am suggesting an expansion of the boundaries of admissible evidence within the courtroom or even advocacy forums by introducing new forms of evidence that challenge existing rules. But if we look at it from a different angle – can evidence be used to redefine what's considered art within an art

forum?

I think your perspective is intriguing because it can be approached in two ways. One is believing that your work can reshape that space, and the other is creating an entirely new space for your work where you believe it will transform into something else.

Michael Wang

In both the Extinct projects, there are various aspects that make them multidimensional. They both involve a documentary element. For instance, in "Extinct in the Wild," I spent over 12 years visiting sites where species were last recorded in their natural habitats, and also capturing images of the same species in captive contexts. These paired photographs serve different purposes and have distinct impacts from the installations themselves. An interesting point, which unfortunately I couldn't personally experience, relates to the categories I used within the "Extinct in the Wild" project. This category is established by the International Union for Conservation of Nature (IUCN), and it intrigued me due to its ambiguity. This category essentially necessitates a distinction between what is considered natural and what is not, a line that's increasingly hard to define. It's a formal conservation classification.

During the last IUCN World Congress or perhaps the one before that, an exhibition featuring these photographs sparked conversations among attending scientists. This series seemed to provoke discussions about the peculiar nature of the category itself. This alternate component of the project has facilitated diverse circulation and dialogue compared to the physical installations. It has managed to raise somewhat different questions. As it leans more towards a documentary and factual style, it carries an almost evidential quality, making it more relevant to scientific conversations.

There's definitely a chance to push those boundaries, and this discussion should keep evolving. It's a conversation that needs to happen, and currently, it depends on the intentions of curators, groups of artists, or those interested in these topics. What's lacking is a direct dialogue on this issue. Many intriguing projects exist, but sometimes they fall short of their potential impact. Instead of becoming mere tokens, they could offer more substance. Interestingly, some widely recognised artists are filling galleries with plants and greenery, which has become a bit repetitive. However, looking beyond the aesthetics, there seems to be a missing focus on the lasting impact or utilisation of that material.

9.3.7 Nabil Ahmed (Architect, Researcher)

Kamil Dalkir

Knowing your work with INTRPRT over the years, and the background from which it emerged, I would like to begin by asking you to discuss a bit your exhibition practice that operates on the fringes, the boundaries and borders of a variety of forums – whether legal or artistic – in a bid to present certain claims through traditional architectural tools, such as drawings and computer animations.

Nabil Ahmed

I've only really been able to make sense of these things after having done this now for a number of years. One of them is that the lawyers in general are very conservative. Their domain is the written word and the law. Cases also go through different stages. We're drawn to the social of the legal. We're drawn to like the courtroom drama. We're drawn to the evidentiary side of things. Whether spatially or through media or through the physical spaces, we're drawn to the visual, the material aspects of the architecture of a legal case. But it's so much more, and we're often playing a part in a bigger set of manoeuvres and moves, where the lawyer is really in charge – which is not so easy for architecture to accept, but when it comes to the word and the juridical, it's like this.

That makes them conservative to some extent, I think. By this, I also mean that in many instances, we've had to communicate much like one would to a client in a design context. It's interesting because I don't have that kind of experience. Olga Lucko, who runs INTRPT with me, deals with this primarily. She's more of the trained architect among us. She has experience working in practice, but it's somewhat akin to pitching new ideas or projects to clients. It's a bit like this, where you have to help them envision not only the potential in terms of the required analysis, but also how different chains of evidence interconnect. It's about conveying how these elements come together. This realisation is something we've often witnessed, right? Lawyers and, of course, the cases are concerned with evidence, but our role is not only to showcase possibilities. It's also about proposing something where different stakeholders or various approaches to integration become integral. To illustrate, let's take the example of the recent Brazil platform we worked on for ICC communication. We had to navigate this terrain. We collaborated with international criminal lawyers who you might think would come to you with the most pertinent ideas about evidence linked to international crime. However, it's not quite the same in many respects, particularly in the

realm of environmental considerations. This is where we believe we can truly effect change, acting as intermediaries between science and the law. This is the juncture where design emerges as a pivotal tool.

Design can be like. Otherwise, it might remain primarily confined to the realm of documents or spoken words. I believe this is where, particularly with environmental dimensions, there's a need to convey these more intricate chains of causality that may be challenging to articulate or demonstrate. Take, for instance, another case, like the one involving arsenic during my PhD. Arsenic, a chemical that isn't easily perceptible, still had to be integrated into the legal process. It's these types of materialities and circumstances that we can bring together through design, often in three-dimensional spaces. In this sense, it's somewhat of a shift from more traditional approaches to considering evidence. However, at some point, you have to operate within the narrative of the case, which is largely steered by the lawyers. It's a bit of a back-and-forth dynamic.

We tend to believe that legal cases are solely confined to courtrooms. But increasingly, we speak about the forum, spaces like ICC communication, which hold significant political influence. During our work on the Brazil case, discussions within the Brazilian NGOs we collaborated with revolved around timing it in relation to the Bolsonaro election. This highlights how legal cases are no longer isolated but intersect with broader political contexts. Our aim has also been to guide the courts, even institutions like the ICC, towards scrutinising the environmental dimensions of conflicts. This spans traditional conflicts, as seen in Ukraine, to lower-intensity conflicts like those in Brazil. The urgency is evident. How can we not focus on climate-related or environmental conflicts, right? In this aspect, even though it may not be immediately apparent, we've been pivotal in shifting the discourse towards a new legal forum. And achieving this through design is incredibly fitting – what could be more apt? This is why we're committed to our work.

Kamil Dalkir

Interestingly, I spoke with Lorenzo Pezzani about the practice and work of Forensic Oceanography, and he echoed the same sentiment. It's a lengthy process, and he mentioned how they reflect on the development of their work in the legal sphere. Just recently, a French court took up the "Left to Die Boat" case after a decade and a hefty 70-page document. What's intriguing is that their work, mainly known through the influential video they produced, wasn't presented to the courts at all. Despite its potential inclusion

now, it never played a role in persuading or opening up the legal discourse. This observation is thought-provoking, given that many of us, including myself, have a visual and design-oriented practice. My aim, through this discussion, is to underscore the notion that design and experimental media practices can be integral to these conversations. They have the capacity to elevate discussions and guide them towards more substantive and impactful outcomes, going beyond surface-level engagement. This observation is intriguing, and it brings to mind your involvement in the mock trials for red mud.

Nabil Ahmed

Yes, we were tasked with creating a report that formed a component of the mock trial. It was a relatively smaller project compared to many others we've undertaken. Essentially, our role was to gather essential facts, not so much conducting an investigation but utilising design to meticulously assemble and present the details of the case. We aimed to include vital aspects such as key organisations, activist groups, local NGOs, and the fishermen – those at the core of the case. This was our initial collaboration with Tiago. He presented the case during the mock trial, and subsequently, we developed a dynamic PowerPoint-style presentation, carefully crafting a smooth and impactful visual representation. This evolved into a video report, serving as documentation for our mock trial presentation. Notably, this transpired amid the pandemic, prohibiting us from physically visiting the site, interacting with individuals, and conducting in-person research. Despite these constraints, our objective remained focused—to present the facts. Our aim wasn't a comprehensive forensic investigation, but rather a precise articulation of the intricate facts of the case, a critical facet of the process.

Kamil Dalkir

I've also been giving a lot of thought to accessibility. In academia, there's often a tendency to intentionally complicate matters.

Nabil Ahmed

We've all been there. I believe that the more time you spend on actual projects, the less you need to adhere to strict academic conventions. Communication needs to resonate with a broader audience.

Kamil Dalkir

It's intriguing because the question arises: Who is our audience? Especially in legal forums where a complex legal language prevails, purposely creating exclusivity. Bureaucracy and terminologies are used as tools of exclusion, even before the main discussions commence. Attempting to introduce an alternative language becomes a formidable challenge. What intrigues me are instances when you decided to remain outside of these spaces, executing interventions in hallways or restrooms. I'm keen to learn about how you arrived at this approach and your thoughts on these interventions, irrespective of their success, with a focus on whether they provided an entry point into these forums.

Nabil Ahmed

This is particularly pertinent as we're currently engrossed in a significant legal case, one of immense importance unfolding in the Norwegian courts. It concerns an indigenous reindeer herding group and a wind energy firm. I believe that one role we are capable of assuming in this case, which originated as a commission from the Helsinki Biennial, is the potential for meaningful action. If we secure art funding, we intend to channel it towards a purpose beyond the creation of a mundane exhibition. Collaborating with colleagues, we managed to engage with the lawyer of the Sami case and propose our approach, which greatly enthused them. Consider the language of the law – our proposition is to elucidate the perspectives of the reindeer herders, making their insights accessible and presentable within the legal context. This suggestion emerged as an immediately valuable exercise, evoking enthusiasm from both the lawyers and the herders. Not only are they excluded by legal language, but their viewpoints are also often marginalised. For instance, the Sami people, renowned for recognising eight distinct seasons, aspire to convey their unique interaction with the landscape and their profound rapport with the animals. Our objective is to visually represent their way of life. This scenario exemplifies a process where we are not necessarily adding complexity; instead, we introduce a dialectic method that generates a new approach, rendering it more accessible. Even though we introduce a new scientific methodology, it manages to facilitate accessibility. This external perspective – being on the periphery or fringes – is instrumental. We endeavour to bring such perspectives to the forefront. Years of contemplation and method development have led us to tools and techniques capable of achieving this. Which, for instance, does not work with traditional two-dimensional maps. It

doesn't matter how much you try.

An instance where we ventured into the margins was with a case in occupied West Papua, Indonesia. This was during the early days, back when remote sensing was a relatively novel concept. We produced a detailed report showcasing the pollution caused by a mine that engulfed the forest and landscape in Papua, utilising remote sensing imagery. Subsequently, we organised an exhibition in collaboration with the Stop Ecocide movement, the United Liberation Movement for West Papua, and the government of Vanuatu. By the way, indigenous people, often thought of as minorities, govern many countries in the expansive Pacific region. We occasionally overlook this fact, and I believe our perception of indigenous people doesn't always align with reality. We tend to generalise or underestimate them. Vast expanses of the world are governed by indigenous populations, particularly in the Pacific.

The exhibition aimed to encompass years of research, involving extensive mapping and counter-mapping of the West Papua conflict, which encompassed not only typical human rights violations like massacres and killings, but also environmental aspects. The United Nations (UN) played a role in this narrative, as during the decolonisation process, Indonesia garnered support from African and South Asian countries in its dispute with the Dutch. West Papuans, unfortunately, became marginalised in this power play. The UN effectively endorsed this new form of colonisation, further marginalising the West Papuans. Our intention was to present this material at a UN exhibition. We secured an official side event within the UN building in New York, where we had a remarkable space with an impressive wall. We invested months in designing and printing everything. However, just before we could set up the exhibition, the Indonesian government started employing obstructive tactics. Access was denied, and opportunities that were available one day vanished the next. We engaged in diplomatic manoeuvring with this country, but ultimately, we couldn't stage the exhibition or the side event, featuring the leader of the West Papuan liberation movement and Baltasar Garzon, within the UN premises. We found ourselves in an unimaginable situation, physically relocating the exhibition materials from the UN building to the office of the Pacific Island UN representatives a few blocks away. This became one of the most unconventional, guerrilla-style exhibitions we've ever orchestrated. We set up the panels in just half an hour, with all the Pacific Island leaders and Baltasar Garzon gathered around the table. We guided them through the exhibition.

About a year later, we invited West Papuan leaders to convene in Tromso, located in the Arctic, to strategise the next steps. Together

with the Sami, we had the opportunity to engage with West Papuan leaders, including a remarkable 90-year-old woman who had been fighting against the Indonesian government's exploitation of a pivotal mine for decades. She even won the Goldman Prize for her efforts. These two examples are interconnected. What I'm trying to convey is that it's not always a given or feasible to wait for the perfect legal opening to activate these spaces with the core of our work. You need a message to convey, which arises from an extensive engagement on a project, a process that requires significant time investment. The notion of time here isn't limited to months and years. Even though we haven't worked on the West Papua project since then, the impact remains. Meeting individuals like Mama Asefa, who suffered the loss of her children due to the Indonesian military's actions in the 1970s, is humbling. She's been persistently advocating for decades. If you're genuinely committed, you need to be prepared for the long-term journey. Legal proceedings are also protracted, and they're not isolated occurrences. Numerous elements are at play concurrently. Currently, we're engaged as expert witnesses in a case, but we just learned that due to the Norwegian government's influence, the case has been postponed for another year. This is the inherent nature of such endeavours.

Kamil Dalkir

Your insights provide a deeper layer to your efforts and the essence of your practice. It enriches my understanding of your work. Your earlier mention of taking action with the biennial funds, of translating the lived experiences and practices of the Sami into accessible forms, resonates profoundly. This notion aligns with my ongoing discussions and writings. A key concept that emerges, which your example aptly underscores, is the idea of interpretation. Legal practice inherently involves interpretation, a constant process of translating and shaping facts, whether into written narratives, translations, or visual representations. The legal forum demands a continuous transformative effort to render information accessible and comprehensible, regardless of the medium used, whether visual or performative.

Being within this atmosphere necessitates a practice of transformation, while the core concept remains vivid. It's clear that raw information doesn't directly translate into effective communication. An active endeavour is indispensable to make it intelligible and meaningful, be it through a visual language or performative act. Your approach empowers fellow artists and practitioners to utilise media practices, helping them realise the

importance of aligning their form with their narrative. Whether crafting a short documentary or directly conveying a narrative or incident, the methodology adapts accordingly.

Moreover, your poignant discussion on time is truly enlightening. Engaging with legal forums, the ultimate destination being policy change, inherently involves a slow and enduring process. Navigating this forum requires both patience and strategic alignment. Your practice inherently weaves through this gradual progression, allowing the work to organically evolve, transform, and intertwine across various intersections. The collaborative exchange you mentioned, bridging West Papuans and Sami narratives, exemplifies how shared objectives can arise from diverse trajectories, fostering unique relationships.

Nabil Ahmed

There are a couple of aspects to consider. First and foremost is the intricacy and translation, grappling with complexities like evidentiary challenges. Our work fundamentally pivots on interpretation, firmly grounded in the environmental dimension that underpins all our projects. This facet informs every step, not independent of the human rights facet, but intrinsically intertwined. Yet, within this realm, we encounter a demand for scientific rigour. It's insufficient to merely embrace the legal framework or design considerations, although design naturally plays a crucial role. To elaborate, design becomes a conduit that bridges the realms of law and science. It's almost paradoxically amusing to note that we often guide scientists to recognise their role in forensics. This is particularly evident in projects in West Papua, where declassified documents lay bare the actions of the French state against Polynesians and the repercussions of nuclear armaments. Here, scientific engagement is paramount. It's an undeniable linchpin, rendering many tasks insurmountable without its foundation. It's important to acknowledge that our interactions with scientists fluctuate. Sometimes they function as mere subcontractors, while in other cases, the collaboration is immersive and deeply integrated. The design and architectural components, expansively conceived, certainly contribute, yet they seldom overshadow the collaborative nature of our work. Such endeavours aren't solitary pursuits; they're inherently interdependent. Architecture, in its broadest context, cannot claim immediate or absolute primacy when dealing with the environmental scale. It is essential to recognise the relative place of architecture within this intricate tapestry.

Kamil Dalkir

In light of your, constructing a collaborative investigative practice is extremely important. Yet, your mention of lawyers earlier seemed to hint at a potential friction. This perhaps emanates from their entrenched methodologies, not as adaptable as one might hope. Consequently, collaborating with them might entail a degree of formality, a structural constraint rooted in their legal practices. However, the extent of collaboration might still align with that experienced with scientists, potentially diverging in modality, but mirroring its essential collaborative essence.

Nabil Ahmed

Well, you see, when dealing with something more experimental, say like an ICC communication, it's decidedly within the legal realm, yet not confined within the contours of a standard legal case. This presents a more fluid and open arena in many respects. However, based on our recent involvement in a case against Shell, the atmosphere shifted towards a different cadence. It became somewhat monotonous. Engaged in a very specific task, we found ourselves immersed in a meticulous routine that, truth be told, drained some of the zest from the process. But, it was what was necessary, and we persevered through it. There's a certain aspect, you know, in the realm of architecture students – that tenacious commitment to labour on something ceaselessly for days on end. Yet, it can lead to the mundane, like staring at spreadsheets, and, well, excitement tends to elude such undertakings. Not every facet of the work we undertake sparkles with excitement. The gravity of certain tasks is indeed palpable, and occasionally, the weight is substantial. This is where meticulous research assumes paramount importance. The foundation of it all is in-depth groundwork, something that can't be hastily concocted. This, however, is just a fraction of the equation. Precision and clarity, down to the last detail, all of this takes time, and an adherence to a well-crafted timeline is an imperative.

Kamil Dalkir

Could you kindly elaborate on how you're envisioning the Helsinki Biennial exhibition after having allocated the funds to assist in the court case? How is this taking a slightly different shape now?

Nabil Ahmed

Certainly, the Helsinki Biennial project we're working on has a broader scope. In the context of the Biennial, our aim is to engage with legal, human rights, and ecological forums. We have a straightforward objective, which is to spotlight the ongoing truth commissions in the Nordic countries regarding historical injustices against the Sami people, who are the indigenous population of Northern Europe and possibly even beyond. These truth commissions are substantial mechanisms for human rights, comparable to those employed in places like Guatemala, South Africa, and more recently, Canada. Strangely, these commissions remain relatively unknown and scarcely discussed. Our interactions with the Sami have revealed a significant lack of trust in these processes, as they doubt the effectiveness of such truth commissions in achieving meaningful outcomes. This leads us to connect the current legal case to these truth commission initiatives. Essentially, what the government, including the Finnish and Swedish authorities, is presently doing to the Sami contrasts sharply with the optimistic narratives woven around the concept of truth commissions. Our intention is to shed light on this disparity, this gap in perception. The core of our presentation at the Biennial will revolve around this legal case and the associated work. However, we also approach each art show as an architectural display. While some might find it mundane, our methodology incorporates maps, diagrams, and infographics – elements that play a crucial role in conveying our message. This approach is anything but dull; it's an integral part of how we communicate and engage with our subjects. We don't strive for mere evocative aesthetics; instead, our focus is on meaningful content and representation.

Kamil Dalkir

It's truly intriguing to hear how you are leveraging this. The discourse surrounding Forensic Architecture often finds itself caught in a longstanding predicament – one forum might label it too artistic, while another deems it insufficiently so. This paradox has sparked numerous discussions. However, what seems to offer a viable solution is the very act of pitting these opposing perspectives against each other. This concept becomes evident in your intervention for the Helsinki Biennial. Essentially, harnessing the tension between these two forums, and ingeniously employing it to your advantage. This strategy allows you to navigate and utilise both ends of the spectrum to achieve your desired goals.

Nabil Ahmed

Certainly, let's see how things unfold. We're encountering challenges that I hadn't initially anticipated. For instance, the biennial refusal to translate our text into Sami is truly perplexing. Despite the fact that the Sami are a minority in Finland and the project revolves around the truth commission concerning them, the biennial declined this request, which strikes me as ethically unsound. It doesn't align with their agenda, seemingly driven by certain trends, a facet common among galleries and museums. This situation underscores the paradoxical nature of their stance. Navigating these intricacies within our fields, be it the art world or architecture, is an ongoing task. We'll persist.

9.4 Legal / Policy Documents

9.4.1 Eu Regulation No. 604/2013 (Dublin Iii Regulation)

REGULATION (EU) No 604/2013 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 26 June 2013

establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (recast)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 78(2)(e) thereof,

Having regard to the proposal from the European Commission,

Having regard to the opinion of the European Economic and Social Committee [1],

Having regard to the opinion of the Committee of the Regions [2],

Acting in accordance with the ordinary legislative procedure [3],

Whereas:

(1) A number of substantive changes are to be made to Council Regulation (EC) No 343/2003 of 18 February 2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national [4]. In the interests of clarity, that Regulation should be recast.

(2) A common policy on asylum, including a Common European Asylum System (CEAS), is a constituent part of the European Union's objective of progressively establishing an area of freedom, security and justice open to those who, forced by circumstances, legitimately seek protection in the Union.

(3) The European Council, at its special meeting in Tampere on 15 and 16 October 1999, agreed to work towards establishing the CEAS, based on the full and inclusive application of the Geneva Convention Relating to the Status of Refugees of 28 July 1951, as supplemented by the New York Protocol of 31 January 1967 ('the Geneva Convention'), thus ensuring that nobody is sent back to persecution, i.e. maintaining the principle of *non-refoulement*. In this respect, and without the responsibility criteria laid down in this Regulation being affected, Member States, all respecting the principle of *non-refoulement*, are considered as safe countries for third-country nationals.

(4) The Tampere conclusions also stated that the CEAS should include, in the short-term, a clear and workable method for determining the Member State responsible for the examination of an asylum application.

(5) Such a method should be based on objective, fair criteria both for the Member States and for the persons concerned. It should, in particular, make it possible to determine rapidly the Member State responsible, so as to guarantee effective access to the procedures for granting international protection and not to compromise the objective of the rapid processing of applications for international protection.

(6) The first phase in the creation of a CEAS that should lead, in the longer term, to a common procedure and a uniform status, valid throughout the Union, for those granted international protection, has now been completed. The European Council of 4 November 2004 adopted The Hague Programme which set the objectives to be implemented in the area of freedom, security and justice in the period 2005-2010. In this respect, The Hague Programme invited the European Commission to conclude the evaluation of the first-phase legal instruments and to submit the second-phase instruments and measures to the European Parliament and to the Council with a view to their adoption before 2010.

(7) In the Stockholm Programme, the European Council reiterated its commitment to the objective of establishing a common area of protection and solidarity in accordance with Article 78 of the Treaty on the Functioning of the European Union (TFEU), for those granted

[1] OJ C 317, 23.12.2009, p. 115.
[2] OJ C 79, 27.3.2010, p. 58.
[3] Position of the European Parliament of 7 May 2009 (OJ C 212 E, 5.8.2010, p. 370) and position of the Council at first reading of 6 June 2013 (not yet published in the Official Journal). Position of the European Parliament of 10 June 2013 (not yet published in the Official Journal).
[4] OJ L 50, 25.2.2003, p. 1.

international protection, by 2012 at the latest. Furthermore it emphasised that the Dublin system remains a cornerstone in building the CEAS, as it clearly allocates responsibility among Member States for the examination of applications for international protection.

(8) The resources of the European Asylum Support Office (EASO), established by Regulation (EU) No 439/2010 of the European Parliament and of the Council [1], should be available to provide adequate support to the relevant services of the Member States responsible for implementing this Regulation. In particular, EASO should provide solidarity measures, such as the Asylum Intervention Pool with asylum support teams, to assist those Member States which are faced with particular pressure and where applicants for international protection ('applicants') cannot benefit from adequate standards, in particular as regards reception and protection.

(9) In the light of the results of the evaluations undertaken of the implementation of the first-phase instruments, it is appropriate, at this stage, to confirm the principles underlying Regulation (EC) No 343/2003, while making the necessary improvements, in the light of experience, to the effectiveness of the Dublin system and the protection granted to applicants under that system. Given that a well-functioning Dublin system is essential for the CEAS, its principles and functioning should be reviewed as other components of the CEAS and Union solidarity tools are built up. A comprehensive 'fitness check' should be foreseen by conducting an evidence-based review covering the legal, economic and social effects of the Dublin system, including its effects on fundamental rights.

(10) In order to ensure equal treatment for all applicants and beneficiaries of international protection, and consistency with the current Union asylum *acquis*, in particular with 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 [2], the scope of this Regulation encompasses applicants for subsidiary protection and persons eligible for subsidiary protection.

(11) Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection [3] should apply to the procedure for the determination of the Member State responsible as regulated under this Regulation, subject to the limitations in the application of that Directive.

(12) Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection [4] should apply in addition and without prejudice to the provisions concerning the procedural safeguards regulated under this Regulation, subject to the limitations in the application of that Directive.

(13) In accordance with the 1989 United Nations Convention on the Rights of the Child and with the Charter of Fundamental Rights of the European Union, the best interests of the child should be a primary consideration of Member States when applying this Regulation. In assessing the best interests of the child, Member States should, in particular, take due account of the minor's well-being and social development, safety and security considerations and the views of the minor in accordance with his or her age and maturity, including his or her background. In addition, specific procedural guarantees for unaccompanied minors should be laid down on account of their particular vulnerability.

(14) In accordance with the European Convention for the Protection of Human Rights and Fundamental Freedoms and with the Charter of Fundamental Rights of the European Union, respect for family life should be a primary consideration of Member States when applying this Regulation.

(15) The processing together of the applications for international protection of the members of one family by a single Member State makes it possible to ensure that the applications are examined thoroughly, the decisions taken in respect of them are consistent and the members of one family are not separated.

(16) In order to ensure full respect for the principle of family unity and for the best interests of the child, the existence of a relationship of dependency between an applicant and his or her child, sibling or parent on account of the applicant's pregnancy or maternity, state of health or old age, should become a binding responsibility criterion. When the applicant is an unaccompanied minor, the presence of a family member or relative on the territory of another Member State who can take care of him or her should also become a binding responsibility criterion.

[1] OJ L 132, 29.5.2010, p. 11.
[2] OJ L 337, 20.12.2011, p. 9.
[3] See page 96 of this Official Journal.
[4] See page 60 of this Official Journal.

(17) Any Member State should be able to derogate from the responsibility criteria, in particular on humanitarian and compassionate grounds, in order to bring together family members, relatives or any other family relations and examine an application for international protection lodged with it or with another Member State, even if such examination is not its responsibility under the binding criteria laid down in this Regulation.

(18) A personal interview with the applicant should be organised in order to facilitate the determination of the Member State responsible for examining an application for international protection. As soon as the application for international protection is lodged, the applicant should be informed of the application of this Regulation and of the possibility, during the interview, of providing information regarding the presence of family members, relatives or any other family relations in the Member States, in order to facilitate the procedure for determining the Member State responsible.

(19) In order to guarantee effective protection of the rights of the persons concerned, legal safeguards and the right to an effective remedy in respect of decisions regarding transfers to the Member State responsible should be established, in accordance, in particular, with Article 47 of the Charter of Fundamental Rights of the European Union. In order to ensure that international law is respected, an effective remedy against such decisions should cover both the examination of the application of this Regulation and of the legal and factual situation in the Member State to which the applicant is transferred.

(20) The detention of applicants should be applied in accordance with the underlying principle that a person should not be held in detention for the sole reason that he or she is seeking international protection. Detention should be for as short a period as possible and subject to the principles of necessity and proportionality. In particular, the detention of applicants must be in accordance with Article 31 of the Geneva Convention. The procedures provided for under this Regulation in respect of a detained person should be applied as a matter of priority, within the shortest possible deadlines. As regards the general guarantees governing detention, as well as detention conditions, where appropriate, Member States should apply the provisions of Directive 2013/33/EU also to persons detained on the basis of this Regulation.

(21) Deficiencies in, or the collapse of, asylum systems, often aggravated or contributed to by particular pressures on them, can jeopardise the smooth functioning of the system put in place under this Regulation, which could lead to a risk of a violation of the rights of applicants as set out in the Union asylum *acquis* and the Charter of Fundamental Rights of the European Union, other international human rights and refugee rights.

(22) A process for early warning, preparedness and management of asylum crises serving to prevent a deterioration in, or the collapse of, asylum systems, with EASO playing a key role using its powers under Regulation (EU) No 439/2010, should be established in order to ensure robust cooperation within the framework of this Regulation and to develop mutual trust among Member States with respect to asylum policy. Such a process should ensure that the Union is alerted as soon as possible when there is a concern that the smooth functioning of the system set up by this Regulation is being jeopardised as a result of particular pressure on, and/or deficiencies in, the asylum systems of one or more Member States. Such a process would allow the Union to promote preventive measures at an early stage and pay the appropriate political attention to such situations. Solidarity, which is a pivotal element in the CEAS, goes hand in hand with mutual trust. By enhancing such trust, the process for early warning, preparedness and management of asylum crises could improve the steering of concrete measures of genuine and practical solidarity towards Member States, in order to assist the affected Member States in general and the applicants in particular. In accordance with Article 80 TFEU, Union acts should, whenever necessary, contain appropriate measures to give effect to the principle of solidarity, and the process should be accompanied by such measures. The conclusions on a Common Framework for genuine and practical solidarity towards Member States facing particular pressures on their asylum systems, including through mixed migration flows, adopted by the Council on 8 March 2012, provide for a 'tool box' of existing and potential new measures, which should be taken into account in the context of a mechanism for early warning, preparedness and crisis management.

(23) Member States should collaborate with EASO in the gathering of information concerning their ability to manage particular pressure on their asylum and reception systems, in particular within the framework of the application of this Regulation. EASO should regularly report on the information gathered in accordance with Regulation (EU) No 439/2010.

(24) In accordance with Commission Regulation (EC) No 1560/2003 [1], transfers to the Member State responsible for examining an application for international protection may be carried out on a voluntary basis, by supervised departure or under escort. Member States should promote voluntary transfers by providing adequate information to the applicant and should ensure that supervised or escorted transfers are undertaken in a humane manner, in full compliance with fundamental rights and respect for human dignity, as well as the

[1] OJ L 222, 5.9.2003, p. 3.

best interests of the child and taking utmost account of developments in the relevant case law, in particular as regards transfers on humanitarian grounds.

(25) The progressive creation of an area without internal frontiers in which free movement of persons is guaranteed in accordance with the TFEU and the establishment of Union policies regarding the conditions of entry and stay of third-country nationals, including common efforts towards the management of external borders, makes it necessary to strike a balance between responsibility criteria in a spirit of solidarity.

(26) Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data [1] applies to the processing of personal data by the Member States under this Regulation.

(27) The exchange of an applicant's personal data, including sensitive data on his or her health, prior to a transfer, will ensure that the competent asylum authorities are in a position to provide applicants with adequate assistance and to ensure continuity in the protection and rights afforded to them. Special provisions should be made to ensure the protection of data relating to applicants involved in that situation, in accordance with Directive 95/46/EC.

(28) The application of this Regulation can be facilitated, and its effectiveness increased, by bilateral arrangements between Member States for improving communication between competent departments, reducing time limits for procedures or simplifying the processing of requests to take charge or take back, or establishing procedures for the performance of transfers.

(29) Continuity between the system for determining the Member State responsible established by Regulation (EC) No 343/2003 and the system established by this Regulation should be ensured. Similarly, consistency should be ensured between this Regulation and Regulation (EU) No 603/2013 of the European Parliament and of the Council of 26 June 2013 on the establishment of 'Eurodac' for the comparison of fingerprints for the effective application of Regulation (EU) No 604/2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person and on requests for the comparisons with Eurodac data by Member States' law enforcement authorities and Europol for law enforcement purposes [2].

(30) The operation of the Eurodac system, as established by Regulation (EU) No 603/2013, should facilitate the application of this Regulation.

(31) The operation of the Visa Information System, as established by Regulation (EC) No 767/2008 of the European Parliament and of the Council of 9 July 2008 concerning the Visa Information System (VIS) and the exchange of data between Member States on short-stay visas [3], and in particular the implementation of Articles 21 and 22 thereof, should facilitate the application of this Regulation.

(32) With respect to the treatment of persons falling within the scope of this Regulation, Member States are bound by their obligations under instruments of international law, including the relevant case-law of the European Court of Human Rights.

(33) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers [4].

(34) The examination procedure should be used for the adoption of a common leaflet on Dublin/Eurodac, as well as a specific leaflet for unaccompanied minors; of a standard form for the exchange of relevant information on unaccompanied minors; of uniform conditions for the consultation and exchange of information on minors and dependent persons; of uniform conditions on the preparation and submission of take charge and take back requests; of two lists of relevant elements of proof and circumstantial evidence, and the periodical revision thereof; of a *laissez passer*; of uniform conditions for the consultation and exchange of information regarding transfers; of a standard form for the exchange of data before a transfer; of a common health certificate; of uniform conditions and practical arrangements for the exchange of information on a person's health data before a transfer, and of secure electronic transmission channels for the transmission of requests.

[1] OJ L 281, 23.11.1995, p. 31.

[2] See page 1 of this Official Journal.

[3] OJ L 218, 13.8.2008, p. 60.

[4] OJ L 55, 28.2.2011, p. 13.

(35) In order to provide for supplementary rules, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of the identification of family members, siblings or relatives of an unaccompanied minor; the criteria for establishing the existence of proven family links; the criteria for assessing the capacity of a relative to take care of an unaccompanied minor, including where family members, siblings or relatives of the unaccompanied minor stay in more than one Member State; the elements for assessing a dependency link; the criteria for assessing the capacity of a person to take care of a dependent person and the elements to be taken into account in order to assess the inability to travel for a significant period of time. In exercising its powers to adopt delegated acts, the Commission shall not exceed the scope of the best interests of the child as provided for under Article 6(3) of this Regulation. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.

(36) In the application of this Regulation, including the preparation of delegated acts, the Commission should consult experts from, among others, all relevant national authorities.

(37) Detailed rules for the application of Regulation (EC) No 343/2003 have been laid down by Regulation (EC) No 1560/2003. Certain provisions of Regulation (EC) No 1560/2003 should be incorporated into this Regulation, either for reasons of clarity or because they can serve a general objective. In particular, it is important, both for the Member States and the applicants concerned, that there should be a general mechanism for finding a solution in cases where Member States differ over the application of a provision of this Regulation. It is therefore justified to incorporate the mechanism provided for in Regulation (EC) No 1560/2003 for the settling of disputes on the humanitarian clause into this Regulation and to extend its scope to the entirety of this Regulation.

(38) The effective monitoring of the application of this Regulation requires that it be evaluated at regular intervals.

(39) This Regulation respects the fundamental rights and observes the principles which are acknowledged, in particular, in the Charter of Fundamental Rights of the European Union. In particular, this Regulation seeks to ensure full observance of the right to asylum guaranteed by Article 18 of the Charter as well as the rights recognised under Articles 1, 4, 7, 24 and 47 thereof. This Regulation should therefore be applied accordingly.

(40) Since the objective of this Regulation, namely the establishment of criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person, cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale and effects of this Regulation, be better achieved at Union level, the Union may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union (TEU). In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective.

(41) In accordance with Article 3 and Article 4a(1) of Protocol No 21 on the position of the United Kingdom and Ireland in respect of the Area of Freedom, Security and Justice, annexed to the TEU and to the TFEU, those Member States have notified their wish to take part in the adoption and application of this Regulation.

(42) In accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark, annexed to the TEU and to the TFEU, Denmark is not taking part in the adoption of this Regulation and is not bound by it or subject to its application,

HAVE ADOPTED THIS REGULATION:

CHAPTER I

SUBJECT MATTER AND DEFINITIONS

Article 1

Subject matter

This Regulation lays down the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person ('the Member State responsible').

Article 2

Definitions

For the purposes of this Regulation:

(a) 'third-country national' means any person who is not a citizen of the Union within the meaning of Article 20(1) TFEU and who is not national of a State which participates in this Regulation by virtue of an agreement with the European Union;

(b) 'application for international protection' means an application for international protection as defined in Article 2(h) of Directive 2011/95/EU;

(c) 'applicant' means a third-country national or a stateless person who has made an application for international protection in respect of which a final decision has not yet been taken;

(d) 'examination of an application for international protection' means any examination of, or decision or ruling concerning, an application for international protection by the competent authorities in accordance with Directive 2013/32/EU and Directive 2011/95/EU, except for procedures for determining the Member State responsible in accordance with this Regulation;

(e) 'withdrawal of an application for international protection' means the actions by which the applicant terminates the procedures initiated by the submission of his or her application for international protection, in accordance with Directive 2013/32/EU, either explicitly or tacitly;

(f) 'beneficiary of international protection' means a third-country national or a stateless person who has been granted international protection as defined in Article 2(a) of Directive 2011/95/EU;

(g) 'family members' means, insofar as the family already existed in the country of origin, the following members of the applicant's family who are present on the territory of the Member States:

— the spouse of the applicant or his or her unmarried partner in a stable relationship, where the law or practice of the Member State concerned treats unmarried couples in a way comparable to married couples under its law relating to third-country nationals,

— the minor children of couples referred to in the first indent or of the applicant, on condition that they are unmarried and regardless of whether they were born in or out of wedlock or adopted as defined under national law,

— when the applicant is a minor and unmarried, the father, mother or another adult responsible for the applicant, whether by law or by the practice of the Member State where the adult is present,

— when the beneficiary of international protection is a minor and unmarried, the father, mother or another adult responsible for him or her whether by law or by the practice of the Member State where the beneficiary is present;

(h) 'relative' means the applicant's adult aunt or uncle or grandparent who is present in the territory of a Member State, regardless of whether the applicant was born in or out of wedlock or adopted as defined under national law;

(i) 'minor' means a third-country national or a stateless person below the age of 18 years;

(j) 'unaccompanied minor' means a minor who arrives on the territory of the Member States unaccompanied by an adult responsible for him or her, whether by law or by the practice of the Member State concerned, and for as long as he or she is not effectively taken into the care of such an adult; it includes a minor who is left unaccompanied after he or she has entered the territory of Member States;

(k) 'representative' means a person or an organisation appointed by the competent bodies in order to assist and represent an unaccompanied minor in procedures provided for in this Regulation with a view to ensuring the best interests of the child and exercising legal capacity for the minor where necessary. Where an organisation is appointed as a representative, it shall designate a person responsible for carrying out its duties in respect of the minor, in accordance with this Regulation;

(l) 'residence document' means any authorisation issued by the authorities of a Member State authorising a third-country national or a stateless person to stay on its territory, including the documents substantiating the authorisation to remain on the territory under temporary protection arrangements or until the circumstances preventing a removal order from being carried out no longer apply, with the exception of visas and residence authorisations issued during the period required to determine the Member State responsible as established in this Regulation or during the examination of an application for international protection or an application for a residence permit;

(m) 'visa' means the authorisation or decision of a Member State required for transit or entry for an intended stay in that Member State or in several Member States. The nature of the visa shall be determined in accordance with the following definitions:

— 'long-stay visa' means an authorisation or decision issued by one of the Member States in accordance with its national law or Union law required for entry for an intended stay in that Member State of more than three months,

— 'short-stay visa' means an authorisation or decision of a Member State with a view to transit through or an intended stay on the territory of one or more or all the Member States of a duration of no more than three months in any six-month period beginning on the date of first entry on the territory of the Member States,

— 'airport transit visa' means a visa valid for transit through the international transit areas of one or more airports of the Member States;

(n) 'risk of absconding' means the existence of reasons in an individual case, which are based on objective criteria defined by law, to believe that an applicant or a third-country national or a stateless person who is subject to a transfer procedure may abscond.

CHAPTER II

GENERAL PRINCIPLES AND SAFEGUARDS

Article 3

Access to the procedure for examining an application for international protection

1. Member States shall examine any application for international protection by a third-country national or a stateless person who applies on the territory of any one of them, including at the border or in the transit zones. The application shall be examined by a single Member State, which shall be the one which the criteria set out in Chapter III indicate is responsible.

2. Where no Member State responsible can be designated on the basis of the criteria listed in this Regulation, the first Member State in which the application for international protection was lodged shall be responsible for examining it.

Where it is impossible to transfer an applicant to the Member State primarily designated as responsible because there are substantial grounds for believing that there are systemic flaws in the asylum procedure and in the reception conditions for applicants in that Member State, resulting in a risk of inhuman or degrading treatment within the meaning of Article 4 of the Charter of Fundamental Rights of the European Union, the determining Member State shall continue to examine the criteria set out in Chapter III in order to establish whether another Member State can be designated as responsible.

Where the transfer cannot be made pursuant to this paragraph to any Member State designated on the basis of the criteria set out in Chapter III or to the first Member State with which the application was lodged, the determining Member State shall become the Member State responsible.

3. Any Member State shall retain the right to send an applicant to a safe third country, subject to the rules and safeguards laid down in Directive 2013/32/EU.

Article 4

Right to information

1. As soon as an application for international protection is lodged within the meaning of Article 20(2) in a Member State, its competent authorities shall inform the applicant of the application of this Regulation, and in particular of:

(a) the objectives of this Regulation and the consequences of making another application in a different Member State as well as the consequences of moving from one Member State to another during the phases in which the Member State responsible under this Regulation is being determined and the application for international protection is being examined;

(b) the criteria for determining the Member State responsible, the hierarchy of such criteria in the different steps of the procedure and their duration, including the fact that an application for international protection lodged in one Member State can result in that Member State becoming responsible under this Regulation even if such responsibility is not based on those criteria;

(c) the personal interview pursuant to Article 5 and the possibility of submitting information regarding the presence of family members, relatives or any other family relations in the Member States, including the means by which the applicant can submit such information;

(d) the possibility to challenge a transfer decision and, where applicable, to apply for a suspension of the transfer;

(e) the fact that the competent authorities of Member States can exchange data on him or her for the sole purpose of implementing their obligations arising under this Regulation;

(f) the right of access to data relating to him or her and the right to request that such data be corrected if inaccurate or be deleted if unlawfully processed, as well as the procedures for exercising those rights, including the contact details of the authorities referred to in Article 35 and of the national data protection authorities responsible for hearing claims concerning the protection of personal data.

2. The information referred to in paragraph 1 shall be provided in writing in a language that the applicant understands or is reasonably supposed to understand. Member States shall use the common leaflet drawn up pursuant to paragraph 3 for that purpose.

Where necessary for the proper understanding of the applicant, the information shall also be supplied orally, for example in connection with the personal interview as referred to in Article 5.

3. The Commission shall, by means of implementing acts, draw up a common leaflet, as well as a specific leaflet for unaccompanied minors, containing at least the information referred to in paragraph 1 of this Article. This common leaflet shall also include information regarding the application of Regulation (EU) No 603/2013 and, in particular, the purpose for which the data of an applicant may be processed within Eurodac. The common leaflet shall be established in such a manner as to enable Member States to complete it with additional Member State-specific information. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 44(2) of this Regulation.

Article 5

Personal interview

1. In order to facilitate the process of determining the Member State responsible, the determining Member State shall conduct a personal interview with the applicant. The interview shall also allow the proper understanding of the information supplied to the applicant in accordance with Article 4.

2. The personal interview may be omitted if:

(a) the applicant has absconded; or

(b) after having received the information referred to in Article 4, the applicant has already provided the information relevant to determine the Member State responsible by other means. The Member State omitting the interview shall give the applicant the opportunity to present all further information which is relevant to correctly determine the Member State responsible before a decision is taken to transfer the applicant to the Member State responsible pursuant to Article 26(1).

3. The personal interview shall take place in a timely manner and, in any event, before any decision is taken to transfer the applicant to the Member State responsible pursuant to Article 26(1).

4. The personal interview shall be conducted in a language that the applicant understands or is reasonably supposed to understand and in which he or she is able to communicate. Where necessary, Member States shall have recourse to an interpreter who is able to ensure appropriate communication between the applicant and the person conducting the personal interview.

5. The personal interview shall take place under conditions which ensure appropriate confidentiality. It shall be conducted by a qualified person under national law.

6. The Member State conducting the personal interview shall make a written summary thereof which shall contain at least the main information supplied by the applicant at the interview. This summary may either take the form of a report or a standard form. The Member State shall ensure that the applicant and/or the legal advisor or other counsellor who is representing the applicant have timely access to the summary.

Article 6

Guarantees for minors

1. The best interests of the child shall be a primary consideration for Member States with respect to all procedures provided for in this Regulation.

2. Member States shall ensure that a representative represents and/or assists an unaccompanied minor with respect to all procedures provided for in this Regulation. The representative shall have the qualifications and expertise to ensure that the best interests of the minor are taken into consideration during the procedures carried out under this Regulation. Such representative shall have access to the content of the relevant documents in the applicant's file including the specific leaflet for unaccompanied minors.

This paragraph shall be without prejudice to the relevant provisions in Article 25 of Directive 2013/32/EU.

3. In assessing the best interests of the child, Member States shall closely cooperate with each other and shall, in particular, take due account of the following factors:

(a) family reunification possibilities;

(b) the minor's well-being and social development;

(c) safety and security considerations, in particular where there is a risk of the minor being a victim of human trafficking;

(d) the views of the minor, in accordance with his or her age and maturity.

4. For the purpose of applying Article 8, the Member State where the unaccompanied minor lodged an application for international protection shall, as soon as possible, take appropriate action to identify the family members, siblings or relatives of the unaccompanied minor on the territory of Member States, whilst protecting the best interests of the child.

To that end, that Member State may call for the assistance of international or other relevant organisations, and may facilitate the minor's access to the tracing services of such organisations.

The staff of the competent authorities referred to in Article 35 who deal with requests concerning unaccompanied minors shall have received, and shall continue to receive, appropriate training concerning the specific needs of minors.

5. With a view to facilitating the appropriate action to identify the family members, siblings or relatives of the unaccompanied minor living in the territory of another Member State pursuant to paragraph 4 of this Article, the Commission shall adopt implementing acts including a standard form for the exchange of relevant information between Member States. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 44(2).

CHAPTER III

CRITERIA FOR DETERMINING THE MEMBER STATE RESPONSIBLE

Article 7

Hierarchy of criteria

1. The criteria for determining the Member State responsible shall be applied in the order in which they are set out in this Chapter.

2. The Member State responsible in accordance with the criteria set out in this Chapter shall be determined on the basis of the situation obtaining when the applicant first lodged his or her application for international protection with a Member State.

3. In view of the application of the criteria referred to in Articles 8, 10 and 16, Member States shall take into consideration any available evidence regarding the presence, on the territory of a Member State, of family members, relatives or any other family relations of the applicant, on condition that such evidence is produced before another Member State accepts the request to take charge or take back the person concerned, pursuant to Articles 22 and 25 respectively, and that the previous applications for international protection of the applicant have not yet been the subject of a first decision regarding the substance.

Article 8

Minors

1. Where the applicant is an unaccompanied minor, the Member State responsible shall be that where a family member or a sibling of the unaccompanied minor is legally present, provided that it is in the best interests of the minor. Where the applicant is a married minor whose spouse is not legally present on the territory of the Member States, the Member State responsible shall be the Member State where the father, mother or other adult responsible for the minor, whether by law or by the practice of that Member State, or sibling is legally present.

2. Where the applicant is an unaccompanied minor who has a relative who is legally present in another Member State and where it is established, based on an individual examination, that the relative can take care of him or her, that Member State shall unite the minor with his or her relative and shall be the Member State responsible, provided that it is in the best interests of the minor.

3. Where family members, siblings or relatives as referred to in paragraphs 1 and 2, stay in more than one Member State, the Member State responsible shall be decided on the basis of what is in the best interests of the unaccompanied minor.

4. In the absence of a family member, a sibling or a relative as referred to in paragraphs 1 and 2, the Member State responsible shall be that where the unaccompanied minor has lodged his or her application for international protection, provided that it is in the best interests of the minor.

5. The Commission shall be empowered to adopt delegated acts in accordance with Article 45 concerning the identification of family members, siblings or relatives of the unaccompanied minor; the criteria for establishing the existence of proven family links; the criteria for assessing the capacity of a relative to take care of the unaccompanied minor, including where family members, siblings or relatives of the unaccompanied minor stay in more than one Member State. In exercising its powers to adopt delegated acts, the Commission shall not exceed the scope of the best interests of the child as provided for under Article 6(3).

6. The Commission shall, by means of implementing acts, establish uniform conditions for the consultation and the exchange of information between Member States. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 44(2).

Article 9

Family members who are beneficiaries of international protection

Where the applicant has a family member, regardless of whether the family was previously formed in the country of origin, who has been allowed to reside as a beneficiary of international protection in a Member State, that Member State shall be responsible for examining the application for international protection, provided that the persons concerned expressed their desire in writing.

Article 10

Family members who are applicants for international protection

If the applicant has a family member in a Member State whose application for international protection in that Member State has not yet been the subject of a first decision regarding the substance, that Member State shall be responsible for examining the application for international protection, provided that the persons concerned expressed their desire in writing.

Article 11

Family procedure

Where several family members and/or minor unmarried siblings submit applications for international protection in the same Member State simultaneously, or on dates close enough for the procedures for determining the Member State responsible to be conducted together, and where the application of the criteria set out in this Regulation would lead to their being separated, the Member State responsible shall be determined on the basis of the following provisions:

(a) responsibility for examining the applications for international protection of all the family members and/or minor unmarried siblings shall lie with the Member State which the criteria indicate is responsible for taking charge of the largest number of them;

(b) failing this, responsibility shall lie with the Member State which the criteria indicate is responsible for examining the application of the oldest of them.

Article 12

Issue of residence documents or visas

1. Where the applicant is in possession of a valid residence document, the Member State which issued the document shall be responsible for examining the application for international protection.

2. Where the applicant is in possession of a valid visa, the Member State which issued the visa shall be responsible for examining the application for international protection, unless the visa was issued on behalf of another Member State under a representation arrangement as provided for in Article 8 of Regulation (EC) No 810/2009 of the European Parliament and of the Council, of 13 July 2009, establishing a Community Code on Visas [1]. In such a case, the represented Member State shall be responsible for examining the application for international protection.

3. Where the applicant is in possession of more than one valid residence document or visa issued by different Member States, the responsibility for examining the application for international protection shall be assumed by the Member States in the following order:

(a) the Member State which issued the residence document conferring the right to the longest period of residency or, where the periods of validity are identical, the Member State which issued the residence document having the latest expiry date;

(b) the Member State which issued the visa having the latest expiry date where the various visas are of the same type;

(c) where visas are of different kinds, the Member State which issued the visa having the longest period of validity or, where the periods of validity are identical, the Member State which issued the visa having the latest expiry date.

4. Where the applicant is in possession only of one or more residence documents which have expired less than two years previously or one or more visas which have expired less than six months previously and which enabled him or her actually to enter the territory of a Member State, paragraphs 1, 2 and 3 shall apply for such time as the applicant has not left the territories of the Member States.

Where the applicant is in possession of one or more residence documents which have expired more than two years previously or one or more visas which have expired more than six months previously and enabled him or her actually to enter the territory of a Member State and where he has not left the territories of the Member States, the Member State in which the application for international protection is lodged shall be responsible.

5. The fact that the residence document or visa was issued on the basis of a false or assumed identity or on submission of forged, counterfeit or invalid documents shall not prevent responsibility being allocated to the Member State which issued it. However, the Member State issuing the residence document or visa shall not be responsible if it can establish that a fraud was committed after the document or visa had been issued.

Article 13

Entry and/or stay

1. Where it is established, on the basis of proof or circumstantial evidence as described in the two lists mentioned in Article 22(3) of this Regulation, including the data referred to in Regulation (EU) No 603/2013, that an applicant has irregularly crossed the border into a Member State by land, sea or air having come from a third country, the Member State thus entered shall be responsible for examining the application for international protection. That responsibility shall cease 12 months after the date on which the irregular border crossing took place.

2. When a Member State cannot or can no longer be held responsible in accordance with paragraph 1 of this Article and where it is established, on the basis of proof or circumstantial evidence as described in the two lists mentioned in Article 22(3), that the applicant — who has entered the territories of the Member States irregularly or whose circumstances of entry cannot be established — has been living for a continuous period of at least five months in a Member State before lodging the application for international protection, that Member State shall be responsible for examining the application for international protection.

If the applicant has been living for periods of time of at least five months in several Member States, the Member State where he or she has been living most recently shall be responsible for examining the application for international protection.

[1] OJ L 243, 15.9.2009, p. 1.

Article 14

Visa waived entry

1. If a third-country national or a stateless person enters into the territory of a Member State in which the need for him or her to have a visa is waived, that Member State shall be responsible for examining his or her application for international protection.

2. The principle set out in paragraph 1 shall not apply if the third-country national or the stateless person lodges his or her application for international protection in another Member State in which the need for him or her to have a visa for entry into the territory is also waived. In that case, that other Member State shall be responsible for examining the application for international protection.

Article 15

Application in an international transit area of an airport

Where the application for international protection is made in the international transit area of an airport of a Member State by a third-country national or a stateless person, that Member State shall be responsible for examining the application.

CHAPTER IV

DEPENDENT PERSONS AND DISCRETIONARY CLAUSES

Article 16

Dependent persons

1. Where, on account of pregnancy, a new-born child, serious illness, severe disability or old age, an applicant is dependent on the assistance of his or her child, sibling or parent legally resident in one of the Member States, or his or her child, sibling or parent legally resident in one of the Member States is dependent on the assistance of the applicant, Member States shall normally keep or bring together the applicant with that child, sibling or parent, provided that family ties existed in the country of origin, that the child, sibling or parent or the applicant is able to take care of the dependent person and that the persons concerned expressed their desire in writing.

2. Where the child, sibling or parent referred to in paragraph 1 is legally resident in a Member State other than the one where the applicant is present, the Member State responsible shall be the one where the child, sibling or parent is legally resident unless the applicant's health prevents him or her from travelling to that Member State for a significant period of time. In such a case, the Member State responsible shall be the one where the applicant is present. Such Member State shall not be subject to the obligation to bring the child, sibling or parent of the applicant to its territory.

3. The Commission shall be empowered to adopt delegated acts in accordance with Article 45 concerning the elements to be taken into account in order to assess the dependency link, the criteria for establishing the existence of proven family links, the criteria for assessing the capacity of the person concerned to take care of the dependent person and the elements to be taken into account in order to assess the inability to travel for a significant period of time.

4. The Commission shall, by means of implementing acts, establish uniform conditions for the consultation and exchange of information between Member States. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 44(2).

Article 17

Discretionary clauses

1. By way of derogation from Article 3(1), each Member State may decide to examine an application for international protection lodged with it by a third-country national or a stateless person, even if such examination is not its responsibility under the criteria laid down in this Regulation.

The Member State which decides to examine an application for international protection pursuant to this paragraph shall become the Member State responsible and shall assume the obligations associated with that responsibility. Where applicable, it shall inform, using the 'DubliNet' electronic communication network set up under Article 18 of Regulation (EC) No 1560/2003, the Member State previously responsible, the Member State conducting a procedure for determining the Member State responsible or the Member State which has been requested to take charge of, or to take back, the applicant.

The Member State which becomes responsible pursuant to this paragraph shall forthwith indicate it in Eurodac in accordance with Regulation (EU) No 603/2013 by adding the date when the decision to examine the application was taken.

2. The Member State in which an application for international protection is made and which is carrying out the process of determining the Member State responsible, or the Member State responsible, may, at any time before a first decision regarding the substance is taken, request another Member State to take charge of an applicant in order to bring together any family relations, on humanitarian grounds based in particular on family or cultural considerations, even where that other Member State is not responsible under the criteria laid down in Articles 8 to 11 and 16. The persons concerned must express their consent in writing.

The request to take charge shall contain all the material in the possession of the requesting Member State to allow the requested Member State to assess the situation.

The requested Member State shall carry out any necessary checks to examine the humanitarian grounds cited, and shall reply to the requesting Member State within two months of receipt of the request using the 'DubliNet' electronic communication network set up under Article 18 of Regulation (EC) No 1560/2003. A reply refusing the request shall state the reasons on which the refusal is based.

Where the requested Member State accepts the request, responsibility for examining the application shall be transferred to it.

CHAPTER V

OBLIGATIONS OF THE MEMBER STATE RESPONSIBLE

Article 18

Obligations of the Member State responsible

1. The Member State responsible under this Regulation shall be obliged to:

(a) take charge, under the conditions laid down in Articles 21, 22 and 29, of an applicant who has lodged an application in a different Member State;

(b) take back, under the conditions laid down in Articles 23, 24, 25 and 29, an applicant whose application is under examination and who made an application in another Member State or who is on the territory of another Member State without a residence document;

(c) take back, under the conditions laid down in Articles 23, 24, 25 and 29, a third-country national or a stateless person who has withdrawn the application under examination and made an application in another Member State or who is on the territory of another Member State without a residence document;

(d) take back, under the conditions laid down in Articles 23, 24, 25 and 29, a third-country national or a stateless person whose application has been rejected and who made an application in another Member State or who is on the territory of another Member State without a residence document.

2. In the cases falling within the scope of paragraph 1(a) and (b), the Member State responsible shall examine or complete the examination of the application for international protection made by the applicant.

In the cases falling within the scope of paragraph 1(c), when the Member State responsible had discontinued the examination of an application following its withdrawal by the applicant before a decision on the substance has been taken at first instance, that Member State shall ensure that the applicant is entitled to request that the examination of his or her application be completed or to lodge a new application for international protection, which shall not be treated as a subsequent application as provided for in Directive 2013/32/EU. In such cases, Member States shall ensure that the examination of the application is completed.

In the cases falling within the scope of paragraph 1(d), where the application has been rejected at first instance only, the Member State responsible shall ensure that the person concerned has or has had the opportunity to seek an effective remedy pursuant to Article 46 of Directive 2013/32/EU.

Article 19

Cessation of responsibilities

1. Where a Member State issues a residence document to the applicant, the obligations specified in Article 18(1) shall be transferred to that Member State.

2. The obligations specified in Article 18(1) shall cease where the Member State responsible can establish, when requested to take charge or take back an applicant or another person as referred to in Article 18(1)(c) or (d), that the person concerned has left the territory of the Member States for at least three months, unless the person concerned is in possession of a valid residence document issued by the Member State responsible.

An application lodged after the period of absence referred to in the first subparagraph shall be regarded as a new application giving rise to a new procedure for determining the Member State responsible.

3. The obligations specified in Article 18(1)(c) and (d) shall cease where the Member State responsible can establish, when requested to take back an applicant or another person as referred to in Article 18(1)(c) or (d), that the person concerned has left the territory of the Member States in compliance with a return decision or removal order issued following the withdrawal or rejection of the application.

An application lodged after an effective removal has taken place shall be regarded as a new application giving rise to a new procedure for determining the Member State responsible.

CHAPTER VI

PROCEDURES FOR TAKING CHARGE AND TAKING BACK

SECTION I

Start of the procedure

Article 20

Start of the procedure

1. The process of determining the Member State responsible shall start as soon as an application for international protection is first lodged with a Member State.

2. An application for international protection shall be deemed to have been lodged once a form submitted by the applicant or a report prepared by the authorities has reached the competent authorities of the Member State concerned. Where an application is not made in writing, the time elapsing between the statement of intention and the preparation of a report should be as short as possible.

3. For the purposes of this Regulation, the situation of a minor who is accompanying the applicant and meets the definition of family member shall be indissociable from that of his or her family member and shall be a matter for the Member State responsible for examining the application for international protection of that family member, even if the minor is not individually an applicant, provided that it is in the minor's best interests. The same treatment shall be applied to children born after the applicant arrives on the territory of the Member States, without the need to initiate a new procedure for taking charge of them.

4. Where an application for international protection is lodged with the competent authorities of a Member State by an applicant who is on the territory of another Member State, the determination of the Member State responsible shall be made by the Member State in whose territory the applicant is present. The latter Member State shall be informed without delay by the Member State which received the application and shall then, for the purposes of this Regulation, be regarded as the Member State with which the application for international protection was lodged.

The applicant shall be informed in writing of this change in the determining Member State and of the date on which it took place.

5. An applicant who is present in another Member State without a residence document or who there lodges an application for international protection after withdrawing his or her first application made in a different Member State during the process of determining the Member State responsible shall be taken back, under the conditions laid down in Articles 23, 24, 25 and 29, by the Member State with which that application for international protection was first lodged, with a view to completing the process of determining the Member State responsible.

That obligation shall cease where the Member State requested to complete the process of determining the Member State responsible can establish that the applicant has in the meantime left the territory of the Member States for a period of at least three months or has obtained a residence document from another Member State.

An application lodged after the period of absence referred to in the second subparagraph shall be regarded as a new application giving rise to a new procedure for determining the Member State responsible.

SECTION II

Procedures for take charge requests

Article 21

Submitting a take charge request

1. Where a Member State with which an application for international protection has been lodged considers that another Member State is responsible for examining the application, it may, as quickly as possible and in any event within three months of the date on which the application was lodged within the meaning of Article 20(2), request that other Member State to take charge of the applicant.

Notwithstanding the first subparagraph, in the case of a Eurodac hit with data recorded pursuant to Article 14 of Regulation (EU) No 603/2013, the request shall be sent within two months of receiving that hit pursuant to Article 15(2) of that Regulation.

Where the request to take charge of an applicant is not made within the periods laid down in the first and second subparagraphs, responsibility for examining the application for international protection shall lie with the Member State in which the application was lodged.

2. The requesting Member State may ask for an urgent reply in cases where the application for international protection was lodged after leave to enter or remain was refused, after an arrest for an unlawful stay or after the service or execution of a removal order.

The request shall state the reasons warranting an urgent reply and the period within which a reply is expected. That period shall be at least one week.

3. In the cases referred to in paragraphs 1 and 2, the request that charge be taken by another Member State shall be made using a standard form and including proof or circumstantial evidence as described in the two lists mentioned in Article 22(3) and/or relevant elements from the applicant's statement, enabling the authorities of the requested Member State to check whether it is responsible on the basis of the criteria laid down in this Regulation.

The Commission shall, by means of implementing acts, adopt uniform conditions on the preparation and submission of take charge requests. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 44(2).

Article 22

Replying to a take charge request

1. The requested Member State shall make the necessary checks, and shall give a decision on the request to take charge of an applicant within two months of receipt of the request.

2. In the procedure for determining the Member State responsible elements of proof and circumstantial evidence shall be used.

3. The Commission shall, by means of implementing acts, establish, and review periodically, two lists, indicating the relevant elements of proof and circumstantial evidence in accordance with the criteria set out in points (a) and (b) of this paragraph. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 44(2).

(a) Proof:

(i) this refers to formal proof which determines responsibility pursuant to this Regulation, as long as it is not refuted by proof to the contrary;

(ii) the Member States shall provide the Committee provided for in Article 44 with models of the different types of administrative documents, in accordance with the typology established in the list of formal proofs;

(b) Circumstantial evidence:

(i) this refers to indicative elements which while being refutable may be sufficient, in certain cases, according to the evidentiary value attributed to them;

(ii) their evidentiary value, in relation to the responsibility for examining the application for international protection shall be assessed on a case-by-case basis.

4. The requirement of proof should not exceed what is necessary for the proper application of this Regulation.

5. If there is no formal proof, the requested Member State shall acknowledge its responsibility if the circumstantial evidence is coherent, verifiable and sufficiently detailed to establish responsibility.

6. Where the requesting Member State has pleaded urgency in accordance with the provisions of Article 21(2), the requested Member State shall make every effort to comply with the time limit requested. In exceptional cases, where it can be demonstrated that the examination of a request for taking charge of an applicant is particularly complex, the requested Member State may give its reply after the time limit requested, but in any event within one month. In such situations the requested Member State must communicate its decision to postpone a reply to the requesting Member State within the time limit originally requested.

7. Failure to act within the two-month period mentioned in paragraph 1 and the one-month period mentioned in paragraph 6 shall be tantamount to accepting the request, and entail the obligation to take charge of the person, including the obligation to provide for proper arrangements for arrival.

SECTION III

Procedures for take back requests

Article 23

Submitting a take back request when a new application has been lodged in the requesting Member State

1. Where a Member State with which a person as referred to in Article 18(1)(b), (c) or (d) has lodged a new application for international protection considers that another Member State is responsible in accordance with Article 20(5) and Article 18(1)(b), (c) or (d), it may request that other Member State to take back that person.

2. A take back request shall be made as quickly as possible and in any event within two months of receiving the Eurodac hit, pursuant to Article 9(5) of Regulation (EU) No 603/2013.

If the take back request is based on evidence other than data obtained from the Eurodac system, it shall be sent to the requested Member State within three months of the date on which the application for international protection was lodged within the meaning of Article 20(2).

3. Where the take back request is not made within the periods laid down in paragraph 2, responsibility for examining the application for international protection shall lie with the Member State in which the new application was lodged.

4. A take back request shall be made using a standard form and shall include proof or circumstantial evidence as described in the two lists mentioned in Article 22(3) and/or relevant elements from the statements of the person concerned, enabling the authorities of the requested Member State to check whether it is responsible on the basis of the criteria laid down in this Regulation.

The Commission shall, by means of implementing acts, adopt uniform conditions for the preparation and submission of take back requests. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 44(2).

Article 24

Submitting a take back request when no new application has been lodged in the requesting Member State

1. Where a Member State on whose territory a person as referred to in Article 18(1)(b), (c) or (d) is staying without a residence document and with which no new application for international protection has been lodged considers that another Member State is responsible in accordance with Article 20(5) and Article 18(1)(b), (c) or (d), it may request that other Member State to take back that person.

2. By way of derogation from Article 6(2) of Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country

nationals ([1]), where a Member State on whose territory a person is staying without a residence document decides to search the Eurodac system in accordance with Article 17 of Regulation (EU) No 603/2013, the request to take back a person as referred to in Article 18(1)(b) or (c) of this Regulation, or a person as referred to in its Article 18(1)(d) whose application for international protection has not been rejected by a final decision, shall be made as quickly as possible and in any event within two months of receipt of the Eurodac hit, pursuant to Article 17(5) of Regulation (EU) No 603/2013.

If the take back request is based on evidence other than data obtained from the Eurodac system, it shall be sent to the requested Member State within three months of the date on which the requesting Member State becomes aware that another Member State may be responsible for the person concerned.

3. Where the take back request is not made within the periods laid down in paragraph 2, the Member State on whose territory the person concerned is staying without a residence document shall give that person the opportunity to lodge a new application.

4. Where a person as referred to in Article 18(1)(d) of this Regulation whose application for international protection has been rejected by a final decision in one Member State is on the territory of another Member State without a residence document, the latter Member State may either request the former Member State to take back the person concerned or carry out a return procedure in accordance with Directive 2008/115/EC.

When the latter Member State decides to request the former Member State to take back the person concerned, the rules laid down in Directive 2008/115/EC shall not apply.

5. The request for the person referred to in Article 18(1)(b), (c) or (d) to be taken back shall be made using a standard form and shall include proof or circumstantial evidence as described in the two lists mentioned in Article 22(3) and/or relevant elements from the person's statements, enabling the authorities of the requested Member State to check whether it is responsible on the basis of the criteria laid down in this Regulation.

The Commission shall, by means of implementing acts, establish and review periodically two lists indicating the relevant elements of proof and circumstantial evidence in accordance with the criteria set out in Article 22(3)(a) and (b), and shall adopt uniform conditions for the preparation and submission of take back requests. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 44(2).

Article 25

Replying to a take back request

1. The requested Member State shall make the necessary checks and shall give a decision on the request to take back the person concerned as quickly as possible and in any event no later than one month from the date on which the request was received. When the request is based on data obtained from the Eurodac system, that time limit shall be reduced to two weeks.

2. Failure to act within the one month period or the two weeks period mentioned in paragraph 1 shall be tantamount to accepting the request, and shall entail the obligation to take back the person concerned, including the obligation to provide for proper arrangements for arrival.

SECTION IV

Procedural safeguards

Article 26

Notification of a transfer decision

1. Where the requested Member State accepts to take charge of or to take back an applicant or other person as referred to in Article 18(1)(c) or (d), the requesting Member State shall notify the person concerned of the decision to transfer him or her to the Member State responsible and, where applicable, of not examining his or her application for international protection. If a legal advisor or other counsellor is representing the person concerned, Member States may choose to notify the decision to such legal advisor or counsellor instead of to the person concerned and, where applicable, communicate the decision to the person concerned.

2. The decision referred to in paragraph 1 shall contain information on the legal remedies available, including on the right to apply for suspensive effect, where applicable, and on the time limits applicable for seeking such remedies and for carrying out the transfer, and shall, if necessary, contain information on the place where, and the date on which, the person concerned should appear, if that person is travelling to the Member State responsible by his or her own means.

Member States shall ensure that information on persons or entities that may provide legal assistance to the person concerned is communicated to the person concerned together with the decision referred to in paragraph 1, when that information has not been already communicated.

3. When the person concerned is not assisted or represented by a legal advisor or other counsellor, Member States shall inform him or her of the main elements of the decision, which shall always include information on the legal remedies available and the time limits applicable for seeking such remedies, in a language that the person concerned understands or is reasonably supposed to understand.

Article 27

Remedies

1. The applicant or another person as referred to in Article 18(1)(c) or (d) shall have the right to an effective remedy, in the form of an appeal or a review, in fact and in law, against a transfer decision, before a court or tribunal.

2. Member States shall provide for a reasonable period of time within which the person concerned may exercise his or her right to an effective remedy pursuant to paragraph 1.

([1]) OJ L 348, 24.12.2008, p. 98.

3. For the purposes of appeals against, or reviews of, transfer decisions, Member States shall provide in their national law that:

(a) the appeal or review confers upon the person concerned the right to remain in the Member State concerned pending the outcome of the appeal or review; or

(b) the transfer is automatically suspended and such suspension lapses after a certain reasonable period of time, during which a court or a tribunal, after a close and rigorous scrutiny, shall have taken a decision whether to grant suspensive effect to an appeal or review; or

(c) the person concerned has the opportunity to request within a reasonable period of time a court or tribunal to suspend the implementation of the transfer decision pending the outcome of his or her appeal or review. Member States shall ensure that an effective remedy is in place by suspending the transfer until the decision on the first suspension request is taken. Any decision on whether to suspend the implementation of the transfer decision shall be taken within a reasonable period of time, while permitting a close and rigorous scrutiny of the suspension request. A decision not to suspend the implementation of the transfer decision shall state the reasons on which it is based.

4. Member States may provide that the competent authorities may decide, acting *ex officio*, to suspend the implementation of the transfer decision pending the outcome of the appeal or review.

5. Member States shall ensure that the person concerned has access to legal assistance and, where necessary, to linguistic assistance.

6. Member States shall ensure that legal assistance is granted on request free of charge where the person concerned cannot afford the costs involved. Member States may provide that, as regards fees and other costs, the treatment of applicants shall not be more favourable than the treatment generally accorded to their nationals in matters pertaining to legal assistance.

Without arbitrarily restricting access to legal assistance, Member States may provide that free legal assistance and representation not be granted where the appeal or review is considered by the competent authority or a court or tribunal to have no tangible prospect of success.

Where a decision not to grant free legal assistance and representation pursuant to this paragraph is taken by an authority other than a court or tribunal, Member States shall provide the right to an effective remedy before a court or tribunal to challenge that decision.

In complying with the requirements set out in this paragraph, Member States shall ensure that legal assistance and representation is not arbitrarily restricted and that the applicant's effective access to justice is not hindered.

Legal assistance shall include at least the preparation of the required procedural documents and representation before a court or tribunal and may be restricted to legal advisors or counsellors specifically designated by national law to provide assistance and representation.

Procedures for access to legal assistance shall be laid down in national law.

SECTION V

Detention for the purpose of transfer

Article 28

Detention

1. Member States shall not hold a person in detention for the sole reason that he or she is subject to the procedure established by this Regulation.

2. When there is a significant risk of absconding, Member States may detain the person concerned in order to secure transfer procedures in accordance with this Regulation, on the basis of an individual assessment and only in so far as detention is proportional and other less coercive alternative measures cannot be applied effectively.

3. Detention shall be for as short a period as possible and shall be for no longer than the time reasonably necessary to fulfil the required administrative procedures with due diligence until the transfer under this Regulation is carried out.

Where a person is detained pursuant to this Article, the period for submitting a take charge or take back request shall not exceed one month from the lodging of the application. The Member State carrying out the procedure in accordance with this Regulation shall ask for an urgent reply in such cases. Such reply shall be given within two weeks of receipt of the request. Failure to reply within the two-week period shall be tantamount to accepting the request and shall entail the obligation to take charge or take back the person, including the obligation to provide for proper arrangements for arrival.

Where a person is detained pursuant to this Article, the transfer of that person from the requesting Member State to the Member State responsible shall be carried out as soon as practically possible, and at the latest within six weeks of the implicit or explicit acceptance of the request by another Member State to take charge or to take back the person concerned or of the moment when the appeal or review no longer has a suspensive effect in accordance with Article 27(3).

When the requesting Member State fails to comply with the deadlines for submitting a take charge or take back request or where the transfer does not take place within the period of six weeks referred to in the third subparagraph, the person shall no longer be detained. Articles 21, 23, 24 and 29 shall continue to apply accordingly.

4. As regards the detention conditions and the guarantees applicable to persons detained, in order to secure the transfer procedures to the Member State responsible, Articles 9, 10 and 11 of Directive 2013/33/EU shall apply.

SECTION VI

Transfers

Article 29

Modalities and time limits

1. The transfer of the applicant or of another person as referred to in Article 18(1)(c) or (d) from the requesting Member State to the Member State responsible shall be carried out in accordance with the national law of the requesting Member State, after consultation between the Member States concerned, as soon as practically possible, and at the latest within six months of acceptance of the request by another Member State to take charge or to take back the person concerned or of the final decision on an appeal or review where there is a suspensive effect in accordance with Article 27(3).

If transfers to the Member State responsible are carried out by supervised departure or under escort, Member States shall ensure that they are carried out in a humane manner and with full respect for fundamental rights and human dignity.

If necessary, the applicant shall be supplied by the requesting Member State with a *laissez passer*. The Commission shall, by means of implementing acts, establish the design of the *laissez passer*. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 44(2).

The Member State responsible shall inform the requesting Member State, as appropriate, of the safe arrival of the person concerned or of the fact that he or she did not appear within the set time limit.

2. Where the transfer does not take place within the six months' time limit, the Member State responsible shall be relieved of its obligations to take charge or to take back the person concerned and responsibility shall then be transferred to the requesting Member State. This time limit may be extended up to a maximum of one year if the transfer could not be carried out due to imprisonment of the person concerned or up to a maximum of eighteen months if the person concerned absconds.

3. If a person has been transferred erroneously or a decision to transfer is overturned on appeal or review after the transfer has been carried out, the Member State which carried out the transfer shall promptly accept that person back.

4. The Commission shall, by means of implementing acts, establish uniform conditions for the consultation and exchange of information between Member States, in particular in the event of postponed or delayed transfers, transfers following acceptance by default, transfers of minors or dependent persons, and supervised transfers. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 44(2).

Article 30

Costs of transfer

1. The costs necessary to transfer an applicant or another person as referred to in Article 18(1)(c) or (d) to the Member State responsible shall be met by the transferring Member State.

2. Where the person concerned has to be transferred back to a Member State as a result of an erroneous transfer or of a transfer decision that has been overturned on appeal or review after the transfer has been carried out, the Member State which initially carried out the transfer shall be responsible for the costs of transferring the person concerned back to its territory.

3. Persons to be transferred pursuant to this Regulation shall not be required to meet the costs of such transfers.

Article 31

Exchange of relevant information before a transfer is carried out

1. The Member State carrying out the transfer of an applicant or of another person as referred to in Article 18(1)(c) or (d) shall communicate to the Member State responsible such personal data concerning the person to be transferred as is appropriate, relevant and non-excessive for the sole purposes of ensuring that the competent authorities, in accordance with national law in the Member State responsible, are in a position to provide that person with adequate assistance, including the provision of immediate health care required in order to protect his or her vital interests, and to ensure continuity in the protection and rights afforded by this Regulation and by other relevant asylum legal instruments. Those data shall be communicated to the Member State responsible within a reasonable period of time before a transfer is carried out, in order to ensure that its competent authorities in accordance with national law have sufficient time to take the necessary measures.

2. The transferring Member State shall, in so far as such information is available to the competent authority in accordance with national law, transmit to the Member State responsible any information that is essential in order to safeguard the rights and immediate special needs of the person to be transferred, and in particular:

(a) any immediate measures which the Member State responsible is required to take in order to ensure that the special needs of the person to be transferred are adequately addressed, including any immediate health care that may be required;

(b) contact details of family members, relatives or any other family relations in the receiving Member State, where applicable;

(c) in the case of minors, information on their education;

(d) an assessment of the age of an applicant.

3. The exchange of information under this Article shall only take place between the authorities notified to the Commission in accordance with Article 35 of this Regulation using the 'DubliNet' electronic communication network set-up under Article 18 of Regulation (EC) No 1560/2003. The information exchanged shall only be used for the purposes set out in paragraph 1 of this Article and shall not be further processed.

4. With a view to facilitating the exchange of information between Member States, the Commission shall, by means of implementing acts, draw up a standard form for the transfer of the data required pursuant to this Article. Those implementing acts shall be adopted in accordance with the examination procedure laid down in Article 44(2).

5. The rules laid down in Article 34(8) to (12) shall apply to the exchange of information pursuant to this Article.

Article 32

Exchange of health data before a transfer is carried out

1. For the sole purpose of the provision of medical care or treatment, in particular concerning disabled persons, elderly people, pregnant women, minors and persons who have been subject to torture, rape or other serious forms of psychological, physical and sexual violence, the transferring Member State shall, in so far as it is available to the competent authority in accordance with national law, transmit to the Member State responsible information on any special needs of the person to be transferred, which in specific cases may include information on that person's physical or mental health. That information shall be transferred in a common health certificate with the necessary documents attached. The Member State responsible shall ensure that those special needs are adequately addressed, including in particular any essential medical care that may be required.

The Commission shall, by means of implementing acts, draw up the common health certificate. Those implementing acts shall be adopted in accordance with the examination procedure laid down in Article 44(2).

2. The transferring Member State shall only transmit the information referred to in paragraph 1 to the Member State responsible after having obtained the explicit consent of the applicant and/or of his or her representative or, if the applicant is physically or legally incapable of giving his or her consent, when such transmission is necessary to protect the vital interests of the applicant or of another person. The lack of consent, including a refusal to consent, shall not constitute an obstacle to the transfer.

3. The processing of personal health data referred to in paragraph 1 shall only be carried out by a health professional who is subject, under national law or rules established by national competent bodies, to the obligation of professional secrecy or by another person subject to an equivalent obligation of professional secrecy.

4. The exchange of information under this Article shall only take place between the health professionals or other persons referred to in paragraph 3. The information exchanged shall only be used for the purposes set out in paragraph 1 and shall not be further processed.

5. The Commission shall, by means of implementing acts, adopt uniform conditions and practical arrangements for exchanging the information referred to in paragraph 1 of this Article. Those implementing acts shall be adopted in accordance with the examination procedure laid down in Article 44(2).

6. The rules laid down in Article 34(8) to (12) shall apply to the exchange of information pursuant to this Article.

Article 33

A mechanism for early warning, preparedness and crisis management

1. Where, on the basis of, in particular, the information gathered by EASO pursuant to Regulation (EU) No 439/2010, the Commission establishes that the application of this Regulation may be jeopardised due either to a substantiated risk of particular pressure being placed on a Member State's asylum system and/or to problems in the functioning of the asylum system of a Member State, it shall, in cooperation with EASO, make recommendations to that Member State, inviting it to draw up a preventive action plan.

The Member State concerned shall inform the Council and the Commission whether it intends to present a preventive action plan in order to overcome the pressure and/or problems in the functioning of its asylum system whilst ensuring the protection of the fundamental rights of applicants for international protection.

A Member State may, at its own discretion and initiative, draw up a preventive action plan and subsequent revisions thereof. When drawing up a preventive action plan, the Member State may call for the assistance of the Commission, other Member States, EASO and other relevant Union agencies.

2. Where a preventive action plan is drawn up, the Member State concerned shall submit it and shall regularly report on its implementation to the Council and to the Commission. The Commission shall subsequently inform the European Parliament of the key elements of the preventive action plan. The Commission shall submit reports on its implementation to the Council and transmit reports on its implementation to the European Parliament.

The Member State concerned shall take all appropriate measures to deal with the situation of particular pressure on its asylum system or to ensure that the deficiencies identified are addressed before the situation deteriorates. Where the preventive action plan includes measures aimed at addressing particular pressure on a Member State's asylum system which may jeopardise the application of this Regulation, the Commission shall seek the advice of EASO before reporting to the European Parliament and to the Council.

3. Where the Commission establishes, on the basis of EASO's analysis, that the implementation of the preventive action plan has not remedied the deficiencies identified or where there is a serious risk that the asylum situation in the Member State concerned develops into a crisis which is unlikely to be remedied by a preventive action plan, the Commission, in cooperation with EASO as applicable, may request the Member State concerned to draw up a crisis management action plan and, where necessary, revisions thereof. The crisis management action plan shall ensure, throughout the entire process, compliance with the asylum *acquis* of the Union, in particular with the fundamental rights of applicants for international protection.

Following the request to draw up a crisis management action plan, the Member State concerned shall, in cooperation with the Commission and EASO, do so promptly, and at the latest within three months of the request.

The Member State concerned shall submit its crisis management action plan and shall report, at least every three months, on its implementation to the Commission and other relevant stakeholders, such as EASO, as appropriate.

The Commission shall inform the European Parliament and the Council of the crisis management action plan, possible revisions and the implementation thereof. In those reports, the Member State concerned shall report on data to monitor compliance with the crisis management action plan, such as the length of the procedure, the detention conditions and the reception capacity in relation to the inflow of applicants.

4. Throughout the entire process for early warning, preparedness and crisis management established in this Article, the Council shall closely monitor the situation and may request further information and provide political guidance, in particular as regards the urgency and severity of the situation and thus the need for a Member State to draw up either a preventive action plan or, if necessary, a crisis management action plan. The European Parliament and the Council may, throughout the entire process, discuss and provide guidance on any solidarity measures as they deem appropriate.

CHAPTER VII

ADMINISTRATIVE COOPERATION

Article 34

Information sharing

1. Each Member State shall communicate to any Member State that so requests such personal data concerning the applicant as is appropriate, relevant and non-excessive for:

(a) determining the Member State responsible;

(b) examining the application for international protection;

(c) implementing any obligation arising under this Regulation.

2. The information referred to in paragraph 1 may only cover:

(a) personal details of the applicant, and, where appropriate, his or her family members, relatives or any other family relations (full name and where appropriate, former name; nicknames or pseudonyms; nationality, present and former; date and place of birth);

(b) identity and travel papers (references, validity, date of issue, issuing authority, place of issue, etc.);

(c) other information necessary for establishing the identity of the applicant, including fingerprints processed in accordance with Regulation (EU) No 603/2013;

(d) places of residence and routes travelled;

(e) residence documents or visas issued by a Member State;

(f) the place where the application was lodged;

(g) the date on which any previous application for international protection was lodged, the date on which the present application was lodged, the stage reached in the proceedings and the decision taken, if any.

3. Furthermore, provided it is necessary for the examination of the application for international protection, the Member State responsible may request another Member State to let it know on what grounds the applicant bases his or her application and, where applicable, the grounds for any decisions taken concerning the applicant. The other Member State may refuse to respond to the request submitted to it, if the communication of such information is likely to harm its essential interests or the protection of the liberties and fundamental rights of the person concerned or of others. In any event, communication of the information requested shall be subject to the written approval of the applicant for international protection, obtained by the requesting Member State. In that case, the applicant must know for what specific information he or she is giving his or her approval.

4. Any request for information shall only be sent in the context of an individual application for international protection. It shall set out the grounds on which it is based and, where its purpose is to check whether there is a criterion that is likely to entail the responsibility of the requested Member State, shall state on what evidence, including relevant information from reliable sources on the ways and means by which applicants enter the territories of the Member States, or on what specific and verifiable part of the applicant's statements it is based. It is understood that such relevant information from reliable sources is not in itself sufficient to determine the responsibility and the competence of a Member State under this Regulation, but it may contribute to the evaluation of other indications relating to an individual applicant.

5. The requested Member State shall be obliged to reply within five weeks. Any delays in the reply shall be duly justified. Non-compliance with the five week time limit shall not relieve the requested Member State of the obligation to reply. If the research carried out by the requested Member State which did not respect the maximum time limit withholds information which shows that it is responsible, that Member State may not invoke the expiry of the time limits provided for in Articles 21, 23 and 24 as a reason for refusing to comply with a request to take charge or take back. In that case, the time limits provided for in Articles 21, 23 and 24 for submitting a request to take charge or take back shall be extended by a period of time which shall be equivalent to the delay in the reply by the requested Member State.

6. The exchange of information shall be effected at the request of a Member State and may only take place between authorities whose designation by each Member State has been communicated to the Commission in accordance with Article 35(1).

7. The information exchanged may only be used for the purposes set out in paragraph 1. In each Member State such information may, depending on its type and the powers of the recipient authority, only be communicated to the authorities and courts and tribunals entrusted with:

(a) determining the Member State responsible;

(b) examining the application for international protection;

(c) implementing any obligation arising under this Regulation.

8. The Member State which forwards the information shall ensure that it is accurate and up-to-date. If it transpires that it has forwarded information which is inaccurate or which should not have been forwarded, the recipient Member States shall be informed thereof immediately. They shall be obliged to correct such information or to have it erased.

9. The applicant shall have the right to be informed, on request, of any data that is processed concerning him or her.

If the applicant finds that the data have been processed in breach of this Regulation or of Directive 95/46/EC, in particular because they are incomplete or inaccurate, he or she shall be entitled to have them corrected or erased.

The authority correcting or erasing the data shall inform, as appropriate, the Member State transmitting or receiving the information.

The applicant shall have the right to bring an action or a complaint before the competent authorities or courts or tribunals of the Member State which refused the right of access to or the right of correction or erasure of data relating to him or her.

10. In each Member State concerned, a record shall be kept, in the individual file for the person concerned and/or in a register, of the transmission and receipt of information exchanged.

11. The data exchanged shall be kept for a period not exceeding that which is necessary for the purposes for which they are exchanged.

12. Where the data are not processed automatically or are not contained, or intended to be entered, in a file, each Member State shall take appropriate measures to ensure compliance with this Article through effective checks.

Article 35

Competent authorities and resources

1. Each Member State shall notify the Commission without delay of the specific authorities responsible for fulfilling the obligations arising under this Regulation, and any amendments thereto. The Member States shall ensure that those authorities have the necessary resources for carrying out their tasks and in particular for replying within the prescribed time limits to requests for information, requests to take charge of and requests to take back applicants.

2. The Commission shall publish a consolidated list of the authorities referred to in paragraph 1 in the *Official Journal of the European Union*. Where there are amendments thereto, the Commission shall publish once a year an updated consolidated list.

3. The authorities referred to in paragraph 1 shall receive the necessary training with respect to the application of this Regulation.

4. The Commission shall, by means of implementing acts, establish secure electronic transmission channels between the authorities referred to in paragraph 1 for transmitting requests, replies and all written correspondence and for ensuring that senders automatically receive an electronic proof of delivery. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 44(2).

Article 36

Administrative arrangements

1. Member States may, on a bilateral basis, establish administrative arrangements between themselves concerning the practical details of the implementation of this Regulation, in order to facilitate its application and increase its effectiveness. Such arrangements may relate to:

(a) exchanges of liaison officers;

(b) simplification of the procedures and shortening of the time limits relating to transmission and the examination of requests to take charge of or take back applicants.

2. Member States may also maintain the administrative arrangements concluded under Regulation (EC) No 343/2003. To the extent that such arrangements are not compatible with this Regulation, the Member States concerned shall amend the arrangements in such a way as to eliminate any incompatibilities observed.

3. Before concluding or amending any arrangement referred to in paragraph 1(b), the Member States concerned shall consult the Commission as to the compatibility of the arrangement with this Regulation.

4. If the Commission considers the arrangements referred to in paragraph 1(b) to be incompatible with this Regulation, it shall, within a reasonable period, notify the Member States concerned. The Member States shall take all appropriate steps to amend the arrangement concerned within a reasonable time in such a way as to eliminate any incompatibilities observed.

5. Member States shall notify the Commission of all arrangements referred to in paragraph 1, and of any denunciation thereof, or amendment thereto.

CHAPTER VIII

CONCILIATION

Article 37

Conciliation

1. Where the Member States cannot resolve a dispute on any matter related to the application of this Regulation, they may have recourse to the conciliation procedure provided for in paragraph 2.

2. The conciliation procedure shall be initiated by a request from one of the Member States in dispute to the Chairman of the Committee set up by Article 44. By agreeing to use the conciliation procedure, the Member States concerned undertake to take the utmost account of the solution proposed.

The Chairman of the Committee shall appoint three members of the Committee representing three Member States not connected with the matter. They shall receive the arguments of the parties either in writing or orally and, after deliberation, shall propose a solution within one month, where necessary after a vote.

The Chairman of the Committee, or his or her deputy, shall chair the discussion. He or she may put forward his or her point of view but may not vote.

Whether it is adopted or rejected by the parties, the solution proposed shall be final and irrevocable.

CHAPTER IX

TRANSITIONAL PROVISIONS AND FINAL PROVISIONS

Article 38

Data security and data protection

Member States shall take all appropriate measures to ensure the security of transmitted personal data and in particular to avoid unlawful or unauthorised access or disclosure, alteration or loss of personal data processed.

Each Member State shall provide that the national supervisory authority or authorities designated pursuant to Article 28(1) of Directive 95/46/EC shall monitor independently, in accordance with its respective national law, the lawfulness of the processing, in accordance with this Regulation, of personal data by the Member State in question.

Article 39

Confidentiality

Member States shall ensure that the authorities referred to in Article 35 are bound by the confidentiality rules provided for in national law, in relation to any information they obtain in the course of their work.

Article 40

Penalties

Member States shall take the necessary measures to ensure that any misuse of data processed in accordance with this Regulation is punishable by penalties, including administrative and/or criminal penalties in accordance with national law, that are effective, proportionate and dissuasive.

Article 41

Transitional measures

Where an application has been lodged after the date mentioned in the second paragraph of Article 49, the events that are likely to entail the responsibility of a Member State under this Regulation shall be taken into consideration, even if they precede that date, with the exception of the events mentioned in Article 13(2).

Article 42

Calculation of time limits

Any period of time prescribed in this Regulation shall be calculated as follows:

(a) where a period expressed in days, weeks or months is to be calculated from the moment at which an event occurs or an action takes place, the day during which that event occurs or that action takes place shall not be counted as falling within the period in question;

(b) a period expressed in weeks or months shall end with the expiry of whichever day in the last week or month is the same day of the week or falls on the same date as the day during which the event or action from which the period is to be calculated occurred or took place. If, in a period expressed in months, the day on which it should expire does not occur in the last month, the period shall end with the expiry of the last day of that month;

(c) time limits shall include Saturdays, Sundays and official holidays in any of the Member States concerned.

Article 43

Territorial scope

As far as the French Republic is concerned, this Regulation shall apply only to its European territory.

Article 44

Committee

1. The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

Where the committee delivers no opinion, the Commission shall not adopt the draft implementing act and the third subparagraph of Article 5(4) of Regulation (EU) No 182/2011 shall apply.

Article 45

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The power to adopt delegated acts referred to in Articles 8(5) and 16(3) shall be conferred on the Commission for a period of 5 years from the date of entry into force of this Regulation. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the 5-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.

3. The delegation of power referred to in Articles 8(5) and 16(3) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

5. A delegated act adopted pursuant to Articles 8(5) and 16(3) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of four months of notification of that act to the European Parliament and to the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

Article 46

Monitoring and evaluation

By 21 July 2016, the Commission shall report to the European Parliament and to the Council on the application of this Regulation and, where appropriate, shall propose the necessary amendments. Member States shall forward to the Commission all information appropriate for the preparation of that report, at the latest six months before that time limit expires.

After having submitted that report, the Commission shall report to the European Parliament and to the Council on the application of this Regulation at the same time as it submits reports on the implementation of the Eurodac system provided for by Article 40 of Regulation (EU) No 603/2013.

Article 47

Statistics

In accordance with Article 4(4) of Regulation (EC) No 862/2007 of the European Parliament and of the Council of 11 July 2007 on Community statistics on migration and international protection ([1]), Member States shall communicate to the Commission (Eurostat), statistics concerning the application of this Regulation and of Regulation (EC) No 1560/2003.

Article 48

Repeal

Regulation (EC) No 343/2003 is repealed.

Articles 11(1), 13, 14 and 17 of Regulation (EC) No 1560/2003 are repealed.

References to the repealed Regulation or Articles shall be construed as references to this Regulation and shall be read in accordance with the correlation table in Annex II.

Article 49

Entry into force and applicability

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

It shall apply to applications for international protection lodged as from the first day of the sixth month following its entry into force and, from that date, it will apply to any request to take charge of or take back applicants, irrespective of the date on which the application was made. The Member State responsible for the examination of an application for international protection submitted before that date shall be determined in accordance with the criteria set out in Regulation (EC) No 343/2003.

References in this Regulation to Regulation (EU) No 603/2013, Directive 2013/32/EU and Directive 2013/33/EU shall be construed, until the dates of their application, as references to Regulation (EC) No 2725/2000 ([2]), Directive 2003/9/EC ([3]) and Directive 2005/85/EC ([4]) respectively.

This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaties.

Done at Brussels, 26 June 2013.

For the European Parliament
The President
M. SCHULZ

For the Council
The President
A. SHATTER

([1]) OJ L 199, 31.7.2007, p. 23.

([2]) Council Regulation (EC) No 2725/2000 of 11 December 2000 concerning the establishment of 'Eurodac' for the comparison of fingerprints for the effective application of the Dublin Convention (OJ L 316, 15.12.2000, p. 1).

([3]) Council Directive 2003/9/EC of 27 January 2003 laying down minimum standards for the reception of asylum seekers (OJ L 31, 6.2.2003, p. 18).

([4]) Council Directive 2005/85/EC of 1 December 2005 on minimum standards on procedures for granting and withdrawing refugee status (OJ L 326, 13.12.2005, p. 13).

ANNEX I

Repealed Regulations (referred to in Article 48)

Council Regulation (EC) No 343/2003

(OJ L 50, 25.2.2003, p. 1)

Commission Regulation (EC) No 1560/2003 only Articles 11(1), 13, 14 and 17

(OJ L 222, 5.9.2003, p. 3)

ANNEX II

Correlation table

Regulation (EC) No 343/2003	This Regulation
Article 1	Article 1
Article 2(a)	Article 2(a)
Article 2(b)	—
Article 2(c)	Article 2(b)
Article 2(d)	Article 2(c)
Article 2(e)	Article 2(d)
Article 2(f)	Article 2(e)
Article 2(g)	Article 2(f)
—	Article 2(h)
—	Article 2(i)
Article 2(h)	Article 2(j)
Article 2(i)	Article 2(g)
—	Article 2(k)
Article 2(j) and (k)	Article 2(l) and (m)
—	Article 2(n)
Article 3(1)	Article 3(1)
Article 3(2)	Article 17(1)
Article 3(3)	Article 3(3)
Article 3(4)	Article 4(1), introductory wording
—	Article 4(1)(a) to (f)
—	Article 4(2) and (3)
Article 4(1) to (5)	Article 20(1) to (5)
—	Article 20(5), third subparagraph
—	Article 5
—	Article 6
Article 5(1)	Article 7(1)
Article 5(2)	Article 7(2)
—	Article 7(3)
Article 6, first paragraph	Article 8(1)
—	Article 8(3)
Article 6, second paragraph	Article 8(4)
Article 7	Article 9

Regulation (EC) No 343/2003	This Regulation
Article 8	Article 10
Article 9	Article 12
Article 10	Article 13
Article 11	Article 14
Article 12	Article 15
—	Article 16
Article 13	Article 3(2)
Article 14	Article 11
Article 15(1)	Article 17(2), first subparagraph
Article 15(2)	Article 16(1)
Article 15(3)	Article 8(2)
Article 15(4)	Article 17(2), fourth subparagraph
Article 15(5)	Articles 8(5) and (6) and Article 16(2)
Article 16(1)(a)	Article 18(1)(a)
Article 16(1)(b)	Article 18(2)
Article 16(1)(c)	Article 18(1)(b)
Article 16(1)(d)	Article 18(1)(c)
Article 16(1)(e)	Article 18(1)(d)
Article 16(2)	Article 19(1)
Article 16(3)	Article 19(2), first subparagraph
—	Article 19(2), second subparagraph
Article 16(4)	Article 19(3)
—	Article 19(3), second subparagraph
Article 17	Article 21
Article 18	Article 22
Article 19(1)	Article 26(1)
Article 19(2)	Article 26(2) and Article 27(1)
—	Article 27(2) to (6)
Article 19(3)	Article 29(1)
Article 19(4)	Article 29(2)
—	Article 29(3)
Article 19(5)	Article 29(4)
Article 20(1), introductory wording	Article 23(1)
—	Article 23(2)
—	Article 23(3)

Regulation (EC) No 343/2003	This Regulation
—	Article 23(4)
Article 20(1)(a)	Article 23(5), first subparagraph
—	Article 24
Article 20(1)(b)	Article 25(1)
Article 20(1)(c)	Article 25(2)
Article 20(1)(d)	Article 29(1), first subparagraph
Article 20(1)(e)	Article 26(1), (2), Article 27(1), Article 29(1), second and third subparagraphs
Article 20(2)	Article 29(2)
Article 20(3)	Article 23(5), second subparagraph
Article 20(4)	Article 29(4)
—	Article 28
—	Article 30
—	Article 31
—	Article 32
—	Article 33
Article 21(1) to (9)	Article 34(1) to (9), first to third subparagraphs
—	Article 34(9), fourth subparagraph
Article 21(10) to (12)	Article 34(10) to (12)
Article 22(1)	Article 35(1)
—	Article 35(2)
—	Article 35(3)
Article 22(2)	Article 35(4)
Article 23	Article 36
—	Article 37
—	Article 40
Article 24(1)	—
Article 24(2)	Article 41
Article 24(3)	—
Article 25(1)	Article 42
Article 25(2)	—
Article 26	Article 43

Regulation (EC) No 343/2003	This Regulation
Article 27(1), (2)	Article 44(1), (2)
Article 27(3)	—
—	Article 45
Article 28	Article 46
—	Article 47
—	Article 48
Article 29	Article 49

Regulation (EC) No 1560/2003	This Regulation
Article 11(1)	—
Article 13(1)	Article 17(2), first subparagraph
Article 13(2)	Article 17(2), second subparagraph
Article 13(3)	Article 17(2), third subparagraph
Article 13(4)	Article 17(2), first subparagraph
Article 14	Article 37
Article 17(1)	Articles 9, 10, 17(2), first subparagraph
Article 17(2)	Article 34(3)

REGULATION (EU) No 604/2013 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 26 June 2013

establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (recast)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 78(2)(e) thereof,

Having regard to the proposal from the European Commission,

Having regard to the opinion of the European Economic and Social Committee [1],

Having regard to the opinion of the Committee of the Regions [2],

Acting in accordance with the ordinary legislative procedure [3],

Whereas:

(1) A number of substantive changes are to be made to Council Regulation (EC) No 343/2003 of 18 February 2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national [4]. In the interests of clarity, that Regulation should be recast.

(2) A common policy on asylum, including a Common European Asylum System (CEAS), is a constituent part of the European Union's objective of progressively establishing an area of freedom, security and justice open to those who, forced by circumstances, legitimately seek protection in the Union.

(3) The European Council, at its special meeting in Tampere on 15 and 16 October 1999, agreed to work towards establishing the CEAS, based on the full and inclusive application of the Geneva Convention Relating to the Status of Refugees of 28 July 1951, as supplemented by the New York Protocol of 31 January 1967 ('the Geneva Convention'), thus ensuring that nobody is sent back to persecution, i.e. maintaining the principle of *non-refoulement*. In this respect, and without the responsibility criteria laid down in this Regulation being affected, Member States, all respecting the principle of *non-refoulement*, are considered as safe countries for third-country nationals.

(4) The Tampere conclusions also stated that the CEAS should include, in the short-term, a clear and workable method for determining the Member State responsible for the examination of an asylum application.

(5) Such a method should be based on objective, fair criteria both for the Member States and for the persons concerned. It should, in particular, make it possible to determine rapidly the Member State responsible, so as to guarantee effective access to the procedures for granting international protection and not to compromise the objective of the rapid processing of applications for international protection.

(6) The first phase in the creation of a CEAS that should lead, in the longer term, to a common procedure and a uniform status, valid throughout the Union, for those granted international protection, has now been completed. The European Council of 4 November 2004 adopted The Hague Programme which set the objectives to be implemented in the area of freedom, security and justice in the period 2005-2010. In this respect, The Hague Programme invited the European Commission to conclude the evaluation of the first-phase legal instruments and to submit the second-phase instruments and measures to the European Parliament and to the Council with a view to their adoption before 2010.

(7) In the Stockholm Programme, the European Council reiterated its commitment to the objective of establishing a common area of protection and solidarity in accordance with Article 78 of the Treaty on the Functioning of the European Union (TFEU), for those granted

[1] OJ C 317, 23.12.2009, p. 115.
[2] OJ C 79, 27.3.2010, p. 58.
[3] Position of the European Parliament of 7 May 2009 (OJ C 212 E, 5.8.2010, p. 370) and position of the Council at first reading of 6 June 2013 (not yet published in the Official Journal). Position of the European Parliament of 10 June 2013 (not yet published in the Official Journal).
[4] OJ L 50, 25.2.2003, p. 1.

9.4.2 European Commission Algorithm

EUROPEAN
COMMISSION

Brussels, 9.9.2015
COM(2015) 450 final

2015/0208 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

establishing a crisis relocation mechanism and amending Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third country national or a stateless person

EN EN

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

- **Reasons for and objectives of the proposal**

The European Agenda on Migration adopted by the European Commission on 13 May 2015[1] outlines immediate measures required to respond to the current urgent and complex challenges in the area of migration as well as medium and long term initiatives that need to be taken to provide structural solutions for better managing migration in all its aspects.

As part of the immediate measures, on 27 May 2015, the European Commission adopted a proposal for a Council Decision establishing provisional measures in the area of international protection for the benefit of Italy and Greece[2], by which it triggered the emergency response system envisaged under Article 78(3) of the Treaty on the Functioning of the European Union (TFEU). On 20 July 2015, the Council reached a general approach on this Decision[3] which establishes a temporary and exceptional relocation mechanism for persons in clear need of international protection over two years from Italy and Greece to other Member States. The Council should formally adopt the Decision once the European Parliament gives its opinion, which is expected in September 2015.

Due to the unprecedented flows of migrants which continued to increase in Italy and Greece and the shift in the migration flows from the Central to the East Mediterranean and the Western Balkans route towards Hungary, the Commission has adopted [on 9 September 2015] another proposal based on Article 78(3) TFEU containing further provisional measures to relieve the asylum pressure from Italy and Greece, as well as a new measure for the benefit of Hungary.

The European Commission also announced that the triggering of the emergency response system under Article 78(3) TFEU will be the precursor of a lasting solution. It announced in that respect that it will table by the end of 2015 a legislative proposal for a permanent system for relocation that should be triggered in crisis situations.

The overall objective of this legislative proposal is to ensure that the Union has at its disposal a robust crisis relocation mechanism to structurally deal with situations of crisis in the asylum area in an effective manner. Such mechanism should be rapidly triggered in respect of any Member State that experiences crisis situations of such a magnitude as to put under significant strain even well prepared and functioning asylum systems, also taking into account the size of the Member State concerned. The proposed relocation mechanism aims, on the one hand, to ensure, in situations of crisis, a fair sharing of responsibilities between Member States for large numbers of applicants in clear need of international protection, and, on the other hand, the proper application of the Dublin system including the full protection of the rights of applicants for international protection. Whereas the proposal aims to introduce in Regulation (EU) No 604/2013 a crisis relocation mechanism as a permanent framework for the implementation of relocation measures, these measures will be applied in respect of specific crisis situations in a given Member State and will, by definition, remain temporary.

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1 COM(2015) 240 final.

2 COM (2015) 286 final.

3 11132/15, 24 July 2015.

- **Consistency with existing policy provisions in the policy area**

A comprehensive migration approach

The proposal is part of a comprehensive and systemic approach towards migration called for by all Union institutions and which the Commission started to implement immediately after the adoption of the European Agenda on Migration. Key to guaranteeing the effectiveness of such a comprehensive approach is ensuring that policies are implemented on the ground in a coherent and complementary manner. Therefore, where needed in light of the specific situation of a Member State, the crisis relocation mechanism should be complemented by additional measures on the ground to be taken by that Member State, from the arrival on its territory of third country nationals until the completion of all applicable procedures. Under the 'Hotspot' approach proposed by the Commission, the EU Agencies will provide comprehensive and targeted support to Member States which are faced with disproportionate migratory pressures at the external borders. The operational support that can be provided using this approach includes registration and screening of irregular migrants, debriefing of irregular migrants, asylum support by channelling applicants for international protection into the appropriate asylum procedure and assisting with the registration of applications for international protection as well as the preparation of the case files, stepping up information exchange and cooperation for the purposes of investigations into criminal networks facilitating irregular migration into the EU as well as secondary movement within the EU, and the coordination of return operations.

Such a concerted effort will enable Member States to address the migratory pressure in a swifter and more effective manner in full compliance with fundamental rights, and also strengthen their capacities for facing migration, asylum as well as internal security challenges.

Interactions with emergency relocation schemes based on Article 78(3) TFEU

The proposal establishing a crisis relocation mechanism has to be distinguished from the proposals adopted by the Commission on the basis of Article 78(3) TFEU for the benefit of certain Member States confronted with a sudden inflow of third country nationals on their territories.

While the measures proposed by the Commission on the basis of Article 78(3) TFEU are provisional, the proposal establishing a crisis relocation mechanism introduces a method for determining for a temporary period in crisis situations which Member State is responsible for examining applications for international protection made in a Member State confronted with a crisis situation, with a view to ensure a fairer distribution of applicants between Member States in such situations and thereby facilitate the functioning of the Dublin system even in times of crisis.

This proposal sets strict conditions for triggering the crisis relocation mechanism in relation to a given Member State, in particular the fact that the Member State is confronted with a crisis situation jeopardising the application of the Dublin Regulation due to extreme pressure characterised by a large and disproportionate inflow of third-country nationals or stateless persons, which places significant demands on its asylum system.

The establishment of a crisis relocation mechanism is without prejudice to the possibility for the Council to adopt, on a proposal from the Commission, provisional measures for the benefit of a Member State confronted by an emergency situation as characterised by Article 78(3) TFEU. The adoption of emergency measures on the basis of Article 78(3) TFEU will

remain relevant in exceptional situations where an emergency response, possibly encompassing a wider migratory support, is needed, should the conditions for using the crisis relocation mechanism not be met.

Future possible amendments of Regulation (EU) No 604/2013

AS ANNOUNCED IN THE EUROPEAN AGENDA ON MIGRATION AND IN LINE WITH THE OBLIGATIONS DERIVING FROM REGULATION (EU) NO 604/2013, THE COMMISSION IS CURRENTLY UNDERTAKING A COMPREHENSIVE 'FITNESS CHECK' OF THE DUBLIN SYSTEM, BY CONDUCTING AN EVIDENCE-BASED REVIEW COVERING THE LEGAL, ECONOMIC AND SOCIAL EFFECTS OF THE SYSTEM, INCLUDING ITS EFFECTS ON FUNDAMENTAL RIGHTS. THIS WORKS WILL BE THE BASIS FOR A POSSIBLE FURTHER REVISION OF THE DUBLIN SYSTEM, IN PARTICULAR IN VIEW OF ACHIEVING A FAIRER DISTRIBUTION OF APPLICANTS FOR INTERNATIONAL PROTECTION IN EUROPE IN ALL CIRCUMSTANCES AND NOT ONLY IN SITUATIONS OF CRISIS. 2. LEGAL BASIS, SUBSIDIARITY, PROPORTIONALITY, FUNDAMENTAL RIGHTS

- **Legal basis**

This proposal amends Regulation (EU) No 604/2013 and should therefore be adopted on the same legal basis, namely Article 78, second paragraph, point (e) of the TFEU, in accordance with the ordinary legislative procedure.

The crisis relocation mechanism contained in this proposal entails permanent derogations, to be activated in specific situations of crisis to the benefit of specific Member States, notably from the principle laid down in Article 3(1) of Regulation (EU) No 604/2013 according to which an application for international protection shall be examined by the Member State which the criteria set out in Chapter III indicate as being responsible. In place of this principle, the proposal establishes, for well prescribed crisis circumstances, a mandatory distribution key for determining the responsibility for examining applications.

- **Variable geometry**

In accordance with the Protocol on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice annexed to the TEU and to the TFEU, the United Kingdom and Ireland may decide to take part in the adoption of this proposal. They also have this option after adoption of the proposal.

The United Kingdom and Ireland are bound by Regulation 604/2013, following the notification of their wish to take part in the adoption and application of that Regulation based on the above-mentioned Protocol. The position of these Member States with regard to Regulation 604/2013 does not affect their positition with regard to their possible participation in this Regulation[4].

Under the Protocol on the position of Denmark, annexed to the TEU and the TFEU, Denmark does not take part in the adoption by the Council of the measures pursuant to Title V of the TFEU (with the exception of "measures determining the third countries whose nationals must be in possession of a visa when crossing the external borders of the Member States, or measures relating to a uniform format for visas"). However, given that Denmark applies the

[4] For such a Member State, the fact of not participating in the amending Regulation would not appear to make the application of the Dublin Regulation as amended inoperable in the sense of Article 4a of Protocol 21.

current Dublin Regulation, on the basis of an international agreement that it concluded with the EC in 2006[5], it shall, in accordance with Article 3 of that agreement, notify the Commission of its decision whether or not to implement the content of the amended Regulation.

- **Impact of the proposal on non EU Member States associated to the Dublin system**

In parallel to the association of several non-EU Member States to the Schengen acquis, the Union concluded several agreements associating these countries also to the Dublin/Eurodac acquis:

– the agreement associating Iceland and Norway, concluded in 2001[6];

– the agreement associating Switzerland, concluded on 28 February 2008[7];

– the protocol associating Liechtenstein, concluded on 7 March 2011[8].

In order to create rights and obligations between Denmark – which as explained above has been associated to the Dublin/Eurodac acquis via an international agreement – and the associated countries mentioned above, two other instruments have been concluded between the Union and the associated countries[9].

In accordance with the three above-cited agreements, the associated countries shall accept the Dublin/Eurodac acquis and its development without exception. They do not take part in the adoption of any acts amending or building upon the Dublin acquis (including therefore this proposal) but have to notify to the Commission within a given time-frame of their decision whether or not to accept the content of that act, once approved by the Council and the European Parliament. In case Norway, Iceland, Switzerland or Liechtenstein do not accept an act amending or building upon the Dublin/Eurodac acquis, the respective agreements will be terminated, unless the Joint/Mixed Committee established

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5 Agreement between the European Community and the Kingdom of Denmark on the criteria and mechanisms for establishing the State responsible for examining a request for asylum lodged in Denmark or any other Member State of the European Union and "Eurodac" for the comparison of fingerprints for the effective application of the Dublin Convention (OJ L66, 8.3.2006, p.38).

6 Agreement between the European Community and the Republic of Iceland and the Kingdom of Norway concerning the criteria and mechanisms for establishing the State responsible for examining a request for asylum lodged in a Member State or in Iceland or Norway (OJ L 93, 3.4.2001, p. 40).

7 Agreement between the European Community and the Swiss Confederation concerning the criteria and mechanisms for establishing the State responsible for examining a request for asylum lodged in a Member State or in Switzerland (OJ L 53, 27.2.2008, p. 5).

8 Protocol between the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Community and the Swiss Confederation concerning the criteria and mechanisms for establishing the State responsible for examining a request for asylum lodged in a Member State or in Switzerland (OJ L 160 18.6.2011 p. 39).

9 Protocol between the European Community, the Swiss Confederation and the Principality of Liechtenstein to the Agreement between the European Community and the Swiss Confederation concerning the criteria and mechanisms for establishing the State responsible for examining a request for asylum lodged in a Member State or in Switzerland (concluded on 24.10.2008, OJ L 161, 24.06.2009, p. 8) and Protocol to the Agreement between the Community, Republic of Iceland and the Kingdom of Norway concerning the criteria and mechanisms for establishing the State responsible for examining a request for asylum lodged in a Member State, Iceland and Norway (OJ L 93, 3.4.2001).

by the agreements decides otherwise by unanimity.• Subsidiarity (for non-exclusive competence)

Title V of the TFEU on the Area of Freedom, Security and Justice confers certain powers on these matters to the European Union. These powers must be exercised in accordance with Article 5 of the Treaty on the European Union, i.e. if and in so far as the objectives of the proposed action cannot be sufficiently achieved by the Member States and can, therefore, by reason of the scale or effects of the proposed action, be better achieved by the European Union.

The proposal introduces a relocation mechanism with a view to structurally deal with crisis situations in any Member State generated by large and disproportionate inflow of persons and achieve a fair sharing of responsibilities between Member States in times of crisis, involving a derogation from the criteria for allocating responsibility contained in the Dublin regulation. By definition, EU action will intervene where a Member State cannot alone cope with the situation. In addition, the proposal aims at ensuring the correct application of the Dublin system in times of crisis and at tackling the issue of secondary movements of third country nationals between Member States, a problem which is trans-national by nature. It is clear that actions of individual Member States cannot satisfactorily reply to the common challenges all Member States are confronted with in this area. The principles of solidarity and shared responsibility make EU action in this field essential.

- **Proportionality**

Regulation (EU) No 604/2013 does not provide, in its current form, for tools enabling sufficient responses to situations of extreme pressure put on Member States' asylum systems. The various financial and operational measures available to the European Commission and the EASO to support the asylum systems of several Member States have been proven insufficient to alone address crisis situations. In order to provide an adequate framework for urgent and severe situations in the asylum area, opting for further EU action in this respect does not go beyond what is necessary to achieve the objective of addressing the situation effectively.

- **Fundamental rights**

As a result of introducing the crisis relocation mechanism, the fundamental rights as provided for in the EU Charter of Fundamental Rights ("the Charter") of the applicants who are in clear need of international protection will be safeguarded.

In particular, by ensuring a swift access of the persons concerned to an adequate procedure for granting international protection, this proposal aims to protect the right to asylum and to ensure protection against *non-refoulement*, as provided for in Articles 18 and 19 of the Charter. In addition, by ensuring the transfer of the persons concerned to a Member State which is in a position to give them adequate reception conditions and integration perspectives, this proposal aims to ensure full respect for the right to dignity and protection against torture and inhuman or degrading treatment or punishment, as provided for in Articles 1 and 4 of the Charter. This Decision also aims to protect the rights of the child, in line with Article 24 of the Charter and right to family unity, in line with Article 7 of the Charter.

3. CONSULTATION OF INTERESTED PARTIES

The proposal establishing a mechanism to structurally deal with situations of crisis in the asylum area is presented as result of a prevailing crisis in the area of asylum in several

Member States which demonstrates the urgent need for a more structural system for rapid Union action. The proposal is a follow-up to the European Agenda on Migration which has been widely consulted on with all interested parties.

Other EU institutions and key actors have already expressed their broad views on this topic. In its 23 April 2015 statement, the European Council committed to consider options for organising emergency relocation between all Member States on a voluntary basis. In the context of the discussion on the Agenda on Migration, European Parliament (plenary session of 19 May 2015) and the Council (15 June 2015) exchanged views also on the relocation mechanism. In its report, the LIBE Committee of the European Parliament has called upon the Commission to make a proposal for a permanent relocation scheme, to be adopted in accordance with the ordinary legislative procedure[10].

UNHCR and the civil society called the EU to commit to more intra-EU solidarity tools and ensure a fairer distribution system of applicants for international protection.

4. BUDGETARY IMPLICATIONS

The setting up of a permanent framework for a crisis relocation mechanism entails no implication for the EU budget. The budgetary implications of the activation of the framework will have to be assessed in relation to the specific circumstances of given Member States.

5. DETAILED EXPLANATION OF THE SPECIFIC PROVISIONS OF THE PROPOSAL

The proposal amends Regulation (EU) No 604/2013 by introducing a crisis relocation mechanism and conferring the power to the Commission to adopt acts in accordance with Article 290 TFEU in respect of triggering the application of the mechanism as well as its suspension in respect of a particular Member State, under clearly prescribed conditions.

The following essential elements are provided for:

- **Conditions for applying the crisis relocation mechanism in respect of a Member State**

For triggering the crisis relocation mechanism the Commission must establish, on the basis of substantiated information, in particular information gathered by EASO and Frontex, that a Member State is confronted with a crisis situation jeopardizing the application of Regulation (EU) No 604/2013 due to extreme pressure characterised by a large and disproportionate inflow of third-country nationals or stateless persons, which places significant demands on its asylum system. The crisis situation should be of such a magnitude as to place extreme pressure even on a well prepared and functioning asylum system, while also taking into account the size of the Member State concerned.

The proposal provides for clear indicators that the Commission should inter alia take into account in making this assessment: the total number of applicants for international protection and of irregular entries of third country nationals and stateless persons in the six months preceding the adoption of the delegated act, the increase in such numbers compared to the same period in the previous year as well as the number of applications per capita in the

[10] Report on the proposal for a Council decision establishing provisional measures in the area of international protection for the benefit of Italy and Greece, Committee on Civil Liberties, Justice and Home Affairs, Rapporteur: Ska Keller (A8-0245/2015).

Member State benefiting from relocation over the previous 18 months compared to the Union average.

- **Categories of applicants to be relocated**

It is proposed to trigger the crisis relocation mechanism only in respect of applicants who are, *prima facie,* in clear need of international protection and for which the Member State in a crisis situation would have otherwise been responsible, under the criteria set out in Chapter III of Regulation (EU) No 604/2013. The proposal defines those applicants as those belonging to nationalities for which, based on the latest available updated quarterly EU-wide average Eurostat data, the recognition rate is 75% or higher.

- **Description of the crisis relocation mechanism**

Under the crisis relocation mechanism, the applications of these persons shall be examined by another Member State (the Member State of relocation). In such case, the relocation procedure as set out in Annex IV shall apply, in derogation from Articles 21, 22 and 29 of Regulation (EU) No 604/2013.

The proposal sets out a simple relocation procedure, to ensure a quick transfer of the persons concerned to the Member State of relocation. Each Member State shall appoint a national contact point and communicate it to the other Member States and to the European Asylum Support Office (EASO).

Member States shall at regular intervals, and at the latest every three months, indicate the number of applicants who can be relocated swiftly to their territory and any other relevant information. The Member State benefiting from relocation, with the assistance of EASO, and, where applicable, of the other Member States' liaison officers, shall then identify the individual applicants who could be relocated and propose to the other Member States that these applicants be relocated to their territory. In doing so, priority should be given to vulnerable applicants. Following approval of the Member State of relocation, a formal decision to relocate an applicant needs then to be taken by the Member State benefiting from relocation and notified to the applicant. The proposal specifies that applicants whose fingerprints are required to be taken pursuant to the obligations set out in Article 9 of Regulation (EU) No 603/2013 may not be relocated unless their fingerprints have been taken. The proposal also specifies that Member States retain the right to refuse to relocate an applicant only in relation to national security or public order concerns or exclusion provisions set out in Article 12 and 17 of Directive 2011/95/EU. The proposal foresees that all the procedural steps must be carried out as soon as possible and no later than two months from the indication by the Member State of relocation of the number of applicants who could be relocated swiftly. In case of justifiable practical obstacles, further limited derogations are foreseen.

The proposal includes specific guarantees for the applicants who are subject to relocation to another Member State. The proposal specifies the right to receive information on the relocation procedure, the right to be notified with the relocation decision which must specify the precise Member State of relocation and the right to be relocated with the family members in the same Member State of relocation. The obligation to give primary consideration to the best interests of the child as laid down by Regulation (EU) No 604/2013 remain applicable when deciding the Member State of relocation. This implies *inter alia* the obligation for a Member State benefiting from relocation to indicate to the other Member States when the applicant to be relocated is an unaccompanied minor and, together with the Member State who manifested an interest in relocating that minor, to ensure that before relocation takes

place, a best interests of the child assessment is carried out, in line with General Comment No 14 (2013) of the UN Committee on the rights of the child to have his or her best interests taken as primary consideration[11].

- **Triggering of the crisis relocation mechanism**

When the Commission establishes that the conditions for relocation are fulfilled in respect of a particular Member State, it shall adopt a delegated act for triggering the application of the relocation mechanism. This delegated act shall (a) ascertain that there is a crisis situation in the Member State benefiting from relocation; (b) determine the number of persons to be relocated from that Member State; (c) determine the distribution of those persons between Member States by applying the formula for a distribution key, and (d) set the period of application of the crisis relocation mechanism. The delegated act shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a maximum period of one month from its notification by the Commission. The delegated act can be applicable for a maximum of two years.

- **Method for setting the number of persons to be relocated**

The proposal provides for objective and verifiable indicators to be taken into account by the Commission when determining, in the context of adopting a delegated act triggering the crisis relocation mechanism in respect of a particular Member State, the number of persons to be relocated from that Member State and in particular: the number of applicants per capita in the Member State benefiting from relocation in the 18 months, and in particular in the six months, preceding the adoption of the delegated act compared to the Union average; the capacity of the asylum system of that Member State; and the participation of the Member State in previous solidarity initiatives as well as the extent to which the Member State has benefited from previous EU solidarity measures.

Moreover, a maximum threshold for the persons to be relocated is established, namely 40% of the number of applications lodged with that Member State in the six months preceding the adoption of the delegated act.

- **Specific rules in case a Member State is temporarily unable to take part in the relocation of applicants**

Given that exceptional circumstances cannot be excluded, the proposal foresees that a Member State may, within one month of the entry into force of the delegated act triggering the application of the relocation mechanism, notify to the Commission, giving duly justified reasons compatible with the fundamental values of the Union enshrined in Article 2 of the Treaty on European Union, that it is temporarily unable to take part, fully or in part, in the relocation of applicants, for a period of one year. The Member State should instead make a financial contribution to the EU budget of an amount of 0,002 % of GDP to cover assistance supporting the efforts undertaken by all other Member States to cope with the crisis situation and the consequences of the non-participation of such Member State to the relocation. In case of partial participation in the relocation, this amount shall be reduced in proportion. This amount should be allocated to the Asylum, Migration and Integration Fund as assigned revenue.

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[11] http://www2.ohchr.org/English/bodies/crc/docs/GC/CRC_C_GC_14_ENG.pdf .

It must be ensured that the level of solidarity with the Member State under crisis, in terms of the number of persons to be relocated, remains unaffected. Therefore, the allocations under the distribution key that were foreseen for any Member State which has made a notification accepted by the Commission should be redistributed to the remaining Member States.

The proposal provides that the delegated act triggering the application of the relocation mechanism shall in such circumstances be amended.

- **Complementary measures to be taken by the Member State benefiting from relocation**

Reflecting the dual principles of solidarity and responsibility, the proposal sets out the obligation for the Member State benefiting from relocation to present to the Commission, on the date of entry into force of the delegated act, a roadmap with measures to ensure appropriate implementation of the crisis relocation mechanism. Where a Member State has been called upon the Commission to draw up a crisis management action plan pursuant to Article 33(3) of Regulation (EU) No 604/2013, the measures aimed to ensure an appropriate implementation of the relocation mechanism shall be presented as part of that action plan, which should include wider asylum related measures aimed at, inter alia, strengthening the capacity of its asylum system. Moreover, the proposal specifies the conditions under which the Commission may decide to suspend the application of the relocation mechanism for the benefit of a Member State should it fail to comply with its obligations.

Finally, the proposal recalls the rules applicable to prevent and deal with situations of secondary movements by applicants for and beneficiaries of international protection and provides for new rules in case of secondary movements of beneficiaries of international protection who, after having been relocated, entered and stayed irregularly on the territory of another Member State. In particular, it is provided that the Member State of relocation shall take back a beneficiary of international protection who, after having been relocated, made an application in another Member State than the Member State of relocation or who is on the territory of another Member State than the Member State of relocation without a residence document.

- **Calculation of the distribution key**

1. Distribution key

a) Population - 40% weighting

b) Total GDP - 40% weighting

c) Average number of asylum applications over the 5 preceding years per million inhabitants with a cap of 30% of the population and GDP - 10% weighting

d) Unemployment rate with a cap of 30% of the population and GDP - 10% weighting

2. Formula

$$\textbf{Population effect}_{MS/AS} = \frac{\textbf{Population}_{MS/AS}}{\textbf{Population}_{EU+(32)}}$$

$$\textbf{GDP effect}_{MS/AS} = \frac{\textbf{GDP}_{MS/AS}}{\textbf{GDP}_{EU+(32)}}$$

$$\textbf{Asylum effect}_{MS/AS} = \min\left\{\frac{\frac{1}{\text{Average(5 preceeding years) applicants per Million inhabitants}_{MS/AS}}}{\sum_{i=1}^{32}\frac{1}{\text{Average(5 preceeding years) applicants per Million inhabitants}_{MS/ASi}}}, 30\%(\textbf{Population effect}_{MS/AS} + \textbf{GDP effect}_{MS/AS})\right\}$$

$$\textbf{Unemployment effect}_{MS/AS} = \min\left\{\frac{\frac{1}{\text{Unemployment rate}_{MS/AS}}}{\sum_{i=1}^{32}\frac{1}{\text{Unemployment rate}_{MS/ASi}}}, 30\%(\textbf{Population effect}_{MS/AS} + \textbf{GDP effect}_{MS/AS})\right\}$$

$$\textbf{Capped Quota}_{MS/AS} = \textbf{Allocation} * (40\%\ \textbf{Population effect}_{MS/AS} + 40\%\ \textbf{GDP effect}_{MS/AS} + 10\%\ \textbf{Asylum effect}_{MS/AS} + 10\%\ \textbf{Unemployment effect}_{MS/AS})$$

$$\textbf{Residual Quota}_{MS/AS} = (\textbf{Allocation} - \sum_{i=1}^{32}\textbf{Capped Quota}_{MS/ASi}) * (50\%\ \textbf{Population effect}_{MS/AS} + 50\%\ \textbf{GDP effect}_{MS/AS})$$

$$\textbf{Final Allocation Quota}_{MS/AS} = \textbf{Capped Quota}_{MS/AS} + \textbf{Residual Quota}_{MS/AS}$$

$$\textbf{Final share}_{MS/AS}\,(\textbf{de facto key}) = \frac{\textbf{Final Allocation Quota}_{MS/AS} * 100\%}{\textbf{Allocation}}$$

3. Calculation

The simulation below is meant to show how the allocation of 120 000 applicants to a country X is calculated if all Member States and Associated States (EU+) participate.

(a) Population

To calculate the effect of the population criterion on the distribution key, the number of inhabitants of the country X is divided by the number of inhabitants of all 28 Member States and 4 Associated States (EU+= 32).

Example:

Population of the country X: 4.625.885; The sum of EU+ population: 521.959.960

$$\text{Population effect}_{X} = \frac{4.625.885}{521.959.960} = 0{,}89\%$$

The effect of the population criterion on the distribution key for the country X is 0,89%.

(b) Total GDP

To calculate the effect of the total GDP criterion on the distribution key, the total GDP of the country X is divided by a sum of the total GDP for 28 EU Member States and 4 Associated States (EU+= 32).

Example:

Total GDP of the country X (in million Eur): 185.411; The sum of total GDP of EU+ (in million Eur): 14.854.924

$$\text{GDP effect}_{X} = \frac{185.411{,}7}{14.854.924} = 1{,}25\%$$

The effect of the GDP criterion on the distribution key for the country X is 1,25%.

(c) Average number of asylum applications over the 5 preceding years per million inhabitants with a cap of 30% of the population and GDP effect - 10% weighting

(Inverse effect)

The asylum applications effect on the distribution key is inversely proportional, i.e. the higher the number of asylum applications, the lower the factor.

In order to avoid that this criterion has a disproportionate effect on the entire key, a cap is applied, whereby the value of the asylum applications effect cannot exceed 30% of the sum of the population and GDP effect.

Example:

Average number of asylum applications over 5 years per million inhabitants in the country X: 287 country X: 287, Inverted value: $\frac{1}{287}$ = 0,00348.

The sum of the average number of asylum applications over 5 years per million inhabitants for all EU+ (inverted value): 0,14831

Asylum effect $_x = \frac{\frac{1}{287}}{0,14831} = \frac{0,00348}{0,14831} = \underline{2,35\%}$

Cap_x = 30% (0,89% (population effect) + 1,25% (GDP effect)) = <u>0,64%</u>

The actual effect of the asylum applications criterion for the country X is 2,35%, but the value of the cap (0,64%) is applied for the calculation of the key.

(d) Unemployment rate with a cap of 30% of the population and GDP effect - 10% weighting

As in the case of the asylum applications criterion, the unemployment rate effect on the key is inversely proportional, i.e. the higher the rate, the lower the factor. In order to avoid that this criterion has a disproportionate effect on the entire key, a cap is applied, whereby the value of the unemployment rate effect cannot exceed 30% of the sum of the population and GDP effect.

Example:

Unemployment rate in the country X: 11,3%, inverted value: $\frac{1}{11,3}$ = 0,0884955

The sum of all unemployment rates in the EU+ (inverted value): 4,345698

Unemployment rate effect $_{x=} \frac{0,0884955}{4,345698} = \underline{2,04\%}$

30% Cap_x = <u>0,64%</u>

The actual effect of the unemployment rate criterion for the country X is 2,04%, but the value of the cap (0,64%) is applied for the calculation of the key.

(e) Capped allocation of 120 000 applicants to the country X

Example:

Allocation$_x$ = 120 000 * (40% population effect (0,89%) + 40% GDP effect (1,25%) + 10% asylum applications effect (capped) – 0,64% + 10% unemployment rate effect (capped) – 0,64%) = 1178

Capped allocation for the country X: 1178

(f) Allocation of remaining places

Due to the cap, there will be a certain number of remaining places that needs to be allocated. The distribution of those places will be based on the population and GDP effect (50%-50%) for a given country. The numbers of remaining places are then added to the capped allocation.

Example:

Capped allocation for the country X: 1178;

The sum of capped allocations for all EU+: 102.801;

Remaining places that still need to be allocated: 17.199

Residual places$_x$ = 17.199 * (50% population effect + 50% GDP effect) = 17.199* 1,07% = 184

The final allocation of applicants for the country X is 1362, and the key is 1,13%

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

establishing a crisis relocation mechanism and amending Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third country national or a stateless person

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 78(2)(e) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national Parliaments,

Having regard to the opinion of the Economic and Social Committee,

Having regard to the opinion of the Committee of the Regions,

Acting in accordance with the ordinary legislative procedure,

Whereas:

(1) Regulation (EU) No 604/2013 of the European Parliament and of the Council establishes mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third country national or a stateless person, based on objective criteria set in its Chapter III**.**

(2) In accordance with Article 80 of the Treaty, the policies of the Union in the area of border checks, asylum and immigration and their implementation should be governed by the principles of solidarity and fair sharing of responsibility between Member States and Union acts adopted in this area must contain appropriate measures to give effect to this principle.

(3) Situations of extreme pressure being placed on a Member State's asylum system may jeopardize the application of Regulation (EU) No 604/2013. While this Regulation provides for a process for early warning, preparedness and management of asylum crisis, it does not enable in such situations to derogate from the set responsibility criteria. In order to promote a balance of efforts between Member States in dealing with these crisis situations and to ensure a swift access to the procedures for granting international protection, a crisis mechanism for the relocation of applicants in clear need of international protection should therefore be put in place. The application of relocation measures in respect of a particular Member State should be without prejudice to the possibility to apply in parallel Article 33(3) of this Regulation to the same Member States. Article 33(3) of this Regulation is not a precondition for the application of relocation measures.

(4) The application of relocation measures in respect of a particular Member State should be without prejudice to the possibility for the Council to adopt provisional measures on a proposal from the Commission pursuant to Article 78(3) in the event of an emergency situation in a Member State characterised by a sudden inflow of nationals of third country nationals.

(5) The crisis relocation mechanism should be seen in the context of a wider set of measures that Member States may need to take to ensure effective migration policies, including in the area of first reception and return of third country nationals not having the right to remain on the territory of the Member States in accordance with provisions of Directive 2008/115/EC ('hotspots').

(6) A comprehensive evaluation of the Dublin Regulation is currently being conducted by the Commission that could lead to a wider revision of the Dublin system.

(7) A clear and workable relocation system is envisaged based on a threshold of the average rate at Union level of decisions granting international protection in the procedures at first instance as defined by Eurostat out of the total number at Union level of decisions on asylum applications for international protection taken at first instance, based on the latest available statistics. On the one hand, this threshold would have to ensure, to the maximum extent possible, that all applicants in clear need of international protection would be in a position to fully and swiftly enjoy their protection rights in the Member State of relocation. On the other hand, it would prevent, to the maximum extent possible, applicants who are likely to receive a negative decision to their application from being relocated to another Member State and therefore prolong unduly their stay in the Union. A threshold of 75%, based on the latest available updated Eurostat quarterly data for first instance decisions, should be used.

(8) Relocation of applicants in clear need of international protection should take place on the basis of the formula for a distribution key set out in Annex III. The proposed distribution key should be based on a) the size of the population (40 % weighting), b) the total of the GDP (40 % weighting), c) the average number of asylum applications per one million inhabitants over the period 2010-2014 (10 % weighting, with a 30% cap of the population and GDP effect on the key, to avoid disproportionate effects of that criterion on the overall distribution) and d) the unemployment rate (10 % weighting, with a 30% cap of the population and GDP effect on the key, to avoid disproportionate effects of that criterion on the overall distribution).

(9) Where, in exceptional circumstances, a Member State notifies to the Commission, giving duly justified reasons compatible with the fundamental values of the Union enshrined in Article 2 of the Treaty on European Union, that it is temporarily unable to take part, in full or in part, in the relocation of applicants, for a period of one year, it should instead make a financial contribution to the EU budget of an amount of 0,002 % of GDP to cover assistance supporting the efforts undertaken by all other Member States to cope with the crisis situation and the consequences of the non-participation of such Member State to the relocation. In case of partial participation in the relocation, this amount should be reduced in proportion. This amount should be allocated to the Asylum, Migration and Integration Fund as assigned revenue.

(10) It must be ensured that the level of solidarity with the Member State confronted with a crisis situation, in terms of the number of persons to be relocated, remains unaffected. Therefore, the allocations under the distribution key that were foreseen

for any Member State which has made a notification accepted by the Commission, should be redistributed to the remaining Member States.

(11) It is necessary to ensure that a swift relocation procedure is put in place and to accompany the implementation of the relocation procedure by a close administrative cooperation between Member States and operational support provided by EASO.

(12) National security and public order should be taken into consideration throughout the relocation procedure, until the transfer of the applicant is implemented. In full respect to the fundamental rights of the applicant, including the relevant rules on data protection, where a Member State has reasonable grounds for regarding an applicant as a danger to its national security or public order, it should inform the other Member States thereof.

(13) When deciding which applicants in clear need of international protection should be relocated from the Member State benefiting from relocation, priority should be given to vulnerable applicants within the meaning of Article 21 and 22 of Directive 2013/33/EU of the European Parliament and of the Council[12]. In this respect, special needs of applicants, including health, should be of primary concern. The best interests of the child should always be a primary consideration.

(14) Integration of applicants in clear need of international protection in the host society is the cornerstone of a well-functioning Common European Asylum System. Therefore, in order to decide which specific Member State should be the Member State of relocation, specific account should be given to the specific qualifications and characteristics of the applicants concerned, such as their language skills and other individual indications based on demonstrated family, cultural or social ties which could facilitate their integration into the Member State of relocation. In the case of particularly vulnerable applicants, consideration should be given to the capacity of the Member State of relocation to provide adequate support to those applicants and to the necessity of ensuring a fair distribution of those applicants among Member States. With due respect of the principle of non-discrimination, Member States of relocation may indicate their preferences for applicants based on the above information on the basis of which the Member State benefiting from relocation, in consultation with EASO and, where applicable, liaison officers may compile lists of possible applicants identified for relocation to that Member State.

(15) The appointment by Member States of liaison officers in the Member State benefiting from relocation should facilitate the effective implementation of the relocation procedure, including the appropriate identification of the applicants who could be relocated, taking into account in particular their vulnerability and qualifications. As regards both the appointment of liaison officers in the Member State benefiting from relocation and the fulfilment of their tasks, the Member State of relocation and the Member State benefiting from relocation should exchange all relevant information and continue cooperating closely throughout the relocation procedure.

(16) Measures should be taken in order to avoid secondary movements of relocated persons from the Member State of relocation to other Member States. In particular, applicants should be informed of the consequences of onward irregular movement

[12] Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection (OJ L 180, 29.6.2013, p. 96).

within the Member States and of the fact that, if the Member State responsible grants them international protection, in principle, they are only entitled to the rights attached to international protection in that Member State.

(17) In order to avoid secondary movements of beneficiaries of international protection, Member States should also inform the beneficiaries about the conditions under which they may legally enter and stay in another Member State and could impose reporting obligations. In addition, in order to ensure that beneficiaries of international protection who entered the territory of another Member State than the Member State of relocation without fulfilling the conditions of stay in that other Member State are taken back by the Member State of relocation, it is necessary to encompass beneficiaries of international protection who have been relocated in the scope of this Regulation.

(18) Additionally, in line with the objectives set out in Directive 2013/33/EU, the harmonisation of reception conditions amongst Member States should help to limit secondary movements of applicants for international protection influenced by the variety of conditions for their reception. With a view to reaching the same objective, Member States should consider imposing reporting obligations and providing applicants for international protection with material reception conditions that include housing, food and clothing only in kind as well as, where appropriate ensuring that applicants are directly transferred to the Member State of relocation. Likewise, during the period of the examination of applications for international protection, as provided in the asylum and Schengen acquis, except for serious humanitarian reasons, Member States should neither provide applicants with national travel documents, nor give them other incentives, such as financial ones, which could facilitate their irregular movements to other Member States. In case of irregular movements to other Member States, applicants should be sent back to the Member State of relocation.

(19) In order to promptly handle crisis situations resulting from the extreme migratory pressure on the asylum system of specific Member States, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission also in respect of establishing the application of relocation measures in respect of a particular Member State as well on the suspension of the application of such measures.

(20) In exercising its powers to adopt delegated acts, the Commission shall not exceed the scope of ascertaining the fulfilment of the relocation conditions as well as the other elements provided for under Article 33(a)4 and 33(d)2 of this Regulation. It is of particular importance that the Commission carries out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.

(21) [In accordance with Article 3 of Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, those Member States have notified their wish to take part in the adoption and application of this Regulation]

OR

(21) [In accordance with Articles 1 and 2 of Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, and without prejudice to Article 4 of that Protocol, those Member States are not taking part in the adoption of this Regulation and are not bound by it or subject to its application.]

OR

(21) [In accordance with Articles 1 and 2 of Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, and without prejudice to Article 4 of that Protocol, the United Kingdom is not taking part in the adoption of this Regulation and is not bound by it or subject to its application.

(22) In accordance with Article 3 of Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, Ireland has notified (, by letter of ...,) its wish to take part in the adoption and application of this Regulation.]

OR

(21) [In accordance with Article 3 of Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, the United Kingdom has notified (, by letter of ...,) its wish to take part in the adoption and application of this Regulation.

(22) In accordance with Articles 1 and 2 of Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, and without prejudice to Article 4 of that Protocol, Ireland is not taking part in the adoption of this Regulation and is not bound by it or subject to its application.]

(22) In accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, Denmark is not taking part in the adoption of this Regulation and is not bound by it or subject to its application.

(23) Regulation (EU) No 604/2013 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

2015/0208 (COD)

Proposal for a

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

establishing a crisis relocation mechanism and amending Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third country national or a stateless person

Article 1

Regulation (EU) No 604/2013 is amended as follows:

(1) In Article 2 the following points are added:

"o) 'relocation' means the transfer of an applicant from the territory of the Member State which the criteria laid down in Chapter III of this Regulation indicate as responsible for examining his or her application for international protection ('Member State benefiting from relocation') to the territory of the Member State of relocation;

p) 'Member State of relocation' means the Member States which becomes responsible for examining the application for international protection pursuant to this Regulation of an applicant following his or her relocation to the territory of that Member State."

(2) In Article 4(1) the following point is added:

"(g) where applicable, the relocation procedure set out in Section VII of Chapter VI."

(3) In Article 18(1) the following point is added:

" e) take back, under the conditions laid down in Articles 23, 24, 25 and 29 a beneficiary of international protection, who after having been relocated, made an application in another Member State than the Member State of relocation or who is on the territory of another Member State than the Member State of relocation without a residence document ."

(4) In Chapter VI, the following Section VII is added:

"SECTION VII

Crisis relocation mechanism

Article 33a

Crisis relocation mechanism

1. Where, on the basis of substantiated information, in particular the information gathered by EASO pursuant to Regulation (EU) No 439/2010 and by the European Agency for the Management of Operational Cooperation at the External Borders established by Council Regulation (EC) No 2007/2004*, the Commission establishes that a Member State is confronted with a crisis situation jeopardizing the application of this Regulation due to extreme pressure characterised by a large and disproportionate inflow of third-country nationals or stateless persons, which places significant demands on its asylum system, the crisis relocation mechanism referred to in paragraph 2 shall be applied for the benefit of that Member State.

2. Under the crisis relocation mechanism, a number of applications for international protection shall be examined by the Member State of relocation in derogation from the principle set out in Article 3(1) according to which an application shall be examined by the Member State which the criteria set out in Chapter III indicate as being responsible. In addition, the detailed procedural rules set out in Annex IV shall apply, in derogation from Articles 21, 22 and 29.

3. The Commission shall be empowered to adopt delegated acts in accordance with Article 45 on the application of the crisis relocation mechanism for the benefit of a Member State.

4. In the delegated acts referred to in paragraph 3 the Commission shall:

(a) ascertain that there is a crisis situation referred to in paragraph 1 in the Member State benefiting from relocation,

(b) determine the number of persons to be relocated from that Member State,

(c) determine the distribution of those persons between Member States by applying the formula for a distribution key referred to in Article 33b, and

(d) set the period of application of the crisis relocation mechanism.

5. When ascertaining whether there is a crisis situation referred to in point (a) of paragraph 4, the Commission shall establish that the crisis is of such a magnitude as to place extreme pressure even on a well prepared asylum system which is functioning in line with all relevant aspects of the EU asylum acquis, also taking account of the size of the Member State concerned.

In making this assessment, the Commission shall, inter alia, take into account the total number of applicants for international protection and of irregular entries of third country nationals and stateless persons in the six months preceding the adoption of the delegated act, the increase in such numbers compared to the same period in the previous year as well as the number of applications per capita in the Member State benefiting from relocation over the previous 18 months compared to the Union average.

6. For determining the number of persons to be relocated referred to in point (b) of paragraph 4, the Commission shall take into account the following, in particular:

(a) the number of applicants for international protection per capita in the Member State benefiting from relocation in the 18 months, and in particular in the six months, preceding the adoption of the delegated act compared to the Union average,

(b) the capacity of the asylum system of that Member State, and

(c) the participation of the Member State in previous solidarity initiatives as well as the extent to which the Member State has benefited from previous EU solidarity measures.

The number of persons to be relocated shall not exceed 40% of the number of applications lodged with that Member State in the six months preceding the adoption of the delegated act.

Article 33b

Distribution key

1. Relocation shall take place pursuant to the formula for a distribution key as set out in Annex III.

2. A Member State may, in exceptional circumstances, within one month of the entry into force of the delegated act referred to in Article 33a(3), notify to the Commission that it is temporarily unable to take part, in full or in part, in the relocation of applicants from the Member State benefiting from relocation, giving duly justified reasons compatible with the fundamental values of the Union enshrined in Article 2 of the Treaty on European Union. The Commission shall assess the reasons given and address a decision to such Member State. Where the Commission finds that the notification is duly justified, the Member State shall be freed, for a period of one year, from its obligation to take part in the relocation of applicants, and shall instead make a financial contribution to the EU budget of an amount of 0,002 % of GDP; in case of partial participation in the relocation, this amount shall be reduced in proportion. This contribution shall be used to finance assistance supporting the efforts undertaken by all other Member States to cope with the crisis situation and the consequences of the non-participation of such Member State to the relocation, pursuant to the provisions of Regulation (EU) No 516/2014 of the European Parliament and of the Council of 16 April 2014 establishing the Asylum, Migration and Integration Fund, amending Council Decision 2008/381/EC and repealing Decision No 573/2007/EC and No 575/2007/EC of the European Parliament and of the Council and Council Decision 2007/435/EC[13]. It shall constitute assigned revenue within the meaning of Article 21(4) of Regulation (EU, Euratom) No. 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002[14].

   The Commission shall amend the delegated act referred to in Article 33a(3) in order to redistribute the allocations under the distribution key that were foreseen for any Member State which has made a notification accepted by the Commission pursuant to the first sentence of this paragraph to the remaining Member States, in line with the formula for a distribution key set out in Annex III.

3. The participation of a Member State to relocation pursuant to the distribution key is suspended where that Member State is a Member State benefiting from relocation.

Article 33c

Scope of the crisis relocation mechanism

[13] OJ L 150, 20.5.2014, p. 168.
[14] OJ L 298, 26.10.2012, p. 1.

1. Relocation shall only take place in respect of applicants who have lodged their application for international protection in a Member State confronted with a crisis situation referred to in Article 33a(1) and where that Member State would have otherwise been responsible pursuant to the criteria for determining the Member State responsible set out in Chapter III.

2. Relocation shall only be applied in respect of applicants belonging to nationalities for which the proportion of decisions granting international protection among decisions taken at first instance on applications for international protection as referred to in Chapter III of Directive 2013/32/EU is, according to the latest available updated quarterly Union-wide average Eurostat data, 75% or higher. In the case of stateless persons, the country of former habitual residence shall be taken into account. Quarterly updates shall only be taken into account in respect of applicants who have not already been identified as applicants who could be relocated in accordance with point 3 of annex IV.

Article 33d

Complementary measures to be taken by the Member State benefiting from relocation

1. Member State benefiting from relocation shall, on the date of entry into force of the delegated act referred to in Article 33a(3), present a roadmap to the Commission with measures to ensure the appropriate implementation of the crisis relocation mechanism. Where applicable, these measures shall be presented as part of a crisis management action plan pursuant to Article 33(3). The Member State benefiting from relocation shall fully implement these measures.

2. The Commission shall be empowered to adopt a delegated act in accordance with Article 45 to suspend the application of the crisis relocation mechanism for the benefit of a Member State where the Member State benefiting from relocation does not comply with the obligations referred to in paragraph 1. The Commission shall first give the Member State concerned the opportunity to present its views. Such suspension shall not affect the transfers of applicants that are pending following approval of the Member State of relocation pursuant to point 4 of annex IV."

(5) In Article 45, the following paragraphs are added:

"6. The power to adopt delegated acts referred to in Article 33a and 33d shall be conferred on the Commission for a period of 5 years from [*the date of entry into force of this Regulation* – OPOCE should replace with exact date]. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the 5-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.

7. The delegation of power referred to in Article 33a and 33d may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

8. A delegated act adopted pursuant to Article 33a and 33d shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a

period of two weeks of notification of that act to the European Parliament and to the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two weeks at the initiative of the European Parliament or of the Council. The delegated act shall be applicable for a maximum of two years."

(6) New annexes III and IV as set out in the annex to this Regulation are added.

Article 2

This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.

This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaties.

Done at Brussels,

For the European Parliament
The President

For the Council
The President

EU-Turkey joint action plan

Brussels, 15 October 2015

Agreed ad referenda

Introduction

The international community faces an unprecedented crisis which requires solidarity, togetherness and efficiency. Challenges are common and responses need to be coordinated. Negotiating candidate country Turkey and the EU are determined to confront and surmount the existing challenges in a concerted manner. This joint action will render the message of Europe stronger and more visible. Human dignity is at the core of our common endeavour.

This Action Plan reflects the understanding between the European Union (EU) and the Republic of Turkey to step up their cooperation on support of Syrians under temporary protection and migration management in a coordinated effort to address the crisis created by the situation in Syria. It follows from the EU-Turkey working dinner on 17 May and the informal meeting of the EU Heads of State or Government on 23 September 2015 where EU leaders called for a reinforced dialogue with Turkey at all levels. The Action Plan identifies a series of collaborative actions to be implemented as a matter of urgency by the European Union (EU) and the Republic of Turkey with the objective to supplement Turkey's efforts in managing the situation of massive influx of persons in need of temporary protection.

The Action Plan, tries to address the current crisis situation in three ways: (a) by addressing the root causes leading to the massive influx of Syrians, (b) by supporting Syrians under temporary protection and their host communities in Turkey (Part I) and (c) by strengthening cooperation to prevent irregular migration flows to the EU (Part II). The EU and Turkey will address this crisis together in a spirit of burden sharing. The Plan builds on and is consistent with commitments taken by Turkey and the EU in other contexts notably the Visa Liberalisation Dialogue. In both parts it identifies the actions that are to be implemented simultaneously by Turkey and the EU.

The implementation of the Action Plan will be jointly steered and overseen by the European Commission and the High Representative / Vice President and the Turkish government through the establishment of the EU-Turkey high-level working group on migration.

Part I: Supporting the Syrians under temporary protection and their Turkish hosting communities

Turkey is making commendable efforts to provide massive humanitarian aid and support to an unprecedented and continuously increasing influx of people seeking refuge from Syria which has exceeded 2.2 million to date. Turkey has already spent more than € 7 billion of its own resources on addressing this crisis.

Under this part of the Action Plan, the two parties will undertake the following actions:

The EU side intends to:

1. Mobilisein a sustained manner, appropriate to the emerging needs,substantial and concrete new funds outside the IPA funds allocated or foreseen for Turkey to support Turkey in coping with the challenge represented by the presence of Syrians under temporary protection. The funds will be mobilised in the most flexible and rapid way possible, notably through the EU Trust Fund for the Syrian crisis.The identification of the priorities and the areas where they should be allocated will be decided jointly with the Turkish authorities. Priority will be given to actions providing immediate humanitarian assistance; provision of legal, administrative and psychological support; support for community centres; the enhancement of self-sufficiency and participation in economy and their social inclusion during their stay in Turkey; improved access to education at all levels; but also actions supporting host communities in areas such as infrastructures and services.

2. In addition to the funds that would be mobilised under paragraph 1, continue, by way of close

cooperation with the Turkish authorities, to provide immediate and principled humanitarian assistance via relevant humanitarian organisations in Turkey to address the most urgent humanitarian needs on the basis on their vulnerability in parallel and complementary to bilateral cooperation programmes aimed at addressing the needs created by the protracted refugee crisis.

3. To ensure an efficient use of the funding set forth under paragraphs 1 and 2, the EU institutions and Turkey will proceed with a comprehensive joint needs assessment as a basis for programming. The assessment would allow designing adequate actions to address the basic needs of the Syrians under temporary protection and the communities and provinces hosting them, in order to help cope with the inflow of people, notably in terms of infrastructures.
4. Continue providing assistance, over and beyond the 4.2 EUR billion already mobilised by the EU, to Syrian refugees hosted in Lebanon, Jordan and Iraq, as well as to Syrians displaced within Syria with the aim to contribute, *inter alia,* to the weakening of push factors forcing them to move towards Turkey.
5. Support existing Member State and EU resettlement schemes and programmes.

Turkey intends to:

1. Continue and further enhance the effective implementation of the law on foreigners and international protection by adopting the necessary secondary legislation and raise awareness of its content among all parties concerned.
2. Continue to ensure that migrants are registered and provided with appropriate documents on a compulsory basis to enable to build a stronger migration management strategy and system.
3. Continue efforts to adopt and implement policies, legislation and programmes facilitating for Syrians under temporary protection to have access, for the duration of their stay in Turkey, to public services including education for pupils, to health services and participation in economy.
4. Ensure that vulnerable people continue to be identified and taken care of.

Part II: Strengthening cooperation to prevent irregular migration

Under this part of the Action Plan, measures will build on the visa liberalisation dialogue, the visa roadmap and the provisions of the EU-Turkey readmission agreement**.** To this end, the two parties intend to undertake the following actions:

The EU side intends to:

1. Better inform, in a mutually agreed manner, people seeking refuge in Turkey about the risks linked to irregular departures as well as the possibilities available to them to enter in an orderly manner into the European Union or in other countries, and the relevant procedures to be implemented.
2. Further support Turkey to strengthen its capacity to combat migrant smuggling, notably by reinforcing the Turkish Coast Guard patrolling and surveillance capacity as well as other relevant Turkish authorities.
3. Support cooperation between EU Member States and Turkey in organising joint return operations, including reintegration measures, towards countries of origin of irregular migrants.
4. Support within the framework of the implementation of the "Silk Routes' Partnership for migration" the development of dialogue and cooperation with the authorities of the countries concerned on preventing irregular migration, fighting against migrant smuggling and on improving the management of migration.
5. Enhance the EU capacity to exchange information with Turkey on combating smuggling networks by deploying a FRONTEX liaison officer to Turkey, by cooperating with the liaison officers already deployed by Turkey in the EU, and welcoming the appointment of a Turkish liaison officer to FRONTEX.
6. Increase the financial assistance offered to support Turkey in meeting the requirement of the Visa Liberalisation Dialogue and notably by enhancing the capacities and developing a well-functioning asylum, migration, visa and integrated border management system in line with the EU-Turkey visa dialogue.

Turkey intends to:

1. Further strengthen the interception capacity of the Turkish Coast Guard, notably by upgrading its surveillance equipment, increasing its patrolling activity and search and rescue capacity,

including through stepping up cooperation with EU Member States.

2. Step up cooperation with Bulgarian and Greek authorities to prevent irregular migration across the common land borders by effectively implementing the tri-partite agreement signed in May 2015 establishing a common centre in Capitan Andreevo.
3. Step up cooperation and accelerate procedures in order to smoothly readmit irregular migrants who are not in need of international protection and were intercepted coming from the Turkish territory in line with the established bilateral readmission provisions.
4. Ensure that the asylum procedures[1] that have been initiated are completed, so that the status of refugee is granted without delay to those whose asylum requests are positively assessed.
5. In line with the Visa Roadmap requirements, pursue the progressive alignment of Turkish visa policy, legislation and administrative capacities notably vis-à-vis the countries representing an important source of illegal migration for Turkey and the EU.
6. Continue and further enhance the fight against and dismantling of criminal networks involved in the smuggling of migrants, notably by increasing operational cooperation between and among Turkish law enforcement authorities and their counterparts of the EU Member States and EU Agencies. This would include strengthening the necessary rules required to facilitate the sharing of information on persons.
7. Intensify the exchange of information and cooperation with the EU and its Member States. In particular, it will work closely with Member States' immigration liaison officers located in Turkey in view of intensifying the fight against migrants smuggling networks, and of accelerating the identification of fraudulent travel documents and real identities of migrants.
8. Further intensify cooperation with FRONTEX notably on exchange of information by implementing the working arrangement.
9. Deploy a liaison officer to Europol.

[1]Turkey is a party to the 1951 Geneva Convention related to the Status of Refugees with geographical limitation

MEMO/15/5860

European Commission - Press release

Commission presents Recommendation for a Voluntary Humanitarian Admission Scheme with Turkey for refugees from Syria

Strasbourg, 15 December 2015

Ahead of the European Council, the European Commission has today presented a Recommendation for a voluntary humanitarian admission scheme to create a system of solidarity and responsibility sharing with Turkey for the protection of persons displaced by the conflict in Syria to Turkey.

The scheme should be flexible to take into account the sustainable reduction of numbers of persons irregularly crossing the border from Turkey into the European Union as a result of Turkey's actions. Member States are invited to participate in the scheme on a voluntary basis taking into account their capacities. The scheme presented today will only apply to persons who have been registered by Turkish authorities before the EU-Turkey meeting on 29 November.

European Commission President Jean-Claude **Juncker** said: "*Being a great continent comes with great responsibilities. Today we are recommending that our Member States offer temporary protection to vulnerable people fleeing violent conflict in Syria, in line with their individual capacities. This scheme will help establish a fair sharing of the responsibility for the protection of displaced Syrian refugees in Turkey. Turkey is a key partner in our efforts to support these unfortunate people in a dignified way. Many of these people are already being given protection by Turkey, and some will now be protected by the European Union. We agreed with Turkey to reduce together the human misery which comes with irregular migration and to bring order into migratory flows to the European Union.*"

If the irregular flows into Europe through Turkey are successfully reduced, Member States are invited to admit from Turkey persons in need of international protection who have been displaced by the conflict in Syria. Schengen associated states are also invited to participate. Given the unpredictability of the migration flows within the region, the number of persons to be admitted will be regularly determined taking into account the processing capacity of the UNHCR, the overall numbers of displaced persons staying in Turkey, including the impact on these numbers of the sustainable reduction of irregular border crossings from Turkey into the EU. A review clause and monitoring mechanism provides for the suspension or adaptation of the scheme if there is no substantial reduction in irregular border crossings from Turkey to the EU.

Distribution among participating States should be based on absorption, reception and integration capacities, as well as population size, GDP, past asylum efforts and national unemployment rates. The persons benefiting from this scheme should be granted subsidiary protection or an equivalent temporary status, for no less than one year.

The Commission is proposing an expedited process where Member States would admit persons in need of international protection based on a recommendation by the UNHCR following a referral by Turkey. Identity, security and health checks will be carried out, and candidates' vulnerability and existing family ties will also be assessed. A standardised admission procedure should take place prior to the admission, and should be a collaborative effort between Member States, Turkey, the UNHCR, and the European Asylum Support Office (EASO). While individual Member States should take the final decision on admission, participating States should cooperate through common processing centres and mobile teams working in Turkey. The admission procedure should be concluded as soon as possible, at the latest within six months.

To prevent secondary movements within the European Union, candidates will be informed of their rights and obligations before admission and will receive cultural orientation support before they leave Turkey. Participating States would also commit to take back persons they have granted protection on their territory, in the case of secondary movements by these persons.

In addition to Turkey, Jordan and Lebanon are the other two major refugee hosting countries in the region. It is essential that a comprehensive approach is taken which should also include further specific measures of support for Jordan and Lebanon. The Commission will work with the Member States, the authorities in Jordan and Lebanon and the UNHCR to develop innovative partnerships,

including with the private sector, to address the needs of refugees in the region. The implementation of this scheme should form part of this comprehensive approach and once started would allow the existing resettlement efforts to focus on Jordan and Lebanon.

Background

Turkey is currently hosting more than two million persons displaced by the conflict in Syria. Over 750,000 asylum seekers and economic migrants have crossed into the EU from Turkey in 2015.

Humanitarian Admission is an expedited process by which countries admit displaced persons, based on a limited set of criteria, from third countries to provide them with protection. It is an alternative approach to resettlement which is a more resource intense process which usually takes around 12 months to complete.

When today's proposals for a voluntary admission scheme with Turkey take effect, the resettlement efforts under the July Recommendation may be focused primarily on Jordan and Lebanon.

On 15 October the Commission presented to the European Council a Joint Action Plan negotiated with Turkey by First Vice-President Timmermans to jointly manage the Syrian refugee crisis. The Council endorsed this Action Plan, and convened an EU-Turkey Summit on 29 November which activated the Action Plan and re-energised the EU-Turkey relationship. The European Union has committed to increasing political engagement with Turkey, providing Turkey with significant financial support, accelerating the fulfilment of the visa liberalisation roadmap and re-energising the accession process with Turkey. The proposed humanitarian admission scheme is an important flanking measure of the mutual commitments contained in the Joint Action Plan with Turkey.

On 24 November the Commission proposed a legal framework – a Refugee Facility for Turkey – to coordinate and streamline financial actions to deliver support to Syrians under temporary protection in Turkey and their host communities.

For more information

Commission Recommendation for a Voluntary Humanitarian Admission Scheme for Refugees from Syria staying in Turkey

Council Conclusions on Resettlement of 20,000 persons in need of international protection

EU-Turkey Joint Action Plan

EU-Turkey Summit Joint Statement

Refugee Facility for Turkey

FACTSHEET: EU Support to Lebanon and Jordan since the Onset of Syria Crisis

The European Agenda on Migration

IP/15/6330

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Related documents

Irregular Border Crossings into Greece from Turkey graph.pdf

European Parliament
2014-2019

TEXTS ADOPTED

P8_TA(2016)0133

2015 Report on Turkey

European Parliament resolution of 14 April 2016 on the 2015 report on Turkey (2015/2898(RSP))

The European Parliament,

– having regard to the 2015 Commission report on Turkey (SWD(2015)0216),

– having regard to the Council conclusions of 15 December 2015 on the enlargement and stabilisation and association process and to previous relevant Council and European Council conclusions,

– having regard to the Commission communication of 10 November 2015 to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on the EU Enlargement Strategy (COM(2015)0611),

– having regard to Council Decision 2008/157/EC of 18 February 2008 on the principles, priorities and conditions contained in the Accession Partnership with the Republic of Turkey ('the Accession Partnership'), and to the previous Council Decisions of 2001, 2003 and 2006 on the Accession Partnership,

– having regard to the joint statement following the EU-Turkey Summit of 29 November 2015 and the EU-Turkey Action Plan,

– having regard to its resolution of 15 April 2015 on the centenary of the Armenian Genocide[1],

– having regard to the intergovernmental conference of 14 December 2015 during which chapter 17 on economic and monetary policy was officially opened,

– having regard to its previous resolutions on Turkey, in particular those of 10 February 2010 on Turkey's progress report 2009[2], of 9 March 2011 on Turkey's 2010 progress report[3], of 29 March 2012 on the 2011 progress report on Turkey[4], of 18 April 2013 on the

1 Texts adopted, P8_TA(2015)0094.
2 OJ C 341 E, 16.12.2010, p. 59.
3 OJ C 199 E, 7.7.2012, p. 98.
4 OJ C 257 E, 6.9.2013, p. 38.

2012 progress report on Turkey[1], of 13 June 2013 on the situation in Turkey[2], of 12 March 2014 on the 2013 progress report on Turkey[3], of 13 November 2014 on Turkish actions creating tensions in the exclusive economic zone of Cyprus[4], of 15 January 2015 on freedom of expression in Turkey[5] and of 10 June 2015 on the 2014 Commission progress report on Turkey[6],

– having regard to its call on the Commission, in its resolution on the 2014 Commission progress report on Turkey, to re-assess the way in which negotiations have been conducted so far and how EU-Turkey relations and cooperation could be improved and intensified,

– having regard to the Negotiating Framework for Turkey of 3 October 2005,

– having regard to the declaration issued by the European Community and its Member States on 21 September 2005, including the provision that the recognition of all Member States is a necessary component of the negotiations, and the need for Turkey to fully implement the Additional Protocol to the Ankara Agreement by removing all obstacles to the free movement of goods without prejudice and discrimination,

– having regard to the fact that Turkey's accession to the EU depends on full compliance with the Copenhagen criteria and the EU's integration capacity, in accordance with the conclusions of the European Council meeting of December 2006,

– having regard to Article 46 of the European Convention on Human Rights (ECHR), which states that the contracting parties undertake to abide by the final judgments of the European Court of Human Rights (ECtHR) in any case to which they are parties,

– having regard to the Charter of Fundamental Rights of the European Union,

– having regard to the crisis in Syria, the efforts towards a ceasefire and a peaceful settlement, and Turkey's obligations to enhance stability and promote good neighbourly relations through intensive efforts in order to resolve outstanding bilateral issues, disputes and conflicts with its neighbouring countries over land and maritime borders and airspace, in accordance with the UN Charter and the values and principles upon which the EU is founded,

– having regard to the fact that respect for the rule of law, including in particular the separation of powers, democracy, freedom of expression, human rights, the rights of minorities and religious freedom, are at the core of the negotiation process,

– having regard to the approval of EUR 3 billion for the management of the refugee crisis in Turkey, with EUR 1 billion coming from the EU budget and the rest from the Member States,

– having regard to the work of Kati Piri as the standing rapporteur on Turkey of the European Parliament's Committee on Foreign Affairs,

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1 OJ C 45, 5.2.2016, p. 48.
2 OJ C 65, 19.2.2016, p. 117.
3 Texts adopted, P7_TA(2014)0235.
4 Texts adopted, P8_TA(2014)0052.
5 Texts adopted, P8_TA(2015)0014.
6 Texts adopted, P8_TA(2015)0228.

– having regard to Rule 123(2) of its Rules of Procedure,

A. whereas the accession negotiations with Turkey were opened on 3 October 2005, and whereas the opening of such negotiations is the starting point for a long-lasting and open-ended process based on fair and rigorous conditionality and a commitment to reform;

B. whereas the EU should remain the anchor for reforms in Turkey, given the transformative power of accession negotiations and the enlargement process;

C. whereas, in accordance with the conclusions of the European Council meeting of December 2006, there should be full compliance with the Copenhagen criteria and the EU's integration capacity; whereas Turkey has committed itself to the fulfilment of the Copenhagen criteria, adequate and effective reforms and progressive alignment with the EU acquis; whereas these efforts should be viewed as an opportunity for Turkey to strengthen its institutions and continue its process of democratisation and modernisation;

D. whereas respect for the rule of law is at the core of the negotiation process, including in particular the separation of powers, freedom of expression and of the media, human rights and democracy, the fight against corruption and organised crime, good neighbourly relations, freedom of religion, freedom of association and peaceful protest, the rights of minorities, the rights of women, and tackling discrimination against vulnerable groups such as Roma, people with disabilities, and lesbian, gay, bisexual, transgender and intersex (LGBTI) people;

E. whereas, regarding the political criteria, the pace of reforms has slowed down and there has been significant backsliding in the areas of freedom of expression and freedom of assembly;

F. whereas Turkey still has one of the highest number of imprisoned journalists in the world;

G. whereas, according to the ranking made by Freedom House for freedom of the press and media, Turkey is still ranked as not having a free press and its internet freedom as being only partly free;

H. whereas the security situation in Turkey is rapidly deteriorating, both internally and externally;

I. whereas Turkey has faced multiple terrorist attacks, attributed to the so-called Islamic State of Iraq and the Levant (ISIL)/Daesh, in Diyarbakir, Suruc, Ankara and Istanbul, in which a total of 150 innocent people lost their lives;

J. whereas the Russian bombing of Aleppo and other parts of Syria is resulting in large numbers of additional refugees seeking protection in Turkey;

K. whereas the EU and Turkey have agreed to reinvigorate the negotiation process and to cooperate intensively on migration;

L. whereas the Turkish population has been admirably hospitable to the large number of refugees living among them; whereas Turkey hosts the largest refugee population in the world, with approximately 2,7 million registered refugees from Syria, Iraq and Afghanistan, according to the UNHCR;

M. whereas the Turkish authorities did not agree to the reopening of the Orthodox Seminary on the island of Heybeliada;

I. State of play in EU-Turkey relations

1. Is deeply concerned, in the light of the backsliding on respect for democracy and rule of law inside Turkey, that the overall pace of reforms in Turkey has slowed down considerably in recent years, and that in certain key areas, such as the independence of the judiciary, freedom of assembly, freedom of expression, and respect for human rights and the rule of law, there has been a regression moving increasingly away from meeting the Copenhagen criteria to which candidate countries must adhere;

2. Underlines that Turkey is a key strategic partner for the EU and that active and credible negotiations would provide a suitable framework for exploiting the full potential of EU-Turkey relations; takes note of the reinvigoration of the negotiation process by the EU and hopes that the opening of chapters will lead to concrete progress; calls, in this connection, for concrete progress and a genuine commitment on Turkey's part; reiterates its call on the Commission to reassess the way in which negotiations have been conducted so far and how EU-Turkey relations and cooperation could be improved and intensified; strongly supports a structured, more frequent and open high-level political dialogue on key thematic issues of joint interest such as migration, counter-terrorism, energy, economy and trade;

3. Believes that the postponement of the Commission's 2015 progress report until after the November 2015 Turkish elections was a wrong decision, as it gave the impression that the EU is willing to go silent on violations of fundamental rights in return for the Turkish Government's cooperation on refugees; asks the Commission to commit itself to publishing the annual progress reports in accordance with a specific and fixed timetable; calls on both the Commission and the Council not to ignore internal developments in Turkey and to clearly stand up for respect for the rule of law and fundamental rights in Turkey, as stipulated in the Copenhagen criteria, and irrespective of other interests;

4. Takes note of the results of the parliamentary elections held on 1 November 2015 and the formation of a new government; reiterates its call for the 10 % electoral threshold to be lowered, and calls for transparency in the financing of political parties and electoral campaigns; commends the active participation of civil society volunteers during elections and the high voter turnout; condemns, however, the intimidation and harassment of the media and discrimination of opposition parties in terms of pre-election coverage, the atmosphere of violence and intimidation, marked in particular by attacks on individual candidates and opposition party offices, particularly that of the People's Democracy Party (HDP), and the intense political polarisation; welcomes the fact that the Turkish Grand National Assembly has become more inclusive for minority groups in Turkey as a result of the last two elections and despite the 10 % threshold;

5. Calls for the customs union to be upgraded and for its scope to be expanded to cover new sectors, including agricultural products, services and public procurement; takes note that the negotiations on this are set to start in the second half of 2016; recalls that the customs union can only reach its full potential when Turkey fully implements the Additional Protocol vis-à-vis all Member States; is of the view that Turkey's interests should be considered in future free trade agreements signed by the EU with third parties, in particular in the case of the EU-US Transatlantic Trade and Investment Partnership

(TTIP) negotiations; calls for the free movement of people to be improved and for increased intercultural exchanges;

6. Takes positive note of the intensified political dialogue between the EU and Turkey in the area of foreign and security policy and of Turkey's increased alignment with EU declarations and Council decisions in 2015; regrets that Turkey did not align with the Council's decision following the illegal annexation of Crimea by the Russian Federation and the events in Eastern Ukraine, including the restrictive measures;

7. Reiterates that Turkey should further align its foreign policy with that of the EU in accordance with the provisions of the Negotiating Framework; considers it essential to increase exchanges of information on foreign-policy issues and invite the Turkish Foreign Minister to attend meetings of the Foreign Affairs Council whenever relevant; recalls Turkey's strategic importance for the EU's energy security as a key transit country; considers the rapid development of energy cooperation and the broadening of the energy transit corridor through Turkey to the European Union to be essential;

8. Reiterates the need to strengthen good neighbourly relations, which constitute a fundamental part of the Negotiating Framework and an essential element of the enlargement process; calls on Turkey, in this connection, to step up efforts to resolve outstanding bilateral issues, including unsettled legal obligations and disputes with its immediate neighbours over land and maritime borders and airspace, in accordance with the provisions of the UN Charter and with international law; calls on the Turkish Government to sign and ratify the United Nations Convention on the Law of the Sea (UNCLOS); urges the Turkish Government to end the repeated violations of Greek airspace and territorial waters, as well as the practice of Turkish military aircraft flying over Greek islands; expresses its regret that the casus belli threat declared by the Turkish Grand National Assembly against Greece has not yet been withdrawn; urges Turkey and Armenia to proceed to normalise their relations by establishing diplomatic relations without preconditions, and calls for opening the Turkish-Armenia border, which could lead to improved relations, with particular reference to cross-border cooperation and economic integration;

II. Respect for the rule of law, democracy, human rights and fundamental freedoms

9. Takes the view that, in keeping with the EU's commitment to the rule of law and fundamental values, reforms in the areas of the judiciary and fundamental rights and of justice, freedom and security are urgently needed in Turkey; calls, without prejudice to Member States' positions, on the Council of the EU to propose, once the official opening benchmarks are met, the opening of chapters 23 (judiciary and fundamental rights) and 24 (justice, freedom and security) and to ensure that the reform process in Turkey is shaped on the basis of EU values and standards; calls on Turkey to engage fully with the Council of Europe and with the Venice Commission in the areas of judicial reform;

10. Deplores the serious backsliding, over the past two years, on freedom of speech, expression and opinion both online and offline in Turkey, which is ranked 149th out of 180 countries in the latest Reporters Without Borders World Press Freedom Index; recalls that, according to the Turkish authorities' own figures, Turkey is the country which holds the record for the highest number of journalists behind bars; reiterates that freedom of opinion, expression and speech, including independent media, are core European values; welcomes the ruling of the Constitutional Court that the rights of Can Dündar and Erdem Gül had been violated; recalls that they still face trial, with prosecutors demanding

multiple life sentences, expresses concern about the decision to exclude the public for the whole duration of the trial, and calls for a thorough and objective investigation into the journalist's allegations regarding the transport of weapons to Syria; condemns recent statements by the President of Turkey against the Constitutional Court; calls for the immediate release of all jailed journalists and encourages European diplomats to continue to monitor closely all criminal cases against journalists; deplores the personal attacks by leading government officials against journalists and opponents, and the increasingly authoritarian tendencies of the Turkish leadership; urges Turkey to act against intimidation of journalists in all its forms, in particular by investigating all physical attacks and threats against journalists and actively preventing attacks against media outlets, but also by defusing the tense political climate which creates an environment curtailing freedom of speech in the media and on the internet;

11. Notes the Corruption Perceptions Index 2015 released by Transparency International on 27 January 2016, which shows an increase in corruption in Turkey during the past year and which now ranks Turkey 66th; underlines the need for the Turkish Government to send out clear and consistent signals that it is truly intent on combating corruption at all levels of power;

12. Recalls that the fight against corruption should be one of Turkey's priorities; calls on Turkey therefore to update the anti-corruption strategy and action plan, to establish an independent anti-corruption body and to build a credible track record of investigations, prosecutions and convictions, including high-level cases;

13. Calls for the independence of the media of Koza İpek Holding and the Feza media group to be restored and for all government representatives to be removed from the boards of directors, for the dozens of sacked employees who expressed their dissatisfaction at the government takeover to be reappointed, and for the charges of terrorism to be withdrawn;

14. Condemns the violent and illegal takeover of several Turkish newspapers, including Zaman most recently, and expresses its concern about the decision of Digiturk, allegedly based, inter alia, on political grounds, to stop transmitting television channels; calls on the Turkish Government to end the political and economic pressure on independent media; strongly condemns verbal and physical attacks and the increasing use of defamation and anti-terror legislation against journalists; notes the content bans for online and offline reporting, as well as the practice of website blocking, particularly of social networks, which have led to self-censorship among journalists fearing that criticising the authorities would further increase reprisals; is very concerned about the blocking of tens of thousands of websites, the amendments adopted in March 2015 to the 'Internet Media Regulation Law', and the authority of the Telecommunications Directorate (TIB) that allows the blocking of websites within four hours for a variety of vague reasons; is concerned at the fact that the Turkish satellite provider Turksat halted broadcasts by IMC TV on Friday, 26 February 2016 at the request of an Ankara prosecutor investigating whether the channel supported a 'terrorist' group; expresses its concern about exceptionally high tax fines imposed on media organisations; calls for a revision of the law on the internet to support an environment conducive to freedom of speech on the internet and protection of privacy and personal rights; condemns attempts by Turkish government officials to intimidate and, in some cases, deport several international journalists; calls for an independent investigation into the murders on Turkish soil of journalists Naji Jerf and Ibrahim Abdel Qader and Fares Hammadi from the blog about Syria 'Raqqa is Being Slaughtered Silently'; deplores, furthermore, the investigations, arrests, prison sentences and punitive fines for allegedly insulting the head of state, based on Article 299 of the Penal Code;

calls on the Turkish Government to address these issues as a matter of urgency and priority with a view to safeguarding pluralism in line with international standards; considers an open public debate to be a key element of any healthy democracy;

15. Calls on the Turkish Government to adopt a sound data protection law and establish an independent data protection authority, in line with European standards, creating the necessary conditions for efficient and effective international police and judicial cooperation and sharing of information, and contributing, at the same time, to meeting the criteria for visa liberalisation; calls on the Turkish authorities to clearly define exceptions to the scope of the law, in particular on the processing of health-related data, and to put in place a selection procedure that guarantees the independence of the members of the data protection authority;

16. Reiterates its concern about the anti-terrorism law, in particular its broad and excessively vague definition of terrorism, organised crime and propaganda, making it manifestly impossible to determine the precise nature of such offences; insists that criminal and anti-terror legislation needs to be in line with ECtHR case law, which should be fully respected and implemented by Turkey; calls on Turkey to create a political and legal environment that allows the judiciary to perform its duties in an independent and impartial manner, also in practice, so that it does not become an instrument for the repression of internal dissent; calls on Turkey to implement all judgments of the European Courts; expresses concern about the numerous reassignments, unwilling transfers and dismissals of judges and prosecutors, which undermines the independence, impartiality and efficiency of the judiciary, as well as respect for the principles of due process and separation of powers; calls for the urgent restoration of the separation of powers and meaningful steps to ensure full independence of the judiciary; deplores the perversions of the course of justice to the benefit of certain politicians which became commonplace in Turkey in the aftermath of the 2013 corruption scandal; underlines that the role and influence of executive power within the High Council of Judges and Prosecutors must be limited and that sufficient guarantees against transfers of judges against their will are needed;

17. Recalls that Turkey's extraordinary economic growth over the past decade has led to an unprecedented boom in housing and infrastructure, often at the expense of environmental and conservation concerns; expresses its particular concern about the various megaprojects in the country, and urgently appeals to the government to operate with environmental and social impact assessments and to duly involve the local population in the project design so that long-term negative effects of urbanisation, consumption of space and environmental degradation can be avoided to the extent possible;

18. Takes the view that the constitutional reform process should develop into a secular, pluralistic, inclusive and tolerant society; underlines that a new Constitution should be based on widespread consensus across the political spectrum and in society as a whole, with full respect for the rights of minorities, irrespective of their cultural or religious background, thereby providing a solid base for fundamental freedoms and the rule of law; urges Turkey to fully respect the rule of law and fundamental rights and freedoms, in particular freedom of religious and ethnic minorities; emphasises the need to enact comprehensive anti-discrimination legislation, including the prohibition of discrimination and hate speech on the grounds of ethnicity, religion, sexual orientation, gender or gender identity, and to include the prohibition of such discrimination in a new Constitution; underlines that this should not prevent Turkey from granting specific rights to citizens on the basis of ethnic origin, religion or language, so that they can preserve their identity; notes, in this connection, that further action is needed to address the problems faced by

members of the Greek minority, in particular with regard to education and property rights; urges the Turkish authorities to take judicial measures against the people and bodies responsible for committing any sort of hate crime, including anti-Semitism, as was declared in the government's 'Democratisation Package' in 2013; condemns the passive attitude of the Turkish Government towards the serious threats against Christians and their pastors in social media; expects the Turkish Government to treat every Turkish citizen without any prejudice towards his or her religious belief; calls on the Turkish authorities, given that Turkey has the world's largest population of the Roma minority, to implement concrete and effective measures to achieve de facto equal rights for Roma in Turkish society and to improve the situation of Roma, with special attention to the situation of Roma children and the inclusion of Roma women;

19. Calls on Turkey to continue working closely with the Commission on new legislation under preparation and on the implementation of existing laws, in order to ensure compatibility with the EU acquis;

20. Underlines the need to fully respect, in line with European values, the right to different lifestyles, secular as well as faith-based ones, and to maintain the separation of state and religion;

21. Stresses the importance of continuing the reform process in the area of freedom of thought, conscience and religion, by enabling religious communities to obtain legal personality, by eliminating all restrictions on the training, appointment and succession of clergy, by complying with the relevant judgments of the ECtHR and the recommendations of the Venice Commission and by eliminating all forms of discrimination or barriers based on religion; calls on Turkey to respect the distinct character and importance of the Ecumenical Patriarchate and to recognise its legal personality; reiterates the need to allow the reopening of the Halki Seminary and lift all obstacles for its proper functioning and to also allow the public use of the ecclesiastical title of the Ecumenical Patriarch;

22. Calls on the Turkish Government to halt its plans for the construction of the Akkuyu nuclear power plant; points out that the envisaged site is located in a region prone to severe earthquakes, hence posing a major threat not only to Turkey but to the Mediterranean region as a whole; requests accordingly that the Turkish Government join the Espoo Convention, which commits its parties to notifying and consulting each other on major projects under consideration that are likely to have a significant adverse environmental impact across boundaries; asks the Turkish Government to involve, or at least consult, the governments of its neighbouring countries, such as Greece and Cyprus, during any further developments in the Akkuyu venture;

23. Expresses concern at the high levels of violence against women and the lack of implementation of domestic law in order to prevent and protect women from violence; further insists that the authorities effectively enforce existing laws concerning violence against women and domestic abuse, a widespread problem both in rural and urban areas, address the underreporting of gender-based violence, provide support services and shelter to victims of such violence and impose sanctions on perpetrators, and increase social awareness and tackle societal acceptance of gender-based violence; strongly recommends that the government promote gender equality in the political, economic, social, cultural, civil or any other field;

24. Calls on Turkey to undertake serious efforts to protect the rights of the LGBTI community; expresses strong concern at the lack of protection provided to LGBTI people

against acts of violence; stresses, in this connection, its disappointment at the failure to include protection against hate crimes on the grounds of sexual orientation and gender identity in the Hate Crimes Bill; regrets that hate crime against LGBTI people often remains unpunished, or that offenders' sentences are reduced on account of the victim's alleged 'unjust provocation';

III. Kurdish peace process and the situation in the southeast of Turkey

25. Expresses deep concern about the deteriorating situation in the southeast of Turkey; recalls that the Turkish Government has a responsibility to protect all people living on its territory, irrespective of their cultural or religious origins; acknowledges Turkey's legitimate right to fight against terrorism, subject to international law; stresses, however, that security measures must be conducted with respect for the rule of law and human rights; underlines that all operations by security forces must be proportional and not take the form of collective punishment; condemns the misconduct of special security forces and calls for the perpetrators to be brought to justice; calls for humanitarian law to be enforced so that all the injured may receive the care to which they are entitled;

26. Condemns and does not find justified the return to violence by the PKK, which is on the EU's list of terrorist organisations; stresses that there is no violent solution to the Kurdish question and urges the Turkish Government to take its responsibility to resume negotiations with a view to achieving a comprehensive and sustainable solution to the Kurdish issue; calls on the PKK to lay down its arms, abandon terrorist tactics and use peaceful and legal means to voice its expectations; strongly condemns attacks against security forces and civilians; expresses serious concern, in this connection, at the building of barricades and the digging of trenches by YDG-H militants; insists, however, that peaceful protests must be allowed;

27. Calls on the Turkish authorities to immediately lift the curfews that have been implemented in breach of the Turkish Constitution; expresses particularly grave alarm at the situation in Cizre and Sur/Diyarbakır, and condemns the fact that civilians are being killed, wounded and left without water, food and medical attention; calls on Turkey to allow the International Red Crescent to alleviate the humanitarian crisis unfolding in Cizre and Diyarbakır; urges the government to allow the wounded to be taken to hospital, by complying with the interim measures of the ECHR, and to secure a safe way out to civilians in cities under curfew; is deeply concerned about the rising number of civilian deaths and injured, which need to be thoroughly investigated, and the fact that around 400 000 people have become internally displaced; underlines that, as an act of human dignity, families must be allowed to retrieve the bodies on the streets and bury them; underlines the Turkish Government's responsibility to ensure human rights and provide security and access to goods and services to the entire civilian population in the predominantly Kurdish parts of Turkey afflicted by fighting; asks the Turkish Government to put in place a formal mechanism for urgent aid and compensation for those who have had to flee their homes, become unemployed and lost their livelihoods; regrets the destruction of historical heritage;

28. Notes with concern the urban transformation and relocation projects in conflict-hit areas recently unveiled by the Turkish Government and regrets the decision on widespread expropriation in the Sur district of Diyarbakir, including properties belonging to the municipality and also church properties, which would be a violation of the rights of religious minorities; calls on the Turkish Government to respect the cultural distinctiveness of the region and to refrain from further empowering the centralised local

government structure in the region; calls for a revision of the expropriation decision and reconstruction plans by entering into a dialogue and cooperation with the district and metropolitan municipalities and respecting the rights of the residents and property owners;

29. Is dismayed by the actions of special operations police forces known as 'Esedullah teams', which appear to be responsible for grave human rights violations, including the deliberate killing of civilians in the southeast of Turkey; demands a thorough investigation by the Turkish authorities into the actions of the 'Esedullah teams', and full accountability and punishment of those guilty of human rights violations;

30. Calls for an immediate ceasefire and the resumption of the peace process in order to achieve a negotiated solution to the Kurdish issue; underlines the priority of making progress towards democratisation and reconciliation; calls, in this connection, for the establishment of a special committee in the Turkish Grand National Assembly for the resolution of the Kurdish question, in order to contribute to a lasting peace by reinstating a feeling of justice and healing the traumas which are vulnerable to political abuse; urges the EU to take an active role in the peace process without delay; underlines the importance of giving priority to enhancing the social, cultural and political rights and equal treatment of people of Kurdish origin; reiterates its call for Turkey, as a member of the Council of Europe, to lift its reservations to the European Charter of Local Autonomy with a view to ensuring its full implementation in all its aspects;

31. Strongly deplores the intimidation and prosecution of more than 1 000 academics who signed a petition calling for peace; condemns the dismissal or suspension of almost 50 of them, as well as the imprisonment of another four of the signatories; underlines that the individuals responsible for the killing of lawyer Tahir Elçi – who dedicated his life to peace and human rights – must be brought to justice; expresses serious concern about the judicial investigations targeting mainly HDP members, as well as the ongoing imprisonment and dismissal of local mayors, including 25 co-mayors, and the threats hanging over many Kurdish politicians;

32. Strongly condemns the terrorist attacks attributed to ISIL/Daesh in Diyarbakir, Suruc, Ankara and Istanbul; expresses its solidarity with the victims and their families and with the citizens of Turkey on the frontline of the fight against extremism; equally strongly condemns the bomb blasts in Ankara on 17 February 2016, for which the militant group TAK (Kurdistan Freedom Hawks) claimed responsibility, as well as the attack in Ankara on 13 March 2016, and expresses its condolences to the victims' families and the bereaved; stresses the importance of conducting thorough investigations into these attacks with a view to bringing the perpetrators to justice; believes that stronger cooperation between Europol and Turkish law enforcement agencies is key to effectively combating terrorism;

33. Welcomes Turkey's participation in the Global Coalition to Counter ISIL and the opening of its bases to the United States and coalition forces; urges Turkey to act with the necessary restraint and in full cooperation with its Western allies;

34. Urges Turkey to continue to increase its efforts to prevent foreign fighters, money and equipment from reaching ISIL/Daesh and other extremist groups via its territory; is concerned that the Turkish authorities might not have taken all possible measures to stop and prevent ISIL/Daesh activities, in particular to combat illegal oil trafficking across its borders; asks the EU to enhance its capacity to exchange information and to cooperate closely with the Turkish authorities in this matter in order to give further support to

combating smuggling networks; notes shortcomings in the arrest of foreign fighters and in controlling borders with Iraq and Syria;

35. Welcomes Turkey's support and contribution to the agreement reached between major powers to cease hostilities in Syria and provide humanitarian aid to people in need; commends it as an important step toward resolving the Syrian crisis; notes that the cessation of hostilities should apply to all parties in conflict other than groups designated as terrorist organisations by the UNSC; calls on all parties to swiftly implement these commitments in full; recalls its belief that there is no military solution to the Syrian conflict and insists on the need to reach a political solution; condemns Turkey's military intervention against Kurdish forces in northern Syria, which undermines the fight against ISIL/Daesh and jeopardises peace and security efforts;

IV. EU-Turkey cooperation on the refugee / migration crisis

36. Supports a renewed political engagement between the EU and Turkey on geopolitical challenges, in particular the refugee and migration crisis; acknowledges Turkey's great humanitarian contribution in hosting the largest refugee population in the world; urges the EU and Turkey to join forces in improving and ensuring decent living conditions and basic capacities of refugee camps and to facilitate the work of the United Nations Refugee Agency (UNHCR), in order to avoid the massive exodus of migrants; urges the EU to continue to work with Turkish government officials to ensure correct documentation of migrants; recalls that Turkey is one of the key transit countries for migrants and refugees travelling to the EU, not just from Syria but from many other countries; stresses the importance of cooperating with Turkey in managing the refugee crisis and preventing losses of life at sea; welcomes the NATO monitoring mission in the Aegean Sea;

37. Welcomes the activation, on 29 November 2015, of the EU-Turkey Joint Action Plan on refugees and migration management, as part of a comprehensive cooperation agenda based on shared responsibility, mutual commitments and delivery, and insists on the need to implement it immediately; emphasises that EU-Turkey cooperation on migration should not be linked to the calendar, content and conditionality of the negotiation process; believes that outsourcing the refugee crisis to Turkey is not a credible long-term solution to the problem; calls on EU Member States' solidarity to increase the number of countries that will accept refugees for resettlement in a spirit of burden and responsibility sharing;

38. Stresses that the EUR 3 billion, and additional funding, of the Refugee Facility for Refugees in Turkey will have to be properly utilised in order to swiftly and directly benefit refugees and their host communities through the implementation of projects meeting immediate food, healthcare, sanitation and education needs; calls for the full involvement of Parliament in the decision-making process as a co-legislator and budgetary authority; urges swifter disbursement of the pledged funds; calls on the Commission and the Member States to ensure, in cooperation with Turkey, that a mechanism is put in place to check that funds are used properly to this end, that this mechanism will be closely monitored and that the European Parliament will be regularly informed by the Commission on the use of the funds; underlines the need to pay special attention to vulnerable groups such as women and children, particularly orphans, and religious minorities such as Christians and Yazidis; emphasises the urgent need to address gender-related violence and abuse against women and girls on the migrant routes crossing Turkey;

39. Commends the recent decision of the Turkish Government to open its labour market to Syrian refugees; encourages more urgent action to ensure that all 700 000 Syrian children receive education; praises the Turkish Government for providing Syrian refugees with free health services and education; deplores the fact that the UNHCR's appeal to increase funding has not been met and that the World Food Programme had to reduce its nutrition ratio to 80 % because of reduced funds; praises Turkey for unilaterally filling this financial gap and calls on the Member States and the EU to increase funds to the UN agencies and their partner NGOs in Turkey;

40. Appreciates that Turkey has, until recently, maintained an open-border policy for Syrian refugees; commends the entry into force of new rules in the Turkish visa regime, which already paved the way for a sharp decrease in irregular crossings; stresses, however, that a much stricter visa policy, in line with EU visa policy, must be applied vis-à-vis countries representing a major source of illegal migration, in order to curb the influx of migrants who are in no need of international protection via Turkey into Europe; underlines that Turkey needs every assistance in tightening its border security and to step up its fight against human smugglers; calls on Turkey to show zero tolerance and take effective measures to stop traffickers of human beings and the flow of refugees towards the Greek islands resulting in severe humanitarian, political, social and security issues within the EU; encourages more cooperation between Turkey, Bulgaria and Greece in the area of search and rescue operations in the Aegean Sea, and calls on Frontex to offer its support to the Turkish coast guard and enhance the bilateral exchange of information; acknowledges that measures against criminal smuggling can only be effective in conjunction with the introduction of safe and legal routes for refugees and asylum seekers to enter the European Union;

41. Underlines that stemming migration to the EU should not lead to pushbacks of refugees or illegal detention; calls on the Commission, as regards the EU-Turkey Joint Action Plan, to investigate the allegations made by Amnesty International in their report dated 1 April 2016 that Turkey is conducting forced returns of Syrian refugees; insists that all forced return procedures from Greece to Turkey must be fully in line with international and EU law relating to access to asylum and international protection and the implementation of fundamental rights and procedural guarantees; calls, in this regard, on the Commission to closely follow the way in which the Turkish authorities implement the agreement and whether the principle of non-refoulement is respected in the case of persons returned to Turkey; reiterates its call on the Turkish Government to lift the geographic reservation to the 1951 Geneva Convention; insists that it is crucial to put in place safe and legal routes for refugees, and urges the Member States to increase their resettlement efforts substantially; is of the opinion that it is imperative to find a political solution to the Syrian crisis; urges Turkey to increase substantially its efforts to find a political solution, namely to overcome its reservations against the participation of the Kurds in the peace talks in Geneva;

42. Welcomes the fact that the Turkish authorities and the UNHCR in Turkey are harmonising their databases for the registration of refugees into one registration system; considers it urgent to look at technical ways to make that database interoperable and compatible with the European database for the registration of asylum seekers, Eurodac; stresses that it is also important that, once refugees leave Turkey to go to Europe, they should be removed from the Turkish database;

43. Stresses that implementation of the readmission agreement vis-à-vis all Member States is crucial for the EU, as it provides an opportunity for a more effective return policy of

migrants who are in no need of international protection; welcomes the political agreement reached by the two parties at the EU-Turkey Summit of 29 November 2015 for the EU-Turkey readmission agreement to become fully applicable from June 2016; calls on all parties to implement the existing bilateral readmission agreements fully and effectively and to ensure that the fundamental rights of returned migrants are respected in full;

44. Encourages the government to fully and in a non-discriminatory manner meet the criteria identified in the visa liberalisation roadmap vis-à-vis all Member States; recalls that visa liberalisation is a merit-based process and that only when the standards have been met, will visa-free travel be possible for Turkish citizens; asks the Commission to provide more technical assistance for the fulfilment of the conditions of the visa liberalisation roadmap;

V. Progress of the Cyprus reunification talks

45. Praises the considerable progress achieved in the Cyprus reunification talks, under the auspices of the UN; welcomes the joint declaration of 11 February 2014 by the two leaders as a basis for a settlement; supports the evolvement of the Republic of Cyprus into a bi-communal, bi-zonal federation with single sovereignty, a single international personality and single citizenship with political equality between the two communities and equal opportunities for all its citizens, without prejudging the final agreement, and in line with relevant UN Security Council resolutions and international law; commends the constructive approach of the leaders of both the Greek Cypriot and Turkish Cypriot communities on the island, and their determination and tireless efforts to reach a fair, comprehensive and viable settlement as soon as possible; underlines the importance of the solution of the decades-long Cyprus problem for the whole region, and for Europe/the European Union; welcomes therefore the possibility of a new referendum on reunification and calls on all parties to contribute to a positive outcome;

46. Emphasises that non-settlement of the Cyprus issue affects the development of EU-Turkey relations, and therefore calls on all sides concerned to make an effort towards its resolution;

47. Calls on Turkey to fulfil its obligation of full, non-discriminatory implementation of the Additional Protocol to the EC-Turkey Association Agreement vis-à-vis all Member States, including the Republic of Cyprus, the fulfilment of which could provide a significant boost to the negotiation process;

48. Deplores Turkey's policy of illegal settlement, and calls on it to refrain from further settlement of Turkish citizens in the occupied areas of Cyprus, which is contrary to the Geneva Convention and the principles of international law; urges Turkey to terminate all actions that alter the demographic balance on the island, thus impeding a future solution;

49. Calls on Turkey to refrain from any actions in the exclusive economic zone (EEZ) of Cyprus which might lead to friction and crisis in a very sensitive region and might have negative effects on the negotiations for a democratic solution which would end the unacceptable existing dichotomous status quo; recognises the right of its Member States to sign bilateral and other agreements in the context of their sovereign rights in order to exploit their national resources within their EEZ;

50. Welcomes the agreement by the two leaders on a series of confidence-building measures, including on the opening of two new crossings points and on the interconnection of the electricity grids; notes, however, that there has been little to no progress on mobile phone

interoperability; urges both sides therefore to implement all agreed measures without further delay; calls on the EU to fully support the settlement, both politically and financially; calls on Turkey to actively support the negotiation process and a positive outcome; calls on Turkey to begin to withdraw its troops from Cyprus and to transfer the sealed-off area of Famagusta to the UN in accordance with UNSC resolution 550 (1984); commends the fact that access is granted to the Committee on Missing Persons (which deals with both Turkish Cypriot and Greek Cypriot missing persons) to all relevant sites, including military areas; urges Turkey, however, to grant access to relevant archives which would maximise the effectiveness of the committee;

51. Welcomes the initiative of the President of the Republic of Cyprus, Mr Nicos Anastasiades, to make Turkish an official language of the EU, and urges the parties to accelerate this process; notes that the implementation of the EU acquis in the future Turkish Cypriot constituent state upon entry into force of the settlement agreement must already be well prepared; welcomes, in this connection, the establishment of the bi-communal ad hoc committee on EU preparation; encourages both the European Parliament and the Commission to intensify their efforts to engage with Turkish Cypriots in preparation to fully integrate into the EU; encourages the President of the European Parliament to take the necessary steps in the event of a settlement;

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52. Instructs its President to forward this resolution to the Council, the Commission, the Vice-President of the Commission/High Representative of the Union for Foreign Affairs and Security Policy, the Secretary-General of the Council of Europe, the President of the European Court of Human Rights, the governments and parliaments of the Member States and the Government and Parliament of the Republic of Turkey.

Council of the EU

PRESS
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PRESS RELEASE
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EU-Turkey statement, 18 March 2016

Today the Members of the European Council met with their Turkish counterpart. This was the third meeting since November 2015 dedicated to deepening Turkey-EU relations as well as addressing the migration crisis.

The Members of the European Council expressed their deepest condolences to the people of Turkey following the bomb attack in Ankara on Sunday. They strongly condemned this heinous act and reiterated their continued support to fight terrorism in all its forms.

Turkey and the European Union reconfirmed their commitment to the implementation of their joint action plan activated on 29 November 2015. Much progress has been achieved already, including Turkey's opening of its labour market to Syrians under temporary protection, the introduction of new visa requirements for Syrians and other nationalities, stepped up security efforts by the Turkish coast guard and police and enhanced information sharing. Moreover, the European Union has begun disbursing the 3 billion euro of the Facility for Refugees in Turkey for concrete projects and work has advanced on visa liberalisation and in the accession talks, including the opening of Chapter 17 last December. On 7 March 2016, Turkey furthermore agreed to accept the rapid return of all migrants not in need of international protection crossing from Turkey into Greece and to take back all irregular migrants intercepted in Turkish waters. Turkey and the EU also agreed to continue stepping up measures against migrant smugglers and welcomed the establishment of the NATO activity on the Aegean Sea. At the same time Turkey and the EU recognise that further, swift and determined efforts are needed.

In order to break the business model of the smugglers and to offer migrants an alternative to putting their lives at risk, the EU and Turkey today decided to end the irregular migration from Turkey to the EU. In order to achieve this goal, they agreed on the following additional action points:

1) All new irregular migrants crossing from Turkey into Greek islands as from 20 March 2016 will be returned to Turkey. This will take place in full accordance with EU and international law, thus excluding any kind of collective expulsion. All migrants will be protected in accordance with the relevant international standards and in respect of the principle of non-refoulement. It will be a temporary and extraordinary measure which is necessary to end the human suffering and restore public order. Migrants arriving in the Greek islands will be duly registered and any application for asylum will be processed individually by the Greek authorities in accordance with the Asylum Procedures Directive, in cooperation with UNHCR. Migrants not applying for asylum or whose application has been found unfounded or inadmissible in accordance with the said directive will be returned to Turkey. Turkey and Greece, assisted by EU institutions and agencies, will take the necessary steps and agree any necessary bilateral arrangements, including the presence of Turkish officials on Greek islands and Greek officials in Turkey as from 20 March 2016, to ensure liaison and thereby facilitate the smooth functioning of these arrangements. The costs of the return operations of irregular migrants will be covered by the EU.

2) For every Syrian being returned to Turkey from Greek islands, another Syrian will be resettled from Turkey to the EU taking into account the UN Vulnerability Criteria. A mechanism will be established, with the assistance of the Commission, EU agencies and other Member States, as well as the UNHCR, to ensure that this principle will be implemented as from the same day the returns start. Priority will be given to migrants who have not previously entered or tried to enter the EU irregularly. On the EU side, resettlement under this mechanism will take place, in the first instance, by honouring the commitments taken by Member States in the conclusions of Representatives of the Governments of Member States meeting within the Council on 20 July 2015, of which 18.000 places for resettlement remain. Any further need for resettlement will be carried out through a similar voluntary arrangement up to a limit of an additional 54.000 persons. The Members of the European Council welcome the Commission's intention to propose an amendment to the relocation decision of 22 September 2015 to allow for any resettlement commitment undertaken in the framework of this arrangement to be offset from non-allocated places under the decision. Should these arrangements not meet the objective of ending the irregular migration and the number of returns come close to the numbers provided for above, this mechanism will be reviewed. Should the number of returns exceed the numbers provided for above, this mechanism will be discontinued.

3) Turkey will take any necessary measures to prevent new sea or land routes for illegal migration opening from Turkey to the EU,

and will cooperate with neighbouring states as well as the EU to this effect.

4) Once irregular crossings between Turkey and the EU are ending or at least have been substantially and sustainably reduced, a Voluntary Humanitarian Admission Scheme will be activated. EU Member States will contribute on a voluntary basis to this scheme.

5) The fulfilment of the visa liberalisation roadmap will be accelerated vis-à-vis all participating Member States with a view to lifting the visa requirements for Turkish citizens at the latest by the end of June 2016, provided that all benchmarks have been met. To this end Turkey will take the necessary steps to fulfil the remaining requirements to allow the Commission to make, following the required assessment of compliance with the benchmarks, an appropriate proposal by the end of April on the basis of which the European Parliament and the Council can make a final decision.

6) The EU, in close cooperation with Turkey, will further speed up the disbursement of the initially allocated 3 billion euros under the Facility for Refugees in Turkey and ensure funding of further projects for persons under temporary protection identified with swift input from Turkey before the end of March. A first list of concrete projects for refugees, notably in the field of health, education, infrastructure, food and other living costs, that can be swiftly financed from the Facility, will be jointly identified within a week. Once these resources are about to be used to the full, and provided the above commitments are met, the EU will mobilise additional funding for the Facility of an additional 3 billion euro up to the end of 2018.

7) The EU and Turkey welcomed the ongoing work on the upgrading of the Customs Union.

8) The EU and Turkey reconfirmed their commitment to re-energise the accession process as set out in their joint statement of 29 November 2015. They welcomed the opening of Chapter 17 on 14 December 2015 and decided, as a next step, to open Chapter 33 during the Netherlands presidency. They welcomed that the Commission will put forward a proposal to this effect in April. Preparatory work for the opening of other Chapters will continue at an accelerated pace without prejudice to Member States' positions in accordance with the existing rules.

9) The EU and its Member States will work with Turkey in any joint endeavour to improve humanitarian conditions inside Syria, in particular in certain areas near the Turkish border which would allow for the local population and refugees to live in areas which will be more safe.

All these elements will be taken forward in parallel and monitored jointly on a monthly basis.

The EU and Turkey decided to meet again as necessary in accordance with the joint statement of 29 November 2015.

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European Commission - Press release

Facility for Refugees in Turkey: €47 million to strengthen migration management and to support education of Syrian refugees

Brussels, 26 May 2016

European Commission support for the immediate needs of refugees in Turkey

Today, the European Commission is delivering on its commitment to accelerate the implementation of the Facility for Refugees in Turkey by announcing a further €47 million in new projects, bringing the total amount contracted under the Facility to address the immediate needs of refugees and host communities in Turkey so far to almost €240 million.

€20 million has been committed under the Instrument contributing to Stability and Peace (IcSP) to enhance the capacity of the Turkish Coast Guard to carry out search and rescue operations. An additional €27 million will fund educational infrastructure, skills training and social support for Syrian refugees under the EU Regional Trust Fund in Response to the Syrian Crisis. This new commitment is part of the accelerated implementation of the Facility for Refugees in Turkey which was agreed under the EU-Turkey Statement of 18 March.

Commissioner for European Neighbourhood Policy and Enlargement Negotiations Johannes **Hahn** said: "*The European Union is delivering on its commitment for swift implementation of the EU-Turkey agreement, in support of the refugees. Our assistance to better manage migration flows is aimed to save lives of migrants and refugees and tackling irregular migration and trafficking. Today we also reaffirm that access to education for refugee children and young Syrians is an absolute priority. The EU Trust Fund in response to the Syrian crisis is one of Europe's key instruments for delivering on our €3 billion pledge to help Syria and the region. The new funding for Turkey focuses on two key priorities of the EU-Turkey Joint Statement: to provide schooling to all children and to invest in livelihoods and social cohesion for refugees and host communities, ensure stability and provide refugees with the hope and perspective of a better life.*"

The Coast Guard project mobilises €20 million to strengthen the operational capacity to successfully conduct search and rescue operations, save lives and enhance the protection of migrants and refugees while at the same time tackling irregular migration and trafficking. The project will fund search and rescue boats and other specialised life-saving equipment. This will be complemented by training and support for Coast Guard staff. The project will be implemented by the International Organization for Migration (IOM) in close cooperation with the Turkish Coast Guard, and will be overseen by the EU Delegation to Turkey.

The education projects, worth a total of €27 million, are signed under the EU Regional Trust Fund in Response to the Syrian Crisis. They will be implemented in cooperation with the German development agency GiZ and international NGOs. Projects worth €22 million will provide additional infrastructure for the education of 23,000 refugee children, skills training for 24,000 young Syrians, social support for more than 74,000 of the most vulnerable Syrians, and assistance for local administrations. An additional action worth €5 million has been adopted to increase access for almost 1,000 young Syrians to Turkish universities in the coming academic year.

This will be followed by further funding in this sector in the coming months. Before the war, 20% of 18-25 year old Syrians were enrolled in higher and further education; this has dropped to less than 5% of the same age group today among refugees, creating the serious risk of a 'lost generation'.

Background

Facility for Refugees in Turkey

The Facility for Refugees in Turkey was established by the European Commission to coordinate and streamline actions financed in order to deliver efficient and complementary support to Syrians under temporary protection and host communities in Turkey. Under the Facility, the European Union is committed to provide an initial €3 billion of additional resources to help refugees in Turkey.

Instrument contributing to Stability and Peace

The Instrument contributing to Stability and Peace provides direct support for the Union's external policies by increasing the efficiency and coherence of the Union's actions in the areas of crisis response, conflict prevention, peace-building and crisis preparedness, and in addressing global and trans-regional threats. The Instrument can be used to provide technical and financial assistance in response to situations of urgency, crisis or emerging crisis.

The EU Regional Trust Fund in Response to the Syria crisis

The EU Trust Fund began operating in May 2015 to provide a regional response to a regional crisis, thus enabling the EU and its Member States to jointly intervene in response to growing and shifting needs and to support the implementation of the "EU regional strategy for Syria and Iraq as well as the ISIL/Da'esh threat". Being the main EU instrument to respond to the forced displacement crisis in the region, the Trust Fund aims to bring a more coherent and integrated EU response to the crisis by merging various EU financial instruments and contributions from Member States and other international donors into one single flexible and quick mechanism. The Trust Fund primarily addresses longer term resilience needs of Syrian refugees in neighbouring countries such as Jordan, Lebanon, Turkey and Iraq, as well as the hosting communities and their administration.

For more information:

EU-Turkey Cooperation: A €3 billion Refugee Facility for Turkey

EU announces first projects under the Facility for Refugees in Turkey: €95 million to be provided for immediate educational and humanitarian assistance

Facility for Refugees in Turkey: Commission delivers an additional €110 million under the implementation of EU-Turkey agreement

Facility for Refugees in Turkey – Steering Committee accelerates and scales up implementation

Implementing the EU-Turkey Agreement – Questions and Answers

FACTSHEET: The Facility for Refugees in Turkey

IP/16/1908

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9.4.3 Greek Law 3907/2011

ΕΦΗΜΕΡΙΣ ΤΗΣ ΚΥΒΕΡΝΗΣΕΩΣ

ΤΗΣ ΕΛΛΗΝΙΚΗΣ ΔΗΜΟΚΡΑΤΙΑΣ

ΤΕΥΧΟΣ ΠΡΩΤΟ **Αρ. Φύλλου 7**

26 Ιανουαρίου 2011

ΝΟΜΟΣ ΥΠ' ΑΡΙΘ. 3907

Ίδρυση Υπηρεσίας Ασύλου και Υπηρεσίας Πρώτης Υποδοχής, προσαρμογή της ελληνικής νομοθεσίας προς τις διατάξεις της Οδηγίας 2008/115/ΕΚ «σχετικά με τους κοινούς κανόνες και διαδικασίες στα κράτη - μέλη για την επιστροφή των παρανόμως διαμενόντων υπηκόων τρίτων χωρών» και λοιπές διατάξεις.

Ο ΠΡΟΕΔΡΟΣ
ΤΗΣ ΕΛΛΗΝΙΚΗΣ ΔΗΜΟΚΡΑΤΙΑΣ

Εκδίδομε τον ακόλουθο νόμο που ψήφισε η Βουλή:

ΚΕΦΑΛΑΙΟ Α΄
ΙΔΡΥΣΗ ΥΠΗΡΕΣΙΑΣ ΑΣΥΛΟΥ

Άρθρο 1
Ίδρυση - Αποστολή - Συγκρότηση

1. Στο Υπουργείο Προστασίας του Πολίτη συνιστάται αυτοτελής Υπηρεσία, με τίτλο «Υπηρεσία Ασύλου» που υπάγεται απευθείας στον Υπουργό και έχει τοπική αρμοδιότητα που εκτείνεται σε όλη την Επικράτεια. Η Υπηρεσία αυτή λειτουργεί σε επίπεδο Διεύθυνσης και έχει ως αποστολή την εφαρμογή της νομοθεσίας περί ασύλου και των λοιπών μορφών διεθνούς προστασίας των αλλοδαπών και ανιθαγενών, καθώς και τη συμβολή στο σχεδιασμό και τη διαμόρφωση της εθνικής πολιτικής ασύλου.

2. Η Υπηρεσία Ασύλου, στο πλαίσιο της αποστολής της, είναι αρμόδια ιδίως για:

α. την υποστήριξη του σχεδιασμού και της χάραξης της πολιτικής της χώρας όσον αφορά στη χορήγηση ασύλου ή άλλων μορφών διεθνούς προστασίας, καθώς και την παρακολούθηση και αξιολόγηση της υλοποίησης αυτής,

β. την παραλαβή και εξέταση αιτημάτων διεθνούς προστασίας και την απόφανση επί αυτών σε πρώτο βαθμό,

γ. την ενημέρωση των αιτούντων διεθνή προστασία για τη διαδικασία εξέτασης των αιτημάτων, καθώς και για τα δικαιώματα και τις υποχρεώσεις τους στο πλαίσιο αυτής,

δ. τη συγκέντρωση και αξιολόγηση πληροφοριών σχετικά με την οικονομική, κοινωνική και πολιτική κατάσταση που επικρατεί στις χώρες προέλευσης των αλλοδαπών και τη διαρκή παρακολούθηση των εξελίξεων στις χώρες αυτές, σε συνεργασία με αρμόδιες για το σκοπό αυτόν άλλες ελληνικές αρχές ή αρχές της αλλοδαπής, ιδίως στο πλαίσιο σχετικών διεθνών συμφωνιών,

ε. τον εφοδιασμό των αιτούντων διεθνή προστασία αλλοδαπών, καθώς και των δικαιούχων διεθνούς προστασίας με τα προβλεπόμενα από την κείμενη νομοθεσία νομιμοποιητικά και ταξιδιωτικά έγγραφα,

στ. τη διεκπεραίωση των αιτήσεων οικογενειακής επανένωσης προσφύγων,

ζ. τη διευκόλυνση των αιτούντων σε ό,τι αφορά στις υλικές συνθήκες υποδοχής σε συνεργασία με άλλους συναρμόδιους φορείς,

η. την προετοιμασία νομοθετικών κειμένων και διοικητικών πράξεων σε θέματα αρμοδιότητάς της και

θ. τη συνεργασία με κρατικούς φορείς, ανεξάρτητες αρχές και μη κυβερνητικές οργανώσεις, όργανα και οργανισμούς της Ευρωπαϊκής Ένωσης και διεθνείς οργανισμούς για την αποτελεσματικότερη εκπλήρωση της αποστολής της.

3. Η Υπηρεσία Ασύλου συγκροτείται από την Κεντρική Υπηρεσία και από τα Περιφερειακά Γραφεία Ασύλου. Τα Περιφερειακά Γραφεία Ασύλου υπάγονται στην Κεντρική Υπηρεσία. Η Κεντρική Υπηρεσία προγραμματίζει, κατευθύνει, παρακολουθεί και ελέγχει τη δράση των Περιφερειακών Γραφείων Ασύλου και εξασφαλίζει τις αναγκαίες προϋποθέσεις για την άσκηση των αρμοδιοτήτων τους. Με την έναρξη ισχύος του παρόντος νόμου, συνιστώνται Περιφερειακά Γραφεία Ασύλου με έδρα την Αττική, τη Θεσσαλονίκη, την Αλεξανδρούπολη, την Ορεστιάδα, τα Ιωάννινα, το Βόλο, την Πάτρα, το Ηράκλειο, τη Λέσβο, τη Χίο, τη Σάμο, τη Λέρο και τη Ρόδο. Η έναρξη λειτουργίας των Περιφερειακών Γραφείων Ασύλου που συνιστώνται με την παρούσα διάταξη καθορίζεται με απόφαση του Υπουργού Προστασίας του Πολίτη. Με όμοια απόφαση κατανέμεται στα κατά τόπους Περιφερειακά Γραφεία Ασύλου το προσωπικό που προβλέπεται στην παράγραφο 4 του άρθρου 2 και μπορεί να ιδρύονται αυτοτελή κλιμάκια των Περιφερειακών Γραφείων Ασύλου που εδρεύουν και λειτουργούν σε εγκαταστάσεις Κέντρων Πρώτης Υποδοχής ή συμμετέχουν σε κινητές ή έκτακτες Μονάδες Πρώτης Υποδοχής.

4. Η Κεντρική Υπηρεσία Ασύλου διαρθρώνεται στα εξής τμήματα:

α. Τμήμα Στρατηγικού Σχεδιασμού και Νομοθετικού Έργου, το οποίο μελετά, αξιολογεί προτάσεις, σχεδιάζει την πολιτική του ασύλου, υποβάλλει προτάσεις για τις αναγκαίες τροποποιήσεις και βελτιώσεις, καταρτίζει σχέδια νομοθετικών και εν γένει κανονιστικών κειμένων και εγκυκλίων, και μεριμνά για την εκπροσώπηση της χώρας σε ευρωπαϊκό και διεθνές επίπεδο.

β. Τμήμα Συντονισμού, το οποίο συντονίζει τις ενέργειες των Περιφερειακών Γραφείων Ασύλου, μεριμνά για την επικοινωνία και συνεργασία με τις Μονάδες του Δικτύου Πρώτης Υποδοχής και με άλλες συναρμόδιες υπηρεσίες του Δημοσίου και με ανεξάρτητες αρχές, καθώς και με φορείς της κοινωνίας των πολιτών και επιχειρήσεις, τηρεί καταλόγους πιστοποιημένων φορέων, διερμηνέων και διαμεσολαβητών, παρακολουθεί την υλοποίηση της πολιτικής ασύλου της χώρας από τα επί μέρους όργανα της Υπηρεσίας Ασύλου και τους συναρμόδιους φορείς και αρχές και συντάσσει σχετικές εκθέσεις προς τον Υπουργό Προστασίας του Πολίτη και τη Διυπουργική Επιτροπή Μεταναστευτικής Πολιτικής και Κοινωνικής Ένταξης.

γ. Τμήμα Ανθρωπίνου Δυναμικού και Διασφάλισης Ποιότητας, το οποίο διαχειρίζεται τα θέματα προσωπικού της Υπηρεσίας Ασύλου, οργανώνει την εκπαίδευση και συνεχή επιμόρφωση του προσωπικού της Υπηρεσίας και μεριμνά για τη διασφάλιση της ποιότητας των διαδικασιών και παρεχόμενων υπηρεσιών ασύλου.

δ. Τμήμα Διεθνούς Συνεργασίας και Τεκμηρίωσης, το οποίο αναζητεί, συλλέγει, αξιολογεί και τηρεί πληροφορίες σχετικά με την πολιτική, κοινωνική και οικονομική κατάσταση στις χώρες προέλευσης των αλλοδαπών σε συνεργασία με άλλες συναρμόδιες αρχές ή αντίστοιχες αρχές κρατών-μελών Ε.Ε., στο πλαίσιο σχετικών συμφωνιών, δέχεται και διαβιβάζει αιτήματα ανάληψης ευθύνης, μεριμνά για την εφαρμογή του Κανονισμού 343/2003 του Συμβουλίου της Ε.Ε. (L 50/25.2.2003) ή άλλης συναφούς νομοθεσίας και συνεργάζεται με τις Υπηρεσίες Πρώτης Υποδοχής και άλλες συναρμόδιες κρατικές υπηρεσίες όσον αφορά στη λήψη, καταχώριση και τήρηση αρχείων δακτυλικών αποτυπωμάτων των αιτούντων διεθνή προστασία.

ε. Τμήμα Διοικητικής Υποστήριξης, το οποίο αναλαμβάνει τη γραμματειακή υποστήριξη της Κεντρικής Υπηρεσίας Ασύλου. Συλλέγει, επεξεργάζεται και τηρεί στατιστικά δεδομένα από τα Περιφερειακά Γραφεία Ασύλου, οργανώνει και παρακολουθεί το σύστημα μηχανοργάνωσης της Υπηρεσίας Ασύλου και μεριμνά για την κατάλληλη διασύνδεσή του με αρχεία τηρούμενα από άλλες υπηρεσίες του ίδιου ή άλλου Υπουργείου ή και άλλων αντίστοιχων αρχών κρατών-μελών της Ε.Ε., στο πλαίσιο σχετικών συμφωνιών.

στ. Τμήμα Οικονομικών, το οποίο συντάσσει και εκτελεί τον προϋπολογισμό της Υπηρεσίας Ασύλου, διερευνά, συντάσσει προτάσεις και διαχειρίζεται τα Ευρωπαϊκά και άλλα προγράμματα χρηματοδότησης στον τομέα του ασύλου και διαχειρίζεται τις προμήθειες υλικού της Υπηρεσίας Ασύλου.

Άρθρο 2
Στελέχωση

1. Στην Κεντρική Υπηρεσία Ασύλου συνιστάται θέση Διευθυντή. Ο Διευθυντής διορίζεται με απόφαση του Υπουργού Προστασίας του Πολίτη, ύστερα από δημόσια πρόσκληση ενδιαφέροντος, με θητεία τριών ετών που μπορεί να ανανεώνεται μία φορά για τρία ακόμη έτη. Ο Διευθυντής είναι προσωπικότητα εγνωσμένου κύρους, πανεπιστημιακής εκπαίδευσης, με διοικητική ικανότητα. Ο Διευθυντής προΐσταται της Υπηρεσίας Ασύλου και ελέγχεται από τον Υπουργό Προστασίας του Πολίτη ενώ μπορεί να παύεται πριν τη λήξη της θητείας του, είτε κατόπιν αίτησής του είτε λόγω αδυναμίας εκτέλεσης των καθηκόντων του ή για άλλο σοβαρό λόγο που ανάγεται στην άσκηση των καθηκόντων του. Οι αποδοχές του Διευθυντή καθορίζονται με κοινή απόφαση των Υπουργών Οικονομικών και Προστασίας του Πολίτη. Ο Διευθυντής υποστηρίζεται από γραμματεία, στο πλαίσιο της οποίας λειτουργεί αυτοτελές Γραφείο Δημοσίων Σχέσεων και Ενημέρωσης, το οποίο αναλαμβάνει και διεκπεραιώνει τα ζητήματα επικοινωνίας, ενημέρωσης του κοινού και δημοσίων σχέσεων.

2. Η Υπηρεσία Ασύλου στελεχώνεται από δημόσιους πολιτικούς υπαλλήλους, οι οποίοι μετατάσσονται, μεταφέρονται ή αποσπώνται από υπηρεσίες του δημοσίου, του ευρύτερου δημόσιου τομέα (άρθρο 2 του ν.3861/2010, ΦΕΚ 112 Α΄) ή Ν.Π.Δ.Δ. ή από πρόσωπα που προσλαμβάνονται ως μόνιμοι ή με σύμβαση εργασίας αορίστου χρόνου, σύμφωνα με τις ισχύουσες διατάξεις.

3. Για τη στελέχωση της Κεντρικής Υπηρεσίας Ασύλου συνιστώνται οι εξής οργανικές θέσεις:

α. 25 θέσεις κατηγορίας ΠΕ Διοικητικού-Οικονομικού
β. 2 θέσεις κατηγορίας ΠΕ Πληροφορικής
γ. 2 θέσεις κατηγορίας ΠΕ Επικοινωνίας και ΜΜΕ
δ. 3 θέσεις κατηγορίας ΤΕ Πληροφορικής
ε. 10 θέσεις κατηγορίας ΔΕ Διοικητικού-Λογιστικού
στ. 10 θέσεις ειδικού επιστημονικού προσωπικού.

4. Για τη στελέχωση των Περιφερειακών Γραφείων Ασύλου συνιστώνται οι εξής οργανικές θέσεις:

α. 90 θέσεις ειδικού επιστημονικού προσωπικού. Οι θέσεις αυτές πληρούνται με μετατάξεις, μεταφορές ή αποσπάσεις προσωπικού του Δημοσίου, του ευρύτερου δημόσιου τομέα (άρθρο 2 του ν. 3861/2010, ΦΕΚ 112 Α΄) ή Ν.Π.Δ.Δ. και με προσωπικό που προσλαμβάνεται με σύμβαση εργασίας ιδιωτικού δικαίου αορίστου χρόνου.

β. 90 θέσεις κατηγορίας ΔΕ Διοικητικού-Λογιστικού. Οι θέσεις αυτές πληρούνται με μετατάξεις, μετακινήσεις ή αποσπάσεις προσωπικού του Δημοσίου ή Ν.Π.Δ.Δ..

5. Τα προσόντα του ειδικού επιστημονικού προσωπικού των προηγούμενων παραγράφων είναι τα οριζόμενα στο άρθρο 2 του π.δ.50/2001 (ΦΕΚ 39 Α΄). Το γνωστικό αντικείμενο των θέσεων του προηγούμενου εδαφίου καλύπτουν τίτλοι σπουδών ανθρωπιστικών, νομικών και κοινωνικών επιστημών. Η πλήρωση των θέσεων των προηγούμενων παραγράφων με μετατάξεις, μεταφορές και αποσπάσεις υπαλλήλων διενεργείται μετά από δημόσια πρόσκληση από τον Υπουργό Προστασίας του Πολίτη. Οι μετατάξεις και μεταφορές του προσωπικού για τη στελέχωση της Υπηρεσίας Ασύλου ενεργούνται σύμφωνα με τις ισχύουσες διατάξεις. Οι αποσπάσεις διενεργούνται με κοινή απόφαση του Υπουργού Προστασίας του Πολίτη και του συναρμόδιου Υπουργού, κατά παρέκκλιση από κάθε γενική ή ειδική διάταξη, μετά από πρόταση του Διευθυντή της Υπηρεσίας Ασύλου, ο οποίος αξιολογεί τα τυπικά και ουσιαστικά προσόντα των υποψηφίων. Μετατάξεις προσωπικού που υπηρετεί σε καταργούμενους ή συγχωνευόμενους φορείς του Δημοσίου και του ευρύτερου δημοσίου τομέα προς την

Υπηρεσία Ασύλου διενεργούνται κατά προτεραιότητα. Οι αποσπασμένοι υπάλληλοι λαμβάνουν το μισθό και όλες τις τυχόν επιπλέον τακτικές αποδοχές, καθώς και όλα ανεξαιρέτως τα επιδόματα και λοιπές απολαβές της οργανικής τους θέσης. Ο μισθός, οι λοιπές αποδοχές και τα επιδόματα εξακολουθούν να καταβάλλονται από την Υπηρεσία από την οποία αποσπώνται.

6. Τα Περιφερειακά Γραφεία Ασύλου μπορούν να συνάπτουν συμβάσεις παροχής υπηρεσιών με διερμηνείς, οι οποίοι διαθέτουν τα απαραίτητα προσόντα και επιλέγονται από σχετικό κατάλογο που καταρτίζει η Κεντρική Υπηρεσία, σύμφωνα με τον Κανονισμό Λειτουργίας της. Οι διερμηνείς αποζημιώνονται με δελτίο παροχής υπηρεσιών ή με ωριαία αποζημίωση.

7. Αν Περιφερειακό Γραφείο αντιμετωπίζει προβλήματα ομαλής λειτουργίας λόγω έλλειψης επαρκούς ή κατάλληλου προσωπικού ή λόγω υποβολής εξαιρετικά μεγάλου αριθμού αιτημάτων, η διεκπεραίωση επί μέρους αρμοδιοτήτων του Γραφείου, με εξαίρεση αυτές που συνιστούν άσκηση δημόσιας εξουσίας, όπως η έκδοση διοικητικών πράξεων, η εξέταση αιτημάτων ασύλου, η διεξαγωγή συνεντεύξεων και ο εφοδιασμός με ταξιδιωτικά και νομιμοποιητικά έγγραφα, μπορεί να ανατίθεται για ορισμένο χρόνο με βάση τις διατάξεις περί δημοσίου λογιστικού σε φορείς της κοινωνίας των πολιτών, που ανταποκρίνονται σε κατάλληλες προδιαγραφές ποιότητας και ασφάλειας. Η ανάθεση των αρμοδιοτήτων αυτών γίνεται από τον Διευθυντή της Κεντρικής Υπηρεσίας Ασύλου, ύστερα από ειδική και αιτιολογημένη πρόταση του προϊσταμένου του Περιφερειακού Γραφείου Ασύλου. Με κοινή απόφαση των Υπουργών Εσωτερικών, Αποκέντρωσης και Ηλεκτρονικής Διακυβέρνησης, Οικονομικών και Προστασίας του Πολίτη προσδιορίζονται οι προδιαγραφές ποιότητας και ασφάλειας που πρέπει να πληρούν οι φορείς της κοινωνίας των πολιτών για την εφαρμογή του προηγούμενου εδαφίου, καθώς και οι επί μέρους αρμοδιότητες των Περιφερειακών Γραφείων Ασύλου που μπορεί να τους ανατίθενται. Στην Κεντρική Υπηρεσία Ασύλου τηρείται Μητρώο τέτοιων φορέων.

Άρθρο 3
Αρχή Προσφυγών

1. Στο Υπουργείο Προστασίας του Πολίτη συνιστάται Αρχή Προσφυγών, η οποία εξετάζει τις προσφυγές αιτούντων διεθνή προστασία κατά αποφάσεων της Υπηρεσίας Ασύλου, κατά την παράγραφο 5 του άρθρου 5.

2. Η Αρχή Προσφυγών υπάγεται απευθείας στον Υπουργό Προστασίας του Πολίτη. Στην Αρχή λειτουργούν μία ή περισσότερες τριμελείς Επιτροπές Προσφυγών, που συγκροτούνται, ανάλογα με τον αριθμό των προσφυγών που υποβάλλονται με απόφαση του Υπουργού Προστασίας του Πολίτη με θητεία δύο ετών που μπορεί να ανανεώνεται. Με την ίδια απόφαση καθορίζεται η τοπική τους αρμοδιότητα.

3. Οι Επιτροπές Προσφυγών απαρτίζονται από ένα πρόσωπο εγνωσμένου κύρους, με εξειδίκευση ή εμπειρία στο προσφυγικό δίκαιο ή στο δίκαιο των ανθρωπίνων δικαιωμάτων ή στο διεθνές δίκαιο, ως πρόεδρο, έναν Έλληνα υπήκοο που υποδεικνύεται από την Ύπατη Αρμοστεία του Ο.Η.Ε. για τους Πρόσφυγες και έναν πτυχιούχο Α.Ε.Ι. με τίτλο σπουδών νομικών, πολιτικών ή κοινωνικών επιστημών με εξειδικευμένες γνώσεις στα ζητήματα διεθνούς προστασίας και ανθρωπίνων δικαιωμάτων, ως μέλη, με τους αναπληρωτές τους. Ο πρόεδρος και το τρίτο μέλος της Επιτροπής, καθώς και οι αναπληρωτές τους, επιλέγονται από τον Υπουργό Προστασίας του Πολίτη από σχετικό κατάλογο που καταρτίζεται από την Εθνική Επιτροπή Δικαιωμάτων του Ανθρώπου, σύμφωνα με τον κανονισμό λειτουργίας της.

4. Τα μέλη των Επιτροπών κατά την άσκηση των καθηκόντων τους απολαμβάνουν προσωπικής ανεξαρτησίας. Ο πρόεδρος και τα μέλη των Επιτροπών αυτών αμείβονται σύμφωνα με τα οριζόμενα σε σχετική σύμβαση παροχής υπηρεσιών ή μίσθωσης έργου που συνάπτεται, είτε με τους ίδιους είτε με τον φορέα στον οποίο ανήκουν. Δικηγόροι που τυχόν ορίζονται ως μέλη των ως άνω Επιτροπών δεν αναλαμβάνουν υποθέσεις πολιτών τρίτων χωρών που αφορούν υποθέσεις μετανάστευσης ή διεθνούς προστασίας, ούτε τους εκπροσωπούν ενώπιον των αρχών. Η ανάληψη τέτοιας δραστηριότητας συνεπάγεται την αυτοδίκαιη έκπτωσή τους από τη θέση του μέλους της ως άνω Επιτροπής.

5. Στην Αρχή Προσφυγών συνιστάται γραμματεία και θέση Διευθυντή, κατηγορίας ΠΕ Διοικητικού-Οικονομικού. Ως Διευθυντής ορίζεται με απόφαση του Υπουργού Προστασίας του Πολίτη, ύστερα από δημόσια πρόσκληση ενδιαφέροντος, υπάλληλος του Δημοσίου, του ευρύτερου δημόσιου τομέα (άρθρο 2 του ν. 3861/2010, ΦΕΚ 112 Α΄) ή Ν.Π.Δ.Δ., κατά προτίμηση με διοικητική εμπειρία. Ο Διευθυντής μετατάσσεται ή μεταφέρεται ή αποσπάται στην Αρχή Προσφυγών σύμφωνα με τις ισχύουσες διατάξεις. Ο Διευθυντής προΐσταται της Γραμματείας της Αρχής και μεριμνά για τη διευκόλυνση του έργου των Επιτροπών.

6. Για τη στελέχωση της Γραμματείας της Αρχής Προσφυγών συνιστώνται:

α. 8 θέσεις ειδικού επιστημονικού προσωπικού, ως εμπειρογνώμονες-εισηγητές. Τα προσόντα του ειδικού επιστημονικού προσωπικού είναι τα οριζόμενα στο άρθρο 2 του π.δ.50/2001. Το γνωστικό αντικείμενο είναι εκείνο της παραγράφου 5 του άρθρου 2.

β. 5 θέσεις ΔΕ Διοικητικού-Λογιστικού, ως γραμματείς.

7. Για την πλήρωση των θέσεων της παραγράφου 6 μπορούν να μετατάσσονται, να μεταφέρονται ή να αποσπώνται υπάλληλοι από υπηρεσίες του Δημοσίου, του ευρύτερου δημόσιου τομέα (άρθρο 2 του ν. 3861/2010) ή Ν.Π.Δ.Δ.. Για την πλήρωση των θέσεων διενεργείται δημόσια πρόσκληση ενδιαφέροντος, ενώ η επιλογή γίνεται από το οικείο υπηρεσιακό συμβούλιο ύστερα από αξιολόγηση των τυπικών και ουσιαστικών προσόντων των υπαλλήλων.

8. Η Αρχή Προσφυγών εδρεύει στην έδρα της Κεντρικής Υπηρεσίας Ασύλου, η οποία παρέχει την αναγκαία διοικητική υποστήριξη για την εύρυθμη λειτουργία της. Οι δαπάνες λειτουργίας της Αρχής Προσφυγών καλύπτονται από τον προϋπολογισμό της Υπηρεσίας Ασύλου.

Άρθρο 4
Προϋπολογισμός - Οικονομική διαχείριση
Προμήθειες - Στέγαση Υπηρεσιών

1. Η Υπηρεσία Ασύλου έχει ίδιο προϋπολογισμό ως ειδικός φορέας του Υπουργείου Προστασίας του Πολίτη, όπου εγγράφονται οι πιστώσεις για την αντιμετώπιση των αναγκών λειτουργίας των Υπηρεσιών της και του

προσωπικού της. Ειδικότερα, εγγράφονται πιστώσεις που αφορούν σε δαπάνες για:

α. καταβολή μισθωμάτων για τα οικήματα που στεγάζονται οι Υπηρεσίες Ασύλου και δεν ανήκουν στο Δημόσιο,

β. αγορά, μίσθωση, επισκευή και συντήρηση κάθε είδους υλικοτεχνικού εξοπλισμού,

γ. αποδοχές του προσωπικού που δεν μισθοδοτείται από τις υπηρεσίες από τις οποίες έχει αποσπαστεί, αμοιβές υπερωριακής απασχόλησης, αποζημιώσεις μελών των επιτροπών προσφυγών, αμοιβές υπηρεσιών διερμηνείας, οδοιπορικά έξοδα και άλλες συναφείς αποζημιώσεις, καθώς και για την ανάθεση σε φορείς της κοινωνίας των πολιτών, έργων των Περιφερειακών Υπηρεσιών,

δ. λειτουργικά έξοδα, έξοδα εκπαίδευσης και επιμόρφωσης του προσωπικού και

ε. διενέργεια μελετών ή ερευνών επί θεμάτων αρμοδιότητας της Υπηρεσίας.

2. Στον προϋπολογισμό της Υπηρεσίας Ασύλου εγγράφονται πιστώσεις για κάθε άλλη δαπάνη, πέρα από όσες διαλαμβάνονται στην παράγραφο 1, που είναι αναγκαία για τη λειτουργία των Υπηρεσιών της, με κοινή απόφαση των Υπουργών Οικονομικών και Προστασίας του Πολίτη.

3. Στον προϋπολογισμό δημοσίων επενδύσεων προβλέπονται οι πιστώσεις για την ανέγερση κτιρίων και τον εξοπλισμό Υπηρεσιών της Υπηρεσίας Ασύλου, στο πλαίσιο των εγκρινόμενων ετήσιων πιστώσεων του Κρατικού Προϋπολογισμού.

4. Στην Κεντρική Υπηρεσία Ασύλου συνιστάται πάγια προκαταβολή, σύμφωνα με τις διατάξεις του άρθρου 46 του ν. 2362/1995 (ΦΕΚ 247 Α΄).

5. Η οικονομική διαχείριση της Υπηρεσίας Ασύλου ασκείται από τις αρμόδιες Υπηρεσίες της και οι δαπάνες πραγματοποιούνται, ελέγχονται, εκκαθαρίζονται και εντέλλονται σύμφωνα με τις διατάξεις περί δημοσίου λογιστικού.

6. Με κοινή απόφαση των Υπουργών Οικονομικών και Προστασίας του Πολίτη ρυθμίζονται ειδικά θέματα διαχείρισης υλικού, χρημάτων, καθώς και κάθε άλλο σχετικό θέμα.

7. Οι Υπηρεσίες Ασύλου στεγάζονται σε κτίρια του Δημοσίου ή των Οργανισμών Τοπικής Αυτοδιοίκησης που παραχωρούνται ή σε ιδιωτικά κτίρια που μισθώνονται με δαπάνες του Δημοσίου.

8. Ακίνητα του Δημοσίου μπορεί να παραχωρούνται κατά χρήση δωρεάν από την Κτηματική Εταιρεία του Δημοσίου, σύμφωνα με τις ισχύουσες διατάξεις, για την αντιμετώπιση των στεγαστικών αναγκών των Υπηρεσιών Ασύλου. Η επισκευή, συντήρηση, επέκταση ή διαρρύθμιση κτιριακών εγκαταστάσεων του Δημοσίου όπου στεγάζονται Υπηρεσίες της Υπηρεσίας Ασύλου, γίνονται από τις τεχνικές υπηρεσίες των κατά τόπους Αποκεντρωμένων Διοικήσεων, ύστερα από έγγραφο της Υπηρεσίας Ασύλου.

Άρθρο 5
Γενικές και εξουσιοδοτικές διατάξεις

1. Στο προσωπικό της Υπηρεσίας Ασύλου και της Αρχής Προσφυγών παρέχεται η αναγκαία εκπαίδευση από το Υπουργείο Προστασίας του Πολίτη, σε συνεργασία με την Ύπατη Αρμοστεία του Ο.Η.Ε. για τους Πρόσφυγες και άλλους αρμόδιους φορείς, ιδίως δε κατά την πρώτη εφαρμογή του νόμου.

2. Με προεδρικό διάταγμα, που εκδίδεται με πρόταση των Υπουργών Εσωτερικών, Αποκέντρωσης και Ηλεκτρονικής Διακυβέρνησης, Οικονομικών και Προστασίας του Πολίτη μπορεί και κατά τροποποίηση των διατάξεων του παρόντος νόμου, να ρυθμίζονται θέματα σχετικά με την οργάνωση, τη λειτουργία, την έδρα και τις επί μέρους αρμοδιότητες της Κεντρικής Υπηρεσίας και των Περιφερειακών Γραφείων Ασύλου, να συγχωνεύονται ή να καταργούνται υφιστάμενες υπηρεσίες και να συνιστώνται νέες, να αυξάνονται ή να μειώνονται οι οργανικές θέσεις του προσωπικού ή να συνιστώνται νέες θέσεις και να ρυθμίζονται τα καθήκοντα του προσωπικού.

3. Με προεδρικό διάταγμα, που εκδίδεται με πρόταση των Υπουργών Εσωτερικών, Αποκέντρωσης και Ηλεκτρονικής Διακυβέρνησης, Οικονομικών, Εξωτερικών, Εργασίας και Κοινωνικής Ασφάλισης, Παιδείας, Δια Βίου Μάθησης και Θρησκευμάτων, Υγείας και Κοινωνικής Αλληλεγγύης, Δικαιοσύνης, Διαφάνειας και Ανθρωπίνων Δικαιωμάτων και Προστασίας του Πολίτη ρυθμίζονται οι διαδικασίες υποδοχής αιτούντων διεθνή προστασία, οι διαδικασίες υποβολής και εξέτασης αιτημάτων διεθνούς προστασίας και αναγνώρισης του καθεστώτος του πρόσφυγα ή χορήγησης του καθεστώτος δικαιούχου επικουρικής προστασίας ή ανθρωπιστικού καθεστώτος, το περιεχόμενο των καθεστώτων αυτών, καθώς και οι διαδικασίες παροχής προσωρινής προστασίας σε περίπτωση μαζικής εισροής εκτοπισθέντων αλλοδαπών. Με όμοιο διάταγμα ρυθμίζεται η διαδικασία εξέτασης των αιτημάτων διεθνούς προστασίας ή προσφυγών που εκκρεμούν κατά την έναρξη λειτουργίας της Υπηρεσίας Ασύλου και της Αρχής Προσφυγών.

4. Με απόφαση του Υπουργού Προστασίας του Πολίτη εκδίδεται Κανονισμός Λειτουργίας της Υπηρεσίας Ασύλου, μετά από πρόταση του Διευθυντή της και Κανονισμός Λειτουργίας της Αρχής Προσφυγών, μετά από γνώμη του Διευθυντή της και των Προέδρων των Επιτροπών, όπου ρυθμίζονται επί μέρους θέματα εσωτερικής διάρθρωσης και λειτουργίας της Υπηρεσίας Ασύλου και της Αρχής Προσφυγών αντιστοίχως.

5. Κατά των αποφάσεων ασύλου που απορρίπτουν αίτηση παροχής διεθνούς προστασίας ή ανακαλούν το καθεστώς αυτό επιτρέπεται ενδικοφανής προσφυγή σύμφωνα με τα ειδικότερα οριζόμενα στο προεδρικό διάταγμα που εκδίδεται κατ' εξουσιοδότηση της παραγράφου 3.

6. Αρμόδια για τα θέματα του προσωπικού των Υπηρεσιών Ασύλου και της Αρχής Προσφυγών είναι τα υπηρεσιακά συμβούλια που είναι αρμόδια για τους πολιτικούς υπαλλήλους του Υπουργείου Προστασίας του Πολίτη.

7. Με απόφαση του Υπουργού Προστασίας του Πολίτη ορίζεται η έναρξη λειτουργίας της Υπηρεσίας Ασύλου και της Αρχής Προσφυγών, μέσα σε 12 μήνες από την έναρξη ισχύος του παρόντος νόμου.

ΚΕΦΑΛΑΙΟ Β΄
ΙΔΡΥΣΗ ΥΠΗΡΕΣΙΑΣ ΠΡΩΤΗΣ ΥΠΟΔΟΧΗΣ

Άρθρο 6
Ίδρυση - αποστολή

Στο Υπουργείο Προστασίας του Πολίτη συνιστάται αυτοτελής Υπηρεσία με τίτλο «Υπηρεσία Πρώτης Υποδοχής», που υπάγεται απευθείας στον Υπουργό Προ-

στασίας του Πολίτη και έχει τοπική αρμοδιότητα σε όλη την επικράτεια. Η Υπηρεσία αυτή λειτουργεί σε επίπεδο διεύθυνσης και έχει ως αποστολή την αποτελεσματική διαχείριση των υπηκόων τρίτων χωρών που εισέρχονται παρανόμως στη Χώρα, σε συνθήκες σεβασμού της αξιοπρέπειάς τους, με την υπαγωγή τους σε διαδικασίες πρώτης υποδοχής.

Άρθρο 7
Διαδικασίες Πρώτης Υποδοχής

1. Σε διαδικασίες πρώτης υποδοχής υποβάλλονται όλοι οι υπήκοοι τρίτων χωρών που συλλαμβάνονται να εισέρχονται χωρίς τις νόμιμες διατυπώσεις στη Χώρα. Οι διαδικασίες πρώτης υποδοχής για τους υπηκόους τρίτων χωρών περιλαμβάνουν:

α. την εξακρίβωση της ταυτότητας και της ιθαγένειάς τους,

β. την καταγραφή τους,

γ. τον ιατρικό τους έλεγχο και την παροχή της τυχόν αναγκαίας περίθαλψης και ψυχοκοινωνικής υποστήριξης,

δ. την ενημέρωσή τους για τα δικαιώματα και τις υποχρεώσεις τους, ιδίως δε για τις προϋποθέσεις υπό τις οποίες μπορούν να υπαχθούν σε καθεστώς διεθνούς προστασίας και

ε. τη μέριμνα για όσους ανήκουν σε ευάλωτες ομάδες, ώστε να υποβληθούν στην κατά περίπτωση προβλεπόμενη διαδικασία.

2. Στις διαδικασίες πρώτης υποδοχής μπορούν με απόφαση των αρμόδιων αστυνομικών αρχών να υπάγονται και οι υπήκοοι τρίτων χωρών οι οποίοι συλλαμβάνονται να διαμένουν στη Χώρα παράνομα και δεν αποδεικνύουν την ιθαγένεια και την ταυτότητά τους με έγγραφο δημόσιας αρχής.

Άρθρο 8
Οργάνωση - Λειτουργία - Προϋπολογισμός

1. Η Υπηρεσία Πρώτης Υποδοχής συγκροτείται από την Κεντρική Υπηρεσία, καθώς και τα Κέντρα Πρώτης Υποδοχής (ΚΕ.Π.Υ.) και τις έκτακτες ή κινητές Μονάδες Πρώτης Υποδοχής που αποτελούν τις Περιφερειακές Υπηρεσίες, οι οποίες υπάγονται στην Κεντρική Υπηρεσία.

2. Η Κεντρική Υπηρεσία προγραμματίζει, κατευθύνει, παρακολουθεί και ελέγχει τη δράση των Περιφερειακών Υπηρεσιών και εξασφαλίζει τις αναγκαίες προϋποθέσεις για την άσκηση των αρμοδιοτήτων τους σε συνεργασία με τις λοιπές αρμόδιες υπηρεσίες. Για το σκοπό αυτόν η Κεντρική Υπηρεσία μπορεί να αναπτύσσει διεθνή συνεργασία ιδίως με αρμόδιες αλλοδαπές αρχές και φορείς κρατών-μελών της Ευρωπαϊκής Ένωσης και να συμμετέχει αυτοτελώς ή από κοινού με άλλες δημόσιες υπηρεσίες ή φορείς της κοινωνίας των πολιτών σε προγράμματα και δράσεις χρηματοδοτούμενες από την Ευρωπαϊκή Ένωση ή άλλους φορείς.

3. Το πρόγραμμα ιατρικού ελέγχου, ψυχοκοινωνικής διάγνωσης και παραπομπής των δικαιούχων σε δομές υποστήριξης και φιλοξενίας καθορίζεται με απόφαση του Υπουργού Υγείας και Κοινωνικής Αλληλεγγύης.

4. Με κοινή απόφαση των Υπουργών Οικονομικών και Προστασίας του Πολίτη συνιστώνται ΚΕ.Π.Υ. σε επιλεγμένα σημεία της χώρας όπου παρατηρείται σταθερή ροή παρανόμως εισερχομένων υπηκόων τρίτων χωρών και καθορίζεται η τοπική αρμοδιότητά τους. Με όμοια απόφαση κατανέμονται μεταξύ των περιφερειακών υπηρεσιών Πρώτης Υποδοχής οι θέσεις προσωπικού που συνιστώνται γι' αυτές.

5. Με απόφαση του Υπουργού Προστασίας του Πολίτη μπορεί να συνιστάται έκτακτη ή κινητή μονάδα Πρώτης Υποδοχής σε περιοχή που:

α. δεν καλύπτεται από την τοπική αρμοδιότητα υφιστάμενου ΚΕ.Π.Υ. και παρατηρείται αξιόλογη ροή παρανόμως εισερχομένων υπηκόων τρίτων χωρών, ή

β. το υφιστάμενο ΚΕ.Π.Υ. δεν επαρκεί για την κάλυψη των αναγκών που δημιουργούνται από την εντεινόμενη ροή παρανόμως εισερχομένων υπηκόων τρίτων χωρών, ή

γ. παρίσταται ανάγκη παροχής υπηρεσιών Πρώτης Υποδοχής στον τόπο πρώτης εισόδου των παρανόμως εισερχομένων υπηκόων τρίτων χωρών.

6. Η Υπηρεσία Πρώτης Υποδοχής έχει ίδιο προϋπολογισμό ως ειδικός φορέας του Υπουργείου Προστασίας του Πολίτη, όπου εγγράφονται οι πιστώσεις για την αντιμετώπιση των αναγκών λειτουργίας των υπηρεσιών και του προσωπικού της. Ειδικότερα, εγγράφονται πιστώσεις που αφορούν σε δαπάνες για:

α. καταβολή μισθωμάτων για τα οικήματα που στεγάζονται οι Υπηρεσίες Πρώτης Υποδοχής και δεν ανήκουν στο Δημόσιο,

β. αγορά, μίσθωση, επισκευή και συντήρηση κάθε είδους υλικοτεχνικού εξοπλισμού,

γ. αποδοχές του προσωπικού που δεν μισθοδοτείται από τις υπηρεσίες από τις οποίες έχει αποσπαστεί, αμοιβές υπερωριακής απασχόλησης, αμοιβές υπηρεσιών διερμηνείας, οδοιπορικά έξοδα και άλλες συναφείς αποζημιώσεις, καθώς και για την ανάθεση σε φορείς της κοινωνίας των πολιτών έργων των Περιφερειακών Υπηρεσιών,

δ. λειτουργικά έξοδα, έξοδα εκπαίδευσης και επιμόρφωσης του προσωπικού και

ε. διενέργεια μελετών ή ερευνών επί θεμάτων αρμοδιότητας της Υπηρεσίας.

7. Με κοινή απόφαση των Υπουργών Οικονομικών και Προστασίας του Πολίτη εγγράφονται στον προϋπολογισμό της Υπηρεσίας Πρώτης Υποδοχής πιστώσεις για κάθε άλλη δαπάνη, πέρα από όσες διαλαμβάνονται στην παράγραφο 6, που είναι αναγκαία για τη λειτουργία των Υπηρεσιών της.

8. Στον προϋπολογισμό δημοσίων επενδύσεων προβλέπονται οι πιστώσεις για την ανέγερση κτιρίων και τον εξοπλισμό υπηρεσιών της Υπηρεσίας Πρώτης Υποδοχής, στο πλαίσιο των εγκρινόμενων ετήσιων πιστώσεων του Κρατικού Προϋπολογισμού.

9. Στην Κεντρική Υπηρεσία Πρώτης Υποδοχής συνιστάται πάγια προκαταβολή, σύμφωνα με τις διατάξεις του άρθρου 46 του ν. 2362/1995.

10. Η οικονομική διαχείριση της Υπηρεσίας Πρώτης Υποδοχής ασκείται από τις αρμόδιες υπηρεσίες της και οι δαπάνες πραγματοποιούνται, ελέγχονται, εκκαθαρίζονται και εντέλλονται σύμφωνα με τις διατάξεις περί δημοσίου λογιστικού.

11. Με κοινή απόφαση των Υπουργών Οικονομικών και Προστασίας του Πολίτη ρυθμίζονται ειδικά θέματα διαχείρισης υλικού, χρημάτων, καθώς και κάθε άλλο σχετικό θέμα.

12. Με προεδρικό διάταγμα που εκδίδεται με πρόταση των Υπουργών Εσωτερικών, Αποκέντρωσης και

Ηλεκτρονικής Διακυβέρνησης, Οικονομικών, Υγείας και Κοινωνικής Αλληλεγγύης και Προστασίας του Πολίτη, μπορεί, και κατά τροποποίηση των διατάξεων του παρόντος Κεφαλαίου, να ρυθμίζονται τα θέματα που αφορούν την οργάνωση, τη λειτουργία, τα καθήκοντα του προσωπικού, τις επί μέρους αρμοδιότητες και να συνιστώνται ή να καταργούνται οργανικές θέσεις προσωπικού της Κεντρικής Υπηρεσίας και των Περιφερειακών Υπηρεσιών Πρώτης Υποδοχής. Με κοινή απόφαση των Υπουργών Υγείας και Κοινωνικής Αλληλεγγύης και Προστασίας του Πολίτη θεσπίζεται ο Γενικός Κανονισμός Λειτουργίας των Κέντρων και των Μονάδων Πρώτης Υποδοχής, όπου καθορίζονται επί μέρους θέματα εσωτερικής διάρθρωσης και λειτουργίας των Κέντρων και των Μονάδων αυτών.

13. Για την κάλυψη των λειτουργικών αναγκών των ΚΕ.Π.Υ. επιτρέπεται η σύναψη συμβάσεων υπηρεσιών ή έργου, η δαπάνη των οποίων μπορεί να καλύπτεται από εθνικούς ή κοινοτικούς πόρους, σύμφωνα με τις διατάξεις του δημόσιου λογιστικού. Η παράγραφος 8 του άρθρου 4 έχει ανάλογη εφαρμογή και για τις Υπηρεσίες Πρώτης Υποδοχής.

14. Για τις ανάγκες εγκατάστασης των ΚΕ.Π.Υ. επιτρέπεται να χρησιμοποιούνται στρατόπεδα που δεν χρησιμοποιούνται πλέον από τη Στρατιωτική Υπηρεσία και παραχωρούνται κατά χρήση από το Υπουργείο Εθνικής Άμυνας στο Υπουργείο Προστασίας του Πολίτη, κατά παρέκκλιση υφιστάμενων διατάξεων πολεοδομικού σχεδιασμού κάθε επιπέδου. Οι κατά τα ανωτέρω χώροι και οι εγκαταστάσεις επιτρέπεται να χρησιμοποιούνται και ως χώροι κράτησης που προβλέπονται στο άρθρο 31. Για τυχόν επισκευές, βελτιώσεις και αναγκαίες πρόσθετες εγκαταστάσεις σε αυτά, εφαρμόζονται αναλογικά από το Υπουργείο Προστασίας του Πολίτη οι διατάξεις που διέπουν την εκτέλεση στρατιωτικών έργων και εγκαταστάσεων εντός στρατοπέδων. Με κοινή απόφαση των Υπουργών Οικονομικών, Εθνικής Άμυνας, Περιβάλλοντος, Ενέργειας και Κλιματικής Αλλαγής και Προστασίας του Πολίτη, καθορίζονται οι προϋποθέσεις και λεπτομέρειες εφαρμογής των παραπάνω ρυθμίσεων.

Άρθρο 9
Στελέχωση

1. Στην Κεντρική Υπηρεσία Πρώτης Υποδοχής συνιστάται θέση Διευθυντή. Ο Διευθυντής διορίζεται, ύστερα από δημόσια πρόσκληση ενδιαφέροντος, με απόφαση του Υπουργού Προστασίας του Πολίτη, με θητεία τριών ετών που μπορεί να ανανεωθεί μία φορά για τρία ακόμη έτη. Ο Διευθυντής είναι προσωπικότητα εγνωσμένου κύρους, πανεπιστημιακής εκπαίδευσης, με διοικητική ικανότητα. Ο Διευθυντής προΐσταται της Υπηρεσίας Πρώτης Υποδοχής και ελέγχεται από τον Υπουργό Προστασίας του Πολίτη ενώ μπορεί να παύεται πριν τη λήξη της θητείας του είτε κατόπιν αίτησής του είτε λόγω αδυναμίας εκτέλεσης των καθηκόντων του ή για άλλο σοβαρό λόγο που ανάγεται στην άσκηση των καθηκόντων του. Ο Διευθυντής υποστηρίζεται από γραμματεία. Οι αποδοχές του Διευθυντή καθορίζονται με κοινή απόφαση των Υπουργών Οικονομικών και Προστασίας του Πολίτη.

2. Τη θέση του επικεφαλής των Κέντρων και των Μονάδων Πρώτης Υποδοχής καταλαμβάνουν για θητεία τριών ετών που μπορεί να ανανεώνεται μία φορά για τρία ακόμη έτη, υπάλληλοι του Δημοσίου ή Ν.Π.Δ.Δ., μόνιμοι ή με σύμβαση ιδιωτικού δικαίου αορίστου χρόνου. Οι επικεφαλής επιλέγονται από το υπηρεσιακό συμβούλιο του Υπουργείου Προστασίας του Πολίτη μετά από δημόσια πρόσκληση ενδιαφέροντος κατά προτίμηση μεταξύ εκείνων που έχουν πτυχίο Α.Ε.Ι. με γνωστικό αντικείμενο συναφές προς τις αρμοδιότητες της Υπηρεσίας και διοικητική εμπειρία.

3. Η Υπηρεσία Πρώτης Υποδοχής στελεχώνεται από προσωπικό που μετατάσσεται, μεταφέρεται ή αποσπάται από υπηρεσίες του Δημοσίου, του ευρύτερου δημόσιου τομέα (άρθρο 2 του ν. 3861/2010, ΦΕΚ 112 Α΄) ή Ν.Π.Δ.Δ. ύστερα από δημόσια πρόσκληση ενδιαφέροντος ή προσ-λαμβάνεται με σύμβαση εργασίας αορίστου χρόνου, σύμφωνα με τις ισχύουσες διατάξεις. Οι αποσπάσεις του προσωπικού για τη στελέχωση της Υπηρεσίας Πρώτης Υποδοχής διενεργούνται και ανανεώνονται με κοινή απόφαση του Υπουργού Προστασίας του Πολίτη και του συναρμόδιου Υπουργού, μετά από πρόταση του Διευθυντή της Υπηρεσίας Πρώτης Υποδοχής, κατά παρέκκλιση από κάθε γενική ή ειδική διάταξη. Μετατάξεις προσωπικού που υπηρετεί σε καταργούμενους ή συγχωνευόμενους φορείς του Δημοσίου και του ευρύτερου δημόσιου τομέα προς την Υπηρεσία Πρώτης Υποδοχής διενεργούνται κατά προτεραιότητα.

4. Τα Κέντρα και οι Μονάδες Πρώτης Υποδοχής μπορούν να συνάπτουν συμβάσεις παροχής υπηρεσιών με διερμηνείς, οι οποίοι διαθέτουν τα απαραίτητα προσόντα και επιλέγονται από σχετικό κατάλογο που καταρτίζει η Κεντρική Υπηρεσία, σύμφωνα με τον Κανονισμό Λειτουργίας της. Οι διερμηνείς αποζημιώνονται με δελτίο παροχής υπηρεσιών ή με ωριαία αποζημίωση.

5. Σε περίπτωση που η αποτελεσματική λειτουργία Κέντρου ή Μονάδας Πρώτης Υποδοχής κωλύεται λόγω έλλειψης επαρκούς ή κατάλληλου προσωπικού, η διεκπεραίωση επί μέρους διαδικασιών υποδοχής, εξαιρουμένων αυτών που συνιστούν άσκηση δημόσιας εξουσίας, όπως η έκδοση διοικητικών πράξεων, μπορεί να ανατίθεται για ορισμένο χρόνο με βάση τις κείμενες διατάξεις περί δημοσίου λογιστικού σε φορείς της κοινωνίας των πολιτών, που ανταποκρίνονται σε κατάλληλες προδιαγραφές ποιότητας και ασφάλειας. Η ανάθεση των διαδικασιών αυτών γίνεται από τον Διευθυντή της Κεντρικής Υπηρεσίας Πρώτης Υποδοχής ύστερα από ειδική και αιτιολογημένη πρόταση του επικεφαλής του Κέντρου ή της Μονάδας Πρώτης Υποδοχής. Με κοινή απόφαση των Υπουργών Οικονομικών, Υγείας και Κοινωνικής Αλληλεγγύης και Προστασίας του Πολίτη προσδιορίζονται οι ειδικότεροι όροι και προδιαγραφές ποιότητας και ασφάλειας που πρέπει να πληρούν φορείς της κοινωνίας των πολιτών, για την εφαρμογή του προηγούμενου εδαφίου. Στην Κεντρική Υπηρεσία ιδρύεται Μητρώο τέτοιων φορέων. Η δαπάνη της ανάθεσης μπορεί να καλύπτεται από εθνικούς ή συγχρηματοδοτούμενους πόρους.

6. Για την αντιμετώπιση απρόβλεπτων και επειγουσών αναγκών που δημιουργούνται από μαζική εισροή μεταναστών επιτρέπεται η πρόσληψη προσωπικού σύμφωνα με τα οριζόμενα στο άρθρο 20 του ν. 2190/1994.

7. Τα στελέχη των Κέντρων Πρώτης Υποδοχής επιμορφώνονται για το αντικείμενο της αποστολής τους, με μέριμνα της Κεντρικής Υπηρεσίας, σε συνεργασία με τα συναρμόδια Υπουργεία. Ειδικότερα, οι ιατροί που

παρέχουν υπηρεσίες στα ΚΕ.Π.Υ. εκπαιδεύονται στην πιστοποίηση θυμάτων βασανιστηρίων, με μέριμνα των ως άνω Υπηρεσιών σε συνεργασία με την Ύπατη Αρμοστεία του ΟΗΕ για τους Πρόσφυγες.

8. Αρμόδια για τα θέματα του προσωπικού των Υπηρεσιών Πρώτης Υποδοχής είναι τα υπηρεσιακά συμβούλια που είναι αρμόδια για τους πολιτικούς υπαλλήλους του Υπουργείου Προστασίας του Πολίτη.

Άρθρο 10
Διοίκηση και διάρθρωση Περιφερειακών Υπηρεσιών Πρώτης Υποδοχής

1. Ο επικεφαλής του Κέντρου Πρώτης Υποδοχής ή της Μονάδας Πρώτης Υποδοχής, κινητής ή έκτακτης, συντονίζει, κατευθύνει και ελέγχει το έργο των υπηρεσιών αυτών και μεριμνά για την εύρυθμη λειτουργία τους σε συνεργασία με τις λοιπές αρμόδιες αρχές και φορείς, σύμφωνα με τα ειδικότερα οριζόμενα στον παρόντα νόμο και τις κατ' εξουσιοδότηση αυτού εκδιδόμενες κανονιστικές πράξεις.

2. Τα Κέντρα και οι Μονάδες Πρώτης Υποδοχής διαρθρώνονται σε λειτουργικώς διακριτά κλιμάκια, ως εξής: κλιμάκιο διοικητικής μέριμνας, το οποίο είναι αρμόδιο για τη διοικητική υποστήριξη του Κέντρου ή της Μονάδας, κλιμάκιο εξακρίβωσης, το οποίο είναι αρμόδιο για την εξακρίβωση της ταυτότητας και των λοιπών στοιχείων των υπηκόων τρίτων χωρών, κλιμάκιο ιατρικού ελέγχου και ψυχοκοινωνικής υποστήριξης, το οποίο μεριμνά για την παροχή των υπηρεσιών αυτών και κλιμάκιο ενημέρωσης, το οποίο είναι αρμόδιο για την ενημέρωση των υπηκόων τρίτων χωρών σχετικά με τα δικαιώματα και τις υποχρεώσεις τους. Τα κλιμάκια έχουν επιπλέον αρμοδιότητες σύμφωνα με τα ειδικότερα οριζόμενα στον παρόντα νόμο και τις κατ' εξουσιοδότηση αυτού εκδιδόμενες κανονιστικές πράξεις.

Άρθρο 11
Διαχωρισμός και παραπομπή

1. Οι υπηρεσίες πρώτης υποδοχής ενημερώνουν τους υπηκόους τρίτων χωρών για τα δικαιώματα και τις υποχρεώσεις τους. Οι αιτούντες διεθνή προστασία παραπέμπονται στο κατά τόπο αρμόδιο Περιφερειακό Γραφείο Ασύλου, κλιμάκιο του οποίου μπορεί να λειτουργεί στο Κέντρο Πρώτης Υποδοχής. Σε κάθε στάδιο των διαδικασιών Πρώτης Υποδοχής, η υποβολή αιτήματος υπαγωγής σε καθεστώς διεθνούς προστασίας υποχρεώνει στο διαχωρισμό του αιτούντος και την παραπομπή του στο κατά τόπο αρμόδιο Περιφερειακό Γραφείο Ασύλου. Η παραλαβή των αιτημάτων και οι συνεντεύξεις των αιτούντων μπορούν να διεξάγονται εντός των εγκαταστάσεων της Πρώτης Υποδοχής, οι ίδιοι δε παραμένουν στις εγκαταστάσεις για όσο χρόνο διαρκεί η διαδικασία εξέτασης του αιτήματός τους, με την επιφύλαξη των προθεσμιών της παραγράφου 5. Αν μετά την παρέλευση των προθεσμιών αυτών δεν έχει περατωθεί η εξέταση του αιτήματος διεθνούς προστασίας το αρμόδιο Περιφερειακό Γραφείο Ασύλου χορηγεί στον ενδιαφερόμενο δελτίο αιτήσαντος άσυλο και τον παραπέμπει σε κατάλληλες δομές φιλοξενίας για τη λειτουργία των οποίων μεριμνά το Υπουργείο Υγείας και Κοινωνικής Αλληλεγγύης. Εφόσον το αίτημα και η προσφυγή απορριφθεί ενόσω οι υπήκοοι τρίτων χωρών παραμένουν στο Κέντρο ή τη Μονάδα Πρώτης Υποδοχής, αυτοί παραπέμπονται στην αρμόδια αρχή για την υπαγωγή τους σε διαδικασίες απέλασης, επιστροφής ή επανεισδοχής.

2. Ο επικεφαλής του Κέντρου ή της Μονάδας, ύστερα από εισήγηση του προϊσταμένου του κλιμακίου ιατρικού ελέγχου και ψυχοκοινωνικής υποστήριξης παραπέμπει τα πρόσωπα που ανήκουν σε ευάλωτες ομάδες στον αρμόδιο κατά περίπτωση φορέα κοινωνικής στήριξης ή προστασίας. Σε κάθε περίπτωση διασφαλίζεται η συνέχεια της θεραπευτικής αγωγής στις περιπτώσεις που αυτό απαιτείται. Ως ευάλωτες ομάδες νοούνται για τις ανάγκες του παρόντος:

α. οι ασυνόδευτοι ανήλικοι,

β. τα άτομα που έχουν αναπηρία ή πάσχουν από ανίατη ασθένεια,

γ. οι υπερήλικες,

δ. οι γυναίκες σε κύηση ή λοχεία,

ε. οι μονογονεϊκές οικογένειες με ανήλικα τέκνα,

στ. τα θύματα βασανιστηρίων, βιασμού ή άλλης σοβαρής μορφής ψυχολογικής, σωματικής ή σεξουαλικής βίας ή εκμετάλλευσης και

ζ. τα θύματα εμπορίας ανθρώπων.

3. Οι εναπομένοντες υπήκοοι τρίτων χωρών παραπέμπονται στην αρχή που είναι κατά νόμο αρμόδια να αποφασίσει την υπαγωγή τους σε διαδικασία επανεισδοχής, απέλασης ή επιστροφής. Την παραπομπή αποφασίζει ο επικεφαλής του Κέντρου ή της Μονάδας, κατόπιν εισήγησης του κλιμακίου που διενήργησε τον έλεγχο κατά την πρώτη υποδοχή. Τα άτομα αυτά μπορεί να παραμένουν στις εγκαταστάσεις Πρώτης Υποδοχής μέχρι την επαναπροώθησή τους ή την έκδοση της απόφασης επιστροφής ή απέλασης, οπότε και εφαρμόζεται η προβλεπόμενη διαδικασία. Εφόσον η αρχή που είναι αρμόδια να αποφασίσει την απέλαση ή την αναγκαστική επιστροφή του υπηκόου τρίτης χώρας κρίνει ότι αυτή πρέπει να αναβληθεί ή ότι η κράτηση δεν είναι αναγκαία, ο υπήκοος τρίτης χώρας εφοδιάζεται με γραπτή βεβαίωση και του επιτρέπεται να αποχωρήσει από τις εγκαταστάσεις Πρώτης Υποδοχής, υπό τους περιοριστικούς όρους που του έχουν τυχόν επιβληθεί, σύμφωνα με το άρθρο 22 παράγραφος 3.

4. Αν η εισήγηση για την παραπομπή, σύμφωνα με τις παραγράφους 1 έως 3, δεν γίνεται δεκτή από τον επικεφαλής του Κέντρου ή της Μονάδας Πρώτης Υποδοχής η απόφαση λαμβάνεται από επιτροπή που συγκροτείται από τον επικεφαλής του Κέντρου ή της Μονάδας Πρώτης Υποδοχής και τους Προϊσταμένους των κλιμακίων του Κέντρου ή της Μονάδας και ενημερώνεται σχετικά η Κεντρική Υπηρεσία.

5. Στις περιπτώσεις των παραγράφων 2 και 3 το παραπεμπτικό σημείωμα προς την κατά περίπτωση αρμόδια αρχή εκδίδεται το αργότερο μέσα σε δεκαπέντε (15) ημέρες από την υπαγωγή του υπηκόου τρίτης χώρας σε διαδικασίες πρώτης υποδοχής. Σε εξαιρετικές περιπτώσεις ο χρόνος υπαγωγής στις διαδικασίες εξακρίβωσης και διαχωρισμού μπορεί να παρατείνεται αιτιολογημένα για άλλες δέκα (10) το πολύ ημέρες. Εφόσον η καθυστέρηση της εξακρίβωσης οφείλεται σε υπαίτια ή καταχρηστική συμπεριφορά του υποκείμενου στη διαδικασία πρώτης υποδοχής, αυτός λογίζεται ως αρνούμενος να συνεργαστεί για την προετοιμασία της επιστροφής του και παραπέμπεται για επαναπροώθηση, απέλαση ή επιστροφή. Οι προθεσμίες και οι διαδικασίες του πα-

ρόντος άρθρου ισχύουν μόνο στο πλαίσιο λειτουργίας των Κέντρων Πρώτης Υποδοχής.

Άρθρο 12
Περιφερειακή Επιτροπή Εποπτείας

1. Η παρακολούθηση και αξιολόγηση της λειτουργίας κάθε Κέντρου ή Μονάδας Πρώτης Υποδοχής ανατίθεται σε Περιφερειακή Επιτροπή Εποπτείας. Η Επιτροπή συγκροτείται με απόφαση του Υπουργού Προστασίας του Πολίτη από:

α. τον προϊστάμενο της Υπηρεσίας Αλλοδαπών και Μετανάστευσης της Αποκεντρωμένης Διοίκησης στα διοικητικά όρια της οποίας εδρεύει το Κέντρο ή η Μονάδα Πρώτης Υποδοχής, ως πρόεδρο με τον αναπληρωτή του,

β. έναν εκπρόσωπο της οικείας Περιφέρειας, ως μέλος, με τον αναπληρωτή του που ορίζονται από το οικείο περιφερειακό συμβούλιο,

γ. έναν εκπρόσωπο της κοινωνίας των πολιτών που δραστηριοποιείται στην περιοχή τοπικής αρμοδιότητας του Κέντρου ή της Μονάδας, ως μέλος, με τον αναπληρωτή του που προτείνονται από τον επικεφαλής της περιφερειακής Υπηρεσίας Πρώτης Υποδοχής και

δ. έναν εκπρόσωπο της οικείας Υγειονομικής Περιφέρειας (Δ.Υ.ΠΕ.) με τον αναπληρωτή του, που ορίζονται από τον Διοικητή τους, ως μέλη.

2. Η Επιτροπή μπορεί στο πλαίσιο της αποστολής της να ζητήσει τη συνδρομή στελεχών και άλλων φορέων, δημόσιων ή ιδιωτικών, εφόσον τούτο κρίνεται αναγκαίο.

3. Η Επιτροπή συνεδριάζει σε τακτά χρονικά διαστήματα, τα οποία προβλέπονται στον κανονισμό λειτουργίας του Κέντρου ή της Μονάδας και σε έκτακτες περιπτώσεις, όταν κρίνει τούτο αναγκαίο ή προσκληθεί από τον Διευθυντή της Κεντρικής Υπηρεσίας.

4. Με τον Κανονισμό Λειτουργίας του Κέντρου ή της Μονάδας ορίζονται οι αρμοδιότητες των Επιτροπών, στις οποίες περιλαμβάνονται ιδίως:

α. η παρακολούθηση και αξιολόγηση της γενικής λειτουργίας του Κέντρου ή της Μονάδας Πρώτης Υποδοχής και η υποβολή ετήσιας έκθεσης προς τον Υπουργό Προστασίας του Πολίτη, η οποία κοινοποιείται στον Υπουργό Υγείας και Κοινωνικής Αλληλεγγύης και τον Διευθυντή της Κεντρικής Υπηρεσίας Πρώτης Υποδοχής,

β. η διατύπωση προτάσεων για τη ρύθμιση ειδικότερων θεμάτων εσωτερικής λειτουργίας του Κέντρου ή της Μονάδας,

γ. η διατύπωση προτάσεων για την αντιμετώπιση ειδικών θεμάτων, ιδίως σε ζητήματα συνεργασίας με την τοπική κοινωνία και

δ. η διατύπωση γνώμης για κάθε άλλο ζήτημα, το οποίο τίθεται από τον Διευθυντή.

Άρθρο 13
Καθεστώς παραμονής σε εγκαταστάσεις Πρώτης Υποδοχής

1. Οι υπήκοοι τρίτων χωρών που συλλαμβάνονται να εισέρχονται παράνομα στη Χώρα οδηγούνται άμεσα με ευθύνη της αρχής που διενήργησε τη σύλληψη στο Κέντρο ή Μονάδα Πρώτης Υποδοχής στα όρια της τοπικής αρμοδιότητας των οποίων συνελήφθησαν.

2. Για τις ανάγκες της εξακρίβωσης και των λοιπών διαδικασιών πρώτης υποδοχής οι υποκείμενοι σε αυτές τελούν υπό καθεστώς περιορισμού της ελευθερίας τους. Παραμένουν υποχρεωτικά εντός των εγκαταστάσεων του Κέντρου Πρώτης Υποδοχής ή εντός άλλων κατάλληλων εγκαταστάσεων, που φυλάσσονται, η δε εκεί παραμονή τους ρυθμίζεται από τον Κανονισμό Λειτουργίας τους, το περιεχόμενο του οποίου τους έχει γίνει κατάλληλα γνωστό. Οι υποκείμενοι στις διαδικασίες πρώτης υποδοχής μπορούν να εξέρχονται μόνο ύστερα από ειδική γραπτή άδεια του επικεφαλής του Κέντρου ή της Μονάδας.

3. Σε κάθε περίπτωση καθ' όλη τη διάρκεια των διαδικασιών πρώτης υποδοχής ο επικεφαλής και το προσωπικό του Κέντρου ή της Μονάδας μεριμνούν, σύμφωνα με τα προβλεπόμενα ανά περίπτωση, ώστε οι υπήκοοι τρίτων χωρών:

α. να τελούν υπό αξιοπρεπείς συνθήκες διαβίωσης,

β. να διατηρούν κατά το δυνατόν την οικογενειακή τους ενότητα,

γ. να έχουν πρόσβαση σε επείγουσα υγειονομική περίθαλψη και κάθε απαραίτητη θεραπευτική αγωγή ή ψυχοκοινωνική στήριξη,

δ. να τυγχάνουν εφόσον ανήκουν σε ευάλωτες ομάδες της κατάλληλης κατά περίπτωση μεταχείρισης,

ε. να ενημερώνονται επαρκώς για τα δικαιώματα και τις υποχρεώσεις τους,

στ. να έχουν πρόσβαση σε καθοδήγηση και νομική συμβουλή σχετικά με την κατάστασή τους και

ζ. να διατηρούν επαφή με κοινωνικούς φορείς και οργανώσεις.

Άρθρο 14
Φύλαξη - Εγκαταστάσεις

1. Την ευθύνη της εξωτερικής φύλαξης των εγκαταστάσεων του Κέντρου ή της Μονάδας έχει η αρμόδια αστυνομική αρχή, η οποία λαμβάνει κατάλληλα μέτρα περιορισμού σε μισθωμένες ή παραχωρημένες εγκαταστάσεις. Η εξωτερική φύλαξη μπορεί, μετά από έγκριση του Υπουργού Προστασίας του Πολίτη, να ανατίθεται και σε εξειδικευμένη ιδιωτική εταιρία παροχής υπηρεσιών ασφαλείας παράλληλα με την αρμόδια αστυνομική αρχή.

2. Εάν δεν υπάρχουν οι κατάλληλες εγκαταστάσεις για τη διεξαγωγή των διαδικασιών πρώτης υποδοχής ή οι υφιστάμενες δεν επαρκούν, επιτρέπεται η κατά παρέκκλιση των κειμένων διατάξεων χρήση άλλων δημόσιων εγκαταστάσεων, μετά από κατάλληλη διαρρύθμιση, καθώς και η μίσθωση ακινήτων με κατάλληλη υποδομή ή, σε κατεπείγουσες περιπτώσεις, η μίσθωση τουριστικών εγκαταστάσεων.

Άρθρο 15
Μεταβατικές διατάξεις

1. Οι υφιστάμενοι χώροι προσωρινής φιλοξενίας υπηκόων τρίτων χωρών, τα υφιστάμενα αρχεία και η λοιπή υλικοτεχνική υποδομή τους περιέρχονται κατά χρήση στο Υπουργείο Προστασίας του Πολίτη από την ημερομηνία κατάργησης των οικείων Νομαρχιακών Αυτοδιοικήσεων.

2. Με απόφαση του Υπουργού Προστασίας του Πολίτη μπορεί να καθορίζεται η χρήση των υφιστάμενων χώρων προσωρινής φιλοξενίας υπηκόων τρίτων χωρών είτε ως Ειδικών Χώρων Παραμονής Αλλοδαπών (ΕΧΠΑ) του άρθρου 81 του ν. 3386/2005 είτε ως εγκαταστάσεων

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του άρθρου 31 του παρόντος νόμου είτε ως Κέντρων Πρώτης Υποδοχής του άρθρου 8 παρ. 1 του παρόντος νόμου και ρυθμίζεται κάθε θέμα σχετικά με τη λειτουργία αυτών.

3. Τυχόν εγγεγραμμένες πιστώσεις και επιχορηγήσεις από εθνικούς, ευρωπαϊκούς ή άλλους φορείς που αφορούν δράσεις των ΕΧΠΑ που βρίσκονται σε εξέλιξη εκτελούνται κανονικά άλλως μεταφέρονται ώστε να εκτελεστούν από τα ΚΕ.Π.Υ..

4. Μέχρι την έναρξη λειτουργίας των ΚΕ.Π.Υ. για την κράτηση των αιτούντων άσυλο εφαρμόζονται οι διατάξεις του άρθρου 13 του π.δ. 114/2010 (ΦΕΚ 195 Α΄).

ΚΕΦΑΛΑΙΟ Γ΄
ΠΡΟΣΑΡΜΟΓΗ ΤΗΣ ΕΛΛΗΝΙΚΗΣ ΝΟΜΟΘΕΣΙΑΣ ΣΤΙΣ ΔΙΑΤΑΞΕΙΣ ΤΗΣ ΟΔΗΓΙΑΣ 2008/115/ΕΚ

Άρθρο 16
Σκοπός
(Άρθρο 1 της Οδηγίας)

Σκοπός του παρόντος Κεφαλαίου είναι η προσαρμογή της ελληνικής νομοθεσίας στην Οδηγία 2008/115/ΕΚ του Ευρωπαϊκού Κοινοβουλίου και του Συμβουλίου, της 16ης Δεκεμβρίου 2008 «σχετικά με τους κοινούς κανόνες και διαδικασίες στα κράτη-μέλη για την επιστροφή των παρανόμως διαμενόντων υπηκόων τρίτων χωρών» (ΕΕ L 348/24.12.2008), σύμφωνα με τα θεμελιώδη δικαιώματα που εγγυώνται η νομοθεσία της Ευρωπαϊκής Ένωσης, οι διεθνείς συμβάσεις που δεσμεύουν τη Χώρα και οι γενικώς αναγνωρισμένες αρχές του διεθνούς δικαίου, συμπεριλαμβανομένων των υποχρεώσεων προστασίας των προσφύγων.

Άρθρο 17
Πεδίο Εφαρμογής
(Άρθρο 2 της Οδηγίας)

1. Οι διατάξεις του παρόντος Κεφαλαίου εφαρμόζονται στους υπηκόους τρίτων χωρών, οι οποίοι διαμένουν παράνομα στην ελληνική επικράτεια.

2. Το παρόν Κεφάλαιο δεν εφαρμόζεται στους υπηκόους τρίτων χωρών, οι οποίοι:

α. Υπόκεινται σε απαγόρευση εισόδου, σύμφωνα με το άρθρο 13 του Κανονισμού (ΕΚ) αριθμ. 562/2006 του Ευρωπαϊκού Κοινοβουλίου και του Συμβουλίου της 15ης Μαρτίου 2006, για τη θέσπιση του Κώδικα Συνόρων Σένγκεν σχετικά με το καθεστώς διέλευσης προσώπων από τα σύνορα (ΕΕ L 105/13.4.2006) ή συλλαμβάνονται ή παρακολουθούνται από τις αρμόδιες αρχές σε σχέση με παράνομη χερσαία, θαλάσσια ή εναέρια διέλευση των εξωτερικών συνόρων κατά την έννοια του άρθρου 2 παρ. 2 του Κώδικα Συνόρων Σένγκεν, στους οποίους δεν έχει χορηγηθεί στη συνέχεια άδεια ή δικαίωμα να παραμείνουν στη Χώρα.

β. Υπόκεινται σε απέλαση που επιβάλλεται με δικαστική απόφαση, ως μέτρο ασφαλείας ή ως παρεπόμενη ποινή ή υπόκεινται σε διαδικασίες έκδοσης σύμφωνα με τις διατάξεις διεθνούς σύμβασης που δεσμεύει τη Χώρα ή των άρθρων 436 - 456 του Κώδικα Ποινικής Δικονομίας ή του ν.3251/2004 «Ευρωπαϊκό ένταλμα σύλληψης, τροποποίηση του ν.2928/2001 για τις εγκληματικές οργανώσεις και άλλες διατάξεις» και

γ. Απολαμβάνουν του δικαιώματος της Ευρωπαϊκής Ένωσης περί ελεύθερης κυκλοφορίας σύμφωνα με το άρθρο 2 παρ. 5 του Κώδικα Συνόρων Σένγκεν και το π.δ.106/2007 (ΦΕΚ 135 Α΄).

Άρθρο 18
Ορισμοί
(Άρθρο 3 της Οδηγίας)

Για την εφαρμογή των διατάξεων του παρόντος Κεφαλαίου, νοούνται ως:

α. «Υπήκοος τρίτης χώρας»: κάθε πρόσωπο που δεν είναι πολίτης της ΕΕ κατά την έννοια του άρθρου 17 παρ. 1 της Συνθήκης και δεν απολαύει του κοινοτικού δικαιώματος ελεύθερης κυκλοφορίας όπως ορίζεται στο άρθρο 2 παρ. 5 του Κώδικα Συνόρων Σένγκεν.

β. «Παράνομη παραμονή»: παρουσία στην ελληνική επικράτεια υπηκόου τρίτης χώρας που δεν πληροί ή δεν πληροί πλέον, τις προϋποθέσεις εισόδου, όπως ορίζονται στο άρθρο 5 του Κώδικα Συνόρων του Σένγκεν, ή τις λοιπές προϋποθέσεις εισόδου, παραμονής ή διαμονής της κείμενης νομοθεσίας.

γ. «Επιστροφή»: διαδικασία επανόδου υπηκόου τρίτης χώρας είτε με οικειοθελή συμμόρφωσή του προς υποχρέωση επιστροφής είτε αναγκαστικά: α) στη χώρα καταγωγής του ή β) σε χώρα διέλευσης, σύμφωνα με κοινοτικές ή διμερείς συμφωνίες επανεισδοχής ή άλλες ρυθμίσεις ή γ) σε άλλη τρίτη χώρα, στην οποία αποφασίζει εθελοντικά να επιστρέψει και στην οποία γίνεται δεκτός.

δ. «Απόφαση επιστροφής»: διοικητική πράξη με την οποία κηρύσσεται ή αναφέρεται ως παράνομη η παραμονή υπηκόου τρίτης χώρας και του επιβάλλεται η υποχρέωση επιστροφής.

ε. «Απομάκρυνση»: εκτέλεση της απόφασης επιστροφής με φυσική μεταφορά του υπηκόου τρίτης χώρας εκτός της ελληνικής επικράτειας.

στ. «Απαγόρευση εισόδου»: διοικητική πράξη, η οποία συνοδεύει την απόφαση επιστροφής και με την οποία απαγορεύεται, για ορισμένο χρονικό διάστημα, η είσοδος και η παραμονή στην ελληνική επικράτεια ή στην επικράτεια άλλου κράτους-μέλους της Ευρωπαϊκής Ένωσης.

ζ. «Κίνδυνος διαφυγής»: η βάσιμη εικασία, στηριζόμενη σε συρροή αντικειμενικών κριτηρίων, ότι σε συγκεκριμένη ατομική περίπτωση ο υπήκοος τρίτης χώρας, ο οποίος υπόκειται σε διαδικασία επιστροφής, μπορεί να διαφύγει. Τέτοια αντικειμενικά κριτήρια αποτελούν ενδεικτικά:

ζα) η μη συμμόρφωση με την υποχρέωση οικειοθελούς αναχώρησης,

ζβ) η ρητή εκδήλωση της πρόθεσης για μη συμμόρφωση με την απόφαση επιστροφής,

ζγ) η κατοχή πλαστών εγγράφων,

ζδ) η παροχή ψευδών πληροφοριών στις αρχές,

ζε) η ύπαρξη καταδικαστικών αποφάσεων για ποινικά αδικήματα, εκκρεμών ποινικών διώξεων ή σοβαρών ενδείξεων ότι έχει διαπραχθεί ή επίκειται η διάπραξη ποινικού αδικήματος από το συγκεκριμένο άτομο,

ζστ) η έλλειψη ταξιδιωτικών ή άλλων βεβαιωτικών της ταυτότητας εγγράφων,

ζη) η προηγούμενη διαφυγή και

ζθ) η μη συμμόρφωση με υφιστάμενη απαγόρευση εισόδου.

η. «Οικειοθελής αναχώρηση»: η τήρηση της υποχρέωσης επιστροφής εντός της προθεσμίας που ορίζεται για το σκοπό αυτόν στην απόφαση επιστροφής.

θ. «Ευάλωτα άτομα»: ανήλικοι, ασυνόδευτοι ανήλικοι, άτομα με ειδικές ανάγκες, ηλικιωμένοι, έγκυες, γυναίκες σε κατάσταση λοχείας, μονογονεϊκές οικογένειες με ανήλικα τέκνα και θύματα βασανιστηρίων, βιασμών ή άλλης σοβαρής μορφής ψυχολογικής, σωματικής ή σεξουαλικής βίας ή εκμετάλλευσης, καθώς και θύματα εμπορίας ανθρώπων.

Άρθρο 19
Ευνοϊκότερες διατάξεις
(Άρθρο 4 της Οδηγίας)

1. Οι διατάξεις του παρόντος Κεφαλαίου ισχύουν υπό την επιφύλαξη ευνοϊκότερων διατάξεων:

α. διμερών ή πολυμερών συμφωνιών μεταξύ της Ευρωπαϊκής Ένωσης ή της Ευρωπαϊκής Ένωσης και των κρατών-μελών της και μιας ή περισσοτέρων τρίτων χωρών,

β. διμερών ή πολυμερών συμφωνιών μεταξύ της Ελληνικής Δημοκρατίας ή/και περισσοτέρων κρατών-μελών και μιας ή περισσοτέρων τρίτων χωρών και

γ. που περιέχονται, για τους υπηκόους τρίτων χωρών, στο κεκτημένο της Ευρωπαϊκής Ένωσης περί μετανάστευσης και ασύλου.

2. Για τους υπηκόους τρίτων χωρών που εξαιρούνται από το πεδίο εφαρμογής του παρόντος Κεφαλαίου, σύμφωνα με το άρθρο 17 παρ. 2 περίπτωση α΄, οι αρμόδιες ελληνικές αρχές: α) μεριμνούν, ώστε η μεταχείριση και το επίπεδο προστασίας τους να μην είναι λιγότερο ευνοϊκά από τα προβλεπόμενα στο άρθρο 23 παράγραφοι 4 και 5 (περιορισμοί της χρήσης αναγκαστικών μέτρων), το άρθρο 24 παρ. 2, πρώτη περίπτωση (αναβολή της απομάκρυνσης για λόγους που ανάγονται στη φυσική ή διανοητική κατάσταση του υπηκόου τρίτης χώρας), το άρθρο 29 παρ. 1, περί επείγουσας υγειονομικής περίθαλψης, θεραπευτικής αγωγής και συνυπολογισμού των αναγκών των ευάλωτων ατόμων και τα άρθρα 30 και 31 (όροι κράτησης) και β) τηρούν την αρχή της μη επαναπροώθησης.

Άρθρο 20
Μη επαναπροώθηση, βέλτιστα συμφέροντα του παιδιού, οικογενειακή ζωή και κατάσταση της υγείας
(Άρθρο 5 της Οδηγίας)

Οι αρμόδιες αρχές κατά την εφαρμογή του παρόντος Κεφαλαίου λαμβάνουν δεόντως υπόψη: α) το βέλτιστο συμφέρον του παιδιού, β) την οικογενειακή ζωή, γ) την κατάσταση της υγείας του συγκεκριμένου υπηκόου τρίτης χώρας και τηρούν την αρχή της μη επαναπροώθησης.

Άρθρο 21
Απόφαση Επιστροφής
(Άρθρο 6 της Οδηγίας)

1. Σε περίπτωση απόρριψης αιτήματος χορήγησης ή ανανέωσης τίτλου διαμονής, καθώς και σε περίπτωση ανάκλησης ισχύοντος τίτλου διαμονής, η αρμόδια αρχή εκδίδει απόφαση επιστροφής του υπηκόου τρίτης χώρας. Η απόφαση επιστροφής αποτελεί αναπόσπαστο τμήμα της απόφασης απόρριψης του αιτήματος διαμονής ή ανάκλησης του τίτλου διαμονής. Στις λοιπές περιπτώσεις υπηκόων τρίτων χωρών που διαμένουν παράνομα σε ελληνικό έδαφος εκδίδεται απόφαση επιστροφής από τα αρμόδια, κατά το άρθρο 76 παρ. 2 του ν. 3386/2005, όργανα. Οι αποφάσεις επιστροφής εκδίδονται με την επιφύλαξη των εξαιρέσεων που προβλέπονται στις παραγράφους 2 έως 5.

2. Οι υπήκοοι τρίτων χωρών, οι οποίοι διαμένουν παρανόμως στο ελληνικό έδαφος και διαθέτουν έγκυρο τίτλο διαμονής ή άλλη άδεια που παρέχει δικαίωμα παραμονής και έχει εκδοθεί από άλλο κράτος-μέλος της Ευρωπαϊκής Ένωσης υποχρεούνται να μεταβαίνουν αμέσως στο έδαφος αυτού του άλλου κράτους. Σε περίπτωση μη συμμόρφωσης του υπηκόου τρίτης χώρας με την ανωτέρω υποχρέωση ή όταν η άμεση αναχώρηση του υπηκόου τρίτης χώρας επιβάλλεται για λόγους εθνικής ασφάλειας ή δημόσιας τάξης, εκδίδεται απόφαση επιστροφής από τις αρμόδιες αστυνομικές αρχές.

3. Οι αρμόδιες αρχές μπορούν να μην εκδίδουν απόφαση επιστροφής για υπήκοο τρίτης χώρας, ο οποίος διαμένει παράνομα στην ελληνική επικράτεια, εφόσον άλλο κράτος-μέλος αναλαμβάνει τον εν λόγω υπήκοο δυνάμει διμερών συμφωνιών ή διευθετήσεων που ισχύουν κατά την ημερομηνία έναρξης ισχύος της Οδηγίας 2008/115/ΕΚ (13.1.2009). Εφόσον η Ελλάδα αναλαμβάνει υπήκοο τρίτης χώρας δυνάμει των συμφωνιών ή διευθετήσεων του προηγούμενου εδαφίου εκδίδεται απόφαση επιστροφής από τις αρμόδιες αστυνομικές αρχές.

4. Οι αρμόδιες κατά περίπτωση αρχές μπορούν ανά πάσα στιγμή να χορηγούν αυτοτελή άδεια διαμονής για λόγους φιλευσπλαχνίας, ανθρωπιστικούς ή άλλους λόγους σε υπήκοο τρίτης χώρας, ο οποίος διαμένει παράνομα στην ελληνική επικράτεια, σύμφωνα με τις διατάξεις του Κεφαλαίου Η΄ του ν. 3386/2005 ή της παρ. 4 του άρθρου 15 του ν. 1975/1991. Στην περίπτωση έκδοσης της ανωτέρω άδειας διαμονής, δεν εκδίδεται απόφαση επιστροφής. Εφόσον η απόφαση επιστροφής έχει ήδη εκδοθεί, τότε αυτή ανακαλείται ή αναστέλλεται για χρονικό διάστημα ίσο με τη διάρκεια ισχύος της ανωτέρω άδειας.

5. Σε βάρος υπηκόου τρίτης χώρας που έχει καταθέσει εμπρόθεσμα αίτηση χορήγησης ή ανανέωσης άδειας διαμονής με όλα τα απαιτούμενα δικαιολογητικά και έχει λάβει τη βεβαίωση που προβλέπεται από το άρθρο 11 παρ. 4 του ν.3386/2005 ή από άλλη ανάλογη ειδική διάταξη, δεν είναι δυνατή η έκδοση απόφασης επιστροφής για λόγους παράνομης διαμονής, έως ότου το αίτημά του κριθεί οριστικά. Ομοίως, δεν είναι δυνατή η έκδοση απόφασης επιστροφής για υπήκοο τρίτης χώρας για τον οποίο έχει εκδοθεί προσωρινή διαταγή ή απόφαση διοικητικού πρωτοδικείου για την αναστολή της εκτέλεσης διοικητικής πράξης που αφορά την απόρριψη αιτήματος έκδοσης ή ανανέωσης άδειας διαμονής ή την ανάκληση άδειας διαμονής, σύμφωνα με τις κείμενες διατάξεις.

Άρθρο 22
Οικειοθελής αναχώρηση
(Άρθρο 7 της Οδηγίας)

1. Η απόφαση επιστροφής του υπηκόου τρίτης χώρας προβλέπει κατάλληλο χρονικό διάστημα για την οικειοθελή αναχώρησή του, το οποίο κυμαίνεται μεταξύ επτά (7) και τριάντα (30) ημερών με την επιφύλαξη των διατάξεων των παραγράφων 2 και 4. Το χρονικό αυτό διάστημα χορηγείται αυτοδικαίως, χωρίς να απαιτείται η υποβολή αιτήσεως από τον υπήκοο τρίτης χώρας. Η χορήγηση προθεσμίας για την οικειοθελή αναχώρη-

ση δεν αποκλείει τη δυνατότητα των υπηκόων τρίτων χωρών να αναχωρήσουν από την ελληνική επικράτεια νωρίτερα.

2. Οι αρμόδιες για την έκδοση της απόφασης επιστροφής αρχές μπορούν, με αιτιολογημένη απόφασή τους, να παρατείνουν την προθεσμία οικειοθελούς αναχώρησης για κατάλληλο χρονικό διάστημα, το οποίο δεν μπορεί να υπερβαίνει το ένα (1) έτος. Για τη λήψη της σχετικής απόφασης λαμβάνονται υπόψη οι ειδικές περιστάσεις κάθε περίπτωσης, όπως η διάρκεια της παραμονής του υπηκόου τρίτης χώρας στην Ελλάδα, η φοίτηση των τέκνων αυτού σε σχολείο και η ύπαρξη άλλων οικογενειακών και κοινωνικών δεσμών.

3. Οι αρμόδιες για την έκδοση της απόφασης επιστροφής αρχές μπορούν να επιβάλουν καθ' όλο το χρονικό διάστημα της προθεσμίας οικειοθελούς αναχώρησης υποχρεώσεις στον υπήκοο τρίτης χώρας, με σκοπό την αποφυγή του κινδύνου διαφυγής, όπως την τακτική εμφάνιση ενώπιον αρχών, την κατάθεση κατάλληλης οικονομικής εγγύησης, την κατάθεση εγγράφων ή την υποχρέωση παραμονής σε ορισμένο μέρος. Το ύψος και η διαδικασία κατάθεσης οικονομικής εγγύησης καθορίζεται με κοινή απόφαση των Υπουργών Οικονομικών και Προστασίας του Πολίτη.

4. Αν υπάρχει κίνδυνος διαφυγής ή η αίτηση για νόμιμη παραμονή έχει απορριφθεί ως προδήλως αβάσιμη ή καταχρηστική ή ο υπήκοος τρίτης χώρας αποτελεί κίνδυνο για τη δημόσια ασφάλεια, τη δημόσια τάξη ή την εθνική ασφάλεια, οι κατά περίπτωση αρμόδιες αρχές δεν χορηγούν χρονικό διάστημα οικειοθελούς αναχώρησης ή χορηγούν χρονικό διάστημα αναχώρησης μικρότερο των επτά (7) ημερών.

5. Η απόφαση επιστροφής με οικειοθελή αναχώρηση επιδίδεται στον υπήκοο τρίτης χώρας και παρέχει, κατά το χρονικό διάστημα της προθεσμίας αναχώρησης, προσωρινό δικαίωμα νόμιμης διαμονής στην Ελλάδα και, εφόσον αυτό προβλεπόταν από τον τίτλο διαμονής που αυτός τυχόν έφερε, πρόσβαση στην απασχόληση, τηρουμένων των σχετικών διατάξεων της εργατικής και ασφαλιστικής νομοθεσίας.

Άρθρο 23
Απομάκρυνση
(Άρθρο 8 της Οδηγίας)

1. Οι αρμόδιες αστυνομικές αρχές λαμβάνουν όλα τα αναγκαία μέτρα για την εκτέλεση της απόφασης επιστροφής εφόσον: α) δεν έχει χορηγηθεί χρονικό διάστημα οικειοθελούς αναχώρησης για τους λόγους που αναφέρονται στο άρθρο 22 παρ. 4 και β) ο υπήκοος τρίτης χώρας δεν έχει συμμορφωθεί με την υποχρέωση επιστροφής εντός της ταχθείσας προθεσμίας οικειοθελούς αναχώρησης.

2. Οι αρμόδιες αστυνομικές αρχές, στην περίπτωση που έχει χορηγηθεί προθεσμία οικειοθελούς αναχώρησης, σύμφωνα με τις διατάξεις του άρθρου 22, εκτελούν την απόφαση επιστροφής μόνο μετά τη λήξη του ως άνω χρονικού διαστήματος, εκτός αν, κατά τη διάρκεια αυτού ανακύψει οποιοσδήποτε από τους λόγους που αναφέρονται στην παρ. 4 του άρθρου 22.

3. Στις περιπτώσεις της παραγράφου 1 δεν εκδίδεται αυτοτελής απόφαση απομάκρυνσης. Στην περίπτωση που η απόφαση επιστροφής καθίσταται άμεσα εκτελεστή πριν τη λήξη της ταχθείσας προθεσμίας οικειοθελούς αναχώρησης για τους λόγους του άρθρου 22 παρ. 4, η αρμόδια αστυνομική αρχή εκδίδει διαπιστωτική πράξη η οποία επιδίδεται στον υπήκοο τρίτης χώρας.

4. Σε βάρος του υπηκόου τρίτης χώρας ο οποίος ανθίσταται κατά την εκτέλεση της απόφασης επιστροφής, οι αρμόδιες αρχές μπορούν να εφαρμόζουν τα μέτρα καταναγκασμού που προβλέπονται από τις διατάξεις της παρ. 4 του άρθρου 80 του ν.3386/2005 και της υπ' αριθμ. 4000/4/46-α΄ από 27.7.2009 κ.υ.α. (ΦΕΚ 1535 Β΄). Στην περίπτωση αυτή τα μέτρα λαμβάνονται με σεβασμό στην προσωπικότητα και τα θεμελιώδη δικαιώματα του ατόμου, χωρίς υπέρβαση του αναγκαίου μέτρου, σύμφωνα και με την αρχή της αναλογικότητας.

5. Σε περίπτωση απομάκρυνσης με αεροπορική πτήση, λαμβάνονται υπόψη οι κοινές κατευθυντήριες γραμμές, σχετικά με τα μέτρα ασφαλείας των κοινών απομακρύνσεων δια αέρος, που προβλέπονται στην Απόφαση 2004/573/ΕΚ (ΕΕ L 261/ 6.8.2004).

6. Οι διαδικασίες της απομάκρυνσης υπόκεινται σε σύστημα εξωτερικού ελέγχου, που λειτουργεί με μέριμνα της Ανεξάρτητης Αρχής «Συνήγορος του Πολίτη», η οποία συνεργάζεται για τον σκοπό αυτόν με διεθνείς οργανισμούς και Μη Κυβερνητικές Οργανώσεις. Με κοινή απόφαση των Υπουργών Εσωτερικών, Αποκέντρωσης και Ηλεκτρονικής Διακυβέρνησης και Προστασίας του Πολίτη, που εκδίδεται μετά από πρόταση του Συνηγόρου του Πολίτη, ρυθμίζεται η οργάνωση και λειτουργία του ως άνω συστήματος ελέγχου.

Άρθρο 24
Αναβολή της απομάκρυνσης
(Άρθρο 9 της Οδηγίας)

1. Η απομάκρυνση υπηκόου τρίτης χώρας που τελεί υπό διαδικασία επιστροφής αναβάλλεται υποχρεωτικά στις περιπτώσεις που: α) παραβιάζεται η αρχή της μη επαναπροώθησης ή β) έχει ανασταλεί σύμφωνα με το άρθρο 28 παράγραφος 2.

2. Οι αρμόδιες για την εκτέλεση της απόφασης επιστροφής αστυνομικές αρχές μπορούν, με αιτιολογημένη απόφασή τους, να αναβάλουν την απομάκρυνση, για εύλογο χρόνο, λαμβάνοντας υπόψη τις ειδικές περιστάσεις κάθε περίπτωσης και ιδίως: α) τη φυσική ή διανοητική κατάσταση του υπηκόου τρίτης χώρας και β) τεχνικούς λόγους, όπως είναι η έλλειψη μέσων μεταφοράς ή η έλλειψη δυνατότητας απομάκρυνσης, λόγω αντικειμενικής αδυναμίας διαπίστωσης της ταυτότητας.

3. Εάν αναβληθεί η απομάκρυνση, κατά τα προβλεπόμενα στις προηγούμενες παραγράφους, οι ως άνω αρχές δύνανται να επιβάλουν στον υπήκοο τρίτης χώρας τις υποχρεώσεις που προβλέπονται στο άρθρο 22 παρ. 3.

4. Η απόφαση αναβολής της απομάκρυνσης επιδίδεται στον υπήκοο τρίτης χώρας και συνιστά γραπτή βεβαίωση ότι η απόφαση επιστροφής δεν μπορεί να εκτελεσθεί προσωρινά (βεβαίωση αναβολής της απομάκρυνσης). Η βεβαίωση αυτή έχει εξάμηνη ισχύ και μπορεί να ανανεώνεται μετά από νέα κρίση σχετικά με την εξακολούθηση του ανεφίκτου της απομάκρυνσης. Κατά το χρονικό διάστημα ισχύος της γραπτής βεβαίωσης, ο κάτοχός της έχει προσωρινό δικαίωμα διαμονής στην Ελλάδα και οφείλει, σε κάθε περίπτωση, να παραμένει στη διάθεση των αρμόδιων για την εκτέλεση της απομάκρυνσης αρχών και να συνεργάζεται μαζί τους, ώστε αυτή να καταστεί δυνατή σε σύντομο χρόνο.

Άρθρο 25
Επιστροφή και απομάκρυνση ασυνόδευτων ανηλίκων
(Άρθρο 10 της Οδηγίας)

1. Πριν αποφασισθεί η έκδοση απόφασης επιστροφής ασυνόδευτου ανήλικου, και αφού ληφθούν υπόψη τα βέλτιστα συμφέροντά του, παρέχεται συνδρομή από κατάλληλους φορείς, άλλους από τις αρχές που διενεργούν την επιστροφή, οι οποίοι μνημονεύονται στις διατάξεις του άρθρου 19 του π.δ.220/2007 (ΦΕΚ 251 Α΄) και οι οποίες εφαρμόζονται αναλόγως.

2. Πριν απομακρυνθεί ασυνόδευτος ανήλικος από τη Χώρα, οι αρμόδιες αρχές εξακριβώνουν ότι αυτός θα επιστραφεί σε μέλος της οικογένειάς του, σε ορισθέντα κηδεμόνα ή σε κατάλληλες εγκαταστάσεις υποδοχής στο κράτος επιστροφής.

Άρθρο 26
Απαγόρευση εισόδου
(Άρθρο 11 της Οδηγίας)

1. Απαγόρευση εισόδου του υπηκόου τρίτης χώρας στην Ελλάδα εκδίδεται υποχρεωτικά με την απόφαση επιστροφής, εφόσον: α) δεν έχει χορηγηθεί χρονικό διάστημα οικειοθελούς αναχώρησης ή β) ο υπήκοος τρίτης χώρας δεν έχει συμμορφωθεί με την υποχρέωση επιστροφής. Επιπλέον, απαγόρευση εισόδου μπορεί να επιβληθεί σε περίπτωση που από την παρουσία του υπηκόου τρίτης χώρας στην Ελλάδα προκύπτει κίνδυνος για τη δημόσια τάξη και ασφάλεια, την εθνική ασφάλεια ή τη δημόσια υγεία.

2. Η διάρκεια της απαγόρευσης εισόδου καθορίζεται αφού ληφθούν δεόντως υπόψη όλες οι σχετικές περιστάσεις κάθε μεμονωμένης περίπτωσης και δεν υπερβαίνει τα πέντε (5) έτη από την ημερομηνία της απομάκρυνσης. Είναι δυνατόν, ωστόσο, να υπερβαίνει την πενταετία, εάν ο υπήκοος τρίτης χώρας αποτελεί σοβαρή απειλή για τη δημόσια τάξη, τη δημόσια ασφάλεια ή την εθνική ασφάλεια. Η κάθε περίπτωση επανεξετάζεται αυτεπαγγέλτως ανά τριετία.

3. Οι αρμόδιες αρχές εξετάζουν την ανάκληση ή την αναστολή απαγόρευσης εισόδου όταν υπήκοος τρίτης χώρας για τον οποίο έχει εκδοθεί απαγόρευση εισόδου σύμφωνα με την παράγραφο 1 περίπτωση β΄, υποβάλει αίτηση και μπορεί να αποδείξει ότι έχει αναχωρήσει από το ελληνικό έδαφος συμμορφούμενος πλήρως με την απόφαση επιστροφής. Τα θύματα εμπορίας ανθρώπων, καθώς και τα θύματα παράνομης διακίνησης μεταναστών στα οποία έχει χορηγηθεί άδεια διαμονής, σύμφωνα με τα άρθρα 46 - 51 του ν. 3386/2005, δεν υπόκεινται σε απαγόρευση εισόδου, εφόσον δεν αποτελούν απειλή για τη δημόσια τάξη ή τη δημόσια ασφάλεια ή την εθνική ασφάλεια και υπό τον όρο ότι συμμορφώνονται πλήρως στην απόφαση επιστροφής που εκδίδεται σε περίπτωση που απωλέσουν για οποιονδήποτε λόγο το δικαίωμα διαμονής στη Χώρα. Οι αρμόδιες αρχές δύνανται να μην εκδίδουν, να αναστέλλουν ή να ανακαλούν την απαγόρευση εισόδου για ανθρωπιστικούς λόγους ή λόγους δημοσίου συμφέροντος, σύμφωνα με τις διατάξεις της παρ. 2 του άρθρου 8 του ν.3386/2005 και της κ.υ.α. 4000/4/32-ιβ΄ της 4.9.2006.

4. Όταν εξετάζεται η έκδοση άδειας διαμονής ή άλλης άδειας που παρέχει δικαίωμα διαμονής σε υπήκοο τρίτης χώρας, στον οποίο έχει επιβληθεί απαγόρευση εισόδου από άλλο κράτος-μέλος της Ευρωπαϊκής Ένωσης, η αρμόδια υπηρεσία διαβουλεύεται μέσω του εθνικού Γραφείου SIRENE με το κράτος-μέλος που εξέδωσε την απαγόρευση εισόδου, με βάση το δημόσιο συμφέρον, σύμφωνα με το άρθρο 25 της Σύμβασης Σένγκεν.

5. Οι διατάξεις των προηγούμενων παραγράφων εφαρμόζονται με την επιφύλαξη του δικαιώματος διεθνούς προστασίας όπως ορίζεται στο άρθρο 2 στοιχείο α΄ του π.δ.96/2008 (ΦΕΚ 152 Α΄).

Άρθρο 27
Τύπος
(Άρθρο 12 της Οδηγίας)

1. Οι αποφάσεις επιστροφής και οι αποφάσεις απαγόρευσης εισόδου, που εκδίδονται δυνάμει των διατάξεων του παρόντος Κεφαλαίου, περιβάλλονται τον έγγραφο τύπο και περιλαμβάνουν σαφή αιτιολογία, σύμφωνα με τις διατάξεις του Κώδικα Διοικητικής Διαδικασίας (ν.2690/1999, ΦΕΚ 45 Α΄), όπως αυτός ισχύει κάθε φορά. Οι προαναφερθείσες αποφάσεις κοινοποιούνται στον ενδιαφερόμενο και αναφέρουν τους νομικούς και πραγματικούς λόγους για την έκδοσή τους, καθώς και πληροφορίες για τα διαθέσιμα ένδικα μέσα. Οι πληροφορίες σχετικά με την αιτιολογία της απόφασης επιστροφής μπορούν να είναι περιορισμένες, εφόσον αυτό απαιτείται για τη διαφύλαξη της εθνικής ασφάλειας, της άμυνας και της δημόσιας ασφάλειας, καθώς και σε περιπτώσεις πρόληψης, διερεύνησης, βεβαίωσης και δίωξης αξιόποινων πράξεων.

2. Οι αρμόδιες για το χειρισμό θεμάτων αλλοδαπών υπηρεσίες εξασφαλίζουν, κατόπιν αιτήματος του ενδιαφερομένου, τη γραπτή ή προφορική μετάφραση των βασικών σημείων των αποφάσεων επιστροφής, κατά τα αναφερόμενα στην παράγραφο 1, συμπεριλαμβανομένων πληροφοριών σχετικά με τα διαθέσιμα ένδικα μέσα, σε γλώσσα που κατανοεί ή θεωρείται ευλόγως ότι κατανοεί ο υπήκοος τρίτης χώρας.

3. Η παράγραφος 2 δεν εφαρμόζεται για τους υπηκόους τρίτης χώρας που έχουν εισέλθει παράνομα στο ελληνικό έδαφος και δεν τους έχει χορηγηθεί στη συνέχεια άδεια ή δικαίωμα να παραμείνουν στην Ελλάδα. Στην περίπτωση αυτή, οι αποφάσεις που αφορούν την επιστροφή κατά τα αναφερόμενα στην παράγραφο 1 εκδίδονται μέσω τυποποιημένου εντύπου που προβλέπεται στην παράγραφο 2 του άρθρου 1 της υπ' αριθμ. 4000/4/46-α΄ από 22.7.2009 κ.υ.α.. Το έντυπο αυτό μεταφράζεται σε τουλάχιστον πέντε από τις γλώσσες τις οποίες χρησιμοποιούν συχνότερα ή κατανοούν καλύτερα οι υπήκοοι τρίτης χώρας που εισέρχονται παράνομα στην ελληνική επικράτεια.

Άρθρο 28
Ένδικα βοηθήματα
(Άρθρο 13 της Οδηγίας)

1. Κατά των αποφάσεων επιστροφής που εκδίδονται από τις αστυνομικές αρχές, οι υπήκοοι τρίτων χωρών μπορούν να ασκήσουν την ενδικοφανή προσφυγή του άρθρου 77 του ν.3386/2005. Κατά των αποφάσεων επιστροφής που ενσωματώνονται σε αποφάσεις απόρριψης του αιτήματος χορήγησης ή ανανέωσης τίτλου διαμονής, καθώς και σε αποφάσεις ανάκλησης ισχύοντος τίτλου διαμονής οι υπήκοοι τρίτων χωρών έχουν δικαίωμα προσφυγής σύμφωνα με το άρθρο 24 του Κώδικα Διοικητικής Διαδικασίας.

2. Τα διοικητικά όργανα που είναι αρμόδια να αποφαίνονται επί των προσφυγών της παραγράφου 1 έχουν την αρμοδιότητα να επανεξετάζουν αυτεπαγγέλτως, τόσο τη νομιμότητα, όσο και την ουσία των αποφάσεων επιστροφής και να αναστέλλουν προσωρινώς την εφαρμογή τους. Προσωρινή δικαστική προστασία παρέχεται κατά τις διατάξεις του ν. 3900/2010 (ΦΕΚ 213 Α΄) και του π.δ.18/1989 (ΦΕΚ 8 Α΄).

3. Οι αρμόδιες για θέματα αλλοδαπών αρχές υποχρεούνται να παρέχουν πληροφορίες και κάθε δυνατή συνδρομή στον υπήκοο τρίτης χώρας που αιτείται νομικές συμβουλές, εκπροσώπηση από δικηγόρο και γλωσσική συνδρομή, προκειμένου να ασκήσει τα δικαιώματα του παρόντος άρθρου.

4. Η απαραίτητη νομική βοήθεια και εκπροσώπηση παρέχεται δωρεάν κατόπιν αιτήσεως, σύμφωνα με τις διατάξεις του ν.3226/2004 (ΦΕΚ 24 Α΄), εφόσον κατά την κρίση του δικαστή η αίτηση ακύρωσης δεν είναι προδήλως απαράδεκτη ή προδήλως αβάσιμη, κατ' ανάλογη εφαρμογή του άρθρου 15 παράγραφοι 3 έως 6 της Οδηγίας 2005/85/ΕΚ, όπως ενσωματώθηκε στην ελληνική έννομη τάξη με το π.δ.114/2010 (ΦΕΚ 195 Α΄). Η ισχύς της παραγράφου αυτής αρχίζει από 24.12.2011.

5. Αίτηση ακύρωσης κατά των αποφάσεων επιστροφής ασκείται σύμφωνα με την παρ. 1 του άρθρου 15 του ν.3068/2002 (ΦΕΚ 274 Α΄), όπως τροποποιήθηκε με το άρθρο 49 του ν. 3900/2010.

Άρθρο 29
Εγγυήσεις εν όψει της επιστροφής
(Άρθρο 14 της Οδηγίας)

1. Κατά το χρονικό διάστημα της οικειοθελούς αναχώρησης υπηκόου τρίτης χώρας, το οποίο χορηγείται σύμφωνα με το άρθρο 22 και κατά το χρονικό διάστημα που αναβάλλεται η απομάκρυνση σύμφωνα με το άρθρο 24 οι αρμόδιες κατά περίπτωση αρχές μεριμνούν για να λαμβάνονται κατά το δυνατό μέτρα ώστε: α) να εξασφαλίζεται η οικογενειακή ενότητα του υπηκόου τρίτης χώρας με τα μέλη της οικογένειάς του που βρίσκονται στην Ελλάδα, β) να υπάρχει πρόσβαση των ανηλίκων στην υποχρεωτική εκπαίδευση, ανάλογα με τη διάρκεια της διαμονής τους, σύμφωνα με το άρθρο 72 του ν.3386/2005, γ) να παρέχεται επείγουσα υγειονομική περίθαλψη και η απαραίτητη θεραπευτική αγωγή, σύμφωνα με το άρθρο 84 παρ. 1 του ν.3386/2005 και δ) να λαμβάνονται υπόψη οι ιδιαίτερες ανάγκες των ευάλωτων ατόμων. Η κατάσταση των υπηκόων τρίτων χωρών που τελούν υπό κράτηση ρυθμίζεται από τις ειδικότερες διατάξεις των άρθρων 31 και 32.

2. Στους υπηκόους τρίτων χωρών που αναφέρονται στην παράγραφο 1 χορηγούνται τα έγγραφα που προβλέπονται στην παρ. 5 του άρθρου 22 και στην παρ. 4 του άρθρου 24.

Άρθρο 30
Κράτηση
(Άρθρο 15 της Οδηγίας)

1. Οι υπήκοοι τρίτης χώρας που υπόκεινται σε διαδικασίες επιστροφής, σύμφωνα με την παρ. 1 του άρθρου 21, τίθενται υπό κράτηση για την προετοιμασία της επιστροφής και τη διεκπεραίωση της διαδικασίας απομάκρυνσης, μόνο εάν στη συγκεκριμένη περίπτωση δεν δύνανται να εφαρμοσθούν αποτελεσματικά άλλα επαρκή και λιγότερο επαχθή μέτρα, όπως εκείνα που προβλέπονται στην παρ. 3 του άρθρου 22. Το μέτρο της κράτησης εφαρμόζεται όταν: α) υπάρχει κίνδυνος διαφυγής ή β) ο υπήκοος τρίτης χώρας αποφεύγει ή παρεμποδίζει την προετοιμασία της επιστροφής ή τη διαδικασία απομάκρυνσης ή γ) συντρέχουν λόγοι εθνικής ασφάλειας.

Η κράτηση επιβάλλεται και διατηρείται για το απολύτως αναγκαίο χρονικό διάστημα διεκπεραίωσης της διαδικασίας απομάκρυνσης, η οποία εξελίσσεται και εκτελείται με τη δέουσα επιμέλεια. Σε κάθε περίπτωση, για την επιβολή ή τη συνέχιση του μέτρου της κράτησης λαμβάνεται υπόψη η διαθεσιμότητα κατάλληλων χώρων κράτησης και η δυνατότητα εξασφάλισης αξιοπρεπών συνθηκών διαβίωσης για τους κρατουμένους.

2. Η απόφαση κράτησης περιέχει πραγματική και νομική αιτιολόγηση, εκδίδεται εγγράφως, σύμφωνα με τα οριζόμενα στην παρ. 2 του άρθρου 76 του ν.3386/2005 και εφόσον δεν έχει εκδοθεί απόφαση επιστροφής, αυτή εκδίδεται εντός τριών (3) ημερών. Ο υπήκοος τρίτης χώρας που κρατείται, παράλληλα με τα δικαιώματα που έχει σύμφωνα με τον Κώδικα Διοικητικής Διαδικασίας, μπορεί να προβάλει και αντιρρήσεις κατά της απόφασης κράτησης ή παράτασης της κράτησής του ενώπιον του προέδρου ή του υπ' αυτού οριζόμενου πρωτοδίκη του διοικητικού πρωτοδικείου, στην Περιφέρεια του οποίου κρατείται. Κατά τα λοιπά για την αίτηση αντιρρήσεων εφαρμόζονται αναλόγως οι διατάξεις των παραγράφων 4 και 5 του άρθρου 76 του ν.3386/2005 (ΦΕΚ 212 Α΄), όπως αντικαταστάθηκαν με το άρθρο 55 του ν.3900/2010 (ΦΕΚ 213 Α΄). Η απόφαση επί της αίτησης αντιρρήσεων μπορεί να ανακληθεί, ύστερα από αίτηση των διαδίκων, αν η αίτηση ανάκλησης στηρίζεται σε νέα στοιχεία, κατ' εφαρμογή του άρθρου 205 παρ. 5 του Κώδικα Διοικητικής Δικονομίας. Για τα δικαιώματά του σύμφωνα με την παράγραφο αυτή ο υπήκοος τρίτης χώρας ενημερώνεται αμέσως. Ο υπήκοος τρίτης χώρας, απολύεται αμέσως εάν διαπιστωθεί ότι η κράτησή του δεν είναι νόμιμη.

3. Σε κάθε περίπτωση η συνδρομή των προϋποθέσεων της κράτησης επανεξετάζεται αυτεπαγγέλτως, ανά τρίμηνο, από το όργανο που εξέδωσε την απόφαση κράτησης. Σε περίπτωση παράτασης της διάρκειας της κράτησης, οι σχετικές αποφάσεις διαβιβάζονται στον πρόεδρο ή τον υπ' αυτού οριζόμενο πρωτοδίκη του διοικητικού πρωτοδικείου της παρ. 2, ο οποίος κρίνει για τη νομιμότητα της παράτασης της κράτησης και εκδίδει παραχρήμα την απόφασή του την οποία διατυπώνει συνοπτικώς σε τηρούμενο πρακτικό, αντίγραφο του οποίου διαβιβάζει αμέσως στην αρμόδια αστυνομική αρχή.

4. Όταν καθίσταται πρόδηλο ότι δεν υφίσταται πλέον λογικά προοπτική απομάκρυνσης για νομικούς ή άλλους λόγους ή όταν παύουν να ισχύουν οι όροι της παραγράφου 1, η κράτηση αίρεται και ο υπήκοος τρίτης χώρας απολύεται αμέσως.

5. Η κράτηση συνεχίζεται για το χρονικό διάστημα που πληρούνται οι όροι της παραγράφου 1 και είναι αναγκαία για να διασφαλισθεί η επιτυχής απομάκρυνση. Το ανώτατο όριο κράτησης δεν μπορεί να υπερβαίνει το εξάμηνο.

6. Το χρονικό όριο της παραγράφου 5 μπορεί να παραταθεί για περιορισμένο μόνο χρόνο που δεν υπερ-

βαίνει τους δώδεκα μήνες, στις περιπτώσεις κατά τις οποίες παρά τις εύλογες προσπάθειες των αρμόδιων υπηρεσιών η επιχείρηση απομάκρυνσης είναι πιθανόν να διαρκέσει περισσότερο επειδή: α) ο υπήκοος της τρίτης χώρας αρνείται να συνεργασθεί ή β) καθυστερεί η λήψη των αναγκαίων εγγράφων από τρίτες χώρες.

Άρθρο 31
Όροι κράτησης
(Άρθρο 16 της Οδηγίας)

1. Η κράτηση λαμβάνει χώρα, κατά κανόνα, σε ειδικές εγκαταστάσεις. Σε κάθε περίπτωση, οι υπό κράτηση υπήκοοι τρίτων χωρών κρατούνται χωριστά από τους κρατούμενους του κοινού ποινικού δικαίου.

2. Επιτρέπεται στους υπό κράτηση υπηκόους τρίτων χωρών, κατόπιν αιτήματος, να έρχονται σε επαφή με τους νόμιμους αντιπροσώπους τους, τα μέλη της οικογένειάς τους και τις αρμόδιες προξενικές αρχές.

3. Στους υπό κράτηση υπηκόους τρίτων χωρών παρέχεται επείγουσα υγειονομική περίθαλψη και η απαραίτητη θεραπευτική αγωγή. Ιδιαίτερη μέριμνα λαμβάνεται στις περιπτώσεις ευάλωτων ατόμων.

4. Οι σχετικές και αρμόδιες εθνικές, διεθνείς και Μη Κυβερνητικές Οργανώσεις και όργανα έχουν τη δυνατότητα να επισκέπτονται τις εγκαταστάσεις κράτησης που αναφέρονται στην παράγραφο 1, στο βαθμό που χρησιμοποιούνται για την κράτηση υπηκόων τρίτων χωρών σύμφωνα με το παρόν κεφάλαιο. Οι επισκέψεις αυτές υπόκεινται σε αδειοδότηση από την αρμόδια για τη φύλαξη της εγκατάστασης αστυνομική αρχή.

5. Οι υπό κράτηση υπήκοοι τρίτων χωρών λαμβάνουν συστηματικά πληροφορίες στις οποίες επεξηγείται ο κανονισμός που εφαρμόζεται στην εγκατάσταση και ορίζονται τα δικαιώματα και οι υποχρεώσεις τους. Οι πληροφορίες αυτές περιλαμβάνουν και το δικαίωμά τους να έρχονται σε επαφή με τις οργανώσεις και τα όργανα που αναφέρονται στην παράγραφο 4.

Άρθρο 32
Κράτηση ανηλίκων και οικογενειών
(Άρθρο 17 της Οδηγίας)

1. Οι ασυνόδευτοι ανήλικοι και οι οικογένειες με ανήλικους κρατούνται, ως έσχατη λύση, μόνο εφόσον δεν μπορούν να εφαρμοσθούν για τον ίδιο σκοπό άλλα επαρκή αλλά λιγότερο επαχθή μέτρα και για το ελάχιστο απαιτούμενο χρονικό διάστημα.

2. Στις οικογένειες που κρατούνται σε αναμονή της απομάκρυνσής τους παρέχεται χωριστό κατάλυμα, με το οποίο εξασφαλίζεται επαρκής ιδιωτική ζωή.

3. Οι υπό κράτηση ανήλικοι έχουν τη δυνατότητα να ασχολούνται με δραστηριότητες ελεύθερου χρόνου, όπως δραστηριότητες παιγνιδιού και ψυχαγωγικές δραστηριότητες που αρμόζουν στην ηλικία τους και, ανάλογα με τη διάρκεια της παραμονής τους, έχουν πρόσβαση στην εκπαίδευση, σύμφωνα με το άρθρο 72 του ν. 3386/ 2005.

4. Στους ασυνόδευτους ανήλικους παρέχεται κατά το δυνατόν κατάλυμα σε ιδρύματα τα οποία διαθέτουν προσωπικό και εγκαταστάσεις που λαμβάνουν υπόψη τις ανάγκες προσώπων της ηλικίας τους.

5. Τα βέλτιστα συμφέροντα του παιδιού λαμβάνονται πρωτίστως υπόψη κατά την κράτηση ανηλίκων σε αναμονή απομάκρυνσης.

Άρθρο 33
Καταστάσεις έκτακτης ανάγκης
(Άρθρο 18 της Οδηγίας)

1. Σε περιπτώσεις κατά τις οποίες ο εξαιρετικά υψηλός αριθμός υπηκόων τρίτων χωρών προς επιστροφή δημιουργεί απρόβλεπτο υψηλό φόρτο για το δυναμικό της εγκατάστασης κράτησης ή στο διοικητικό ή δικαστικό προσωπικό της χώρας μπορεί, ενόσω διαρκεί η έκτακτη κατάσταση, να αποφασισθεί η επιμήκυνση της προθεσμίας δικαστικής εξέτασης του άρθρου 30 παράγραφος 2 και να λαμβάνονται επείγοντα μέτρα όσον αφορά τις συνθήκες κράτησης, κατά παρέκκλιση από τα προβλεπόμενα στο άρθρο 31 παράγραφος 1 και στο άρθρο 32 παράγραφος 2.

2. Στις ως άνω περιπτώσεις, στις οποίες λαμβάνονται έκτακτα μέτρα, οι αρμόδιες αρχές ενημερώνουν σχετικώς την Ευρωπαϊκή Επιτροπή. Επίσης, η Επιτροπή ενημερώνεται αμέσως μόλις παύσουν να ισχύουν οι λόγοι για την εφαρμογή των έκτακτων μέτρων.

3. Καμία διάταξη του παρόντος άρθρου δεν μπορεί να ερμηνευθεί ότι επιτρέπει στις κατά περίπτωση αρμόδιες αρχές να παρεκκλίνουν από τη γενική υποχρέωση να λαμβάνουν όλα τα κατάλληλα μέτρα είτε γενικά είτε ειδικά, ώστε να εξασφαλίζεται η εκπλήρωση των υποχρεώσεων που απορρέουν από το παρόν Κεφάλαιο.

ΚΕΦΑΛΑΙΟ Δ΄
ΡΥΘΜΙΣΗ ΘΕΜΑΤΩΝ ΕΠΙΣΤΡΟΦΩΝ

Άρθρο 34
Επανεισδοχή

Για τους υπηκόους τρίτων χωρών που εξαιρούνται της εφαρμογής του Κεφαλαίου Γ΄ σύμφωνα με το άρθρο 17 παράγραφος 2 εδάφιο α΄ εφαρμόζονται άμεσα, μετά την παράνομη διέλευση, οι όροι και οι διαδικασίες επανεισδοχής των σχετικών διεθνών συμφωνιών που δεσμεύουν τη χώρα αυτοτελώς ή στο πλαίσιο συμμετοχής της στην Ευρωπαϊκή Ένωση ή απορρέουν από κανόνες του διεθνούς εθιμικού δικαίου, καθώς και οι ισχύουσες διατάξεις του ν. 3386/2005 (ΦΕΚ 212 Α΄).

Άρθρο 35
Ρύθμιση θεμάτων επιστροφών

1. Οι αποφάσεις επιστροφής και κάθε σχετικό με αυτές στοιχείο, όπως η συμμόρφωση του υπηκόου τρίτης χώρας προς την υποχρέωση οικειοθελούς αναχώρησης εντός της τεθείσας προθεσμίας και η υλοποίηση της απομάκρυνσης καταχωρούνται άμεσα από τις αρμόδιες Υπηρεσίες στα οικεία ηλεκτρονικά αρχεία ή μητρώα, που αυτές τηρούν σύμφωνα με το νόμο, και τα οποία, σε περίπτωση συμμετοχής περισσότερων υπηρεσιών στη διαδικασία επιστροφής, τελούν σε πλήρη λειτουργική διασύνδεση μεταξύ τους.

2. Για την ενημέρωση του υπηκόου τρίτης χώρας επί της απόφασης επιστροφής, σύμφωνα με την παράγραφο 2 του άρθρου 27, οι αρμόδιες υπηρεσίες μπορούν να απευθύνονται και να αξιοποιούν τη συνεισφορά φορέων και οργανώσεων της κοινωνίας των πολιτών, αλλά και προσώπων που διαθέτουν τις κατάλληλες γνώσεις για την επαρκή διαμεσολάβηση και επικοινωνία μεταξύ των υπηρεσιών και του ενδιαφερομένου.

3. Οι ειδικές εγκαταστάσεις όπου κρατούνται οι υπήκοοι τρίτων χωρών κατ' εφαρμογή του άρθρου 31

ιδρύονται με κοινή απόφαση των Υπουργών Εσωτερικών, Αποκέντρωσης και Ηλεκτρονικής Διακυβέρνησης, Οικονομικών, Υγείας και Κοινωνικής Αλληλεγγύης και Προστασίας του Πολίτη και υπάγονται στην αρμοδιότητα του Υπουργείου Προστασίας του Πολίτη και της Ελληνικής Αστυνομίας. Με την ίδια απόφαση ρυθμίζονται οι λεπτομέρειες λειτουργίας των εγκαταστάσεων αυτών.

4. Οι υπηρεσίες υγειονομικής περίθαλψης και θεραπευτικής αγωγής της παραγράφου 3 του άρθρου 31 μπορούν επικουρικώς να παρέχονται και από Μη Κυβερνητικές Οργανώσεις ή άλλους αρμόδιους φορείς.

Άρθρο 36
Ρύθμιση θεμάτων οικειοθελούς αναχώρησης

1. Η παράταση της προθεσμίας οικειοθελούς αναχώρησης σύμφωνα με την παράγραφο 2 του άρθρου 22 γίνεται κατόπιν σχετικής αίτησης του υπηκόου τρίτης χώρας, η οποία υποβάλλεται πριν τη λήξη της αρχικής προθεσμίας και εξετάζεται κατά προτεραιότητα εντός δεκαπέντε (15) ημερών από την υποβολή της, κατά τη διάρκεια της οποίας η προθεσμία οικειοθελούς αναχώρησης λογίζεται ως σιωπηρώς παραταθείσα. Στην περίπτωση μη απάντησης της αρμόδιας υπηρεσίας εντός της τεθείσας προθεσμίας, η παράταση συνεχίζει να ισχύει έως ότου η αρμόδια αρχή αποφανθεί επί του αιτήματος. Η παράταση της προθεσμίας χορηγείται μόνο για τη διευθέτηση των εκκρεμών υποχρεώσεων που απορρέουν από τις περιστάσεις αυτές, ενόψει της αναχώρησης. Κατά τη διάρκεια της ως άνω προθεσμίας ο υπήκοος τρίτης χώρας δεν έχει δικαίωμα πρόσβασης σε προγράμματα κοινωνικής ένταξης, ενώ το ως άνω χρονικό διάστημα διαμονής του υπηκόου τρίτης χώρας, στο πλαίσιο της παράτασης οικειοθελούς αναχώρησης, δεν μπορεί να συνυπολογιστεί στην περίπτωση εφαρμογής των διατάξεων του ν. 3838/2010 (ΦΕΚ 49 Α΄) περί πρόσβασης στην ελληνική ιθαγένεια.

2. Η προθεσμία της οικειοθελούς αναχώρησης αρχίζει από την επίδοση της σχετικής απόφασης ή από την ημερομηνία αποδεδειγμένης ειδοποίησης του ενδιαφερόμενου να προσέλθει να την παραλάβει, σε περίπτωση που αρνείται να πράξει τούτο αμελλητί ή μετά την πάροδο διμήνου από της εκδόσεως της σχετικής απόφασης σε περίπτωση που ο ενδιαφερόμενος δεν ανευρέθη παρότι έγινε επανειλημμένως προσπάθεια με βάση τα δηλωθέντα από τον ίδιο στοιχεία επικοινωνίας. Σε περίπτωση μη εμπρόθεσμης υποβολής από τον υπήκοο τρίτης χώρας αιτήματος ανανέωσης άδειας διαμονής, η αρμόδια αρχή εκδίδει απόφαση επιστροφής του υπηκόου τρίτης χώρας προβλέποντας αυτοδικαίως χρονικό διάστημα για την οικειοθελή αναχώρησή του. Η ανωτέρω απόφαση επιστροφής εκδίδεται από την κατά περίπτωση αρμόδια αρχή του Υπουργείου Εσωτερικών, Αποκέντρωσης και Ηλεκτρονικής Διακυβέρνησης ή της κατά τόπον αρμόδιας υπηρεσίας αλλοδαπών και μετανάστευσης. Κατά τα λοιπά ισχύουν οι διατάξεις της παραγράφου 1. Η κατά περίπτωση αρμόδια αρχή του Υπουργείου Εσωτερικών, Αποκέντρωσης και Ηλεκτρονικής Διακυβέρνησης ή η κατά τόπον αρμόδια Υπηρεσία Αλλοδαπών και Μετανάστευσης μετά το πέρας της προθεσμίας για την οικειοθελή αναχώρηση, καθώς και στις περιπτώσεις αδυναμίας γνωστοποίησης (επίδοσης) της απόφασης στον ενδιαφερόμενο υπήκοο τρίτης χώρας, ιδίως λόγω ανακριβούς διεύθυνσης, ενημερώνει εντός τριών (3) ημερών από την παρέλευση της προθεσμίας την αρμόδια αστυνομική αρχή, για την έναρξη της διαδικασίας επιστροφής με απομάκρυνση.

3. Στις αποφάσεις επιστροφής με τις οποίες χορηγείται προθεσμία οικειοθελούς αναχώρησης αναγράφεται υποχρεωτικά η διεύθυνση κατοικίας του υπηκόου τρίτης χώρας, ο οποίος οφείλει να γνωστοποιεί στην Υπηρεσία που εξέδωσε την πράξη κάθε μεταβολή της διεύθυνσής του, κατά το χρονικό αυτό διάστημα.

4. Αρμόδια για την επιβεβαίωση της οικειοθελούς αναχώρησης είναι η αρχή που εξέδωσε την απόφαση επιστροφής. Προς τούτο, η αρχή αυτή μπορεί να συνεργάζεται με τις αστυνομικές ή δημοτικές αρχές του τόπου κατοικίας ή διαμονής του αλλοδαπού, καθώς και κάθε άλλη αρχή ή φορέα που δύναται να παράσχει σχετική πληροφόρηση, όπως οι προξενικές και διπλωματικές αρχές, οι αστυνομικές αρχές των αεροδρομίων, τα φυσικά και νομικά πρόσωπα που αναπτύσσουν οικονομική δραστηριότητα στον τομέα της μεταφοράς προσώπων, οι διεθνείς οργανισμοί και Μη Κυβερνητικές Οργανώσεις που αναπτύσσουν δράση στον τομέα της μετανάστευσης και οι αστυνομικοί σύνδεσμοι.

5. Οι αρμόδιες αρχές, στο πλαίσιο της ευρύτερης προγραμματικής συνεργασίας τους με τους οργανισμούς τοπικής αυτοδιοίκησης πρώτου βαθμού, μπορούν να αναθέτουν στις οικείες αρχές της Δημοτικής Αστυνομίας την αρμοδιότητα επίδοσης των ανωτέρω διοικητικών πράξεων στους ενδιαφερόμενους υπηκόους τρίτων χωρών.

Άρθρο 37
Ρύθμιση θεμάτων απομάκρυνσης

1. Στην περίπτωση που κατά τη διάρκεια της προθεσμίας οικειοθελούς αναχώρησης ανακύψει οποιοσδήποτε από τους λόγους που αναφέρονται στην παρ. 4 του άρθρου 22, καθώς και στην περίπτωση που ο υπήκοος τρίτης χώρας παραβιάσει τις υποχρεώσεις που του έχουν επιβληθεί κατά τη διάρκεια της περιόδου οικειοθελούς αναχώρησης ή της παράτασής της, δυνάμει των διατάξεων του άρθρου 22 παρ. 3, η απόφαση επιστροφής εκτελείται αμέσως και η χορήγηση προθεσμίας οικειοθελούς αναχώρησης ή η παράταση της προθεσμίας αυτής θεωρούνται αυτοδικαίως ανακληθείσες.

2. Για την κάλυψη των δαπανών της απομάκρυνσης εφαρμόζονται αναλογικώς οι διατάξεις του άρθρου 80 του ν. 3386/2005 και της υπ' αριθμ. 4000/4/46-α΄ από 27.7.2009 κοινής υπουργικής απόφασης (ΦΕΚ 1535 Β΄).

3. Η αρμόδια αρχή αξιολογεί το εφικτό της απομάκρυνσης σε κάθε περίπτωση με βάση τα ειδικότερα στοιχεία, που επικαλείται ο ενδιαφερόμενος, συνεκτιμώντας όλες τις διαθέσιμες πληροφορίες αναφορικά με την ακολουθητέα πρακτική εκάστης τρίτης χώρας, ως προς τη συνεργασία σε θέματα επανεισδοχής. Προς το σκοπό αυτόν η αρμόδια αρχή μπορεί να ζητά τη συνδρομή του αρμόδιου Τμήματος της Υπηρεσίας Ασύλου.

4. Αν διαπιστωθεί παραβίαση των υποχρεώσεων που έχουν επιβληθεί σε υπήκοο τρίτης χώρας με βάση το άρθρο 22 παρ. 3, η απόφαση επιστροφής εκτελείται αμέσως και η απόφαση αναβολής της απομάκρυνσης θεωρείται αυτοδικαίως ανακληθείσα. Εφόσον η απομάκρυνση δεν είναι τεχνικώς δυνατή επιβάλλονται με

νέα απόφαση πρόσθετοι περιοριστικοί όροι, όπως προβλέπονται στο άρθρο 22 παρ. 3, ενώ σε περίπτωση υποτροπής μπορεί να επιβληθεί μέχρι και διοικητική κράτηση, με την επιφύλαξη των προβλεπόμενων στο άρθρο 30 χρονικών ορίων.

5. Σε περίπτωση αδυναμίας των αρμόδιων κατά περίπτωση αρχών να διασφαλίσουν με ίδιους πόρους ή μέσα ότι οι υπήκοοι τρίτων χωρών των οποίων η απομάκρυνση έχει αναβληθεί, απολαμβάνουν κατά το χρονικό διάστημα της αναβολής, στοιχειώδεις όρους αξιοπρεπούς προσωρινής στέγασης σε εγκαταστάσεις δημόσιου ή κοινωφελούς χαρακτήρα και γενικότερα ότι καλύπτουν τις άμεσες βιοτικές τους ανάγκες, μπορεί να επιτραπεί, μετά από σχετική άδεια, να απασχολούνται ως μισθωτοί σε τομείς απασχόλησης σε συγκεκριμένες περιοχές της Χώρας. Με προεδρικό διάταγμα, που εκδίδεται μετά από πρόταση των Υπουργών Εσωτερικών, Αποκέντρωσης και Ηλεκτρονικής Διακυβέρνησης, Εργασίας και Κοινωνικής Ασφάλισης και Προστασίας του Πολίτη, καθορίζονται οι τομείς απασχόλησης και οι περιοχές της Χώρας όπου μπορούν να ασχολούνται ως μισθωτοί οι υπήκοοι τρίτων χωρών των οποίων έχει αναβληθεί η απομάκρυνση, το καθεστώς της ασφαλιστικής τους κάλυψης, οι όροι, οι προϋποθέσεις, οι διαδικασίες και τα αρμόδια για τη χορήγηση της άδειας εργασίας όργανα, καθώς και κάθε άλλο σχετικό θέμα. Σε κάθε περίπτωση, κατά τη διάρκεια του χρόνου αναβολής της απομάκρυνσης ο υπήκοος τρίτης χώρας δεν έχει δικαίωμα πρόσβασης σε προγράμματα κοινωνικής ένταξης, ενώ το ως άνω χρονικό διάστημα διαμονής του υπηκόου τρίτης χώρας δεν μπορεί να συνυπολογιστεί στην περίπτωση εφαρμογής των διατάξεων του ν. 3838/2010 περί πρόσβασης στην ελληνική ιθαγένεια ή στην περίπτωση εφαρμογής διατάξεων που αφορούν την πρόσβαση σε καθεστώς μακροχρόνιας διαμονής.

Άρθρο 38
Ρύθμιση θεμάτων απαγόρευσης εισόδου

1. Η απαγόρευση εισόδου του άρθρου 26 επιβάλλεται με την εγγραφή στον κατάλογο ανεπιθύμητων αλλοδαπών που τηρείται στο Υπουργείο Προστασίας του Πολίτη, σύμφωνα με το άρθρο 82 του ν. 3386/2005 και του Κεφαλαίου IV του Κανονισμού (ΕΚ) αριθμ. 1987/2006 σχετικά με τη δημιουργία, τη λειτουργία και τη χρήση του Συστήματος Πληροφοριών Σένγκεν δεύτερης γενιάς (ΕΕ L 381/28.12.2006). Η κάθε περίπτωση επανεξετάζεται αυτεπαγγέλτως ανά τριετία.

2. Ως πλήρης συμμόρφωση με την απόφαση επιστροφής για την εφαρμογή της παραγράφου 3 του άρθρου 26 λογίζεται και η οικειοθελής αναχώρηση του υπηκόου τρίτης χώρας που τελεί υπό καθεστώς αναβολής απομάκρυνσης, καθώς και η οικειοθελής αναχώρηση του υπηκόου τρίτης χώρας μετά το πέρας της σχετικής προθεσμίας, εφόσον η καθυστέρηση αυτή οφείλεται σε λόγους ανωτέρας βίας. Η αίτηση ανάκλησης ή αναστολής απαγόρευσης εισόδου υποβάλλεται μέσω των ελληνικών προξενικών αρχών του τόπου διαμονής του ενδιαφερομένου.

Άρθρο 39
Εξουσιοδοτική διάταξη

Με απόφαση του Υπουργού Προστασίας του Πολίτη και των κατά περίπτωση συναρμόδιων Υπουργών μπορεί να ρυθμίζεται κάθε ειδικότερο θέμα που αναφέρεται στην εφαρμογή της παραγράφου 1 του άρθρου 21 και των παραγράφων 2 και 3 του άρθρου 22.

ΚΕΦΑΛΑΙΟ Ε΄
ΛΟΙΠΕΣ ΔΙΑΤΑΞΕΙΣ

Άρθρο 40
Επιστροφή υπηκόων κρατών-μελών της Ε.Ε. και μελών των οικογενειών τους, καθώς και μελών οικογένειας Έλληνα πολίτη

1. Για την επιστροφή προσώπων που απολαμβάνουν του κοινοτικού δικαιώματος της ελεύθερης κυκλοφορίας σύμφωνα με το άρθρο 2 παράγραφος 5 του Κώδικα Συνόρων Σένγκεν, καθώς και τις διατάξεις του π.δ. 106/2007 (ΦΕΚ 135 Α΄), ισχύουν οι διατάξεις του Κεφαλαίου Γ΄ του παρόντος νόμου που αφορούν τα όργανα, τις διαδικασίες, τις διαδικαστικές εγγυήσεις και τη δικαστική προστασία των υπό επιστροφή αλλοδαπών, με την επιφύλαξη ότι στα άρθρα 22 έως 24 του π.δ. 106/2007 δεν περιέχονται ευνοϊκότερες διατάξεις.

2. Ως προς τις ουσιαστικές προϋποθέσεις και όρους έκδοσης των αποφάσεων επιστροφής σε βάρος των προσώπων που αναφέρονται στην προηγούμενη παράγραφο, εξακολουθούν να εφαρμόζονται οι διατάξεις των άρθρων 22 έως 24 του π.δ. 106/2007 (ΦΕΚ 135 Α΄).

3. Οι ρυθμίσεις των παραγράφων 1 και 2 του παρόντος άρθρου εφαρμόζονται και στις περιπτώσεις μελών οικογένειας Έλληνα πολίτη.

Άρθρο 41
Προστασία από την επιστροφή

1. Απαγορεύεται η επιστροφή αλλοδαπού εφόσον:

α. Είναι ανήλικος και οι γονείς ή τα πρόσωπα που έχουν την επιμέλειά του διαμένουν νόμιμα στην Ελλάδα.

β. Είναι γονέας ημεδαπού ανηλίκου και έχει την επιμέλεια ή έχει υποχρέωση διατροφής, την οποία εκπληρώνει.

γ. Έχει υπερβεί το 80ό έτος της ηλικίας του.

δ. Του έχει χορηγηθεί καθεστώς διεθνούς προστασίας ή έχει ζητήσει την παροχή τέτοιου καθεστώτος και το αίτημά του δεν έχει κριθεί οριστικά, υπό την επιφύλαξη των άρθρων 32 και 33 της Σύμβασης της Γενεύης του 1951.

ε. Είναι ανήλικος στον οποίο έχουν επιβληθεί αναμορφωτικά μέτρα με απόφαση του Δικαστηρίου Ανηλίκων.

στ. Διαπιστώνεται η ομογενειακή του ιδιότητα.

Στην απαγόρευση της επιστροφής περιλαμβάνονται και οι έγκυες γυναίκες κατά τη διάρκεια της κύησης και για έξι μήνες μετά τον τοκετό.

2. Δεν απαγορεύεται η επιστροφή στις περιπτώσεις β΄, γ΄ και στ΄ της προηγούμενης παραγράφου, όταν ο αλλοδαπός είναι επικίνδυνος για τη δημόσια τάξη ή την εθνική ασφάλεια ή τη δημόσια υγεία.

3. Στις περιπτώσεις ασυνόδευτων ανηλίκων εφαρμόζονται οι διατάξεις του άρθρου 32 και του άρθρου 25.

4. Η προστασία που παρέχουν οι διατάξεις του παρόντος άρθρου καταλαμβάνουν και τα πρόσωπα που τελούν εκτός του πεδίου εφαρμογής του Κεφαλαίου Γ΄ του παρόντος νόμου.

Άρθρο 42
Τροποποιήσεις στις διατάξεις του ν. 3386/2005

1. Το άρθρο 44 του ν. 3386/2005 αντικαθίσταται ως εξής:

«Άρθρο 44
Χορήγηση και ανανέωση αδειών διαμονής για ανθρωπιστικούς λόγους

1. Με κοινή απόφαση των Υπουργών Εσωτερικών, Αποκέντρωσης και Ηλεκτρονικής Διακυβέρνησης και Εργασίας και Κοινωνικής Ασφάλισης επιτρέπεται να χορηγείται άδεια διαμονής για λόγους ανθρωπιστικής φύσεως σε υπηκόους τρίτων χωρών που εμπίπτουν σε κάποια από τις παρακάτω κατηγορίες, εφόσον αυτοί δεν αποτελούν κίνδυνο για τη δημόσια τάξη και ασφάλεια:

α. Θύματα εμπορίας ανθρώπων που δεν συνεργάζονται με τις διωκτικές αρχές, εφόσον υφίσταται σχετική πράξη χαρακτηρισμού από τον αρμόδιο Εισαγγελέα Πρωτοδικών κατά τα οριζόμενα στην παράγραφο 2 περίπτωση α΄ του άρθρου 1.

β. Θύματα εγκληματικών πράξεων, οι οποίες προβλέπονται στα άρθρα 1 και 2 του ν. 927/1979 (ΦΕΚ 139 Α΄) και στην παράγραφο 1 του άρθρου 16 του ν. 3304/2005 (ΦΕΚ 16 Α΄), εφόσον έχει ασκηθεί γι' αυτές ποινική δίωξη και μέχρι να εκδοθεί δικαστική απόφαση. Εάν τα ανωτέρω πρόσωπα υποβάλλονται σε θεραπευτική αγωγή, η άδεια διαμονής εξακολουθεί να χορηγείται για όσο χρονικό διάστημα διαρκεί η θεραπεία τους.

γ. Ενήλικοι, θύματα ενδοοικογενειακής βίας ή ανίκανοι να επιμεληθούν των υποθέσεών τους εξαιτίας λόγων υγείας ή ανήλικοι που αποδεδειγμένα χρήζουν προστατευτικών μέτρων και φιλοξενούνται από ιδρύματα ή άλλα νομικά πρόσωπα κοινωφελούς σκοπού, εφόσον η επιστροφή τους σε ασφαλές περιβάλλον είναι αδύνατη.

δ. Ανήλικοι, η επιμέλεια των οποίων έχει ανατεθεί με απόφαση ελληνικού δικαστηρίου ή αλλοδαπού δικαστηρίου, που αναγνωρίζεται από τις ελληνικές αρχές, σε οικογένειες Ελλήνων ή οικογένειες υπηκόων τρίτων χωρών με νόμιμη διαμονή στη Χώρα ή για τα οποία είναι εκκρεμής διαδικασία υιοθεσίας ενώπιον των ελληνικών αρχών.

ε. Θύματα εργατικών ατυχημάτων και λοιπών ατυχημάτων που καλύπτονται από την ελληνική νομοθεσία, για όσο χρονικό διάστημα διαρκεί η θεραπεία ή λαμβάνουν σύνταξη για την ίδια αιτία. Προϋπόθεση για την υποβολή του αιτήματος για τη χορήγηση της άδειας διαμονής σε πρόσωπα της εν λόγω κατηγορίας είναι η κατοχή από τον αιτούντα ισχυρής άδειας διαμονής, εκτός εάν πρόκειται για θύματα ιδιαίτερα καταχρηστικών όρων εργασίας και η παραμονή τους στη χώρα είναι αναγκαία για την εκκαθάριση των έναντι αυτών εργοδοτικών υποχρεώσεων.

στ. Πάσχοντες από σοβαρά προβλήματα υγείας. Η συνδρομή σοβαρών προβλημάτων υγείας, καθώς και η διάρκεια της θεραπείας, διαπιστώνονται με πρόσφατο ιατρικό πιστοποιητικό. Σε περίπτωση, κατά την οποία το πρόβλημα υγείας αναφέρεται σε λοιμώδες νόσημα, για την έκδοση της ανωτέρω απόφασης απαιτείται σύμφωνη γνώμη του Υπουργού Υγείας και Κοινωνικής Αλληλεγγύης ότι δεν συντρέχει κίνδυνος για τη δημόσια υγεία. Προϋπόθεση για τη χορήγηση της άδειας διαμονής για πρόσωπα που πάσχουν από σοβαρά προβλήματα υγείας είναι η κατοχή από τον αιτούντα ισχυρής άδειας διαμονής.

ζ. Ανήλικοι φιλοξενούμενοι σε οικοτροφεία, που λειτουργούν υπό την εποπτεία των αρμόδιων Υπουργείων.

η. Ενήλικοι που γεννήθηκαν στην Ελλάδα, καθώς και όσοι φοίτησαν σε έξι τουλάχιστον τάξεις ελληνικού σχολείου πριν ενηλικιωθούν, εφόσον εξακολουθούν να διαμένουν μόνιμα στη χώρα.

θ. Σύζυγοι, γονείς ανήλικων ημεδαπών και συντηρούμενα μέλη οικογένειας Έλληνα πολίτη.

Προϋπόθεση για τη χορήγηση άδειας διαμονής σε πρόσωπα των παραπάνω κατηγοριών είναι η κατοχή διαβατηρίου, έστω και εάν αυτό έχει λήξει. Άδεια διαμονής χορηγείται και στις περιπτώσεις διαπιστωμένης αντικειμενικής αδυναμίας εφοδιασμού του ενδιαφερομένου με διαβατήριο εφόσον αυτή διαπιστώνεται, κατόπιν αιτιολογημένης αίτησης του ενδιαφερομένου και γνώμης της αρμόδιας Επιτροπής, σύμφωνα με τα οριζόμενα στο άρθρο 84 του ν. 3386/2005.

Η διάρκεια της αρχικής άδειας διαμονής της περίπτωσης α΄ είναι ετήσια και μπορεί να ανανεώνεται κάθε φορά για δύο (2) έτη μόνο με την προϋπόθεση ότι συνεχίζεται η διερεύνηση της σχετικής ποινικής διαδικασίας. Σε περίπτωση που η διαδικασία αυτή περατωθεί με οποιονδήποτε τρόπο ή τεθεί στο αρχείο, η άδεια διαμονής μπορεί να ανανεωθεί για έναν από τους λοιπούς λόγους του παρόντος ύστερα από γνώμη Επιτροπής της παραγράφου 1 του άρθρου 89 και μόνο εφόσον κρίνεται σκόπιμη εκ των εν γένει περιστάσεων και των στοιχείων του φακέλου ότι συντρέχει εξαιρετικός λόγος προς τούτο.

Η διάρκεια της αρχικής άδειας διαμονής των περιπτώσεων β΄, γ΄, δ΄ και ζ΄ είναι ετήσια και μπορεί να ανανεώνεται κάθε φορά για δύο (2) έτη εφόσον πληρούνται οι ίδιες προϋποθέσεις. Η διάρκεια της άδειας διαμονής των περιπτώσεων ε΄ και στ΄ είναι διετής και μπορεί να ανανεώνεται ανά διετία εφόσον πληρούνται οι ίδιες προϋποθέσεις. Η διάρκεια της άδειας διαμονής των περιπτώσεων η΄ και θ΄ είναι ετήσια και μπορεί να ανανεωθεί μόνο για έναν από τους λοιπούς λόγους του παρόντος νόμου.

Για την εξέταση αιτήματος χορήγησης άδειας διαμονής σύμφωνα με την παρούσα παράγραφο δεν καταβάλλεται παράβολο, εκτός των περιπτώσεων η΄ και θ΄ για τις οποίες καταβάλλεται παράβολο ύψους 150 ευρώ.

Οι κάτοχοι άδειας διαμονής των περιπτώσεων α΄, β΄, η΄, καθώς και όσοι αποκτούν άδεια διαμονής ως σύζυγοι Ελλήνων πολιτών με βάση την περίπτωση του στοιχείου θ΄ έχουν δικαίωμα να εργαστούν με σχέση εξαρτημένης εργασίας ή να παρέχουν υπηρεσίες ή έργο.

2. Ο Υπουργός Εσωτερικών, Αποκέντρωσης και Ηλεκτρονικής Διακυβέρνησης μπορεί κατ' εξαίρεση να χορηγεί μετά από γνώμη Επιτροπής της παραγράφου 1 του άρθρου 89 άδεια διαμονής διάρκειας ενός (1) έτους σε υπηκόους τρίτων χωρών που διαμένουν στην Ελλάδα και αποδεικνύουν ότι έχουν αναπτύξει ιδιαίτερους δεσμούς με τη Χώρα, εφόσον δεν συντρέχουν στο πρόσωπό τους λόγοι δημόσιας τάξης. Η άδεια διαμονής για εξαιρετικούς λόγους μπορεί να ανανεώνεται μόνο για έναν από τους λοιπούς λόγους του παρόντος νόμου.

Αίτημα χορήγησης άδειας για εξαιρετικούς λόγους εξετάζεται μόνο εφόσον ο ενδιαφερόμενος υπήκοος τρί-

της χώρας προσκομίζει: (α) θεώρηση εισόδου ή άδειας διαμονής έστω και εάν αυτές έχουν λήξει, (β) διαβατήριο σε ισχύ, (γ) παράβολο ύψους 300 ευρώ, καθώς και (δ) έγγραφα που στοιχειοθετούν ότι έχουν αναπτύξει ιδιαίτερους δεσμούς με τη Χώρα, οι οποίοι καθιστούν αναγκαία την παραμονή του εντός της ελληνικής επικράτειας.

Κατ' εξαίρεση δεν απαιτείται η προσκόμιση των υπό στοιχείου α΄ εγγράφων εφόσον ο ενδιαφερόμενος αποδεικνύει με έγγραφα βέβαιης χρονολογίας το πραγματικό γεγονός της διαμονής του στη Χώρα για δώδεκα (12) τουλάχιστον συνεχή χρόνια. Με απόφασή του ο Υπουργός Εσωτερικών, Αποκέντρωσης και Ηλεκτρονικής Διακυβέρνησης μπορεί να καθορίζει περιοριστικά τα έγγραφα βέβαιης χρονολογίας που αποδεικνύουν τη δωδεκαετή συνεχή παραμονή του αιτούντος στη Χώρα.

Δεν απαιτείται επίσης η κατοχή διαβατηρίου σε ισχύ εφόσον συντρέχει διαπιστωμένη αντικειμενική αδυναμία του ενδιαφερομένου να εφοδιαστεί με οποιοδήποτε ταξιδιωτικό έγγραφο σύμφωνα με τις διατάξεις του άρθρου 84 του ν. 3386/2005.

Στην περίπτωση που ο ειδικός δεσμός που ο ενδιαφερόμενος επικαλείται, συνδέεται με σοβαρούς λόγους υγείας του ίδιου ή ανήλικου τέκνου του, θα πρέπει να αποδεικνύει ότι οι λόγοι αυτοί προέκυψαν μετά την είσοδό του στη Χώρα και συνδέονται με τη διαμονή του σε αυτή.

Για τη διαπίστωση της συνδρομής ιδιαίτερων δεσμών με τη Χώρα συνεκτιμώνται ιδίως: (α) η πολύ καλή γνώση της ελληνικής γλώσσας, (β) η φοίτηση σε ελληνικό σχολείο πρωτοβάθμιας ή δευτεροβάθμιας εκπαίδευσης, (γ) το διάστημα διαμονής του στην Ελλάδα και κυρίως της νόμιμης, (δ) ο χρόνος τυχόν ασφάλισής του σε ελληνικό οργανισμό κύριας ασφάλισης και εκπλήρωσης φορολογικών υποχρεώσεων, (ε) ο συγγενικός δεσμός του με Έλληνα πολίτη ή ομογενή.

3. Αρμόδια υπηρεσία για την υποβολή των παραπάνω αιτήσεων είναι η Διεύθυνση Μεταναστευτικής Πολιτικής του Υπουργείου Εσωτερικών, Αποκέντρωσης και Ηλεκτρονικής Διακυβέρνησης. Η κατάθεση αίτησης για χορήγηση άδειας διαμονής για εξαιρετικούς λόγους δεν συνεπάγεται τη νόμιμη διαμονή του αιτούντος για το χρόνο που θα απαιτηθεί μέχρι την εξέταση του φακέλου. Κατά τη διαδικασία εξέτασης του φακέλου δεν έχουν εφαρμογή οι διατάξεις του τρίτου εδαφίου της παραγράφου 1 του άρθρου 12.

4. Στις περιπτώσεις των προσώπων της παραγράφου 1 που τα μέλη της οικογένειάς τους είναι κάτοχοι άδειας διαμονής για λόγους οικογενειακής επανένωσης είναι δυνατή η ανανέωση της άδειας διαμονής τους για ίσο χρονικό διάστημα με την ισχύ της άδειας για ανθρωπιστικούς λόγους. Η σχετική απόφαση εκδίδεται από τον Γενικό Γραμματέα της Αποκεντρωμένης Διοίκησης. Στην περίπτωση που δεν πληρούται η προϋπόθεση της περίπτωσης γ΄ του άρθρου 53, η άδεια μπορεί να χορηγηθεί κατά παρέκκλιση της διάταξης αυτής.

5. Η άδεια διαμονής που χορηγείται στις περιπτώσεις β΄, γ΄, δ΄, ε΄ και στ΄ της παραγράφου 1 του παρόντος άρθρου μπορεί να ανανεωθεί για έναν από τους λοιπούς λόγους του νόμου αυτού, εφόσον εκλείψουν οι λόγοι για τους οποίους εκδόθηκε.

6. Οι άδειες διαμονής της παραγράφου 2 του παρόντος άρθρου παρέχουν στον υπήκοο τρίτης χώρας δικαίωμα πρόσβασης στη μισθωτή απασχόληση και στην παροχή υπηρεσιών ή έργου. Δυνατότητα άσκησης ανεξάρτητης οικονομικής δραστηριότητας παρέχεται μόνο στην περίπτωση που ο κάτοχος της ανωτέρω άδειας διαμονής κατείχε προηγουμένως άδεια διαμονής η οποία του επέτρεπε την άσκηση ανεξάρτητης οικονομικής δραστηριότητας και η δραστηριότητα αυτή εξακολουθεί να υφίσταται. Για την ανανέωση των αδειών διαμονής του προηγούμενου εδαφίου θα εξετάζεται η συνδρομή των προϋποθέσεων ανανέωσης αδειών διαμονής για ανεξάρτητη οικονομική δραστηριότητα.»

2. Το τρίτο και το τέταρτο εδάφιο της παρ. 1 του άρθρου 84 του ν. 3386/2005, όπως τροποποιήθηκαν με την παρ. 1 του άρθρου 15 του ν. 3536/2007, αντικαθίστανται ως εξής:

«Ειδικά για τις περιπτώσεις κατά τις οποίες ο υπήκοος τρίτης χώρας αδυνατεί να προσκομίσει ισχύον διαβατήριο ή άλλο ταξιδιωτικό έγγραφο, είναι δυνατή η χορήγηση της άδειας διαμονής με απόφαση του Γενικού Γραμματέα της Περιφέρειας, εφόσον ο υπήκοος τρίτης χώρας επικαλείται ειδικώς και αιτιολογημένως αντικειμενική αδυναμία λόγω των ιδιαίτερων συνθηκών ή καταστάσεων, κατόπιν γνώμης της κατωτέρω Επιτροπής, εκτός αν συντρέχουν λόγοι δημόσιας τάξης και ασφάλειας.

Στο Υπουργείο Εσωτερικών, Αποκέντρωσης και Ηλεκτρονικής Διακυβέρνησης για τον ανωτέρω σκοπό συνιστάται ειδική τριμελής Επιτροπή, η οποία γνωμοδοτεί σχετικά με την ύπαρξη αντικειμενικής αδυναμίας προσκόμισης ισχυρού διαβατηρίου και συγκροτείται με απόφαση του Υπουργού ως εξής:

α. έναν πάρεδρο του Νομικού Συμβουλίου του Κράτους στο Υπουργείο Εσωτερικών, Αποκέντρωσης και Ηλεκτρονικής Διακυβέρνησης, ως πρόεδρο,

β. τον προϊστάμενο του αρμόδιου Τμήματος του Υπουργείου Εσωτερικών, Αποκέντρωσης και Ηλεκτρονικής Διακυβέρνησης και

γ. έναν υπάλληλο της Υπηρεσίας Ασύλου, ο οποίος προτείνεται από τον Διευθυντή της Υπηρεσίας αυτής. Μέχρι τον ορισμό του ανωτέρω υπαλλήλου, στην ως άνω Επιτροπή μετέχει ως μέλος αξιωματικός της Διεύθυνσης Αλλοδαπών του Αρχηγείου Ελληνικής Αστυνομίας.

Εισηγητής στην Επιτροπή ορίζεται με τον αναπληρωτή του υπάλληλος του αρμόδιου Τμήματος της Διεύθυνσης Μεταναστευτικής Πολιτικής του Υπουργείου Εσωτερικών, Αποκέντρωσης και Ηλεκτρονικής Διακυβέρνησης.»

3. Η παρ. 1 του άρθρου 89 του ν. 3386/2005 αντικαθίσταται ως εξής:

«1. Στο Υπουργείο Εσωτερικών, Δημόσιας Διοίκησης και Αποκέντρωσης συνιστώνται τρεις Επιτροπές Μετανάστευσης, οι οποίες γνωμοδοτούν σχετικά με τη συνδρομή σε υπηκόους τρίτων χωρών ιδιαίτερων δεσμών με την κοινωνική ζωή της χώρας προκειμένου να χορηγηθεί άδεια διαμονής, καθώς και σε κάθε περίπτωση που παραπέμπεται σε αυτές στο πλαίσιο χορήγησης ή ανανέωσης άδειας διαμονής με απόφαση του Υπουργού Εσωτερικών, Αποκέντρωσης και Ηλεκτρονικής Διακυβέρνησης. Με απόφαση του ιδίου συγκροτούνται οι Επιτροπές και ορίζονται τα τακτικά και αναπληρωματικά μέλη τους και οι γραμματείς με τους αναπληρωτές τους. Καθεμία από αυτές αποτελείται από:

α. Έναν υπάλληλο της Γενικής Διεύθυνσης Μεταναστευτικής Πολιτικής και Κοινωνικής Ένταξης του Υπουργείου Εσωτερικών, Αποκέντρωσης και Ηλεκτρονικής Διακυβέρνησης, προϊστάμενο θέσης ευθύνης, ως Πρόεδρο.

β. Έναν αξιωματικό της Διεύθυνσης Αλλοδαπών του Αρχηγείου Ελληνικής Αστυνομίας.

γ. Έναν εκπρόσωπο της Κοινωνίας των Πολιτών που προτείνει η Εθνική Επιτροπή για τα Δικαιώματα του Ανθρώπου.

Εισηγητές στις Επιτροπές Μετανάστευσης ορίζονται υπάλληλοι της Διεύθυνσης Μεταναστευτικής Πολιτικής του Υπουργείου Εσωτερικών, Αποκέντρωσης και Ηλεκτρονικής Διακυβέρνησης.»

4. Η παρ. 4 του άρθρου 73 του ν. 3386/2005 καταργείται.

5. Η παρ. 5 του άρθρου 73 του ν. 3386/2005, όπως αντικαταστάθηκε με το άρθρο 14 παρ. 3 του ν. 3536/2007, αντικαθίσταται ως εξής:

«Υπήκοος τρίτης χώρας, που παραβιάζει την προθεσμία οικειοθελούς αναχώρησης ή, σε κάθε άλλη περίπτωση, διαμένει παράνομα στη Χώρα για χρονικό διάστημα που δεν ξεπερνά τις τριάντα (30) ημέρες, υποχρεούται κατά την αναχώρηση να καταβάλει το τετραπλάσιο του προβλεπόμενου παραβόλου για άδεια διαμονής ετήσιας διάρκειας. Εάν ο χρόνος της παράνομης διαμονής είναι μεγαλύτερος των τριάντα (30) ημερών, υποχρεούται να καταβάλει το οκταπλάσιο του προβλεπόμενου παραβόλου για ετήσια άδεια διαμονής.

Η διαδικασία βεβαίωσης και καταβολής του ανωτέρω προστίμου καθορίζεται με απόφαση των Υπουργών Εσωτερικών, Αποκέντρωσης και Ηλεκτρονικής Διακυβέρνησης, Οικονομικών και Προστασίας του Πολίτη.

Εξαιρούνται από την επιβολή προστίμων: α) οι ανήλικοι, β) όσοι έχουν την ιδιότητα του ομογενούς, γ) όσοι έχουν την ιδιότητα του συζύγου ή γονέα ημεδαπού, ομογενούς ή κοινοτικού, δ) όσοι εντάσσονται σε διαδικασίες και προγράμματα οικειοθελούς επαναπατρισμού, ε) όσοι παραβιάζουν το νόμιμο χρόνο παραμονής τους στην ελληνική επικράτεια για λόγους ανωτέρας βίας, εφόσον αναχωρήσουν εντός τριάντα (30) ημερών από την εξάλειψη του γεγονότος. Για τη συνδρομή του λόγου εξαίρεσης σε κάθε περίπτωση αποφαίνεται η αστυνομική αρχή που πραγματοποιεί τον έλεγχο αναχώρησης του αλλοδαπού.»

6. Το άρθρο 79 του ν. 3386/2005 καταργείται.

Άρθρο 43
Μεταβατική διάταξη

Εκκρεμείς αιτήσεις που έχουν υποβληθεί σύμφωνα με τις διατάξεις του άρθρου 44 παρ. 2 του ν. 3386/2005, όπως ισχύει, εξετάζονται σύμφωνα με τις διατάξεις της παραγράφου 1 του ίδιου άρθρου, όπως τροποποιούνται με τις διατάξεις του άρθρου 42 του παρόντος νόμου, εφόσον πληρούνται οι αντίστοιχες προϋποθέσεις.

Άρθρο 44
Επιτροπές Προσφυγών

1. Οι ιδιώτες που συμμετέχουν με πλήρη απασχόληση στις Επιτροπές Προσφυγών του άρθρου 26 του π.δ.114/2010 (ΦΕΚ 195 Α΄) αμείβονται σύμφωνα με τα οριζόμενα σε σχετική σύμβαση παροχής υπηρεσιών ή μίσθωσης έργου που συνάπτεται είτε με τους ίδιους είτε με το φορέα στον οποίο ανήκουν.

2. Στις Επιτροπές Προσφυγών του άρθρου 26 του π.δ. 114/2010 μπορεί να ορίζονται ως Πρόεδροι υπάλληλοι του Υπουργείου Εσωτερικών, Αποκέντρωσης και Ηλεκτρονικής Διακυβέρνησης ή Δικαιοσύνης, Διαφάνειας και Ανθρωπίνων Δικαιωμάτων ή νομικών προσώπων που εποπτεύονται από αυτά, περιλαμβανομένων των Ο.Τ.Α., κατηγορίας ΠΕ πτυχιούχοι ανθρωπιστικών, νομικών και κοινωνικών επιστημών, οι οποίοι ορίζονται με τους αναπληρωτές τους από τον οικείο Υπουργό.

Άρθρο 45

1. Η παράγραφος 1 του άρθρου 68 του α.ν. 2545/1940 (ΦΕΚ 287 Α΄) αντικαθίσταται ως εξής:

«1. Άδεια ίδρυσης φροντιστηρίων χορηγείται: α) σε φυσικά πρόσωπα που κατέχουν τα προσόντα για την κατάληψη θέσης δημόσιου εκπαιδευτικού πρωτοβάθμιας ή δευτεροβάθμιας εκπαίδευσης, τα οποία παρέχουν το δικαίωμα διδασκαλίας σε αυτά, ή αντίστοιχους τίτλους σπουδών ή β) σε νομικά πρόσωπα που πληρούν σωρευτικά τις ακόλουθες προϋποθέσεις: αα) η έδρα τους, σύμφωνα με τη συστατική πράξη ή το καταστατικό τους, βρίσκεται σε χώρα κράτος-μέλος της Ευρωπαϊκής Ένωσης, ββ) ο σκοπός τους, σύμφωνα με τη συστατική πράξη ή το καταστατικό τους, αφορά και την παροχή υπηρεσιών εκπαίδευσης και γγ) δεν έχουν κηρυχθεί σε κατάσταση πτώχευσης. Με απόφαση του Υπουργού Παιδείας, Δια Βίου Μάθησης και Θρησκευμάτων, που δημοσιεύεται στην Εφημερίδα της Κυβερνήσεως, καθορίζονται τα δικαιολογητικά που απαιτούνται για την αδειοδότηση νομικών προσώπων και ρυθμίζεται κάθε σχετικό θέμα.»

2. Η παράγραφος 3 του άρθρου 68 του α.ν. 2545/1940 καταργείται.

ΚΕΦΑΛΑΙΟ ΣΤ΄
ΤΕΛΙΚΕΣ ΔΙΑΤΑΞΕΙΣ

Άρθρο 46
Καταργούμενες διατάξεις

Από την έναρξη ισχύος του παρόντος νόμου καταργείται κάθε γενική ή ειδική διάταξη που αντίκειται στις διατάξεις του.

Άρθρο 47
Έναρξη ισχύος

Η ισχύς του παρόντος νόμου αρχίζει από τη δημοσίευσή του στην Εφημερίδα της Κυβερνήσεως, εκτός εάν στις επί μέρους διατάξεις του ορίζεται άλλος χρόνος.

Παραγγέλλομε τη δημοσίευση του παρόντος στην Εφημερίδα της Κυβερνήσεως και την εκτέλεσή του ως νόμου του Κράτους.

Αθήνα, 21 Ιανουαρίου 2011

Ο ΠΡΟΕΔΡΟΣ ΤΗΣ ΔΗΜΟΚΡΑΤΙΑΣ
ΚΑΡΟΛΟΣ ΓΡ. ΠΑΠΟΥΛΙΑΣ

ΟΙ ΥΠΟΥΡΓΟΙ

ΕΣΩΤΕΡΙΚΩΝ, ΑΠΟΚΕΝΤΡΩΣΗΣ ΚΑΙ ΗΛΕΚΤΡΟΝΙΚΗΣ ΔΙΑΚΥΒΕΡΝΗΣΗΣ
Ι. ΡΑΓΚΟΥΣΗΣ

ΟΙΚΟΝΟΜΙΚΩΝ
Γ. ΠΑΠΑΚΩΝΣΤΑΝΤΙΝΟΥ

ΕΞΩΤΕΡΙΚΩΝ
Δ. ΔΡΟΥΤΣΑΣ

ΕΘΝΙΚΗΣ ΑΜΥΝΑΣ
Ε. ΒΕΝΙΖΕΛΟΣ

ΟΙΚΟΝΟΜΙΑΣ, ΑΝΤΑΓΩΝΙΣΤΙΚΟΤΗΤΑΣ ΚΑΙ ΝΑΥΤΙΛΙΑΣ
Μ. ΧΡΥΣΟΧΟΪΔΗΣ

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Κ. ΜΠΙΡΜΠΙΛΗ

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Α. ΔΙΑΜΑΝΤΟΠΟΥΛΟΥ

ΕΡΓΑΣΙΑΣ ΚΑΙ ΚΟΙΝΩΝΙΚΗΣ ΑΣΦΑΛΙΣΗΣ
Λ.-Τ. ΚΑΤΣΕΛΗ

ΥΓΕΙΑΣ ΚΑΙ ΚΟΙΝΩΝΙΚΗΣ ΑΛΛΗΛΕΓΓΥΗΣ
Α. ΛΟΒΕΡΔΟΣ

ΔΙΚΑΙΟΣΥΝΗΣ, ΔΙΑΦΑΝΕΙΑΣ ΚΑΙ ΑΝΘΡΩΠΙΝΩΝ ΔΙΚΑΙΩΜΑΤΩΝ
Χ. ΚΑΣΤΑΝΙΔΗΣ

ΠΡΟΣΤΑΣΙΑΣ ΤΟΥ ΠΟΛΙΤΗ
Χ. ΠΑΠΟΥΤΣΗΣ

Θεωρήθηκε και τέθηκε η Μεγάλη Σφραγίδα του Κράτους.

Αθήνα, 21 Ιανουαρίου 2011

Ο ΕΠΙ ΤΗΣ ΔΙΚΑΙΟΣΥΝΗΣ ΥΠΟΥΡΓΟΣ
Χ. ΚΑΣΤΑΝΙΔΗΣ

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9.4.4 Greek Law 4375/2016

Signature Not Verified
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Location: Athens, Ethniko Typografio

ΕΦΗΜΕΡΙΔΑ ΤΗΣ ΚΥΒΕΡΝΗΣΕΩΣ

ΤΗΣ ΕΛΛΗΝΙΚΗΣ ΔΗΜΟΚΡΑΤΙΑΣ

ΤΕΥΧΟΣ ΠΡΩΤΟ **Αρ. Φύλλου 51**

3 Απριλίου 2016

ΝΟΜΟΣ ΥΠ' ΑΡΙΘΜ. 4375

Οργάνωση και λειτουργία Υπηρεσίας Ασύλου, Αρχής Προσφυγών, Υπηρεσίας Υποδοχής και Ταυτοποίησης σύσταση Γενικής Γραμματείας Υποδοχής, προσαρμογή της Ελληνικής Νομοθεσίας προς τις διατάξεις της Οδηγίας 2013/32/ΕΕ του Ευρωπαϊκού Κοινοβουλίου και του Συμβουλίου «σχετικά με τις κοινές διαδικασίες για τη χορήγηση και ανάκληση του καθεστώτος διεθνούς προστασίας (αναδιατύπωση)» (L 180/29.6.2013), διατάξεις για την εργασία δικαιούχων διεθνούς προστασίας και άλλες διατάξεις.

Ο ΠΡΟΕΔΡΟΣ
ΤΗΣ ΕΛΛΗΝΙΚΗΣ ΔΗΜΟΚΡΑΤΙΑΣ

Εκδίδομε τον ακόλουθο νόμο που ψήφισε η Βουλή:

ΜΕΡΟΣ ΠΡΩΤΟ

ΚΕΦΑΛΑΙΟ Α΄
ΥΠΗΡΕΣΙΑ ΑΣΥΛΟΥ ΚΑΙ ΑΡΧΗ ΠΡΟΣΦΥΓΩΝ

Άρθρο 1
Ίδρυση - Αποστολή - Συγκρότηση

1. Στο Υπουργείο Εσωτερικών και Διοικητικής Ανασυγκρότησης λειτουργεί αυτοτελής υπηρεσία, με τίτλο «Υπηρεσία Ασύλου», όπως η υπηρεσία αυτή έχει συσταθεί από το άρθρο 1 του ν. 3907/2011 (Α΄ 7), η οποία υπάγεται απευθείας στον Υπουργό Εσωτερικών και Διοικητικής Ανασυγκρότησης και έχει τοπική αρμοδιότητα που εκτείνεται σε όλη την Επικράτεια. Η Υπηρεσία λειτουργεί σε επίπεδο Διεύθυνσης και έχει ως αποστολή την εφαρμογή της νομοθεσίας περί ασύλου και των λοιπών μορφών διεθνούς προστασίας των αλλοδαπών και ανιθαγενών, καθώς και τη συμβολή στο σχεδιασμό και τη διαμόρφωση της εθνικής πολιτικής ασύλου. Η Υπηρεσία Ασύλου επίσης είναι αρμόδια για την εφαρμογή της Σύμβασης της Νέας Υόρκης της 28ης Σεπτεμβρίου 1954 περί της νομικής καταστάσεως των ανιθαγενών.

2. Η Υπηρεσία Ασύλου, στο πλαίσιο της αποστολής της, είναι αρμόδια ιδίως για:

α. την υποστήριξη του σχεδιασμού και της χάραξης της πολιτικής της χώρας όσον αφορά στη χορήγηση ασύλου ή άλλων μορφών διεθνούς προστασίας, καθώς και την παρακολούθηση και αξιολόγηση της υλοποίησης αυτής,

β. την παραλαβή και εξέταση αιτημάτων διεθνούς προστασίας και την απόφανση επί αυτών σε πρώτο βαθμό,

γ. την ενημέρωση των αιτούντων διεθνή προστασία για τη διαδικασία εξέτασης των αιτημάτων, καθώς και για τα δικαιώματα και τις υποχρεώσεις τους στο πλαίσιο αυτής,

δ. τη συγκέντρωση και αξιολόγηση πληροφοριών σχετικά με την οικονομική, κοινωνική και πολιτική κατάσταση που επικρατεί στις χώρες καταγωγής των αλλοδαπών και τη διαρκή παρακολούθηση των εξελίξεων στις χώρες αυτές, σε συνεργασία με αρμόδιες για το σκοπό αυτόν άλλες ελληνικές αρχές ή αρχές της αλλοδαπής, ιδίως στο πλαίσιο σχετικών διεθνών συμφωνιών,

ε. τον εφοδιασμό των αιτούντων διεθνή προστασία αλλοδαπών, καθώς και των δικαιούχων διεθνούς προστασίας με τα προβλεπόμενα από την κείμενη νομοθεσία νομιμοποιητικά και ταξιδιωτικά έγγραφα,

στ. τη διεκπεραίωση των αιτήσεων οικογενειακής επανένωσης προσφύγων,

ζ. τη διευκόλυνση των αιτούντων σε ό,τι αφορά στις υλικές συνθήκες υποδοχής σε συνεργασία με άλλους συναρμόδιους φορείς,

η. την προετοιμασία νομοθετικών κειμένων και διοικητικών πράξεων σε θέματα αρμοδιότητάς της,

θ. τη συνεργασία με κρατικούς φορείς, ανεξάρτητες αρχές και μη κυβερνητικές οργανώσεις, όργανα και οργανισμούς της Ευρωπαϊκής Ένωσης και διεθνείς οργανισμούς για την αποτελεσματικότερη εκπλήρωση της αποστολής της,

ι. την κατάρτιση και υλοποίηση προγραμμάτων επανεγκατάστασης προσφύγων από τρίτες χώρες, και

ια. την υλοποίηση προγραμμάτων μετεγκατάστασης αιτούντων διεθνή προστασία.

3. Η Υπηρεσία Ασύλου συγκροτείται από την Κεντρική Υπηρεσία Ασύλου και τις Περιφερειακές Υπηρεσίες Ασύλου. Οι Περιφερειακές Υπηρεσίες Ασύλου περιλαμβάνουν τα Περιφερειακά Γραφεία Ασύλου και τα Αυτοτελή Κλιμάκια Ασύλου και υπάγονται στην Κεντρική Υπηρεσία Ασύλου. Η Κεντρική Υπηρεσία προγραμματίζει, κατευθύνει, παρακολουθεί και ελέγχει τη δράση των Περιφερειακών Υπηρεσιών και εξασφαλίζει τις αναγκαίες προϋποθέσεις για την άσκηση των αρμοδιοτήτων τους.

Συνιστώνται Περιφερειακά Γραφεία Ασύλου στην Αττική, τη Θεσσαλονίκη, τη Θράκη, την Ήπειρο, τη Θεσσαλία, τη Δυτική Ελλάδα, την Κρήτη, τη Λέσβο, τη Χίο, τη Σάμο, τη Λέρο και τη Ρόδο. Με απόφαση του Υπουργού Εσωτερικών και Διοικητικής Ανασυγκρότησης δύναται να ιδρυθούν πλείονα του ενός Περιφερειακά Γραφεία Ασύλου στις ως άνω περιοχές, για την κάλυψη των αναγκών της Υπηρεσίας Ασύλου.

Με απόφαση του Διευθυντή της Υπηρεσίας Ασύλου είναι δυνατή η ίδρυση Αυτοτελών Κλιμακίων Ασύλου, των οποίων η έδρα, η τοπική και η καθ' ύλην αρμοδιότητα, καθώς και κάθε άλλη λεπτομέρεια θα ορίζεται στην ως άνω απόφαση, προκειμένου να καλυφθούν αυξημένες ανάγκες, που συνδέονται με την αποστολή της Υπηρεσίας. Επιπλέον και προκειμένου να αντιμετωπιστούν κατεπείγουσες ανάγκες με προσωρινό χαρακτήρα είναι δυνατή με όμοια απόφαση, η σύσταση Κινητών Κλιμακίων Ασύλου, των οποίων η διάρθρωση, η αποστολή, η στελέχωση και κάθε άλλη λεπτομέρεια θα ορίζονται με την ως άνω απόφαση.

Η έναρξη λειτουργίας των Περιφερειακών Γραφείων Ασύλου, καθώς και η έδρα τους καθορίζεται με απόφαση του Διευθυντή της Υπηρεσίας Ασύλου.

4. Η Κεντρική Υπηρεσία Ασύλου διαρθρώνεται στα εξής τμήματα:

α) Τμήμα Διεθνούς και Ευρωπαϊκής Συνεργασίας:

Παρακολουθεί και μελετά τις εξελίξεις στον τομέα του ασύλου και των λοιπών μορφών διεθνούς προστασίας, υποβάλλει προτάσεις για τις αναγκαίες τροποποιήσεις και βελτιώσεις και μεριμνά για την εκπροσώπηση της χώρας σε ευρωπαϊκό και διεθνές επίπεδο αναφορικά με τα ζητήματα αρμοδιότητας της Υπηρεσίας.

β) Νομικό Τμήμα:

Προετοιμάζει και καταρτίζει τα απαραίτητα σχέδια νομοθετικών και εν γένει κανονιστικών κειμένων και εγκυκλίων και παρέχει νομική υποστήριξη στην Υπηρεσία για ζητήματα που άπτονται του αντικειμένου της.

γ) Τμήμα Συντονισμού:

Συντονίζει τις ενέργειες των Περιφερειακών Υπηρεσιών Ασύλου και οργανώνει, συντονίζει και εποπτεύει τα Κινητά Κλιμάκια Ασύλου. Μεριμνά για την επικοινωνία και συνεργασία με τις Περιφερειακές Υπηρεσίες της Υπηρεσίας Υποδοχής και Ταυτοποίησης και με άλλες υπηρεσίες του Δημοσίου, με ανεξάρτητες αρχές, καθώς και με φορείς της κοινωνίας των πολιτών και νομικά πρόσωπα, τηρεί καταλόγους πιστοποιημένων φορέων, διερμηνέων, καθώς και των δικηγόρων που παρέχουν νομική συνδρομή στους αιτούντες διεθνή προστασία.

δ) Τμήμα Εθνικής Μονάδας Δουβλίνου:

Μεριμνά για την εφαρμογή του Κανονισμού (ΕΕ) 604/2013 του Ευρωπαϊκού Κοινοβουλίου και του Συμβουλίου της 26ης Ιουνίου 2013 και κάθε άλλης συναφούς νομοθεσίας και συνεργάζεται με τις συναρμόδιες δημόσιες υπηρεσίες.

ε) Τμήμα Ανθρώπινου Δυναμικού:

Χειρίζεται θέματα διορισμού, αποσπάσεων, μεταθέσεων, μετατάξεων, διαθεσιμοτήτων, προσόντων, αξιολόγησης, προαγωγών, αδειών, πειθαρχικών υποθέσεων και κάθε άλλο θέμα που αφορά το προσωπικό της Υπηρεσίας Ασύλου και μεριμνά για την έκδοση των σχετικών διοικητικών πράξεων.

στ) Τμήμα Εκπαίδευσης, Διασφάλισης Ποιότητας και Τεκμηρίωσης:

Μεριμνά για την οργάνωση της εκπαίδευσης και διαρκούς επιμόρφωσης του προσωπικού της υπηρεσίας, για τη διασφάλιση της ποιότητας των παρεχόμενων υπηρεσιών από τις Περιφερειακές Υπηρεσίες Ασύλου, καθώς και για την αξιολόγηση της ποιότητας των αποφάσεων διεθνούς προστασίας του Α΄ βαθμού. Αναζητά, συλλέγει, αξιολογεί και τηρεί πληροφορίες σχετικά με την πολιτική, κοινωνική και οικονομική κατάσταση στις χώρες προέλευσης των αιτούντων διεθνή προστασία και προς τούτο συνεργάζεται με άλλες αρμόδιες ελληνικές αρχές, αρχές της αλλοδαπής, ευρωπαϊκούς ή διεθνείς οργανισμούς, ιδίως στο πλαίσιο διεθνών συμφωνιών, συναρμόδιες αρχές κρατών - μελών της Ευρωπαϊκής Ένωσης, καθώς και με την Ευρωπαϊκή Υπηρεσία Υποστήριξης για το Άσυλο. Μεριμνά για την ποιότητα των αποφάσεων διεθνούς προστασίας οι οποίες εκδίδονται καθ' όλη τη διάρκεια της διοικητικής διαδικασίας εξέτασης των αιτήσεων διεθνούς προστασίας και τηρεί στατιστικά και άλλα στοιχεία των αποφάσεων διεθνούς προστασίας.

ζ) Τμήμα Οικονομικό:

Συντάσσει και εκτελεί τον προϋπολογισμό της Υπηρεσίας Ασύλου. Μεριμνά για την κατάρτιση και έγκριση των προμηθειών της Υπηρεσίας, καθώς και για το χειρισμό θεμάτων που αφορούν τις αποδοχές, αποζημιώσεις και κάθε είδους αμοιβές του προσωπικού, τον ορισμό δημοσίων υπολόγων, την κατανομή, ανακατανομή και έλεγχο της κίνησης της παγίας προκαταβολής, καθώς και για κάθε άλλο σχετικό θέμα.

η) Τμήμα Διαχείρισης και Εφαρμογής Προγραμμάτων:

Υλοποιεί δράσεις με χρηματοδότηση από ευρωπαϊκούς, θεσμικούς ή άλλους πόρους και έχει την επιτελική ευθύνη προγραμματισμού, διαχείρισης, αξιολόγησης και υλοποίησης των προγραμμάτων αυτών. Το Τμήμα Διαχείρισης και Εφαρμογής Προγραμμάτων διαρθρώνεται σε: αα) Γραφείο Διαχείρισης, Προγραμματισμού, Αξιολόγησης και Υποστήριξης και ββ) Γραφείο Εφαρμογής Προγραμμάτων.

θ) Τμήμα Διοικητικής και Τεχνικής Υποστήριξης:

Είναι αρμόδιο για την εύρυθμη λειτουργία των κτιριακών εγκαταστάσεων της Υπηρεσίας Ασύλου, συμπεριλαμβανομένης της εύρεσης και κατάλληλης διαμόρφωσής τους, την επίβλεψη όλων των εργασιών συντήρησης, τη διαχείριση του υλικού, καθώς και για την τήρηση του αρχείου. Υποστηρίζει γραμματειακά και διακινεί την αλληλογραφία της Κεντρικής Υπηρεσίας Ασύλου. Μεριμνά για την ασφαλή προσέλευση και διαχείριση των προσερχόμενων στην Υπηρεσία, εποπτεύει το αρμόδιο προσωπικό και μεριμνά για την ασφάλεια των κτιρίων και εγκαταστάσεων της Υπηρεσίας.

ι) Τμήμα Πληροφορικής:

Υποστηρίζει το σύστημα μηχανοργάνωσης της Υπηρεσίας Ασύλου, μεριμνά για την κατάλληλη διασύνδεσή του με αρχεία τηρούμενα από άλλες Υπηρεσίες του Δημοσίου ή άλλες αντίστοιχες αρχές κρατών - μελών της Ε.Ε. στο πλαίσιο σχετικών συμφωνιών και είναι αρμόδιο για τη συλλογή, επεξεργασία και τήρηση στατιστικών δεδομένων από τις Περιφερειακές Υπηρεσίες Ασύλου και την Αρχή Προσφυγών.

5. Η Υπηρεσία Ασύλου ορίζεται ως αρμόδια αρχή για την έκδοση διαταγής εξουσιοδοτήσεως εθνικού διαβαθμισμένου υλικού για το προσωπικό της Υπηρεσίας Ασύλου και ως υπεύθυνη διεύθυνση για θέματα ασφαλείας

και εφαρμογής του Εθνικού Κανονισμού Ασφαλείας (Ε.Κ.Α.) που αφορούν την Υπηρεσία Ασύλου. Στην Υπηρεσία λειτουργεί Υπαρχείο σύμφωνα με τις διατάξεις του Ε.Κ.Α. στο οποίο προΐσταται ο προϊστάμενος του Τμήματος Συντονισμού της Υπηρεσίας Ασύλου.

Άρθρο 2
Στελέχωση

1. Στην Υπηρεσία Ασύλου συνιστάται θέση Διευθυντή. Ο Διευθυντής διορίζεται με απόφαση του Υπουργού Εσωτερικών και Διοικητικής Ανασυγκρότησης ύστερα από δημόσια πρόσκληση ενδιαφέροντος, με θητεία τριών ετών που μπορεί να ανανεώνεται μία φορά για τρία ακόμη έτη. Ο Διευθυντής είναι προσωπικότητα εγνωσμένου κύρους, πανεπιστημιακής εκπαίδευσης, με διοικητική ικανότητα καθώς και εξειδίκευση ή/και εμπειρία στους τομείς διεθνούς προστασίας ή των δικαιωμάτων του ανθρώπου ή του διεθνούς δικαίου. Ο Διευθυντής προΐσταται της Υπηρεσίας Ασύλου και ελέγχεται από τον Υπουργό Εσωτερικών και Διοικητικής Ανασυγκρότησης, ενώ μπορεί να παύεται πριν τη λήξη της θητείας του, είτε κατόπιν παραίτησής του, είτε λόγω αδυναμίας εκτέλεσης των καθηκόντων του ή για άλλο σοβαρό λόγο που ανάγεται στην άσκηση των καθηκόντων του. Οι αποδοχές του Διευθυντή καθορίζονται με κοινή απόφαση των Υπουργών Εσωτερικών και Διοικητικής Ανασυγκρότησης και Οικονομικών. Σε περίπτωση που διοριστεί δικηγόρος στη θέση του Διευθυντή αναστέλλεται η άσκηση του δικηγορικού λειτουργήματος. Κατά τη διάρκεια της θητείας του αναστέλλεται η άσκηση οποιουδήποτε άλλου δημοσίου λειτουργήματος και δεν επιτρέπεται η άσκηση καμίας επαγγελματικής δραστηριότητας ή η ανάληψη άλλων αμειβόμενων καθηκόντων, στο δημόσιο ή στον ιδιωτικό τομέα ή η ανάληψη άλλων μη αμειβόμενων καθηκόντων, σε αντικείμενο συναφές με τα καθήκοντά του ως Διευθυντή. Ο Διευθυντής υποστηρίζεται από Γραμματεία, η οποία λειτουργεί σε επίπεδο τμήματος, στο πλαίσιο της οποίας λειτουργεί Γραφείο Δημοσίων Σχέσεων και Ενημέρωσης, το οποίο αναλαμβάνει και διεκπεραιώνει τα ζητήματα επικοινωνίας, ενημέρωσης του κοινού και δημοσίων σχέσεων.

2. α. Η Υπηρεσία Ασύλου στελεχώνεται από δημόσιους πολιτικούς υπαλλήλους, οι οποίοι μετατάσσονται, μεταφέρονται ή αποσπώνται από υπηρεσίες του δημοσίου, του ευρύτερου δημόσιου τομέα (άρθρο 2 του ν. 3861/2010, Α΄ 112), Ν.Π.Δ.Δ. ή Ο.Τ.Α ή από υπαλλήλους που προσλαμβάνονται ως μόνιμοι ή με σύμβαση εργασίας αορίστου χρόνου, σύμφωνα με τις ισχύουσες διατάξεις. Κατ' εξαίρεση τα Τμήματα Συντονισμού και Εθνικής Μονάδας Δουβλίνου της Υπηρεσίας Ασύλου δύναται να στελεχώνονται και από προσωπικό που αποσπάται από την Ελληνική Αστυνομία. Η πλήρωση των θέσεων διενεργείται μετά από δημόσια πρόσκληση ενδιαφέροντος από τον Διευθυντή της Υπηρεσίας. Οι μετατάξεις, μεταφορές και αποσπάσεις πραγματοποιούνται κατά παρέκκλιση των κειμένων διατάξεων, προκειμένου να καλυφθεί η ανάγκη στελέχωσης της Υπηρεσίας Ασύλου. Μετατάξεις προσωπικού που υπηρετεί σε καταργούμενες ή συγχωνευόμενες υπηρεσίες του Δημοσίου, του ευρύτερου δημόσιου τομέα (άρθρο 2 του ν. 3861/2010), Ν.Π.Δ.Δ. ή Ο.Τ.Α. προς την Υπηρεσία Ασύλου διενεργούνται κατά προτεραιότητα. Η μετάταξη πραγματοποιείται σε κενή οργανική θέση και αν δεν υπάρχει κενή, με μεταφορά της θέσης του υπαλλήλου που μετατάσσεται, με κοινή απόφαση των συναρμόδιων Υπουργών, ύστερα από πρόταση του Διευθυντή της Υπηρεσίας. Στη δημόσια πρόσκληση που απευθύνει ο Διευθυντής της Υπηρεσίας, προσδιορίζονται, τα γενικά και ειδικά προσόντα, τα κριτήρια και η διαδικασία επιλογής των μετατασσομένων, χωρίς να απαιτείται εφαρμογή της διάταξης της παρ. 1 του άρθρου 68 του ν. 4002/2011 (Α΄ 180). Η Υπηρεσία ενημερώνει, επί ποινή ακυρότητας της πράξης, την Επιτροπή της Π.Υ.Σ. 33/2006 (Α΄ 280) όπως ισχύει, καθώς και τις αρμόδιες υπηρεσίες του Υπουργείου Εσωτερικών και Διοικητικής Ανασυγκρότησης για τον αριθμό και τις ειδικότητες των θέσεων που καλύπτονται με μετάταξη. Η μετάταξη γίνεται με το βαθμό και το μισθολογικό κλιμάκιο που κατέχει ο μετατασσόμενος και διατηρεί το ασφαλιστικό και συνταξιοδοτικό καθεστώς που τηρούσε πριν τη μετάταξη. Η μετάταξη γίνεται με κοινή απόφαση των συναρμόδιων Υπουργών, σύμφωνα με την παρ. 1 του άρθρου 68 του ν. 4002/2011 (Α΄ 180), κατά παρέκκλιση από κάθε άλλη γενική ή ειδική διάταξη. Οι αποσπάσεις διενεργούνται με κοινή απόφαση των συναρμόδιων υπουργών, κατά παρέκκλιση από κάθε γενική ή ειδική διάταξη, μετά από πρόταση του Διευθυντή της Υπηρεσίας Ασύλου, ο οποίος αξιολογεί τα τυπικά και ουσιαστικά προσόντα των υποψηφίων και με την ίδια διαδικασία πραγματοποιείται παράταση των αποσπάσεων αυτών. Υπάλληλοι, οι οποίοι είναι αποσπασμένοι στην Υπηρεσία Ασύλου, την Αρχή Προσφυγών και την Υπηρεσία Υποδοχής και Ταυτοποίησης μπορούν, με αίτησή τους, να μεταταγούν στις Υπηρεσίες αυτές με την ίδια σχέση εργασίας και ταυτόχρονη μεταφορά της θέσης που κατέχουν, εφόσον δεν υπάρχει κενή οργανική θέση, ύστερα από πρόταση των οικείων Διευθυντών. Η απόσπαση μπορεί να διενεργείται και με αίτηση του υπαλλήλου, χωρίς να απαιτείται δημόσια πρόσκληση. Οι αποσπασμένοι υπάλληλοι λαμβάνουν τις τακτικές αποδοχές της οργανικής τους θέσης. Οι εν λόγω αποδοχές βαρύνουν τον προϋπολογισμό του Υπουργείου, της Υπηρεσίας ή του Φορέα στον οποίο ανήκει ο αποσπώμενος υπάλληλος. Σε περίπτωση που ο αποσπώμενος υπάλληλος δικαιούται επίδομα θέσης ευθύνης λόγω ανάληψης καθηκόντων προϊσταμένου στη θέση που αποσπάσθηκε, το συγκεκριμένο επίδομα θα καταβάλλεται από την Υπηρεσία Ασύλου.

β. Η Υπηρεσία Ασύλου δύναται να στελεχώνεται με προσωπικό αντίστοιχου κλάδου και ειδικότητας που περιλαμβάνεται σε οριστικούς πίνακες διοριστέων του ΑΣΕΠ ή φορέων των οποίων οι πίνακες έχουν ελεγχθεί από το ΑΣΕΠ, οι οποίοι πίνακες δημοσιεύθηκαν από 1.1.2009 έως 31.12.2012 και εφόσον το προσωπικό αυτό δεν έχει διοριστεί κατά την ημερομηνία λήξης της προθεσμίας υποβολής των αιτήσεων συμμετοχής στη δημόσια πρόσκληση του ΑΣΕΠ. Στην αίτησή του ο υποψήφιος θα αναγράφει κατά σειρά προτίμησης τις θέσεις τις οποίες επιθυμεί να καταλάβει και η αίτησή του θα συνοδεύεται με φωτοαντίγραφο του Φύλλου της Εφημερίδας της Κυβερνήσεως στο οποίο έχει δημοσιευθεί ο πίνακας διοριστέων στον οποίο περιλαμβάνεται και με υπεύθυνη δήλωσή του ότι δεν έχει διοριστεί ή προσληφθεί με βάση τον πίνακα αυτόν. Η πλήρωση θα διενεργείται μετά από δημόσια πρόσκληση του ΑΣΕΠ για την υποβολή αιτήσεων των ενδιαφερομένων κατόπιν αιτήματος του Υπουργού Εσωτερικών και Διοικητικής

Ανασυγκρότησης. Η επιλογή θα πραγματοποιείται από το ΑΣΕΠ από τους περιλαμβανόμενους στους παλαιότερους πίνακες οριστικών αποτελεσμάτων και με βάση τη σειρά κατάταξης των υποψηφίων σε αυτούς. Η διαδικασία θα ολοκληρώνεται κατόπιν έκδοσης της προβλεπόμενης στις διατάξεις του άρθρου 11 του ν. 3833/2010 (Α΄ 40), όπως ισχύει, απόφασης κατανομής του Υπουργού Εσωτερικών και Διοικητικής Ανασυγκρότησης. Για την εφαρμογή της παραπάνω παραγράφου, οι οργανικές θέσεις ειδικού επιστημονικού προσωπικού μπορεί να καλύπτονται, σε περίπτωση αδυναμίας πλήρωσής τους με προσωπικό της κατηγορίας αυτής, με προσωπικό προσόντων Πανεπιστημιακής Εκπαίδευσης (ΠΕ) με γνωστικό αντικείμενο, νομικών, πολιτικών, κοινωνικών, τεχνολογικών ή ανθρωπιστικών επιστημών, σύμφωνα με την οικεία πρόσκληση, του Δημοσίου, Ν.Π.Δ.Δ. ή ΟΤΑ ή φορέων του ευρύτερου δημόσιου τομέα (άρθρο 2 του ν. 3861/2010) που περιλαμβάνεται σε οριστικούς πίνακες διοριστέων του ΑΣΕΠ ή φορέων των οποίων οι πίνακες έχουν ελεγχθεί από το ΑΣΕΠ, εφόσον το προσωπικό αυτό δεν έχει διορισθεί κατά την ημερομηνία λήξης της προθεσμίας υποβολής των αιτήσεων συμμετοχής στη δημόσια πρόσκληση του ΑΣΕΠ. Σε περίπτωση που συμπέσει η παλαιότητα πινάκων γραπτού διαγωνισμού με άλλους οριστικούς πίνακες διοριστέων, προηγούνται οι υποψήφιοι που περιλαμβάνονται σε πίνακες γραπτού διαγωνισμού. Ο πίνακας των επιλεγομένων από το ΑΣΕΠ αποστέλλεται για δημοσίευση στην Εφημερίδα της Κυβερνήσεως και ταυτόχρονα κοινοποιείται άμεσα στον Υπουργό Εσωτερικών και Διοικητικής Ανασυγκρότησης, για διορισμό ή πρόσληψη.

Οι επιτυχόντες που αποδέχτηκαν το διορισμό τους και ανέλαβαν υπηρεσία στην Υπηρεσία Ασύλου, σύμφωνα με τις διατάξεις της παρ. 3 του άρθρου 18 του ν. 4058/ 2012 (Α΄ 63) διαγράφονται από τον οριστικό πίνακα διοριστέων τον οποίο επικαλέστηκαν προκειμένου να συμμετάσχουν στις διαδικασίες πλήρωσης των συγκεκριμένων θέσεων και ο διορισμός που απορρέει από αυτόν παύει να υφίσταται ως εκκρεμότητα. Όσοι από αυτούς που διορίστηκαν στην Υπηρεσία Ασύλου, σύμφωνα με τις διατάξεις της παρ. 3 του άρθρου 18 του ν. 4058/2012, παραιτήθηκαν και στη συνέχεια διορίστηκαν στον αρχικό φορέα διορισμού τους, μπορούν να επιλέξουν είτε την παραμονή τους στον αρχικό φορέα διορισμού είτε την επαναπρόσληψή τους στην Υπηρεσία Ασύλου ή την πρόσληψή τους στην Υπηρεσία Υποδοχής και Ταυτοποίησης, μετά από υποβολή σχετικής αίτησης μέσα σε αποκλειστική προθεσμία ενός (1) μηνός από τη δημοσίευση του παρόντος. Οι διατάξεις του προηγούμενου εδαφίου ισχύουν και για τις περιπτώσεις όσων διορίστηκαν στις Υπηρεσίες Ασύλου και Πρώτης Υποδοχής, σύμφωνα με τις διατάξεις της παρ. 3 του άρθρου 18 του ν. 4058/2012, οι οποίοι παραιτήθηκαν και στη συνέχεια διορίστηκαν στον αρχικό φορέα διορισμού τους και εν συνεχεία ο διορισμός τους αυτός ανακλήθηκε διοικητικώς, προκειμένου να επαναπροσληφθούν στις Υπηρεσίες Ασύλου και Πρώτης Υποδοχής.

3. Οι οργανικές θέσεις προσωπικού της Υπηρεσίας Ασύλου, κατά κατηγορία και κλάδο είναι οι ακόλουθες:

α. 235 θέσεις ειδικού επιστημονικού προσωπικού ή κατηγορίας ΠΕ Διοικητικού με πτυχίο νομικών, πολιτικών, κοινωνικών, ανθρωπιστικών και τεχνολογικών επιστημών.

β. 74 θέσεις κατηγορίας ΠΕ Διοικητικού - Οικονομικού

γ. 1 θέση κατηγορίας ΠΕ Επικοινωνίας και ΜΜΕ

δ. 4 θέσεις κατηγορίας ΠΕ Πληροφορικής

ε. 20 θέσεις κατηγορίας ΤΕ Διοικητικού - Λογιστικού

στ. 4 θέσεις κατηγορίας ΤΕ Πληροφορικής

ζ. 182 θέσεις κατηγορίας ΔΕ Διοικητικού - Λογιστικού

Τα προσόντα του ειδικού επιστημονικού προσωπικού είναι τα οριζόμενα στο άρθρο 2 του Π.δ. 50/2001 (Α΄ 39). Με απόφαση του Διευθυντή της Υπηρεσίας Ασύλου τοποθετείται το προσωπικό στην Κεντρική Υπηρεσία Ασύλου, καθώς και στις Περιφερειακές Υπηρεσίες Ασύλου, λαμβανομένης υπόψη της προκήρυξης ή πρόσκλησης, τις κείμενες διατάξεις, καθώς και τις υφιστάμενες ανάγκες της Υπηρεσίας.

4. Για την αντιμετώπιση απρόβλεπτων και επειγουσών αναγκών που δημιουργούνται από μαζικές αφίξεις πολιτών τρίτων χωρών ή ανιθαγενών επιτρέπεται η πρόσληψη προσωπικού σύμφωνα με τα οριζόμενα στο άρθρο 20 του ν. 2190/1994 (Α΄ 28).

5. Η Υπηρεσία Ασύλου δύναται, για την αντιμετώπιση εκτάκτων και επειγουσών αναγκών και μετά από απόφαση του Υπουργού Εσωτερικών και Διοικητικής Ανασυγκρότησης, να λειτουργεί όλο το εικοσιτετράωρο, όλες τις ημέρες της εβδομάδας, συμπεριλαμβανομένων των Κυριακών, αργιών και εξαιρεσίμων ημερών, καθώς και με το σύστημα εναλλαγής βαρδιών, πλην των περιπτώσεων που με την αλλαγή του ωραρίου απασχόλησης προκαλείται επιπλέον δαπάνη οπότε απαιτείται κοινή απόφαση των Υπουργών Οικονομικών και Εσωτερικών και Διοικητικής Ανασυγκρότησης. Με την προαναφερόμενη απόφαση καθορίζονται τα ειδικότερα καθήκοντα και υποχρεώσεις του προσωπικού της Υπηρεσίας Ασύλου, το εργασιακό καθεστώς, οι όροι και το ωράριο απασχόλησης, η ρύθμιση υπερωριακής απασχόλησης, καθώς και τα ειδικότερα ζητήματα.

6. Για τις ανάγκες των Περιφερειακών Γραφείων Ασύλου μπορεί να συνάπτονται συμβάσεις παροχής ανεξάρτητων υπηρεσιών ή συμβάσεις εργασίας ορισμένου χρόνου κατά τις κείμενες διατάξεις με διερμηνείς, οι οποίοι διαθέτουν τα απαραίτητα προσόντα και επιλέγονται από σχετικό κατάλογο που καταρτίζει η Κεντρική Υπηρεσία και τηρείται σύμφωνα με τον Κανονισμό Λειτουργίας της. Οι διερμηνείς αμείβονται, σύμφωνα με τους όρους σχετικής σύμβασης παροχής ανεξάρτητων υπηρεσιών ή εργασίας ορισμένου χρόνου σύμφωνα με τις κείμενες διατάξεις. Η αμοιβή τους, η διαδικασία και τα δικαιολογητικά πληρωμής για την εκτέλεση των ανωτέρω συμβάσεων ορίζονται με κοινή απόφαση του Υπουργού Εσωτερικών και Διοικητικής Ανασυγκρότησης και του Υπουργού Οικονομικών.

7. Αν Περιφερειακό Γραφείο Ασύλου αντιμετωπίζει προβλήματα ομαλής λειτουργίας λόγω έλλειψης επαρκούς ή κατάλληλου προσωπικού ή λόγω υποβολής εξαιρετικά μεγάλου αριθμού αιτήσεων διεθνούς προστασίας, η διεκπεραίωση επί μέρους αρμοδιοτήτων του Γραφείου, με εξαίρεση αυτές που συνιστούν άσκηση δημόσιας εξουσίας, όπως η έκδοση διοικητικών πράξεων, η εξέταση αιτήσεων ασύλου, η διεξαγωγή συνεντεύξεων και ο εφοδιασμός με ταξιδιωτικά και νομιμοποιητικά έγγραφα, μπορεί να ανατίθεται για ορισμένο χρόνο, σε φορείς της κοινωνίας των πολιτών, που ανταποκρίνονται σε κατάλληλες προδιαγραφές ποιότητας και ασφάλειας. Η ανάθεση των αρμοδιοτήτων αυτών γίνε-

ται από τον Διευθυντή της Υπηρεσίας Ασύλου, ύστερα από ειδική και αιτιολογημένη πρόταση του προϊσταμένου του Περιφερειακού Γραφείου Ασύλου. Με κοινή απόφαση των Υπουργών Εσωτερικών και Διοικητικής Ανασυγκρότησης και Οικονομικών προσδιορίζονται οι προδιαγραφές ποιότητας και ασφάλειας που πρέπει να πληρούν οι φορείς της κοινωνίας των πολιτών για την εφαρμογή του προηγούμενου εδαφίου, καθώς και οι επί μέρους αρμοδιότητες των Περιφερειακών Γραφείων Ασύλου που μπορεί να τους ανατίθενται. Στο Τμήμα Συντονισμού της Υπηρεσίας Ασύλου τηρείται Μητρώο πιστοποιημένων φορέων της Κοινωνίας των Πολιτών. Σε περίπτωση που προκύψει σχετική ανάγκη κατά την έννοια του πρώτου εδαφίου, η Ύπατη Αρμοστεία του ΟΗΕ για τους Πρόσφυγες και η Ευρωπαϊκή Υπηρεσία Υποστήριξης για το Άσυλο δύναται να παρέχουν κάθε σχετική συνδρομή, όπως η διεκπεραίωση συγκεκριμένων διαδικασιών, ανάλογα με την εντολή και τις αρμοδιότητές του κάθε οργανισμού. Λεπτομέρειες της συνεργασίας αυτής ρυθμίζονται με μνημόνια που συνάπτονται μεταξύ της Υπηρεσίας Ασύλου και των ως άνω οργανισμών.

8. Στους υπαλλήλους των Περιφερειακών Υπηρεσιών της Υπηρεσίας Ασύλου καταβάλλεται το επίδομα της παρ. 1 του άρθρου 15 του ν. 4024/2011 (Α΄ 226), όπως αυτό εξακολουθεί να καταβάλλεται σύμφωνα με το άρθρο 18 του ν. 4354/2015 (Α΄ 176), με την επιφύλαξη της επικείμενης ευθυγράμμισης του σχετικού καθεστώτος με την αντίστοιχη ευρωπαϊκή νομοθεσία έως τις 31.12.2017. Το ποσό του ανωτέρω επιδόματος ορίζεται σε εκατόν πενήντα (150) ευρώ μηνιαίως.

9. Το προσωπικό της Υπηρεσίας Ασύλου δύναται να φέρει ειδική ενδυμασία κατάλληλη για την προστασία από τις καιρικές συνθήκες. Με απόφαση του Διευθυντή της Υπηρεσίας ορίζονται οι όροι, οι προϋποθέσεις, οι προδιαγραφές, οι κατηγορίες του προσωπικού που θα φέρει τη σχετική ενδυμασία και κάθε άλλο σχετικό θέμα.

Άρθρο 3
Προϋπολογισμός - Οικονομική διαχείριση - Προμήθειες - Στέγαση Υπηρεσιών

1. Η Υπηρεσία Ασύλου έχει ίδιο προϋπολογισμό ως ειδικός φορέας του Υπουργείου Εσωτερικών και Διοικητικής Ανασυγκρότησης, όπου εγγράφονται πιστώσεις που αφορούν σε δαπάνες για: α. αποδοχές του προσωπικού της, β. ασφάλιση, περίθαλψη και κοινωνική προστασία του προσωπικού της και γ. λειτουργικές και λοιπές δαπάνες της.

2. Με κοινή απόφαση των Υπουργών Εσωτερικών και Διοικητικής Ανασυγκρότησης και Οικονομικών, εγγράφονται στον προϋπολογισμό της Υπηρεσίας Ασύλου πιστώσεις για κάθε άλλη δαπάνη, πέρα από όσες διαλαμβάνονται στην παράγραφο 1, που είναι αναγκαία για τη λειτουργία των Υπηρεσιών της.

3. Στον προϋπολογισμό δημοσίων επενδύσεων προβλέπονται οι πιστώσεις για την ανέγερση κτιρίων και τον εξοπλισμό των Υπηρεσιών της Υπηρεσίας Ασύλου, στο πλαίσιο των εγκρινόμενων ετήσιων πιστώσεων του Κρατικού Προϋπολογισμού.

4. Στην Κεντρική Υπηρεσία Ασύλου συνιστάται πάγια προκαταβολή, σύμφωνα με τις διατάξεις του άρθρου 108 του ν. 4270/2014 (Α΄ 143).

5. Οι δαπάνες, με την επιφύλαξη του άρθρου 74 του παρόντος, ελέγχονται, εκκαθαρίζονται, εντέλλονται και εξοφλούνται ανάλογα με τη φύση τους από την αρμόδια Υπηρεσία Δημοσιονομικού Ελέγχου (Υ.Δ.Ε.) ή τη Γενική Διεύθυνση Οικονομικών Υπηρεσιών (Γ΄ Δ.Ο.Υ.) του Υπουργείου Εσωτερικών και Διοικητικής Ανασυγκρότησης, σύμφωνα με τις κείμενες διατάξεις.

6. Με κοινή απόφαση των Υπουργών Εσωτερικών και Διοικητικής Ανασυγκρότησης και Οικονομικών, ρυθμίζονται ειδικά θέματα διαχείρισης υλικού, χρημάτων, καθώς και κάθε άλλο σχετικό θέμα.

7. Η Υπηρεσία Ασύλου και οι Περιφερειακές της Υπηρεσίες στεγάζονται σε κτίρια του Δημοσίου, των Οργανισμών Τοπικής Αυτοδιοίκησης ή άλλων φορέων που παραχωρούνται χωρίς αντάλλαγμα ή σε ιδιωτικά κτίρια που μισθώνονται με δαπάνες του Δημοσίου. Κατ' εξαίρεση για τις ανάγκες εγκατάστασης των περιφερειακών υπηρεσιών της Υπηρεσίας Ασύλου, εφαρμόζεται αναλογικά η διάταξη του άρθρου 16 παρ. 3 του παρόντος.

8. Ακίνητα του Δημοσίου μπορεί να παραχωρούνται κατά χρήση δωρεάν από την Εταιρεία Ακινήτων Δημοσίου, σύμφωνα με τις ισχύουσες διατάξεις, για την αντιμετώπιση των στεγαστικών αναγκών των υπηρεσιών της Υπηρεσίας Ασύλου. Η επισκευή, συντήρηση, επέκταση ή διαρρύθμιση κτιριακών εγκαταστάσεων του Δημοσίου όπου στεγάζονται υπηρεσίες της Υπηρεσίας Ασύλου, γίνονται με μέριμνα του Τμήματος Διοικητικής Υποστήριξης κατόπιν ειδικής μελέτης όπου αυτό χρειάζεται, σύμφωνα με την κείμενη νομοθεσία.

Άρθρο 4
Αρχή Προσφυγών - Ίδρυση - Αποστολή

1. Στο Υπουργείο Εσωτερικών και Διοικητικής Ανασυγκρότησης συνιστάται αυτοτελής Υπηρεσία, με τίτλο «Αρχή Προσφυγών», η οποία υπάγεται απευθείας στον Υπουργό Εσωτερικών και Διοικητικής Ανασυγκρότησης. Η Αρχή Προσφυγών συγκροτείται από την Κεντρική Διοικητική Υπηρεσία και από τις Επιτροπές Προσφυγών. Οι Επιτροπές Προσφυγών είναι αρμόδιες για την εξέταση, τη λήψη και την έκδοση αποφάσεων επί των ενδικοφανών προσφυγών κατά των αποφάσεων της Υπηρεσίας Ασύλου, σύμφωνα με την παράγραφο 5 του άρθρου 7 του παρόντος και υποστηρίζονται, για την εκπλήρωση του έργου τους, από την Κεντρική Διοικητική Υπηρεσία.

2. Η έδρα της Αρχής Προσφυγών καθορίζεται με απόφαση του Υπουργού Εσωτερικών και Διοικητικής Ανασυγκρότησης. Η κατά τόπον αρμοδιότητα της Αρχής Προσφυγών περιλαμβάνει όλη την Επικράτεια. Με απόφαση του Υπουργού Εσωτερικών και Διοικητικής Ανασυγκρότησης, αρμόδιου για θέματα μεταναστευτικής πολιτικής, μπορεί να ιδρύονται Παραρτήματα της Αρχής Προσφυγών σε άλλα σημεία της επικράτειας και να καθορίζεται η κατά τόπον αρμοδιότητά τους. Τα Παραρτήματα περιλαμβάνουν τουλάχιστον μία Επιτροπή Προσφυγών και την απαραίτητη διοικητική υποστήριξη.

3. Η Αρχή Προσφυγών συντάσσει κάθε τρεις μήνες έκθεση πεπραγμένων για το έργο της κατά την προηγούμενη περίοδο αναφοράς, την οποία υποβάλλει στο Συνήγορο του Πολίτη. Στην έκθεση περιλαμβάνονται τα αριθμητικά και στατιστικά δεδομένα που αφορούν τη λειτουργία της, τον αριθμό των προσφυγών που υποβλήθηκαν, τις διαδικασίες που ακολουθήθηκαν, το ποσοστό υποθέσεων που εξετάστηκαν με την προφορική

ή την έγγραφη διαδικασία, το χρόνο ολοκλήρωσης της εξέτασης της κάθε προσφυγής, το ποσοστό χορήγησης καθεστώτος πρόσφυγα και επικουρικής προστασίας, τις αποφάσεις κατά των οποίων ασκήθηκε αίτηση ακυρώσεως στο αρμόδιο δικαστήριο και τον αριθμό υποθέσεων στις οποίες ο προσφεύγων παρέστη με νομικό παραστάτη, καθώς και τον αριθμό των προσφευγόντων οι οποίοι αιτήθηκαν και επωφελήθηκαν από δωρεάν νομική συνδρομή. Οι εκθέσεις της Αρχής Προσφυγών υποβάλλονται στο Συνήγορο του Πολίτη κατά το πρώτο δεκαπενθήμερο των μηνών Ιανουαρίου, Απριλίου, Ιουλίου και Οκτωβρίου κάθε έτους. Ο Συνήγορος του Πολίτη ελέγχει κατά την κρίση του τις διαδικασίες που ακολουθούνται ασκώντας τις αρμοδιότητές του κατά το ν. 3094/2003 (Α΄ 10), όπως ισχύει, καθώς και κατά κάθε άλλη ειδική διάταξη. Οι εκθέσεις πεπραγμένων δημοσιεύονται στο διαδικτυακό τόπο της Αρχής Προσφυγών, αμέσως μετά την υποβολή τους στο Συνήγορο του Πολίτη.

Άρθρο 5
Αρχή Προσφυγών - Συγκρότηση - Στελέχωση - Λειτουργία

1. Στην Αρχή Προσφυγών συνιστάται θέση Διοικητικού Διευθυντή της Κεντρικής Διοικητικής Υπηρεσίας. Ο Διοικητικός Διευθυντής διορίζεται με απόφαση του Υπουργού Εσωτερικών και Διοικητικής Ανασυγκρότησης, κατόπιν δημόσιας πρόσκλησης ενδιαφέροντος, ύστερα από σύμφωνη γνώμη της Επιτροπής Επιλογής της παραγράφου 10 και σύμφωνα με τη διαδικασία επιλογής της παραγράφου 11 του παρόντος άρθρου. Ο Διοικητικός Διευθυντής διορίζεται με θητεία τριών ετών που μπορεί να ανανεώνεται μία φορά για τρία ακόμη έτη, σύμφωνα με τη διαδικασία του προηγούμενου εδαφίου. Ο Διοικητικός Διευθυντής είναι προσωπικότητα εγνωσμένου κύρους, πανεπιστημιακής εκπαίδευσης, με διοικητική ικανότητα, και εξειδίκευση ή/και εμπειρία στους τομείς της διεθνούς προστασίας ή των δικαιωμάτων του ανθρώπου ή του διεθνούς ή του διοικητικού δικαίου. Ο Διοικητικός Διευθυντής: α) προΐσταται της Κεντρικής Διοικητικής Υπηρεσίας της Αρχής Προσφυγών, και των διοικητικών υπηρεσιών των Παραρτημάτων, β) είναι αρμόδιος για την εύρυθμη και αποτελεσματική λειτουργία και υποστήριξη των Επιτροπών, τη σύνταξη και εκτέλεση του προϋπολογισμού και την τήρηση και δημοσίευση των εκθέσεων και των στατιστικών στοιχείων σύμφωνα με τον Κανονισμό Λειτουργίας της Αρχής, γ) αναφέρεται στον Υπουργό Εσωτερικών και Διοικητικής Ανασυγκρότησης σχετικά με την εκτέλεση των συμβάσεων των μελών των Επιτροπών. Ο Διοικητικός Διευθυντής ελέγχεται από τον Υπουργό Εσωτερικών και Διοικητικής Ανασυγκρότησης, ο οποίος δύναται να τον παύσει πριν τη λήξη της θητείας του είτε κατόπιν παραίτησής του είτε λόγω αδυναμίας εκτέλεσης των καθηκόντων του ή για άλλο σοβαρό λόγο που ανάγεται στην άσκηση των καθηκόντων του. Ο Διοικητικός Διευθυντής είναι Έλληνας πολίτης. Κατά τη διάρκεια της θητείας του αναστέλλεται η άσκηση οποιουδήποτε άλλου δημοσίου λειτουργήματος και δεν επιτρέπεται η άσκηση καμίας επαγγελματικής δραστηριότητας ή η ανάληψη άλλων αμειβόμενων καθηκόντων, στο δημόσιο ή στον ιδιωτικό τομέα ή η ανάληψη άλλων μη αμειβόμενων καθηκόντων, σε αντικείμενο συναφές με τα καθήκοντά του ως Διοικητικού Διευθυντή. Σε περίπτωση που ο διοριζόμενος ως Διοικητικός Διευθυντής έχει την ιδιότητα του δικηγόρου, τελεί υποχρεωτικά σε αναστολή άσκησης του δικηγορικού λειτουργήματος καθ' όλη τη διάρκεια της θητείας του. Οι αποδοχές του Διοικητικού Διευθυντή καθορίζονται με κοινή απόφαση του Υπουργού Οικονομικών και του Υπουργού Εσωτερικών και Διοικητικής Ανασυγκρότησης.

2. Με απόφαση του Υπουργού Εσωτερικών και Διοικητικής Ανασυγκρότησης συστήνονται στην Αρχή Προσφυγών τριμελείς Επιτροπές Προσφυγών και καθορίζεται ο αριθμός τους. Τα μέλη των Επιτροπών κατέχουν τίτλο σπουδών Α.Ε.Ι., νομικών, πολιτικών, ανθρωπιστικών ή κοινωνικών επιστημών και εξειδίκευση και εμπειρία στους τομείς της διεθνούς προστασίας ή των δικαιωμάτων του ανθρώπου ή του διεθνούς ή διοικητικού δικαίου και επιλέγονται σύμφωνα με τη διαδικασία επιλογής του παρόντος άρθρου.

3. Η Επιτροπή Επιλογής της παραγράφου 10 του παρόντος άρθρου, κατόπιν δημόσιας πρόσκλησης ενδιαφέροντος, επιλέγει τα μέλη των Επιτροπών Προσφυγών, σύμφωνα με τη διαδικασία της παραγράφου 12 του παρόντος, τα οποία στη συνέχεια διορίζονται από τον Υπουργό Εσωτερικών και Διοικητικής Ανασυγκρότησης. Η θητεία των μελών των Επιτροπών είναι για πέντε έτη και μπορεί να ανανεώνεται σύμφωνα με τη διαδικασία του προηγούμενου εδαφίου. Τα μέλη των Επιτροπών, κατά την άσκηση των καθηκόντων τους, απολαμβάνουν προσωπικής ανεξαρτησίας. Τα μέλη των Επιτροπών συμβάλλονται με το Ελληνικό Δημόσιο, το οποίο εκπροσωπείται από τον Υπουργό Εσωτερικών και Διοικητικής Ανασυγκρότησης, με σύμβαση εργασίας ιδιωτικού δικαίου ορισμένου χρόνου. Με κοινή απόφαση του Υπουργού Οικονομικών και του Υπουργού Εσωτερικών και Διοικητικής Ανασυγκρότησης προβλέπεται το ύψος ειδικής πρόσθετης αμοιβής που καταβάλλεται στα μέλη των Επιτροπών. Οι όροι εργασίας των μελών των Επιτροπών, καθώς και κάθε άλλο ζήτημα που αφορά την εκτέλεση των καθηκόντων τους, διέπονται από τις ανωτέρω συμβάσεις εργασίας και τον Κανονισμό Λειτουργίας της Αρχής. Τα μέλη των Επιτροπών Προσφυγών υπάγονται στις πειθαρχικές διατάξεις του Κώδικα Κατάστασης Δημοσίων Πολιτικών Διοικητικών Υπαλλήλων και Υπαλλήλων Ν.Π.Δ.Δ, όπως ισχύει.

4. Τα μέλη των Επιτροπών της Αρχής Προσφυγών, μπορεί να παύονται από τον Υπουργό Εσωτερικών και Διοικητικής Ανασυγκρότησης πριν τη λήξη της θητείας τους, μετά από καταγγελία της σύμβασής τους για τους λόγους που προβλέπονται σε αυτή και στον Κανονισμό Λειτουργίας της Αρχής. Κατά τη διάρκεια της θητείας των μελών των Επιτροπών αναστέλλεται η άσκηση οποιουδήποτε άλλου δημοσίου λειτουργήματος και δεν επιτρέπεται η άσκηση καμίας επαγγελματικής δραστηριότητας ή η ανάληψη άλλων αμειβόμενων καθηκόντων, στο δημόσιο ή στον ιδιωτικό τομέα ή και η ανάληψη άλλων μη αμειβόμενων, σε αντικείμενο συναφές με τα καθήκοντά τους. Σε περίπτωση που οι διοριζόμενοι ως μέλη των Επιτροπών έχουν την ιδιότητα του δικηγόρου, τελούν υποχρεωτικά σε αναστολή άσκησης του δικηγορικού λειτουργήματος. Τα μέλη των Επιτροπών είναι Έλληνες πολίτες.

5. Ο Κανονισμός Λειτουργίας της Αρχής Προσφυγών ορίζει τον τρόπο διενέργειας κλήρωσης για τη συγκρό-

τηση των διαφορετικών τριμελών Επιτροπών Προσφυγών, καθώς και για τον ορισμό του προέδρου κάθε Επιτροπής. Ως πρόεδροι της κάθε Επιτροπής ορίζονται, ανά έτος και διαδοχικά, όλα τα μέλη της, σύμφωνα με τον Κανονισμό Λειτουργίας της. Εφόσον είναι εφικτό, συμμετέχει σε κάθε Επιτροπή τουλάχιστον ένα (1) μέλος με πτυχίο Νομικής.

6. Στην Αρχή Προσφυγών λειτουργεί τριμελής άμισθη επιτροπή, με θητεία ενός έτους η οποία αποτελείται από μέλη των Επιτροπών και εκλέγεται από το σύνολο των μελών τους. Αρμοδιότητα της τριμελούς αυτής επιτροπής είναι η εκπροσώπηση της Αρχής Προσφυγών, για ζητήματα που αφορούν αποκλειστικά την αποφασιστική της αρμοδιότητα, ενώπιον άλλων αρχών ή θεσμών, η συμμετοχή, σε συνεργασία με το Τμήμα Νομικής Υποστήριξης, Εκπαίδευσης και Τεκμηρίωσης, στη διασφάλιση της ποιότητας των διαδικασιών και των αποφάσεων των Επιτροπών και η ενεργή συμβολή στην προεργασία των εκθέσεων και των στατιστικών στοιχείων που δημοσιεύει η Αρχή. Η τριμελής επιτροπή δύναται να υποβάλλει προτάσεις για την προετοιμασία και την κατάρτιση των απαραιτήτων σχεδίων νομοθετικών και εν γένει κανονιστικών κειμένων και τη σύνταξη εγκυκλίων και εσωτερικών οδηγιών της Αρχής Προσφυγών. Ο Εσωτερικός Κανονισμός της Αρχής προβλέπει τις ειδικότερες λεπτομέρειες της συγκρότησης της ως άνω επιτροπής και της άσκησης των ανωτέρω αρμοδιοτήτων.

7. Η Κεντρική Διοικητική Υπηρεσία της Αρχής Προσφυγών διαρθρώνεται στα εξής τμήματα:

α) Τμήμα Νομικής Υποστήριξης, Εκπαίδευσης και Τεκμηρίωσης, με αρμοδιότητα: αα) την παροχή νομικής υποστήριξης στην Αρχή Προσφυγών για ζητήματα που άπτονται του αντικειμένου της, όπως η σύνταξη απόψεων σχετικά με ένδικα μέσα ή βοηθήματα που ασκούνται κατά αποφάσεων των Επιτροπών Προσφυγών, τη συμβολή στην προετοιμασία και κατάρτιση των απαραιτήτων σχεδίων νομοθετικών και εν γένει κανονιστικών κειμένων και τη σύνταξη εγκυκλίων και εσωτερικών οδηγιών, ββ) την οργάνωση της παροχής εκπαίδευσης και συνεχούς επιμόρφωσης στο προσωπικό της Αρχής Προσφυγών και στα μέλη των Επιτροπών, γγ) την αναζήτηση, συλλογή, αξιολόγηση και τήρηση πληροφοριών σχετικά με την πολιτική, κοινωνική και οικονομική κατάσταση στις χώρες καταγωγής ή προηγούμενης συνήθους διαμονής των προσφευγόντων, σε συνεργασία με το αρμόδιο τμήμα της Υπηρεσίας Ασύλου και άλλες αρχές της χώρας ή άλλων χωρών, δδ) τη συμμετοχή στην επεξεργασία και ανάλυση των στατιστικών δεδομένων, σε συνεργασία με το Τμήμα Διοικητικής Υποστήριξης.

β) Τμήμα Διοικητικής Υποστήριξης, με αρμοδιότητα: αα) τη γραμματειακή υποστήριξη του Διοικητικού Διευθυντή της Κεντρικής Διοικητικής Υπηρεσίας, ββ) τη γραμματειακή υποστήριξη των Επιτροπών Προσφυγών, γγ) το συντονισμό και τη μέριμνα για την εύρυθμη και αποτελεσματική λειτουργία των Επιτροπών Προσφυγών, δδ) τη συλλογή, επεξεργασία και τήρηση στατιστικών δεδομένων, σε συνεργασία με το Τμήμα Νομικής Υποστήριξης, Εκπαίδευσης και Τεκμηρίωσης, εε) την οργάνωση και παρακολούθηση του συστήματος μηχανοργάνωσης της Αρχής Προσφυγών, στστ) την τήρηση του πρωτοκόλλου και του Αρχείου της Αρχής Προσφυγών, τη μέριμνα για την επικοινωνία και συνεργασία της Αρχής Προσφυγών, ιδίως με άλλες συναρμόδιες υπηρεσίες του Δημοσίου και με ανεξάρτητες Αρχές, καθώς και με φορείς της κοινωνίας των πολιτών, ζζ) τη διεκπεραίωση των ζητημάτων επικοινωνίας, ενημέρωσης του κοινού και δημοσίων φορέων, ηη) τη διαχείριση των θεμάτων προσωπικού της Υπηρεσίας.

γ) Οικονομικό Τμήμα, με αρμοδιότητα: αα) τη σύνταξη και εκτέλεση του προϋπολογισμού της Αρχής Προσφυγών, ββ) τη μέριμνα για την κατάρτιση και έγκριση των προμηθειών της Υπηρεσίας, καθώς και για τον χειρισμό θεμάτων που αφορούν τις αποδοχές, αποζημιώσεις και κάθε είδους αμοιβές του προσωπικού, τον ορισμό δημοσίων υπολόγων, την κατανομή, ανακατανομή και έλεγχο της κίνησης της παγίας προκαταβολής, καθώς και για κάθε άλλο σχετικό θέμα, γγ) την υλοποίηση δράσεων με χρηματοδότηση από ευρωπαϊκούς ή άλλους πόρους, τη διερεύνηση, σύνταξη προτάσεων και την υποβολή σε αρμόδιες διαχειριστικές αρχές προγραμμάτων χρηματοδότησης στον τομέα αρμοδιότητας της Αρχής Προσφυγών και τη διαχείριση των προμηθειών υλικού, την ασφάλεια των κτιριακών εγκαταστάσεων, τη συντήρηση και την επισκευή τους.

8. Η Κεντρική Διοικητική Υπηρεσία της Αρχής Προσφυγών στελεχώνεται από δημόσιους πολιτικούς υπαλλήλους, οι οποίοι μετατάσσονται, μεταφέρονται ή αποσπώνται από υπηρεσίες του Δημοσίου, του ευρύτερου δημόσιου τομέα (άρθρο 2 του ν. 3861/2010, Α΄ 112) ή Ν.Π.Δ.Δ. ή Ο.Τ.Α. ή από υπαλλήλους που προσλαμβάνονται ως μόνιμοι ή με σύμβαση εργασίας αορίστου χρόνου, σύμφωνα με τις ισχύουσες διατάξεις. Η πλήρωση των θέσεων διενεργείται μετά από δημόσια πρόσκληση ενδιαφέροντος από τον Διοικητικό Διευθυντή της Υπηρεσίας. Οι μετατάξεις, μεταφορές και αποσπάσεις πραγματοποιούνται, κατά παρέκκλιση των κειμένων διατάξεων, προκειμένου να καλυφθεί η ανάγκη στελέχωσης της Αρχής Προσφυγών. Μετατάξεις προσωπικού που υπηρετεί σε καταργούμενες ή συγχωνευόμενες υπηρεσίες του Δημοσίου, του ευρύτερου δημόσιου τομέα (άρθρο 2 του ν. 3861/2010, Α΄ 112), Ν.Π.Δ.Δ. ή Ο.Τ.Α. προς την Αρχή Προσφυγών διενεργούνται κατά προτεραιότητα. Η μετάταξη πραγματοποιείται σε κενή οργανική θέση και αν δεν υπάρχει κενή, με μεταφορά της θέσης του υπαλλήλου που μετατάσσεται, με κοινή απόφαση των συναρμόδιων Υπουργών, ύστερα από πρόταση του Διοικητικού Διευθυντή της Υπηρεσίας. Η μετάταξη ενεργείται μετά από δημόσια πρόσκληση που απευθύνει ο Διοικητικός Διευθυντής της Υπηρεσίας, στην οποία προσδιορίζονται τα γενικά και ειδικά προσόντα, τα κριτήρια και η διαδικασία επιλογής των μετατασσομένων, χωρίς να απαιτείται εφαρμογή της διάταξης της παρ. 1 του άρθρου 68 του ν. 4002/2011 (Α΄ 180). Η Υπηρεσία ενημερώνει, επί ποινή ακυρότητας της πράξης, την Επιτροπή της Π.Υ.Σ. 33/2006 (Α΄ 280) όπως ισχύει, καθώς και τις αρμόδιες υπηρεσίες του Υπουργείου Εσωτερικών και Διοικητικής Ανασυγκρότησης για τον αριθμό και τις ειδικότητες των θέσεων που καλύπτονται με μετάταξη. Η μετάταξη γίνεται με το βαθμό και το μισθολογικό κλιμάκιο που κατέχει ο μετατασσόμενος και διατηρεί το ασφαλιστικό και συνταξιοδοτικό καθεστώς που τηρούσε πριν τη μετάταξη. Η μετάταξη γίνεται με κοινή απόφαση των συναρμόδιων Υπουργών, σύμφωνα με την παρ. 1 του άρθρου 68 του ν. 4002/2011 (Α΄ 180), κατά παρέκκλιση

από κάθε άλλη γενική ή ειδική διάταξη. Οι αποσπάσεις διενεργούνται με κοινή απόφαση των συναρμόδιων Υπουργών, κατά παρέκκλιση από κάθε γενική ή ειδική διάταξη, μετά από πρόταση του Διοικητικού Διευθυντή της Αρχής Προσφυγών, ο οποίος αξιολογεί τα τυπικά και ουσιαστικά προσόντα των υποψηφίων και με την ίδια διαδικασία πραγματοποιείται παράταση των αποσπάσεων αυτών. Η απόσπαση μπορεί να διενεργείται και με αίτηση του υπαλλήλου, χωρίς να απαιτείται δημόσια πρόσκληση. Οι αποσπασμένοι υπάλληλοι λαμβάνουν τις τακτικές αποδοχές της οργανικής τους θέσης. Οι εν λόγω αποδοχές βαρύνουν τον προϋπολογισμό του Υπουργείου, της Υπηρεσίας ή του Φορέα στον οποίο ανήκει ο αποσπώμενος υπάλληλος. Σε περίπτωση που ο αποσπώμενος υπάλληλος δικαιούται επίδομα θέσης ευθύνης λόγω ανάληψης καθηκόντων προϊσταμένου στη θέση που αποσπάσθηκε, το συγκεκριμένο επίδομα θα καταβάλλεται από την Αρχή Προσφυγών. Η Αρχή Προσφυγών μπορεί να απασχολεί προσωπικό με σχέση εργασίας ιδιωτικού δικαίου ορισμένου χρόνου με τις προϋποθέσεις και τη διαδικασία που προβλέπεται στο ν. 2190/1994 (Α΄ 28), όπως τροποποιήθηκε και συμπληρώθηκε από το ν. 2527/1997 (Α΄ 206) και το Π.δ. 164/2004 (Α΄ 134). Για τη στελέχωση της Κεντρικής Διοικητικής Υπηρεσίας της Αρχής Προσφυγών συνιστώνται:

α) 10 θέσεις ειδικού επιστημονικού προσωπικού ή ΠΕ Διοικητικού-Οικονομικού, με πτυχίο Νομικών, Πολιτικών, Κοινωνικών ή Ανθρωπιστικών Σπουδών, και 5 θέσεις κατηγορίας ΔΕ Διοικητικού-Λογιστικού, οι οποίοι στελεχώνουν το Τμήμα Νομικής Υποστήριξης, Εκπαίδευσης και Τεκμηρίωσης,

β) 4 θέσεις κατηγορίας ΠΕ Διοικητικού-Οικονομικού, 5 θέσεις κατηγορίας ΔΕ Διοικητικού-Λογιστικού, 1 θέση κατηγορίας ΠΕ Πληροφορικής και 2 θέση κατηγορίας ΤΕ Πληροφορικής,

γ) 4 θέσεις κατηγορίας ΠΕ Διοικητικού-Οικονομικού, 3 θέσεις κατηγορίας ΔΕ Διοικητικού-Λογιστικού, 1 θέση κατηγορίας ΤΕ Διοικητικού-Λογιστικού και 1 θέση κατηγορίας ΤΕ Πληροφορικής.

Τα προσόντα του ειδικού επιστημονικού προσωπικού είναι τα οριζόμενα στο άρθρο 2 του Π.δ. 50/2001 (Α΄ 39). Με απόφαση του Διοικητικού Διευθυντή της Αρχής Προσφυγών τοποθετείται το προσωπικό στην Υπηρεσία, λαμβανομένων υπόψη της προκήρυξης ή πρόσκλησης, των κείμενων διατάξεων, καθώς και των υφιστάμενων αναγκών της Αρχής.

9. Η πλήρωση των θέσεων διενεργείται μετά από δημόσια πρόσκληση ενδιαφέροντος από τον Υπουργό Εσωτερικών και Διοικητικής Ανασυγκρότησης. Οι αποσπάσεις διενεργούνται με κοινή απόφαση του αρμόδιου Υπουργού Εσωτερικών και Διοικητικής Ανασυγκρότησης και του συναρμόδιου Υπουργού, κατά παρέκκλιση από κάθε γενική ή ειδική διάταξη, μετά από πρόταση του Διοικητικού Διευθυντή της Αρχής Προσφυγών, ο οποίος αξιολογεί τα τυπικά και ουσιαστικά προσόντα των υποψηφίων. Με την ίδια διαδικασία χωρεί παράταση των αποσπάσεων αυτών. Για τις ανάγκες της Αρχής Προσφυγών μπορεί να συνάπτονται συμβάσεις παροχής υπηρεσιών με διερμηνείς, κατά τις κείμενες διατάξεις, οι οποίοι διαθέτουν τα απαραίτητα προσόντα και επιλέγονται από σχετικό κατάλογο που καταρτίζει η Κεντρική Διοικητική Υπηρεσία, σύμφωνα με τον Κανονισμό Λειτουργίας της Αρχής. Οι διερμηνείς αμείβονται, σύμφωνα με τους όρους σχετικής σύμβασης παροχής ανεξάρτητων υπηρεσιών. Η αμοιβή τους, η διαδικασία και τα δικαιολογητικά πληρωμής για την εκτέλεση των ανωτέρω συμβάσεων ορίζονται με κοινή απόφαση του Υπουργού Εσωτερικών και Διοικητικής Ανασυγκρότησης και του Υπουργού Οικονομικών.

10. Με κοινή απόφαση του Υπουργού Εσωτερικών και Διοικητικής Ανασυγκρότησης και του Υπουργού Οικονομικών συγκροτείται τριμελής Επιτροπή Επιλογής, στην οποία ανατίθεται η εξέταση των υποψηφιοτήτων και η επιλογή του Διοικητικού Διευθυντή της Κεντρικής Υπηρεσίας της Αρχής Προσφυγών, καθώς και η εξέταση των υποψηφιοτήτων και η επιλογή των μελών των Επιτροπών Προσφυγών. Η Επιτροπή Επιλογής αποτελείται:

α) από έναν Βοηθό Συνήγορο του Πολίτη, και τον αναπληρωτή του ως Πρόεδρο, που ορίζονται με απόφαση του Συνηγόρου του Πολίτη,

β) από έναν Σύμβουλο του ΑΣΕΠ και τον αναπληρωτή του ως μέλος,

γ) από ένα μέλος του Διδακτικού Επιστημονικού Προσωπικού ΑΕΙ νομικών, πολιτικών, ανθρωπιστικών ή κοινωνικών επιστημών της χώρας ως μέλος και τον αναπληρωτή του με όμοια προσόντα, που υποδεικνύονται από την Ύπατη Αρμοστεία του ΟΗΕ για τους πρόσφυγες.

11. Με την κοινή υπουργική απόφαση της παραγράφου 10 του παρόντος, καθορίζονται τα τυπικά και ουσιαστικά προσόντα, καθώς και τα κωλύματα των υποψηφίων για τη θέση του Διοικητικού Διευθυντή, τα απαιτούμενα δικαιολογητικά, η παραλαβή, ο έλεγχος των αιτήσεων υποψηφιοτήτων ως προς την πλήρωση των τυπικών προσόντων (προεπιλογή), και ρυθμίζονται τα διαδικαστικά θέματα της διεξαγωγής της δημόσιας συνέντευξης των υποψηφίων από την Επιτροπή Επιλογής, κατά την οποία αξιολογούνται τα τυπικά και ουσιαστικά προσόντα, οι δεξιότητες και η προσωπικότητα των υποψηφίων. Με την ίδια απόφαση ανατίθεται στο Εθνικό Κέντρο Δημόσιας Διοίκησης και Αυτοδιοίκησης (ΕΚΔΔΑ) η οργάνωση και διεξαγωγή της ως άνω διαδικασίας.

12. Με την κοινή υπουργική απόφαση της παραγράφου 10 του παρόντος ρυθμίζονται τα διαδικαστικά θέματα οργάνωσης και διεξαγωγής της διαδικασίας εξέτασης των υποψηφιοτήτων και επιλογής των μελών των Επιτροπών Προσφυγών, καθορίζονται τα τυπικά και τα ουσιαστικά προσόντα και τα κωλύματα των υποψηφίων, τα απαιτούμενα δικαιολογητικά, οι προϋποθέσεις για την τήρηση της μυστικότητας, του αδιάβλητου και της διαφάνειας της γραπτής διαγωνιστικής διαδικασίας, καθώς και η κλίμακα βαθμολόγησης, οι λεπτομέρειες και τα στάδια της διαγωνιστικής διαδικασίας που περιλαμβάνουν: α) την παραλαβή και τον έλεγχο των αιτήσεων υποψηφιοτήτων ως προς την πλήρωση των τυπικών προσόντων (προεπιλογή), β) γραπτό διαγωνισμό για τις ενότητες «Διεθνής Προστασία» και «Εφαρμογές Διοικητικού Δικαίου», ο οποίος θα διενεργείται υπό την ευθύνη της Επιτροπής Επιλογής σε συνεργασία με το Εθνικό Κέντρο Δημόσιας Διοίκησης και Αυτοδιοίκησης (ΕΚΔΔΑ), γ) δημόσια συνέντευξη από την Επιτροπή Επιλογής, κατά την οποία αξιολογούνται τα τυπικά και ουσιαστικά προσόντα, οι δεξιότητες και η προσωπικότητα των υποψηφίων. Η δημόσια συνέντευξη αποτελεί το τρίτο στάδιο της διαδικασίας επιλογής και δικαίωμα συμμετοχής έχουν οι υποψήφιοι κατά σειρά επίδοσης, σε τριπλάσιο αριθμό του προκαθορισμένου αριθμού των

θέσεων των μελών των Επιτροπών Προσφυγών, εφόσον έχουν συγκεντρώσει τη βάση της βαθμολογίας, προστιθέμενων και των ισοβαθμησάντων με τον τελευταίο επιτυχόντα υποψήφιο. Η Επιτροπή Επιλογής συντάσσει τα θέματα και τις απαντήσεις του γραπτού διαγωνισμού. Η προκήρυξη του διαγωνισμού, η διεξαγωγή του και η βαθμολόγηση των γραπτών ανατίθενται με την ως άνω κοινή υπουργική απόφαση στο Εθνικό Κέντρο Δημόσιας Διοίκησης και Αυτοδιοίκησης (ΕΚΔΔΑ).

13. Η δαπάνη διεξαγωγής της διαδικασίας επιλογής του Διευθυντή και των μελών των Επιτροπών Προσφυγών, συμπεριλαμβανομένων και των διαγωνιστικών διαδικασιών, βαρύνει τον προϋπολογισμό της Αρχής Προσφυγών.

Άρθρο 6
Προϋπολογισμός - Οικονομική Διαχείριση - Προμήθειες - Στέγαση Υπηρεσιών

1. Η Αρχή Προσφυγών έχει ίδιο προϋπολογισμό ως ειδικός φορέας του Υπουργείου Εσωτερικών και Διοικητικής Ανασυγκρότησης, όπου εγγράφονται οι πιστώσεις για την αντιμετώπιση των αναγκών λειτουργίας των υπηρεσιών και του προσωπικού της. Ειδικότερα, εγγράφονται πιστώσεις που αφορούν δαπάνες για:

α) αποδοχές του προσωπικού που δεν μισθοδοτείται από τις υπηρεσίες από τις οποίες έχει αποσπαστεί, αμοιβές υπερωριακής απασχόλησης, αμοιβές και αποζημιώσεις μελών των Επιτροπών Προσφυγών, αμοιβές υπηρεσιών διερμηνείας, εφόσον δεν καλύπτονται από άλλους πόρους, οδοιπορικά έξοδα και άλλες συναφείς αποζημιώσεις,

β) αγορά, μίσθωση, επισκευή και συντήρηση κτηριακών εγκαταστάσεων και κάθε είδους υλικοτεχνικού εξοπλισμού,

γ) λειτουργικά έξοδα, έξοδα εκπαίδευσης και επιμόρφωσης του προσωπικού και των μελών των Επιτροπών Προσφυγών.

2. Στον προϋπολογισμό της Αρχής Προσφυγών εγγράφονται πιστώσεις για κάθε άλλη δαπάνη, πέρα από όσες περιλαμβάνονται στην παράγραφο 1, που είναι αναγκαία για τη λειτουργία των υπηρεσιών της, με κοινή απόφαση των Υπουργών Οικονομικών και Εσωτερικών και Διοικητικής Ανασυγκρότησης.

3. Στην Αρχή Προσφυγών συνιστάται πάγια προκαταβολή, σύμφωνα με τις διατάξεις του άρθρου 108 του ν. 4270/2014 (Α΄ 143).

4. Η οικονομική διαχείριση της Αρχής Προσφυγών ασκείται από τις αρμόδιες υπηρεσίες της και οι δαπάνες πραγματοποιούνται, ελέγχονται, εκκαθαρίζονται και εντέλλονται σύμφωνα με τις διατάξεις περί δημοσίου λογιστικού.

5. Με κοινή απόφαση των Υπουργών Οικονομικών και Εσωτερικών και Διοικητικής Ανασυγκρότησης ρυθμίζονται ειδικά θέματα διαχείρισης υλικού, χρημάτων, καθώς και κάθε άλλο σχετικό θέμα, εφόσον απαιτείται.

6. Η Αρχή Προσφυγών δύναται να στεγάζεται σε κτίρια του Δημοσίου, φορέων του Δημοσίου ή των Οργανισμών Τοπικής Αυτοδιοίκησης ή άλλων φορέων που παραχωρούνται χωρίς αντάλλαγμα ή σε ιδιωτικά κτίρια που μισθώνονται με δαπάνες του Δημοσίου.

7. Η Αρχή Προσφυγών ορίζεται ως αρμόδια αρχή για την έκδοση διαταγής εξουσιοδοτήσεως εθνικού διαβαθμισμένου υλικού για το προσωπικό και τα μέλη των Επιτροπών και ως υπεύθυνη διεύθυνση για θέματα ασφαλείας και εφαρμογής του Εθνικού Κανονισμού Ασφαλείας (ΕΚΑ) που αφορούν την Αρχή. Στην Αρχή λειτουργεί Υπαρχείο σύμφωνα με τις διατάξεις του Ε.Κ.Α. στο οποίο προΐσταται ο Διοικητικός Διευθυντής της Αρχής Προσφυγών.

Άρθρο 7
Γενικές και εξουσιοδοτικές διατάξεις

1. Στο προσωπικό της Υπηρεσίας Ασύλου και της Αρχής Προσφυγών παρέχεται η αναγκαία εκπαίδευση από το Υπουργείο Εσωτερικών και Διοικητικής Ανασυγκρότησης, σε συνεργασία με την Ύπατη Αρμοστεία του Ο.Η.Ε. για τους Πρόσφυγες και άλλους αρμόδιους φορείς.

2. Με Προεδρικό διάταγμα, που εκδίδεται με πρόταση των Υπουργών Εσωτερικών και Διοικητικής Ανασυγκρότησης και Οικονομικών μπορεί και κατά τροποποίηση των διατάξεων του παρόντος νόμου, να ρυθμίζονται θέματα σχετικά με την οργάνωση, τη λειτουργία, την έδρα και τις επί μέρους αρμοδιότητες της Κεντρικής Υπηρεσίας Ασύλου και των Περιφερειακών Υπηρεσιών Ασύλου, να συγχωνεύονται ή να καταργούνται υφιστάμενες υπηρεσίες και να συνιστώνται νέες, να αυξάνονται ή να μειώνονται οι οργανικές θέσεις του προσωπικού ή να συνιστώνται νέες θέσεις και να ρυθμίζονται τα καθήκοντα του προσωπικού.

3. Με προεδρικά διατάγματα, που εκδίδονται με πρόταση των Υπουργών Εσωτερικών και Διοικητικής Ανασυγκρότησης, Οικονομικών, Εξωτερικών, Εργασίας, Κοινωνικής Ασφάλισης και Κοινωνικής Αλληλεγγύης, Παιδείας, Έρευνας και Θρησκευμάτων, Υγείας και Δικαιοσύνης, Διαφάνειας και Ανθρωπίνων Δικαιωμάτων, ρυθμίζονται οι διαδικασίες υποδοχής αιτούντων διεθνή προστασία, οι διαδικασίες υποβολής και εξέτασης αιτημάτων διεθνούς προστασίας και αναγνώρισης του καθεστώτος του πρόσφυγα ή χορήγησης του καθεστώτος δικαιούχου επικουρικής προστασίας ή ανθρωπιστικού καθεστώτος και το περιεχόμενο των καθεστώτων αυτών. Με όμοιο διάταγμα ρυθμίζεται η διαδικασία εξέτασης των αιτημάτων διεθνούς προστασίας ή προσφυγών που εκκρεμούν κατά την έναρξη λειτουργίας της Υπηρεσίας Ασύλου και της Αρχής Προσφυγών. Με Προεδρικό διάταγμα, που εκδίδεται ύστερα από πρόταση των Υπουργών Εργασίας, Κοινωνικής Ασφάλισης και Κοινωνικής Αλληλεγγύης και Εσωτερικών και Διοικητικής Ανασυγκρότησης ρυθμίζονται ζητήματα που αφορούν την πρόσβαση στην αγορά εργασίας, καθώς και τις ειδικότερες προϋποθέσεις απασχόλησης των δικαιούχων διεθνούς προστασίας, των αιτούντων διεθνή προστασία και των δικαιούχων καθεστώτος παραμονής για ανθρωπιστικούς λόγους, στους οποίους το καθεστώς αυτό έχει χορηγηθεί σύμφωνα με τις διατάξεις του άρθρου 28 του Π.δ. 114/2010 (Α΄ 195), της παρ. 1 του άρθρου 8 του Π.δ. 61/1999 (Α΄ 63) ή της παρ. 4 του άρθρου 25 του ν. 1975/1991 (Α΄ 184).

4. Με απόφαση του Υπουργού Εσωτερικών και Διοικητικής Ανασυγκρότησης εκδίδεται Κανονισμός Λειτουργίας της Υπηρεσίας Ασύλου, μετά από πρόταση του Διευθυντή της, όπου ρυθμίζονται επί μέρους θέματα εσωτερικής διάρθρωσης και λειτουργίας της Υπηρεσίας Ασύλου. Με όμοια απόφαση εκδίδεται ο Κανονισμός Λειτουργίας της Αρχής Προσφυγών όπου ρυθμίζονται επί μέρους θέματα εσωτερικής διάρθρωσης και λειτουρ-

γίας της Αρχής. Η απόφαση του προηγούμενου εδαφίου εκδίδεται μετά από πρόταση επιτροπής αποτελούμενης από τον Διοικητικό Διευθυντή, τα μέλη της τριμελούς άμισθης επιτροπής της παρ. 6 του άρθρου 5 και τον προϊστάμενο του Τμήματος Νομικής Υποστήριξης της Αρχής Προσφυγών.

5. Κατά των αποφάσεων που απορρίπτουν αίτηση παροχής διεθνούς προστασίας ή ανακαλούν το καθεστώς αυτό μπορεί να ασκηθεί ενδικοφανής προσφυγή σύμφωνα με τις διατάξεις των άρθρων 61 και 62.

6. Αρμόδια για τα θέματα του προσωπικού της Υπηρεσίας Ασύλου και της Αρχής Προσφυγών, είναι τα υπηρεσιακά συμβούλια που είναι αρμόδια για τους πολιτικούς υπαλλήλους του Υπουργείου Εσωτερικών και Διοικητικής Ανασυγκρότησης. Ως αιρετά μέλη στα Συμβούλια αυτά, όταν εξετάζονται θέματα των υπαλλήλων των ανωτέρω υπηρεσιών, λαμβάνουν μέρος εκπρόσωποι των υπαλλήλων της Υπηρεσίας Ασύλου και της Αρχής Προσφυγών. Για θέματα που αφορούν στη διαδικασία και όλους γενικά τους όρους εκλογής των εκπροσώπων, ισχύουν αναλόγως οι διατάξεις των άρθρων 159 έως 162 του ν. 3528/2007 (Α΄ 26), όπως αυτά τροποποιήθηκαν και ισχύουν, που αναφέρονται στους δημοσίους πολιτικούς υπαλλήλους.

7. Με Προεδρικό διάταγμα, που εκδίδεται με πρόταση των Υπουργών Εσωτερικών και Διοικητικής Ανασυγκρότησης, Οικονομικών, Πολιτισμού και Αθλητισμού, Παιδείας, Έρευνας και Θρησκευμάτων, Εργασίας, Κοινωνικής Ασφάλισης και Κοινωνικής Αλληλεγγύης, Υγείας, Εξωτερικών και Δικαιοσύνης, Διαφάνειας και Ανθρωπίνων Δικαιωμάτων ρυθμίζονται οι διαδικασίες καθορισμού του καθεστώτος του ανιθαγενούς, το περιεχόμενο του καθεστώτος αυτού, καθώς και οποιοδήποτε άλλο σχετικό ζήτημα.

8. Με απόφαση του Υπουργού Εσωτερικών και Διοικητικής Ανασυγκρότησης και των κατά περίπτωση αρμόδιων Υπουργών, όπου τούτο απαιτείται, ρυθμίζονται ζητήματα που αφορούν τη διαδικασία και τις προϋποθέσεις υπαγωγής αλλοδαπών και ανιθαγενών σε καθεστώς προσωρινής προστασίας, τη διαδικασία και τις προϋποθέσεις παροχής νομικής συνδρομής σε αιτούντες διεθνή προστασία, τη διαδικασία και τις προϋποθέσεις διαπίστωσης της ανηλικότητας αιτούντων διεθνή προστασία, καθώς και θέματα που αφορούν την εφαρμογή των διατάξεων των προεδρικών διαταγμάτων που εκδίδονται κατ' εξουσιοδότηση του παρόντος άρθρου.

9. Με κοινή απόφαση των Υπουργών Οικονομικών, Οικονομίας, Ανάπτυξης και Τουρισμού και Εσωτερικών και Διοικητικής Ανασυγκρότησης καθορίζεται ο τύπος, το περιεχόμενο και οι προδιαγραφές των αδειών διαμονής, οι οποίες θα χορηγούνται στους δικαιούχους διεθνούς προστασίας, δυνάμει των διατάξεων του άρθρου 25 παρ. 2 της από 28.4.1951 Σύμβασης της Γενεύης, η οποία κυρώθηκε με το ν.δ. 3989/1959 (Α΄ 201) και τροποποιήθηκε από το συναφές Πρωτόκολλο της Νέας Υόρκης της 31ης Ιανουαρίου 1967, του άρθρου 1 παρ. 2 περίπτωση ε΄ του παρόντος, του Κανονισμού ΕΚ 1030/2002 της 13ης Ιουνίου 2002 «Για την καθιέρωση αδειών διαμονής ενιαίου τύπου για τους υπηκόους τρίτων χωρών» (EEL 157 της 15.6.2002) και το Παράρτημά του, όπως τροποποιήθηκε από τον Κανονισμό 380/2008 του Συμβουλίου της 29.4.2008 115/1 της 29.4.2008).

10. Με απόφαση του Υπουργού Εσωτερικών και Διοικητικής Ανασυγκρότησης ορίζεται ο τύπος, το περιεχόμενο και οι προδιαγραφές του δελτίου αιτούντος διεθνή προστασία, το οποίο αποτελεί προσωρινό τίτλο και με το οποίο εφοδιάζονται οι αιτούντες διεθνή προστασία, σύμφωνα με το άρθρο 41 παρ. 1 στοιχείο δ΄.

11. Με κοινή απόφαση των Υπουργών Εσωτερικών και Διοικητικής Ανασυγκρότησης και Εξωτερικών, η οποία εκδίδεται κατόπιν εισήγησης του Διευθυντή της Υπηρεσίας Ασύλου, καθορίζονται οι χώρες καταγωγής που χαρακτηρίζονται ασφαλείς για τους σκοπούς της εξέτασης αιτήσεων διεθνούς προστασίας, σύμφωνα με το άρθρο 57.

12. Με κοινή απόφαση των Υπουργών Εσωτερικών και Διοικητικής Ανασυγκρότησης, Εξωτερικών και Οικονομικών καθορίζονται οι όροι και προϋποθέσεις για την επανεγκατάσταση προσφύγων από τρίτες χώρες, στο πλαίσιο υλοποίησης συστάσεων και αποφάσεων και κάθε άλλης σχετικής πράξης των οργάνων της Ευρωπαϊκής Ένωσης, καθώς και διεθνών οργανισμών.

ΚΕΦΑΛΑΙΟ Β΄
ΥΠΗΡΕΣΙΑ ΥΠΟΔΟΧΗΣ ΚΑΙ ΤΑΥΤΟΠΟΙΗΣΗΣ

Άρθρο 8
Ίδρυση - Αποστολή - Διάρθρωση

1. Στο Υπουργείο Εσωτερικών και Διοικητικής Ανασυγκρότησης συνιστάται αυτοτελής Υπηρεσία με τίτλο «Υπηρεσία Υποδοχής και Ταυτοποίησης» (Υ.Π.Υ.Τ), η οποία υπάγεται στη Γενική Γραμματεία Υποδοχής, όπως αυτή συνιστάται με το άρθρο 26 του παρόντος νόμου.

2. Η Υπηρεσία Υποδοχής και Ταυτοποίησης λειτουργεί σε επίπεδο Διεύθυνσης και έχει ως κύρια αποστολή την αποτελεσματική διενέργεια των διαδικασιών υποδοχής και ταυτοποίησης των πολιτών τρίτων χωρών ή ανιθαγενών που εισέρχονται στη χώρα χωρίς τις νόμιμες διατυπώσεις. Για το σκοπό αυτόν η Υπηρεσία Υποδοχής και Ταυτοποίησης είναι αρμόδια:

α) για την πραγματοποίηση των διαδικασιών καταγραφής, ταυτοποίησης και εξακρίβωσης των στοιχείων, τον ιατρικό έλεγχο, τον εντοπισμό ευάλωτων προσώπων, την παροχή ενημέρωσης, ιδίως για τις διαδικασίες διεθνούς ή άλλης μορφής προστασίας και για τις διαδικασίες επιστροφής, καθώς και για την προσωρινή διαμονή των πολιτών τρίτων χωρών ή ανιθαγενών που εισέρχονται στη χώρα χωρίς τις νόμιμες διατυπώσεις και την περαιτέρω παραπομπή τους σε κατάλληλες δομές υποδοχής ή προσωρινής φιλοξενίας,

β) για την ίδρυση, λειτουργία και εποπτεία Κέντρων και Δομών για την πραγματοποίηση των ως άνω διαδικασιών,

γ) για την ίδρυση, λειτουργία και εποπτεία ανοικτών Δομών Προσωρινής Υποδοχής πολιτών τρίτων χωρών ή ανιθαγενών, οι οποίοι έχουν αιτηθεί διεθνή προστασία,

δ) για την ίδρυση, λειτουργία και εποπτεία ανοικτών Δομών Προσωρινής Φιλοξενίας πολιτών τρίτων χωρών ή ανιθαγενών οι οποίοι είτε βρίσκονται σε διαδικασία επιστροφής, απέλασης ή επανεισδοχής, σύμφωνα με το άρθρο 22 του ν. 3907/2011 (Α΄ 7) ή σύμφωνα με την παρ. 3 του άρθρου αυτού σε συνδυασμό με το άρθρο 30 του ν. 3907/2011 είτε τελούν υπό καθεστώς αναβολής απομάκρυνσης, σύμφωνα με το άρθρο 24 του ν. 3907/2011

είτε υπάγονται στις διατάξεις των άρθρων 76 παρ. 5 ή 78 ή 78Α του ν. 3386/2005 (Α΄ 212).

3. Η Υπηρεσία Υποδοχής και Ταυτοποίησης συγκροτείται από την Κεντρική Υπηρεσία και τις Περιφερειακές της Υπηρεσίες. Η Κεντρική Υπηρεσία Υποδοχής και Ταυτοποίησης διαρθρώνεται στα εξής Τμήματα:

α) Τμήμα Ενημέρωσης και Διεθνούς και Ευρωπαϊκής Συνεργασίας, το οποίο υποστηρίζει τον Διευθυντή και διαρθρώνεται σε: αα) Γραφείο Ενημέρωσης, το οποίο είναι αρμόδιο για τα ζητήματα επικοινωνίας και ενημέρωσης του κοινού, ββ) Γραφείο Διεθνούς και Ευρωπαϊκής Συνεργασίας, το οποίο παρακολουθεί και μελετά τις εξελίξεις στον τομέα του ασύλου και των λοιπών μορφών διεθνούς προστασίας, υποβάλλει προτάσεις για τις αναγκαίες τροποποιήσεις και βελτιώσεις και μεριμνά για την εκπροσώπηση της χώρας σε ευρωπαϊκό και διεθνές επίπεδο αναφορικά με τα ζητήματα αρμοδιότητας της Υπηρεσίας. Στο Τμήμα λειτουργεί γραμματεία για την υποστήριξη του Διευθυντή.

β) Τμήμα Συντονισμού, το οποίο συντονίζει τις ενέργειες των Περιφερειακών Υπηρεσιών Υποδοχής και Ταυτοποίησης, καθώς και οργανώνει, συντονίζει και εποπτεύει τις Κινητές Μονάδες Υποδοχής και Ταυτοποίησης, υποβάλλει προτάσεις για τις αναγκαίες τροποποιήσεις και βελτιώσεις μεριμνά για την επικοινωνία και συνεργασία με την Υπηρεσία Ασύλου και με άλλες υπηρεσίες του Δημοσίου, με ανεξάρτητες αρχές, καθώς και με φορείς της κοινωνίας των πολιτών και νομικά πρόσωπα, τηρεί καταλόγους πιστοποιημένων φορέων της κοινωνίας των πολιτών και διερμηνέων.

γ) Οικονομικό Τμήμα, το οποίο συντάσσει και εκτελεί τον προϋπολογισμό της Υπηρεσίας Υποδοχής και Ταυτοποίησης, μεριμνά για την κατάρτιση και έγκριση των προμηθειών της Υπηρεσίας, καθώς και για το χειρισμό θεμάτων που αφορούν τις αποδοχές, αποζημιώσεις και κάθε είδους αμοιβές του προσωπικού, τον ορισμό δημοσίων υπολόγων, την κατανομή, ανακατανομή και έλεγχο της κίνησης της παγίας προκαταβολής, καθώς και για κάθε άλλο σχετικό θέμα.

δ) Τμήμα Σχεδιασμού, Διαχείρισης και Εφαρμογής Προγραμμάτων, το οποίο προετοιμάζει, υποβάλλει και υλοποιεί δράσεις με χρηματοδότηση από ευρωπαϊκούς, θεσμικούς ή άλλους πόρους και έχει την επιτελική ευθύνη προγραμματισμού, διαχείρισης, αξιολόγησης και υλοποίησης των προγραμμάτων αυτών.

ε) Τμήμα Πληροφορικής, το οποίο υποστηρίζει το σύστημα μηχανοργάνωσης της Υπηρεσίας, μεριμνά για την κατάλληλη διασύνδεσή του με αρχεία τηρούμενα από άλλες Υπηρεσίες του Δημοσίου ή άλλες αντίστοιχες αρχές κρατών - μελών της Ε.Ε. στο πλαίσιο σχετικών συμφωνιών και είναι αρμόδιο για τη συλλογή, επεξεργασία και τήρηση στατιστικών δεδομένων από τις Περιφερειακές Υπηρεσίες Υποδοχής και Ταυτοποίησης,

στ) Τμήμα Ανθρώπινου Δυναμικού, και Διοικητικής Υποστήριξης, το οποίο το οποίο διαρθρώνεται σε: αα)Γραφείο Ανθρώπινου Δυναμικού το οποίο χειρίζεται θέματα διορισμών, μετατάξεων, προσόντων, αξιολόγησης, προαγωγών, αδειών, ασθενειών, αμοιβών, πειθαρχικών υποθέσεων, μεταθέσεων, αποσπάσεων και κάθε άλλο θέμα που αφορά το προσωπικό της Υπηρεσίας και μεριμνά για την έκδοση των σχετικών διοικητικών πράξεων. Επίσης, μεριμνά για την οργάνωση της εκπαίδευσης, μετεκπαίδευσης και διαρκούς επιμόρφωσης του ως άνω προσωπικού, καθώς και για τη διασφάλιση της ποιότητας των υπηρεσιών που παρέχουν οι Υπηρεσίες Υποδοχής και Ταυτοποίησης και ββ) Διοικητικής Υποστήριξης, το οποίο υποστηρίζει γραμματειακά και διακινεί την αλληλογραφία της Κεντρικής Υπηρεσίας Υποδοχής και Ταυτοποίησης, μεριμνά για την εύρυθμη λειτουργία των κτιριακών εγκαταστάσεων της Κεντρικής Υπηρεσίας, τη διαχείριση του υλικού, καθώς και για την τήρηση του αρχείου.

ζ) Νομικό Τμήμα, το οποίο είναι αρμόδιο για την προετοιμασία και την κατάρτιση των απαραίτητων σχεδίων νομοθετικών και εν γένει κανονιστικών κειμένων και εγκυκλίων και για την παροχή νομικής υποστήριξης ως προς τα θέματα λειτουργίας και άσκησης αρμοδιοτήτων της Κεντρικής Υπηρεσίας και των Περιφερειακών Υπηρεσιών. Είναι επίσης αρμόδιο για την σύνταξη γνωμοδοτήσεων επί ερωτημάτων που άπτονται του αντικειμένου της Υπηρεσίας, για τη σύνταξη υπηρεσιακών εγγράφων επί ερωτημάτων κοινοβουλευτικού ελέγχου καθώς και για την ορθή εφαρμογή της εκάστοτε ισχύουσας νομοθεσίας.

η) Τμήμα Τεχνικής Υποστήριξης, με αρμοδιότητα τη μέριμνα, τη μελέτη και την εποπτεία για τη συντήρηση, την επισκευή, τη διαρρύθμιση, την επέκταση των κτηριακών εγκαταστάσεων Υπηρεσιών Υποδοχής και Ταυτοποίησης ώστε να εξασφαλίζεται η εύρυθμη λειτουργία τους, την μέριμνα για τη σύνδεση των απαραίτητων για τη λειτουργία των περιφερειακών υπηρεσιών υποδοχής και ταυτοποίησης παροχών από τις αρμόδιες υπηρεσίες και οργανισμούς και τον έλεγχο των σχετικών λογαριασμών κατανάλωσης.

4. Οι Περιφερειακές Υπηρεσίες της Υπηρεσίας Υποδοχής και Ταυτοποίησης είναι:

α) τα Κέντρα Υποδοχής και Ταυτοποίησης (Κ.Υ.Τ.),

β) οι Κινητές Μονάδες Υποδοχής και Ταυτοποίησης (Κ.Μ.Υ.Τ.),

γ) οι ανοικτές Δομές Προσωρινής Υποδοχής πολιτών τρίτων χωρών ή ανιθαγενών, οι οποίοι έχουν αιτηθεί διεθνή προστασία,

δ) οι ανοικτές Δομές Προσωρινής Φιλοξενίας πολιτών τρίτων χωρών ή ανιθαγενών:

που βρίσκονται σε διαδικασία επιστροφής σύμφωνα με το άρθρο 22 του ν. 3907/2011 ή σύμφωνα με την παρ. 3 του άρθρου αυτού σε συνδυασμό με το άρθρο 30 του ν. 3907/2011, ή των οποίων η απομάκρυνση έχει αναβληθεί σύμφωνα με το άρθρο 24 του ν. 3907/2011 ή που υπάγονται στις διατάξεις των άρθρων 76 παρ. 5 ή 78 ή 78Α του ν. 3386/2005.

5. Η Κεντρική Υπηρεσία προγραμματίζει, κατευθύνει, παρακολουθεί και ελέγχει τη δράση των Περιφερειακών Υπηρεσιών και εξασφαλίζει τις αναγκαίες προϋποθέσεις για την άσκηση των αρμοδιοτήτων τους σε συνεργασία με τις λοιπές αρμόδιες υπηρεσίες. Για το σκοπό αυτόν, η Κεντρική Υπηρεσία μπορεί να αναπτύσσει διεθνή συνεργασία, ιδίως με αρμόδιες αλλοδαπές αρχές, διεθνείς οργανισμούς, φορείς και υπηρεσίες της Ευρωπαϊκής Ένωσης ή κρατών-μελών της και να συμμετέχει αυτοτελώς ή από κοινού με άλλες δημόσιες υπηρεσίες ή φορείς της κοινωνίας των πολιτών σε προγράμματα και δράσεις χρηματοδοτούμενες από την Ευρωπαϊκή Ένωση ή άλλους φορείς.

Άρθρο 9
Διαδικασίες υποδοχής και ταυτοποίησης

1. Σε διαδικασίες υποδοχής και ταυτοποίησης υποβάλλονται όλοι οι πολίτες τρίτων χωρών και οι ανιθαγενείς που εισέρχονται χωρίς τις νόμιμες διατυπώσεις στη χώρα. Οι διαδικασίες υποδοχής και ταυτοποίησης περιλαμβάνουν: α) την καταγραφή των προσωπικών στοιχείων τους και τη λήψη και καταχώριση των δακτυλικών αποτυπωμάτων όσων έχουν συμπληρώσει το 14ο έτος της ηλικίας τους, β) την εξακρίβωση της ταυτότητας και της ιθαγένειάς τους, γ) τον ιατρικό τους έλεγχο και την παροχή της τυχόν αναγκαίας περίθαλψης και ψυχοκοινωνικής υποστήριξης, δ) την ενημέρωσή τους για τα δικαιώματα και τις υποχρεώσεις τους, ιδίως για τη διαδικασία υπαγωγής σε καθεστώς διεθνούς προστασίας και για τη διαδικασία υπαγωγής σε πρόγραμμα εθελούσιας επιστροφής, ε) τη μέριμνα για όσους ανήκουν σε ευάλωτες ομάδες, ώστε να υπαχθούν στην κατά περίπτωση προβλεπόμενη διαδικασία και να τους παρασχεθεί εξειδικευμένη φροντίδα και προστασία, στ) την παραπομπή για την εκκίνηση της διαδικασίας υπαγωγής σε καθεστώς διεθνούς προστασίας για όσους επιθυμούν να υποβάλλουν σχετική αίτηση, ζ) την παραπομπή στις αρμόδιες υπηρεσίες για την υπαγωγή σε διαδικασίες επανεισδοχής ή επιστροφής ή απέλασης για όσους δεν υποβάλλουν ή για αυτούς των οποίων η αίτηση διεθνούς προστασίας απορρίπτεται κατά τη διάρκεια παραμονής τους στο Κ.Υ.Τ..

2. Στις διαδικασίες υποδοχής και ταυτοποίησης υπάγονται και οι πολίτες τρίτων χωρών ή ανιθαγενείς οι οποίοι διαμένουν χωρίς τις νόμιμες διατυπώσεις στην Ελλάδα και δεν αποδεικνύουν την ιθαγένεια και την ταυτότητά τους με έγγραφο δημόσιας αρχής.

Άρθρο 10
Δομές

1. Με κοινή απόφαση του Υπουργού Οικονομικών και του Υπουργού Εσωτερικών και Διοικητικής Ανασυγκρότησης ιδρύονται Κέντρα Υποδοχής και Ταυτοποίησης σε συνοριακές περιοχές της Ελλάδας στις οποίες αυτό κρίνεται αναγκαίο, λαμβανομένου υπόψη του αριθμού των εισερχομένων χωρίς τις νόμιμες διατυπώσεις. Στα Κέντρα Υποδοχής και Ταυτοποίησης μπορεί να λειτουργεί Περιφερειακό Γραφείο Ασύλου ή Αυτοτελές Κλιμάκιο ή Κινητό Κλιμάκιο της Υπηρεσίας Ασύλου.

2. Με κοινή απόφαση του Υπουργού Οικονομικών και του Υπουργού Εσωτερικών και Διοικητικής Ανασυγκρότησης ιδρύονται Κέντρα Υποδοχής και Ταυτοποίησης και σε περιοχές της ενδοχώρας, για τις ανάγκες των διαδικασιών υποδοχής και ταυτοποίησης.

3. Με απόφαση του Διευθυντή της Υπηρεσίας μπορεί να συνιστώνται Κινητές Μονάδες Υποδοχής και Ταυτοποίησης σε σημεία της Επικράτειας, όπου κρίνεται αναγκαία η παροχή υπηρεσιών υποδοχής και ταυτοποίησης, ιδίως σε περίπτωση εισόδου μεγάλου αριθμού προσώπων χωρίς τις νόμιμες διατυπώσεις, των οποίων η παραπομπή σε Κέντρο Υποδοχής και Ταυτοποίησης δεν είναι άμεσα εφικτή ή σκόπιμη.

4. Με κοινή απόφαση του Υπουργού Οικονομικών και του Υπουργού Εσωτερικών και Διοικητικής Ανασυγκρότησης ιδρύονται ανοικτές Δομές Προσωρινής Υποδοχής Αιτούντων Διεθνή Προστασία.

5. Με κοινή απόφαση του Υπουργού Οικονομικών και του Υπουργού Εσωτερικών και Διοικητικής Ανασυγκρότησης ιδρύονται ανοικτές Δομές Προσωρινής Φιλοξενίας πολιτών τρίτων χωρών ή ανιθαγενών οι οποίοι εισέρχονται ή διαμένουν στη χώρα χωρίς τις νόμιμες διατυπώσεις, οι οποίοι: α) βρίσκονται σε διαδικασία επιστροφής σύμφωνα με το άρθρο 22 του ν. 3907/2011 ή σύμφωνα με την παρ. 3 του άρθρου αυτού σε συνδυασμό με το άρθρο 30 του ν. 3907/2011 ή β) τελούν υπό καθεστώς αναβολής απομάκρυνσης, σύμφωνα με το άρθρο 24 του ν. 3907/2011 ή γ) υπάγονται στις διατάξεις των άρθρων 76 παρ. 5 ή 78 ή 78Α του ν. 3386/2005.

6. Στα Κέντρα Υποδοχής και Ταυτοποίησης, στις ανοικτές Δομές Προσωρινής Υποδοχής και στις ανοικτές Δομές Προσωρινής Φιλοξενίας ιδρύονται διακριτοί χώροι με τις κατάλληλες προδιαγραφές για την παραμονή πολιτών τρίτων χωρών ή ανιθαγενών που ανήκουν στις ευάλωτες ομάδες της παρ. 8 του άρθρου 14.

Άρθρο 11
Στελέχωση

1. Στην Υπηρεσία Υποδοχής και Ταυτοποίησης συνιστάται θέση Διευθυντή. Ο Διευθυντής διορίζεται, ύστερα από δημόσια πρόσκληση ενδιαφέροντος, με απόφαση του Υπουργού Εσωτερικών και Διοικητικής Ανασυγκρότησης, με θητεία τριών ετών που μπορεί να ανανεωθεί μία φορά. Ο Διευθυντής είναι προσωπικότητα εγνωσμένου κύρους, πανεπιστημιακής εκπαίδευσης, με διοικητική ικανότητα, και εξειδίκευση ή/και εμπειρία στους τομείς διεθνούς προστασίας ή των δικαιωμάτων του ανθρώπου ή του διεθνούς δικαίου. Ο Διευθυντής προΐσταται της Υπηρεσίας Υποδοχής και Ταυτοποίησης, ήτοι της Κεντρικής Υπηρεσίας και των Περιφερειακών Υπηρεσιών, και ελέγχεται από τον Υπουργό Εσωτερικών και Διοικητικής Ανασυγκρότησης, ο οποίος δύναται να τον παύει πριν τη λήξη της θητείας του είτε κατόπιν παραίτησής του είτε λόγω αδυναμίας εκτέλεσης των καθηκόντων του ή για άλλο σοβαρό λόγο που ανάγεται στην άσκηση των καθηκόντων του. Ο Διευθυντής είναι Έλληνας πολίτης. Κατά τη διάρκεια της θητείας του αναστέλλεται η άσκηση οποιουδήποτε άλλου δημοσίου λειτουργήματος και δεν επιτρέπεται η άσκηση καμίας επαγγελματικής δραστηριότητας ή η ανάληψη άλλων αμειβόμενων καθηκόντων, στο δημόσιο ή στον ιδιωτικό τομέα ή η ανάληψη άλλων μη αμειβόμενων καθηκόντων, σε αντικείμενο συναφές με τα καθήκοντά του. Οι αποδοχές του Διευθυντή καθορίζονται με κοινή απόφαση του Υπουργού Οικονομικών και του Υπουργού Εσωτερικών και Διοικητικής Ανασυγκρότησης.

2. Σε κάθε Κέντρο Υποδοχής και Ταυτοποίησης συνιστάται θέση Διοικητή. Ο Διοικητής είναι πανεπιστημιακής εκπαίδευσης με ικανότητα και εμπειρία στη διοίκηση ή/και εξειδίκευση στο πεδίο των δικαιωμάτων του ανθρώπου. Διορίζεται με απόφαση του Γενικού Γραμματέα Υποδοχής, κατόπιν εισήγησης του Διευθυντή της Υπηρεσίας, για θητεία ενός (1) έτους που μπορεί να παραταθεί για δύο (2) ακόμη έτη και να παραταθεί εκ νέου ή να ανανεωθεί ανάλογα με τις υπηρεσιακές ανάγκες, κατόπιν ανοικτής πρόσκλησης εκδήλωσης ενδιαφέροντος του Υπουργού Εσωτερικών και Διοικητικής Ανασυγκρότησης. Ο Διοικητής προΐσταται του Κέντρου Υποδοχής και Ταυτοποίησης και ελέγχεται από τον Διευθυντή της Υπηρεσίας. Ο Γενικός Γραμματέας Υπο-

δοχής δύναται να τον παύει πριν τη λήξη της θητείας του είτε κατόπιν παραίτησης του είτε λόγω αδυναμίας εκτέλεσης των καθηκόντων του ή για άλλο σοβαρό λόγο που ανάγεται στην άσκηση των καθηκόντων του. Οι αποδοχές του Διοικητή καθορίζονται με κοινή απόφαση του Υπουργού Εσωτερικών και Διοικητικής Ανασυγκρότησης και του Υπουργού Οικονομικών. Σε περίπτωση που ο Διοικητής είναι δημόσιος υπάλληλος, καταβάλλεται επίδομα ευθύνης Προϊσταμένου Διεύθυνσης, ο δε χρόνος της θητείας του θεωρείται ως χρόνος άσκησης καθηκόντων Προϊσταμένου Διεύθυνσης.

3. Προϊστάμενος των κλιμακίων ταυτοποίησης και εξακρίβωσης ιθαγένειας και εξωτερικής φύλαξης και ασφάλειας που προβλέπονται στα στοιχεία (β) και (ε) της παραγράφου 1 του άρθρου 13, ορίζεται αξιωματικός της Ελληνικής Αστυνομίας (ΕΛ.ΑΣ.), τουλάχιστον με βαθμό Αστυνόμου Α΄ , ο οποίος αναφέρεται στον Διοικητή για την εκπλήρωση των καθηκόντων αρμοδιότητας των ως άνω κλιμακίων και έχει την ευθύνη της συνεργασίας με τους υπαλλήλους του Ευρωπαϊκού Οργανισμού για τη Διαχείριση της Επιχειρησιακής Συνεργασίας στα Εξωτερικά Σύνορα της Ευρωπαϊκής Ένωσης που έχουν διατεθεί για την υποστήριξη των λειτουργιών του Κέντρου Υποδοχής και Ταυτοποίησης.

4. Σε κάθε Κινητή Μονάδα Υποδοχής και Ταυτοποίησης, με απόφαση του Διευθυντή της Υπηρεσίας, ορίζεται επικεφαλής. Στον επικεφαλής καταβάλλεται επίδομα προϊσταμένου τμήματος, για όσο χρόνο ασκεί τα καθήκοντα αυτά και ο χρόνος της θητείας του θεωρείται ως χρόνος άσκησης καθηκόντων προϊσταμένου τμήματος. Σε κάθε κινητή μονάδα υποδοχής και ταυτοποίησης συμμετέχει, με καθήκοντα ανάλογα με αυτά των κλιμακίων ταυτοποίησης και εξακρίβωσης ιθαγένειας και εξωτερικής φύλαξης και ασφάλειας των Κ.Υ.Τ., αστυνομικό προσωπικό που διατίθεται από τις υπηρεσίες της Ελληνικής Αστυνομίας με επικεφαλής αξιωματικό με βαθμό τουλάχιστον Υπαστυνόμου Α΄ .

5. Οι ανοιχτές Δομές Προσωρινής Υποδοχής Αιτούντων Διεθνή Προστασία και οι ανοιχτές Δομές Προσωρινής Φιλοξενίας, λειτουργούν σε επίπεδο τμήματος. Στις δομές αυτές προΐσταται υπάλληλος του Δημοσίου ή ιδιώτης, πανεπιστημιακής εκπαίδευσης με ικανότητα και εμπειρία στη διοίκηση ή/και εξειδίκευση στο πεδίο των δικαιωμάτων του ανθρώπου, ο οποίος διορίζεται με απόφαση του Διευθυντή της Υπηρεσίας ή συμβάλλεται με το Δημόσιο με σύμβαση εργασίας ορισμένου χρόνου διάρκειας ενός έτους κατόπιν ανοικτής πρόσκλησης εκδήλωσης ενδιαφέροντος του Διευθυντή. Στην περίπτωση των Δομών Προσωρινής Υποδοχής Αιτούντων Διεθνή Προστασία η απόφαση διορισμού του προϊσταμένου λαμβάνεται κατόπιν εισήγησης του Διευθυντή της Διεύθυνσης Υποδοχής της Γενικής Γραμματείας Υποδοχής.

6. Η Υπηρεσία Υποδοχής και Ταυτοποίησης στελεχώνεται από δημόσιους πολιτικούς υπαλλήλους, οι οποίοι μετατάσσονται, μεταφέρονται ή αποσπώνται από υπηρεσίες του δημοσίου, του ευρύτερου δημόσιου τομέα (άρθρο 2 του ν. 3861/2010, Α΄ 112) ή Ν.Π.Δ.Δ. ή Ο.Τ.Α. ή από υπαλλήλους που προσλαμβάνονται ως μόνιμοι ή με σύμβαση εργασίας αορίστου χρόνου, σύμφωνα με τις ισχύουσες διατάξεις. Η πλήρωση των θέσεων διενεργείται μετά από δημόσια πρόσκληση ενδιαφέροντος από τον Διοικητικό Διευθυντή της Υπηρεσίας. Οι μετατάξεις, μεταφορές και αποσπάσεις πραγματοποιούνται, κατά παρέκκλιση των κειμένων διατάξεων, προκειμένου να καλυφθεί η ανάγκη στελέχωσης της Υπηρεσίας Υποδοχής και Ταυτοποίησης. Μετατάξεις προσωπικού που υπηρετεί σε καταργούμενες ή συγχωνευόμενες υπηρεσίες του δημοσίου, του ευρύτερου δημόσιου τομέα (άρθρο 2 του ν. 3861/2010, Α΄ 112), Ν.Π.Δ.Δ. ή Ο.Τ.Α. προς την Υπηρεσία Υποδοχής και Ταυτοποίησης διενεργούνται κατά προτεραιότητα. Η μετάταξη πραγματοποιείται σε κενή οργανική θέση και αν δεν υπάρχει κενή, με μεταφορά της θέσης του υπαλλήλου που μετατάσσεται, με κοινή απόφαση των συναρμόδιων Υπουργών, ύστερα από πρόταση του Διευθυντή της Υπηρεσίας. Η μετάταξη ενεργείται μετά από δημόσια πρόσκληση που απευθύνει ο Διευθυντής της Υπηρεσίας, στην οποία προσδιορίζονται τα γενικά και ειδικά προσόντα, τα κριτήρια και η διαδικασία επιλογής των μετατασσομένων, χωρίς να απαιτείται εφαρμογή της διάταξης της παρ. 1 του άρθρου 68 του ν. 4002/2011 (Α΄ 180). Η Υπηρεσία ενημερώνει, επί ποινή ακυρότητας της πράξης, την Επιτροπή της Π.Υ.Σ. 33/2006 (Α΄ 280) όπως ισχύει, καθώς και τις αρμόδιες υπηρεσίες του Υπουργείου Εσωτερικών και Διοικητικής Ανασυγκρότησης για τον αριθμό και τις ειδικότητες των θέσεων που καλύπτονται με μετάταξη. Η μετάταξη γίνεται με το βαθμό και το μισθολογικό κλιμάκιο που κατέχει ο μετατασσόμενος και διατηρεί το ασφαλιστικό και συνταξιοδοτικό καθεστώς που τηρούσε πριν τη μετάταξη. Οι αποσπάσεις διενεργούνται με κοινή απόφαση των συναρμόδιων Υπουργών, κατά παρέκκλιση από κάθε γενική ή ειδική διάταξη, μετά από πρόταση του Διευθυντή της Υπηρεσίας Υποδοχής και Ταυτοποίησης, ο οποίος αξιολογεί τα τυπικά και ουσιαστικά προσόντα των υποψηφίων και με την ίδια διαδικασία πραγματοποιείται παράταση των αποσπάσεων αυτών. Η μετάταξη γίνεται με κοινή απόφαση των συναρμόδιων Υπουργών, σύμφωνα με την παρ. 1 του άρθρου 68 του ν. 4002/2011 (Α΄ 180), κατά παρέκκλιση από κάθε άλλη γενική ή ειδική διάταξη. Οι αποσπασμένοι υπάλληλοι λαμβάνουν τις τακτικές αποδοχές της οργανικής τους θέσης. Οι εν λόγω αποδοχές βαρύνουν τον προϋπολογισμό του Υπουργείου, της Υπηρεσίας ή του Φορέα στον οποίο ανήκει ο αποσπώμενος υπάλληλος. Σε περίπτωση που ο αποσπώμενος υπάλληλος δικαιούται επίδομα θέσης ευθύνης λόγω ανάληψης καθηκόντων προϊσταμένου στη θέση που αποσπάσθηκε, το συγκεκριμένο επίδομα θα καταβάλλεται από την Υπηρεσία Υποδοχής και Ταυτοποίησης. Η Υπηρεσία Υποδοχής και Ταυτοποίησης μπορεί να απασχολεί προσωπικό με σχέση εργασίας ιδιωτικού δικαίου ορισμένου χρόνου με τις προϋποθέσεις και τη διαδικασία που προβλέπεται στο ν. 2190/1994 (Α΄ 28), όπως τροποποιήθηκε και συμπληρώθηκε από το ν. 2527/1997 (Α΄ 206) και το Π.δ. 164/2004 (Α΄ 134).

7. Οι οργανικές θέσεις προσωπικού της Υπηρεσίας Υποδοχής και Ταυτοποίησης, κατά κατηγορία και κλάδο είναι οι ακόλουθες:

α. 70 θέσεις κατηγορίας ΠΕ Διοικητικού-Οικονομικού
β. 4 θέσεις κατηγορίας ΠΕ Πληροφορικής
γ. 2 θέσεις κατηγορίας ΠΕ Επικοινωνίας και Μ.Μ.Ε.
δ. 70 θέσεις κατηγορίας ΤΕ Διοικητικού - Λογιστικού
ε. 10 θέσεις κατηγορίας ΤΕ Πληροφορικής
στ. 160 θέσεις κατηγορίας ΔΕ Διοικητικού - Λογιστικού
ζ. 60 θέσεις ΠΕ Ιατρών
η. 85 θέσεις ΤΕ Νοσηλευτών

θ. 20 θέσεις κατηγορίας ΠΕ Κοινωνιολόγων
ι. 60 θέσεις κατηγορίας ΠΕ Κοινωνικών Λειτουργών
ια. 85 θέσεις ΤΕ Κοινωνικών Λειτουργών
ιβ. 60 θέσεις ΠΕ Ψυχολογίας
ιγ. 5 θέσεις κατηγορίας ΠΕ Νομικής
ιδ. 2 θέσεις ΠΕ Ευρωπαϊκών και Διεθνών Σπουδών
ιε. 15 θέσεις ειδικού επιστημονικού προσωπικού.
ιστ. 3 θέσεις κατηγορίας ΠΕ Μηχανολόγων Μηχανικών
ιζ. 3 θέσεις ΠΕ Αρχιτεκτόνων Μηχανικών
ιη. 3 θέσεις ΠΕ Πολιτικών Μηχανικών
ιθ. 3 θέσεις ΠΕ Ηλεκτρολόγων Μηχανικών
κ. 2 θέσεις ΠΕ Τοπογράφων Μηχανικών
κα. 2 θέσεις ΤΕ Δομικών Έργων
κβ. 2 θέσεις ΤΕ Ηλεκτρολόγων
κγ. 2 θέσεις ΤΕ Μηχανολόγων
κδ. 25 θέσεις κατηγορίας ΔΕ Τεχνικών διαφόρων ειδικοτήτων.

Με απόφαση του Διευθυντή της Υπηρεσίας Υποδοχής και Ταυτοποίησης τοποθετείται το προσωπικό στην Κεντρική Υπηρεσία Υποδοχής και Ταυτοποίησης, καθώς και στις Περιφερειακές Υπηρεσίες, λαμβανομένων υπόψη της προκήρυξης ή πρόσκλησης, των κείμενων διατάξεων, καθώς και των υφιστάμενων αναγκών της Υπηρεσίας.

8. Για τις ανάγκες της Υπηρεσίας Υποδοχής και Ταυτοποίησης μπορεί να συνάπτονται συμβάσεις παροχής ανεξάρτητων υπηρεσιών ή συμβάσεις εργασίας ορισμένου χρόνου, κατά τις κείμενες διατάξεις, με διερμηνείς, οι οποίοι διαθέτουν τα απαραίτητα προσόντα και επιλέγονται από σχετικό κατάλογο που καταρτίζει η Κεντρική Υπηρεσία και τηρείται σύμφωνα με τον Κανονισμό Λειτουργίας της. Οι διερμηνείς αμείβονται σύμφωνα με τους όρους σχετικής σύμβασης παροχής ανεξάρτητων υπηρεσιών ή εργασίας ορισμένου χρόνου, κατά τις κείμενες διατάξεις. Η αμοιβή τους, η διαδικασία και τα δικαιολογητικά πληρωμής για την εκτέλεση των ανωτέρω συμβάσεων ορίζονται με κοινή απόφαση του Υπουργού Εσωτερικών και Διοικητικής Ανασυγκρότησης και του Υπουργού Οικονομικών.

9. Για τη διασφάλιση της αποτελεσματικής λειτουργίας Κέντρου Υποδοχής και Ταυτοποίησης ή Δομής Προσωρινής Υποδοχής ή Δομής Προσωρινής Φιλοξενίας εξαιρουμένων αυτών που συνιστούν άσκηση δημόσιας εξουσίας, όπως η έκδοση διοικητικών πράξεων, η διεκπεραίωση επιμέρους αρμοδιοτήτων της υπηρεσίας αυτής μπορεί να ανατίθεται για ορισμένο χρόνο, σε φορείς της κοινωνίας των πολιτών που ανταποκρίνονται σε κατάλληλες προδιαγραφές ποιότητας ή σε δημόσιους φορείς, όπως εποπτευόμενα νομικά πρόσωπα ιδιωτικού δικαίου. Η ανωτέρω ανάθεση γίνεται με σύναψη προγραμματικών συμβάσεων μεταξύ της Υπηρεσίας Υποδοχής και Ταυτοποίησης και των ενδιαφερόμενων φορέων. Η διαδικασία, τα κριτήρια, οι ειδικότεροι όροι, το περιεχόμενο και κάθε σχετική λεπτομέρεια για την επιλογή φορέα υλοποίησης θα προσδιορίζονται σε σχετική πρόσκληση εκδήλωσης ενδιαφέροντος την οποία θα εκδίδει ο Διευθυντής της Υπηρεσίας Υποδοχής και Ταυτοποίησης. Η επιλογή του φορέα υλοποίησης θα γίνεται από Επιτροπή οριζόμενη από τον Διευθυντή της Υπηρεσίας Υποδοχής και Ταυτοποίησης. Στη σύμβαση ορίζονται τουλάχιστον: α) το αντικείμενο της σύμβασης, το πρόγραμμα εκτέλεσης της μελέτης ή υπηρεσίας και η προεκτιμώμενη συνολική δαπάνη, β) τα καθήκοντα της εντολοδόχου, γ) ο τρόπος κάλυψης των αναγκαίων για την εκπλήρωση της σύμβασης δαπανών της εντολοδόχου και οι λεπτομέρειες της καταβολής τους, δ) οι ποινικές ρήτρες και άλλες συνέπειες σε βάρος της εντολοδόχου σε περίπτωση υπαίτιας πλημμελούς εκπλήρωσης της εντολής, ε) οι όροι διαπίστωσης της εκπλήρωσης των καθηκόντων της εντολοδόχου και της λήξης της εντολής, στ) ο τρόπος και οι όροι χρηματοδότησης των συμβάσεων που θα αναθέσει η εντολοδόχος αναθέτουσα Αρχή, ζ) οι όροι άσκησης του τεχνικού, οικονομικού και λογιστικού ελέγχου του κυρίου του έργου κατά τις φάσεις εκπλήρωσης της εντολής και η) οι πράξεις και ενέργειες της εντολοδόχου πριν από τις οποίες απαιτείται η προηγούμενη έγκριση του κυρίου του έργου. Με κοινή απόφαση των Υπουργών Εσωτερικών και Διοικητικής Ανασυγκρότησης, Εργασίας, Κοινωνικής Ασφάλισης και Κοινωνικής Αλληλεγγύης και Οικονομικών προσδιορίζονται οι ειδικότεροι όροι και προδιαγραφές ποιότητας και ασφάλειας που πρέπει να πληρούν οι φορείς της κοινωνίας των πολιτών, για την εφαρμογή των διατάξεων αυτού του άρθρου. Η δαπάνη της ανάθεσης μπορεί να καλύπτεται από εθνικούς, συγχρηματοδοτούμενους πόρους ή ιδίους πόρους των φορέων αυτών ή άλλους πόρους, κατ' εφαρμογή και της διάταξης του άρθρου 28 παρ. 8 του ν. 4033/2011, όπως ισχύει. Στη Διεύθυνση Υποδοχής της Γενικής Γραμματείας Υποδοχής καταρτίζεται και τηρείται Μητρώο διαπιστευμένων προς τούτο φορέων.

10. Οι υπάλληλοι της Υπηρεσίας Υποδοχής και Ταυτοποίησης επιμορφώνονται για το αντικείμενο της αποστολής τους, με μέριμνα της Κεντρικής Υπηρεσίας, σε συνεργασία με τα συναρμόδια Υπουργεία ή/και με διεθνείς φορείς και οργανισμούς. Οι ιατροί που παρέχουν υπηρεσίες στις Δομές της Υπηρεσίας Υποδοχής και Ταυτοποίησης, εκπαιδεύονται για την πιστοποίηση θυμάτων βασανιστηρίων, με μέριμνα της Υπηρεσίας, σε συνεργασία με διεθνείς οργανισμούς και υπηρεσίες, όπως η Επιτροπή των Ηνωμένων Εθνών κατά των Βασανιστηρίων, η Ύπατη Αρμοστεία του ΟΗΕ για τους Πρόσφυγες, και η Ευρωπαϊκή Υπηρεσία Υποστήριξης για το Άσυλο.

11. Αρμόδια για τα θέματα του προσωπικού της Υπηρεσίας Υποδοχής και Ταυτοποίησης είναι τα υπηρεσιακά συμβούλια του Υπουργείου Εσωτερικών και Διοικητικής Ανασυγκρότησης. Ως αιρετά μέλη στα συμβούλια αυτά, όταν εξετάζονται θέματα των υπαλλήλων των ανωτέρω υπηρεσιών, λαμβάνουν μέρος εκπρόσωποι των υπαλλήλων της Υπηρεσίας Υποδοχής και Ταυτοποίησης. Για θέματα που αφορούν στη διαδικασία και όλους γενικά τους όρους εκλογής των εκπροσώπων, ισχύουν αναλόγως οι διατάξεις των άρθρων 159 έως 162 του ν. 3528/2007 (Α΄ 26), όπως αυτά τροποποιήθηκαν και ισχύουν.

12. Για τους δικηγόρους που διορίζονται στη θέση Διοικητών των Κέντρων Υποδοχής και Ταυτοποίησης, των προϊσταμένων των Δομών Προσωρινής Υποδοχής και των Δομών Προσωρινής Φιλοξενίας, αναστέλλεται η άσκηση του δικηγορικού λειτουργήματος καθ' όλη τη διάρκεια της θητείας τους στις ως άνω θέσεις.

13. Οι οργανικές θέσεις ειδικού επιστημονικού προσωπικού της Υπηρεσίας Υποδοχής και Ταυτοποίησης μπορεί να καλύπτονται με μετατάξεις, μεταφορές ή αποσπάσεις προσωπικού του Δημοσίου, Ν.Π.Δ.Δ. ή Ο.Τ.Α.. Σε περίπτωση αδυναμίας πλήρωσής τους με προσω-

πικό προσόντων ειδικού επιστημονικού προσωπικού, οι ως άνω οργανικές θέσεις μπορούν να καλύπτονται με μετατάξεις, μεταφορές ή αποσπάσεις προσωπικού προσόντων ΠΕ με γνωστικό αντικείμενο, νομικών, πολιτικών, κοινωνικών, τεχνολογικών ή ανθρωπιστικών επιστημών από υπηρεσίες του Δημοσίου, Ν.Π.Δ.Δ. ή Ο.Τ.Α.. Η κατά τα ανωτέρω, μετάταξη μόνιμου προσωπικού σε θέσεις ειδικού επιστημονικού προσωπικού της Υπηρεσίας Υποδοχής και Ταυτοποίησης γίνεται σε συνιστώμενες με τις πράξεις μετάταξης προσωποπαγείς θέσεις μονίμων υπαλλήλων, με δέσμευση αντίστοιχου αριθμού κενών θέσεων ειδικού επιστημονικού προσωπικού με σχέση εργασίας ιδιωτικού δικαίου αορίστου χρόνου, οι οποίες δεν καλύπτονται όσο οι ως άνω υπάλληλοι παραμένουν στις ανωτέρω προσωποπαγείς θέσεις.

14. Οι Περιφερειακές Υπηρεσίες της Υπηρεσίας Υποδοχής και Ταυτοποίησης λειτουργούν όλο το εικοσιτετράωρο, όλες τις ημέρες της εβδομάδας συμπεριλαμβανομένων των Κυριακών και εξαιρέσιμων ημερών, και οι υπάλληλοι εργάζονται με σύστημα εναλλαγής βαρδιών, όπως ειδικότερα ορίζεται στο Γενικό Κανονισμό Λειτουργίας της Υπηρεσίας Υποδοχής και Ταυτοποίησης. Με το Προεδρικό διάταγμα της παραγράφου 1 του άρθρου 17 καθορίζονται τα ειδικότερα καθήκοντα και υποχρεώσεις του προσωπικού της Υπηρεσίας Υποδοχής και Ταυτοποίησης, το εργασιακό καθεστώς, οι όροι και το ωράριο απασχόλησης, η ρύθμιση υπερωριακής απασχόλησης και ειδικότερα ζητήματα για την παροχή της υπηρεσίας αυτής.

15. Για τις μετακινήσεις και την παροχή εργασίας των υπαλλήλων της Υπηρεσίας Υποδοχής και Ταυτοποίησης εντός ή εκτός έδρας εφαρμόζονται οι διατάξεις της υποπαραγράφου Δ9 του άρθρου 2 του ν. 4336/2015 (Α΄ 94). Επιτρέπεται δε η υπέρβαση του αριθμού ημερών εκτός έδρας απασχόλησης, σύμφωνα με την παράγραφο 2 του άρθρου 3 της υποπαραγράφου Δ9 του άρθρου 2 του ν. 4336/2015 έως συνολικά 180 ημέρες ετησίως.

16. Σε περίπτωση επείγουσας ανάγκης, με απόφαση του Διευθυντή της Υπηρεσίας, μπορεί συγκεκριμένη Περιφερειακή Υπηρεσία Υποδοχής και Ταυτοποίησης να ενισχύεται προσωρινά με υπαλλήλους που υπηρετούν στην Κεντρική Υπηρεσία ή σε άλλη Περιφερειακή Υπηρεσία Υποδοχής και Ταυτοποίησης.

17. Στους υπαλλήλους των Περιφερειακών Υπηρεσιών της Υπηρεσίας Υποδοχής και Ταυτοποίησης καταβάλλεται το επίδομα της παρ. 1 του άρθρου 15 του ν. 4024/ 2011, όπως αυτό εξακολουθεί να καταβάλλεται σύμφωνα με το άρθρο 18 του ν. 4354/2015. Το ποσό του ανωτέρω επιδόματος ορίζεται σε εκατόν πενήντα (150) ευρώ μηνιαίως.

18. Η Υπηρεσία Υποδοχής και Ταυτοποίησης ορίζεται ως αρμόδια αρχή για την έκδοση διαταγής εξουσιοδοτήσεως εθνικού διαβαθμισμένου υλικού, για το προσωπικό της Υπηρεσίας Υποδοχής και Ταυτοποίησης και ως υπεύθυνη διεύθυνση για θέματα ασφαλείας, εφαρμογής του Εθνικού Κανονισμού Ασφαλείας (Ε.Κ.Α.) που αφορούν την Υπηρεσία Υποδοχής και Ταυτοποίησης. Στην Υπηρεσία λειτουργεί Υπαρχείο σύμφωνα με τις διατάξεις του Ε.Κ.Α. στο οποίο προΐσταται ο προϊστάμενος του Τμήματος Συντονισμού της Υπηρεσίας Υποδοχής και Ταυτοποίησης.

19. Το προσωπικό της Υπηρεσίας Υποδοχής και Ταυτοποίησης δύναται να φέρει ειδική ενδυμασία κατάλληλη για την προστασία από τις καιρικές συνθήκες. Με απόφαση του Διευθυντή της Υπηρεσίας ορίζονται οι όροι, οι προϋποθέσεις, οι προδιαγραφές, οι κατηγορίες του προσωπικού που θα φέρει τη σχετική ενδυμασία και κάθε άλλο σχετικό θέμα.

Άρθρο 12
Προϋπολογισμός - Οικονομική Διαχείριση

1. Η Υπηρεσία Υποδοχής και Ταυτοποίησης έχει ίδιο προϋπολογισμό ως ειδικός φορέας του Υπουργείου Εσωτερικών και Διοικητικής Ανασυγκρότησης, όπου εγγράφονται οι αναγκαίες για την λειτουργία του φορέα πιστώσεις, καθώς και κάθε άλλη δαπάνη που συνάδει με την εκπλήρωση των σκοπών του. Ειδικότερα, εγγράφονται πιστώσεις που αφορούν ενδεικτικά: α) αποδοχές του προσωπικού που δεν μισθοδοτείται από τις υπηρεσίες από τις οποίες έχει αποσπαστεί, αμοιβές υπερωριακής απασχόλησης, αμοιβές υπηρεσιών διερμηνείας, οδοιπορικά έξοδα και άλλες συναφείς αποζημιώσεις, β) καταβολή μισθωμάτων για τα οικήματα ή τους χώρους που στεγάζονται οι υπηρεσίες της και δεν ανήκουν στο Δημόσιο, γ) αγορά, μίσθωση, επισκευή και συντήρηση κάθε είδους υλικοτεχνικού εξοπλισμού, δ) την ανάθεση σε φορείς της κοινωνίας των πολιτών έργων των Περιφερειακών Υπηρεσιών, ε) λειτουργικά έξοδα, όπως σίτιση διαμενόντων και έξοδα καθαρισμού των χώρων, έξοδα εκπαίδευσης και επιμόρφωσης του προσωπικού καθώς και τη διενέργεια μελετών ή ερευνών επί θεμάτων αρμοδιότητας της Υπηρεσίας.

2. Με κοινή απόφαση των Υπουργών Οικονομικών και Εσωτερικών και Διοικητικής Ανασυγκρότησης εγγράφονται στον προϋπολογισμό της Υπηρεσίας Υποδοχής και Ταυτοποίησης πιστώσεις για κάθε άλλη έκτακτη δαπάνη, πέρα από όσες διαλαμβάνονται στην παράγραφο 1, που είναι αναγκαία για τη λειτουργία των υπηρεσιών της.

3. Στο Πρόγραμμα Δημοσίων Επενδύσεων εγγράφονται οι πιστώσεις για την πληρωμή έργων που υλοποιούνται για την εκπλήρωση των σκοπών της Υπηρεσίας Υποδοχής και Ταυτοποίησης, τα οποία χρηματοδοτούνται είτε από κοινοτικούς είτε από εθνικούς πόρους και αφορούν ενδεικτικά: α) διοικητικές δαπάνες, β) αγορά ή απαλλοτρίωση εδάφους ή κτισμάτων, γ) προμήθεια και μίσθωση μεταφορικών μέσων, δ) κατασκευές έργων, ε) συντήρηση έργων, στ) μηχανικός και λοιπός κεφαλαιουχικός εξοπλισμός, ζ) μελέτες και έρευνες, η) επιδοτήσεις- οικονομικές ενισχύσεις και θ) λοιπές δαπάνες.

4. Στην Κεντρική Υπηρεσία Υποδοχής και Ταυτοποίησης συνιστάται πάγια προκαταβολή, σύμφωνα με τις διατάξεις του άρθρου 108 του ν. 4270/2014 (Α΄ 143).

5. Η οικονομική διαχείριση της Υπηρεσίας Υποδοχής και Ταυτοποίησης ασκείται από τις αρμόδιες υπηρεσίες της και οι δαπάνες πραγματοποιούνται, ελέγχονται, εκκαθαρίζονται και εντέλλονται σύμφωνα με τις διατάξεις περί δημοσίου λογιστικού και μπορούν να χρηματοδοτούνται από χρηματοδοτικά προγράμματα της Ευρωπαϊκής Ένωσης ή άλλων ευρωπαϊκών ή διεθνών φορέων, συμπεριλαμβανομένων των φορέων της κοινωνίας των πολιτών ή από κάθε είδους άλλους πόρους.

6. Για την κάλυψη των λειτουργικών αναγκών της Υπηρεσίας Υποδοχής και Ταυτοποίησης, επιτρέπεται η σύναψη συμβάσεων υπηρεσιών ή έργου, η δαπάνη των οποίων μπορεί να καλύπτεται από εθνικούς ή κάθε

είδους άλλους πόρους, σύμφωνα με τις διατάξεις περί δημόσιου λογιστικού.

7. Η κάλυψη των δαπανών για τη λειτουργία των Κέντρων Υποδοχής και Ταυτοποίησης δύναται να γίνεται και από τον εγκεκριμένο τακτικό προϋπολογισμό του φορέα 07-450 «Υπηρεσία Πρώτης Υποδοχής», πέραν του προϋπολογισμού του Π.Δ.Ε.. Ως λειτουργικές δαπάνες των Κέντρων Υποδοχής και Ταυτοποίησης νοείται και κάθε δαπάνη που αφορά τη φιλοξενία των πολιτών τρίτων χωρών που διαμένουν στις εγκαταστάσεις της.

8. Προμήθειες εγκεκριμένων προϋπολογισμών προγραμμάτων που αφορούν τη διαχείριση των μεταναστευτικών και προσφυγικών ροών και εντάσσονται σε κατεπείγουσες δράσεις (Επείγοντα Μέτρα Ευρωπαϊκών Ταμείων) ή χαρακτηρίζονται με απόφαση του Υπουργού Εσωτερικών και Διοικητικής Ανασυγκρότησης ως επείγοντα, δύνανται, κατ' εξαίρεση κάθε γενικής ή ειδικής διάταξης, να προκηρύσσονται με βάση τα όρια των ποσών των συγκεκριμένων δράσεων και του ύψους των προϋπολογισμών τους, χωρίς να απαιτείται η ενοποίηση τους με ομοειδείς προμήθειες του τακτικού προϋπολογισμού ή άλλων χρηματοδοτούμενων δράσεων.

Άρθρο 13
Διοίκηση και διάρθρωση των Περιφερειακών Υπηρεσιών

1. Τα Κέντρα Υποδοχής και Ταυτοποίησης και οι Κινητές Μονάδες Υποδοχής και Ταυτοποίησης διαρθρώνονται σε λειτουργικά διακριτά κλιμάκια, ως εξής: α) κλιμάκιο διοικητικής μέριμνας, το οποίο είναι αρμόδιο για τη διοικητική υποστήριξη του Κέντρου ή της Μονάδας, τη στέγαση και σίτιση των παραμενόντων εντός των χώρων τους και τον καθαρισμό των χώρων αυτών, β) κλιμάκιο ταυτοποίησης και εξακρίβωσης ιθαγένειας, το οποίο είναι αρμόδιο για την καταγραφή των προσωπικών στοιχείων των πολιτών τρίτων χωρών και τη λήψη και καταχώριση των δακτυλικών αποτυπωμάτων όσων έχουν συμπληρώσει το 14ο έτος της ηλικίας τους και την εξακρίβωση της ταυτότητας και της ιθαγένειάς τους, γ) κλιμάκιο ιατρικού ελέγχου και ψυχοκοινωνικής υποστήριξης, δ) κλιμάκιο ενημέρωσης, το οποίο είναι αρμόδιο για την ενημέρωση των πολιτών τρίτων χωρών και ανιθαγενών σχετικά με τα δικαιώματα και τις υποχρεώσεις τους, ε) κλιμάκιο εξωτερικής φύλαξης και ασφάλειας. Ο Γενικός Κανονισμός Λειτουργίας των Κέντρων Υποδοχής και Ταυτοποίησης προβλέπει τις περιπτώσεις κατά τις οποίες το προσωπικό του κλιμακίου εξωτερικής φύλαξης και ασφάλειας δύναται να εισέλθει εντός του κέντρου για λόγους τήρησης της τάξης.

2. Ο Διοικητής του Κέντρου Υποδοχής και Ταυτοποίησης προΐσταται των κλιμακίων διοικητικής μέριμνας, ιατρικού ελέγχου και ψυχοκοινωνικής υποστήριξης και ενημέρωσης, συντονίζει, κατευθύνει και ελέγχει το έργο του προσωπικού που απασχολείται σε αυτά και μεριμνά για την εύρυθμη λειτουργία του Κέντρου σε συνεργασία με τις λοιπές αρμόδιες αρχές και φορείς. Στο πλαίσιο των καθηκόντων του, ο Διοικητής του Κέντρου Υποδοχής και Ταυτοποίησης συνεργάζεται με τον προϊστάμενο των κλιμακίων ταυτοποίησης και εξακρίβωσης ιθαγένειας και εξωτερικής φύλαξης, ο οποίος είναι υπεύθυνος για τις λειτουργίες των αστυνομικών υπηρεσιών. Κατευθύνει το προσωπικό που διατίθεται από τον Ευρωπαϊκό Οργανισμό για τη Διαχείριση της Επιχειρησιακής Συνεργασίας στα Εξωτερικά Σύνορα της Ευρωπαϊκής Ένωσης (Ε.Ε.), το οποίο δραστηριοποιείται εντός του Κέντρου.

3. Για τη λειτουργία των κλιμακίων ιατρικού ελέγχου και ψυχοκοινωνικής υποστήριξης, τα Κέντρα και οι Μονάδες Υποδοχής και Ταυτοποίησης δύναται να διαθέτουν ασθενοφόρα, για τα οποία χορηγείται άδεια κυκλοφορίας από τις αρμόδιες υπηρεσίες του Υπουργείου Υγείας.

4. Οι ανοιχτές Δομές Προσωρινής Υποδοχής και οι ανοιχτές Δομές Προσωρινής Φιλοξενίας διαρθρώνονται σε λειτουργικά διακριτά κλιμάκια, ως εξής: α) κλιμάκιο διοικητικής μέριμνας, το οποίο είναι αρμόδιο για τη διοικητική υποστήριξη, τη στέγαση και σίτιση των παραμενόντων και τον καθαρισμό των χώρων, β) κλιμάκιο ιατροφαρμακευτικής περίθαλψης και ψυχοκοινωνικής υποστήριξης, γ) κλιμάκιο ενημέρωσης το οποίο είναι αρμόδιο για την ενημέρωση των φιλοξενούμενων σχετικά με τα δικαιώματα και τις υποχρεώσεις τους, δ) κλιμάκιο εξωτερικής φύλαξης και ασφάλειας. Ο Γενικός Κανονισμός λειτουργίας των Δομών Προσωρινής Υποδοχής και ο Γενικός Κανονισμός λειτουργίας των Δομών Προσωρινής Φιλοξενίας προβλέπουν τις περιπτώσεις κατά τις οποίες προσωπικό του κλιμακίου εξωτερικής φύλαξης και ασφάλειας δύναται να εισέλθει εντός του κέντρου για λόγους τήρησης της τάξης.

5. Οι αρμοδιότητες των κλιμακίων των Περιφερειακών Υπηρεσιών περιγράφονται λεπτομερώς και ρυθμίζονται στις κανονιστικές πράξεις που εκδίδονται κατ' εξουσιοδότηση του παρόντος.

Άρθρο 14
Καθεστώς παραμονής και διαδικασίες στα Κέντρα Υποδοχής και Ταυτοποίησης και στις Κινητές Μονάδες

1. Οι πολίτες τρίτων χωρών ή ανιθαγενείς που εισέρχονται χωρίς τις νόμιμες διατυπώσεις στη χώρα οδηγούνται άμεσα με ευθύνη των αστυνομικών ή λιμενικών αρχών που επιλαμβάνονται αρμοδίως, σε Κέντρο Υποδοχής και Ταυτοποίησης. Η μεταφορά μπορεί να πραγματοποιηθεί και με μέριμνα της Υπηρεσίας Υποδοχής και Ταυτοποίησης, σε περίπτωση αδυναμίας των αρμόδιων αστυνομικών ή λιμενικών αρχών ή προκειμένου για την ταχεία και προσήκουσα μεταφορά προσώπων που ανήκουν σε ευάλωτες ομάδες, όπως αυτές ορίζονται στην παράγραφο 8.

2. Οι πολίτες τρίτων χωρών ή ανιθαγενείς που εισέρχονται στο Κέντρο Υποδοχής και Ταυτοποίησης, υπάγονται στις διαδικασίες που ορίζονται στο άρθρο 9, τελώντας σε καθεστώς περιορισμού της ελευθερίας τους εντός του Κέντρου, με απόφαση του Διοικητή του, η οποία εκδίδεται εντός τριών (3) ημερών από την είσοδό τους. Εφόσον με την παρέλευση του τριημέρου δεν έχουν ολοκληρωθεί οι ως άνω διαδικασίες, ο Διοικητής του Κέντρου μπορεί, υπό την επιφύλαξη της εφαρμογής του άρθρου 46, που εφαρμόζεται αναλογικά, να αποφασίζει την παράταση του περιορισμού της ελευθερίας των ανωτέρω προσώπων έως την ολοκλήρωση των διαδικασιών αυτών για επιπλέον διάστημα που δεν υπερβαίνει συνολικά τις είκοσι πέντε (25) ημέρες από την είσοδο στο Κέντρο. Εναλλακτικά, ο Διοικητής του Κέντρου Υποδοχής και Ταυτοποίησης στα σύνορα της χώρας, λόγω επειγουσών αναγκών εξαιτίας αύξησης

αφίξεων ή για την προσήκουσα ολοκλήρωση των διαδικασιών αυτών, και ιδίως σε περίπτωση προσώπων που ανήκουν σε ευάλωτες ομάδες, μπορεί με απόφασή του να παραπέμπει τον πολίτη τρίτης χώρας ή ανιθαγενή σε Κέντρα Υποδοχής και Ταυτοποίησης στην ενδοχώρα ή να ορίζει την παραμονή σε άλλες κατάλληλες δομές, για τη συνέχιση και την ολοκλήρωση της διαδικασίας υποδοχής και ταυτοποίησης. Με την ίδια απόφαση ρυθμίζονται και οι λεπτομέρειες της μεταφοράς των πολιτών τρίτων χωρών ή ανιθαγενών μεταξύ των Περιφερειακών Υπηρεσιών της Υπηρεσίας Υποδοχής και Ταυτοποίησης. Στο πλαίσιο των ως άνω διαδικασιών λαμβάνεται ειδική μέριμνα για τα οριζόμενα στην παράγραφο 8 πρόσωπα που ανήκουν σε ευάλωτες ομάδες και ειδικότερα για τους ασυνόδευτους ανηλίκους.

3. Ο περιορισμός της ελευθερίας συνεπάγεται την απαγόρευση εξόδου από το Κέντρο και την παραμονή στους χώρους του σύμφωνα με τους όρους και τις προϋποθέσεις του εσωτερικού κανονισμού λειτουργίας του Κέντρου, για το περιεχόμενο του οποίου οι παραμένοντες ενημερώνονται σε γλώσσα που κατανοούν. Κατ' εξαίρεση και για σοβαρούς λόγους, όπως για λόγους υγείας του παραμένοντος στο Κέντρο ή συγγενή του, ο Διοικητής δύναται να χορηγήσει άδεια προσωρινής εξόδου από τις παραπάνω εγκαταστάσεις.

4. Η απόφαση παράτασης του περιορισμού της ελευθερίας για τις ανάγκες της ολοκλήρωσης των διαδικασιών υποδοχής και ταυτοποίησης περιέχει πραγματική και νομική αιτιολόγηση και είναι έγγραφη. Ο πολίτης τρίτης χώρας ή ανιθαγενής που τελεί υπό περιορισμό της ελευθερίας του, παράλληλα με τα δικαιώματα που έχει σύμφωνα με τον Κώδικα Διοικητικής Διαδικασίας, μπορεί να προβάλει και αντιρρήσεις κατά της απόφασης παράτασης του περιορισμού της ελευθερίας του ενώπιον του Προέδρου ή του υπ' αυτού οριζόμενου Πρωτοδίκη του Διοικητικού Πρωτοδικείου, στην περιφέρεια του οποίου λειτουργεί το Κέντρο. Κατά τα λοιπά, για τη διαδικασία των αντιρρήσεων εφαρμόζονται αναλόγως οι διατάξεις των παραγράφων 4 και 5 του άρθρου 76 του ν. 3386/2005 (Α΄ 212), όπως ισχύει. Η απόφαση επί των αντιρρήσεων μπορεί να ανακληθεί, ύστερα από αίτηση του προβάλλοντος τις αντιρρήσεις, αν η αίτηση ανάκλησης στηρίζεται σε νέα στοιχεία, κατ' εφαρμογή της παρ. 5 του άρθρου 205 του Κώδικα Διοικητικής Δικονομίας. Για τα δικαιώματά του, σύμφωνα με την παράγραφο αυτή ο πολίτης τρίτης χώρας ή ανιθαγενής ενημερώνεται σε γλώσσα που κατανοεί. Εάν διαπιστωθεί ότι ο περιορισμός της ελευθερίας δεν είναι νόμιμος, με την ίδια απόφαση διατάσσονται από το δικαστή τα κατάλληλα εναλλακτικά του περιορισμού της ελευθερίας μέτρα.

5. Σε κάθε περίπτωση, καθ' όλη τη διάρκεια των διαδικασιών υποδοχής και ταυτοποίησης ο Διοικητής, και το προσωπικό του Κέντρου μεριμνούν, σύμφωνα με τα προβλεπόμενα ανά περίπτωση, ώστε οι πολίτες τρίτων χωρών ή ανιθαγενείς: α) να τελούν υπό αξιοπρεπείς συνθήκες διαβίωσης, β) να διατηρούν την οικογενειακή τους ενότητα, γ) να έχουν πρόσβαση σε επείγουσα υγειονομική περίθαλψη και κάθε απαραίτητη θεραπευτική αγωγή ή ψυχοκοινωνική στήριξη, δ) να τυγχάνουν, εφόσον ανήκουν σε ευάλωτες ομάδες, της κατάλληλης κατά περίπτωση μεταχείρισης, ε) να ενημερώνονται επαρκώς για τα δικαιώματα και τις υποχρεώσεις τους, στ) να έχουν πρόσβαση σε καθοδήγηση και νομική συμβουλή και συνδρομή σχετικά με την κατάστασή τους, ζ) να διατηρούν επαφή με φορείς και οργανώσεις της κοινωνίας των πολιτών που δραστηριοποιούνται στον τομέα της μετανάστευσης και των δικαιωμάτων του ανθρώπου και παρέχουν νομική ή κοινωνική συνδρομή, η) να έχουν δικαίωμα επικοινωνίας με τους συγγενείς και τα οικεία τους πρόσωπα.

6. Υπηρεσίες της Ευρωπαϊκής Ένωσης, όπως η Ευρωπαϊκή Υπηρεσία Υποστήριξης για το Άσυλο και ο Ευρωπαϊκός Οργανισμός για τη Διαχείριση της Επιχειρησιακής Συνεργασίας στα Εξωτερικά Σύνορα των Κρατών Μελών της Ευρωπαϊκής Ένωσης δύνανται να παρέχουν συνδρομή στις διαδικασίες υποδοχής και ταυτοποίησης, στο πλαίσιο των αρμοδιοτήτων τους και σύμφωνα με το Γενικό Κανονισμό Λειτουργίας. Η Ύπατη Αρμοστεία του ΟΗΕ για τους Πρόσφυγες και ο Διεθνής Οργανισμός Μετανάστευσης δύνανται να παρακολουθούν τις ως άνω διαδικασίες, να παρέχουν πληροφορίες στους υπαγόμενους σε διαδικασία υποδοχής και ταυτοποίησης και να παρέχουν κάθε συνδρομή, ανάλογα με την εντολή και τις αρμοδιότητες του κάθε οργανισμού. Λεπτομέρειες της συνεργασίας των προηγούμενων εδαφίων ρυθμίζονται με μνημόνια που συνάπτονται μεταξύ της Υπηρεσίας Υποδοχής και Ταυτοποίησης και των ως άνω φορέων.

7. Το κλιμάκιο ενημέρωσης του Κέντρου Υποδοχής και Ταυτοποίησης ενημερώνει τους πολίτες τρίτων χωρών ή ανιθαγενείς για τα δικαιώματα και τις υποχρεώσεις τους, καθώς και για τις διαδικασίες υπαγωγής σε καθεστώς διεθνούς προστασίας και για τις διαδικασίες εθελούσιου επαναπατρισμού. Οι αιτούντες διεθνή προστασία παραπέμπονται στο κατά τόπο αρμόδιο Περιφερειακό Γραφείο Ασύλου, Κλιμάκιο του οποίου μπορεί να λειτουργεί στο Κέντρο. Σε κάθε στάδιο των διαδικασιών, η υποβολή αίτησης διεθνούς προστασίας υποχρεώνει στο διαχωρισμό του αιτούντος από τους υπόλοιπους που διαμένουν στο Κέντρο, εφόσον αυτό είναι εφικτό, και την ως άνω παραπομπή του σε κατάλληλες διαδικασίες ή/και δομές φιλοξενίας. Η παραλαβή των αιτήσεων και οι συνεντεύξεις των αιτούντων μπορούν να πραγματοποιούνται εντός των εγκαταστάσεων του Κέντρου, σε χώρο που να διασφαλίζεται η εμπιστευτικότητα. Οι αιτούντες διεθνή προστασία δύνανται να παραμένουν στις εγκαταστάσεις για όσο χρόνο διαρκεί η διαδικασία εξέτασης της αίτησης τους και για διάστημα μέχρι και εικοσιπέντε ημερών από την είσοδό τους στο Κέντρο. Αν μετά την παρέλευση του χρονικού αυτού διαστήματος δεν έχει περατωθεί η εξέταση της αίτησης, το αρμόδιο Περιφερειακό Γραφείο Ασύλου χορηγεί στον ενδιαφερόμενο, κατ' εφαρμογή των διατάξεων του Τρίτου Μέρους του παρόντος, δελτίο αιτούντος διεθνή προστασία και αίρεται ο περιορισμός της ελευθερίας υπό την επιφύλαξη εφαρμογής των διατάξεων του άρθρου 46. Στη συνέχεια ο αιτών παραπέμπεται από την Υπηρεσία Υποδοχής και Ταυτοποίησης σε κατάλληλες δομές φιλοξενίας. Εφόσον η αίτηση και η τυχόν υποβληθείσα προσφυγή απορριφθούν, ενόσω ο αιτών παραμένει στο Κέντρο Υποδοχής και Ταυτοποίησης, παραπέμπεται στην αρμόδια αρχή για την υπαγωγή του σε διαδικασίες επιστροφής, επανεισδοχής ή απέλασης.

8. Ο Διοικητής του Κέντρου ή της Μονάδας, ύστερα από εισήγηση του προϊσταμένου του κλιμακίου ιατρικού

ελέγχου και ψυχοκοινωνικής υποστήριξης παραπέμπει τα πρόσωπα που ανήκουν σε ευάλωτες ομάδες στον αρμόδιο κατά περίπτωση φορέα κοινωνικής στήριξης ή προστασίας. Αντίγραφο του φακέλου ιατρικού ελέγχου και της ψυχοκοινωνικής υποστήριξης αποστέλλεται στον προϊστάμενο της ανοιχτής Δομής Προσωρινής Υποδοχής ή Φιλοξενίας ή στον κατά περίπτωση φορέα κοινωνικής στήριξης ή προστασίας στον οποίο παραπέμπονται. Σε κάθε περίπτωση διασφαλίζεται η συνέχεια της θεραπευτικής αγωγής στις περιπτώσεις που αυτό απαιτείται. Ως ευάλωτες ομάδες νοούνται για τις ανάγκες του παρόντος: α) οι ασυνόδευτοι ανήλικοι, β) τα άτομα που έχουν αναπηρία ή πάσχουν από ανίατη ή σοβαρή ασθένεια, γ) οι υπερήλικες, δ) οι γυναίκες σε κύηση ή λοχεία, ε) οι μονογονεϊκές οικογένειες με ανήλικα τέκνα, στ) τα θύματα βασανιστηρίων, βιασμού ή άλλης σοβαρής μορφής ψυχολογικής, σωματικής ή σεξουαλικής βίας ή εκμετάλλευσης, πρόσωπα με σύνδρομο μετατραυματικής διαταραχής, ιδίως επιζήσαντες και συγγενείς θυμάτων ναυαγίων και ζ) τα θύματα εμπορίας ανθρώπων. Τα πρόσωπα που ανήκουν σε ευάλωτες ομάδες μπορεί να παραμένουν στα Κέντρα Υποδοχής και Ταυτοποίησης σε ιδιαίτερους χώρους, μέχρι την ολοκλήρωση των διαδικασιών του άρθρου 9, με την επιφύλαξη των προθεσμιών της παραγράφου 2 του παρόντος. Οι υπηρεσίες Υποδοχής και Ταυτοποίησης λαμβάνουν ιδιαίτερη μέριμνα για την κάλυψη των ιδιαίτερων αναγκών και την παραπομπή οικογενειών με παιδιά κάτω των 14 ετών και ιδίως νηπιακής και βρεφικής ηλικίας.

9. Σε περίπτωση που σε οποιοδήποτε στάδιο της διαδικασίας ανακύπτει αμφιβολία σχετικά με την ανηλικότητα πολίτη τρίτης χώρας ή ανιθαγενούς, ο Διοικητής του Κέντρου, με σχετική απόφασή του, τον παραπέμπει σε διαδικασία διαπίστωσης ανηλικότητας σύμφωνα με τις ισχύουσες διατάξεις. Σε κάθε περίπτωση, μέχρι την έκδοση πορίσματος περί της ηλικίας του, το πρόσωπο θεωρείται ανήλικος και τυγχάνει αντίστοιχης μεταχείρισης.

10. Με την ολοκλήρωση των διαδικασιών υποδοχής και ταυτοποίησης, οι πολίτες τρίτων χωρών ή ανιθαγενείς, οι οποίοι δεν εμπίπτουν στις διατάξεις περί χορήγησης διεθνούς προστασίας ή άλλης μορφής προστασίας, και οι οποίοι δεν έχουν τίτλο νόμιμης διαμονής στην Ελλάδα, με απόφαση του Διοικητή του Κέντρου παραπέμπονται στην αρμόδια αστυνομική αρχή για την υπαγωγή τους σε διαδικασίες απέλασης, επιστροφής ή επανεισδοχής, κατά τις κείμενες διατάξεις.

11. Οι διατάξεις του παρόντος άρθρου εφαρμόζονται αναλόγως και στην περίπτωση Κινητών Μονάδων Υποδοχής και Ταυτοποίησης.

Άρθρο 15
Διοίκηση και καθεστώς παραμονής στις ανοιχτές Δομές Προσωρινής Υποδοχής και Προσωρινής Φιλοξενίας

1. Ο Προϊστάμενος της ανοιχτής Δομής Προσωρινής Υποδοχής ή Προσωρινής Φιλοξενίας, συντονίζει, κατευθύνει και ελέγχει το έργο των υπαλλήλων που απασχολούνται σε αυτή και μεριμνά για την εύρυθμη λειτουργία της σε συνεργασία με τις λοιπές αρμόδιες αρχές και φορείς, σύμφωνα με τα ειδικότερα οριζόμενα στον Κανονισμό Λειτουργίας της.

2. Οι παραμένοντες στις Δομές αυτές μπορούν να εισέρχονται και να εξέρχονται ελεύθερα, υπό την προϋπόθεση τήρησης των υποχρεώσεών τους, όπως αυτές προκύπτουν από τον Κανονισμό Λειτουργίας τους, υπό την επιφύλαξη της επιβολής τυχόν περιοριστικών όρων σύμφωνα με της παρ. 3 του άρθρου 22 του ν. 3907/2011.

Άρθρο 16
Φύλαξη - Εγκαταστάσεις

1. Την ευθύνη της φύλαξης των εγκαταστάσεων των Περιφερειακών Υπηρεσιών της Υπηρεσίας Υποδοχής και Ταυτοποίησης έχει η Ελληνική Αστυνομία. Η φύλαξη των ανοιχτών Δομών Προσωρινής Υποδοχής και Προσωρινής Φιλοξενίας, μπορεί να ανατίθεται και σε προσωπικό ιδιωτικής εταιρείας παροχής υπηρεσιών ασφαλείας που είναι κατάλληλα εκπαιδευμένο. Με απόφαση του Υπουργού Εσωτερικών και Διοικητικής Ανασυγκρότησης καθορίζεται το είδος, το περιεχόμενο και η διάρκεια της εκπαίδευσης που λαμβάνει το προσωπικό των ως άνω εταιρειών, καθώς και οι Υπηρεσίες της Ελληνικής Αστυνομίας που την παρέχουν.

2. Εάν δεν υπάρχουν οι κατάλληλες εγκαταστάσεις για τη διεξαγωγή των κατά περίπτωση προβλεπόμενων διαδικασιών ή οι υφιστάμενες δεν επαρκούν, επιτρέπεται η κατά παρέκκλιση των κειμένων διατάξεων χρήση άλλων δημόσιων εγκαταστάσεων, μετά από κατάλληλη διαρρύθμιση, καθώς και η μίσθωση ακινήτων με κατάλληλη υποδομή ή, σε κατεπείγουσες περιπτώσεις, η μίσθωση τουριστικών εγκαταστάσεων. Η χρήση των εγκαταστάσεων αυτών γίνεται με απόφαση του Διευθυντή της Υπηρεσίας Υποδοχής και Ταυτοποίησης.

3. Κατ' εξαίρεση για τις ανάγκες εγκατάστασης των Κέντρων Υποδοχής και Ταυτοποίησης, των ανοιχτών Δομών Προσωρινής Υποδοχής, καθώς και των ανοιχτών Δομών Προσωρινής Φιλοξενίας, επιτρέπεται η αλλαγή χρήσης υφιστάμενων κτηρίων σε εκτός σχεδίου περιοχές, κατά παρέκκλιση των υφιστάμενων χρήσεων γης. Σε περιπτώσεις ιδιωτικών μισθούμενων ακινήτων, η παρέκκλιση θα ισχύει όσο διαρκεί η ως άνω νέα χρήση. Για τις ίδιες ως άνω ανάγκες εγκατάστασης επιτρέπεται σε εξαιρετικές περιπτώσεις, λόγω επείγουσας και επιτακτικής ανάγκης και εθνικού συμφέροντος, είτε σε εκτός σχεδίου γήπεδα του Δημοσίου είτε στα γήπεδα των προαναφερόμενων ιδιωτικών μισθούμενων ακινήτων εφόσον διαθέτουν επαρκή έκταση, η τοποθέτηση ή ανέγερση προκατασκευασμένων εγκαταστάσεων, κατά παρέκκλιση των ισχυουσών διατάξεων της εκτός σχεδίου πόλης και εκτός ορίων οικισμών δόμησης. Για την εγκατάσταση των παραπάνω εγκαταστάσεων το ελάχιστο εμβαδόν γηπέδου είναι 4.000 τετραγωνικά μέτρα. Το συνολικό ποσοστό κάλυψης του γηπέδου δεν μπορεί να ξεπερνά το τριάντα τοις εκατό (30%) ενώ ο συντελεστής δόμησης δεν μπορεί να είναι μεγαλύτερος του 0,5. Σε κάθε περίπτωση η συνολική δομούμενη επιφάνεια δεν μπορεί να υπερβαίνει τα 15.000 τετραγωνικά μέτρα. Και στην περίπτωση αυτή η παρέκκλιση θα ισχύει όσο διαρκεί η ως άνω νέα χρήση, οι δε εγκαταστάσεις θα έχουν προσωρινό χαρακτήρα και θα απομακρύνονται, δεν μπορούν δε να χρησιμοποιηθούν για άλλο σκοπό. Για την αλλαγή χρήσης και τις κατασκευές αυτές δεν απαιτείται η έκδοση οικοδομικής άδειας αλλά έγκριση εργασιών μικρής κλίμακας. Με κοινή υπουργική απόφαση των Υπουργών Οικονομικών, Περιβάλλοντος και

Ενέργειας και Εσωτερικών και Διοικητικής Ανασυγκρότησης καθορίζονται, για κάθε συγκεκριμένη περίπτωση ανέγερσης νέων εγκαταστάσεων, οι όροι και περιορισμοί δόμησης και τυχόν ειδικότεροι όροι για τις εγκαταστάσεις, καθώς και κάθε αναγκαία λεπτομέρεια για την εφαρμογή των ρυθμίσεων της παραγράφου αυτής. Η απόφαση αυτή επέχει θέση έγκρισης εργασιών μικρής κλίμακας. Επίσης, επέχει θέση έγκρισης περιβαλλοντικών όρων για τη λειτουργία των εγκαταστάσεων στις περιπτώσεις που οι εγκαταστάσεις εξυπηρετούνται από υφιστάμενα δίκτυα υποδομών. Με την ίδια απόφαση εγκρίνονται οι περιβαλλοντικοί όροι όταν οι εγκαταστάσεις δεν εξυπηρετούνται από υφιστάμενα δίκτυα υποδομών.

4. Για τις ανάγκες εγκατάστασης των υπηρεσιών της Υπηρεσίας Υποδοχής και Ταυτοποίησης επιτρέπεται να χρησιμοποιούνται στρατόπεδα που παραχωρούνται κατά χρήση από το Υπουργείο Εθνικής Άμυνας και τους εποπτευόμενους φορείς του στο Υπουργείο Εσωτερικών και Διοικητικής Ανασυγκρότησης, με αντάλλαγμα (μίσθωμα), στο πλαίσιο συγχρηματοδοτούμενων προγραμμάτων, ή άνευ ανταλλάγματος και κατά παρέκκλιση των διατάξεων πολεοδομικού σχεδιασμού κάθε επιπέδου. Για τυχόν επισκευές, βελτιώσεις και αναγκαίες πρόσθετες εγκαταστάσεις σε αυτά, εφαρμόζονται αναλογικά από το Υπουργείο Εσωτερικών και Διοικητικής Ανασυγκρότησης οι διατάξεις που διέπουν την εκτέλεση στρατιωτικών έργων και εγκαταστάσεων εντός στρατοπέδων. Με κοινή απόφαση των Υπουργών Οικονομικών, Εθνικής Άμυνας, Περιβάλλοντος και Ενέργειας και Εσωτερικών και Διοικητικής Ανασυγκρότησης, καθορίζονται οι προϋποθέσεις και λεπτομέρειες εφαρμογής των παραπάνω ρυθμίσεων. Ακίνητα του Δημοσίου μπορεί επίσης να παραχωρούνται, κατά χρήση δωρεάν, από την Εταιρεία Ακινήτων Δημοσίου, σύμφωνα με τις ισχύουσες διατάξεις, για την αντιμετώπιση των στεγαστικών αναγκών της Υπηρεσίας Υποδοχής και Ταυτοποίησης.

5. Για την κατασκευή, εγκατάσταση και λειτουργία των δομών των προηγούμενων παραγράφων επιτρέπεται η αλλαγή χρήσης κτιρίων εντός ή εκτός σχεδίου πόλεως και η εκτέλεση των αναγκαίων εσωτερικών μετασκευών με την έκδοση έγκρισης εργασιών μικρής κλίμακας. Για τις περιπτώσεις αυτές εφαρμόζονται αναλόγως οι διατάξεις της παρ. 8 του άρθρου 28 του ν. 4033/2011 (Α΄ 254), όπως ισχύουν.

6. Η επισκευή, συντήρηση, επέκταση ή διαρρύθμιση κτιριακών εγκαταστάσεων του Δημοσίου όπου στεγάζονται υπηρεσίες της Υπηρεσίας Υποδοχής και Ταυτοποίησης, γίνονται με μέριμνα του Τμήματος Τεχνικής Υποστήριξης κατόπιν ειδικής μελέτης όπου αυτό χρειάζεται, σύμφωνα με την κείμενη νομοθεσία.

Άρθρο 17
Εξουσιοδοτικές Διατάξεις

1. Με Προεδρικό διάταγμα που εκδίδεται με πρόταση των Υπουργών Εσωτερικών και Διοικητικής Ανασυγκρότησης, Οικονομικών και Υγείας, μπορεί, και κατά τροποποίηση των διατάξεων του παρόντος νόμου, να ρυθμίζονται τα θέματα που αφορούν την οργάνωση, τη λειτουργία, τα καθήκοντα του προσωπικού, τις επί μέρους αρμοδιότητες και να συνιστώνται ή να καταργούνται οργανικές θέσεις προσωπικού της Κεντρικής Υπηρεσίας και των Περιφερειακών Υπηρεσιών της Υπηρεσίας Υποδοχής και Ταυτοποίησης.

2. Με κοινή απόφαση του Υπουργού Εσωτερικών και Διοικητικής Ανασυγκρότησης και του Υπουργού Υγείας, θεσπίζεται ο Γενικός Κανονισμός Λειτουργίας των Κέντρων και των Μονάδων Υποδοχής και Ταυτοποίησης, όπου καθορίζονται επί μέρους θέματα εσωτερικής διάρθρωσης και λειτουργίας των Κέντρων και των Μονάδων αυτών και ρυθμίζονται οι λεπτομέρειες των κατά περίπτωση ακολουθούμενων διαδικασιών και κάθε συναφές θέμα. Με όμοια απόφαση θεσπίζονται οι Γενικοί Κανονισμοί Λειτουργίας των Δομών Προσωρινής Υποδοχής και των Δομών Προσωρινής Φιλοξενίας.

3. Οι Περιφερειακές Υπηρεσίες της Υπηρεσίας Υποδοχής και Ταυτοποίησης διέπονται από Εσωτερικό Κανονισμό Λειτουργίας. Ειδικότερα, ο Εσωτερικός Κανονισμός των Κέντρων Υποδοχής και Ταυτοποίησης και των Δομών Προσωρινής Φιλοξενίας εκδίδεται από τον Διευθυντή της Υπηρεσίας, κατόπιν γνώμης των Διοικητών των Κέντρων ή των Προϊσταμένων των Δομών. Ο Εσωτερικός Κανονισμός των Δομών Προσωρινής Υποδοχής εκδίδεται από τον Διευθυντή της Υπηρεσίας, κατόπιν γνώμης της αρμόδιας Διεύθυνσης Υποδοχής της Γενικής Γραμματείας Υποδοχής του Υπουργείου Εσωτερικών και Διοικητικής Ανασυγκρότησης.

4. Με απόφαση του Υπουργού Εσωτερικών και Διοικητικής Ανασυγκρότησης μπορεί να κατανέμονται μεταξύ Περιφερειακών Υπηρεσιών της Υπηρεσίας Υποδοχής και Ταυτοποίησης οι θέσεις προσωπικού που συνιστώνται γι' αυτές.

5. Με κοινή απόφαση των Υπουργών Οικονομικών και Εσωτερικών και Διοικητικής Ανασυγκρότησης ρυθμίζονται ειδικά θέματα διαχείρισης υλικού, χρημάτων, καθώς και κάθε άλλο σχετικό θέμα.

6. Με κοινή απόφαση των Υπουργών Οικονομικών και Εσωτερικών και Διοικητικής Ανασυγκρότησης εγγράφονται στον προϋπολογισμό της Υπηρεσίας Υποδοχής και Ταυτοποίησης, πιστώσεις για κάθε άλλη δαπάνη πέρα από όσες διαλαμβάνονται στο άρθρο 12, που είναι αναγκαία για τη λειτουργία των υπηρεσιών της.

7. Το πρόγραμμα ιατρικού ελέγχου, ψυχοκοινωνικής διάγνωσης διαπίστωσης της ανηλικότητας και παραπομπής των δικαιούχων σε δομές υποστήριξης και φιλοξενίας καθορίζεται με απόφαση του Υπουργού Υγείας.

8. Για αποσπάσεις προσωπικού της Ελληνικής Αστυνομίας που διατάσσονται σύμφωνα με τις διατάξεις του άρθρου 19 του Π.δ. 100/2003 (Α΄ 94) στα σύνορα της χώρας ή για τη φύλαξη κέντρων Υποδοχής και Ταυτοποίησης, Δομών Προσωρινής Υποδοχής και Δομών Προσωρινής Φιλοξενίας ή εγκαταστάσεων όπου κρατούνται πολίτες τρίτων χωρών ή ανιθαγενείς δικαιολογούνται οδοιπορικά έξοδα για όλες τις ημέρες της απόσπασής τους και για χρονικό διάστημα μέχρι έξι μηνών συνολικά ανά ημερολογιακό έτος.

9. Σε περίπτωση που οι υφιστάμενες εγκαταστάσεις των Περιφερειακών Υπηρεσιών της Υπηρεσίας Υποδοχής και Ταυτοποίησης δεν επαρκούν, με απόφαση του Υπουργού Εσωτερικών και Διοικητικής Ανασυγκρότησης, κατά παρέκκλιση των κείμενων πολεοδομικών διατάξεων, δύναται να χρησιμοποιηθεί κάθε κατάλληλη προς το σκοπό αυτό εγκατάσταση, ή να δημιουργούνται προσωρινές εγκαταστάσεις. Με την ίδια απόφαση ρυθμίζεται επίσης κάθε επιμέρους ζήτημα που αφορά ιδίως το διάστημα χρησιμοποίησης των ως άνω εγκαταστάσεων, το σκοπό λειτουργίας τους, τον εσωτερικό κανονισμό

λειτουργίας της ως άνω εγκατάστασης, καθώς και τη δυνατότητα ανάθεσης ή συμμετοχής άλλων φορέων, δημόσιων ή ιδιωτικών, οπότε συμπράττει ο κατά περίπτωση αρμόδιος Υπουργός στη δημιουργία, υποστήριξη, στελέχωση ή διαχείριση των ως άνω εγκαταστάσεων, καθώς και την εποπτεία και παρακολούθησή τους.

10. Με απόφαση του Διευθυντή της Υπηρεσίας Υποδοχής και Ταυτοποίησης, κατόπιν εισήγησης του Προϊσταμένου της αρμόδιας Περιφερειακής Υπηρεσίας, όταν οι υφιστάμενες Περιφερειακές Υπηρεσίες δεν επαρκούν, αιτούντες διεθνή προστασία ή πρόσωπα που βρίσκονται σε διαδικασία επιστροφής, απέλασης ή επανεισδοχής, και ιδίως πρόσωπα που ανήκουν σε ευάλωτες ομάδες, μπορούν να παραπέμπονται σε δομές οι οποίες λειτουργούν από λοιπούς δημόσιους φορείς ή φορείς της κοινωνίας των πολιτών.

11. Με Προεδρικό διάταγμα που εκδίδεται με πρόταση των Υπουργών Δικαιοσύνης, Διαφάνειας και Ανθρωπίνων Δικαιωμάτων και Εσωτερικών και Διοικητικής Ανασυγκρότησης ρυθμίζεται η διαδικασία ορισμού επιτρόπου ή εκπροσώπου ασυνόδευτων ανηλίκων, όπως η έννοια αυτή ορίζεται κατά τις κείμενες διατάξεις, τα καθήκοντα, οι αρμοδιότητες, η ευθύνη και η εποπτεία των εκπροσώπων, οι όροι και η διαδικασία πιστοποίησης τους καθώς και κάθε άλλο σχετικό θέμα. Με απόφαση των ως άνω Υπουργών ρυθμίζονται περαιτέρω λεπτομέρειες της εφαρμογής του προεδρικού διατάγματος του προηγούμενου εδαφίου.

ΚΕΦΑΛΑΙΟ Γ΄

Άρθρο 18
Τροποποίηση του ν. 4018/2011 (Α΄ 215)

1. Το έκτο εδάφιο της παρ. 4 του άρθρου 2 του ν. 4018/2011 (Α΄ 215) τροποποιείται και αντικαθίσταται ως εξής:

«Ποσοστό 75% των εσόδων που εγγράφονται στον ΚΑΕ της περίπτωσης γ΄ της παρούσας παραγράφου, εγγράφεται στον προϋπολογισμό της κεντρικής υπηρεσίας του Υπουργείου Εσωτερικών και Διοικητικής Ανασυγκρότησης και κατανέμεται με απόφαση του Υπουργού Εσωτερικών και Διοικητικής Ανασυγκρότησης σε Υπουργεία, Αποκεντρωμένες Διοικήσεις, Ν.Π.Δ.Δ. και οργανισμούς τοπικής αυτοδιοίκησης α' και β' βαθμού που διαχειρίζονται θέματα μεταναστευτικής πολιτικής, υποδοχής και κοινωνικής ένταξης μεταναστών και δικαιούχων διεθνούς προστασίας.»

2. Το προτελευταίο και τελευταίο εδάφιο της παρ. 4 του άρθρου 2 του ν. 4018/2011 (Α΄ 215), στην οποία είχε προστεθεί η παρ. 9 του άρθρου 14 του ν. 4332/2015, τροποποιείται ως εξής:

«Με όμοιες αποφάσεις είναι δυνατή η κατανομή ποσών από το ίδιο ποσοστό σε Υπουργεία, Αποκεντρωμένες Διοικήσεις, Ν.Π.Δ.Δ. και οργανισμούς τοπικής αυτοδιοίκησης α' και β' βαθμού για την αντιμετώπιση έκτακτων αναγκών, που απορρέουν από την είσοδο και υποδοχή πολιτών τρίτων χωρών. Οι εν λόγω πιστώσεις μπορούν να διατίθενται για την αντιμετώπιση κάθε σχετικής δαπάνης για την αντιμετώπιση των αναγκών αυτών».

Άρθρο 19
Τροποποίηση του ν. 4332/2015 (Α΄ 76) και λοιπές διατάξεις

1. Η παρ. 10 του άρθρου 14 του ν. 4332/2015 (Α΄ 76) αντικαθίσταται ως εξής:

«Τα Ν.Π.Δ.Δ., οι Ο.Τ.Α. α΄ και β΄ βαθμού, στα διοικητικά όρια των οποίων λειτουργούν Κέντρα Πρώτης Υποδοχής (ΚΕ.Π.Υ.), Κέντρα Υποδοχής και Ταυτοποίησης (Κ.Υ.Τ.) και Ανοιχτές Δομές Προσωρινής Υποδοχής και Φιλοξενίας προσφύγων και μεταναστών ή διαθέτουν χώρους για την κάλυψη έκτακτων αναγκών στέγασης και προσωρινής φιλοξενίας προσφύγων και μεταναστών, καθώς και οι φορείς των Ο.Τ.Α. αυτών, δύνανται για την αντιμετώπιση έκτακτων και επειγουσών αναγκών, κατά παρέκκλιση κάθε αντίθετης διάταξης, να προβαίνουν σε όλες τις αναγκαίες ενέργειες και να συνάπτουν με τρίτους συμβάσεις εκτέλεσης έργων, παροχής υπηρεσιών, προμήθειας αγαθών ή μισθώσεων κινητών και ακινήτων σε ό,τι αφορά την υποδοχή και φιλοξενία νεοεισερχόμενων πολιτών τρίτων χωρών αποκλειστικά για την κάλυψη αναγκών προσωρινής στέγασης, τη λειτουργία των ανωτέρω εγκαταστάσεων, τη μεταφορά από τα σημεία άφιξης ή προσωρινής διαμονής προς ή από τις προσωρινές ή μόνιμες εγκαταστάσεις φιλοξενίας, οι οποίες βρίσκονται εντός και εκτός των γεωγραφικών τους ορίων, τη σίτιση, την άμεση ιατροφαρμακευτική περίθαλψη, τα έξοδα ταφής, την διαχείριση ανθρωπιστικής βοήθειας και κάθε προσφοράς σε χρήμα ή είδος, την διαχείριση, μεταφορά, αποθήκευση και διανομή αυτής, καθώς και κάθε άλλη απολύτως αναγκαία για την εξυπηρέτηση των ανωτέρω σκοπών δαπάνη.

Για την αποθήκευση και διανομή των ανωτέρω ειδών πρώτης ανάγκης οι Περιφέρειες, δύνανται να συστήνουν Κέντρα αποθήκευσης και διανομής, σε συνεργασία και με άλλους δημόσιους φορείς, με απόφαση του Περιφερειάρχη ή με κοινή απόφαση με το αρμόδιο για τη διοίκηση του έτερου φορέα οργάνου, στην οποία θα καθορίζονται οι όροι λειτουργίας τους. Τα Κέντρα αυτά μπορούν να στελεχώνονται με υπαλλήλους των ανωτέρω φορέων.

Η διαδικασία σύναψης των συμβάσεων του προηγούμενου εδαφίου, καθώς και των αντίστοιχων συμβάσεων των Υπουργείων και των Αποκεντρωμένων Διοικήσεων δύναται, για λόγους κατεπείγουσας και απρόβλεπτης ανάγκης, λαμβανομένων υπ' όψιν και λόγων δημόσιας τάξης, οι οποίοι ειδικώς αιτιολογούνται, να διενεργείται κατόπιν διαπραγμάτευσης χωρίς δημοσίευση προκήρυξης διαγωνισμού, κατά παρέκκλιση κάθε άλλης διάταξης της εθνικής νομοθεσίας, με την επιφύλαξη εφαρμογής της νομοθεσίας της Ευρωπαϊκής Ένωσης για τις δημόσιες συμβάσεις.

Μέχρι 31.12.2016, οι συμβάσεις αυτές θεωρείται ότι καλύπτουν την προϋπόθεση των σχετικών διατάξεων περί συνδρομής έκτακτης και κατεπείγουσας ανάγκης, οφειλόμενης σε γεγονότα απρόβλεπτα για τις αναθέτουσες αρχές, που δεν απορρέουν από δική τους ευθύνη, κατά παρέκκλιση του ν. 4013/2011 άρθρο 2 παράγραφος 2 περίπτωση γ΄ υποπερίπτωση δδ΄.

Οι ανωτέρω δαπάνες, καταβάλλονται από τις πιστώσεις του προϋπολογισμού των ανωτέρω κατά περίπτωση αρμόδιων φορέων ύστερα από αιτιολογημένη απόφαση του οικείου οργάνου. Με αποφάσεις των Υπουργών Εσωτερικών και Διοικητικής Ανασυγκρότησης, Οικονομικών και Οικονομίας, Ανάπτυξης και Τουρισμού, είναι δυνατή η κατανομή ποσών στους ανωτέρω φορείς, από πιστώσεις είτε του Τακτικού Προϋπολογισμού είτε του Προγράμματος Δημοσίων Επενδύσεων,

είτε από οποιαδήποτε άλλη πηγή χρηματοδότησης για την αντιμετώπιση της προσφυγικής κρίσης, προκειμένου να καλυφθούν αποκλειστικά και μόνο οι δαπάνες για τις δράσεις που αναλαμβάνονται στο πλαίσιο της παραγράφου αυτής. Κατά την εφαρμογή της ανωτέρω διάταξης, δεν εφαρμόζονται οι διατάξεις των άρθρων 26 και 30 του ν. 4251/ 2014».

2. Με απόφαση του αρμόδιου διατάκτη είναι δυνατή η εξαίρεση από τη διαδικασία του άρθρου 35 του ν. 4129/ 2013, όπως ισχύει αναφορικά με τη σύναψη δημοσίων συμβάσεων προμήθειας αγαθών, εκτέλεσης έργων και παροχής υπηρεσιών, που συγχρηματοδοτούνται από το Ταμείο Ασύλου, Μετανάστευσης και Ένταξης της Ε.Ε. ή το Ταμείο Εσωτερικής Ασφάλειας.

3. Το Οικονομικό Τμήμα της Υπηρεσίας Ασύλου του Υπουργείου Εσωτερικών και Διοικητικής Ανασυγκρότησης δύναται να ασκεί τα καθήκοντα αρμόδιας Οικονομικής Υπηρεσίας της παρ. 3 του άρθρου 79 του ν. 4270/2014, όπως ισχύει για την πληρωμή έργων που χρηματοδοτούνται από το Ταμείο Ασύλου, Μετανάστευσης και Ένταξης, το Ταμείο Εσωτερικής Ασφάλειας ή από άλλους ευρωπαϊκούς ή διεθνείς πόρους και εντάσσονται στο Πρόγραμμα Δημοσίων Επενδύσεων. Με απόφαση του Διευθυντή ορίζονται οι δράσεις (έργα) και οι διαχειριστές λογαριασμών που διενεργούν τις πληρωμές.

Άρθρο 20
Τροποποίηση του Π.δ. 104/2012

1. Η παράγραφος 3 του άρθρου 1 του Π.δ. 104/2012, όπως ισχύει, καταργείται.

2. Το στοιχείο ε΄ του άρθρου 3 του Π.δ. 104/2012, όπως ισχύει, καταργείται.

3. Το άρθρο 4 του Π.δ. 104/2012, όπως ισχύει, αντικαθίσταται, ως εξής:

«Άρθρο 4
Διάρθρωση Κεντρικής Υπηρεσίας Ασύλου

Η Κεντρική Υπηρεσία Ασύλου αποτελεί ενιαία Υπηρεσία και διαρθρώνεται στα ακόλουθα Τμήματα:

α) Γραμματεία Διευθυντή - Γραφείο Δημοσίων Σχέσεων και Ενημέρωσης

β) Τμήμα Διεθνούς και Ευρωπαϊκής Συνεργασίας

γ) Τμήμα Νομικό Τμήμα

δ) Τμήμα Συντονισμού

ε) Τμήμα Εθνικής Μονάδας Δουβλίνου

στ) Τμήμα Ανθρώπινου Δυναμικού

ζ) Τμήμα Εκπαίδευσης, Διασφάλισης Ποιότητας και Τεκμηρίωσης

η) Τμήμα Οικονομικό Τμήμα

θ) Τμήμα Διαχείρισης και Εφαρμογής Προγραμμάτων

ι) Τμήμα Διοικητικής και Τεχνικής Υποστήριξης

ια) Τμήμα Πληροφορικής.»

4. Τα άρθρα 5, 6, 7, 8, 9, 10, 11, 12, 15, 16, 18 και 22 του Π.δ. 104/2012, όπως ισχύει, καταργούνται.

5. Τα άρθρα 13, 14, 17, 19, 20, 21, 23 και 24 του Π.δ. 104/ 2012, όπως ισχύει, αναριθμούνται σε 5, 6, 7, 8, 9, 10, 11 και 12 αντιστοίχως.

6. Το άρθρο 5 του Π.δ. 104/2012, όπως ισχύει και όπως αυτό αναριθμείται με την παράγραφο 5 του παρόντος αντικαθίσταται, ως εξής:

«Άρθρο 5
Αποστολή Περιφερειακών Υπηρεσιών Ασύλου

Τα Περιφερειακά Γραφεία Ασύλου και τα Αυτοτελή Κλιμάκια Ασύλου υπάγονται στην Κεντρική Υπηρεσία Ασύλου και έχουν ως αποστολή μέσα στα όρια της τοπικής τους αρμοδιότητας την εφαρμογή της νομοθεσίας περί διεθνούς προστασίας και ειδικότερα:

α) τη λήψη των δακτυλικών αποτυπωμάτων των αιτούντων διεθνούς προστασίας στο πλαίσιο εφαρμογής του Κανονισμού 2725/2000 του Συμβουλίου της 11ης Δεκεμβρίου 2000 σχετικά με τη θέσπιση του «EURODAC» και χορήγησης νομιμοποιητικών και ταξιδιωτικών εγγράφων, β) την παραλαβή και εξέταση των αιτήσεων διεθνούς προστασίας, γ) την παραλαβή των ενδικοφανών προσφυγών του άρθρου 5 παρ. 5 του ν. 3907/2011 και τη διαβίβασή τους στην Αρχή Προσφυγών, δ) την ενημέρωση των αιτούντων διεθνή προστασία αναφορικά με τη διαδικασία εξέτασης των αιτήσεών τους, καθώς και τα δικαιώματα και τις υποχρεώσεις τους, ε) τον εφοδιασμό των αιτούντων διεθνή προστασία αλλοδαπών, καθώς και των δικαιούχων διεθνούς προστασίας με τα προβλεπόμενα νομιμοποιητικά και ταξιδιωτικά έγγραφα, στ) τη διευκόλυνση των αιτούντων σε ό, τι αφορά τις συνθήκες υποδοχής σε συνεργασία με άλλους συναρμόδιους φορείς, ζ) την άσκηση κάθε άλλης αρμοδιότητας που ανατίθεται σε αυτά από τις ισχύουσες διατάξεις».

7. Η παρ. 1 του άρθρου 6 του Π.δ. 104/2012, όπως ισχύει και όπως αυτό αναριθμείται με την παράγραφο 5 του παρόντος, αντικαθίσταται ως εξής:

«1. Τα Περιφερειακά Γραφεία Ασύλου και η τοπική αρμοδιότητά τους έχουν ως εξής:

α) Περιφερειακό Γραφείο Ασύλου Αττικής με τοπική αρμοδιότητα την εδαφική περιφέρεια των Περιφερειών Αττικής, Στερεάς Ελλάδας και των Περιφερειακών Ενοτήτων Νάξου (Δήμοι Νάξου και Μικρών Κυκλάδων και Αμοργού), Πάρου (Δήμοι Πάρου και Αντιπάρου), Μήλου (Δήμοι Μήλου, Κιμώλου, Σερίφου και Σίφνου), Σύρου (δήμος Σύρου - Ερμούπολης), Κέας - Κύθνου (Δήμοι Κέας και Κύθνου), Τήνου (δήμος Τήνου), Μυκόνου (Δήμος Μυκόνου), Άνδρου (Δήμος Άνδρου) και Θήρας (Δήμοι Θήρας, Ιητών, Σίκινου, Φολέγανδρου και Ανάφης) της Περιφέρειας Νοτίου Αιγαίου.

β) Περιφερειακό Γραφείο Ασύλου Θεσσαλονίκης με τοπική αρμοδιότητα την εδαφική περιφέρεια των Περιφερειών Κεντρικής και Δυτικής Μακεδονίας.

γ) Περιφερειακό Γραφείο Ασύλου Θράκης με τοπική αρμοδιότητα την εδαφική περιφέρεια της Περιφέρειας Ανατολικής Μακεδονίας και Θράκης.

δ) Περιφερειακό Γραφείο Ασύλου Ηπείρου με τοπική αρμοδιότητα την εδαφική περιφέρεια της Περιφέρειας Ηπείρου και της Περιφερειακής Ενότητας Κέρκυρας της Περιφέρειας Ιονίων Νήσων.

ε) Περιφερειακό Γραφείο Ασύλου Θεσσαλίας με τοπική αρμοδιότητα την εδαφική περιφέρεια της Περιφέρειας Θεσσαλίας.

στ) Περιφερειακό Γραφείο Ασύλου Δυτικής Ελλάδας με τοπική αρμοδιότητα την εδαφική Περιφέρεια των Περιφερειών Δυτικής Ελλάδας, Πελοποννήσου και Ιονίων Νήσων πλην της Περιφερειακής Ενότητας Κέρκυρας.

ζ) Περιφερειακό Γραφείο Ασύλου Κρήτης με τοπική αρμοδιότητα την εδαφική περιφέρεια της Περιφέρειας Κρήτης.

η) Περιφερειακό Γραφείο Ασύλου Λέσβου με τοπική αρμοδιότητα την εδαφική Περιφέρεια των Περιφερειακών Ενοτήτων Λέσβου (Δήμος Λέσβου) και Λήμνου (Δήμοι Λήμνου και Αγίου Ευστρατίου) της Περιφέρειας Βορείου Αιγαίου.

θ) Περιφερειακό Γραφείο Ασύλου Χίου με τοπική αρμοδιότητα την εδαφική περιφέρεια της Περιφερειακής Ενότητας Χίου (Δήμοι Χίου, Ψαρών και Οινουσσών) της περιφέρειας Βορείου Αιγαίου.

ι) Περιφερειακό Γραφείο Ασύλου Σάμου με τοπική αρμοδιότητα την εδαφική περιφέρεια των Περιφερειακών Ενοτήτων Σάμου (Δήμος Σάμου) και Ικαρίας (Δήμοι Ικαρίας και Φούρνων) της Περιφέρειας Βορείου Αιγαίου.

ια) Περιφερειακό Γραφείο Ασύλου Λέρου με τοπική αρμοδιότητα την εδαφική περιφέρεια των Περιφερειακών Ενοτήτων Κω (Δήμοι Κω και Νισύρου) και Καλύμνου (Δήμοι Καλυμνίων Αστυπάλαιας, Λειψών, Λέρου, Πάτμου και Αγαθονησίου) της Περιφέρειας Νοτίου Αιγαίου και

ιβ) Περιφερειακό Γραφείο Ασύλου Ρόδου με τοπική αρμοδιότητα την εδαφική περιφέρεια των Περιφερειακών Ενοτήτων Ρόδου (Δήμοι Ρόδου, Σύμης, Χάλκης, Μεγίστης και Τήλου) και Καρπάθου (Δήμοι Καρπάθου και Κάσου) της περιφέρειας Νοτίου Αιγαίου.

8. Η παρ. 4 του άρθρου 6 του Π.δ. 104/2012, όπως ισχύει και όπως αυτό αναριθμείται με την παράγραφο 5 του παρόντος καταργείται.

9. Η παρ. 2 του άρθρου 7 του Π.δ. 104/2012, όπως ισχύει και όπως αυτό αναριθμείται με την παράγραφο 5 του παρόντος, αντικαθίσταται ως ακολούθως:

«2. Τα Περιφερειακά Γραφεία Ασύλου και τα Αυτοτελή Κλιμάκια Ασύλου λειτουργούν σε επίπεδο τμήματος και είναι ισότιμα μεταξύ τους».

10. Στο άρθρο 8 του Π.δ. 104/2012, όπως ισχύει και όπως αυτό αναριθμείται με την παράγραφο 5 του παρόντος, προστίθενται στοιχεία ι΄, ια΄, ιβ΄ και ιγ΄, ως εξής:

«ι. εκτελεί και διαχειρίζεται τον προϋπολογισμό της Υπηρεσίας Ασύλου, ια. υπογράφει κάθε απόφαση, ανακοίνωση και σύμβαση, η οποία αφορά την πρόσληψη προσωπικού με σχέση εργασίας ιδιωτικού δικαίου ορισμένου χρόνου ή μίσθωσης έργου, σύμφωνα με τις κείμενες διατάξεις, πλην αυτές που αφορούν την πρόσληψη προσωπικού με σχέση εργασίας ορισμένου χρόνου ή μίσθωσης έργου για τις ανάγκες υλοποίησης των Ευρωπαϊκών Προγραμμάτων Ταμείων Ασύλου, Μετανάστευσης και Ένταξης, καθώς και του Ταμείου Εσωτερικής Ασφάλειας ή των Προγραμμάτων που χρηματοδοτούνται από ευρωπαϊκούς ή διεθνείς πόρους ή ιδιωτικά κονδύλια τις οποίες υπογράφει ο Προϊστάμενος του Τμήματος Ανθρώπινου Δυναμικού, ιβ. υπογράφει για λογαριασμό της Υπηρεσίας Ασύλου συμβάσεις χρησιδανείου που αφορούν ακίνητα για τη στέγαση των υπηρεσιών της ή αφορούν κινητό εξοπλισμό που διατίθεται για την κάλυψη των αναγκών της Υπηρεσίας Ασύλου και ιγ. εξουσιοδοτεί ιεραρχικά υφιστάμενό του όργανο να υπογράφει, με εντολή του, πράξεις ή άλλα έγγραφα της αρμοδιότητάς του, σύμφωνα με τις κείμενες διατάξεις.»

11. Το στοιχείο α΄ της παρ. 1 του άρθρου 9 του Π.δ. 104/2012, όπως ισχύει και όπως αυτό αναριθμείται με την παράγραφο 5 του παρόντος αντικαθίσταται ως εξής:

«α) Στο Τμήμα Διεθνούς και Ευρωπαϊκής Συνεργασίας προΐσταται υπάλληλος κλάδου ΕΕΠ ή ΠΕ Διοικητικού - Οικονομικού ή ΠΕ Διοικητικού με αντίστοιχη προϋπηρεσία και άριστη γνώση αγγλικών και, ελλείψει αυτών υπάλληλος κλάδου ΠΕ Διοικητικού - Οικονομικού ή ΠΕ Διοικητικού ή ΠΕ Οικονομικού με διοικητικές ικανότητες και πολύ καλή γνώση αγγλικών.

12. Το στοιχείο ε΄ της παρ. 1 του άρθρου 9 του Π.δ. 104/2012, όπως ισχύει και όπως αυτό αναριθμείται με την παράγραφο 5 του παρόντος αντικαθίσταται ως εξής:

«ε) Στο Τμήμα Διοικητικής και Τεχνικής Υποστήριξης προΐσταται υπάλληλος κλάδου ΕΕΠ ή ΠΕ Διοικητικού - Οικονομικού ή ΠΕ Διοικητικού με αντίστοιχη προϋπηρεσία και, ελλείψει αυτών, υπάλληλος κλάδων ΠΕ Διοικητικού - Οικονομικού, ΠΕ Διοικητικού ή ΠΕ Οικονομικού με διοικητικές ικανότητες».

13. Στην παρ.1 του άρθρου 9 του Π.δ. 104/2012, όπως ισχύει και όπως αυτό αναριθμείται με την παράγραφο 5 του παρόντος προστίθενται στοιχεία ζ΄, η΄, θ΄, ι΄ και ια΄ ως εξής:

«ζ) Στο Τμήμα Διαχείρισης και Προγραμμάτων προΐσταται υπάλληλος κλάδου ΕΕΠ ή ΠΕ Διοικητικού - Οικονομικού ή ΠΕ Διοικητικού με αντίστοιχη προϋπηρεσία και άριστη γνώση αγγλικών και, ελλείψει αυτών υπάλληλος κλάδου ΠΕ Διοικητικού - Οικονομικού, ΠΕ Διοικητικού ή ΠΕ Οικονομικού με διοικητικές ικανότητες και πολύ καλή γνώση αγγλικών.

η) Στο Νομικό Τμήμα προΐσταται υπάλληλος κλάδου ΕΕΠ ή ΠΕ Διοικητικού - Οικονομικού ή ΠΕ Διοικητικού, πτυχιούχος νομικής, με αντίστοιχη προϋπηρεσία και άριστη γνώση αγγλικών και, ελλείψει αυτών υπάλληλος κλάδου ΠΕ Διοικητικού - Οικονομικού, ΠΕ Διοικητικού ή ΠΕ Οικονομικού, πτυχιούχος νομικής, με διοικητικές ικανότητες και πολύ καλή γνώση αγγλικών.

θ) Στο Τμήμα Εθνικής Μονάδας Δουβλίνου προΐσταται υπάλληλος κλάδου ΕΕΠ ή ΠΕ Διοικητικού - Οικονομικού ή ΠΕ Διοικητικού με αντίστοιχη προϋπηρεσία και άριστη γνώση αγγλικών και, ελλείψει αυτών υπάλληλος κλάδου ΠΕ Διοικητικού - Οικονομικού, ΠΕ Διοικητικού ή ΠΕ Οικονομικού με διοικητικές ικανότητες και πολύ καλή γνώση αγγλικών.

ι) Στο Τμήμα Πληροφορικής προΐσταται υπάλληλος κλάδου ΕΕΠ ή ΠΕ Πληροφορικής, με αντίστοιχη προϋπηρεσία και άριστη γνώση αγγλικών και, ελλείψει αυτών υπάλληλος κλάδου ΠΕ Πληροφορικής, με διοικητικές ικανότητες και πολύ καλή γνώση αγγλικών.

ια) Στη Γραμματεία Διευθυντή και το Γραφείο Δημοσίων Σχέσεων προΐσταται υπάλληλος κλάδου ΕΕΠ ή ΠΕ Διοικητικού - Οικονομικού ή ΠΕ Διοικητικού ή ΠΕ Επικοινωνίας και ΜΜΕ με αντίστοιχη προϋπηρεσία και άριστη γνώση αγγλικών, ελλείψει αυτών υπάλληλος κλάδου ΠΕ Διοικητικού - Οικονομικού, ΠΕ Διοικητικού ή ΠΕ Οικονομικού με διοικητικές ικανότητες και πολύ καλή γνώση αγγλικών και ελλείψει αυτών ΔΕ Διοικητικού - Λογιστικού με διοικητικές ικανότητες και πολύ καλή γνώση αγγλικών.»

14. Το άρθρο 10 του Π.δ. 104/2012, όπως ισχύει και όπως αυτό αναριθμείται με την παράγραφο 5 του παρόντος αντικαθίσταται ως εξής:

«Άρθρο 10
Προϊστάμενοι Περιφερειακών Υπηρεσιών Ασύλου

1. Στα Περιφερειακά Γραφεία Ασύλου και στα Αυτοτελή Κλιμάκια Ασύλου προΐσταται υπάλληλος κλάδων ΕΕΠ ή ΠΕ Διοικητικού - Οικονομικού ή ΠΕ Διοικητικού με αντίστοιχη προϋπηρεσία και πολύ καλή γνώση αγγλικών, ελλείψει αυτού υπάλληλος κλάδων ΠΕ Διοικητι-

κού - Οικονομικού, ΠΕ Διοικητικού ή ΠΕ Οικονομικού με διοικητικές ικανότητες, ελλείψει αυτού ΤΕ Διοικητικού - Λογιστικού με διοικητικές ικανότητες και ελλείψει αυτού ΔΕ Διοικητικού - Λογιστικού με διοικητικές ικανότητες. Πρόσθετα προσόντα δύναται να προσδιορίζονται με την προκήρυξη. Καθήκοντα προϊσταμένου μπορούν να ανατεθούν και σε προερχόμενους από απόσπαση υπαλλήλους.

2. Οι Προϊστάμενοι των Περιφερειακών Γραφείων Ασύλου και των Αυτοτελών Κλιμακίων Ασύλου προΐστανται αυτών και ευθύνονται για την αποτελεσματική εκπλήρωση της αποστολής τους. Ειδικότερα: α. είναι αρμόδιοι για την εποπτεία, τον έλεγχο και την αξιολόγηση του προσωπικού τους, καθώς και την κατανομή των σχετικών εργασιών τους, β. διαρθρώνουν και οργανώνουν σε γραφεία τα περιφερειακά γραφεία ασύλου ή τα αυτοτελή κλιμάκια ασύλου αντίστοιχα, γ. εξουσιοδοτούν ιεραρχικά υφιστάμενά τους όργανα να υπογράφουν, με εντολή τους, πράξεις ή άλλα έγγραφα της αρμοδιότητάς τους, σύμφωνα με τις κείμενες διατάξεις και δ. ασκούν κάθε άλλη αρμοδιότητα που ανατίθεται σε αυτούς από το Διευθυντή ή προβλέπεται στον Κανονισμό της Υπηρεσίας Ασύλου».

Άρθρο 21
Τροποποίηση του Π.δ. 141/2013 (Α΄ 226)

1. Το στοιχείο β΄ της παρ. 1 του άρθρου 17 του Π.δ. 141/2013 (Α΄ 226) αντικαθίσταται ως εξής:

«β) έχει διαπράξει σοβαρό έγκλημα πριν την είσοδο στη χώρα. Ως σοβαρό έγκλημα μπορεί να χαρακτηριστεί κακούργημα ή πλημμέλημα που τιμωρείται με ποινή φυλάκισης τουλάχιστον τριών ετών, καθώς και τα αδικήματα της βαριάς σωματικής βλάβης (ΠΚ 310), αρπαγής ανηλίκων (ΠΚ 324), ακούσιας απαγωγής (ΠΚ 327), προσβολής γενετήσιας αξιοπρέπειας (ΠΚ 337 παρ. 2-5), αποπλάνησης παιδιών (ΠΚ 339), κατάχρησης ανηλίκων σε ασέλγεια (ΠΚ 342), πορνογραφίας ανηλίκων (ΠΚ 348Α), προσέλκυσης παιδιών για γενετήσιους λόγους (ΠΚ 348Β), μαστροπείας (ΠΚ 349), εκμετάλλευσης πόρνης (ΠΚ 350), ασέλγειας με ανήλικο έναντι αμοιβής (ΠΚ 351Α) και εκβίασης (ΠΚ 385)».

2. Το άρθρο 23 του Π.δ. 141/2013 αντικαθίσταται ως εξής:

«Άρθρο 23
(Άρθρο 23 Οδηγίας)
Διατήρηση της οικογενειακής ενότητας

1. Οι αρμόδιες αρχές μεριμνούν ώστε να λαμβάνονται όλα τα αναγκαία μέτρα που διασφαλίζουν τη διατήρηση της οικογενειακής ενότητας.

2. Στα μέλη της οικογένειας του δικαιούχου καθεστώτος διεθνούς προστασίας, εφόσον δεν πληρούν ατομικά τις προϋποθέσεις για την αναγνώριση καθεστώτος διεθνούς προστασίας, μετά από αίτησή τους και με τις ίδιες διαδικασίες, χορηγούνται τα δικαιώματα που αναφέρονται στα άρθρα 24 έως και 36, εφόσον αυτό είναι συμβατό με άλλο καθεστώς που τα μέλη αυτά τυχόν απολαμβάνουν. Τα δικαιώματα αυτά πρέπει να εξασφαλίζουν ικανοποιητικό βιοτικό επίπεδο στο δικαιούχο και εφόσον χορηγηθούν, διατηρούνται αυτοτελώς και μετά την ενηλικίωση του ανηλίκου ή τη λύση της συζυγικής σχέσης συνέπεια διαζυγίου, διάστασης ή θανάτου του δικαιούχου διεθνούς προστασίας.

3. Τα ως άνω δικαιώματα δεν χορηγούνται ή ανακαλούνται όταν το μέλος της οικογένειας αποκλείεται ή θα αποκλειόταν από το καθεστώς διεθνούς προστασίας, κατ' εφαρμογή των Κεφαλαίων Γ΄ και Ε΄.

4. Ο προϊστάμενος του περιφερειακού γραφείου ασύλου με απόφασή του αρνείται, περιορίζει, ή ανακαλεί τα προαναφερόμενα ευεργετήματα για λόγους εθνικής ασφάλειας ή δημόσιας τάξης.

5. Το παρόν άρθρο έχει εφαρμογή και στους γονείς του δικαιούχου διεθνούς προστασίας, οι οποίοι συγκατοικούσαν με την οικογένεια ως τμήμα της κατά το χρόνο αναχώρησης από τη χώρα καταγωγής, ήταν δε τότε εξαρτημένοι από αυτόν, εν όλω ή κατά κύριο λόγο, εφόσον βρίσκονται στη χώρα και δεν πληρούν ατομικά τις προϋποθέσεις για την αναγνώριση καθεστώτος διεθνούς προστασίας».

3. Το άρθρο 24 του Π.δ. 141/2013 αντικαθίσταται ως εξής:

«Άρθρο 24
(Άρθρο 24 Οδηγίας) Άδειες διαμονής

1. Σε αλλοδαπό ή ανιθαγενή ο οποίος αναγνωρίζεται ως δικαιούχος διεθνούς προστασίας χορηγείται από την αρμόδια αρχή παραλαβής, με την επιφύλαξη της παραγράφου 3 του άρθρου 21, άδεια διαμονής τριετούς διάρκειας. Η άδεια ανανεώνεται με απόφαση του Προϊσταμένου του Περιφερειακού Γραφείου Ασύλου μετά από αίτηση του ενδιαφερόμενου, η οποία υποβάλλεται στην αρμόδια αρχή παραλαβής, το αργότερο τριάντα ημερολογιακές ημέρες πριν τη λήξη της. Η εκπρόθεσμη χωρίς αιτιολογία υποβολή της αίτησης ανανέωσης δεν μπορεί από μόνη της να οδηγήσει σε απόρριψή της.

2. Οι αναφερόμενες στην παράγραφο 1 άδειες διαμονής δεν χορηγούνται ή δεν ανανεώνονται με απόφαση του Προϊσταμένου του Περιφερειακού Γραφείου Ασύλου, όταν εξετάζεται ανάκληση του καθεστώτος διεθνούς προστασίας, εφόσον συντρέχουν λόγοι δημόσιας τάξης ή εθνικής ασφάλειας.

3. Στην περίπτωση του άρθρου 23 παράγραφος 2, στα μέλη της οικογένειας των δικαιούχων διεθνούς προστασίας χορηγούνται άδειες διαμονής για όσο χρόνο ισχύει η άδεια διαμονής του δικαιούχου. Στην περίπτωση που δικαιούχος διεθνούς προστασίας αποκτήσει τέκνο στο πλαίσιο οικογένειας που υπήρχε πριν την είσοδο στη χώρα, στο τέκνο αυτό χορηγείται άδεια διαμονής, σύμφωνα με το προηγούμενο εδάφιο, μετά από αίτηση του δικαιούχου, η οποία υποχρεωτικά συνοδεύεται από τη ληξιαρχική πράξη γέννησης του τέκνου.

4. Σε μέλη οικογένειας δικαιούχου διεθνούς προστασίας, η οποία δημιουργείται μετά την είσοδό του στη χώρα και εντός αυτής, χορηγείται άδεια διαμονής σύμφωνα με την παράγραφο 3, μετά από αίτηση του δικαιούχου και την προσκόμιση, για τους συζύγους, της σχετικής ληξιαρχικής πράξης γάμου με κάτοχο άδειας διαμονής σε ισχύ, και για τους γονείς και τα τέκνα, ληξιαρχικής πράξης γέννησης ή πράξης αναγνώρισης τέκνου. Η άδεια δεν χορηγείται αν αυτό δεν είναι συμβατό με άλλο καθεστώς που τα μέλη της οικογένειας ήδη απολαμβάνουν.

5. Η ως άνω άδεια διαμονής, η οποία αποδεικνύει την ταυτοπροσωπία των δικαιούχων διεθνούς προστασίας, εκτυπώνεται από τη Διεύθυνση Διαβατηρίων του Αρχηγείου Ελληνικής Αστυνομίας».

Άρθρο 22
Χορήγηση άδειας διαμονής για ανθρωπιστικούς λόγους σε αιτούντες διεθνή προστασία.

1.α Κατά παρέκκλιση των διατάξεων των παρ. 1 και 2 του άρθρου 28 του Π.δ. 114/2010, όπως έχουν τροποποιηθεί και ισχύουν, ο Γενικός Γραμματέας Δημόσιας Τάξης του Υπουργείου Εσωτερικών και Διοικητικής Ανασυγκρότησης χορηγεί καθεστώς παραμονής για ανθρωπιστικούς λόγους σε αιτούντες διεθνούς προστασίας, που είναι κάτοχοι δελτίου αιτήσαντος σε ισχύ, των οποίων η αίτηση είχε υποβληθεί έως και πέντε (5) έτη πριν την έναρξη ισχύος του παρόντος και η εξέτασή της εκκρεμεί σε β' βαθμό, εκτός εάν συντρέχει κίνδυνος για την εθνική ασφάλεια ή για την κοινωνία της χώρας, ιδίως λόγω τελεσίδικης καταδίκης του αιτούντος για τη διάπραξη σοβαρού εγκλήματος.

β. Ως σοβαρό έγκλημα μπορεί να χαρακτηριστεί κακούργημα ή πλημμέλημα που τιμωρείται με ποινή φυλάκισης τουλάχιστον ενός (1) έτους, καθώς και τα αδικήματα της βαριάς σωματικής βλάβης (ΠΚ 310), αρπαγής ανηλίκων (ΠΚ 324), ακούσιας απαγωγής (ΠΚ 327), προσβολής γενετήσιας αξιοπρέπειας (ΠΚ 337 παρ. 2-5), αποπλάνησης παιδιών (ΠΚ 339), κατάχρησης ανηλίκων σε ασέλγεια (ΠΚ 342), πορνογραφίας ανηλίκων (ΠΚ 348Α), προσέλκυσης παιδιών για γενετήσιους λόγους (ΠΚ 348Β), μαστροπείας (ΠΚ 349), εκμετάλλευσης πόρνης (ΠΚ 350), ασέλγειας με ανήλικο έναντι αμοιβής (ΠΚ 351Α) και εκβίασης (ΠΚ 385).

2. Η άδεια παραμονής της παραγράφου 1 του παρόντος, χορηγείται για δύο έτη και μπορεί να ανανεωθεί με αίτηση που υποβάλλεται στον Υπουργό Εσωτερικών και Διοικητικής Ανασυγκρότησης εφόσον συντρέχουν οι προϋποθέσεις του άρθρου 19Α παρ. 1 περίπτωση στ΄ του ν. 4251/2014 χωρίς την προηγούμενη παραπομπή από τις Επιτροπές Προσφυγών Ασύλου του Π.δ. 114/2010, όπως τροποποιήθηκε και ισχύει, ή για έναν από τους λόγους του ν. 4251/2014.

3. Στις περιπτώσεις της παραγράφου 1 του παρόντος, οι εκκρεμείς προσφυγές δεν εξετάζονται κατά τα προβλεπόμενα στο Π.δ. 114/2010 και η διοικητική διαδικασία καταργείται, εκτός εάν ο ενδιαφερόμενος υποβάλει στις αρμόδιες αρχές παραλαβής, του άρθρου 2 παρ. ιδ΄ του Π.δ. 114/2010, αίτηση ενώπιον των Επιτροπών Προσφυγών, περί εξέτασης της προσφυγής του ως προς τις προϋποθέσεις χορήγησης καθεστώτος διεθνούς προστασίας, εντός δύο μηνών από την επίδοση της απόφασης περί χορήγησης καθεστώτος παραμονής για ανθρωπιστικούς λόγους. Σε περίπτωση υποβολής αίτησης σύμφωνα με το προηγούμενο εδάφιο, για εξέταση της προσφυγής, ως προς τις προϋποθέσεις χορήγησης καθεστώτος διεθνούς προστασίας ενώπιον των Επιτροπών Προσφυγών, χορηγείται στον αιτούντα δελτίο αιτήσαντος άσυλο αλλοδαπού και η διαδικασία συνεχίζεται σύμφωνα με τις διατάξεις του Π.δ. 114/2010.

Άρθρο 23
Τροποποίηση του Π.δ. 114/2010 (Α΄ 195)

1. Η παρ. 4 του άρθρου 25 του Π.δ. 114/2010, όπως αυτή αντικαταστάθηκε με το άρθρο 2 του Π.δ. 167/2014 (Α΄ 252), αντικαθίσταται ως εξής:

«Προσφυγές που υποβάλλονται μετά την πάροδο των προθεσμιών της παραγράφου 1 εξετάζονται κατά προτεραιότητα από την Επιτροπή Προσφυγών που αποφασίζει επί του παραδεκτού. Όταν η Επιτροπή κρίνει την προσφυγή παραδεκτή, εκδίδει σχετική απόφαση η οποία επιδίδεται σύμφωνα με τα οριζόμενα στο άρθρο 7 και χορηγείται εκ νέου το δελτίο αιτούντος. Η εξέταση επί της ουσίας πραγματοποιείται σε επόμενο στάδιο, σύμφωνα με τις διατάξεις της παρ. 6 του άρθρου 26. Σε αντίθετη περίπτωση η προσφυγή απορρίπτεται. Σε περίπτωση άσκησης προσφυγής κατά απόφασης ανάκλησης καθεστώτος διεθνούς προστασίας, επιστρέφεται στον προσφεύγοντα η άδεια διαμονής του».

2. Στην παρ. 5 του άρθρου 26 του Π.δ. 114/2010 (Α΄ 195) προστίθεται τελευταίο εδάφιο ως εξής:

«Σε κάθε περίπτωση πραγματοποιείται ακρόαση του προσφεύγοντα όταν αυτός υποβάλει σχετικό αίτημα τουλάχιστον δύο (2) ημέρες πριν την εξέταση της προσφυγής».

3. Η περίπτωση Α΄ της παραγράφου 1 του άρθρου 26 του Π.δ. 114/2010, όπως αντικαταστάθηκε με το άρθρο 3 του Π.δ. 167/2014, αντικαθίσταται ως εξής:

«α. έναν υπάλληλο Υπουργείου ή νομικού προσώπου που εποπτεύεται από Υπουργείο, περιλαμβανομένων των Ο.Τ.Α., κατηγορίας ΠΕ πτυχιούχο ανθρωπιστικών, νομικών και κοινωνικών επιστημών, ως Πρόεδρο ο οποίος ορίζεται με τον αναπληρωτή του από τον οικείο Υπουργό».

4. Στις Επιτροπές Προσφυγών των άρθρων 26 και 32 του Π.δ. 114/2010 μπορεί να ορίζονται με απόφαση του αρμόδιου Αναπληρωτή Υπουργού Εσωτερικών και Διοικητικής Ανασυγκρότησης ως πρόεδροι, πρόσωπα με εξειδίκευση ή εμπειρία στους τομείς διεθνούς προστασίας ή των δικαιωμάτων του ανθρώπου ή στο διεθνές δίκαιο, από σχετικό κατάλογο που καταρτίζει προς το σκοπό αυτό η Ύπατη Αρμοστεία του ΟΗΕ για τους Πρόσφυγες.

Άρθρο 24
Τροποποίηση του Π.δ. 167/2014 (Α΄ 252)

Η παράγραφος 1.α. του άρθρου 7 του Π.δ. 167/2014, αντικαθίσταται ως εξής:

«1.α. Κατά παρέκκλιση των διατάξεων των παραγράφων 2 και 3 του άρθρου 14 του Π.δ. 114/2010, η αποφαινόμενη αρχή του άρθρου 2 σημείο ιθ΄ του Π.δ. 114/2010 διακόπτει, λόγω σιωπηρής ανάκλησης, τη διαδικασία εξέτασης των αιτημάτων διεθνούς προστασίας τα οποία, κατά την έναρξη ισχύος του παρόντος, έχουν απορριφθεί σε α΄ βαθμό και εκκρεμεί η εξέτασή τους σε β΄ βαθμό, εφόσον ο αιτών δεν είχε εμφανισθεί για να ανανεώσει το ειδικό δελτίο αιτήσαντος άσυλο αλλοδαπού μέχρι την 31η Αυγούστου 2015. Για τη διακοπή αυτή η αποφαινόμενη αρχή εκδίδει σχετική πράξη, η οποία επιδίδεται στον αιτούντα σύμφωνα με τις διατάξεις των άρθρων 47 και επόμενα του Κώδικα Διοικητικής Δικονομίας (ν. 2717/1999, Α΄ 97)».

ΜΕΡΟΣ ΔΕΥΤΕΡΟ
ΚΕΦΑΛΑΙΟ Α΄

ΜΕΤΟΝΟΜΑΣΙΑ ΤΗΣ ΓΕΝΙΚΗΣ ΓΡΑΜΜΑΤΕΙΑΣ ΠΛΗΘΥΣΜΟΥ ΚΑΙ ΚΟΙΝΩΝΙΚΗΣ ΣΥΝΟΧΗΣ – ΣΥΣΤΑΣΗ ΓΕΝΙΚΗΣ ΓΡΑΜΜΑΤΕΙΑΣ ΥΠΟΔΟΧΗΣ - ΜΕΤΑΦΟΡΑ ΑΡΜΟΔΙΟΤΗΤΩΝ ΚΑΙ ΑΛΛΕΣ ΔΙΑΤΑΞΕΙΣ

Άρθρο 25
Μετονομασία της Γενικής Γραμματείας Πληθυσμού και Κοινωνικής Συνοχής

1. Η Γενική Γραμματεία Πληθυσμού και Κοινωνικής Συνοχής του Υπουργείου Εσωτερικών και Διοικητικής

Ανασυγκρότησης που συστάθηκε με το Π.δ. 11/2010 (Α΄ 15), όπως μετονομάσθηκε με την υποπερίπτωση αα΄ της περίπτωσης γ΄ της παρ. 1 του άρθρου 2 του Π.δ. 96/2010 (Α΄ 170) μετονομάζεται σε Γενική Γραμματεία Μεταναστευτικής Πολιτικής.

Άρθρο 26
Σύσταση Γενικής Γραμματείας Υποδοχής - Συγκρότηση

1. Συνιστάται Γενική Γραμματεία Υποδοχής, η οποία υπάγεται στο Υπουργείο Εσωτερικών και Διοικητικής Ανασυγκρότησης.

2. Στη Γενική Γραμματεία Υποδοχής υπάγεται η Υπηρεσία Υποδοχής και Ταυτοποίησης του άρθρου 8 του παρόντος και η Διεύθυνση Υποδοχής που συνιστάται με το επόμενο άρθρο.

3. Συνιστάται θέση μετακλητού Γενικού Γραμματέα με βαθμό 1ο Ειδικών Θέσεων. Για τη στελέχωση του Γραφείου του Γενικού Γραμματέα Υποδοχής εφαρμόζεται το άρθρο 55 του Π.δ. 63/2005, όπως ισχύει.

Άρθρο 27
Συγκρότηση και Αρμοδιότητες Διεύθυνσης Υποδοχής

1. Στη Γενική Γραμματεία Υποδοχής του Υπουργείου Εσωτερικών και Διοικητικής Ανασυγκρότησης συνιστάται Διεύθυνση Υποδοχής, η οποία έχει ως στόχο τη μελέτη, το σχεδιασμό και την εφαρμογή της πολιτικής υποδοχής αιτούντων διεθνούς προστασίας και ασυνόδευτων ανήλικων.

2. Η Διεύθυνση Υποδοχής συγκροτείται από τα ακόλουθα Τμήματα:

α. το Τμήμα Στέγασης, το οποίο είναι αρμόδιο:

αα) για τη μελέτη, σχεδιασμό και παρακολούθηση της εφαρμογής της πολιτικής για την κάλυψη των στεγαστικών αναγκών των αιτούντων διεθνούς προστασίας και ασυνόδευτων ανήλικων,

ββ) για τη συνεργασία με συναρμόδια Υπουργεία, τη Γενική Διεύθυνση Εσωτερικών Υποθέσεων της Ευρωπαϊκής Επιτροπής, την Ύπατη Αρμοστεία του Ο.Η.Ε. για τους Πρόσφυγες, φορείς της κοινωνίας των πολιτών και άλλους κατά περίπτωση αρμόδιους φορείς, για τη χάραξη και υλοποίηση της ως άνω πολιτικής,

γγ) για τη μελέτη, ανάπτυξη και επεξεργασία του θεσμικού πλαισίου προδιαγραφών που αφορούν στην ίδρυση και λειτουργία των κέντρων υποδοχής και δομών φιλοξενίας αιτούντων διεθνούς προστασίας και ασυνόδευτων ανήλικων,

δδ) για την ίδρυση, λειτουργία και εποπτεία των κέντρων υποδοχής και δομών φιλοξενίας αιτούντων διεθνούς προστασίας και ασυνόδευτων ανήλικων,

εε) για την ανάπτυξη συνεργασίας με το τμήμα προστασίας ευπαθών ομάδων της διεύθυνσης κοινωνικής αντίληψης και αλληλεγγύης, ώστε να διασφαλιστεί η πληρότητα και καταλληλότητα των προδιαγραφών κατά τις ακολουθούμενες διαδικασίες, καθώς και η αποτελεσματική εποπτεία του συστήματος διαχείρισης αιτημάτων στέγασης αιτούντων άσυλο και ασυνόδευτων ανηλίκων.

β. το Τμήμα Υπηρεσιών Υποδοχής, το οποίο είναι αρμόδιο:

αα) για τη μελέτη, σχεδιασμό και παρακολούθηση της εφαρμογής της πολιτικής υποδοχής αιτούντων διεθνούς προστασίας, κατά την έννοια του ενωσιακού δικαίου, όπως ισχύει, σχετικά με τις ελάχιστες απαιτήσεις για την υποδοχή των αιτούντων διεθνούς προστασίας. Η πολιτική υποδοχής αφορά την παροχή πλήρους δέσμης μέτρων για την υποδοχή των αιτούντων, συμπεριλαμβανομένων των υλικών συνθηκών υποδοχής, καθώς και τη θέσπιση των απαιτούμενων διαδικασιών, πρωτοκόλλων και κριτηρίων χορήγησης των εν λόγω συνθηκών υποδοχής.

ββ) για τη συνεργασία με συναρμόδια Υπουργεία, τη Γενική Διεύθυνση Εσωτερικών Υποθέσεων της Ευρωπαϊκής Επιτροπής, την Ύπατη Αρμοστεία του Ο.Η.Ε. για τους Πρόσφυγες, φορείς της κοινωνίας των πολιτών και άλλους κατά περίπτωση αρμόδιους φορείς, για τη χάραξη και υλοποίηση των ως άνω πολιτικών,

γγ) για τη μελέτη, ανάπτυξη και επεξεργασία του θεσμικού πλαισίου προδιαγραφών που αφορούν την παροχή των υπηρεσιών υποδοχής αιτούντων διεθνούς προστασίας στις οποίες συμπεριλαμβάνονται οι υπηρεσίες ψυχοκοινωνικής υποστήριξης, νομικής συνδρομής και κατάλληλης πρόσβασης στα συστήματα υγείας και παιδείας, καθώς και στην αγορά εργασίας. Ειδική μέριμνα λαμβάνει για την ανάπτυξη και επεξεργασία του θεσμικού πλαισίου προδιαγραφών που αφορούν στις διαδικασίες πιστοποίησης, αποκατάστασης και κατάλληλης διαχείρισης ευάλωτων προσώπων που συμπεριλαμβάνονται στις ανωτέρω ομάδες, όπως: πρόσωπα με αναπηρία ή σοβαρή ασθένεια, εθισμένοι χρήστες ουσιών, ηλικιωμένοι, έγκυοι, άγαμοι γονείς ή μονογονεϊκές οικογένειες με ανήλικα τέκνα, γυναίκες σε κύηση ή λοχεία, πρόσωπα που υπήρξαν θύματα βασανιστηρίων, βιασμού ή άλλων σοβαρών μορφών ψυχολογικής, σωματικής ή σεξουαλικής βίας, καθώς και θύματα εκμετάλλευσης, εμπορίας και διακίνησης,

γ. το Τμήμα Προστασίας Ασυνόδευτων Ανήλικων, το οποίο είναι αρμόδιο:

αα) Για τη μελέτη, σχεδιασμό και παρακολούθηση της εφαρμογής της πολιτικής για την υποδοχή και την κοινωνική προστασία των ασυνόδευτων ανήλικων, στο πλαίσιο των οποίων παρέχονται οι απαιτούμενες εγγυήσεις, με ειδική μέριμνα ως προς τη θεσμική κατοχύρωση της νομιμότητας παραμονής τους στη χώρα, τη νομική τους εκπροσώπηση και την ανάπτυξη συμπληρωματικών πλαισίων προστασίας, στη βάση των καταγραφόμενων αναγκών επί του πεδίου. Σε αυτά περιλαμβάνονται, μεταξύ άλλων, θεσμικές εγγυήσεις ως προς την επάρκεια εκπροσώπησής τους, τις κατάλληλες συνθήκες διαμονής, καθώς και την οικογενειακή ενότητα και τη δυνατότητα επανένωσης, κατά την έννοια της Οδηγίας 2013/32/ΕΕ σχετικά με τις απαιτήσεις για την αναγνώριση και το καθεστώς των αλλοδαπών ή των ανιθαγενών ως δικαιούχων διεθνούς προστασίας, όπως ενσωματώνεται στο εθνικό δίκαιο με τον παρόντα νόμο.

ββ) Για τη συνεργασία με συναρμόδια Υπουργεία, τη Γενική Διεύθυνση Εσωτερικών Υποθέσεων της Ευρωπαϊκής Επιτροπής, την Ύπατη Αρμοστεία του Ο.Η.Ε. για τους Πρόσφυγες, φορείς της κοινωνίας των πολιτών και άλλους κατά περίπτωση αρμόδιους φορείς, για τη χάραξη και υλοποίηση της ως άνω πολιτικής.

γγ) Για την ανάπτυξη συνεργασίας με το τμήμα προστασίας ευπαθών ομάδων της διεύθυνσης κοινωνικής αντίληψης και αλληλεγγύης, ώστε να διασφαλιστεί η πληρότητα και καταλληλότητα των προδιαγραφών κατά

τις ακολουθούμενες διαδικασίες, καθώς και η αποτελεσματική εποπτεία του συστήματος διαχείρισης αιτημάτων στέγασης ασυνόδευτων ανηλίκων.

δ. Το Τμήμα Υλοποίησης Προγραμμάτων Υποδοχής, το οποίο είναι αρμόδιο για:

αα) Τη μελέτη εφαρμογής, το σχεδιασμό, την παρακολούθηση του φυσικού αντικειμένου ή/και την υλοποίηση του φυσικού αντικειμένου προγραμμάτων υποδοχής αιτούντων διεθνούς προστασίας και ασυνόδευτων ανήλικων.

ββ) Για την εξασφάλιση της συνοχής και της συμπληρωματικότητας μεταξύ των συγχρηματοδοτήσεων των εθνικών και ευρωπαϊκών προγραμμάτων και εκείνων που προβλέπονται στο πλαίσιο άλλων εθνικών, κοινοτικών και ιδιωτικών χρηματοδοτικών μέσων.

ε. Το Τμήμα Επιχειρησιακού Συντονισμού, το οποίο είναι αρμόδιο για:

αα) το συντονισμό των δράσεων Υποδοχής στο σύνολο της χώρας,

ββ) την υποβολή προτάσεων για τις αναγκαίες τροποποιήσεις και βελτιώσεις των διαδικασιών και της οργάνωσης και λειτουργίας αυτών,

γγ) τη μέριμνα για την επικοινωνία και συνεργασία με το Υπουργείο Εργασίας, Κοινωνικής Ασφάλισης και Κοινωνικής Αλληλεγγύης, το Υπουργείο Εθνικής Άμυνας, τη Γενική Γραμματεία Πρόνοιας, τη Γενική Γραμματεία Πολιτικής Προστασίας και οποιονδήποτε άλλο δημόσιο φορέα και υπηρεσία του Δημοσίου, με Ανεξάρτητες Αρχές, με Διεθνείς Οργανισμούς, με Μη Κυβερνητικές Οργανώσεις, λοιπούς φορείς της κοινωνίας των πολιτών και νομικά πρόσωπα προς το σκοπό διαχείρισης της ανθρωπιστικής βοήθειας,

δδ) την τήρηση καταλόγου πιστοποιημένων φορέων της κοινωνίας των πολιτών και διερμηνέων.

3. Οι αρμοδιότητες του Τμήματος προστασίας Ευπαθών Ομάδων, Προσφύγων - Αιτούντων Άσυλο της Διεύθυνσης Κοινωνικής Αντίληψης και Αλληλεγγύης της Γενικής Διεύθυνσης Πρόνοιας του Υπουργείου Εργασίας, Κοινωνικής Ασφάλισης και Κοινωνικής Αλληλεγγύης, που προβλέπονται στις περιπτώσεις αβ΄ έως αε΄ της παρ. 3 του άρθρου 38 του Π.δ. 113/2014 (Α΄ 180), ως προς το σκέλος που αφορά προγράμματα κοινωνικής προστασίας αιτούντων άσυλο και δικαιούχων διεθνούς προστασίας, πλην αυτών που αφορούν ασυνόδευτα ανήλικα, ασκούνται από τα αρμόδια τμήματα της Διεύθυνσης Υποδοχής της Γενικής Γραμματείας Υποδοχής του Υπουργείου Εσωτερικών και Διοικητικής Ανασυγκρότησης, σύμφωνα με τα οριζόμενα στο παρόν άρθρο.

Άρθρο 28
Σύσταση Διεύθυνσης Οικονομικών Υπηρεσιών Μεταναστευτικής Πολιτικής

1. Στο Υπουργείο Εσωτερικών και Διοικητικής Ανασυγκρότησης, όπως οριοθετείται με τις διατάξεις του ισχύοντος Π.δ. 105/2014 (Α΄ 172), συνιστάται αυτοτελής Διεύθυνση Οικονομικών Υπηρεσιών Μεταναστευτικής Πολιτικής, η οποία υπάγεται στον Υπουργό Εσωτερικών και Διοικητικής Ανασυγκρότησης αρμόδιο για θέματα μεταναστευτικής πολιτικής.

2. Η Διεύθυνση Οικονομικών Υπηρεσιών Μεταναστευτικής Πολιτικής έχει ίδιο προϋπολογισμό ως Ειδικός Φορέας του Υπουργείου Εσωτερικών και Διοικητικής Ανασυγκρότησης, όπου εγγράφονται πιστώσεις για την αντιμετώπιση των αναγκών υλοποίησης της μεταναστευτικής πολιτικής. Αρμόδιος διατάκτης των σχετικών πιστώσεων είναι ο Υπουργός Εσωτερικών και Διοικητικής Ανασυγκρότησης.

3. Η Διεύθυνση Οικονομικών Υπηρεσιών Μεταναστευτικής Πολιτικής έχει ως αρμοδιότητα την κατάρτιση και εκτέλεση του προϋπολογισμού, την παρακολούθηση και την εποπτεία των οικονομικών μεγεθών, τη διενέργεια των προμηθειών και τη διοικητική μέριμνα των υπηρεσιών που είναι αρμόδιες για την εφαρμογή της Μεταναστευτικής Πολιτικής.

4. Ο Προϊστάμενος της Διεύθυνσης Οικονομικών Υπηρεσιών Μεταναστευτικής Πολιτικής, ασκεί και τα καθήκοντα και τις αρμοδιότητες των παραγράφων 4 και 5 του άρθρου 24 του ν. 4270/2014 (Α΄ 143), όπως αυτές αντικαταστάθηκαν με την παράγραφο 6 του άρθρου 10 του ν. 4337/2015 (Α΄ 129).

5. Η Διεύθυνση Οικονομικών Υπηρεσιών Μεταναστευτικής Πολιτικής συγκροτείται από τα ακόλουθα Τμήματα:

α. Τμήμα Προϋπολογισμού,

β. Τμήμα Προμηθειών και Διοικητικής Μέριμνας και

γ. Τμήμα Διαχείρισης και Πληρωμών Π.Δ.Ε. και Λοιπών Δράσεων.

6. Οι αρμοδιότητες των Τμημάτων που υπάγονται στην Διεύθυνση Οικονομικών Υπηρεσιών Μεταναστευτικής Πολιτικής κατανέμονται ως ακολούθως:

α. Το Τμήμα Προϋπολογισμού είναι αρμόδιο για:

αα. Τη συγκέντρωση και επεξεργασία των αναγκαίων στοιχείων για την κατάρτιση ή τροποποίηση του τακτικού προϋπολογισμού.

ββ. Την κατάρτιση και παρακολούθηση του Μεσοπρόθεσμου Πλαισίου Δημοσιονομικής Στρατηγικής, κατά λόγο αρμοδιότητας.

γγ. Τον καθορισμό των ορίων διάθεσης πιστώσεων των μηνιαίων πληρωμών, την έγκριση, ανάληψη και αναγνώριση των δαπανών του προϋπολογισμού, ιδίως σε ό,τι αφορά σε:

α. Αυξομειώσεις πιστώσεων και ποσοστού διάθεσης πιστώσεων.

β. Παρακολούθηση των ορίων πληρωμών πιστώσεων.

γ. Έκδοση αποφάσεων αναλήψεων πιστώσεων.

δδ. Κατάρτιση και παρακολούθηση του μηναίου προγράμματος εκτέλεσης του Τακτικού Προϋπολογισμού και των τριμηνιαίων ανώτατων ορίων πληρωμών.

εε. Την καταβολή επιχορηγήσεων και εισφορών στον Διεθνή Οργανισμό Μετανάστευσης.

στστ. Τη μεταφορά και μεταβίβαση πιστώσεων για την υλοποίηση της μεταναστευτικής πολιτικής.

ζζ. Την τήρηση συστήματος ηλεκτρονικής καταγραφής και αποθήκευσης των λογιστικών γεγονότων μέσω του Μητρώου δεσμεύσεων και πληρωμών και την αποστολή των στοιχειών αυτών στο Γενικό Λογιστήριο του Κράτους.

ηη. Τη συλλογή, παρακολούθηση και επεξεργασία οικονομικών στοιχείων σχετικών με τη μεταναστευτική πολιτική, κατά λόγο αρμοδιότητας.

θθ. Τη συλλογή, παρακολούθηση και επεξεργασία οικονομικών στοιχείων οικονομικών στοιχείων που σχετίζονται με δαπάνες μεταναστευτικών και προσφυγικών ροών.

β. Το Τμήμα Προμηθειών και Διοικητικής Μέριμνας είναι αρμόδιο για:

αα. Τη διαχείριση των απαραίτητων διαδικασιών για τη σύναψη και εκτέλεση συμβάσεων προμήθειας ειδών και παροχής υπηρεσιών.

ββ. Την τήρηση ηλεκτρονικού αρχείου με όλα τα στοιχεία για τους διαγωνισμούς, τις προσφορές και τους προμηθευτές και η ταυτόχρονη χρήση του Εθνικού Συστήματος Ηλεκτρονικών Δημόσιων Συμβάσεων (Ε.Σ.Η.ΔΗ.Σ.).

γγ. Την κοστολόγηση των, προς προμήθεια, ειδών και υπηρεσιών, ύστερα από έρευνα αγοράς και συλλογής στοιχείων, με σκοπό την εξεύρεση βέλτιστης οικονομικής αποτίμησης αυτών.

δδ. Την έκδοση χρηματικών ενταλμάτων προπληρωμής.

εε. Τη μέριμνα για τις δαπάνες στέγασης, καθαριότητας, συντήρησης, φύλαξης και ασφάλειας των κτιρίων και εγκαταστάσεων αρμοδιότητας Μεταναστευτικής Πολιτικής.

στστ. Την εκκαθάριση πληρωμών των δαπανών από προμήθειες ειδών και παροχή υπηρεσιών, λειτουργικών δαπανών, καθώς και δαπανών δημοσίων σχέσεων και λοιπών αμοιβών τρίτων.

ζζ. Την κάλυψη των αναγκών μετακίνησης για την εκπροσώπηση και υποστήριξη των αντίστοιχων πολιτικών σε θέματα μεταναστευτικής πολιτικής.

ηη. Την ομαλή λειτουργία όλων των εγκαταστάσεων και υποδομών, την απογραφή, αξιοποίηση και συντήρηση όλων των συσκευών και μηχανών γραφείου, την διαχείριση υλικού, μηχανημάτων, εφοδίων ή άλλου περιουσιακού στοιχείου, καθώς και την απομάκρυνση όσων χαρακτηρίζονται ως άχρηστες ή ακατάλληλες, πλην του εξοπλισμού πληροφορικής και επικοινωνιών.

θθ. Την παρακολούθηση και τον έλεγχο της διαχείρισης του συνόλου των αναλώσιμων και μη υλικών και η μέριμνα για την παραλαβή, αποθήκευση, διακίνηση και διάθεση αυτών, την παρακολούθηση και ενημέρωση για τις ανάγκες ανανέωσης των αποθεμάτων, καθώς και η καταστροφή του προς εκκαθάριση υλικού.

γ. Το Τμήμα Διαχείρισης και Πληρωμών Π.Δ.Ε. και Λοιπών Δράσεων είναι αρμόδιο για:

αα. Την κατάρτιση προγράμματος δημοσίων επενδύσεων έργων και μελετών και λοιπών δράσεων που χρηματοδοτούνται από ευρωπαϊκά, διεθνή και άλλα προγράμματα για την υλοποίηση Μεταναστευτικής Πολιτικής και τυχόν τροποποιήσεις αυτών.

ββ.Τη μέριμνα για τη χρηματοδότηση των ανωτέρω καθώς και την παρακολούθηση της προόδου εκτέλεσης αυτών.

γγ. Την έκδοση εντολών κατανομής Π.Δ.Ε. και λοιπών δράσεων για την πίστωση των λογαριασμών των έργων που τηρούνται στην οικεία Τράπεζα.

δδ. Τη μέριμνα για την κατάρτιση του συνολικού προϋπολογισμού του Π.Δ.Ε. και λοιπών δράσεων, τον καθορισμό των ορίων των πιστώσεων, καθώς και την ανακατανομή των πιστώσεων του Π.Δ.Ε. και λοιπών δράσεων.

εε. Τη διασφάλιση της εκτέλεσης του Προϋπολογισμού Δημοσίων Επενδύσεων και λοιπών δράσεων εντός της διαθέσιμης πίστωσης.

στστ. Τη μέριμνα για τη συλλογή και εισαγωγή των στοιχείων του Πληροφοριακού Συστήματος Παρακολούθησης Πληρωμών και Οφειλών Δημοσίων Επενδύσεων (ΠΣΥΠΠΟΔΕ) για όλα τα έργα αρμοδιότητάς της.

ζζ. Την πληρωμή των δαπανών του συγχρηματοδοτούμενου και εθνικού σκέλους Π.Δ.Ε. και λοιπών δράσεων για τα θέματα Μεταναστευτικής Πολιτικής, καθώς και οποιαδήποτε άλλη πράξη που αφορά στη διενέργεια των δαπανών αυτών.

ηη. Την τήρηση συστήματος ηλεκτρονικής καταγραφής και αποθήκευσης των λογιστικών γεγονότων μέσω του Μητρώου δεσμεύσεων και πληρωμών και η αποστολή των στοιχείων αυτών στο Γενικό Λογιστήριο του Κράτους.

θθ. Την προετοιμασία και προώθηση σχεδίων που αφορούν σε διαχείριση ή παροχή κρατικών πόρων, οι οποίοι εμπεριέχουν στοιχεία κρατικής ενίσχυσης κατά την έννοια των διατάξεων του άρθρου 107.1 της Συνθήκης για την λειτουργία της Ευρωπαϊκής Ένωσης, καθώς και την υποβολή τέτοιων σχεδίων για γνωμοδότηση επ' αυτών ή προς έγκριση στην Κεντρική Μονάδα Κρατικών Ενισχύσεων του Υπουργείου Οικονομικών.

ιι. Την εποπτεία και υποστήριξη των φορέων αρμοδιότητάς της σε ό,τι αφορά στην τήρηση των κανόνων περί κρατικών ενισχύσεων κατά την υλοποίηση μέτρων ή/και προγραμμάτων που εμπεριέχουν στοιχεία κρατικής ενίσχυσης.

ιαια. Την κατάρτιση και παρακολούθηση του Μεσοπρόθεσμου Πλαισίου Δημοσιονομικής Στρατηγικής (ΜΠΔΣ).

ιβιβ. Την αξιολόγηση της δημοσιονομικής επίπτωσης κάθε πολιτικής προγράμματος ή δράσης και την παροχή γνώμης για κάθε πολιτική, πρόγραμμα ή δράση επί θεμάτων μεταναστευτικής πολιτικής με δημοσιονομική επίπτωση.

ιγιγ. Τη συλλογή, παρακολούθηση και επεξεργασία οικονομικών στοιχείων σχετικών με την μεταναστευτική πολιτική, κατά λόγο αρμοδιότητας.

Άρθρο 29
Προϊστάμενοι Οργανικών Μονάδων – Οργανικές θέσεις

1. Στη Διεύθυνση Υποδοχής της Γενικής Γραμματείας Υποδοχής, καθώς και στα Τμήματα αυτών προΐστανται υπάλληλοι των κλάδων/ειδικότητας ΠΕ Διοικητικού- Οικονομικού ή ΠΕ Κοινωνιολόγων ή ΠΕ Ψυχολόγων.

2. Για τις ανάγκες λειτουργίας της Διεύθυνσης Υποδοχής του άρθρου 27 του παρόντος συνιστώνται στο Υπουργείο Εσωτερικών και Διοικητικής Ανασυγκρότησης, όπως ισχύει, οι παρακάτω οργανικές θέσεις:

α. Έξι (6) θέσεις του κλάδου ΠΕ Διοικητικού – Οικονομικού.

β. Τέσσερις (4) θέσεις του κλάδου ΠΕ Κοινωνιολόγων ή Ψυχολόγων ή Κοινωνικών Λειτουργών.

γ. Δύο (2) θέσεις του κλάδου ΠΕ Πληροφορικής.

δ. Τέσσερις (4) θέσεις του κλάδου ΤΕ Διοικητικού – Λογιστικού.

ε. Δύο (2) θέσεις του κλάδου ΔΕ Διοικητικού – Λογιστικού.

στ. Δύο (2) θέσεις του κλάδου ΠΕ Μηχανικών.

3. Οι οργανικές θέσεις της προηγούμενης παραγράφου μπορούν να καλύπτονται και με απόσπαση ή μετάταξη από τον δημόσιο τομέα που γίνονται κατά παρέκκλιση κάθε άλλης διάταξης και χωρίς γνώμη των οικείων Υπηρεσιακών Συμβουλίων.

4. Στη Διεύθυνση Οικονομικών Υπηρεσιών Μεταναστευτικής Πολιτικής, καθώς και στα Τμήματα αυτής προΐστανται υπάλληλοι του κλάδου/ειδικότητας ΠΕ Διοικητικού- Οικονομικού ή ΤΕ Διοικητικού - Λογιστικού.

5. Για τις ανάγκες λειτουργίας της Διεύθυνσης του άρθρου 28 του παρόντος Κεφαλαίου συνιστώνται στο Υπουργείο Εσωτερικών και Διοικητικής Ανασυγκρότησης, οι παρακάτω οργανικές θέσεις:

α. Οκτώ (8) θέσεις του κλάδου ΠΕ Διοικητικού - Οικονομικού.

β. Δύο (2) θέσεις του κλάδου ΠΕ Πληροφορικής.

γ. Πέντε (5) θέσεις του κλάδου ΤΕ Διοικητικού - Λογιστικού.

δ. Τέσσερις (4) θέσεις του κλάδου ΔΕ Διοικητικού - Λογιστικού.

6. Οι οργανικές θέσεις της προηγούμενης παραγράφου μπορούν να καλύπτονται και με απόσπαση ή μετάταξη από τον δημόσιο τομέα που γίνονται κατά παρέκκλιση κάθε άλλης διάταξης και χωρίς γνώμη των οικείων Υπηρεσιακών Συμβουλίων.

Άρθρο 30
Σύσταση Τμήματος Πληροφοριακών Συστημάτων Ιθαγένειας - Μετανάστευσης

1. Η περίπτωση βγ΄ της παρ.3 του άρθρου 14 του Π.δ. 105/2014 (Α΄ 172), όπως τροποποιήθηκε και ισχύει σύμφωνα με την περίπτωση ζ΄ της παρ. 5 του άρθρου 27 του ν. 4325/2015 (Α΄ 47), αντικαθίσταται ως εξής:

«βγ. Το σχεδιασμό, τη λειτουργία, τη διαχείριση και την υποστήριξη των Πληροφοριακών Συστημάτων των εκλογικών καταλόγων, του εθνικού δημοτολογίου, του εθνικού ληξιαρχείου και των λοιπών εθνικών Μητρώων που υποστηρίζονται κεντρικά και εμπίπτουν στις αρμοδιότητες της Κεντρικής Υπηρεσίας του Υπουργείου Εσωτερικών και Διοικητικής Ανασυγκρότησης».

2. Στην παρ. 2 του άρθρου 18 του Π.δ. 105/2014 προστίθεται περίπτωση δ΄ ως εξής:

«δ. Το Τμήμα Πληροφοριακών Συστημάτων Ιθαγένειας και Μετανάστευσης».

3. Στο Π.δ. 105/2014 προστίθεται άρθρο 21Α ως εξής:

«Άρθρο 21 Α
Τμήμα Πληροφοριακών Συστημάτων Ιθαγένειας και Μετανάστευσης

1. Το Τμήμα Πληροφοριακών Συστημάτων Ιθαγένειας και Μετανάστευσης είναι αρμόδιο για:

α. Το σχεδιασμό, τη λειτουργία και τη διαχείριση των Πληροφοριακών Συστημάτων Ιθαγένειας και Μετανάστευσης αρμοδιότητας της Γενικής Γραμματείας Μεταναστευτικής Πολιτικής.

β. Την υποστήριξη της ορθής λήψης και διαβίβασης βιομετρικών δεδομένων και συντήρησης του λογισμικού συλλογής τους. Την παρακολούθηση της ασφαλούς φύλαξης των δακτυλικών αποτυπωμάτων και λοιπών βιομετρικών δεδομένων και την πρόταση για λήψη αντίστοιχων μέτρων. Τον ποιοτικό έλεγχο, τη σύγκριση και την επαλήθευση της σύμπτωσης των χαρακτηριστικών βιομετρικών δεδομένων.

γ. Την τήρηση υποδομής δημόσιου κλειδιού για το αυτοτελές έγγραφο της ηλεκτρονικής άδειας διαμονής πολιτών τρίτων χωρών.

δ. Την επεξεργασία και ποιοτικό έλεγχο της φωτογραφίας προσώπου της ηλεκτρονικής άδειας διαμονής. Την καταγραφή των αποτελεσμάτων ελέγχων της φωτογραφίας και ενημέρωση των αρμόδιων υπηρεσιών.

ε. Την ηλεκτρονική αυθεντικοποίηση στους χρήστες του Πληροφορικού Συστήματος Ιθαγένειας και Μετανάστευσης.

στ. Την παρακολούθηση της πορείας των ηλεκτρονικών παραβόλων των διαδικασιών των Πληροφοριακών Συστημάτων Ιθαγένειας και Μετανάστευσης.

ζ. Την εξασφάλιση ασφαλούς επικοινωνίας και μεταγωγής δεδομένων με το φορέα εκτύπωσης των αδειών διαμονής και τη μέριμνα για τη διασύνδεση της Γενικής Γραμματείας Μεταναστευτικής Πολιτικής με άλλες υπηρεσίες για την ανταλλαγή δεδομένων.

η. Τη σχεδίαση, λειτουργία και οργάνωση του πληροφοριακού συστήματος για τη διαχείριση ελέγχων πρόσβασης και επιβεβαίωσης αυτοτελούς εγγράφου της ηλεκτρονικής άδειας διαμονής πολιτών τρίτων χωρών. Την επιβεβαίωση των ελέγχων πρόσβασης στο αυτοτελές έγγραφο της ηλεκτρονικής άδειας διαμονής πολιτών τρίτων χωρών.

θ. Την επεξεργασία και διαχείριση στατιστικών δεδομένων για τις ανάγκες των υπηρεσιών της Γενικής Γραμματείας Μεταναστευτικής Πολιτικής.»

4. Στο άρθρο 35 του Π.δ. 105/2014 προστίθεται παράγραφος 15 ως εξής:

«15. Στο Τμήμα Πληροφοριακών Συστημάτων Ιθαγένειας και Μετανάστευσης προΐσταται υπάλληλος του κλάδου ΠΕ Πληροφορικής ή ΤΕ Πληροφορικής.»

5. Για τις ανάγκες λειτουργίας του Τμήματος Πληροφορικών Συστημάτων Ιθαγένειας και Μετανάστευσης συνιστώνται στο Υπουργείο Εσωτερικών και Διοικητικής Ανασυγκρότησης, όπως αυτό οριοθετείται από το Π.δ. 105/2014 (Α΄ 172), όπως ισχύει, οι παρακάτω οργανικές θέσεις:

α. Οκτώ (8) θέσεις του κλάδου ΠΕ πληροφορικής.

β. Μια (1) θέση ΤΕ πληροφορικής.

γ. Οκτώ (8) θέσεις του κλάδου ΔΕ Προσωπικού Ηλεκτρονικών Υπολογιστών.

Άρθρο 31
Σύσταση Διεύθυνσης Κοινωνικής Ένταξης

1. Στη Γενική Διεύθυνση Ιθαγένειας και Μεταναστευτικής Πολιτικής του Υπουργείου Εσωτερικών και Διοικητικής Ανασυγκρότησης συνιστάται Διεύθυνση Κοινωνικής Ένταξης, η οποία έχει ως στόχο τη μελέτη, το σχεδιασμό και την εφαρμογή της πολιτικής ένταξης των δικαιούχων διεθνούς προστασίας και μεταναστών στην Ελληνική Επικράτεια.

2. Η Διεύθυνση Κοινωνικής Ένταξης συγκροτείται από τα ακόλουθα Τμήματα:

α. Τμήμα Σχεδιασμού και Υλοποίησης πολιτικών και προγραμμάτων Κοινωνικής Ένταξης.

β. Τμήμα Ενημέρωσης, Ευαισθητοποίησης και Κοινωνικής Συνοχής.

γ. Τμήμα Μητρώου μη Κυβερνητικών Οργανώσεων και Συνεργασίας με Φορείς της Κοινωνίας των Πολιτών.

3. Στα προβλεπόμενα υπό την παράγραφο 2 τμήματα κατανέμονται αρμοδιότητες ως εξής: α. Τμήμα Σχεδιασμού και Υλοποίησης πολιτικών και προγραμμάτων Κοινωνικής Ένταξης είναι αρμόδιο για:

αα. Την υποβολή εισηγήσεων, για τη διαμόρφωση της στρατηγικής και των πολιτικών ένταξης δικαιούχων διεθνούς προστασίας, δικαιούχων ανθρωπιστικού καθεστώτος, ασυνόδευτων ανηλίκων και μεταναστών και ευάλωτων ομάδων μεταναστών και προσφύγων με την προοπτική ένταξής τους.

ββ. Την υποβολή προτάσεων για το θεσμικό πλαίσιο συνεργασίας με τα Υπουργεία και την Τοπική Αυτοδιοί-

κηση, καθώς και την πραγματοποίηση διαλόγου με τους φορείς της κοινωνίας των πολιτών και τους συλλόγους δικαιούχων διεθνούς προστασίας και μεταναστών.

γγ. Την υποβολή προτάσεων για τη συμμετοχή σε ευρωπαϊκά και διεθνή προγράμματα στους τομείς της ένταξης και της ενίσχυσης της κοινωνικής συνοχής.

δδ. Το συντονισμό των Αποκεντρωμένων Διοικήσεων και των Οργανισμών Τοπικής Αυτοδιοίκησης πρώτου βαθμού και δεύτερου βαθμού για την υποβολή προτάσεων και την κατάρτιση ολοκληρωμένων προγραμμάτων ένταξης των δικαιούχων διεθνούς προστασίας και μεταναστών, συμπεριλαμβανομένων και ευάλωτων ομάδων πολιτών τρίτης χώρας, και την υλοποίησή τους σε συνεργασία με άλλους δημόσιους και ιδιωτικούς φορείς και την κοινωνία των πολιτών.

εε. Την εκπροσώπηση του Υπουργείου σε ευρωπαϊκούς και διεθνείς οργανισμούς που ασχολούνται με θέματα ένταξης δικαιούχων διεθνούς προστασίας, μεταναστών, καθώς και τη διαμόρφωση σχετικών θέσεων επί των θεμάτων αυτών.

στστ. Τη συνεργασία με άλλα κράτη για το σχεδιασμό και την υλοποίηση δράσεων στον τομέα της ένταξης και της ενίσχυσης της κοινωνικής συνοχής, καθώς και για ανταλλαγή καλών πρακτικών.

ζζ. Το σχεδιασμό, την εποπτεία και τον έλεγχο δομών και υπηρεσιών ένταξης δικαιούχων διεθνούς προστασίας και μεταναστών και ενίσχυσης της κοινωνικής συνοχής.

ηη. Τη μελέτη εφαρμογής, το σχεδιασμό, την παρακολούθηση του φυσικού αντικειμένου ή/και την υλοποίηση του φυσικού αντικειμένου προγραμμάτων κοινωνικής προστασίας και κοινωνικής ένταξης αιτούντων διεθνούς προστασίας και ασυνόδευτων ανήλικων, καθώς και προγραμμάτων κοινωνικής ένταξης των δικαιούχων των ανωτέρω μορφών προστασίας και μεταναστών, υπό τη χρηματοδότηση εθνικών, ευρωπαϊκών ή άλλων πόρων και εκτός των προγραμμάτων του Ταμείου Ασύλου, Μετανάστευσης και Ένταξης (ΤΑΜΕ -AMIF) και του Ταμείου Εσωτερικής Ασφάλειας (ΤΕΑ - ISF) που υλοποιούνται από την αρμόδια Διαχειριστική Αρχή και τις Εντεταλμένες Αρχές.

β. Το Τμήμα Ενημέρωσης, Ευαισθητοποίησης και Κοινωνικής Συνοχής είναι αρμόδιο για:

αα. Την οργάνωση δράσεων επικοινωνιακού και επιμορφωτικού χαρακτήρα, με στόχο την πληροφόρηση και ευαισθητοποίηση της κοινής γνώμης στους τομείς της ένταξης και της ενίσχυσης της κοινωνικής συνοχής.

ββ. Την ενημέρωση και ευαισθητοποίηση των υπαλλήλων των δημόσιων φορέων και των φορέων της Τοπικής Αυτοδιοίκησης Α΄ και Β΄ βαθμού, για θέματα ένταξης και τη διαπολιτισμική εκπαίδευσή τους στον τομέα αυτόν.

γγ. Την καταγραφή επιμορφωμένων διαπολιτισμικών μεσολαβητών και την τήρηση, λειτουργία και συνεχή επικαιροποίηση σχετικού Μητρώου Διαπολιτισμικών Μεσολαβητών.

δδ. Την προώθηση δράσεων διαπολιτισμικής μεσολάβησης.

εε. Την προώθηση μέτρων για την ενίσχυση της συμμετοχής των πολιτών τρίτων χωρών που διαμένουν στη χώρα σε συλλογικές δράσεις, καθώς και μέτρων για την εκπροσώπησή τους στο πλαίσιο συλλογικοτήτων.

στστ. Τη συνεργασία με συναρμόδια Υπουργεία, άλλους κατά περίπτωση αρμόδιους φορείς και φορείς της κοινωνίας πολιτών για το σχεδίασμό και την υλοποίηση δράσεων Διαθρησκευτικού Διαλόγου.

ζζ. Τη δημιουργία και υποστήριξη λειτουργίας ηλεκτρονικής πλατφόρμας Διαθρησκευτικού Διαλόγου με στόχο την πρόληψη της ριζοσπαστικοποίησης και του φανατισμού.

ηη. Την ευαισθητοποίηση της κοινής γνώμης για θέματα διαφορετικότητας, μέσω ανταλλαγών, σεμιναρίων, πολιτιστικών εκδηλώσεων, σε συνεργασία με συλλόγους μεταναστών/προσφύγων, πρεσβείες, μουσεία και άλλα πολιτιστικά ιδρύματα.

γ. Το Τμήμα Μητρώου Μη Κυβερνητικών Οργανώσεων και Συνεργασίας με Φορείς της Κοινωνίας των Πολιτών, είναι αρμόδιο για:

αα. Την καταγραφή και την επικαιροποίηση των στοιχείων ελληνικών και ξένων μη κυβερνητικών οργανώσεων που δραστηριοποιούνται στην Ελληνική Επικράτεια στους τομείς της διεθνούς προστασίας, της μετανάστευσης και της κοινωνικής ένταξης, σε συνεργασία με τα συναρμόδια Υπουργεία, τις Αποκεντρωμένες Διοικήσεις και τους Οργανισμούς Τοπικής Αυτοδιοίκησης πρώτου και δεύτερου βαθμού.

ββ. Την πιστοποίηση των ελληνικών μη κυβερνητικών οργανώσεων σε συνεργασία με τα συναρμόδια Υπουργεία και φορείς.

γγ. Την καταγραφή των υφιστάμενων μεταναστευτικών κοινοτήτων και συλλόγων πολιτών λοιπών ευπαθών ομάδων που εμπίπτουν στην αρμοδιότητα του Υπουργείου.

4. Οι υπάλληλοι που έχουν τοποθετηθεί στο Τμήμα Κοινωνικής Ένταξης της Διεύθυνσης Μεταναστευτικής Πολιτικής του Υπουργείου Εσωτερικών και Διοικητικής Ανασυγκρότησης μετατάσσονται ή μεταφέρονται με απόφαση του Υπουργού Εσωτερικών και Διοικητικής Ανασυγκρότησης κατά παρέκκλιση κάθε άλλης διάταξης και με ταυτόχρονη μεταφορά των οργανικών τους θέσεων στη Διεύθυνση Κοινωνικής Ένταξης.

5. Για τις ανάγκες λειτουργίας της Διεύθυνσης Κοινωνικής Ένταξης συνιστώνται στο Υπουργείο Εσωτερικών και Διοικητικής Ανασυγκρότησης, όπως αυτό οριοθετείται από το Π.δ. 105/2014 (Α΄ 172), όπως ισχύει, επιπλέον των υπαρχουσών, οι παρακάτω οργανικές θέσεις:

α. Πέντε (5) θέσεις του κλάδου ΠΕ Διοικητικού - Οικονομικού.

β. Πέντε (5) θέσεις του κλάδου ΠΕ Κοινωνιολόγων.

γ. Πέντε (5) θέσεις του κλάδου ΠΕ Ψυχολόγων.

δ. Δύο (2) θέσεις του κλάδου ΤΕ Διοικητικού - Λογιστικού.

ε. Πέντε (5) θέσεις του κλάδου ΔΕ Διοικητικού - Λογιστικού.

Άρθρο 32
Εξουσιοδοτική διάταξη

1. Με Προεδρικό διάταγμα που εκδίδεται εντός έξι (6) μηνών από την έναρξη ισχύος του παρόντος, δημιουργούνται, συγχωνεύονται ή τροποποιούνται Διευθύνσεις και τμήματα των Γενικών Γραμματειών των άρθρων 25 και 26 του παρόντος, ορίζονται πρόσθετες οργανικές θέσεις καθώς και ανακατανέμονται αυτές μεταξύ των υπηρεσιών των άνω Γραμματειών.

2. Με υπουργική απόφαση μπορούν να ρυθμισθούν θέματα των αρμοδιοτήτων των Διευθύνσεων και Τμημάτων των Γενικών Γραμματειών των άρθρων 25 και 26 του παρόντος.

ΜΕΡΟΣ ΤΡΙΤΟ
ΔΙΑΔΙΚΑΣΙΑ ΧΟΡΗΓΗΣΗΣ ΚΑΙ ΑΝΑΚΛΗΣΗΣ ΤΟΥ ΚΑΘΕΣΤΩΤΟΣ ΔΙΕΘΝΟΥΣ ΠΡΟΣΤΑΣΙΑΣ ΠΡΟΣΑΡΜΟΓΗΣ ΤΗΣ ΕΛΛΗΝΙΚΗΣ ΝΟΜΟΘΕΣΙΑΣ ΣΤΗΝ ΟΔΗΓΙΑ 2013/32/ΕΕ ΤΟΥ ΕΥΡΩΠΑΪΚΟΥ ΚΟΙΝΟΒΟΥΛΙΟΥ ΚΑΙ ΤΟΥ ΣΥΜΒΟΥΛΙΟΥ «ΣΧΕΤΙΚΑ ΜΕ ΤΙΣ ΚΟΙΝΕΣ ΔΙΑΔΙΚΑΣΙΕΣ ΓΙΑ ΤΗΝ ΧΟΡΗΓΗΣΗ ΚΑΙ ΑΝΑΚΛΗΣΗ ΤΟΥ ΚΑΘΕΣΤΩΤΟΣ ΔΙΕΘΝΟΥΣ ΠΡΟΣΤΑΣΙΑΣ (ΑΝΑΔΙΑΤΥΠΩΣΗ)» (Ι 180/29.6.2013)

ΚΕΦΑΛΑΙΟ Α΄
ΓΕΝΙΚΕΣ ΔΙΑΤΑΞΕΙΣ

Άρθρο 33
(Άρθρο 1 Οδηγίας)
Σκοπός

Σκοπός των διατάξεων του παρόντος Μέρους είναι η προσαρμογή της ελληνικής νομοθεσίας στην Οδηγία 2013/32/ΕΕ του Ευρωπαϊκού Κοινοβουλίου και του Συμβουλίου «σχετικά με τις κοινές διαδικασίες για τη χορήγηση και ανάκληση του καθεστώτος διεθνούς προστασίας (αναδιατύπωση)» (L 180/29.6.2013).

Άρθρο 34
(Άρθρα 2 και 4 Οδηγίας)
Ορισμοί

Για την εφαρμογή του παρόντος:

α. «Σύμβαση της Γενεύης» είναι η Σύμβαση περί της Νομικής Καταστάσεως των Προσφύγων, η οποία υπεγράφη στη Γενεύη στις 28 Ιουλίου 1951 και κυρώθηκε με το Ν.δ. 3989/1959 (Α΄ 201), όπως τροποποιήθηκε από το συναφές Πρωτόκολλο της Νέας Υόρκης της 31ης Ιανουαρίου 1967, το οποίο κυρώθηκε με τον Α.ν. 389/1968 (Α΄ 125).

β. «Αίτηση διεθνούς προστασίας» ή «αίτηση ασύλου» ή «αίτηση» είναι η αίτηση παροχής προστασίας από το Ελληνικό Κράτος που υποβάλλει αλλοδαπός ή ανιθαγενής, με την οποία ζητά την αναγνώριση στο πρόσωπό του της ιδιότητας του πρόσφυγα ή τη χορήγηση καθεστώτος επικουρικής προστασίας, σύμφωνα με τη Σύμβαση της Γενεύης και τις διατάξεις του άρθρου 2 (β) και (γ) Π.δ. 141/2013 (Α΄ 226). Αίτηση διεθνούς προστασίας μπορεί να υποβληθεί και εξ ονόματος των μελών της οικογένειας αιτούντος που βρίσκονται στην Ελληνική Επικράτεια.

γ. «Μέλη της οικογένειας» του αιτούντος διεθνή προστασία, υπό την προϋπόθεση ότι η οικογένεια υπήρχε πριν την είσοδο στη χώρα, θεωρούνται:

αα. Ο σύζυγος ή ο εκτός γάμου σύντροφος, με τον οποίο διατηρεί σταθερή σχέση μακράς διαρκείας δεόντως αποδεδειγμένη,

ββ. Τα ανήλικα, άγαμα και εξαρτημένα τέκνα, ανεξαρτήτως αν γεννήθηκαν σε γάμο ή εκτός γάμου των γονέων τους ή είναι υιοθετημένα.

γγ. Τα ενήλικα τέκνα του αιτούντος που πάσχουν από πνευματική ή σωματική αναπηρία και δεν δύνανται να υποβάλουν αυτοτελώς αίτηση.

δ. «αιτών διεθνή προστασία» ή «αιτών άσυλο» ή «αιτών» είναι ο αλλοδαπός ή ανιθαγενής, ο οποίος δηλώνει προφορικώς ή εγγράφως ενώπιον οποιασδήποτε ελληνικής αρχής, στα σημεία εισόδου στην Ελληνική Επικράτεια ή εντός αυτής, ότι ζητά άσυλο ή επικουρική προστασία ή με οποιονδήποτε τρόπο ζητά να μην απελαθεί σε κάποια χώρα εκ φόβου δίωξης λόγω φυλής, θρησκείας, εθνικότητας, πολιτικών πεποιθήσεων ή συμμετοχής σε ιδιαίτερη κοινωνική ομάδα, σύμφωνα με τη Σύμβαση της Γενεύης ή επειδή κινδυνεύει να υποστεί σοβαρή βλάβη σύμφωνα με το άρθρο 15 του Π.δ. 141/2013 (Α΄ 226) και επί του αιτήματος του οποίου δεν έχει ληφθεί ακόμη τελεσίδικη απόφαση. Επίσης, αιτών διεθνή προστασία θεωρείται και ο αλλοδαπός, ο οποίος υπέβαλε αίτηση διεθνούς προστασίας σε άλλο κράτος - μέλος της ΕΕ κατ' εφαρμογή του Κανονισμού (ΕΕ) αριθμ. 604/2013 του Ευρωπαϊκού Κοινοβουλίου και του Συμβουλίου, για τη θέσπιση των κριτηρίων και μηχανισμών για τον προσδιορισμό του κράτους-μέλους που είναι υπεύθυνο για την εξέταση αίτησης ασύλου που υποβάλλεται σε κράτος-μέλος από υπήκοο τρίτης χώρας, ή σε άλλο κράτος που δεσμεύεται από και εφαρμόζει τον ως άνω Κανονισμό, και μεταφέρεται στην Ελλάδα βάσει των διατάξεών του.

ε. «Τελεσίδικη απόφαση» είναι η απόφαση που ορίζει εάν αλλοδαπός ή ανιθαγενής αναγνωρίζεται ή όχι ως πρόσφυγας ή δικαιούχος επικουρικής προστασίας, η οποία δεν υπόκειται πλέον σε άσκηση του ένδικου βοηθήματος που προβλέπεται στο άρθρο 64.

στ. «Πρόσφυγας» είναι ο αλλοδαπός ή ο ανιθαγενής στο πρόσωπο του οποίου πληρούνται οι προϋποθέσεις εφαρμογής του άρθρου 1Α της Σύμβασης της Γενεύης και του άρθρου 2(ε) του Π.δ. 141/2013.

ζ. «Καθεστώς πρόσφυγα» είναι το καθεστώς που χορηγείται κατόπιν της αναγνώρισης από την αρμόδια ελληνική αρχή ενός αλλοδαπού ή ανιθαγενή ως πρόσφυγα, σύμφωνα με τις διατάξεις του Π.δ. 141/2013.

η. «Δικαιούχος επικουρικής προστασίας» είναι ο αλλοδαπός ή ο ανιθαγενής που πληροί τις προϋποθέσεις του άρθ. 2 στοιχείο ζ΄ του Π.δ. 141/2013.

θ. «Καθεστώς επικουρικής προστασίας» είναι το καθεστώς που χορηγείται κατόπιν της αναγνώρισης από την αρμόδια ελληνική αρχή ενός αλλοδαπού ή ανιθαγενούς ως δικαιούχου επικουρικής προστασίας, σύμφωνα με τις διατάξεις του Π.δ. 141/2013.

ι. «Διεθνής προστασία» είναι το καθεστώς πρόσφυγα και το καθεστώς επικουρικής προστασίας, όπως ορίζονται στα στοιχεία ζ΄ και θ΄ του παρόντος.

ια. «Ασυνόδευτος ανήλικος» είναι το πρόσωπο ηλικίας κάτω των 18 ετών, το οποίο φθάνει στην Ελλάδα, χωρίς να συνοδεύεται από πρόσωπο που ασκεί τη γονική του μέριμνα, σύμφωνα με την ελληνική νομοθεσία και για όσο χρόνο η γονική του μέριμνα δεν έχει ανατεθεί σε κάποιο άλλο πρόσωπο σύμφωνα με το νόμο και δεν ασκείται στην πράξη, ή ο ανήλικος που εγκαταλείπεται ασυνόδευτος μετά την είσοδό του στην Ελλάδα.

ιβ. «Εκπρόσωπος ασυνόδευτου ανηλίκου» είναι ο προσωρινός ή οριστικός επίτροπος του ανηλίκου ή το πρόσωπο που ορίζεται από τον αρμόδιο Εισαγγελέα Ανηλίκων ή, όπου δεν υπάρχει Εισαγγελέας Ανηλίκων, από τον Εισαγγελέα Πρωτοδικών για την προάσπιση των συμφερόντων του ανηλίκου αυτού. Ως εκπρόσωπος κατά το προηγούμενο εδάφιο, μπορεί να οριστεί και ο νόμιμος εκπρόσωπος νομικού προσώπου μη κερδοσκοπικού χαρακτήρα. Στην τελευταία περίπτωση, ο εκπρόσωπος του νομικού προσώπου μπορεί να εξουσιοδοτήσει άλλο πρόσωπο για την εκπροσώπηση του ανηλίκου κατά τις διαδικασίες του παρόντος.

ιγ. «Κράτηση» είναι ο περιορισμός σε ειδικό χώρο, με αποτέλεσμα τη στέρηση της ελευθερίας του προσώπου.

ιδ. «Αρμόδιες Αρχές Παραλαβής», «Αρμόδιες Αρχές Εξέτασης» ή «Αρμόδιες Αρχές Παραλαβής και Εξέτασης» είναι τα Περιφερειακά Γραφεία Ασύλου, τα Αυτοτελή Κλιμάκια της Υπηρεσίας Ασύλου, καθώς και τα Κινητά Κλιμάκια Ασύλου.

ιε. «Κεντρική Αρχή» είναι η Κεντρική Υπηρεσία Ασύλου του Υπουργείου Εσωτερικών και Διοικητικής Ανασυγκρότησης.

ιστ. «Χώρα καταγωγής» είναι η χώρα της ιθαγένειας ή, για τους ανιθαγενείς, η χώρα της προηγούμενης συνήθους διαμονής τους.

ιζ. «Άδεια διαμονής» είναι κάθε άδεια, η οποία εκδίδεται από τις ελληνικές Αρχές, σύμφωνα με τον τύπο που προβλέπει η ελληνική νομοθεσία και η οποία επιτρέπει σε αλλοδαπό ή σε ανιθαγενή τη διαμονή του στην Ελληνική Επικράτεια.

ιη. «Αποφαινόμενη Αρχή» είναι ο υπάλληλος της αρμόδιας Αρχής Παραλαβής, ο οποίος ορίζεται ως χειριστής για την εξέταση της αίτησης διεθνούς προστασίας, εκτός αν ορίζεται διαφορετικά σε επιμέρους διατάξεις του παρόντος. Στην περίπτωση του άρθρου 63 Αποφαινόμενη Αρχή είναι ο Προϊστάμενος του Περιφερειακού Γραφείου Ασύλου ή Αυτοτελούς Κλιμακίου της Υπηρεσίας Ασύλου. Στις περιπτώσεις του άρθρου 54 (β), η Αποφαινόμενη Αρχή εκδίδει και τη σχετική πράξη μεταφοράς κατ' εφαρμογή του Κανονισμού 604/2013.

ιθ. «Αρμόδιες Αρχές Απόφασης» είναι η Αποφαινόμενη Αρχή και οι Επιτροπές Προσφυγών της Αρχής Προσφυγών.

κ. «Μεταγενέστερη αίτηση» είναι η αίτηση για παροχή διεθνούς προστασίας που υποβάλλεται μετά από τελεσίδικη απορριπτική απόφαση ή απόφαση διακοπής της εξέτασης της αίτησης σύμφωνα με το άρθρο 47 παράγραφος 2. Ως μεταγενέστερη αίτηση λογίζεται και κάθε νέα αίτηση διεθνούς προστασίας μετά από παραίτηση κατά τις διατάξεις του άρθρου 47.

κα. «Ανάκληση του καθεστώτος διεθνούς προστασίας» είναι η απόφαση της Αποφαινόμενης Αρχής να ανακαλέσει καθεστώς πρόσφυγα ή επικουρικής προστασίας, σύμφωνα με τις διατάξεις του Π.δ. 141/2013. Σε περίπτωση άρνησης ανανέωσης άδειας διαμονής πρόσφυγα ή δικαιούχου επικουρικής προστασίας, εφαρμόζονται οι διατάξεις και εγγυήσεις περί ανάκλησης καθεστώτος διεθνούς προστασίας.

κβ. «Παραμονή στη χώρα» είναι η παραμονή στο έδαφος της Ελληνικής Επικράτειας, περιλαμβανομένων των συνόρων και των ζωνών διέλευσης.

κγ. «Σύμβουλος του αιτούντος» είναι ο νομικός, ιατρός, ψυχολόγος ή κοινωνικός λειτουργός, ο οποίος τον υποστηρίζει κατά τη διάρκεια της διαδικασίας εξέτασης της αίτησής του.

κδ. «Δελτίο αιτούντος διεθνή προστασία» ή «δελτίο» είναι το ειδικό ατομικό δελτίο που εκδίδεται για τον αιτούντα κατά τη διάρκεια της διοικητικής διαδικασίας εξέτασης της αίτησής του από τις αρμόδιες αρχές και του επιτρέπει την παραμονή στην Ελληνική Επικράτεια μέχρι την ολοκλήρωσή της.

κε. «Αιτούντες που χρήζουν ειδικών διαδικαστικών εγγυήσεων» είναι οι αιτούντες, των οποίων η ικανότητα να απολαύουν των δικαιωμάτων και να συμμορφώνονται με τις υποχρεώσεις που προβλέπονται στις διατάξεις του παρόντος Μέρους περιορίζεται λόγω ιδιαίτερων περιστάσεων που αφορούν την προσωπική τους κατάσταση και ιδίως την κατάσταση της υγείας τους.

Άρθρο 35
(Άρθρο 3 Οδηγίας)
Πεδίο εφαρμογής

1. Οι διατάξεις του παρόντος Μέρους εφαρμόζονται σε όλες τις αιτήσεις διεθνούς προστασίας που υποβάλλονται στο έδαφος της Ελληνικής Επικράτειας, περιλαμβανομένων των συνόρων, ή στις ζώνες διέλευσης της χώρας, καθώς και στις διαδικασίες ανάκλησης χορηγηθέντος καθεστώτος διεθνούς προστασίας.

2. Οι διατάξεις του παρόντος Μέρους δεν εφαρμόζονται επί αιτήσεων διπλωματικού ή εδαφικού ασύλου που υποβάλλονται σε ελληνικές διπλωματικές αρχές και μόνιμες αντιπροσωπείες στο εξωτερικό.

3. Η ερμηνεία και εφαρμογή του παρόντος Μέρους γίνονται σύμφωνα με τη Σύμβαση της Γενεύης και το διεθνές δίκαιο για την προστασία των δικαιωμάτων του ανθρώπου και τη σχετική διεθνή, ευρωπαϊκή και εθνική νομοθεσία και νομολογία.

ΚΕΦΑΛΑΙΟ Β΄
ΓΕΝΙΚΕΣ ΑΡΧΕΣ ΚΑΙ ΕΓΓΥΗΣΕΙΣ ΠΟΥ ΙΣΧΥΟΥΝ ΚΑΘ' ΟΛΗ ΤΗ ΔΙΑΡΚΕΙΑ ΤΗΣ ΔΙΑΔΙΚΑΣΙΑΣ

Άρθρο 36
(Άρθρο 6 και 7 Οδηγίας)
Πρόσβαση στη διαδικασία

1.α. Κάθε αλλοδαπός ή ανιθαγενής έχει δικαίωμα υποβολής αίτησης διεθνούς προστασίας. Η αίτηση υποβάλλεται ενώπιον των Αρχών Παραλαβής, οι οποίες διενεργούν αμέσως πλήρη καταγραφή της. Η πλήρης καταγραφή περιλαμβάνει τουλάχιστον τα στοιχεία ταυτότητας, τη χώρα καταγωγής του αιτούντος, το όνομα του πατέρα, της μητέρας, του/της συζύγου και των τέκνων του, βιομετρικά στοιχεία αναγνώρισης, καθώς και σύντομη αναφορά των λόγων για τους οποίους ο αιτών ζητά διεθνή προστασία. β. Σε περίπτωση που, για οποιονδήποτε λόγο, δεν είναι δυνατή η πλήρης καταγραφή, σύμφωνα με το στοιχείο α΄, μετά από απόφαση του Διευθυντή της Υπηρεσίας Ασύλου, οι Αρχές Παραλαβής μπορούν να προβαίνουν, το αργότερο εντός τριών (3) εργάσιμων ημερών από την υποβολή της αίτησης, σε απλή καταγραφή των ελάχιστων απαραίτητων στοιχείων και στη συνέχεια να προβαίνουν στην πλήρη καταγραφή του στοιχείου α΄ μόλις αυτό καταστεί δυνατό και κατά προτεραιότητα. γ. Η αίτηση διεθνούς προστασίας θεωρείται κατατεθειμένη από την ημερομηνία της πλήρους καταγραφής, σύμφωνα με το στοιχείο α΄, από την οποία αρχίζουν οι σχετικές προθεσμίες για την εξέτασή της σύμφωνα με το άρθρο 51 του παρόντος. Σε περίπτωση που αλλοδαπός ή ανιθαγενής, ο οποίος έχει υποβάλει αίτηση διεθνούς προστασίας, δεν εμφανιστεί για την καταγραφή της, κατά την ορισθείσα ημερομηνία ή παρότι έχει κληθεί σύμφωνα με τις διατάξεις του παρόντος, η υπόθεση τίθεται στο αρχείο με απόφαση του Προϊσταμένου του αρμόδιου Περιφερειακού Γραφείου Ασύλου.

2. Οι αρμόδιες Αρχές Παραλαβής διασφαλίζουν την άσκηση του δικαιώματος κατάθεσης αίτησης διεθνούς προστασίας, υπό την προϋπόθεση ότι ο αιτών θα παρουσιασθεί αυτοπροσώπως ενώπιόν τους, με την επιφύλαξη των διατάξεων του άρθρου 42 παράγραφος 1 (α).

3. Σε περίπτωση που αλλοδαπός ή ανιθαγενής, ο οποίος είτε βρίσκεται υπό κράτηση είτε σε διαδικασίες Υπο-

δοχής και Ταυτοποίησης κατά την κείμενη νομοθεσία, δηλώσει ότι επιθυμεί να καταθέσει αίτηση διεθνούς προστασίας, οι κατά περίπτωση αρμόδιες αρχές μεριμνούν για την άμεση σύνταξη και υποβολή έγγραφης σχετικής δήλωσης. Στη συνέχεια η αίτηση διεθνούς προστασίας καταγράφεται από την υπηρεσία κράτησης ή την Υπηρεσία Υποδοχής και Ταυτοποίησης, σύμφωνα με τα οριζόμενα στο εδάφιο β΄ της παραγράφου 1 (απλή καταγραφή), σε διασυνδεδεμένο με την Αρχή Παραλαβής ηλεκτρονικό σύστημα εντός έξι (6) εργάσιμων ημερών. Οι αρχές κράτησης ή οι περιφερειακές υπηρεσίες Υποδοχής και Ταυτοποίησης, σε συνεργασία με την Αρχή Παραλαβής, μεριμνούν για τη μεταγωγή του κρατουμένου ενώπιον της αρχής αυτής, το συντομότερο δυνατό, προκειμένου πραγματοποιηθεί η πλήρης καταγραφή της αίτησης διεθνούς προστασίας σύμφωνα με το στοιχείο α΄της παραγράφου 1. Σε περίπτωση που ο αιτών αφεθεί ελεύθερος πριν την πραγματοποίηση πλήρους καταγραφής, οφείλει να προσέλθει εντός δέκα (10) ημερών στην αρμόδια Αρχή Παραλαβής, ώστε να προγραμματιστεί η πλήρης καταγραφή της αίτησης διεθνούς προστασίας. Σε περίπτωση που δεν εμφανιστεί, η υπόθεση τίθεται στο αρχείο με απόφαση του Προϊσταμένου του αρμόδιου Περιφερειακού Γραφείου Ασύλου. Το πρόσωπο που εκφράζει επιθυμία κατάθεσης αίτησης διεθνούς προστασίας είναι αιτών άσυλο σύμφωνα με τις διατάξεις του άρθρου 34(δ) του παρόντος.

4. Αν η αίτηση διεθνούς προστασίας υποβληθεί σε μη αρμόδια αρχή, αυτή υποχρεούται να ειδοποιήσει αμέσως την αρμόδια Αρχή Παραλαβής με τον προσφορότερο τρόπο και να παραπέμψει σε αυτήν τον αιτούντα. Η Κεντρική Υπηρεσία Ασύλου μεριμνά για την ενημέρωση και κατάρτιση των αρχών στις οποίες είναι πιθανόν να απευθυνθεί όποιος επιθυμεί να υποβάλει αίτηση διεθνούς προστασίας (ιδίως την Ελληνική Αστυνομία, το Λιμενικό Σώμα και την Υπηρεσία Υποδοχής και Ταυτοποίησης Υποδοχής και Ταυτοποίησης), σχετικά με τις αρμόδιες υπηρεσίες και τη διαδικασία κατάθεσης της αίτησης, σύμφωνα με τα οριζόμενα στην παράγραφο 1 του παρόντος άρθρου, ώστε να ενημερώνονται οι ενδιαφερόμενοι σχετικά με τον τόπο και τρόπο κατάθεσης αίτησης διεθνούς προστασίας.

5. Όταν μεγάλος αριθμός ταυτόχρονων αιτήσεων διεθνούς προστασίας καθιστά πολύ δύσκολη στην πράξη την καταγραφή που προβλέπεται στην παράγραφο 1 ή την παράγραφο 3, η καταγραφή της αίτησης μπορεί να πραγματοποιηθεί εντός προθεσμίας δέκα (10) εργάσιμων ημερών.

6. Ο αιτών μπορεί να υποβάλει αίτηση εξ ονόματος και των μελών της οικογένειάς του. Σε αυτές τις περιπτώσεις τα ενήλικα μέλη με δικαιοπρακτική ικανότητα πρέπει να συναινούν εγγράφως στην κατάθεση της αίτησης εξ ονόματός τους ή σε αντίθετη περίπτωση να έχουν την ευκαιρία να υποβάλουν οι ίδιοι την αίτησή τους. Πριν ζητηθεί η συναίνεση, κάθε εξαρτώμενος ενήλικος ενημερώνεται κατ' ιδίαν σχετικά με τις συναφείς διαδικαστικές συνέπειες της αυτοπρόσωπης κατάθεσης αίτησης και σχετικά με το δικαίωμά του να υποβάλει αυτοτελή αίτηση διεθνούς προστασίας. Η συναίνεση ζητείται κατά το χρόνο κατάθεσης της αίτησης ή το αργότερο κατά την προσωπική συνέντευξη με το εν λόγω μέλος της οικογένειας.

7. Αιτών που αποκτά τέκνο μετά την είσοδό του στη χώρα δύναται να υποβάλει αίτηση διεθνούς προστασίας εξ ονόματος του τέκνου, η κατάθεση της οποίας συνοδεύεται από τη ληξιαρχική πράξη γέννησης του τέκνου. Η αίτηση αυτή συνενώνεται με την αίτηση διεθνούς προστασίας του αιτούντος γονέα σε όποιο στάδιο και βαθμό της διαδικασίας βρίσκεται αυτή.

8. Ο ανήλικος άνω των δεκαπέντε (15) ετών, δύναται να υποβάλει αυτοπροσώπως και αυτοτελώς αίτηση διεθνούς προστασίας. Σε περίπτωση που είναι ασυνόδευτος, εφαρμόζονται οι διατάξεις του άρθρου 45 του παρόντος.

9. Ο ασυνόδευτος ανήλικος, κάτω των δεκαπέντε (15) ετών, υποβάλλει αίτηση διά εκπροσώπου, κατά τα οριζόμενα στο άρθρο 45.

10. Ο εκπρόσωπος του ανηλίκου, καθώς και ο εκπρόσωπος του ξενώνα στον οποίο φιλοξενείται ο ανήλικος, σύμφωνα με το άρθρο 19 του Π.δ. 220/2007, μπορούν να καταθέτουν αίτηση διεθνούς προστασίας εξ ονόματος του ανηλίκου εφόσον, με βάση εξατομικευμένη εκτίμηση της προσωπικής κατάστασής του, θεωρούν ότι ο ανήλικος έχει ενδεχομένως ανάγκη διεθνούς προστασίας. Ο ανήλικος πρέπει να είναι παρών κατά την κατάθεση της αίτησης, εκτός αν αυτό είναι αδύνατο για λόγους ανωτέρας βίας.

Άρθρο 37
(Άρθρο 9 της Οδηγίας)
Δικαίωμα παραμονής αιτούντων - Εξαιρέσεις

1. Οι αιτούντες επιτρέπεται να παραμένουν στη χώρα μέχρι την ολοκλήρωση της διοικητικής διαδικασίας εξέτασης της αίτησης διεθνούς προστασίας και απαγορεύεται η απομάκρυνσή τους με οποιονδήποτε τρόπο.

2. Η προηγούμενη παράγραφος δεν εφαρμόζεται στις περιπτώσεις όπου οι αρμόδιες αρχές είτε παραδίδουν τον αιτούντα σε άλλο κράτος-μέλος της Ε.Ε. βάσει ευρωπαϊκού εντάλματος σύλληψης, σύμφωνα με τις διατάξεις του ν. 3251/2004 (Α΄ 127), είτε εκδίδουν αυτόν σε τρίτη χώρα, με την εξαίρεση της χώρας καταγωγής του αιτούντος, ή σε διεθνή ποινικά δικαστήρια, με βάση τις διεθνείς υποχρεώσεις της χώρας. Η παράδοση ή η έκδοση δεν πρέπει να οδηγεί σε έμμεση ή άμεση επαναπροώθηση του ενδιαφερόμενου κατά παράβαση του άρθρου 33 παράγραφος 1 της Σύμβασης της Γενεύης ή σε κίνδυνο δίωξης ή σοβαρής βλάβης, σύμφωνα με τις σχετικές διατάξεις του Π.δ. 141/2013, του άρθρου 7 του Διεθνούς Συμφώνου για τα Ατομικά και Πολιτικά Δικαιώματα, του άρθρου 3 της Διεθνούς Σύμβασης της Νέας Υόρκης κατά των Βασανιστηρίων, του άρθρου 3 της Ευρωπαϊκής Σύμβασης για τα Δικαιώματα του Ανθρώπου, των άρθρων 4 και 19 του Χάρτη των Θεμελιωδών Δικαιωμάτων της Ευρωπαϊκής Ένωσης, καθώς και του άρθρου 5 του Συντάγματος. Κανένας δεν εκδίδεται πριν εκδοθεί τελεσίδικη απόφαση επί της αίτησής του, εφόσον επικαλείται φόβο δίωξης στο εκζητούν κράτος.

3. Το δικαίωμα παραμονής του αιτούντος στη χώρα, σύμφωνα με την παράγραφο 1, δεν θεμελιώνει δικαίωμα για χορήγηση άδειας διαμονής.

Άρθρο 38
(Άρθρο 8 Οδηγίας)
Ενημέρωση και παροχή συμβουλών σε κέντρα κράτησης και σημεία εισόδου στην Ελληνική Επικράτεια

1. Αλλοδαποί ή ανιθαγενείς, οι οποίοι βρίσκονται σε κέντρα κράτησης ή σημεία διέλευσης συνόρων, συ-

μπεριλαμβανομένων των ζωνών διέλευσης, στα εξωτερικά σύνορα, λαμβάνουν πληροφορίες σχετικά με τη δυνατότητα υποβολής αίτησης διεθνούς προστασίας. Η Υπηρεσία Ασύλου σε συνεργασία με τις αρχές που δραστηριοποιούνται στα σημεία αυτά ή/και με φορείς της κοινωνίας των πολιτών, μεριμνά για την παροχή της πληροφόρησης σχετικά με τη δυνατότητα υποβολής αίτησης διεθνούς προστασίας. Στα εν λόγω κέντρα κράτησης και σημεία διέλευσης, παρέχεται δυνατότητα διερμηνείας στο μέτρο που είναι αναγκαίο για τη διευκόλυνση της πρόσβασης στη διαδικασία ασύλου.

2. Οι οργανώσεις και τα πρόσωπα που ενημερώνουν και συμβουλεύουν τους αλλοδαπούς ή ανιθαγενείς, σύμφωνα με την παράγραφο 1, έχουν πρόσβαση στα σημεία διέλευσης των συνόρων, περιλαμβανομένων των ζωνών διέλευσης, στα εξωτερικά σύνορα, εκτός αν συντρέχουν λόγοι εθνικής ασφάλειας ή δημόσιας τάξης ή λόγοι που υπαγορεύονται από τη διοικητική διαχείριση του συγκεκριμένου σημείου διέλευσης των συνόρων και επιβάλλουν τον περιορισμό του δικαιώματος αυτού. Οι περιορισμοί αυτοί δεν θα πρέπει να οδηγούν σε αδυναμία πρόσβασης στα συγκεκριμένα σημεία για τις ανωτέρω οργανώσεις ή πρόσωπα.

Άρθρο 39
(Άρθρο 10 Οδηγίας)
Προϋποθέσεις για την εξέταση της αίτησης

1. Οι αιτήσεις δεν απορρίπτονται, αποκλειστικά και μόνο για το λόγο ότι δεν υποβλήθηκαν το ταχύτερο δυνατόν.

2. Όλες οι αιτήσεις διεθνούς προστασίας εξετάζονται αρχικά ως προς την υπαγωγή στο καθεστώς του πρόσφυγα και, εφόσον δεν πληρούνται οι σχετικές προϋποθέσεις, εξετάζονται ως προς την υπαγωγή σε καθεστώς επικουρικής προστασίας.

3. Οι αποφάσεις επί των αιτήσεων λαμβάνονται σε ατομική βάση, μετά από εμπεριστατωμένη, αντικειμενική και αμερόληπτη εξέταση. Για το σκοπό αυτόν η Κεντρική Υπηρεσία Ασύλου:

α. Αναζητεί, συλλέγει, αξιολογεί και τηρεί συγκεκριμένες και ακριβείς πληροφορίες σχετικά με την πολιτική, κοινωνική, οικονομική, καθώς και τη γενική κατάσταση που επικρατεί στις χώρες προέλευσης των αιτούντων (χώρες καταγωγής, χώρες προηγούμενης συνήθους διαμονής, χώρες μέσω των οποίων διήλθαν κ.λπ.) σε συνεργασία με άλλες συναρμόδιες αρχές ή αντίστοιχες αρχές κρατών-μελών Ε.Ε., στο πλαίσιο σχετικών συμφωνιών ή από αξιόπιστες πηγές, όπως η Ευρωπαϊκή Υπηρεσία Υποστήριξης για το Άσυλο και η Ύπατη Αρμοστεία του Ο.Η.Ε. για τους Πρόσφυγες. Οι πληροφορίες αυτές κοινοποιούνται στις Αρμόδιες Αρχές Απόφασης.

β. Μεριμνά, ώστε το προσωπικό που εξετάζει και αποφασίζει για τις αιτήσεις ή εισηγείται για τη λήψη αποφάσεων, να γνωρίζει την εθνική και διεθνή νομοθεσία και τη νομολογία περί διεθνούς προστασίας. Προς τούτο, οργανώνει την εκπαίδευση και φροντίζει για τη συνεχή επιμόρφωση του προσωπικού. Επίσης μεριμνά, ώστε το προσωπικό να μπορεί να συμβουλεύεται, όταν είναι αναγκαίο, εμπειρογνώμονες επί ειδικών ζητημάτων όπως ιατρικών, πολιτισμικών, θρησκευτικών, γλωσσολογικών ή ζητημάτων που άπτονται ιδίως των ανηλίκων ή του φύλου. Περαιτέρω η Κεντρική Υπηρεσία Ασύλου διοργανώνει σεμινάρια εκπαίδευσης αυτοτελώς ή/και σε συνεργασία με την Ύπατη Αρμοστεία του ΟΗΕ για τους Πρόσφυγες και την Ευρωπαϊκή Υπηρεσία Στήριξης για το Άσυλο, ενώ μπορεί να διοργανώνει σεμινάρια κατάρτισης σε συνεργασία με φορείς της κοινωνίας των πολιτών. Κοινοποιεί στις Αρμόδιες Αρχές Απόφασης τις διαθέσιμες από την Ύπατη Αρμοστεία του Ο.Η.Ε. για τους Πρόσφυγες οδηγίες και ενημερωτικά δελτία σε θέματα διεθνούς προστασίας.

Άρθρο 40
(Άρθρο 11 Οδηγίας)
Αιτιολόγηση και επίδοση αποφάσεων και άλλων διαδικαστικών εγγράφων

1. Οι αποφάσεις επί της αίτησης διεθνούς προστασίας, συμπεριλαμβανομένων των αποφάσεων μεταφοράς βάσει του Κανονισμού (ΕΚ) 604/2013, επιδίδονται στον αιτούντα με μέριμνα της αρμόδιας Αρχής Παραλαβής.

2. Η επίδοση πραγματοποιείται το ταχύτερο δυνατόν μετά την έκδοση της απόφασης και αφού ειδοποιηθεί ο αιτών προκειμένου να προσέλθει για την παραλαβή της απόφασης σε συγκεκριμένη ημερομηνία.

3. Η ειδοποίηση πραγματοποιείται, με βάση τα δηλωθέντα υπευθύνως από τον αιτούντα, πλέον πρόσφατα στοιχεία επικοινωνίας, με επιστολή, τηλεομοιοτυπία, ηλεκτρονικό ταχυδρομείο ή τηλεφωνική κλήση. Για την πράξη αυτή γίνεται από τον αρμόδιο υπάλληλο σχετική μνεία στο φάκελο του αιτούντος ή σε ειδικό βιβλίο, η οποία πρέπει να φέρει χρονολογία και ώρα διενέργειας της πράξης, το όνομα και την υπογραφή του υπαλλήλου που προέβη στην ειδοποίηση και το είδος της πράξης στην οποία προέβη. Κάθε πρόσκληση ή κοινοποίηση πραγματοποιείται στον πιο πρόσφατο τόπο διαμονής ή κατοικίας που έχει δηλώσει ο αιτών διεθνή προστασία.

4. Εάν ο αιτών είναι κρατούμενος ή παραμένει σε Περιφερειακές Υπηρεσίες Υποδοχής και Ταυτοποίησης, εφόσον η μεταγωγή του ενώπιον των Αρχών Παραλαβής για την πραγματοποίηση της επίδοσης είναι αδύνατη για αντικειμενικούς λόγους, οι οποίοι γνωστοποιούνται εγγράφως στην αρμόδια Αρχή Παραλαβής, η απόφαση παραδίδεται στον προϊστάμενο του οικείου καταστήματος ή εγκατάστασης, ο οποίος μεριμνά για την άμεση επίδοση της απόφασης, σύμφωνα με τις κείμενες διατάξεις, με τη συνδρομή διερμηνέα, σε γλώσσα που ο κρατούμενος κατανοεί, μνεία δε του γεγονότος αυτού γίνεται στη σχετική έκθεση επίδοσης. Στη συνέχεια, ο προϊστάμενος του οικείου καταστήματος, χώρου κράτησης ή Περιφερειακής Υπηρεσίας Υποδοχής και Ταυτοποίησης, ενημερώνει σχετικά την αρμόδια Αρχή Παραλαβής, στην οποία αποστέλλει την έκθεση επίδοσης.

5. Εάν ο αιτών δεν ανταποκριθεί ή δεν καταστεί δυνατόν να ανευρεθεί με τα μέσα που αναφέρονται στην παράγραφο 3, η επίδοση διενεργείται το αργότερο κατά την επόμενη προσέλευσή του για ανανέωση του δελτίου αιτούντος από τις αρμόδιες αρχές.

6. Κατά την επίδοση, ο αιτών ενημερώνεται από διερμηνέα σε γλώσσα που κατανοεί, μνεία δε του γεγονότος αυτού γίνεται στη σχετική έκθεση επίδοσης. Στις περιπτώσεις της παραγράφου 4 επισυνάπτεται και έντυπο σε γλώσσα που κατανοεί ο αιτών που εξηγεί το περιεχόμενο του εγγράφου που επιδόθηκε, τις συνέπειές του για τον ίδιο και τις ενέργειες στις οποίες δύναται να προβεί.

7. Η απόφαση που απορρίπτει αίτηση διεθνούς προστασίας αναφέρει τους πραγματικούς και νομικούς λόγους της απόρριψης. Στην απορριπτική απόφαση γίνεται μνεία για την προθεσμία προς άσκηση προσφυγής, για το όργανο ενώπιον του οποίου ασκείται, για τις συνέπειες παρόδου άπρακτης της προθεσμίας αυτής, καθώς και για τη δυνατότητα και τους όρους παροχής δωρεάν νομικής συνδρομής στις διαδικασίες ενώπιον της Αρχής Προσφυγών σύμφωνα με τις ρυθμίσεις της υπουργικής απόφασης της παρ. 8 του άρθρου 7 του παρόντος.

8. Προσκλήσεις του αιτούντος από την αρμόδια Αρχή Παραλαβής στη συνέντευξη που αναφέρεται στο άρθρο 52 και από την Αρχή Προσφυγών σε ακρόαση κατά το άρθρο 62, πραγματοποιούνται με κάθε πρόσφορο μέσο, μεταξύ των οποίων όσα αναφέρονται στην παράγραφο 3, που εξασφαλίζει ότι ο αιτών έλαβε γνώση της πρόσκλησης. Δεν απαιτείται πρόσκληση, εφόσον για τον αιτούντα έχει οριστεί συγκεκριμένη ημερομηνία ολοκλήρωσης της καταγραφής της αίτησης, συνέντευξης ή προφορικής ακρόασης σε προγενέστερο στάδιο της διαδικασίας και του έχει εξηγηθεί η σημασία και το περιεχόμενο των διαδικασιών αυτών. Κάθε άλλη πρόσκληση ή κλήση του αιτούντος πραγματοποιείται με τα μέσα που αναφέρονται στην παράγραφο 3.

9. Οι αποφάσεις επί των αιτήσεων διεθνούς προστασίας, οι αποφάσεις διακοπής της εξέτασης της αίτησης και οι αποφάσεις ανάκλησης καθεστώτος διεθνούς προστασίας κοινοποιούνται στον Κλάδο Αλλοδαπών και Προστασίας Συνόρων της Διεύθυνσης Αλλοδαπών του Αρχηγείου της Ελληνικής Αστυνομίας. Οι αποφάσεις των Επιτροπών Προσφυγών κοινοποιούνται στον Υπουργό Εσωτερικών και Διοικητικής Ανασυγκρότησης.

10. Όταν έχει υποβληθεί αίτηση εξ ονόματος των μελών της οικογένειας του αιτούντος, που επικαλούνται τους ίδιους λόγους, η αρμόδια Αρχή Απόφασης μπορεί να εκδίδει μία απόφαση που αφορά όλα τα μέλη της οικογένειας, εκτός εάν αυτό θα οδηγούσε σε γνωστοποίηση της ιδιαίτερης κατάστασης αιτούντος που θα μπορούσε να θέσει σε κίνδυνο τα συμφέροντά του, ιδίως σε περιπτώσεις διώξεων με βάση το φύλο, το σεξουαλικό προσανατολισμό ή την ταυτότητα φύλου και /ή την ηλικία. Στην περίπτωση αυτή εκδίδεται χωριστή απόφαση για το συγκεκριμένο πρόσωπο.

Άρθρο 41
(Άρθρο 12 Οδηγίας)
Εγγυήσεις για τους αιτούντες

1. Οι αιτούντες, κατά την εφαρμογή των διατάξεων των Κεφαλαίων Γ΄ και Δ΄ έχουν τα ακόλουθα δικαιώματα:

α. Ενημερώνονται, σε γλώσσα την οποία κατανοούν, για τη διαδικασία που ακολουθείται, τα δικαιώματα και τις υποχρεώσεις τους, για το καθήκον εχεμύθειας των αρχών και το γεγονός ότι οι πληροφορίες που παρέχουν στις αρχές κατά τη διάρκεια της εξέτασης της αίτησής τους δεν θα αποκαλυφθούν στους φερόμενους ως φορείς δίωξης ή σοβαρής βλάβης, για τις συνέπειες της μη συμμόρφωσης προς τις υποχρεώσεις τους και της μη συνεργασίας με τις αρχές, καθώς και για τις συνέπειες της ρητής ή σιωπηρής ανάκλησης της αίτησής τους. Επίσης, ενημερώνονται για τις προθεσμίες και τα μέσα που έχουν στη διάθεσή τους, ώστε να συμμορφωθούν με την υποχρέωση υποβολής των στοιχείων που απαιτούνται για την τεκμηρίωση της αίτησής τους. Οι πληροφορίες τους παρέχονται εγκαίρως ώστε να ασκήσουν τα δικαιώματά τους και να συμμορφωθούν με τις υποχρεώσεις που περιγράφονται στο άρθρο 42. Οι πληροφορίες αυτές δύναται να παρέχονται και τηλεφωνικά ή με αυτοματοποιημένο τρόπο.

β. Τους παρέχονται υπηρεσίες διερμηνέα για να υποβάλουν την αίτησή τους και να εκθέσουν την υπόθεσή τους στις αρμόδιες Αρχές Παραλαβής, για τη διεξαγωγή συνέντευξης ή προφορικής ακρόασης, καθώς και σε όλα τα στάδια της διαδικασίας σε Α΄ και Β΄ βαθμό, εφόσον δεν μπορεί να εξασφαλισθεί η αναγκαία επικοινωνία χωρίς αυτόν. Η δαπάνη της διερμηνείας βαρύνει το Δημόσιο. Η παροχή υπηρεσιών διερμηνείας, όπου αυτή απαιτείται κατά τη διάρκεια της διαδικασίας εξέτασης της αίτησης διεθνούς προστασίας δύναται να παρέχεται και εξ αποστάσεως με τη χρήση κατάλληλων τεχνικών μέσων επικοινωνίας, σε περίπτωση που η φυσική παρουσία διερμηνέα δεν είναι πρόσφορη. Οι αρμόδιες αρχές απόφασης μεριμνούν ώστε να λαμβάνουν γνώση του περιεχομένου ξενόγλωσσων εγγράφων που τυχόν κατατίθενται ενώπιόν τους, ακόμη και αν αυτά δεν προσκομίζονται σε επίσημη μετάφραση.

γ. Μπορούν να επικοινωνούν με την Ύπατη Αρμοστεία του Ο.Η.Ε. για τους Πρόσφυγες ή με κάθε άλλη οργάνωση που παρέχει νομική, ιατρική και ψυχολογική συνδρομή.

δ. αα) Εφοδιάζονται ατελώς από την αρμόδια Αρχή Παραλαβής, αμέσως μετά την καταγραφή της αίτησης, σύμφωνα με το άρθρο 36 παρ. 1 με το δελτίο αιτούντος διεθνή προστασία, το οποίο φέρει τη φωτογραφία τους.

ββ) Το δελτίο αιτούντος διεθνή προστασία αποτελεί προσωρινό τίτλο, δεν θεμελιώνει δικαίωμα για έκδοση άδειας διαμονής, διασφαλίζει την απόλαυση των δικαιωμάτων των αιτούντων όπου αυτά προβλέπονται από τις κείμενες διατάξεις, εξασφαλίζει τις απαραίτητες αναγκαίες συναλλαγές κατά το χρόνο ισχύος του και τους επιτρέπει την παραμονή στην Ελληνική Επικράτεια.

γγ) Στο δελτίο μπορεί να αναφέρεται περιορισμός της κυκλοφορίας των αιτούντων σε τμήμα της Ελληνικής Επικράτειας, μετά από απόφαση του Διευθυντή της Υπηρεσίας Ασύλου.

δδ) Το δελτίο έχει διάρκεια ισχύος μέχρι ένα έτος και ανανεώνεται έως την ολοκλήρωση της διοικητικής διαδικασίας εξέτασης της αίτησης διεθνούς προστασίας. Στην περίπτωση που έχει χορηγηθεί δελτίο μετά την απλή καταγραφή της αίτησης, σύμφωνα με την παρ. 1 (β) του άρθρου 36, το δελτίο ισχύει μέχρι την ορισθείσα ημερομηνία πλήρους καταγραφής κατά την παράγραφο 1 (α) του ίδιου άρθρου.

εε) Με απόφαση του Διευθυντή της Υπηρεσίας Ασύλου μπορεί να μειώνεται η διάρκεια ισχύος των δελτίων αιτούντων από συγκεκριμένη χώρα καταγωγής, λαμβανομένης υπόψη της αναμενόμενης διάρκειας έκδοσης απόφασης σε Α΄ βαθμό και εφόσον από τα επίσημα στατιστικά της Ευρωπαϊκής Ένωσης προκύπτει ότι το ποσοστό χορήγησης διεθνούς προστασίας σε αιτούντες από τη συγκεκριμένη χώρα, κατά τα δύο προηγούμενα τρίμηνα, είναι χαμηλότερο του είκοσι πέντε τοις εκατό (25%).

στστ) Με απόφαση Προϊσταμένου της αρμόδιας αρχής παραλαβής δύναται να περιορίζεται η διάρκεια ισχύος του δελτίου συγκεκριμένου αιτούντος, ιδίως σε περίπτωση αναβολής της προγραμματισμένης προσωπικής

συνέντευξης, απώλειας δελτίου, όταν επίκειται άμεσα η επίδοση απόφασης ή όταν εκκρεμεί μεταφορά στο πλαίσιο εφαρμογής του Κανονισμού (ΕΕ) αριθμ. 604/2013 του Ευρωπαϊκού Κοινοβουλίου και του Συμβουλίου.

ζζ) Το δελτίο αιτούντος διεθνή προστασία παραδίδεται υποχρεωτικά από τον αιτούντα στην αρμόδια Αρχή Παραλαβής κατά την επίδοση σε αυτόν απορριπτικής απόφασης επί της αίτησής του και παύει αυτοδικαίως να ισχύει. Στην περίπτωση που ο αιτών κρατείται ή βρίσκεται σε Κέντρο Υποδοχής και Ταυτοποίησης ή εφόσον η αίτηση διεθνούς προστασίας έχει υποβληθεί σύμφωνα με το άρθρο 60, το δελτίο αιτούντος διεθνή προστασία χορηγείται μετά την άρση της κράτησης, ή το πέρας των διαδικασιών Υποδοχής και Ταυτοποίησης ή αφού επιτραπεί η είσοδος στο έδαφος της χώρας σύμφωνα με το άρθρο 60 παράγραφος 2. Αν κατά την της άρση της κράτησης ο αιτών δεν εφοδιαστεί με δελτίο, παραπέμπεται εγγράφως στην αρμόδια Αρχή Παραλαβής, ενώπιον της οποίας οφείλει να παρουσιασθεί εντός δέκα (10) ημερών για να δηλώσει τα στοιχεία επικοινωνίας του και να του χορηγηθεί δελτίο. Το έγγραφο παραπομπής φέρει τα στοιχεία του αιτούντος και φωτογραφία του. Οι αρμόδιες αρχές για την κράτηση του αιτούντος ή οι αρμόδιες υπηρεσίες της Υπηρεσίας Υποδοχής και Ταυτοποίησης επιδίδουν στον αιτούντα το έγγραφο παραπομπής του. Η επίδοση διενεργείται από διερμηνέα, σε γλώσσα που ο αιτών κατανοεί, μνεία δε του γεγονότος αυτού γίνεται στη σχετική έκθεση επίδοσης.

ε. Ενημερώνονται σχετικά με το αποτέλεσμα της απόφασης επί της αίτησης διεθνούς προστασίας σε γλώσσα που κατανοούν, καθώς και για τη δυνατότητα προσβολής της απορριπτικής απόφασης και της σχετικής προθεσμίας. Η απόφαση επί της αίτησης διεθνούς προστασίας εκδίδεται και επιδίδεται στον αιτούντα το ταχύτερο δυνατόν, σύμφωνα με τις διατάξεις του άρθρου 40. Σε περίπτωση που ο αιτών αναγνωρίζεται ως πρόσφυγας, γνωστοποιούνται στοιχεία από το διοικητικό φάκελο και χορηγούνται αντίγραφα μόνο εφόσον ο αιτών αποδείξει ειδικό έννομο συμφέρον.

στ. Έχουν πρόσβαση, οι ίδιοι ή διά των συμβούλων τους, σε πληροφορίες που παρέχουν εμπειρογνώμονες επί ειδικών ζητημάτων, όπως ιατρικών, πολιτισμικών, θρησκευτικών, γλωσσολογικών ή ζητημάτων που άπτονται ιδίως των ανηλίκων ή του φύλου.

2. Καθ' όλη τη διάρκεια της διαδικασίας εξέτασης της αίτησης διεθνούς προστασίας, οι αρμόδιες κατά το νόμο αρχές αναγνωρίζουν και θεωρούν το γνήσιο της υπογραφής αιτούντων με την επίδειξη του δελτίου. Στις περιπτώσεις κράτησης, παραμονής σε εγκαταστάσεις της Υπηρεσίας Υποδοχής και Ταυτοποίησης ή κατά τη διαδικασία του άρθρου 60, οι αρμόδιες κατά τον νόμο αρχές αναγνωρίζουν και βεβαιώνουν την υπογραφή των αιτούντων βάσει των στοιχείων που έχουν δηλώσει.

Άρθρο 42
(Άρθρο 13 Οδηγίας)
Υποχρεώσεις των αιτούντων

1. Οι αιτούντες υποχρεούνται να συνεργάζονται με τις αρμόδιες αρχές στο μέτρο που αυτό είναι αναγκαίο για τη διεκπεραίωση της αίτησής τους, συμπεριλαμβανομένης και της διαπίστωσης των στοιχείων της ταυτότητάς τους. Ειδικότερα, σε κάθε περίπτωση, οι αιτούντες υποχρεούνται να:

α. Παρουσιάζονται ενώπιον των Αρχών Παραλαβής αυτοπροσώπως, χωρίς καθυστέρηση προκειμένου να υποβάλουν αίτηση διεθνούς προστασίας, καθώς και όποτε κληθούν σύμφωνα με τις διατάξεις του παρόντος Μέρους, ενώπιον των αρμοδίων αρχών. Αίτηση διεθνούς προστασίας, παραίτηση από αυτήν, προσφυγή κατά απορριπτικής απόφασης, μεταγενέστερη αίτηση και αίτηση για ανανέωση του δελτίου αιτούντος διεθνή προστασία υποβάλλονται αυτοπροσώπως, εκτός αν συντρέχουν λόγοι ανωτέρας βίας, όπως σοβαρή ασθένεια ή σοβαρή σωματική αναπηρία, οι οποίοι θα πρέπει να αποδεικνύονται με ανάλογο πιστοποιητικό ή βεβαίωση δημόσιας υπηρεσίας. Στις προαναφερόμενες περιπτώσεις ανωτέρας βίας η αίτηση περιλαμβάνει δήλωση του αιτούντος, του επιτρόπου του, εκπροσώπου του ή του δικαστικού του συμπαραστάτη ότι γνωρίζει τις προϋποθέσεις της παρούσας παραγράφου. Σε κάθε περίπτωση, η συνέχιση της διαδικασίας εξέτασης μιας αίτησης διεθνούς προστασίας τελεί υπό την προϋπόθεση της διαπίστωσης της συνδρομής των ως άνω λόγων ανωτέρας βίας, καθώς και της αυτοπρόσωπης εμφάνισης του αιτούντος ενώπιον των αρμοδίων Αρχών Παραλαβής, εφόσον διαπιστώνεται ότι οι λόγοι ανωτέρας βίας είναι παροδικού χαρακτήρα.

β. Παραδίδουν το ταξιδιωτικό έγγραφο και προσκομίζουν οποιοδήποτε άλλο έγγραφο έχουν στην κατοχή τους και σχετίζεται με την εξέταση της αίτησης και των στοιχείων που πιστοποιούν την ταυτότητα των ιδίων και των μελών της οικογένειάς τους, τη χώρα προέλευσης και τον τόπο καταγωγής τους, καθώς και την οικογενειακή τους κατάσταση. Στις περιπτώσεις που παραδοθούν τα ανωτέρω έγγραφα συντάσσεται πρακτικό παράδοσης-παραλαβής, αντίγραφο του οποίου χορηγείται στον αιτούντα. Η υποβολή και η εξέταση της αίτησης χορήγησης διεθνούς προστασίας, καθώς και η χορήγηση καθεστώτος δεν προϋποθέτουν απαραιτήτως την υποβολή αποδεικτικών στοιχείων.

γ. Ενημερώνουν αμέσως τις αρμόδιες Αρχές Παραλαβής για τη διεύθυνση κατοικίας ή διαμονής τους και τα άλλα στοιχεία επικοινωνίας τους καθώς και για κάθε μεταβολή των ως άνω στοιχείων.

δ. Συνεργάζονται με τις αρμόδιες αρχές για τη διενέργεια κάθε νόμιμης έρευνας σχετικά με την αίτησή τους.

ε. Δέχονται σωματική έρευνα και έρευνα των αντικειμένων που φέρουν και φωτογραφίζονται, ενώ, εφόσον είναι άνω των 14 ετών, δακτυλοσκοπούνται, σύμφωνα με τις κείμενες διατάξεις. Η σωματική έρευνα διεξάγεται από πρόσωπο του ιδίου φύλου με τον αιτούντα, τηρουμένων πλήρως των αρχών της ανθρώπινης αξιοπρέπειας και της σωματικής και ψυχολογικής ακεραιότητας.

2. Για τις υποχρεώσεις αυτές και τα δικαιώματα τους σύμφωνα με το άρθρο 41, ενημερώνονται ειδικά οι αιτούντες σε γλώσσα που κατανοούν και συντάσσεται προς τούτο σχετικό αποδεικτικό, στο οποίο αναφέρεται η γλώσσα επικοινωνίας.

Άρθρο 43
Στοιχεία Ταυτότητας των Αιτούντων

1. Τα στοιχεία ταυτότητας των αιτούντων προκύπτουν από το διαβατήριό τους, το δελτίο ταυτότητάς τους, ή τη ληξιαρχική πράξη γέννησής τους, εφόσον έχουν γεννηθεί στην Ελλάδα. Με απόφαση του Διευθυντή της

Υπηρεσίας Ασύλου μπορεί να γίνεται δεκτή και άλλη κατηγορία εγγράφων.

2. Σε περίπτωση έλλειψης των εγγράφων αυτών, τα στοιχεία ταυτότητας καταγράφονται με βάση τη σχετική δήλωση του αιτούντος, κατά την καταγραφή της αίτησης διεθνούς προστασίας.

3. Τα στοιχεία ταυτότητας δύναται να τροποποιηθούν με απόφαση Προϊσταμένου της αρμόδιας Αρχής Παραλαβής μετά από σχετική αίτηση του αιτούντος διεθνή προστασία, η οποία συνοδεύεται από πρωτότυπα έγγραφα της παραγράφου 1, εκτός αν η τροποποίηση αφορά προφανείς γραφικές παραδρομές ή παραδρομές προφανώς οφειλόμενες στη μεταφορά άλλων αλφαβήτων στο λατινικό αλφάβητο, οπότε αρκεί απλή αίτηση του ενδιαφερόμενου.

4. Κατ' εξαίρεση το στοιχείο της ιθαγένειας και του τόπου γέννησης, μπορούν να τροποποιηθούν με απόφαση του Προϊσταμένου της Αρχής Παραλαβής, μετά από γνώμη του αρμόδιου χειριστή, εφόσον κατά τη συνέντευξη του άρθρου 52 ο αιτών προβεί σε σχετική δήλωση και θεμελιωθεί ότι τα στοιχεία αυτά έχουν καταγραφεί εσφαλμένα. Ομοίως κατ' εξαίρεση μπορεί να τροποποιηθούν τα στοιχεία ταυτότητας εάν κατά τη συνέντευξη προβληθούν βάσιμοι και σοβαροί λόγοι για τους οποίους ο αιτών αρχικά δεν είχε δηλώσει τα πραγματικά του στοιχεία. Η ημερομηνία γέννησης τροποποιείται μετά από διενέργεια διαδικασίας προσδιορισμού ηλικίας σύμφωνα με το άρθρο 45, εκτός αν κατά τη συνέντευξη προκύψει ότι ο αιτών που έχει καταγραφεί ως ενήλικος είναι προφανώς ανήλικος, οπότε αρκεί απόφαση του Προϊσταμένου της αρμόδιας Αρχής Παραλαβής μετά από γνώμη του αρμόδιου χειριστή.

5. Σε περίπτωση που η ανάγκη τροποποίησης των στοιχείων της παραγράφου 4, και σύμφωνα με τα ανωτέρω, διαπιστωθεί κατά το στάδιο εξέτασης της προσφυγής, σύμφωνα με τα άρθρα 61 και 62, η τροποποίηση πραγματοποιείται με επιμέλεια του Προϊσταμένου του Τμήματος Συντονισμού της Υπηρεσίας Ασύλου, μετά από απόφαση της Επιτροπής Προσφυγών ενώπιον της οποίας εκκρεμεί η υπόθεση.

Άρθρο 44
(Άρθρα 19 έως 23 Οδηγίας)
Παροχή πληροφοριών -
Νομική εκπροσώπηση και συνδρομή

1. Οι αιτούντες έχουν δικαίωμα να συμβουλεύονται με δαπάνη τους δικηγόρο ή άλλο σύμβουλο σε θέματα σχετικά με την αίτησή τους. Εφόσον ειδικές διατάξεις δεν ορίζουν διαφορετικά για συγκεκριμένες πράξεις, η εξουσιοδότηση αιτούντων προς δικηγόρο για την εκπροσώπησή τους ενώπιον των αρχών του παρόντος Μέρους μπορεί να πραγματοποιηθεί και με απλό ιδιωτικό έγγραφο, χωρίς να απαιτείται θεώρηση του γνησίου της υπογραφής. Η εξουσιοδότηση αιτούντων προς άλλα πρόσωπα απαιτεί θεώρηση του γνησίου της υπογραφής.

2. Στους αιτούντες παρέχονται, στο πλαίσιο των διαδικασιών του Κεφαλαίου Γ΄, δωρεάν νομικές πληροφορίες και πληροφορίες για τη διαδικασία, σχετικά με την υπόθεσή τους. Πέραν της παροχής πληροφόρησης του προηγούμενου εδαφίου, σε περίπτωση απόφασης με την οποία δεν χορηγείται προσφυγικό καθεστώς σε πρώτο βαθμό, στους αιτούντες παρέχεται, κατόπιν αιτήματος, εξειδικευμένη ενημέρωση σχετικά με το σκεπτικό της απόφασης και τη δυνατότητα άσκησης προσφυγής κατ' αυτής. Η πληροφόρηση και ενημέρωση των προηγούμενων εδαφίων μπορεί να παρέχονται από φορείς της κοινωνίας των πολιτών.

3. Στους αιτούντες παρέχεται δωρεάν νομική συνδρομή στις διαδικασίες ενώπιον της Αρχής Προσφυγών με τους όρους και τις προϋποθέσεις της υπουργικής απόφασης του άρθρου 7 παράγραφος 8 του παρόντος. Σε περίπτωση προσφυγής ενώπιον δικαστηρίου, οι αιτούντες είναι δυνατόν να λαμβάνουν δωρεάν νομική βοήθεια, υπό τους όρους και τις προϋποθέσεις των διατάξεων του ν. 3226/2004 (Α΄ 24), οι οποίες εφαρμόζονται αναλόγως.

4. Οι δικηγόροι που εκπροσωπούν αιτούντες έχουν πρόσβαση σε πληροφορίες του φακέλου τους, βάσει των οποίων λαμβάνεται ή θα ληφθεί η απόφαση, υπό την επιφύλαξη του άρθρου 41 παράγραφος 1(ε) εδάφιο τρίτο του παρόντος. Άλλοι σύμβουλοι που παρέχουν συνδρομή σε αιτούντες έχουν πρόσβαση σε στοιχεία του φακέλου τους εφόσον αυτά σχετίζονται με την παρεχόμενη συνδρομή. Ο Προϊστάμενος της αρμόδιας Αρχής Παραλαβής, δύναται, μετά από αιτιολογημένη πράξη του, να απαγορεύει τη γνωστοποίηση πληροφοριών ή της πηγής αυτών, εφόσον κρίνει ότι η αποκάλυψη αυτών ενδέχεται να θέσει σε κίνδυνο την εθνική ασφάλεια, την ασφάλεια των οργανισμών που παρέχουν τις πληροφορίες αυτές, την ασφάλεια των προσώπων που αυτές αφορούν ή τις διεθνείς σχέσεις της χώρας. Η παραπάνω απαγόρευση δεν θα πρέπει να περιορίζει δυσανάλογα το δικαίωμα του αιτούντος σε εκπροσώπηση, νομική συμπαράσταση και υπεράσπιση. Η πρόσβαση στις εν λόγω απόρρητες πληροφορίες ή πηγές είναι δυνατή, σε κάθε περίπτωση, από την Αρχή Προσφυγών, στο πλαίσιο εξέτασης προσφυγής και από το Δικαστήριο, το οποίο είναι αρμόδιο για την εξέταση των προβλεπομένων στο άρθρο 64 αιτήσεων ακυρώσεως.

5. Οι δικηγόροι που εκπροσωπούν και οι σύμβουλοι που παρέχουν συνδρομή σε αιτούντες, έχουν πρόσβαση σε Περιφερειακές Υπηρεσίες της Υπηρεσίας Υποδοχής και Ταυτοποίησης υπό τους ειδικούς όρους του Γενικού Κανονισμού λειτουργίας της Υπηρεσίας Υποδοχής και Ταυτοποίησης. Επίσης έχουν πρόσβαση σε χώρους κράτησης και ζώνες διέλευσης, για να επικοινωνούν με τους αιτούντες, σε ειδικά διαμορφωμένο χώρο. Η δυνατότητα πρόσβασης των ως άνω προσώπων στους χώρους αυτούς περιορίζεται όταν αυτό κρίνεται αντικειμενικά απαραίτητο από τις εκάστοτε αρμόδιες αρχές για την ασφάλεια, τη δημόσια τάξη ή τη διοικητική διαχείριση του εν λόγω χώρου ή την ασφάλεια των αιτούντων, υπό τον όρο ότι δεν περιορίζεται ούτε παρακωλύεται το δικαίωμα του αιτούντος σε εκπροσώπηση και νομική συμπαράσταση, ιδίως όταν η πρόσβαση των δικηγόρων και συμβούλων περιορίζεται υπερβολικά ή καθίσταται αδύνατη.

6. Δικηγόροι ή άλλοι σύμβουλοι δικαιούνται να παρέχουν κάθε νόμιμη συνδρομή στον αιτούντα σε όλα τα στάδια της διαδικασίας. Οι αιτούντες δικαιούνται να παρίστανται στην προσωπική συνέντευξη με τον δικηγόρο που τους εκπροσωπεί ή τον σύμβουλο που τους παρέχει συνδρομή. Η συνέντευξη μπορεί να διεξαχθεί παρά την απουσία συνηγόρου, εφόσον κριθεί ότι η απουσία αυτή δεν συνιστά σπουδαίο λόγο αναβολής.

Άρθρο 45
(Άρθρο 25 Οδηγίας)
Αιτήσεις ασυνόδευτων ανήλικων

1. Οι αρμόδιες αρχές, όταν υποβάλλεται αίτηση από ασυνόδευτους ανήλικους, ενεργούν σύμφωνα με την παράγραφο 1 του άρθρου 19 του Π.δ. 220/2007, για το διορισμό επιτρόπου του ανηλίκου. Ο ανήλικος ενημερώνεται αμέσως για το πρόσωπο του επιτρόπου. Ο επίτροπος εκπροσωπεί τον ανήλικο, μεριμνά για τη διασφάλιση των δικαιωμάτων του στο πλαίσιο της διαδικασίας ασύλου, καθώς και για την εξασφάλιση κατάλληλης νομικής συνδρομής και εκπροσώπησής του, ενώπιον των αρμοδίων αρχών. Ο επίτροπος ή ασκών τη σχετική πράξη επιτροπείας μεριμνά για την έγκαιρη και προσήκουσα ενημέρωση του ασυνόδευτου ανηλίκου, ιδίως για τη σημασία και τις πιθανές συνέπειες της προσωπικής συνέντευξης, καθώς και για τον τρόπο με τον οποίο πρέπει να προετοιμαστεί για αυτή. Ο επίτροπος ή ο ασκών τη σχετική πράξη επιτροπείας καλείται και δύναται να παρίσταται στην προσωπική συνέντευξη του ανηλίκου και να υποβάλλει ερωτήσεις ή παρατηρήσεις προς διευκόλυνση της διαδικασίας. Κατά τη διενέργεια προσωπικής συνέντευξης μπορεί να κριθεί απαραίτητη η παρουσία του ασυνόδευτου ανηλίκου, παρά την παρουσία του επιτρόπου ή του ασκούντος σχετική πράξη επιτροπείας.

2. Οι χειριστές που διεξάγουν προσωπικές συνεντεύξεις με ασυνόδευτο ανήλικο και λαμβάνουν τις σχετικές αποφάσεις, πρέπει να διαθέτουν τις αναγκαίες γνώσεις σχετικά με τις ειδικές ανάγκες των ανηλίκων και να διενεργούν με τέτοιο τρόπο τη συνέντευξη, ώστε να είναι απόλυτα αντιληπτή από τον αιτούντα, λαμβάνοντας ιδιαίτερα υπόψη την ηλικία του.

3. Εφόσον ο επίτροπος ή ασκών τη σχετική πράξη επιτροπείας είναι δικηγόρος, ο αιτών δεν μπορεί να επωφεληθεί δωρεάν νομικής συνδρομής σύμφωνα με το άρθρο 44 παράγραφος 3, πρώτο εδάφιο.

4. Οι Αρμόδιες Αρχές Παραλαβής μπορούν, σε περίπτωση αμφιβολίας, να παραπέμπουν τους ασυνόδευτους ανήλικους σε διαδικασίες διαπίστωσης ανηλικότητας, σύμφωνα με τις διατάξεις της κοινής υπουργικής απόφασης αριθμ. 1982/16.2.2016 (Β΄ 335). Στις περιπτώσεις που κρίνεται απαραίτητη η παραπομπή στη διαδικασία για προσδιορισμό της ηλικίας και καθ' όλη τη διάρκειά της, λαμβάνεται μέριμνα για το σεβασμό τον ιδιαίτερων χαρακτηριστικών που οφείλονται ιδίως στο φύλο και σε πολιτισμικές ιδιαιτερότητες. Επίσης, λαμβάνεται μέριμνα ώστε:

α. Να έχει οριστεί επίτροπος του ανηλίκου, ο οποίος θα προβαίνει σε όλες τις απαραίτητες ενέργειες για την προστασία των δικαιωμάτων και τη διασφάλιση του βέλτιστου συμφέροντος του ανηλίκου καθ' όλη τη διάρκεια της διαδικασίας προσδιορισμού της ηλικίας.

β. Οι ασυνόδευτοι ανήλικοι να ενημερώνονται, πριν από την εξέταση της αίτησής τους και σε γλώσσα την οποία κατανοούν, για τη δυνατότητα και τις διαδικασίες προσδιορισμού της ηλικίας τους, για τις μεθόδους που εφαρμόζονται, τις ενδεχόμενες συνέπειες των αποτελεσμάτων της ως άνω διαδικασίας στην εξέταση της αίτησης διεθνούς προστασίας, καθώς και τις συνέπειες της άρνησής τους να υποβληθούν στη διαδικασία αυτή.

γ. Οι ασυνόδευτοι ανήλικοι ή οι επίτροποί τους να συναινούν στη διενέργεια της διαδικασίας για τον προσδιορισμό της ηλικίας των συγκεκριμένων ανηλίκων.

δ. Απόφαση απόρριψης της αίτησης ασυνόδευτου ανηλίκου που αρνήθηκε να υποβληθεί σε διαδικασία προσδιορισμού της ηλικίας να μη βασίζεται μόνο στην άρνηση αυτή και

ε. μέχρι την ολοκλήρωση της διαδικασίας προσδιορισμού της ηλικίας, το πρόσωπο που ισχυρίζεται ότι είναι ανήλικο να έχει ανάλογη μεταχείριση ως ανήλικο.

5. Εφόσον από τη διαδικασία για τον προσδιορισμό της ηλικίας δεν προκύψει με ασφάλεια ότι ο αιτών είναι ενήλικος, αυτός αντιμετωπίζεται ως ανήλικος.

6. Το γεγονός ότι ένας ασυνόδευτος ανήλικος έχει αρνηθεί να υποβληθεί σε ιατρική εξέταση δεν εμποδίζει τις Αρχές Απόφασης να λαμβάνουν απόφαση επί της αίτησης.

7. Αιτήσεις διεθνούς προστασίας ασυνόδευτων ανηλίκων εξετάζονται πάντοτε με την κανονική διαδικασία.

8. Η διασφάλιση του βέλτιστου συμφέροντος του παιδιού αποτελεί πρωταρχική υποχρέωση κατά την εφαρμογή των διατάξεων του παρόντος άρθρου.

Άρθρο 46
(Άρθρο 26 της Οδηγίας 2013/32/ΕΕ και 8 έως 11 της Οδηγίας 2013/33/ΕΕ)
Κράτηση των αιτούντων

1. Αλλοδαπός ή ανιθαγενής που αιτείται διεθνή προστασία, δεν κρατείται για μόνο το λόγο ότι έχει υποβάλει αίτηση διεθνούς προστασίας, καθώς και ότι εισήλθε παράτυπα ή/και παραμένει στη χώρα χωρίς νόμιμο τίτλο διαμονής.

2. Αλλοδαπός ή ανιθαγενής που υποβάλλει αίτηση διεθνούς προστασίας ενόσω κρατείται βάσει των σχετικών διατάξεων των νόμων 3386/2005 (Α΄ 212) και 3907/2011 (Α΄ 7), όπως ισχύουν, παραμένει υπό κράτηση κατ' εξαίρεση, εφόσον αυτή είναι αναγκαία, κατόπιν ατομικής αξιολόγησης και υπό την προϋπόθεση ότι δεν μπορούν να εφαρμοσθούν εναλλακτικά μέτρα, όπως αυτά που αναφέρονται στο άρθρο 22 παρ. 3 του ν. 3907/2011, για έναν από τους παρακάτω λόγους:

α. για τη διαπίστωση των στοιχείων της ταυτότητας ή της καταγωγής του ή

β. προκειμένου να προσδιοριστούν τα στοιχεία εκείνα στα οποία βασίζεται η αίτηση διεθνούς προστασίας, η απόκτηση των οποίων θα ήταν σε άλλη περίπτωση αδύνατη, ιδίως όταν υπάρχει κίνδυνος διαφυγής του αιτούντος, όπως ο κίνδυνος αυτός ορίζεται στο άρθρο 18 (ζ) του ν. 3907/2011, ή

γ. όταν τεκμηριώνεται βάσει αντικειμενικών κριτηρίων, συμπεριλαμβανομένου του γεγονότος ότι το πρόσωπο είχε ήδη την ευκαιρία πρόσβασης στη διαδικασία χορήγησης ασύλου, ότι υπάρχουν βάσιμοι λόγοι να θεωρείται ότι ο αιτών υποβάλει αίτηση διεθνούς προστασίας, προκειμένου να καθυστερήσει απλώς ή να εμποδίσει την εκτέλεση απόφασης επιστροφής, εφόσον πιθανολογείται ότι η εκτέλεση της απόφασης αυτής μπορεί να υλοποιηθεί ή

δ. εφόσον συνιστά κίνδυνο για την εθνική ασφάλεια ή τη δημόσια τάξη, κατά την αιτιολογημένη κρίση της αρμόδιας αρχής της παραγράφου 3, ή

ε. όταν υπάρχει σημαντικός κίνδυνος διαφυγής, κατά τη έννοια του άρθρου 2 (ιδ) του Κανονισμού (ΕΕ) αριθ. 604/2013, σύμφωνα με τα κριτήρια του άρθρου 18 στοιχείο ζ΄ του ν. 3907/2011, τα οποία εφαρμόζονται αναλόγως, και προκειμένου να διασφαλιστεί η υλοποίηση

της διαδικασίας μεταφοράς σύμφωνα με τον ως άνω Κανονισμό.

3. Η απόφαση κράτησης λαμβάνεται από τον οικείο Αστυνομικό Διευθυντή και, προκειμένου περί των Γενικών Αστυνομικών Διευθύνσεων Αττικής και Θεσσαλονίκης, τον αρμόδιο για θέματα αλλοδαπών Αστυνομικό Διευθυντή, και περιέχει πλήρη και εμπεριστατωμένη αιτιολογία. Στις περιπτώσεις α΄, β΄, γ΄και ε΄της παραγράφου 2 του παρόντος άρθρου, η απόφαση κράτησης λαμβάνεται κατόπιν εισήγησης του Προϊσταμένου της αρμόδιας Αρχής Παραλαβής.

4. α. Η κράτηση των αιτούντων διεθνή προστασία επιβάλλεται για το απολύτως αναγκαίο χρονικό διάστημα. Καθυστερήσεις των διοικητικών διαδικασιών που δεν μπορούν να αποδοθούν στον αιτούντα δεν δικαιολογούν συνέχιση της κράτησης.

β. Η κράτηση αιτούντος διεθνή προστασία για τους λόγους των περιπτώσεων α΄, β΄ και γ΄ καταρχήν επιβάλλεται για διάστημα μέχρι 45 ημερών και παρατείνεται για άλλες 45 ημέρες εφόσον δεν ανακληθεί η εισήγηση της παραγράφου 3.

γ. Η κράτηση αιτούντος διεθνή προστασία για τους λόγους των περιπτώσεων δ΄ και ε΄ της παραγράφου 2, δεν δύναται να υπερβαίνει τους τρεις (3) μήνες.

δ. Ανεξάρτητα από τη συμπλήρωση ή μη των ανωτέρω ορίων των στοιχείων β΄ και γ΄, ο συνολικός χρόνος κράτησης δεν μπορεί σε καμία περίπτωση να υπερβαίνει τα ανώτατα όρια κράτησης, όπως αυτά προβλέπονται στο άρθρο 30 του ν. 3907/2011.

5. Η αρχική απόφαση κράτησης και η απόφαση παράτασης της κράτησης διαβιβάζεται στον πρόεδρο ή τον υπ' αυτού οριζόμενο πρωτοδίκη του διοικητικού πρωτοδικείου στην Περιφέρεια του οποίου κρατείται ο αιτών, ο οποίος κρίνει για τη νομιμότητα της επιβολής του μέτρου της κράτησης και εκδίδει παραχρήμα την απόφαση του, την οποία διατυπώνει συνοπτικά σε τηρούμενο πρακτικό, αντίγραφο του οποίου διαβιβάζει αμέσως στην αρμόδια αστυνομική αρχή. Εφόσον ζητηθεί, ο αιτών διεθνή προστασία ή ο δικαστικός του πληρεξούσιος ακούγεται υποχρεωτικά από τον δικαστή, τούτο δε μπορεί να διατάξει σε κάθε περίπτωση και ο δικαστής. Σε αυτήν την περίπτωση εφαρμόζονται αναλόγως οι διατάξεις της παραγράφου 3 και επόμενες του άρθρου 76 του ν. 3386/2005. Η ανωτέρω διαδικασία δεν περιορίζει τη δυνατότητα του αιτούντος να προβάλλει αντιρρήσεις κατά της απόφασης κράτησης ή παράτασης της κράτησης σύμφωνα με τα οριζόμενα στο επόμενο άρθρο.

6. Οι αιτούντες που κρατούνται, σύμφωνα με τις προηγούμενες παραγράφους, έχουν τα δικαιώματα προσφυγής και υποβολής αντιρρήσεων που προβλέπονται στις παραγράφους 3 και επόμενες του άρθρου 76 του ν. 3386/2005, όπως ισχύει.

7. Οι κρατούμενοι αιτούντες διεθνή προστασία, σε περίπτωση αμφισβήτησης της απόφασης κράτησης, δικαιούνται δωρεάν νομική συνδρομή, σύμφωνα με τη διαδικασία που προβλέπεται στις διατάξεις του ν. 3226/2004 (Α΄ 24), οι οποίες εφαρμόζονται αναλόγως.

8. Η κράτηση του αιτούντος διεθνή προστασία συνιστά λόγο επιτάχυνσης της διαδικασίας ασύλου, λαμβανομένης υπόψη της, τυχόν, έλλειψης κατάλληλων χώρων και των δυσχερειών εξασφάλισης αξιοπρεπών συνθηκών διαβίωσης των τελούντων σε κράτηση. Οι δυσχέρειες αυτές καθώς και η ευαλωτότητα των αιτούντων κατά το άρθρο 14 παράγραφος 8 του παρόντος συνεκτιμώνται για την επιβολή ή την παράταση της κράτησης. Σε περίπτωση κράτησης αλλοδαπού ή ανιθαγενή ο οποίος υποβάλει αίτηση διεθνούς προστασίας υπό κράτηση, ενημερώνεται αμέσως ο Προϊστάμενος της αρμόδιας Αρχής Παραλαβής ή/και ο Διοικητικός Διευθυντής της Αρχής Προσφυγών, ο οποίος μεριμνά για την κατά προτεραιότητα εξέταση της αίτησης ή της προσφυγής.

9. Οι αιτούντες κρατούνται στους χώρους κράτησης που προβλέπονται στο άρθρο 31 του ν. 3907/2011.

10. Στις περιπτώσεις κράτησης αιτούντων, οι αρμόδιες αρχές, με την επιφύλαξη των διεθνών και εθνικών κανόνων δικαίου που διέπουν την κράτηση, εφαρμόζουν, κατά περίπτωση, τα ακόλουθα:

α. Μεριμνούν ώστε οι γυναίκες να κρατούνται σε χώρο χωριστά από τους άντρες και για τον επαρκή σεβασμό της ιδιωτικής ζωής των οικογενειών που κρατούνται.

β. Αποφεύγουν την κράτηση των ανήλικων. Ανήλικοι που έχουν χωριστεί από τις οικογένειές τους και ασυνόδευτοι ανήλικοι κατά κανόνα δεν κρατούνται. Σε όλως εξαιρετικές περιπτώσεις, ασυνόδευτοι ανήλικοι οι οποίοι υποβάλουν αίτηση διεθνούς προστασίας ενόσω κρατούνται βάσει των σχετικών διατάξεων των ν. 3386/2005 και 3907/2011, παραμένουν υπό κράτηση ως έσχατη λύση και για μόνο λόγο την ασφαλή παραπομπή τους σε κατάλληλες δομές φιλοξενίας ανηλίκων. Η κράτηση επιβάλλεται αποκλειστικά για τον αναγκαίο χρόνο μέχρι την ασφαλή παραπομπή τους και δεν μπορεί να υπερβαίνει τις 25 μέρες. Σε περίπτωση που, λόγω εξαιρετικών περιστάσεων, όπως η σημαντική αύξηση της εισόδου ασυνόδευτων ανηλίκων, και που, παρά τις εύλογες προσπάθειες των αρμόδιων αρχών δεν έχει καταστεί εφικτή η ασφαλής παραπομπή τους σε κατάλληλες δομές φιλοξενίας, η κράτηση μπορεί να παραταθεί για διάστημα 20 ημερών. Ανήλικοι που έχουν χωριστεί από την οικογένεια τους και ασυνόδευτοι ανήλικοι κρατούνται χωριστά από ενήλικους κρατουμένους. Σε περίπτωση κράτησης ανηλίκων, αυτοί έχουν τη δυνατότητα να ασχολούνται με δραστηριότητες ελεύθερου χρόνου, συμπεριλαμβανομένων των παιχνιδιών και των ψυχαγωγικών δραστηριοτήτων που αρμόζουν στην ηλικία τους και απρόσκοπτη πρόσβαση στην εκπαίδευση.

γ. Αποφεύγουν την κράτηση γυναικών κατά τη διάρκεια της κύησης και για τρεις μήνες μετά τον τοκετό.

δ. Παρέχουν στους κρατούμενους την προσήκουσα ιατρική φροντίδα.

ε. Διασφαλίζουν το δικαίωμα για νομική εκπροσώπηση των κρατούμενων.

στ. Μεριμνούν ώστε οι κρατούμενοι να ενημερώνονται σε γλώσσα που κατανοούν για τους λόγους και τη διάρκεια της κράτησης, για το δικαίωμά τους και τους τρόπους αμφισβήτησης της απόφασης κράτησης, καθώς και το δικαίωμά τους για παροχή δωρεάν νομικής συνδρομής.

11. Όταν εκλείψουν οι λόγοι που δικαιολογούν την κράτηση ενός αιτούντος σύμφωνα με την παράγραφο 2, οι αρχές που διέταξαν την κράτηση, με αιτιολογημένη απόφασή τους, αφήνουν ελεύθερο τον αιτούντα και ενημερώνουν αμελλητί τις Αρχές Παραλαβής ή την Αρχή Προσφυγών, εφόσον η αίτηση εκκρεμεί σε β΄ βαθμό.

Άρθρο 47
(Άρθρα 27 και 28 της Οδηγίας)
Παραίτηση από την αίτηση

1. Ο αιτών δύναται να παραιτηθεί από την αίτησή του καθ' όλη τη διάρκεια της διαδικασίας, με την υποβολή σχετικής έγγραφης δήλωσης, ενώπιον των αρμόδιων Αρχών Παραλαβής και εφόσον παραδώσει το δελτίο αιτούντος διεθνή προστασία. Για τη βεβαίωση της παραίτησης συντάσσεται σχετικό πρακτικό παραίτησης το οποίο αναφέρει τις συνέπειες της πράξης αυτής. Η παραίτηση γίνεται παρουσία διερμηνέα, ο οποίος επιβεβαιώνει το ακριβές περιεχόμενο του πρακτικού, ενώ ο αιτών ενημερώνεται για τις συνέπειες της παραίτησης και για το γεγονός ότι οφείλει να εγκαταλείψει τη χώρα, εφόσον δεν είναι κάτοχος τίτλου διαμονής, παραλαμβάνει αντίγραφο του πρακτικού παραίτησης και η υπόθεση τίθεται στο αρχείο από την αρμόδια Αρχή Παραλαβής. Η ίδια διαδικασία εφαρμόζεται και εφόσον αιτών για τον οποίο έχει διενεργηθεί απλή καταγραφή σύμφωνα με το άρθρο 36 παρ. 1 (β), δηλώσει ότι δεν επιθυμεί τη διενέργεια πλήρους καταγραφής της αίτησής του για διεθνή προστασία.

2. Όταν υπάρχει εύλογη αιτία να θεωρείται ότι ο αιτών έχει σιωπηρά ανακαλέσει την αίτησή του, οι Αρχές Απόφασης διακόπτουν την εξέταση της αίτησης με σχετική πράξη τους και θέτουν την υπόθεση στο αρχείο. Οι ως άνω πράξεις κοινοποιούνται με επιστολή στον αιτούντα, στην τελευταία δηλωθείσα διεύθυνσή του. Εφόσον δεν έχει δηλωθεί διεύθυνση, οι πράξεις αυτές δεν κοινοποιούνται.

3. Σιωπηρή ανάκληση θεωρείται ότι υπάρχει όταν διαπιστώνεται ότι ο αιτών, χωρίς να θεμελιώνει ότι αυτό οφείλεται σε συνθήκες ανεξάρτητες από τη θέλησή του:

α. δεν ανταποκρίθηκε σε αιτήματα για παροχή πληροφοριών με ουσιώδη σημασία για την αίτησή του κατά το άρθρο 4 του Π.δ. 141/2013 (Α΄ 226) ή

β. δεν παρέστη στην προσωπική συνέντευξη ή σε ακρόαση ενώπιον της Επιτροπής Προσφυγών, όπως προβλέπεται στα άρθρα 52 και 62, παρότι κλήθηκε νόμιμα και χωρίς να προβάλει βάσιμους λόγους για τη μη παρουσία του, ή

γ. διέφυγε από το χώρο όπου βρισκόταν υπό κράτηση ή δεν συμμορφώθηκε με τα επιβληθέντα εναλλακτικά μέτρα ή

δ. αναχώρησε από το χώρο όπου διέμενε, χωρίς να ζητήσει άδεια ή να ενημερώσει τις αρμόδιες αρχές εφόσον είχε προς τούτο υποχρέωση ή εγκατέλειψε τη χώρα χωρίς να λάβει άδεια από τις αρμόδιες Αρχές Παραλαβής ή

ε. δεν συμμορφώθηκε με τις υποχρεώσεις του άρθρου 42 παράγραφος 1 στοιχεία β΄ και γ΄, ή άλλη υποχρέωση επικοινωνίας ή υποχρέωση να προσκομίσει έγγραφο το οποίο αποδεδειγμένα έχει ή οφείλει να έχει στην κατοχή του και δύναται να προσκομίσει ή

στ. δεν εμφανίστηκε για να ανανεώσει το δελτίο το αργότερο κατά την επομένη εργάσιμη ημέρα μετά τη λήξη του.

4. Στις περιπτώσεις που έχει εκδοθεί πράξη διακοπής ή που η υπόθεση τέθηκε στο αρχείο μετά από παραίτηση, ο αιτών έχει δικαίωμα με αίτησή του, εντός εννέα (9) μηνών από την ημερομηνία έκδοσης της πράξης διακοπής ή της υποβολής της παραίτησης, να ζητήσει από την αρχή που έλαβε την απόφαση, τη συνέχιση της διαδικασίας εξέτασης της υπόθεσής του. Μέχρι την τελεσίδικη κρίση της ως άνω αίτησης, ο αιτών δεν απελαύνεται από τη χώρα ούτε εκτελείται απόφαση επιστροφής. Ο αιτών μπορεί να ζητήσει τη συνέχιση της εξέτασης της υπόθεσής του μόνο μία φορά.

5. Αίτηση διεθνούς προστασίας που υποβάλλεται μετά την πάροδο εννέα (9) μηνών από την ημερομηνία έκδοσης της πράξης διακοπής ή της παραίτησης εξετάζεται, σύμφωνα με τις διατάξεις περί μεταγενέστερων αιτήσεων κατά το άρθρο 59.

6. Στις περιπτώσεις μεταφοράς αιτούντων στη χώρα, στο πλαίσιο εφαρμογής του Κανονισμού 604/2013 (ΕΕ) του Ευρωπαϊκού Κοινοβουλίου και του Συμβουλίου, οι εκδοθείσες πράξεις διακοπής βάσει της παραγράφου 2 ανακαλούνται αυτοδικαίως και η διαδικασία εξέτασης της αίτησης συνεχίζεται.

Άρθρο 48
(Άρθρο 29 της Οδηγίας)
Ο ρόλος της Ύπατης Αρμοστείας του Ο.Η.Ε. για τους Πρόσφυγες

1. Οι αποφάσεις που λαμβάνονται επί των αιτήσεων διεθνούς προστασίας σε πρώτο και δεύτερο βαθμό, καθώς και οι αποφάσεις με τις οποίες ανακαλείται το καθεστώς του πρόσφυγα ή του δικαιούχου επικουρικής προστασίας, κοινοποιούνται στο Γραφείο της Ύπατης Αρμοστείας του ΟΗΕ για τους Πρόσφυγες στην Ελλάδα, εφόσον ο αιτών διεθνή προστασία ή δικαιούχος συναινεί στην κοινοποίηση.

2. Η Ύπατη Αρμοστεία του ΟΗΕ για τους Πρόσφυγες:

α. Δύναται να εκθέτει τις απόψεις της ή να παρέχει συμπληρωματικές πληροφορίες στις αρμόδιες Αρχές Παραλαβής.

β. Έχει πρόσβαση στις πληροφορίες για τις ατομικές αιτήσεις διεθνούς προστασίας, για την πρόοδο της διαδικασίας και τις αποφάσεις που λαμβάνονται, υπό την προϋπόθεση ότι ο αιτών συμφωνεί σχετικά.

γ. Έχει πρόσβαση, δια των εκπροσώπων της, στις περιφερειακές υπηρεσίες της Υπηρεσίας Υποδοχής και Ταυτοποίησης, σε χώρους κράτησης και σωφρονιστικά ιδρύματα, καθώς επίσης και σε ζώνες διέλευσης αερολιμένων ή λιμένων, όπου κρατούνται ή διαμένουν αιτούντες ή χρήζοντες διεθνούς προστασίας. Για τη διασφάλιση του απορρήτου της επικοινωνίας των αιτούντων με τους ανωτέρω εκπροσώπους, διατίθεται κατάλληλος χώρος από την αρμόδια αρχή που δέχεται την αίτηση ή στην οποία κρατούνται οι αιτούντες. Την ανωτέρω δυνατότητα πρόσβασης έχουν και οργανώσεις οι οποίες, με βάση ειδική συμφωνία, ενεργούν για λογαριασμό της Ύπατης Αρμοστείας του Ο.Η.Ε. για τους Πρόσφυγες στην Ελλάδα.

δ. Παρουσιάζει τις απόψεις της κατά την άσκηση των δραστηριοτήτων της, βάσει του άρθρου 35 της Σύμβασης της Γενεύης, ενώπιον των αρμοδίων αρχών, σχετικά με τις αιτήσεις διεθνούς προστασίας σε οποιοδήποτε στάδιο της διαδικασίας.

3. Στην Ύπατη Αρμοστεία του ΟΗΕ για τους Πρόσφυγες παρέχονται τα στατιστικά δεδομένα που επιτρέπουν την αποτελεσματική εκπλήρωση του έργου της, κατά τα οριζόμενα στην παράγραφο 2 του άρθρου 35 της Σύμβασης της Γενεύης.

4. Στο πλαίσιο της λειτουργίας της Υπηρεσίας Ασύλου η Ύπατη Αρμοστεία του ΟΗΕ για τους Πρόσφυγες δύναται να παρακολουθεί συνεντεύξεις αιτούντων διεθνή προστασία, να υποβάλλει γνωμοδοτήσεις προκειμένου

να συνδράμει την Υπηρεσία Ασύλου στην άσκηση της αρμοδιότητάς της και να παρακολουθεί την ποιότητα της διαδικασίας ασύλου σε πρώτο και δεύτερο διοικητικό βαθμό εξέτασης. Λεπτομέρειες της ως άνω συνεργασίας και συνδρομής ρυθμίζονται με Μνημόνια Συνεργασίας που συνάπτει ο Διευθυντής της Υπηρεσίας Ασύλου με την Ύπατη Αρμοστεία του ΟΗΕ για τους Πρόσφυγες.

Άρθρο 49
(Άρθρο 30 της Οδηγίας)
Τήρηση εμπιστευτικότητας

Για το σκοπό της εξέτασης αιτήσεων διεθνούς προστασίας, όλες οι αρμόδιες αρχές οφείλουν:

α. Να μην αποκαλύπτουν τις πληροφορίες που αφορούν ατομικές αιτήσεις ή το γεγονός ότι έχει υποβληθεί αίτηση στους φερόμενους ως φορείς της δίωξης ή της πρόκλησης σοβαρής βλάβης.

β. Να μην ζητούν πληροφορίες από τους φερόμενους ως φορείς της δίωξης ή της πρόκλησης σοβαρής βλάβης κατά τρόπο που θα είχε ως αποτέλεσμα να αποκαλυφθεί άμεσα ή έμμεσα το γεγονός ότι ο αιτών έχει υποβάλει αίτηση και θα έθετε σε κίνδυνο τη σωματική ακεραιότητά του και των εξαρτώμενων από αυτόν προσώπων ή την ελευθερία και την ασφάλεια των μελών της οικογένειάς του που εξακολουθούν να ζουν στη χώρα καταγωγής.

Άρθρο 50
(Άρθρο 24 της Οδηγίας)
Αιτούντες που χρήζουν ειδικών διαδικαστικών εγγυήσεων

1. Οι Αρχές Παραλαβής εκτιμούν, μέσα σε εύλογο χρονικό διάστημα από την υποβολή της αίτησης διεθνούς προστασίας, ή σε όποιο σημείο της διαδικασίας ανακύψουν οι σχετικές ανάγκες, αν ο αιτών χρήζει ειδικών διαδικαστικών εγγυήσεων, ιδίως λόγω ενδείξεων ή ισχυρισμών ότι είναι θύμα βασανισμού, βιασμού ή άλλων σοβαρών μορφών ψυχολογικής, σωματικής ή σεξουαλικής βίας.

2. Εφόσον κριθεί ότι αιτούντες χρήζουν ειδικών διαδικαστικών εγγυήσεων, τους εξασφαλίζεται επαρκής υποστήριξη, ώστε να μπορούν να απολαύουν των δικαιωμάτων και να συμμορφώνονται προς τις υποχρεώσεις του παρόντος Μέρους καθ' όλη τη διάρκεια της διαδικασίας. Αιτήσεις διεθνούς προστασίας προσώπων που χρήζουν ειδικών διαδικαστικών εγγυήσεων εξετάζονται πάντα με την κανονική διαδικασία.

ΚΕΦΑΛΑΙΟ Γ΄
ΔΙΑΔΙΚΑΣΙΕΣ ΣΕ ΠΡΩΤΟ ΒΑΘΜΟ

Άρθρο 51
(Άρθρο 31 της Οδηγίας)
Διαδικασία της εξέτασης

1. Η Αποφαινόμενη Αρχή εξετάζει τις αιτήσεις διεθνούς προστασίας, σύμφωνα με τις βασικές αρχές και εγγυήσεις του Κεφαλαίου Β' με την κανονική ή με την ταχύρρυθμη διαδικασία. Η υπαγωγή μίας αίτησης στην ταχύρρυθμη διαδικασία αιτιολογείται από το χειριστή ειδικά βάσει των διατάξεων της παραγράφου 7 και δεν ασκεί επιρροή στην κρίση επί της ουσίας της αίτησης διεθνούς προστασίας. Η υπαγωγή σε ταχύρρυθμη διαδικασία έχει ως μόνο αποτέλεσμα τη σύντμηση των προθεσμιών, σύμφωνα με όσα προβλέπονται ειδικά στις επιμέρους διατάξεις του παρόντος Μέρους.

2. Η εξέταση των αιτήσεων ολοκληρώνεται το ταχύτερο δυνατό και σε κάθε περίπτωση εντός έξι (6) μηνών στις περιπτώσεις εφαρμογής της κανονικής διαδικασίας ή τριών (3) στις περιπτώσεις εφαρμογής της ταχύρρυθμης. Όταν η αίτηση υπόκειται στη διαδικασία του Κανονισμού (ΕΕ) 604/2013, η προθεσμία αρχίζει από τη στιγμή κατά την οποία ορίζεται η Ελλάδα ως υπεύθυνη για την εξέταση της αίτησης, σύμφωνα με τον εν λόγω Κανονισμό, ο αιτών βρίσκεται στο έδαφος της χώρας και η Υπηρεσία Ασύλου έχει αναλάβει την εξέταση της αίτησης διεθνούς προστασίας.

3. Οι ανωτέρω προθεσμίες δύναται να παρατείνονται για χρονικό διάστημα όχι μεγαλύτερο των εννέα (9) επιπλέον μηνών σε περιπτώσεις στις οποίες:

α. ανακύπτουν περίπλοκα ουσιαστικά και/ή νομικά ζητήματα,

β. μεγάλος αριθμός αλλοδαπών ή ανιθαγενών αιτείται ταυτόχρονα διεθνή προστασία, γεγονός που καθιστά στην πράξη πολύ δύσκολη την ολοκλήρωση της διαδικασίας εντός της προθεσμίας των 6 μηνών.

γ. η καθυστέρηση μπορεί να αποδοθεί σαφώς στην μη συμμόρφωση του αιτούντος δυνάμει του άρθρου 42 του παρόντος.

4. Κατ' εξαίρεση οι ανωτέρω προθεσμίες μπορεί να παραταθούν κατά τρεις (3) επιπλέον μήνες, όταν αυτό επιβάλλεται λόγω εξαιρετικών περιστάσεων και είναι απαραίτητο για την κατάλληλη και πλήρη εξέταση αίτησης διεθνούς προστασίας.

5. Στις περιπτώσεις που η εξέταση διαρκεί πέραν του ανώτατου κατά περίπτωση χρονικού ορίου, ο αιτών έχει δικαίωμα να ζητά πληροφορίες από τις Αρμόδιες Αρχές Παραλαβής για το χρόνο κατά τον οποίο αναμένεται η απόφαση επί της αίτησης. Η ενημέρωση αυτή δεν θεμελιώνει υποχρέωση των ανωτέρω αρχών να λάβουν απόφαση εντός συγκεκριμένης προθεσμίας.

6. Οι αρμόδιες Αρχές Παραλαβής δύνανται να καταγράφουν και να εξετάζουν κατά προτεραιότητα αιτήσεις διεθνούς προστασίας οι οποίες αφορούν:

α. άτομα που ανήκουν σε ευάλωτες ομάδες κατά την έννοια της διάταξης της παραγράφου 8 του άρθρου 14 του παρόντος ή χρήζουν ειδικών διαδικαστικών εγγυήσεων,

β. άτομα που υποβάλλουν αίτηση ενόσω κρατούνται, υποβάλλουν αίτηση βάσει του άρθρου 60 ευρισκόμενα σε ζώνες διέλευσης λιμένων ή αερολιμένων της χώρας ή παραμένουν εντός περιφερειακών υπηρεσιών της Υπηρεσίας Υποδοχής και Ταυτοποίησης,

γ. άτομα που ενδέχεται να υπαχθούν στις διαδικασίες του Κανονισμού (ΕΕ) 604/2013 του Ευρωπαϊκού Κοινοβουλίου και του Συμβουλίου,

δ. άτομα των οποίων οι αιτήσεις εύλογα πιθανολογείται ότι είναι βάσιμες,

ε. άτομα των οποίων οι αιτήσεις μπορούν να θεωρηθούν ως προδήλως αβάσιμες,

στ. άτομα για τα οποία η Ελληνική Αστυνομία με αιτιολογημένο έγγραφό της αναφέρει ότι συνιστούν κίνδυνο για την εθνική ασφάλεια ή τη δημόσια τάξη της χώρας,

ζ. άτομα τα οποία υποβάλλουν μεταγενέστερες αιτήσεις διεθνούς προστασίας κατά το στάδιο του παραδεκτού.

7. Η Αποφαινόμενη Αρχή εξετάζει μία αίτηση με την ταχύρρυθμη διαδικασία, όταν:

α. ο αιτών προέρχεται από ασφαλή χώρα καταγωγής σύμφωνα με το άρθρο 57,

β. η αίτηση είναι προδήλως αβάσιμη. Ως προδήλως αβάσιμη χαρακτηρίζεται μία αίτηση όταν ο αιτών, κατά την υποβολή της αίτησης και τη διεξαγωγή της συνέντευξης, κάνει επίκληση λόγων που προδήλως δεν συνάδουν με την ιδιότητα του πρόσφυγα ή του δικαιούχου επικουρικής προστασίας ή όταν ο αιτών έχει παρουσιάσει προδήλως ασυνεπείς και αντιφατικές πληροφορίες ή σαφώς ψευδείς ή προφανώς απίθανες πληροφορίες, οι οποίες έρχονται σε αντίθεση με επαρκώς τεκμηριωμένες πληροφορίες για τη χώρα καταγωγής, καθιστώντας έτσι σαφώς μη πειστική τη δήλωσή του ως προς το εάν πληροί τις προϋποθέσεις που απαιτούνται για το χαρακτηρισμό του ως δικαιούχου διεθνούς προστασίας δυνάμει του Π.δ. 141/2013,

γ. ο αιτών παραπλάνησε τις Αρχές με την παρουσίαση ψευδών πληροφοριών ή εγγράφων ή με την απόκρυψη σχετικών πληροφοριών ή εγγράφων όσον αφορά την ταυτότητα ή/και την εθνικότητά του, που μπορούσαν να επηρεάσουν αρνητικά την απόφαση,

δ. είναι πιθανόν ότι ο αιτών έχει καταστρέψει ή πετάξει κακόπιστα έγγραφο ταυτότητας ή ταξιδιωτικό έγγραφο που θα βοηθούσε στον προσδιορισμό της ταυτότητας ή της ιθαγένειάς του,

ε. ο αιτών έχει υποβάλει την αίτηση μόνο για να καθυστερήσει ή να εμποδίσει την εκτέλεση προγενέστερης ή επικείμενης απόφασης απέλασης ή με άλλο τρόπο απομάκρυνσής του,

στ. ο αιτών αρνείται να συμμορφωθεί με την υποχρέωση να υποβληθεί σε λήψη δακτυλικών αποτυπωμάτων σύμφωνα με την κείμενη νομοθεσία.

Άρθρο 52
(Άρθρα 14 έως 17 και 34 της Οδηγίας)
Προσωπική συνέντευξη

1. Πριν τη λήψη απόφασης, η Αποφαινόμενη Αρχή διενεργεί προσωπική συνέντευξη του αιτούντος, ο οποίος καλείται σε αυτήν κατά τα οριζόμενα στο άρθρο 40. Με την επιφύλαξη εφαρμογής των διατάξεων του Κανονισμού (ΕΕ) 604/2013 του Ευρωπαϊκού Κοινοβουλίου και του Συμβουλίου και του άρθρου 59 του παρόντος, σε περίπτωση που από το διοικητικό φάκελο της αίτησης διεθνούς προστασίας προκύπτουν ενδείξεις ότι η αίτηση εμπίπτει στις περιπτώσεις απαράδεκτων αιτήσεων του άρθρου 54 του παρόντος, η συνέντευξη μπορεί να περιοριστεί στη διαπίστωση της συνδρομής των προϋποθέσεων εφαρμογής της διάταξης αυτής και να δοθεί η ευκαιρία στον αιτούντα να εκφραστεί σχετικά. Σε περίπτωση που, μετά την πραγματοποίηση της συνέντευξης, η Αποφαινόμενη Αρχή κρίνει απαραίτητη τη διερεύνηση της ουσίας της αίτησης διεθνούς προστασίας, πραγματοποιείται σχετική συμπληρωματική συνέντευξη.

2. Η συνέντευξη διενεργείται από αρμόδιο υπάλληλο της Αρχής Παραλαβής (χειριστή), ο οποίος διαθέτει τα κατάλληλα προσόντα και ο οποίος λαμβάνει και εκδίδει την απόφαση επί της αίτησης διεθνούς προστασίας Ο εσωτερικός κανονισμός της Υπηρεσίας Ασύλου ορίζει τη διαδικασία ορισμού του αρμόδιου υπαλλήλου (χειριστή) από τον Προϊστάμενο του κάθε Περιφερειακού Γραφείου Ασύλου και Αυτοτελούς Κλιμακίου Ασύλου.

3. Η συνέντευξη διενεργείται με τη συνδρομή διερμηνέα, σύμφωνα με τα οριζόμενα στο άρθρο 41 παράγραφος 1β, ικανού να εξασφαλίσει την αναγκαία επικοινωνία, προκειμένου ο ενδιαφερόμενος να επιβεβαιώσει όσα αναφέρει στην αίτησή του και να μπορέσει να εκθέσει με πληρότητα τους λόγους που τον ανάγκασαν να εγκαταλείψει τη χώρα καταγωγής του ή προηγούμενης συνήθους διαμονής του, όταν πρόκειται για ανιθαγενή, ζητώντας προστασία, καθώς και τους λόγους για τους οποίους δεν μπορεί ή δεν επιθυμεί να επιστρέψει σε αυτήν και προκειμένου να δώσει εξηγήσεις, ιδίως σε ό, τι αφορά, το προσωπικό του ιστορικό, συμπεριλαμβανομένου του ιστορικού των οικείων συγγενών του, την ταυτότητα, την ηλικία του, την ιθαγένεια, τη χώρα και τον τόπο προηγούμενης διαμονής του, τυχόν προηγούμενες αιτήσεις διεθνούς προστασίας, τα δρομολόγια που ακολούθησε για να εισέλθει στο ελληνικό έδαφος και τα ταξιδιωτικά του έγγραφα.

4. Κατά τη διεξαγωγή της προσωπικής συνέντευξης η Αποφαινόμενη Αρχή παραχωρεί στον αιτούντα κατάλληλη ευκαιρία για να παρουσιάσει τα στοιχεία που απαιτούνται για την κατά το δυνατόν πλήρη τεκμηρίωση της αίτησης διεθνούς προστασίας. Στον αιτούντα δίνεται η ευκαιρία να παράσχει εξηγήσεις σχετικά με τα στοιχεία που ενδεχομένως λείπουν και/ή σχετικά με τυχόν ασυνέπειες ή αντιφάσεις στο πλαίσιο των δηλώσεών του.

5. Πριν από τη συνέντευξη χορηγείται στον αιτούντα, εφόσον το επιθυμεί, εύλογος χρόνος προκειμένου να προετοιμασθεί κατάλληλα και να συμβουλευθεί νομικό ή άλλο σύμβουλο για να τον επικουρεί κατά τη διάρκεια της διαδικασίας. Ο εύλογος χρόνος καθορίζεται από την αρμόδια Αρχή Παραλαβής και δεν δύναται να υπερβεί τις επτά (7) ημέρες ή τις τρεις (3) ημέρες όταν πραγματοποιείται συνέντευξη βάσει των παραγράφων 1 έως 3 του άρθρου 60 ή όταν αφορά αιτούντα που βρίσκεται σε διαδικασία Υποδοχής και Ταυτοποίησης.

6. Όταν η συνέντευξη αφορά γυναίκα, λαμβάνεται ειδική μέριμνα, ώστε να διεξάγεται από γυναίκα χειρίστρια, παρουσία γυναίκας διερμηνέα, εφόσον αυτό ζητηθεί. Σε κάθε περίπτωση, εφόσον ο αιτών έχει εκφράσει προτίμηση σχετικά με το φύλο του χειριστή ή του διερμηνέα σε προηγούμενο στάδιο της διαδικασίας, λαμβάνεται ειδική προς τούτο μέριμνα. Σε περίπτωση που αυτό δεν καθίσταται δυνατό, γίνεται μνεία των σχετικών λόγων στην έκθεση ή πρακτικό της συνέντευξης.

7. Για κάθε ενήλικο μέλος της οικογένειας διεξάγεται ξεχωριστή προσωπική συνέντευξη. Για τους ανήλικους, διεξάγεται προσωπική συνέντευξη λαμβανομένης υπόψη της ωριμότητάς τους και των ψυχολογικών συνεπειών των τραυματικών βιωμάτων τους.

8. Η προσωπική συνέντευξη μπορεί να παραλειφθεί όταν η Αποφαινόμενη Αρχή κρίνει ότι, με βάση τα διαθέσιμα αποδεικτικά στοιχεία, δύναται να αναγνωρίσει τον αιτούντα ως πρόσφυγα ή όταν δεν είναι αντικειμενικά δυνατή, ιδίως όταν ο αιτών δεν είναι σε θέση λόγω της μικρής του ηλικίας ή για λόγους που οφείλονται σε μόνιμες καταστάσεις ανεξάρτητες από τη θέλησή του, να συμμετάσχει στη συνέντευξη. Η αδυναμία στην τελευταία περίπτωση πιστοποιείται με σχετική βεβαίωση ιατρού ανάλογης ειδικότητας.

9. Όταν στον αιτούντα ή στο μέλος της οικογένειάς του δεν παρέχεται η ευκαιρία προσωπικής συνέντευξης, η Αποφαινόμενη Αρχή καταβάλλει εύλογες προσπάθειες, ώστε να τους δίνεται η δυνατότητα να υποβάλουν συμπληρωματικά στοιχεία.

10. Η παράλειψη προσωπικής συνέντευξης κατά τις προηγούμενες παραγράφους δεν επιδρά δυσμενώς

στην απόφαση επί της αίτησης διεθνούς προστασίας, ούτε εμποδίζει την Αποφαινόμενη Αρχή να λαμβάνει απόφαση επί της αίτησης. Σε περίπτωση παράλειψης της συνέντευξης, στην απόφασή επί της αίτησης διεθνούς προστασίας περιλαμβάνεται αιτιολογία αυτής της παράλειψης.

11. Η προσωπική συνέντευξη διεξάγεται χωρίς την παρουσία των μελών της οικογένειας του αιτούντος, εκτός εάν ο χειριστής κρίνει ότι η παρουσία τους είναι απαραίτητη.

12. Η προσωπική συνέντευξη διεξάγεται υπό συνθήκες που εξασφαλίζουν την απαιτούμενη εμπιστευτικότητα.

13. Κατά την προσωπική συνέντευξη λαμβάνονται τα κατάλληλα μέτρα που εξασφαλίζουν τη διεξαγωγή της σε συνθήκες που επιτρέπουν στον αιτούντα να παρουσιάσει διεξοδικά τους λόγους της αίτησής του. Για το σκοπό αυτό:

α. Ο κάθε χειριστής διαθέτει τα κατάλληλα προσόντα για να συνεκτιμήσει τις προσωπικές ή γενικές συνθήκες που αφορούν την αίτηση, συμπεριλαμβανομένων των πολιτισμικών καταβολών του αιτούντος. Ειδικότερα, οι χειριστές επιμορφώνονται, ιδίως για τις ειδικές ανάγκες των γυναικών, των παιδιών και των θυμάτων βίας και βασανιστηρίων.

β. Ο διερμηνέας που επιλέγεται είναι ικανός να εξασφαλίσει την αναγκαία επικοινωνία σε γλώσσα που κατανοεί ο αιτών.

14. Η συνέντευξη ηχογραφείται, ενώ για κάθε συνέντευξη συντάσσεται έκθεση στην οποία περιλαμβάνονται οι βασικοί ισχυρισμοί του αιτούντος διεθνή προστασία και όλα τα ουσιώδη στοιχεία της. Εάν δεν είναι δυνατή η απομαγνητοφώνηση της συνέντευξης, τηρείται πλήρες πρακτικό. Ο αιτών καλείται στο τέλος της συνέντευξης να επιβεβαιώσει ότι δεν επιθυμεί να προσθέσει οτιδήποτε άλλο, ενώ δεν υπογράφει την έκθεση ή το πρακτικό. Η ηχητική καταγραφή συνοδεύει την έκθεση ή το πρακτικό και αποθηκεύεται με μέριμνα της Αποφαινόμενης Αρχής. Συνεντεύξεις που πραγματοποιούνται με τηλεδιάσκεψη καταγράφονται ηχητικά υποχρεωτικά.

15. Εφόσον δεν είναι δυνατή η ηχητική καταγραφή, τηρείται πλήρες πρακτικό της συνέντευξης. Ο αιτών καλείται να βεβαιώσει την ακρίβεια του περιεχομένου του πρακτικού, υπογράφοντας με τη συνδρομή διερμηνέα, εφόσον παρίσταται, που επίσης υπογράφει. Σε περίπτωση που ο αιτών αρνείται να επιβεβαιώσει το περιεχόμενο του πρακτικού, οι λόγοι άρνησης καταχωρίζονται σε αυτό. Η άρνηση του αιτούντος να βεβαιώσει το περιεχόμενο του πρακτικού δεν εμποδίζει την Αποφαινόμενη Αρχή να λάβει απόφαση επί της αίτησής του.

16. Ο αιτών δικαιούται να λαμβάνει οποτεδήποτε αντίγραφο του πρακτικού ή της έκθεσης και της ηχητικής καταγραφής.

17. Οι προαναφερόμενες εγγυήσεις τηρούνται και κατά τη διαδικασία εξέτασης των προσφυγών, καθώς και σε κάθε συμπληρωματική συνέντευξη ή ακρόαση.

18. Ο εσωτερικός κανονισμός της Υπηρεσίας Ασύλου δύναται να ορίζει λεπτομερέστερα τις τεχνικές διαδικασίες της διεξαγωγής και της ηχητικής καταγραφής της συνέντευξης και τηλεδιάσκεψης.

Άρθρο 53
(Άρθρο 18 της Οδηγίας)
Ιατρική Εξέταση

Με την επιφύλαξη της συγκατάθεσής του, οι Αρχές Παραλαβής ή οι Αρχές Απόφασης μπορούν να παραπέμπουν τον αιτούντα σε ιατρική εξέταση ή/και ψυχοκοινωνική διάγνωσή του, όταν ανακύπτουν ενδείξεις ή ισχυρισμοί που ενδεχομένως υποδηλώνουν διώξεις ή σοβαρή βλάβη που υπέστη κατά το παρελθόν. Οι εξετάσεις του προηγούμενου εδαφίου είναι δωρεάν, πραγματοποιούνται από εξειδικευμένο επιστημονικό προσωπικό ανάλογης ειδικότητας και τα αποτελέσματά τους υποβάλλονται στις αρμόδιες Αρχές το συντομότερο δυνατό. Σε κάθε άλλη περίπτωση, οι αιτούντες ενημερώνονται ότι μπορούν με δική τους πρωτοβουλία και δικά τους έξοδα να μεριμνήσουν για εξέταση και διάγνωση όσον αφορά ενδείξεις που ενδεχομένως υποδηλώνουν δίωξη ή σοβαρή βλάβη. Τα αποτελέσματα των ανωτέρω εξετάσεων και οι σχετικές διαγνώσεις εκτιμώνται από τις αρμόδιες Αρχές Απόφασης μαζί με τα λοιπά στοιχεία της αίτησης.

Άρθρο 54
(Άρθρο 33 της Οδηγίας)
Απαράδεκτες αιτήσεις

1. Οι Αρχές Απόφασης με σχετική απόφαση απορρίπτουν αίτηση διεθνούς προστασίας ως απαράδεκτη, εφόσον:

α. άλλο κράτος-μέλος της Ε.Ε. έχει χορηγήσει στον αιτούντα καθεστώς διεθνούς προστασίας ή

β. άλλο κράτος-μέλος της Ε.Ε. ή άλλο κράτος που δεσμεύεται από τον Κανονισμό (ΕΕ) 604/2013 του Ευρωπαϊκού Κοινοβουλίου και του Συμβουλίου έχει αναλάβει την ευθύνη εξέτασης της σχετικής αίτησης, κατ' εφαρμογή του Κανονισμού αυτού ή

γ. ο αιτών απολαμβάνει επαρκούς προστασίας από χώρα που θεωρείται ως πρώτη χώρα ασύλου για αυτόν, σύμφωνα με το άρθρο 55 ή

δ. κρίνουν ότι μία χώρα συνιστά ασφαλή τρίτη χώρα για τον αιτούντα, σύμφωνα με το άρθρο 56 ή

ε. η αίτηση αποτελεί μεταγενέστερη αίτηση του αιτούντος και η προκαταρκτική εξέταση, σύμφωνα με το άρθρο 59 παράγραφος 2, δεν κατέδειξε την ύπαρξη νέων ουσιωδών στοιχείων ή

στ. μέλος της οικογένειας του αιτούντος καταθέτει ξεχωριστή αίτηση, παρότι το πρόσωπο αυτό έχει ήδη συναινέσει, σύμφωνα με το άρθρο 36, να συμπεριληφθεί η περίπτωσή του ως τμήμα αίτησης υποβαλλόμενης για λογαριασμό του και δεν υπάρχουν στοιχεία τα οποία να δικαιολογούν την υποβολή χωριστής αίτησης.

2. Στην περίπτωση της παραγράφου 1β η Αποφαινόμενη Αρχή εκδίδει και τη σχετική πράξη μεταφοράς κατ' εφαρμογή του Κανονισμού (ΕΕ) 604/2013 του Ευρωπαϊκού Κοινοβουλίου και του Συμβουλίου.

Άρθρο 55
(Άρθρο 35 της Οδηγίας)
Πρώτη χώρα ασύλου

Μία χώρα θεωρείται ως πρώτη χώρα ασύλου για τον αιτούντα με την προϋπόθεση ότι θα γίνει εκ νέου δεκτός στη χώρα αυτή, εάν αυτός έχει αναγνωρισθεί ως πρόσφυγας από αυτή και απολαμβάνει ακόμη της σχετικής προστασίας, ή απολαμβάνει άλλης αποτελεσματικής προστασίας στην εν λόγω χώρα, επωφελούμενος μεταξύ άλλων από την αρχή της μη επαναπροώθησης.

Άρθρο 56
(Άρθρο 38 της Οδηγίας)
Ασφαλείς τρίτες χώρες

1. Μια χώρα θεωρείται ως ασφαλής τρίτη χώρα για ένα συγκεκριμένο αιτούντα, όταν πληρούνται σωρευτικά τα εξής κριτήρια:

α. δεν απειλούνται η ζωή και η ελευθερία του λόγω φυλής, θρησκείας, εθνικότητας, συμμετοχής σε ιδιαίτερη κοινωνική ομάδα, ή πολιτικών πεποιθήσεων,

β. η χώρα αυτή τηρεί την αρχή της μη επαναπροώθησης, σύμφωνα με τη Σύμβαση της Γενεύης,

γ. δεν υπάρχει κίνδυνος σοβαρής βλάβης για τον αιτούντα κατά το άρθρο 15 του Π.δ. 141/2013,

δ. η χώρα αυτή απαγορεύει την απομάκρυνση κάποιου σε χώρα όπου κινδυνεύει να υποστεί βασανιστήρια ή σκληρή, απάνθρωπη ή ταπεινωτική μεταχείριση ή τιμωρία, όπως ορίζεται στο διεθνές δίκαιο,

ε. υπάρχει η δυνατότητα να ζητηθεί το καθεστώς του πρόσφυγα και, στην περίπτωση που ο αιτών αναγνωρισθεί ως πρόσφυγας, να του χορηγηθεί προστασία σύμφωνα με τη Σύμβαση της Γενεύης και

στ. ο αιτών έχει σύνδεσμο με την εν λόγω τρίτη χώρα, βάσει του οποίου θα ήταν εύλογο για αυτόν να μεταβεί σε αυτή.

2. Η συνδρομή των ως άνω κριτηρίων εξετάζεται ανά περίπτωση και για κάθε αιτούντα ξεχωριστά. Σε περίπτωση έκδοσης απόφασης που βασίζεται αποκλειστικά στο παρόν άρθρο, οι Αρμόδιες Αρχές Παραλαβής ενημερώνουν σχετικά τον αιτούντα και του χορηγούν έγγραφο με το οποίο ενημερώνονται οι αρχές της εν λόγω τρίτης χώρας ότι η αίτηση δεν έχει εξεταστεί επί της ουσίας.

3. Όταν η ως άνω τρίτη χώρα δεν επιτρέπει στον αιτούντα να εισέλθει στο έδαφός της, η αίτησή του εξετάζεται επί της ουσίας από τις Αρμόδιες Αρχές Απόφασης.

4. Η Ευρωπαϊκή Επιτροπή ενημερώνεται σε ετήσια βάση από τις αρμόδιες υπηρεσίες του Υπουργείου Εξωτερικών για τις χώρες που χαρακτηρίζονται ασφαλείς σύμφωνα με το παρόν άρθρο.

Άρθρο 57
(Άρθρα 36 και 37 της Οδηγίας)
Ασφαλείς χώρες καταγωγής

1. Ασφαλείς χώρες καταγωγής είναι:

α. Όσες περιλαμβάνονται στον κοινό κατάλογο ασφαλών χωρών καταγωγής του Συμβουλίου Ε.Ε..

β. Οι χώρες, πέραν εκείνων του στοιχείου α΄, οι οποίες περιλαμβάνονται στον εθνικό κατάλογο ασφαλών χωρών καταγωγής, που καταρτίζεται και τηρείται για την εξέταση αιτήσεων διεθνούς προστασίας, ο οποίος δημοσιεύεται, σύμφωνα με τη διάταξη της παραγράφου 11 του άρθρου 7, με κοινή απόφαση των Υπουργών Εσωτερικών και Διοικητικής Ανασυγκρότησης και Εξωτερικών, κατόπιν εισήγησης του Διευθυντή της Υπηρεσίας Ασύλου μετά από αξιολόγηση του αρμοδίου τμήματος Εκπαίδευσης, Διασφάλισης Ποιότητας και Τεκμηρίωσης μετά από αξιολόγηση, σύμφωνα με τα οριζόμενα στις παραγράφους 3 και 4. Για την αξιολόγηση αυτή λαμβάνονται υπόψη σχετικές πληροφορίες από άλλα κράτη και διεθνείς οργανισμούς, όπως η Ύπατη Αρμοστεία των Ηνωμένων Εθνών για τους Πρόσφυγες, η Ευρωπαϊκή Υπηρεσία Υποστήριξης για το Άσυλο και το Συμβούλιο της Ευρώπης. Η αξιολόγηση αυτή επαναλαμβάνεται περιοδικά λαμβάνοντας υπόψη τις αλλαγές της κατάστασης σε κάθε χώρα. Ο εθνικός κατάλογος χωρών καταγωγής κοινοποιείται από το Υπουργείο Εξωτερικών στην Ευρωπαϊκή Επιτροπή.

2. Μία χώρα μπορεί να χαρακτηρισθεί ως ασφαλής χώρα καταγωγής για τον αιτούντα, μόνον εφόσον μετά την εξέταση της αίτησης αποδειχθεί ότι ο αιτών:

α. έχει την ιθαγένεια αυτής της χώρας ή είναι ανιθαγενής και είχε την προηγούμενη συνήθη διαμονή του στη χώρα αυτή και

β. δεν επικαλείται σοβαρούς λόγους για να θεωρηθεί ότι η χώρα δεν είναι ασφαλής χώρα καταγωγής για τον ίδιο, με βάση τα προσωπικά του χαρακτηριστικά και όσον αφορά την αναγνώρισή του ως δικαιούχου διεθνούς προστασίας κατά τις κείμενες διατάξεις.

3. Μια χώρα θεωρείται ως ασφαλής χώρα καταγωγής αν, με βάση την ισχύουσα νομοθεσία και την εφαρμογή του δικαίου στο πλαίσιο ενός δημοκρατικού πολιτεύματος και των γενικών πολιτικών συνθηκών, καταδεικνύεται σαφώς ότι τα πρόσωπα στις συγκεκριμένες χώρες δεν υφίστανται δίωξη, γενικά και μόνιμα, όπως ορίζεται στο άρθρο 9 του Π.δ. 141/2013, ούτε βασανιστήρια ή απάνθρωπη ή ταπεινωτική μεταχείριση ή τιμωρία, ούτε απειλή που προκύπτει από τη χρήση γενικευμένης βίας σε καταστάσεις διεθνούς ή εσωτερικής ένοπλης σύγκρουσης.

4. Για την εφαρμογή της προηγούμενης παραγράφου λαμβάνεται μεταξύ άλλων υπόψη ο βαθμός στον οποίο παρέχεται προστασία κατά της δίωξης ή της κακομεταχείρισης μέσω:

α. Των σχετικών νομοθετικών και κανονιστικών διατάξεων της χώρας και του τρόπου εφαρμογής τους.

β. Της τήρησης των δικαιωμάτων και των ελευθεριών που προβλέπονται στην Ευρωπαϊκή Σύμβαση για την προάσπιση των δικαιωμάτων του ανθρώπου και των θεμελιωδών ελευθεριών (ΕΣΔΑ - Ν.δ. 53/1974, Α΄ 256), στο Διεθνές Σύμφωνο για τα ατομικά και πολιτικά δικαιώματα (ν. 2462/1997, Α΄ 25), ιδίως δε των δικαιωμάτων από τα οποία δεν χωρεί παρέκκλιση δυνάμει του άρθρου 15 παράγραφος 2 της ΕΣΔΑ, και στη Σύμβαση κατά των βασανιστηρίων και άλλων τρόπων σκληρής, απάνθρωπης ή ταπεινωτικής μεταχείρισης ή τιμωρίας (ν. 1782/1988, Α΄ 116) και της Διεθνούς Σύμβασης για τα Δικαιώματα του Παιδιού (ν. 2101/1992, Α΄ 192).

γ. Της τήρησης της αρχής της μη επαναπροώθησης σύμφωνα με τη Σύμβαση της Γενεύης.

δ. Της πρόβλεψης μηχανισμού αποτελεσματικής προσφυγής κατά των παραβιάσεων των εν λόγω δικαιωμάτων και ελευθεριών.

Άρθρο 58
(Άρθρο 32 της Οδηγίας)
Αβάσιμες αιτήσεις

Η αρμόδια Αρχή Απόφασης απορρίπτει ως αβάσιμη την αίτηση, εφόσον θεμελιώσει ότι ο αιτών δεν πληροί τις προϋποθέσεις για να χαρακτηρισθεί ως πρόσφυγας ή δικαιούχος επικουρικής προστασίας, κατά τις κείμενες διατάξεις.

Άρθρο 59
(Άρθρα 40 έως 42 της Οδηγίας)
Μεταγενέστερες αιτήσεις

1. Σε περίπτωση μεταγενέστερης αίτησης οι Αρμόδιες Αρχές Απόφασης εξετάζουν τα στοιχεία της μεταγενέστερης αίτησης, σε συνδυασμό με τα στοιχεία του φακέλου της προγενέστερης αίτησης.

2. Η μεταγενέστερη αίτηση εξετάζεται κατ' αρχάς σε προκαταρκτικό στάδιο κατά το οποίο ερευνάται εάν έχουν προκύψει ή έχουν υποβληθεί από τον αιτούντα νέα ουσιώδη στοιχεία. Κατά το στάδιο αυτό ο αιτών υποβάλλει γραπτώς στις αρμόδιες Αρχές Παραλαβής τα

τυχόν νέα στοιχεία που προσκομίζει χωρίς να πραγματοποιηθεί συνέντευξη. Κατ' εξαίρεση πραγματοποιείται ακρόαση του αιτούντος, μετά από κλήση του σύμφωνα με τις διατάξεις του παρόντος Μέρους, για τη διευκρίνιση στοιχείων της μεταγενέστερης αίτησης εφόσον η Αποφαινόμενη Αρχή κρίνει ότι αυτό είναι απαραίτητο.

3. Οι αρμόδιες Αρχές Παραλαβής διασφαλίζουν στους αιτούντες, των οποίων η αίτηση εξετάζεται, σύμφωνα με τα οριζόμενα στην προηγούμενη παράγραφο, ότι απολαμβάνουν των εγγυήσεων που αναφέρονται στο άρθρο 41 παράγραφος 1 (α), (β), (γ), (ε) και (στ). Μέχρι την ολοκλήρωση της διοικητικής διαδικασίας εξέτασης της αίτησης κατά το προκαταρκτικό στάδιο, αναστέλλεται η εκτέλεση κάθε μέτρου απέλασης, επιστροφής ή καθ' οιονδήποτε τρόπο απομάκρυνσης που υφίσταται σε βάρος των αιτούντων. Ομοίως, κατά το παραπάνω στάδιο, δεν εκτελείται απόφαση έκδοσης εφόσον ο αιτών επικαλείται φόβο δίωξης στο εκζητούν κράτος.

4. Εάν κατά την προκαταρκτική εξέταση, που αναφέρεται στην παράγραφο 2, προκύψουν ή υποβληθούν από τον αιτούντα νέα ουσιώδη στοιχεία τα οποία επηρεάζουν την κρίση επί της αίτησης διεθνούς προστασίας, η αίτηση κρίνεται παραδεκτή, εξετάζεται περαιτέρω σύμφωνα με τις διατάξεις του παρόντος Μέρους και του χορηγείται δελτίο αιτούντος διεθνή προστασία. Σε αντίθετη περίπτωση η αίτηση απορρίπτεται ως απαράδεκτη.

5. Η διαδικασία του παρόντος άρθρου μπορεί να εφαρμόζεται επίσης και στην περίπτωση μέλους της οικογένειας του αιτούντος, το οποίο υποβάλλει αίτηση αφού έχει συναινέσει, σύμφωνα με το άρθρο 36 παράγραφος 6, να υποβληθεί αίτηση εξ ονόματός του. Σε αυτή την περίπτωση, η προκαταρκτική εξέταση, που αναφέρεται στην παράγραφο 2 του παρόντος άρθρου, αφορά την ενδεχόμενη ύπαρξη στοιχείων που να δικαιολογούν την υποβολή χωριστής αίτησης εκ μέρους του εξαρτωμένου προσώπου. Στις περιπτώσεις αυτές πραγματοποιείται συνέντευξη κατά το προκαταρκτικό στάδιο.

6. Αίτηση διεθνούς προστασίας που υποβάλλεται χωρίς να έχει εκδοθεί τελεσίδικη απόφαση επί προγενέστερης αίτησης του ίδιου αιτούντα θεωρείται ως συμπληρωματικό στοιχείο της αρχικής και δεν υπάγεται στις διατάξεις του παρόντος άρθρου.

7. Όμοια μεταγενέστερη αίτηση τίθεται στο αρχείο με πράξη του Προϊσταμένου του αρμόδιου Περιφερειακού Γραφείου Ασύλου ή Αυτοτελούς Κλιμακίου Ασύλου, σύμφωνα με τις διατάξεις του άρθρου 4 του Κώδικα Διοικητικής Διαδικασίας.

8. Αν ο αιτών, έναντι του οποίου πρέπει να εκτελεστεί απόφαση μεταφοράς, σύμφωνα με τον Κανονισμό 604/2013, υποβάλει μεταγενέστερη αίτηση, αυτή εξετάζεται από το αρμόδιο κράτος, σύμφωνα με τον Κανονισμό αυτό.

Άρθρο 60

(Άρθρο 43 της Οδηγίας)
Διαδικασίες στα σύνορα

1. Στις περιπτώσεις που υποβάλλονται αιτήσεις διεθνούς προστασίας στα σύνορα και τις ζώνες διέλευσης λιμένων ή αερολιμένων της χώρας, οι αιτούντες απολαμβάνουν των δικαιωμάτων και των εγγυήσεων των διατάξεων των άρθρων 41, 44, 45 και 46 του παρόντος Μέρους.

2. Αν δεν ληφθεί απόφαση εντός είκοσι οκτώ (28) ημερών από την ημερομηνία κατάθεσης της αίτησης, επιτρέπεται στον αιτούντα η είσοδος και παραμονή του στο εσωτερικό της χώρας, προκειμένου να εξετασθεί η αίτησή του σύμφωνα με τις λοιπές διατάξεις του παρόντος.

3. Με την επιφύλαξη των διατάξεων του άρθρου 46, στις περιπτώσεις του παρόντος άρθρου, που απορρίπτεται αίτηση διεθνούς προστασίας και εκδίδεται απόφαση απέλασης, επιστροφής ή επανεισδοχής, η εκτέλεση της οποίας αναστέλλεται, με σχετική δικαστική απόφαση επιτρέπεται η παραμονή του αιτούντος στη χώρα μέχρι την έκδοση απόφασης επί του ένδικου μέσου.

4. Σε περίπτωση αφίξεων που αφορούν μεγάλο αριθμό πολιτών τρίτων χωρών ή ανιθαγενών, οι οποίοι υποβάλλουν αιτήσεις διεθνούς προστασίας στα σύνορα ή σε ζώνη διέλευσης λιμένων ή αερολιμένων της χώρας ή ενόσω παραμένουν σε Κέντρα Υποδοχής και Ταυτοποίησης, με κοινή απόφαση των Υπουργών Εσωτερικών και Διοικητικής Ανασυγκρότησης και Εθνικής Άμυνας εφαρμόζονται κατ' εξαίρεση τα παρακάτω:

α. Η καταγραφή της αίτησης διεθνούς προστασίας, οι επιδόσεις των αποφάσεων και λοιπών διαδικαστικών εγγράφων, καθώς και η παραλαβή προσφυγών μπορεί να πραγματοποιείται από προσωπικό της Ελληνικής Αστυνομίας ή προσωπικό των Ενόπλων Δυνάμεων.

β. Στις διαδικασίες του στοιχείου α΄, στη συνέντευξη με τους αιτούντες διεθνή προστασία, καθώς και σε κάθε άλλη διαδικασία, η Υπηρεσία Ασύλου μπορεί να επικουρείται από προσωπικό και διερμηνείς που διατίθεται από την Ευρωπαϊκή Υπηρεσία Υποστήριξης για το Άσυλο.

γ. Η προθεσμία του άρθρου 52 παράγραφος 5 είναι μίας (1) ημέρας. Η προθεσμία του άρθρου 62 παράγραφος 2(γ) είναι δύο (2) ημερών. Οι προθεσμίες του άρθ. 62 παράγραφος 3, για την ειδοποίηση του αιτούντος σε περίπτωση προφορικής ακρόασης και για την κατάθεση τυχόν υπομνήματος μετά την εξέταση της προσφυγής είναι μίας (1) ημέρας.

δ. Η απόφαση επί της αίτησης διεθνούς προστασίας εκδίδεται το αργότερο την επόμενη ημέρα της πραγματοποίησης της συνέντευξης και επιδίδεται το αργότερο την επόμενη της έκδοσής της.

ε. Οι προσφυγές εξετάζονται σε τρεις (3) ημέρες από την κατάθεσή τους. Η απόφαση επί της προσφυγής εκδίδεται το αργότερο εντός δύο (2) ημερών από την εξέτασή της ή την κατάθεση του υπομνήματος και επιδίδεται το αργότερο την επόμενη ημέρα της έκδοσής της. Κατά την περίπτωση της υποβολής σχετικής αίτησης ακρόασης από τον προσφεύγοντα, όπως αυτή προβλέπεται στο άρθρο 62 παράγραφος 1 στοιχείο ε' του παρόντος, η Επιτροπή Προσφυγών δύναται, κατά την κρίση της, να καλεί τον προσφεύγοντα σε ακρόαση.

στ. Από την παραπάνω διαδικασία εξαιρούνται όσοι υπάγονται στις διατάξεις των άρθρων 8 έως και 11 του Κανονισμού (ΕΕ) αριθμ. 604/2013 του Ευρωπαϊκού Κοινοβουλίου και του Συμβουλίου, καθώς και τα πρόσωπα που ανήκουν σε ευάλωτες ομάδες, σύμφωνα με την παράγραφο 8 του άρθρου 14.

5. Με την κοινή απόφαση του Υπουργού Εσωτερικών και Διοικητικής Ανασυγκρότησης και του Υπουργού Εθνικής Άμυνας της προηγούμενης παραγράφου δύναται να ρυθμίζεται κάθε λεπτομέρεια που αφορά στην εφαρμογή του παρόντος.

ΚΕΦΑΛΑΙΟ Δ΄
ΔΙΑΔΙΚΑΣΙΕΣ ΣΕ ΔΕΥΤΕΡΟ ΒΑΘΜΟ

Άρθρο 61
(Άρθρο 46 της Οδηγίας)
Δικαίωμα άσκησης προσφυγής

1. Ο αιτών δικαιούται να ασκήσει την προβλεπόμενη ενδικοφανή προσφυγή του άρθρου 7 παράγραφος 5, ενώπιον της Αρχής Προσφυγών του άρθρου 4:

α. Κατά της απόφασης που απορρίπτει αίτηση διεθνούς προστασίας ως αβάσιμη με την κανονική διαδικασία ή με την οποία ανακαλείται καθεστώς διεθνούς προστασίας, καθώς και κατά της απόφασης με την οποία χορηγείται καθεστώς επικουρικής προστασίας, κατά το μέρος που αφορά τη μη αναγνώριση του αιτούντος ως πρόσφυγα, εντός τριάντα (30) ημερών από την επίδοση της απόφασης.

β. Κατά της απόφασης που απορρίπτει αίτηση διεθνούς προστασίας με την ταχύρρυθμη διαδικασία ή ως απαράδεκτη κατά τα οριζόμενα στα άρθρα 51 παράγραφος 7 και 54 αντίστοιχα, καθώς και στις περιπτώσεις που η προσφυγή υποβάλλεται ενώ ο αιτών τελεί υπό κράτηση, εντός δεκαπέντε (15) ημερών από την επίδοση της απόφασης. Κατά της απόφασης που απορρίπτει αίτηση διεθνούς προστασίας ως απαράδεκτη βάσει του άρθρου 54 παράγραφος 1 (β), η προσφυγή ασκείται εντός της ως άνω προθεσμίας και λογίζεται ότι στρέφεται και κατά της σχετικής πράξης μεταφοράς κατ' εφαρμογή των σχετικών διατάξεων του Κανονισμού (ΕΕ) 604/2013 του Ευρωπαϊκού Κοινοβουλίου και του Συμβουλίου.

γ. Κατά της απόφασης με την οποία απορρίπτεται αίτηση για να συνεχιστεί η εξέταση της υπόθεσης μετά από πράξη διακοπής σύμφωνα με το άρθρο 47 παράγραφος 4, εντός δεκαπέντε (15) ημερών από την επίδοση της απόφασης.

δ. Κατά της απόφασης που απορρίπτει αίτηση διεθνούς προστασίας στις περιπτώσεις του άρθρου 60 ή που η προσφυγή υποβάλλεται ενώ ο αιτών βρίσκεται σε διαδικασία Υποδοχής και Ταυτοποίησης, εντός πέντε (5) ημερών από την επίδοση της απόφασης.

2. Το δελτίο αιτούντος διεθνή προστασία, με την επιφύλαξη εφαρμογής της διαδικασίας του άρθρου 59 του παρόντος, χορηγείται εκ νέου σε περίπτωση άσκησης προσφυγής εφαρμοζομένων ανάλογα των διατάξεων του άρθρου 41 παράγραφος 1 (δ) ως προς τη διάρκεια ισχύος. Σε περίπτωση άσκησης προσφυγής μετά την πάροδο των ανωτέρω προθεσμιών, η διάρκεια του δελτίου αιτούντος διεθνή προστασία μπορεί να περιοριστεί με απόφαση της παραγράφου 1 (δ) υποπαράγραφος (στστ) του άρθρου 41, ανάλογα με τον εκτιμώμενο χρόνο έκδοσης απόφασης επί της προσφυγής.

3. Σε περίπτωση άσκησης προσφυγής κατά απόφασης ανάκλησης καθεστώτος διεθνούς προστασίας, σύμφωνα με το άρθρο 63, επιστρέφεται στον προσφεύγοντα η άδεια διαμονής του.

4. Κατά τη διάρκεια της προθεσμίας για την άσκηση προσφυγής και μέχρι την επίδοση της απόφασης επ' αυτής, αναστέλλεται κάθε μέτρο απέλασης, επανεισδοχής ή επιστροφής του αιτούντος.

5. Οι προσφυγές κατατίθενται στις Αρχές Παραλαβής και διαβιβάζονται στην Αρχή Προσφυγών αμελλητί.

6. Αν η απόφαση του πρώτου βαθμού δεν επιδοθεί για οποιοδήποτε λόγο, η προθεσμία της προσφυγής είναι εξήντα (60) ημέρες από την ημερομηνία λήξης του δελτίου αιτούντος διεθνή προστασία ή, εφόσον η ισχύς του δελτίου λήξει πριν την έκδοση της απόφασης, εξήντα (60) ημέρες από την ημερομηνία έκδοσης της απόφασης. Σε περίπτωση κρατούμενου, ο οποίος αφέθηκε ελεύθερος και δεν του έχει χορηγηθεί δελτίο, η ανωτέρω προθεσμία αρχίζει από την παρέλευση του χρόνου εμφάνισής του ενώπιον των Αρχών Παραλαβής, σύμφωνα με το άρθρο 41 παράγραφος 1 στοιχείο (δ) (ζζ) εδάφιο τρίτο.

Άρθρο 62
Διαδικασία εξέτασης των προσφυγών

1. Η διαδικασία ενώπιον της Επιτροπής Προσφυγών είναι κατά κανόνα έγγραφη και η εξέταση των προσφυγών διενεργείται με βάση τα στοιχεία του φακέλου, χωρίς την παρουσία του προσφεύγοντος. Η Επιτροπή Προσφυγών καλεί τον προσφεύγοντα σε προφορική ακρόαση όταν:

α. με την προσφυγή προσβάλλεται απόφαση ανάκλησης καθεστώτος διεθνούς προστασίας,

β. ανακύπτουν ζητήματα ή αμφιβολίες ως προς την πληρότητα της συνέντευξης που πραγματοποιήθηκε κατά τον πρώτο βαθμό εξέτασης,

γ. ο προσφεύγων υπέβαλε σοβαρά νέα στοιχεία που αφορούν σε οψιγενείς ισχυρισμούς,

δ. η υπόθεση είναι ιδιαίτερα περίπλοκη,

ε. υποβάλλεται σχετική αίτηση από τον προσφεύγοντα τουλάχιστον δύο (2) ημέρες πριν την εξέταση της προσφυγής.

2. Με την κατάθεση της προσφυγής η αρμόδια Αρχή Παραλαβής ενημερώνει αυθημερόν τον προσφεύγοντα για την ημερομηνία εξέτασής της. Η εξέταση της προσφυγής προσδιορίζεται:

α. Τουλάχιστον είκοσι (20) ημέρες μετά την κατάθεση προσφυγής που υποβάλλεται κατά απόφασης με την οποία απορρίπτεται αίτηση διεθνούς προστασίας ως αβάσιμη με την κανονική διαδικασία ή ανακαλείται καθεστώς διεθνούς προστασίας.

β. Τουλάχιστον δέκα (10) ημέρες μετά την κατάθεση προσφυγής που υποβάλλεται κατά απόφασης με την οποία απορρίπτεται αίτηση διεθνούς προστασίας με την ταχύρρυθμη διαδικασία ή ως απαράδεκτη κατά τα οριζόμενα στα άρθρα 16 παράγραφος 4 και 18 αντίστοιχα.

γ. Τουλάχιστον πέντε (5) ημέρες μετά την κατάθεση προσφυγής που υποβάλλεται κατά απόφασης με την οποία απορρίπτεται αίτηση διεθνούς προστασίας στις περιπτώσεις του άρθρου 60 ή που υποβάλλεται ενώ ο προσφεύγων βρίσκεται σε Κέντρο Υποδοχής και Ταυτοποίησης.

Ο προσφεύγων δύναται να καταθέσει τυχόν συμπληρωματικά στοιχεία ή υπόμνημα έως και την προηγουμένη της ημέρας εξέτασης της προσφυγής του.

3. Εφόσον ακολουθείται διαδικασία εξέτασης της προσφυγής με προφορική ακρόαση, η Αρχή Προσφυγών καλεί τον προσφεύγοντα ενώπιον της αρμόδιας Επιτροπής. Ο προσφεύγων ενημερώνεται το αργότερο πέντε (5) εργάσιμες ημέρες πριν την ημερομηνία εξέτασης της προσφυγής του, σε γλώσσα που κατανοεί, για τον τόπο και την ημερομηνία εξέτασης, καθώς και για το δικαίωμά του, να παρασταθεί αυτοπροσώπως ή /και με τον δικηγόρο ή άλλο σύμβουλό του ενώπιόν της, για να εκθέσει προφορικά, με τη βοήθεια κατάλληλου διερμηνέα, τα επιχειρήματά του και να δώσει τυχόν δι-

ευκρινίσεις. Η απουσία του προσφεύγοντος δεν κωλύει την εξέταση της προσφυγής, υπό την προϋπόθεση ότι αυτός έχει κληθεί σύμφωνα με τα οριζόμενα στο άρθρο 40 του παρόντος. Μετά το πέρας της προφορικής εξέτασης, μπορεί να χορηγηθεί στον προσφεύγοντα, κατόπιν αιτήματός του, εύλογος χρόνος, για την κατάθεση συμπληρωματικών στοιχείων ή υπομνήματος, ο οποίος δεν μπορεί να είναι μικρότερος των τριών (3) ημερών και μεγαλύτερος των δεκαπέντε (15) ημερών.

4. Προσφυγές που έχουν υποβληθεί μετά την πάροδο των προθεσμιών της παραγράφου 1 του άρθρου 61, εξετάζονται πάντοτε κατά προτεραιότητα και το αργότερο σε τριάντα (30) ημέρες από την κατάθεση της προσφυγής. Ομοίως κατά προτεραιότητα, μπορεί να εξετάζονται προσφυγές που αφορούν περιπτώσεις που αναφέρονται στην παράγραφο 6 του άρθρου 51 του παρόντος.

5. Ο Διοικητικός Διευθυντής της Αρχής Προσφυγών μεριμνά για την επαρκή γραμματειακή υποστήριξη των Επιτροπών, την παροχή κατάλληλης διερμηνείας και υπογράφει την ημερήσια διάταξη, σύμφωνα με τα οριζόμενα στο νόμο και τον Κανονισμό της Αρχής Προσφυγών. Η ημερήσια διάταξη κοινοποιείται στα μέλη των Επιτροπών Προσφυγών, μαζί με τους σχετικούς διοικητικούς φακέλους, πέντε (5) ημέρες πριν την ημέρα εξέτασης των προσφυγών.

6. Η εξέταση των προσφυγών ολοκληρώνεται το ταχύτερο δυνατό από την κατάθεση της προσφυγής και σε κάθε περίπτωση εντός έξι (6) μηνών στις περιπτώσεις εφαρμογής της κανονικής διαδικασίας ή τριών (3) στις περιπτώσεις εφαρμογής της ταχύρρυθμης διαδικασίας.

7. Κατά την εξέταση της προσφυγής, η Επιτροπή εξετάζει τόσο τη νομιμότητα της προσβαλλόμενης πράξης, όσο και την ουσία της υπόθεσης και αποφαίνεται επί της αίτησης διεθνούς προστασίας του προσφεύγοντος. Η απόφαση επιδίδεται στον προσφεύγοντα κατά τα οριζόμενα στο άρθρο 40 του παρόντος.

ΚΕΦΑΛΑΙΟ Ε΄
ΤΕΛΙΚΕΣ ΔΙΑΤΑΞΕΙΣ

Άρθρο 63
(Άρθρα 44 και 45 της Οδηγίας)
Ανάκληση του καθεστώτος διεθνούς προστασίας

1. Όταν προκύπτουν νέα στοιχεία που συνιστούν λόγο επανεξέτασης του καθεστώτος διεθνούς προστασίας, οι αρμόδιες Αρχές Παραλαβής εξετάζουν αν συντρέχει περίπτωση ανάκλησης του καθεστώτος αυτού βάσει των σχετικών διατάξεων του Π.δ. 141/2013. Η απόφαση ανάκλησης λαμβάνεται από τον Προϊστάμενο της κατά τόπο αρμόδιας Αρχής Παραλαβής, μετά από εισήγηση υπαλλήλου (χειριστή) που ορίζεται ειδικά και είναι ειδικά αιτιολογημένη.

2. Στις περιπτώσεις εφαρμογής της παραγράφου 1, ο ενδιαφερόμενος:

α. Ενημερώνεται εγγράφως από την αρμόδια Αρχή Παραλαβής τουλάχιστον δεκαπέντε (15) εργάσιμες μέρες πριν την επανεξέταση της συνδρομής στο πρόσωπό του των αναγκαίων προϋποθέσεων διεθνούς προστασίας, καθώς και για τους λόγους της επανεξέτασης αυτής.

β. Δικαιούται να προβάλλει στο πλαίσιο προσωπικής συνέντευξης και με γραπτό υπόμνημά του στην αρμόδια Αρχή Παραλαβής, τους λόγους για τους οποίους θεωρεί ότι δεν πρέπει να ανακληθεί το χορηγηθέν καθεστώς. Η διαδικασία συνέντευξης πραγματοποιείται σύμφωνα με το άρθρο 52 από υπάλληλο της Αρχής Παραλαβής (χειριστή) που ορίζεται ειδικά.

3. Η Αποφαινόμενη Αρχή, στο πλαίσιο της διαδικασίας αυτής:

α. ενημερώνεται εγγράφως από το τμήμα Εκπαίδευσης, Διασφάλισης Ποιότητας και Τεκμηρίωσης της Υπηρεσίας Ασύλου, όσον αφορά ιδίως τη γενική πολιτική, κοινωνική και οικονομική κατάσταση που επικρατεί στις χώρες καταγωγής των ενδιαφερομένων προσώπων και

β. δύναται, εφόσον το κρίνει σκόπιμο, να συλλέγει περαιτέρω πληροφορίες σχετικά με τη συγκεκριμένη περίπτωση προκειμένου να επανεξεταστεί το καθεστώς. Οι πληροφορίες αυτές δεν λαμβάνονται από τους φορείς δίωξης ή σοβαρής βλάβης κατά τρόπο που θα είχε ως αποτέλεσμα να πληροφορούνται απευθείας ότι ο ενδιαφερόμενος είναι πρόσφυγας ή δικαιούχος επικουρικής προστασίας ή να τίθεται σε κίνδυνο η σωματική ακεραιότητα του ενδιαφερόμενου και των προσώπων που εξαρτώνται από αυτόν και η ελευθερία ή η ασφάλεια των μελών της οικογένειάς του που τυχόν εξακολουθούν να διαμένουν στη χώρα καταγωγής.

4. Η απόφαση ανάκλησης του καθεστώτος επιδίδεται βάσει των διατάξεων του άρθρου 40. Η απόφαση αναφέρει τους πραγματικούς και νομικούς λόγους ανάκλησης και παρέχει πληροφορίες σχετικά με τις δυνατότητες άσκησης προσφυγής κατ' αυτής ενώπιον της Αρχής Προσφυγών.

5. Οι διατάξεις του άρθρου 44 και του άρθρου 48 εφαρμόζονται και στην ανάκληση του καθεστώτος.

6. Κατά παρέκκλιση των διατάξεων των προηγούμενων παραγράφων, το καθεστώς του δικαιούχου διεθνούς προστασίας παύει αυτοδικαίως αν ο δικαιούχος παραιτηθεί ρητώς από αυτό, με έγγραφη δήλωσή του, η οποία υποβάλλεται αυτοπροσώπως στις αρμόδιες Αρχές Παραλαβής με τη διαδικασία του άρθρου 47 παράγραφος 1 ή αν ο δικαιούχος αποκτήσει την ελληνική ιθαγένεια.

Άρθρο 64
(Άρθρο 47 της Οδηγίας)
Άσκηση Αίτησης Ακυρώσεως

1. Οι αιτούντες διεθνή προστασία έχουν δικαίωμα άσκησης αίτησης ακυρώσεως ενώπιον του αρμόδιου δικαστηρίου, σύμφωνα με τις διατάξεις του άρθρου 15 παρ. 3 του ν. 3068/2002 (Α΄ 274), όπως τροποποιήθηκε με το άρθρο 49 του ν. 3900/2010 (Α΄ 13) και ισχύει, κατά των αποφάσεων που λαμβάνονται κατ' εφαρμογή των διατάξεων του παρόντος Μέρους. Για τη δυνατότητα αυτή, για την προθεσμία, καθώς και για το αρμόδιο δικαστήριο γίνεται ρητή αναφορά επί του σώματος της απόφασης.

2. Αίτηση ακυρώσεως κατά των αποφάσεων των Επιτροπών Προσφυγών, σύμφωνα με τις ανωτέρω διατάξεις, μπορεί να ασκηθεί και από τον Υπουργό Εσωτερικών και Διοικητικής Ανασυγκρότησης.

Άρθρο 65
(Άρθρο 48 της Οδηγίας)
Υποχρέωση εχεμύθειας

Το προσωπικό των αρμοδίων Υπηρεσιών που εφαρμόζουν τις διατάξεις του παρόντος Μέρους, καθώς και κάθε άλλο πρόσωπο που εμπλέκεται στην εφαρμογή του, υποχρεούται να τηρεί εχεμύθεια για όλα τα στοι-

χεία και προσωπικά δεδομένα που περιέρχονται σε γνώση του κατά την εκτέλεση των καθηκόντων του ή επ' ευκαιρία αυτών.

Άρθρο 66
(Άρθρο 50 της Οδηγίας)
Υποβολή Εκθέσεων

Η Κεντρική Υπηρεσία Ασύλου αποστέλλει στην Ευρωπαϊκή Επιτροπή όλες τις πληροφορίες που είναι απαραίτητες για την κατάρτιση της έκθεσης, σχετικά με την εφαρμογή του παρόντος Μέρους.

Άρθρο 67
Παραμονή για ανθρωπιστικούς λόγους

Στην περίπτωση που αίτηση διεθνούς προστασίας αλλοδαπού ή ανιθαγενή έχει απορριφθεί τελεσίδικα και οι αρμόδιες Αρχές Απόφασης του παρόντος Μέρους πιθανολογούν ότι στο πρόσωπό του συντρέχουν οι προϋποθέσεις χορήγησης άδειας διαμονής για ανθρωπιστικούς λόγους, παραπέμπουν την υπόθεση στις αρμόδιες αρχές, σύμφωνα με το άρθρο 19Α (στ) του ν. 4251/2014 (Α΄ 80) όπως ισχύει, οι οποίες αποφασίζουν σχετικά με τη χορήγηση της εν λόγω άδειας. Στην περίπτωση αυτή οι αρμόδιες Αρχές Απόφασης χορηγούν σχετική βεβαίωση στον ενδιαφερόμενο.

ΜΕΡΟΣ ΤΕΤΑΡΤΟ
ΠΡΟΫΠΟΘΕΣΕΙΣ ΠΡΟΣΒΑΣΗΣ ΣΤΗΝ ΑΠΑΣΧΟΛΗΣΗ ΤΩΝ ΑΝΑΓΝΩΡΙΣΜΕΝΩΝ ΑΠΟ ΤΗΝ ΕΛΛΗΝΙΚΗ ΠΟΛΙΤΕΙΑ ΩΣ ΔΙΚΑΙΟΥΧΩΝ ΔΙΕΘΝΟΥΣ ΠΡΟΣΤΑΣΙΑΣ ΤΩΝ ΑΙΤΟΥΝΤΩΝ ΔΙΕΘΝΗ ΠΡΟΣΤΑΣΙΑ ΚΑΙ ΤΩΝ ΠΡΟΣΩΠΩΝ ΣΤΟΥΣ ΟΠΟΙΟΥΣ ΕΧΕΙ ΧΟΡΗΓΗΘΕΙ ΚΑΘΕΣΤΩΣ ΠΑΡΑΜΟΝΗΣ ΓΙΑ ΑΝΘΡΩΠΙΣΤΙΚΟΥΣ ΛΟΓΟΥΣ ΣΤΗΝ ΕΛΛΑΔΑ, ΣΥΜΦΩΝΑ ΜΕ ΤΟ ΑΡΘΡΟ 28 ΤΟΥ Π.Δ. 114/2010 (Α΄ 195), ΤΟ ΑΡΘΡΟ 8 ΠΑΡ. 1 ΤΟΥ Π.Δ. 61/1999 (Α΄ 63) Ή ΤΟ ΑΡΘΡΟ 25 ΠΑΡ. 4 ΤΟΥ Ν. 1975/1991 (Α΄ 184) ΚΑΙ ΤΩΝ ΔΙΚΑΙΟΥΧΩΝ ΤΟΥ ΑΡΘΡΟΥ 19Α ΠΑΡ. 1 ΣΤΟΙΧΕΙΟ ΣΤ΄ ΤΟΥ Ν. 4251/2014, ΟΠΩΣ ΙΣΧΥΕΙ

Άρθρο 68
Ορισμοί

1. «Δικαιούχοι διεθνούς προστασίας», για τους σκοπούς του παρόντος Μέρους, είναι οι αλλοδαποί ή ανιθαγενείς, οι οποίοι έχουν αναγνωριστεί ως πρόσφυγες ή τους έχει χορηγηθεί καθεστώς επικουρικής προστασίας, σύμφωνα με τους διατάξεις του Π.δ. 141/2013 (Α΄ 226), του Π.δ. 113/2013 (Α΄ 146), του Π.δ. 114/2010 (Α΄ 195), του Π.δ. 90/2008 (Α΄ 152), του Π.δ. 61/1999 (Α΄ 63) ή του ν. 1975/1991 (Α΄ 184) και τις λοιπές ισχύουσες και προϊσχύουσες διατάξεις για την αναγνώριση και το περιεχόμενο της διεθνούς προστασίας.

2. «Αιτούντες Διεθνή Προστασία», για τους σκοπούς του παρόντος, είναι οι αλλοδαποί ή ανιθαγενείς οι οποίοι έχουν καταθέσει ενώπιον της αρμόδιας αρχής, αίτηση με την οποία ζητούν να αναγνωριστούν ως δικαιούχοι διεθνούς προστασίας, σύμφωνα με τις διατάξεις των Προεδρικών διαταγμάτων 113/2013 και 114/2010.

3. Πρόσωπα στα οποία έχει χορηγηθεί καθεστώς «παραμονής για ανθρωπιστικούς λόγους», για τους σκοπούς του παρόντος Μέρους, είναι οι αλλοδαποί ή ανιθαγενείς, στους οποίους έχει χορηγηθεί καθεστώς παραμονής για ανθρωπιστικούς λόγους, σύμφωνα με τις διατάξεις του άρθρου 28 του Π.δ. 114/2010 (Α΄ 195), του άρθρου 8 παρ. 1 του Π.δ. 61/1999 (Α΄ 63), του άρθρου 25 παρ. 4 του ν. 1975/1991 (Α΄ 184) ή του άρθρου 22 του παρόντος.

4. «Μέλη της οικογένειας» του δικαιούχου διεθνούς προστασίας, υπό την προϋπόθεση ότι αυτά βρίσκονται στην Ελληνική Επικράτεια και ότι η οικογένεια υπήρχε πριν την είσοδο στη χώρα, θεωρούνται:

α. Ο σύζυγος ή ο εκτός γάμου σύντροφός του με τον οποίο διατηρεί σταθερή σχέση σύμφωνα με την ελληνική νομοθεσία, όπως ισχύει.

β. Τα ανήλικα, άγαμα και εξαρτημένα τέκνα, ανεξαρτήτως αν γεννήθηκαν σε γάμο ή εκτός γάμου των γονέων τους ή είναι υιοθετημένα.

γ. Τα ενήλικα τέκνα που πάσχουν από πνευματική ή σωματική αναπηρία και δεν δύνανται να υποβάλουν αυτοτελώς αίτηση.

δ. Ο πατέρας ή μητέρα ή άλλος ενήλικος υπεύθυνος για τη φροντίδα του δικαιούχου διεθνούς προστασίας, σύμφωνα με την ελληνική νομοθεσία ή πρακτική, εάν ο δικαιούχος διεθνούς προστασίας είναι ανήλικος και άγαμος.

Άρθρο 69
Εργασία δικαιούχων διεθνούς προστασίας, κατόχων άδειας παραμονής για ανθρωπιστικούς λόγους και των μελών οικογενείας τους

1. Οι δικαιούχοι διεθνούς προστασίας, οι οποίοι κατέχουν την προβλεπόμενη από τις οικείες διατάξεις άδεια διαμονής σε ισχύ, έχουν δικαίωμα πρόσβασης στην εξαρτημένη εργασία, την παροχή υπηρεσιών ή έργου ή στην άσκηση ανεξάρτητης οικονομικής δραστηριότητας, με τους ίδιους όρους που προβλέπονται για τους ημεδαπούς.

2. Τα πρόσωπα στα οποία έχει χορηγηθεί καθεστώς παραμονής για ανθρωπιστικούς λόγους κατά την έννοια της παραγράφου 3 του άρθρου 68, έχουν δικαίωμα πρόσβασης στην εξαρτημένη εργασία και την παροχή υπηρεσιών ή έργου, με τους ίδιους όρους που προβλέπονται για τους ημεδαπούς.

3. Δικαίωμα πρόσβασης στην εξαρτημένη εργασία, την παροχή ανεξάρτητων υπηρεσιών ή έργου ή στην άσκηση ανεξάρτητης οικονομικής δραστηριότητας έχουν και τα μέλη της οικογένειας των δικαιούχων διεθνούς προστασίας, τα οποία κατέχουν άδεια διαμονής σε ισχύ, σύμφωνα με το άρθρο 23 παρ. 2(β) του Π.δ. 141/2013 ή το άρθρο 24 παρ. 4 του Π.δ. 96/2008 (Α΄ 152), με τους ίδιους όρους που προβλέπονται για τους ημεδαπούς. Τα παραπάνω δικαιώματα έχουν και τα μέλη οικογένειας των δικαιούχων διεθνούς προστασίας που αφίχθηκαν στην Ελλάδα στο πλαίσιο οικογενειακής επανένωσης, σύμφωνα με τις ισχύουσες διατάξεις και κατέχουν σχετική άδεια διαμονής σε ισχύ, καθώς και οι αλλοδαποί, οι οποίοι διαμένοντες νόμιμα στη χώρα, τέλεσαν γάμο με δικαιούχο διεθνούς προστασίας και για όσο χρόνο ο γάμος εξακολουθεί να ισχύει.

4. Δικαίωμα πρόσβασης στην εξαρτημένη εργασία ή την παροχή υπηρεσιών ή έργου, έχουν και τα μέλη της οικογένειας κατόχων άδειας διαμονής για ανθρωπιστικούς λόγους, τα οποία κατέχουν άδεια διαμονής σε ισχύ, σύμφωνα με το άρθρο 28 παρ. 4 του Π.δ. 114/2010, το άρθρο 8 παρ. 1 του Π.δ. 61/1999 (Α΄ 63) ή το άρθρο 25 παρ. 4 του ν. 1975/1991 (Α΄ 184), καθώς και οι αλλοδαποί, οι οποίοι διαμένοντες νόμιμα στη χώρα, τέλεσαν γάμο με πρόσωπο στο οποίο έχει χορηγηθεί καθεστώς πα-

ραμονής για ανθρωπιστικούς λόγους κατά την έννοια της παραγράφου 3 του άρθρου 68, και για όσο χρόνο ο γάμος εξακολουθεί να ισχύει. Η πρόσβαση στην απασχόληση γίνεται με τους ίδιους όρους που ισχύουν για τους ημεδαπούς.

5. Για την πρόσβαση των δικαιούχων στην απασχόληση, σύμφωνα με τις ανωτέρω παραγράφους, μόνη προϋπόθεση είναι η κατοχή των απαιτούμενων, κατά περίπτωση, αδειών διαμονής.

Άρθρο 70
Επαγγελματική Κατάρτιση δικαιούχων διεθνούς προστασίας

Οι δικαιούχοι διεθνούς προστασίας και τα πρόσωπα στα οποία έχει χορηγηθεί καθεστώς παραμονής για ανθρωπιστικούς λόγους, καθώς και τα μέλη οικογένειάς τους, εφόσον κατέχουν την προβλεπόμενη από τις οικείες διατάξεις άδεια διαμονής σε ισχύ, εγγράφονται σε εκπαιδευτικά προγράμματα για ενήλικες που σχετίζονται με την απασχόληση και την επαγγελματική κατάρτιση με τους ίδιους όρους και προϋποθέσεις που ισχύουν και για τους ημεδαπούς. Σε περίπτωση που οι ανωτέρω δεν μπορούν λόγω αντικειμενικής αδυναμίας να προσκομίσουν τα απαιτούμενα δικαιολογητικά, υποβάλλεται δήλωση του ν. 1599/1986 (Α΄ 75).

Άρθρο 71
Εργασία και απασχόληση αιτούντων διεθνούς προστασίας

Οι αιτούντες διεθνή προστασία, μετά την ολοκλήρωση της διαδικασίας κατάθεσης της αίτησης διεθνούς προστασίας, σύμφωνα με τις κείμενες διατάξεις, και εφόσον κατέχουν «δελτίο αιτούντος διεθνή προστασία» ή «δελτίο αιτήσαντος άσυλο αλλοδαπού», τα οποία έχουν εκδοθεί σύμφωνα με τις διατάξεις του άρθρου 2 στ. κδ΄ του Π.δ. 113/2013 (Α΄ 146) του άρθρου 41 παράγραφος 1 (δ) του παρόντος και του άρθρου 8 παρ. 1 στ. δ΄ του Π.δ. 114/2010 αντίστοιχα, έχουν δικαίωμα πρόσβασης σε εξαρτημένη εργασία ή την παροχή υπηρεσιών ή έργου.

ΜΕΡΟΣ ΠΕΜΠΤΟ
ΛΟΙΠΕΣ ΔΙΑΤΑΞΕΙΣ

Άρθρο 72
Λοιπές διατάξεις για τη διαχείριση των αναγκών λόγω των προσφυγικών και μεταναστευτικών ροών.

1. Προστίθεται τελευταίο εδάφιο στην παρ. 3 του άρθρου 39 του ν. 4369/2016 ως ακολούθως:

«Εξαιρούνται οι υπάλληλοι οι οποίοι τοποθετήθηκαν στο Υπουργείο Εσωτερικών και Διοικητικής Ανασυγκρότησης σε υπηρεσίες ευθύνης του Αναπληρωτή Υπουργού Εσωτερικών και Διοικητικής Ανασυγκρότησης αρμόδιου για θέματα μεταναστευτικής πολιτικής».

2. Κατ' εξαίρεση της ρύθμισης του άρθρου 4 του Κεφαλαίου Α΄ της υποπαραγράφου Δ΄ «Δαπάνες μετακινούμενων εντός και εκτός επικρατείας» του ν. 4336/2015 οι αποφάσεις μετακίνησης οι οποίες αφορούν το προσωπικό των υπηρεσιών αρμοδιότητας του Αναπληρωτή Υπουργού Εσωτερικών και Διοικητικής Ανασυγκρότησης αρμόδιου για θέματα Μεταναστευτικής Πολιτικής και πραγματοποιούνται από 1η Μαρτίου 2016 μέχρι 31 Δεκεμβρίου 2016 δύναται να εκδίδονται, με μόνη προϋπόθεση τη βεβαίωση από το Διευθυντή της Υπηρεσίας Ασύλου ή τον Διευθυντή της Υπηρεσίας Υποδοχής και Ταυτοποίησης για την ύπαρξη σχετικής πίστωσης στον προϋπολογισμό του οικείου φορέα, προκειμένου να καλυφθούν έκτακτες και επείγουσες υπηρεσιακές ανάγκες, οι οποίες θα αιτιολογούνται πλήρως και επαρκώς στις ως άνω αποφάσεις. Η δέσμευση πίστωσης κατά τις διατάξεις του Δημοσίου Λογιστικού θα βεβαιώνεται από την αρμόδια Υπηρεσία Δημοσιονομικού Ελέγχου εντός δεκαπέντε (15) ημερών από την ημερομηνία έκδοσης της απόφασης μετακίνησης.

3. Για την αντιμετώπιση έκτακτων και κατεπειγουσών αναγκών λόγω των αυξημένων προσφυγικών και μεταναστευτικών ροών, στις υπηρεσίες της Υπηρεσίας Ασύλου, της Υπηρεσίας Υποδοχής και Ταυτοποίησης και της Γενικής Γραμματείας Υποδοχής, επιτρέπεται η απόσπαση προσωπικού του Δημοσίου και ευρύτερου δημόσιου τομέα για διάστημα έως δύο (2) ετών, ή η πρόσληψη προσωπικού με συμβάσεις ιδιωτικού δικαίου ορισμένου χρόνου διάρκειας έως οκτώ (8) μηνών, κατά παρέκκλιση κάθε άλλης γενικής ή ειδικής διάταξης της κείμενης νομοθεσίας. Οι συμβάσεις ορισμένου χρόνου του προηγούμενου εδαφίου δύνανται να ανανεώνονται, εφόσον εξακολουθεί να υφίσταται η επιτακτική ανάγκη, όπως αναφέρεται στο προηγούμενο εδάφιο, η συνολική, πάντως, διάρκεια της απασχόλησης δεν επιτρέπεται να υπερβαίνει τους δεκαέξι (16) μήνες. Σε κάθε περίπτωση, απαγορεύεται η μετατροπή των συμβάσεων σε αορίστου χρόνου.

4. Για την πρόσληψη του προσωπικού της προηγούμενης παραγράφου εκδίδεται από την οικεία Διεύθυνση των υπηρεσιών της προηγούμενης παραγράφου ανακοίνωση, αναρτητέα στην ιστοσελίδα του Υπουργείου Εσωτερικών και Διοικητικής Ανασυγκρότησης, στην οποία αναφέρεται υποχρεωτικά ο αριθμός των θέσεων κατά τόπο, κατηγορία, εκπαίδευση και ειδικότητα, τα απαιτούμενα προσόντα και δικαιολογητικά, καθώς και η υπηρεσία, στην οποία υποβάλλονται οι αιτήσεις των ενδιαφερομένων. Οι υποψήφιοι υποβάλλουν τις αιτήσεις τους, μετά των απαιτούμενων δικαιολογητικών, εντός πέντε (5) εργάσιμων ημερών από την ανάρτηση της ανακοίνωσης στο διαδίκτυο και προσλαμβάνονται κατόπιν εισήγησης της οικείας Διεύθυνσης του Υπουργείου Εσωτερικών και Διοικητικής Ανασυγκρότησης.

5. Για την κάλυψη των έκτακτων και κατεπειγουσών αναγκών της παραγράφου 3 του παρόντος άρθρου, επιτρέπεται η διάθεση ή η πρόσληψη με συμβάσεις εργασίας ιδιωτικού δικαίου ορισμένου χρόνου, κατά παρέκκλιση κάθε άλλης διάταξης της κείμενης νομοθεσίας, πολιτών κρατών - μελών της Ευρωπαϊκής Ένωσης, καθώς και πολιτών, που εργάζονται σε διεθνείς ή ευρωπαϊκούς οργανισμούς. Στα καθήκοντα, που ανατίθενται στο προσωπικό του προηγούμενου εδαφίου, δεν επιτρέπεται να περιλαμβάνεται η άσκηση δημόσιας εξουσίας, όπως είναι η έκδοση διοικητικών πράξεων. Σε κάθε περίπτωση, το προσωπικό της παραγράφου αυτής υποχρεούται να εκτελεί τις οδηγίες της αρμόδιας υπηρεσίας.

6. Με απόφαση του Υπουργού Εσωτερικών και Διοικητικής Ανασυγκρότησης και των κατά περίπτωση αρμοδίων Υπουργών, όπου τούτο απαιτείται, ρυθμίζονται τα ειδικότερα ζητήματα εφαρμογής των διατάξεων των παραγράφων 3 έως 5 του παρόντος άρθρου.

7. Οι ανωτέρω διατάξεις των παραγράφων 3 έως 6 εφαρμόζονται μέχρι τις 31.12.2016.

Άρθρο 73
Θέματα ΦΠΑ

1. Στο τέλος της περίπτωσης Β΄ της παρ. 2 του άρθρου 7 του Κώδικα ΦΠΑ (ν. 2859/2000, Α΄ 248), προστίθεται εδάφιο ως εξής:

«Ως δώρα που επίσης εξαιρούνται θεωρούνται και τα αγαθά που παραδίδονται στις Υπηρεσίες του Δημόσιου Τομέα, στους ΟΤΑ, στα ΝΠΔΔ (όπως προσδιορίζονται στο άρθρο 14 του ν. 4270/2014), στα εκκλησιαστικά ΝΠ, καθώς και στα ΝΠΙΔ ή στις οντότητες που εποπτεύονται από τους παραπάνω φορείς, προκειμένου να διατεθούν για την κάλυψη των αναγκών των προσφύγων, ανεξαρτήτως της αξίας και των προδιαγραφών κατασκευής αυτών».

2. Η παρ. 4 του άρθρου 7 του Κώδικα ΦΠΑ (ν. 2859/2000, Α΄ 248) αντικαθίσταται ως εξής:

«4. Με αποφάσεις του Υπουργού Οικονομικών ρυθμίζεται κατά περίπτωση η διαδικασία και κάθε αναγκαία λεπτομέρεια για την εφαρμογή των διατάξεων του άρθρου αυτού».

3. Το άρθρο 9 του Κώδικα ΦΠΑ (ν. 2859/2000, Α΄ 248) αντικαθίσταται ως εξής:

«Άρθρο 9
Πράξεις θεωρούμενες ως παροχή υπηρεσιών

1. Θεωρείται ως παροχή υπηρεσιών, κατά την έννοια των διατάξεων του άρθρου 2, η από υποκείμενο στο φόρο:

α) χρησιμοποίηση αγαθών της επιχείρησής του, για την ικανοποίηση αναγκών του ή του προσωπικού της επιχείρησης ή για σκοπούς ξένους προς αυτή, εφόσον κατά την απόκτηση των αγαθών αυτών δημιουργήθηκε δικαίωμα έκπτωσης του φόρου,

β) παροχή υπηρεσιών για τις ανάγκες του ή για τις ανάγκες του προσωπικού του ή για σκοπούς ξένους προς την επιχείρησή του,

γ) χρησιμοποίηση δικών του υπηρεσιών για δραστηριότητα του ίδιου του υποκειμένου που απαλλάσσεται από το φόρο, καθώς επίσης και η χρησιμοποίηση δικών του υπηρεσιών για τις ανάγκες της επιχείρησής του, εφόσον πρόκειται για υπηρεσίες που προβλέπουν οι διατάξεις της παραγράφου 4 του άρθρου 30, για τις οποίες δεν παρέχεται δικαίωμα έκπτωσης του φόρου σε περίπτωση λήψης όμοιων υπηρεσιών από άλλον υποκείμενο στο φόρο.

2. Δεν εξομοιώνεται με παροχή υπηρεσιών εξ επαχθούς αιτίας η χωρίς αντάλλαγμα παροχή υπηρεσιών από υποκείμενο στο φόρο για λόγους ανθρωπιστικούς.

Με αποφάσεις του Υπουργού Οικονομικών εξειδικεύονται κατά περίπτωση οι όροι και οι λεπτομέρειες εφαρμογής της ανωτέρω διάταξης».

4. Στην παρ. 1 του άρθρου 27 του Κώδικα ΦΠΑ (ν. 2859/2000, Α΄ 248) προστίθενται περιπτώσεις ιβ΄ και ιγ΄ ως εξής:

«ιβ) Η παράδοση αγαθών και η παροχή υπηρεσιών σε υποκείμενο στο φόρο, ο οποίος έχει σκοπό να τα διαθέσει περαιτέρω άνευ ανταλλάγματος στους φορείς του τελευταίου εδαφίου της περίπτωσης β΄ της παραγράφου 2 του άρθρου 7 του ιδίου νόμου, για την κάλυψη των αναγκών των προσφύγων.

ιγ) Η παράδοση αγαθών σε πλοία και πλωτά μέσα του ελληνικού Δημοσίου και σε πολεμικά πλοία των κρατών-μελών της Ευρωπαϊκής Ένωσης και του ΝΑΤΟ, για την κάλυψη αναγκών των προσφύγων που περισυλλέγουν».

5. Οι διατάξεις του παρόντος άρθρου ισχύουν από την 1.12.2015.

Άρθρο 74
Μεταφορές προσφύγων και μεταναστών

1. Δαπάνες που εκτελέστηκαν προς μεταφορά προσφύγων και μεταναστών, που διενεργήθηκαν εντός των ορίων της Ελληνικής Επικρατείας από την 1η Δεκεμβρίου 2015 έως και τη δημοσίευση του παρόντος από Κ.Τ.Ε.Λ. και Κ.Τ.Ε.Λ. Α.Ε. των Περιφερειών της Χώρας ή Τουριστικά Γραφεία, λόγω του κατεπείγοντος χαρακτήρα τους θεωρούνται νόμιμες και εξοφλούνται κατά παρέκκλιση κάθε αντίθετης γενικής η ειδικής διάταξης νόμου.

α. Από το Υπουργείο Υποδομών, Μεταφορών και Δικτύων για το χρονικό διάστημα από 1η Δεκεμβρίου 2015 έως και 9 Μαρτίου 2016,

β. από το Υπουργείο Εθνικής Άμυνας για το χρονικό διάστημα από 10 Μαρτίου 2016 έως και τη δημοσίευση του παρόντος, καθ' υπέρβαση των εγγεγραμμένων στον προϋπολογισμό τους πιστώσεων και καλύπτονται από πιστώσεις του Κρατικού Προϋπολογισμού.

2. Για χρονικό διάστημα εξαμήνου από την έναρξη εφαρμογής της παρούσης και κατά παρέκκλιση από κάθε άλλη γενική ή ειδική διάταξη και κανονιστική πράξη που διέπει αφενός το έργο των φορέων παροχής συγκοινωνιακού έργου του ν. 2963/2001 (Α΄ 268), αφετέρου το έργο του ν. 711/1977 (Α΄ 284) περί ειδικών τουριστικών λεωφορείων, όπως ισχύουν, επιτρέπεται η μεταφορά προσφύγων και μεταναστών με λεωφορεία δημόσιας χρήσης των Κ.Τ.Ε.Λ. και Κ.Τ.Ε.Λ. Α.Ε., με ειδικά τουριστικά λεωφορεία δημόσιας χρήσης, μεταξύ λιμένων, συνοριακών σταθμών, ανοικτών δομών προσωρινής υποδοχής και φιλοξενίας προσφύγων και λοιπών σημείων συγκέντρωσής τους εντός της Ελληνικής Επικράτειας. Κατά τα λοιπά, ισχύουν όλες οι προβλεπόμενες από την κείμενη νομοθεσία διατάξεις που διέπουν την ασφαλή μεταφορά επιβατών με λεωφορεία.

Με απόφαση του Υπουργού Υποδομών, Μεταφορών και Δικτύων δύναται να παραταθεί η διάρκεια ισχύος της παρούσης.

ΜΕΡΟΣ ΕΚΤΟ
ΑΡΧΕΣ ΣΥΝΤΟΝΙΣΜΟΥ ΔΙΑΧΕΙΡΙΣΗΣ ΚΑΙ ΕΦΑΡΜΟΓΗΣ ΤΩΝ ΠΡΟΓΡΑΜΜΑΤΩΝ ΤΟΥ ΤΑΜΕΙΟΥ ΑΣΥΛΟΥ, ΜΕΤΑΝΑΣΤΕΥΣΗΣ ΚΑΙ ΕΝΤΑΞΗΣ ΚΑΙ ΤΟΥ ΤΑΜΕΙΟΥ ΕΣΩΤΕΡΙΚΗΣ ΑΣΦΑΛΕΙΑΣ, ΚΑΙ ΑΛΛΩΝ ΠΟΡΩΝ, ΚΑΙ ΣΧΕΤΙΚΕΣ ΡΥΘΜΙΣΕΙΣ ΕΦΑΡΜΟΓΗΣ ΑΥΤΩΝ

Άρθρο 75
Σύσταση Ειδικής Γραμματείας Συντονισμού και Διαχείρισης Προγραμμάτων Ταμείου Ασύλου, Μετανάστευσης και Ένταξης και Ταμείου Εσωτερικής Ασφάλειας και άλλων πόρων

1. Στο Υπουργείο Οικονομίας, Ανάπτυξης και Τουρισμού συστήνεται ενιαίος διοικητικός τομέας με τίτλο «Ειδική Γραμματεία Συντονισμού και Διαχείρισης Προγραμμάτων Ταμείου Ασύλου, Μετανάστευσης και Ένταξης και Ταμείου Εσωτερικής Ασφάλειας, και άλλων πόρων» (εφεξής Ε.Γ. Τ.Α.Μ.Ε.Τ.Ε.Α.Α.Π.), με σκοπό τον αποτελεσματικό συντονισμό, την επίβλεψη, και την επιτάχυνση των ενεργειών του Υπουργείου και των

εμπλεκομένων φορέων, τη διαχείριση των πόρων που αφορούν στο κοινό ευρωπαϊκό σύστημα ασύλου, την ένταξη υπηκόων τρίτων χωρών και τη νόμιμη μετανάστευση, την επιστροφή, τη διαχείριση των εξωτερικών συνόρων και την κοινή πολιτική θεωρήσεων, καθώς και για τη διεξαγωγή του πολιτικού διαλόγου στους τομείς αυτούς. Επίσης, για την αξιοποίηση λοιπών πόρων, συμπεριλαμβανομένων και των πόρων έκτακτης ενίσχυσης, που αφορούν στη διαχείριση μεταναστευτικών ροών και σε λοιπά μεταναστευτικά ζητήματα.

2. Στο Υπουργείο Οικονομίας, Ανάπτυξης και Τουρισμού συστήνεται θέση μετακλητού Ειδικού Γραμματέα Ταμείου Ασύλου, Μετανάστευσης και Ένταξης και Ταμείου Εσωτερικής Ασφάλειας και άλλων πόρων (εφεξής Ειδικό Γραμματέα Τ.Α.Μ.Ε.Τ.Ε.Α.Α.Π.), με βαθμό 2ο της κατηγορίας των ειδικών θέσεων, ο οποίος προΐσταται της ανωτέρω Ειδικής Γραμματείας.

3. Η Ε.Γ. Τ.Α.Μ.Ε.Τ.Ε.Α.Α.Π. δύναται να υποστηρίζεται διοικητικά και οικονομικά από τις υπηρεσίες του Υπουργείου Οικονομίας, Ανάπτυξης και Τουρισμού.

Άρθρο 76
Σύσταση Ειδικής Υπηρεσίας Συντονισμού και Διαχείρισης Προγραμμάτων Ταμείου Ασύλου, Μετανάστευσης και Ένταξης και Ταμείου Εσωτερικής Ασφάλειας και άλλων πόρων

1. Στο Υπουργείο Οικονομίας, Ανάπτυξης και Τουρισμού συστήνεται υπηρεσία με τίτλο «Ειδική Υπηρεσία Συντονισμού και Διαχείρισης Προγραμμάτων Ταμείου Ασύλου, Μετανάστευσης και Ένταξης και Ταμείου Εσωτερικής Ασφάλειας, και άλλων πόρων» (εφεξής Ε.Υ.ΣΥ.Δ. Τ.Α.Μ.Ε.Τ.Ε.Α.Α.Π.) η οποία υπάγεται στον Ειδικό Γραμματέα Τ.Α.Μ.Ε.Α.Τ.Ε.Α.Α.Π. και η οποία ορίζεται ως Υπεύθυνη Αρχή για την περίοδο 2014-2020 για τη διαχείριση, την εφαρμογή και τον έλεγχο των εθνικών προγραμμάτων, σύμφωνα με τις διατάξεις του Κανονισμού (ΕΕ) 514/2014 του Ευρωπαϊκού Κοινοβουλίου και του Συμβουλίου σχετικά με τον καθορισμό γενικών διατάξεων όσον αφορά το Ταμείο Ασύλου, Μετανάστευσης και Ένταξης και το μέσο για τη χρηματοδοτική στήριξη της αστυνομικής συνεργασίας, της πρόληψης και καταστολής της εγκληματικότητας και της διαχείρισης κρίσεων. Τα εθνικά προγράμματα καταρτίζονται σύμφωνα με τους ειδικούς Κανονισμούς (ΕΕ) 513/2014, 515/2014 και 516/2014 του Ευρωπαϊκού Κοινοβουλίου και του Συμβουλίου για τη χρηματοδοτική στήριξη της αστυνομικής συνεργασίας, της πρόληψης και καταστολής της εγκληματικότητας και της διαχείρισης των κρίσεων τη θέσπιση στο πλαίσιο του Ταμείου Εσωτερικής Ασφάλειας, του μέσου χρηματοδοτικής στήριξης στον τομέα των εξωτερικών συνόρων και των θεωρήσεων και τη δημιουργία του Ταμείου Ασύλου, Μετανάστευσης και Ένταξης.

2. Η Ε.Υ. ΣΥ. Δ. Τ.Α.Μ.Ε.Τ.Ε.Α.Α.Π. ασκεί το σύνολο των αρμοδιοτήτων που ορίζονται στους προαναφερθέντες Κανονισμούς για τις Υπεύθυνες Αρχές. Οι αρμοδιότητες της Υπηρεσίας Διαχείρισης Ευρωπαϊκών Προγραμμάτων Ασύλου, Υποδοχής και Ένταξης (Υ.ΔΕ.Π.Α.Υ.Ε.), που συστάθηκε με την παρ. 6 του άρθρου 9 του ν. 4332/2015 (Α΄ 76), και της Μονάδας Α2 της Ειδικής Υπηρεσίας Επιτελική Δομή ΕΣΠΑ του Υπουργείου Εσωτερικών και Διοικητικής Ανασυγκρότησης (τομέας εσωτερικών) που συστάθηκε δυνάμει της παρ. 5 (β) του άρθρου 5 του ν. 3614/2007 (Α΄ 267) και της κοινής υπουργικής απόφασης 131/18.4.2008 (Β΄ 887), όπως μετονομάστηκε δυνάμει της παρ. 4 του άρθρου 18 του ν. 4314/2014 (Α΄ 265) μεταφέρονται και ασκούνται από τη δημοσίευση του παρόντος από την Ε.Υ. ΣΥ. Δ. Τ.Α.Μ.Ε.Τ.Ε.Α.Α.Π..

3. Η Ε.Υ. ΣΥ. Δ. Τ.Α.Μ.Ε.Τ.Ε.Α.Α.Π. λειτουργεί σε επίπεδο Διεύθυνσης και διαρθρώνεται ως προς τις αρμοδιότητές της σε υπηρεσιακές μονάδες σε επίπεδο Τμήματος. Η Ε.Υ. ΣΥ. Δ. Τ.Α.Μ.Ε.Τ.Ε.Α.Α.Π. υποστηρίζει λειτουργικά, διοικητικά και οικονομικά και την Ε.Γ. Τ.Α.Μ.Ε.Τ.Ε.Α.Α.Π.. Με απόφαση του Υπουργού Οικονομίας, Ανάπτυξης και Τουρισμού μετά από εισήγηση του Ειδικού Γραμματέα Τ.Α.Μ.Ε.Τ.Ε.Α.Α.Π. καθορίζονται τα ειδικότερα θέματα που αφορούν στις αρμοδιότητές της και στην εφαρμογή τους, στην υπηρεσιακή της διάρθρωση, στην οργάνωση και στη λειτουργία της, στον αριθμό των θέσεων που απαιτούνται στα προσόντα κάλυψης των θέσεων αυτών, στη συνεργασία των συναρμόδιων Υπουργείων, καθώς και κάθε άλλη σχετική λεπτομέρεια. Με απόφαση του Υπουργού Οικονομίας, Ανάπτυξης και Τουρισμού μετά από εισήγηση του Ειδικού Γραμματέα Τ.Α.Μ.Ε.Τ.Ε.Α.Α.Π. είναι δυνατόν να της ανατίθενται και πρόσθετες αρμοδιότητες διαχείρισης και υλοποίησης χρηματοδοτικής βοήθειας που αφορά στην αντιμετώπιση εν γένει του μεταναστευτικού ζητήματος.

4. α. Η στελέχωση της Ε.Υ. ΣΥ. Δ. Τ.Α.Μ.Ε.Τ.Ε.Α.Α.Π. γίνεται με μετακίνηση προσωπικού από το Υπουργείο ή με απόσπαση προσωπικού μόνιμου ή με σχέση εργασίας ιδιωτικού δικαίου αορίστου χρόνου από φορείς του δημόσιου ή του ευρύτερου δημόσιου τομέα, όπως ορίζεται στην παρ. 1 του άρθρου 14 του ν. 2190/1994 (Α΄ 28), όπως ισχύει, συμπεριλαμβανομένης και της ΜΟΔ Α.Ε..

β. Η απόσπαση ή μετακίνηση προσωπικού στην Ε.Υ. ΣΥ. Δ Τ.Α.Μ.Ε.Τ.Ε.Α.Α.Π. πραγματοποιείται με μόνη απόφαση του Υπουργού Οικονομίας, Ανάπτυξης και Τουρισμού κατά παρέκκλιση κάθε άλλης γενικής ή ειδικής διάταξης, με κοινοποίηση στην υπηρεσία του υπαλλήλου και στο αρμόδιο τμήμα περί αποσπάσεων και μετακινήσεων του Υπουργείου Εσωτερικών και Διοικητικής Ανασυγκρότησης. Η απόσπαση γίνεται για τέσσερα (4) έτη με δυνατότητα παράτασης για μία ή περισσότερες φορές για ίσο χρονικό διάστημα.

γ. Η απόσπαση ή μετακίνηση προσωπικού γίνεται είτε με αίτηση των ενδιαφερόμενων υπαλλήλων κατόπιν δημόσιας πρόσκλησης είτε μετά από διαπίστωση σχετικής υπηρεσιακής ανάγκης.

δ. Ειδικά, για το προσωπικό που κατά την ημερομηνία δημοσίευσης του παρόντος υπηρετεί στην Υ.ΔΕ.Π.Α.Υ.Ε. και στη Μονάδα Α2 της Ειδικής Υπηρεσίας Επιτελική Δομή ΕΣΠΑ του Υπουργείου Εσωτερικών και Διοικητικής Ανασυγκρότησης, όπως αναδιαρθρώθηκε με την υπ΄αριθμ. κ.υ.α. 85334/ΕΥΘΥ 717/13.8.2015 (Β΄1825), η απόσπαση γίνεται με μόνη την αίτηση του ενδιαφερομένου στην Ε.Υ. ΣΥ. Δ. Τ.Α.Μ.Ε.Τ.Ε.Α.Α.Π. εντός αποκλειστικής προθεσμίας τριάντα (30) εργασίμων ημερών από τη δημοσίευση του παρόντος και εκδίδεται σχετική συστατική πράξη του Υπουργού Οικονομίας, Ανάπτυξης και Τουρισμού. Η απόσπαση γίνεται για τέσσερα (4) έτη με δυνατότητα παράτασης για μία ή περισσότερες φορές για ίσο χρονικό διάστημα.

ε. Οι υπάλληλοι που συμμετείχαν στην από 22.10.2015 πρόσκληση της Υ.ΔΕ.Π.Α.Υ.Ε. για τη στελέχωσή της και κατά την ημερομηνία δημοσίευσης του παρόντος είχαν αξιολογηθεί θετικά, κατ' εφαρμογή της οικείας

διαδικασίας, δύνανται να αποσπασθούν στην Ε.Υ.ΣΥ. Δ. Τ.Α.Μ.Ε.Τ.Ε.Α.Α.Π. με αίτησή τους εντός αποκλειστικής προθεσμίας τριάντα (30) εργασίμων από τη δημοσίευση του παρόντος, εφόσον η αίτησή τους αφορά σε κάλυψη θέσης της Ε.Υ. ΣΥ. Δ. Τ.Α.Μ.Ε.Τ.Ε.Α.Α.Π. ίδιας βαθμίδας, με ίδια τυπικά και ουσιαστικά προσόντα, με αυτά για τα οποία αξιολογήθηκαν για την Υ.ΔΕ.Π.Α.Υ.Ε.. Για την απόσπαση εκδίδεται σχετική διαπιστωτική πράξη του Υπουργού Οικονομίας, Ανάπτυξης και Τουρισμού. Η απόσπαση γίνεται για τέσσερα (4) έτη με δυνατότητα παράτασης για μία ή περισσότερες φορές για ίσο χρονικό διάστημα.

στ. Στην Ε.Υ. ΣΥ. Δ. Τ.Α.Μ.Ε.Τ.Ε.Α.Α.Π. συστήνεται μία θέση προϊσταμένου επιπέδου Διεύθυνσης και θέσεις προϊστάμενων μονάδων επιπέδου Τμήματος. Οι ανωτέρω θέσεις συνιστώνται για θητεία τεσσάρων (4) ετών, η οποία μπορεί να παρατείνεται για μία ή περισσότερες φορές για ίσο χρονικό διάστημα. Η ανάθεση καθηκόντων του προϊσταμένου της Ε.Υ. ΣΥ.Δ. Τ.Α.Μ.Ε.Τ.Ε.Α.Α.Π. και των προϊσταμένων των μονάδων της και γίνεται με απόφαση του Υπουργού Οικονομίας, Ανάπτυξης και Τουρισμού, μετά από ερώτημα και σχετική κρίση της επιτροπής αξιολόγησης, του δεύτερου εδαφίου του στοιχείου α΄του άρθρου 18, του ν. 3614/2007, όπως ισχύει, μόνο ως προς την κάλυψη των ελάχιστων τυπικών προσόντων.

ζ. Ο χρόνος υπηρεσίας των αποσπώμενων ή μετακινούμενων υπαλλήλων του δημόσιου ή ευρύτερου δημόσιου τομέα θεωρείται χρόνος πραγματικής δημόσιας υπηρεσίας. Ο χρόνος υπηρεσίας του προϊσταμένου της Ε.Υ. ΣΥ. Δ. Τ.Α.Μ.Ε.Τ.Ε.Α.Α.Π. συνυπολογίζεται ως χρόνος άσκησης καθηκόντων προϊσταμένου Διεύθυνσης. Ο χρόνος υπηρεσίας των προϊσταμένων μονάδων και του προσωπικού της Ε.Υ. ΣΥ. Δ. Τ.Α.Μ.Ε.Τ.Ε.Α.Α.Π. συνυπολογίζεται ως χρόνος άσκησης καθηκόντων προϊσταμένου Τμήματος.

5. α. Η δαπάνη μισθοδοσίας των υπαλλήλων που αποσπώνται ή μετακινούνται στην Ε.Υ.ΣΥ.Δ. Τ.Α.Μ.Ε.Τ.Ε.Α.Α.Π. βαρύνει τους φορείς από τους οποίους προέρχονται και ισούται με το σύνολο των πάσης φύσεως αποδοχών, παροχών και επιδομάτων της οργανικής τους θέσης.

β. Τυχόν επιδόματα που συνδέονται με την άσκηση των καθηκόντων τους σε θέση ευθύνης βαρύνουν τους φορείς προέλευσής τους. Στην περίπτωση που οι φορείς προέλευσης ανήκουν στη Γενική Κυβέρνηση, πλην της Κεντρικής Διοίκησης, η συνολική προκαλούμενη δαπάνη των επιδομάτων αυτών καλύπτεται με επιχορήγηση από το Πρόγραμμα Δημοσίων Επενδύσεων του Υπουργείου Οικονομίας, Ανάπτυξης και Τουρισμού. Με απόφαση του Υπουργού Οικονομίας, Ανάπτυξης και Τουρισμού δύναται να καθορίζονται λεπτομέρειες εφαρμογής της παρούσα ρύθμισης.

6. Οι ενέργειες της τεχνικής βοήθειας - στήριξης της Ε.Υ.ΣΥ.Δ. Τ.Α.Μ.Ε.Τ.Ε.Α.Α.Π. υλοποιούνται βάσει του Π.δ. 4/2000 (Α΄ 3), όπως εκάστοτε ισχύει.

Άρθρο 77
Ορισμός αρμοδίων αρχών για την εφαρμογή του Κανονισμού ΕΕ 514/2014 και των ειδικών Κανονισμών ΕΕ 513,515,516/2014

1. Αρμόδιες Αρχές για την εφαρμογή του Κανονισμού (ΕΕ)514/2014 του Ευρωπαϊκού Κοινοβουλίου και του Συμβουλίου σχετικά με τον καθορισμό γενικών διατάξεων όσον αφορά το Ταμείο Ασύλου, Μετανάστευσης και Ένταξης και το μέσο για τη χρηματοδοτική στήριξη της αστυνομικής συνεργασίας, της πρόληψης και καταστολής της εγκληματικότητας και της διαχείρισης κρίσεων κατά την έννοια του άρθρου 25 αυτού και των ειδικών Κανονισμών 513/2014, 515/2014 και 516/2014 του Ευρωπαϊκού Κοινοβουλίου και του Συμβουλίου για τη χρηματοδοτική στήριξη της αστυνομικής συνεργασίας, της πρόληψης και καταστολής της εγκληματικότητας και της διαχείρισης των κρίσεων τη θέσπιση στο πλαίσιο του Ταμείου Εσωτερικής Ασφάλειας, του μέσου χρηματοδοτικής στήριξης στον τομέα των εξωτερικών συνόρων και των θεωρήσεων και τη δημιουργία του Ταμείου Ασύλου, Μετανάστευσης και Ένταξης και των οριζομένων στο άρθρο 5 του κατ' εξουσιοδότηση Κανονισμού (ΕΕ) αριθμ. 1042/2014 της Επιτροπής ορίζονται οι εξής:

α. Η Ε.Υ. ΣΥ. Δ. Τ.Α.Μ.Ε.Τ.Ε.Α.Α.Π. του Υπουργείου Οικονομίας, Ανάπτυξης και Τουρισμού ως Υπεύθυνη Αρχή κατά τα ανωτέρω οριζόμενα στο άρθρο 2 του παρόντος.

β. Η Επιτροπή Δημοσιονομικού Ελέγχου (Ε.Δ.ΕΛ.) της Γενικής Διεύθυνσης Δημοσιονομικών Ελέγχων της Γενικής Γραμματείας, Δημοσιονομικής Πολιτικής του Υπουργείου Οικονομικών, ως Αρχή Ελέγχου για την περίοδο 2014-2020. Οι αρμοδιότητες της Αρχής Ελέγχου ασκούνται σύμφωνα με τα οριζόμενα στον Κανονισμό (ΕΕ) 514/2014, και τις διατάξεις του ν. 4314/2014, του άρθρου 9 παρ. 11β του ν. 4332/2015 και του Π.δ. 111/2014.

γ. Η Ειδική Υπηρεσία Αρχή Πιστοποίησης και Εξακρίβωσης Συγχρηματοδοτούμενων Προγραμμάτων (εφεξής Αρχή Πιστοποίησης) της Γενικής Γραμματείας Δημοσίων Επενδύσεων - ΕΣΠΑ ως Εντεταλμένη Αρχή, η οποία αναλαμβάνει την άσκηση αρμοδιοτήτων πιστοποίησης δαπανών στο πλαίσιο των προγραμμάτων του Ταμείου Ασύλου, Μετανάστευσης και Ένταξης και του Ταμείου Εσωτερικής Ασφάλειας για την περίοδο 2014-2020.

δ. Η Υπηρεσία Διαχείρισης Ευρωπαϊκών και Αναπτυξιακών Προγραμμάτων (Υ.ΔΕ.Α.Π.) του Υπουργείου Εσωτερικών και Διοικητικής Ανασυγκρότησης, ως Εντεταλμένη Αρχή, η οποία αναλαμβάνει την άσκηση αρμοδιοτήτων διαχείρισης για μέρος του προγράμματος του Ταμείου Ασύλου, Μετανάστευσης και Ένταξης και του προγράμματος του Ταμείου Εσωτερικής Ασφάλειας για την περίοδο 2014-2020.

ε. Η Υπηρεσία Ασύλου του Υπουργείου Εσωτερικών και Διοικητικής Ανασυγκρότησης, ως Εντεταλμένη Αρχή μέρους η οποία αναλαμβάνει την άσκηση αρμοδιοτήτων διαχείρισης για μέρος του προγράμματος του Ταμείου Ασύλου, Μετανάστευσης και Ένταξης για την προγραμματική περίοδο 2014-2020.

Άρθρο 78
Ρυθμίσεις για τη χρηματοδότηση των προγραμμάτων του πολυετούς Εθνικού Προγράμματος

1. Για τις χρηματοδοτήσεις και πληρωμές των έργων που εντάσσονται στο πολυετές Εθνικό Πρόγραμμα ισχύουν αναλογικά τα προβλεπόμενα στις παραγράφους 1, 2, 4, 5, 6, και 7 του άρθρου 27 του ν. 4314/2014.

2. Οι πληρωμές από τα Ταμεία που χρηματοδοτούν το Χρηματοδοτικό Πλαίσιο 2014-2020, καθώς και από άλλους έκτακτους πόρους, σε εφαρμογή του αντίστοιχου πολυετούς Εθνικού Προγράμματος, αποτελούν έσοδα του Προϋπολογισμού Δημοσίων Επενδύσεων και μεταφέρονται με ευθύνη της Διεύθυνσης Λογαριασμών του Δημοσίου του Γενικού Λογιστηρίου του Κράτους σε αντίστοιχους λογαριασμούς που τηρούνται στην Τράπεζα της Ελλάδος.

Άρθρο 79
Εξουσιοδοτικές διατάξεις

1. Με απόφαση του Υπουργού Οικονομίας, Ανάπτυξης και Τουρισμού και των οικείων Υπουργών καθορίζονται τα ειδικότερα θέματα εφαρμογής σχετικά με την οργάνωση και τη λειτουργία της Ε.Υ. ΣΥ. Δ. Τ.Α.Μ.Ε.Τ.Ε.Α.Α.Π. και των Εντεταλμένων Αρχών (εκτός της Αρχής Πιστοποίησης), τις αρμοδιότητές τους, τον αριθμό των θέσεων που απαιτούνται, τα προσόντα κάλυψης των θέσεων αυτών και τη συνεργασία των συναρμόδιων Υπουργείων, καθώς και κάθε άλλη σχετική λεπτομέρεια.

2. Με απόφαση του Υπουργού Οικονομίας, Ανάπτυξης και Τουρισμού ανατίθεται στην Αρχή Πιστοποίησης, η άσκηση των αρμοδιοτήτων της Υπεύθυνης Αρχής σχετικά με τη σύνταξη της αίτησης πληρωμής, σύμφωνα με το άρθρο 44 του Κανονισμού 514/2014 και την πιστοποίηση των δαπανών των εθνικών προγραμμάτων του Ταμείου Ασύλου, Μετανάστευσης και Ένταξης και του Ταμείου Εσωτερικής Ασφάλειας για την περίοδο 2014-2020.

3. Με απόφαση του Υπουργού Οικονομίας, Ανάπτυξης και Τουρισμού, καθορίζονται ειδικότερα ζητήματα για το σύστημα διαχείρισης και ελέγχου του πολυετούς Εθνικού Προγράμματος που χρηματοδοτείται από το Χρηματοδοτικό Πλαίσιο 2014-2020 για τα Ταμεία Ασύλου, Μετανάστευσης και Ένταξης και Εσωτερικής Ασφάλειας σε εφαρμογή των διατάξεων των Κανονισμών της Ευρωπαϊκής Ένωσης για τα Ταμεία αυτά.

ΜΕΡΟΣ ΕΒΔΟΜΟ
ΜΕΤΑΒΑΤΙΚΕΣ ΔΙΑΤΑΞΕΙΣ

Άρθρο 80
Μεταβατικές Διατάξεις

1. Με απόφαση του Υπουργού Εσωτερικών και Διοικητικής Ανασυγκρότησης, αρμόδιου για θέματα μεταναστευτικής πολιτικής, η οποία εκδίδεται εντός έξι (6) μηνών από τη δημοσίευση του παρόντος, πραγματοποιείται η έναρξη λειτουργίας της Αρχής Προσφυγών, όπως συνιστάται με τις διατάξεις του άρθρου 4 του παρόντος.

2. Μέχρι την έναρξη λειτουργίας της Αρχής Προσφυγών, κατά την προηγούμενη παράγραφο, όπως συνιστάται με τις διατάξεις του άρθρου 4 του παρόντος, εξακολουθούν να ισχύουν οι σχετικές διατάξεις του ν. 3907/2011, όπως ίσχυαν κατά την δημοσίευση του παρόντος, αποκλειστικά και μόνο για τους σκοπούς των παραγράφων 2 έως 9 του παρόντος άρθρου. Με απόφαση του Υπουργού Εσωτερικών και Διοικητικής Ανασυγκρότησης και του Υπουργού Οικονομικών και προκειμένου να εξεταστούν προσφυγές που εκκρεμούν και ιδίως όσες εξετάζονται κατά προτεραιότητα, σύμφωνα με την κείμενη νομοθεσία, συστήνονται οι Επιτροπές Προσφυγών του άρθρου 3 του ν. 3907/2011 (Α΄ 7), όπως ισχύει κατά τη δημοσίευση του παρόντος, υπό τη σύνθεση που είχαν μέχρι την 25η Σεπτεμβρίου 2015, σύμφωνα με την υπ' αριθμ. 9541 (Β΄ 2692/9.10.2014) απόφαση των Υπουργών Οικονομικών και Δημόσιας Τάξης και Προστασίας του Πολίτη, υπό την επιφύλαξη της διαθεσιμότητας των Προέδρων και των μελών τους. Στην περίπτωση που Πρόεδρος ή τακτικό μέλος των Επιτροπών Προσφυγών του προηγούμενου εδαφίου ελλείπει για οποιονδήποτε λόγο, ορίζεται αυτοδικαίως στη θέση του, ο πρώτος κατά σειρά αναπληρωτής αυτού. Σε περίπτωση που, για οποιονδήποτε λόγο, ελλείπει και ο αναπληρωτής Προέδρου ή τακτικού μέλους δύναται για την κάλυψη των κενών θέσεων να ορισθεί αναπληρωτής του από άλλη Επιτροπή ή να μειωθεί ο αριθμός των Επιτροπών με διατήρηση των τυχόν υπολειπόμενων Προέδρων ή μελών σε θέση αναπληρωτών των Επιτροπών που διατηρούνται. Σε περίπτωση που, για οποιοδήποτε λόγο, δεν συγκροτείται το σύνολο των προβλεπόμενων στην ανωτέρω απόφαση Επιτροπών, λειτουργούν όσες Επιτροπές από τις ανωτέρω δύναται να συγκροτηθούν και πάντως τουλάχιστον τρεις Επιτροπές.

3. Σε περίπτωση αδυναμίας συγκρότησης τουλάχιστον τριών Επιτροπών κατά τα οριζόμενα στην παράγραφο 2, μεταξύ των προέδρων και των μελών των Επιτροπών, καθώς και των αναπληρωτών τους, όπως αυτοί ορίζονται με την υπ' αριθμ. 9541 (Β΄ 2692/9.10.2014) απόφαση των Υπουργών Οικονομικών και Δημόσιας Τάξης και Προστασίας του Πολίτη, που έχουν δηλώσει τη διαθεσιμότητά τους, διενεργείται κλήρωση για τη συγκρότηση τριμελών Επιτροπών, καθώς και για την ανάδειξη του Προέδρου κάθε Επιτροπής που συγκροτείται με τον τρόπο αυτόν. Η κλήρωση διενεργείται με ευθύνη του Διευθυντή και παρουσία όλων των μελών που δήλωσαν διαθεσιμότητα.

4. Η διάρκεια της θητείας των προέδρων και μελών των Επιτροπών των προηγουμένων παραγράφων λήγει στις 31 Δεκεμβρίου 2016 και δύναται να παραταθεί άπαξ με απόφαση του Υπουργού Εσωτερικών και Διοικητικής Ανασυγκρότησης. Οι όροι αμοιβής και απασχόλησής τους προβλέπονται σε σχετική σύμβαση έργου που συνάπτουν με τον Υπουργό Εσωτερικών και Διοικητικής Ανασυγκρότησης. Σε περίπτωση έναρξης λειτουργίας της Αρχής Προσφυγών σύμφωνα με το άρθρο 86 παρ. 1 του παρόντος οι σχετικές συμβάσεις λύονται αυτοδικαίως. Αρμοδιότητα των Επιτροπών και έργο των προέδρων και των μελών είναι η εξέταση των προσφυγών που εκκρεμούν έως τη δημοσίευση του παρόντος νόμου. Η έδρα των Επιτροπών και της γραμματείας ορίζεται με απόφαση του Υπουργού Εσωτερικών και Διοικητικής Ανασυγκρότησης.

5. Οι οργανικές θέσεις του προσωπικού της Αρχής Προσφυγών που προβλέπονται από τις διατάξεις του ν. 3907/2011, όπως ισχύει μέχρι τη δημοσίευση του παρόντος, μεταφέρονται αυτοδικαίως στην Αρχή Προσφυγών, όπως η υπηρεσία αυτή συνιστάται και διαρθρώνεται σύμφωνα με τις διατάξεις του παρόντος, από την έναρξη λειτουργίας της. Αντιστοίχως μεταφέρεται αυτοδικαίως στην Αρχή Προσφυγών, από την έναρξη λειτουργίας της κατά τις διατάξεις του παρόντος, το προσωπικό που υπηρετεί σε αυτή κατά τη δημοσίευση του παρόντος νόμου, με οποιαδήποτε σχέση είτε με μετάταξη είτε με απόσπαση από υπηρεσίες του Δημοσίου, του ευρύτερου δημόσιου τομέα (άρθρο 2 του ν. 3861/2010) ή Ν.Π.Δ.Δ..

6. Για το μεταβατικό στάδιο της παραγράφου 2 του παρόντος άρθρου, με απόφαση του Υπουργού Εσωτερικών και Διοικητικής Ανασυγκρότησης, τοποθετείται ως διευθυντής της Αρχής Προσφυγών, υπάλληλος της Αρχής Προσφυγών ή άλλος υπάλληλος του Δημοσίου με απόσπαση, του ευρύτερου δημόσιου τομέα (άρθρο 2 του ν. 3861/2010, Α΄ 112) ή Ν.Π.Δ.Δ., κατά προτίμηση με διοικητική εμπειρία, κατά παρέκκλιση από κάθε γενική ή ειδική διάταξη.

7. Έως την ανάληψη των σχετικών αρμοδιοτήτων από την Αρχή Προσφυγών, με μέριμνα της Υπηρεσίας Ασύλου, παρέχονται οι απαραίτητες υπηρεσίες διερμηνείας για τις διαδικασίες ενώπιον της Αρχής Προσφυγών.

Ομοίως, παρέχονται από την Υπηρεσία Ασύλου οι εξουσιοδοτήσεις στο προσωπικό της Αρχής Προσφυγών και τα μέλη των Επιτροπών για την πρόσβαση στο σύστημα «Police on Line» της Ελληνικής Αστυνομίας για τις ανάγκες διεκπεραίωσης των διαδικασιών ενώπιον της Αρχής Προσφυγών. Για τον ως άνω σκοπό, η Υπηρεσία Ασύλου ορίζεται ως αρμόδια αρχή για την έκδοση διαταγής εξουσιοδοτήσεως εθνικού διαβαθμισμένου υλικού, για το προσωπικό της Αρχής Προσφυγών και ως υπεύθυνη διεύθυνση για θέματα ασφαλείας, εφαρμογής του Εθνικού Κανονισμού Ασφαλείας (Ε.Κ.Α.) που αφορούν την Αρχή Προσφυγών.

8. Στον προϋπολογισμό της Αρχής Προσφυγών του έτους 2016, εγγράφεται ποσό 833.300 ευρώ το οποίο μεταφέρεται από τους αντίστοιχους ΚΑΕ της Υπηρεσίας Ασύλου.

9. Κατά την πρώτη εφαρμογή της διαδικασίας του άρθρου 5 του παρόντος για την επιλογή του Διευθυντή και των μελών των Επιτροπών Προσφυγών της Αρχής Προσφυγών, η δαπάνη διεξαγωγής της διαδικασίας, συμπεριλαμβανομένων και των διαγωνιστικών διαδικασιών βαρύνει τον προϋπολογισμό της Υπηρεσίας Ασύλου.

10. Με απόφαση του Υπουργού Εσωτερικών και Διοικητικής Ανασυγκρότησης μπορεί να καθορίζεται η χρήση των υφιστάμενων χώρων προσωρινής φιλοξενίας πολιτών τρίτων χωρών είτε ως Ειδικών Χώρων Παραμονής Αλλοδαπών (ΕΧΠΑ) του άρθρου 81 του ν. 3386/2005 είτε ως εγκαταστάσεων του άρθρου 31 του ν. 3907/2011 είτε ως εγκαταστάσεων των περιφερειακών υπηρεσιών της Υπηρεσίας Υποδοχής και Ταυτοποίησης και ρυθμίζεται κάθε θέμα σχετικά με τη λειτουργία αυτών.

11. Το σύνολο των εγκαταστάσεων της Υπηρεσίας Πρώτης Υποδοχής μεταβιβάζεται αυτοδικαίως στην Υπηρεσία Υποδοχής και Ταυτοποίησης που συνίσταται με τον παρόντα νόμο, από την έναρξη λειτουργίας της, σύμφωνα με την παράγραφο 16.

12. Η Υπηρεσία Υποδοχής και Ταυτοποίησης υπεισέρχεται αυτοδικαίως στις εκκρεμείς συμβάσεις που έχει συνάψει η Υπηρεσία Πρώτης Υποδοχής, στη θέση της τελευταίας, την οποία διαδέχεται ως προς όλα τα δικαιώματα και υποχρεώσεις, από την έναρξη λειτουργίας της, σύμφωνα με την παράγραφο 16.

13. Τυχόν εκκρεμή προγράμματα χρηματοδότησης ή προμηθειών από εσωτερικούς, ευρωπαϊκούς ή διεθνείς πόρους και κάθε άλλους πόρους, των οποίων δικαιούχος και εκτελεστής είναι η Υπηρεσία Πρώτης Υποδοχής, εκτελούνται από την Υπηρεσία Υποδοχής και Ταυτοποίησης, από την έναρξη λειτουργίας της, σύμφωνα με την παράγραφο 17.

14. Όπου στην κείμενη νομοθεσία αναφέρεται η Υπηρεσία Πρώτης Υποδοχής ή Κέντρα Πρώτης Υποδοχής ή Κινητές Μονάδες, από την έναρξη λειτουργίας της, σύμφωνα με την παράγραφο 16, νοείται η Υπηρεσία Υποδοχής και Ταυτοποίησης, και οι αντίστοιχες περιφερειακές της υπηρεσίες, όπως συνιστώνται με τον παρόντα νόμο.

15. Το σύνολο των οργανικών θέσεων του προσωπικού της Υπηρεσίας Πρώτης Υποδοχής, μεταφέρονται αυτοδικαίως στην Υπηρεσία Υποδοχής και Ταυτοποίησης, από την έναρξη λειτουργίας της, σύμφωνα με την παράγραφο 16. Αντιστοίχως, μεταφέρεται αυτοδικαίως στην Υπηρεσία Υποδοχής και Ταυτοποίησης, το σύνολο του προσωπικού που υπηρετεί στην Υπηρεσία Πρώτης Υποδοχής, με οποιαδήποτε σχέση είτε με μετάταξη είτε με απόσπαση ή διάθεση, από υπηρεσίες του Δημοσίου, του ευρύτερου δημόσιου τομέα (άρθρο 2 του ν. 3861/2010) ή Ν.Π.Δ.Δ., κατά τη δημοσίευση του παρόντος νόμου.

16. Με απόφαση του Υπουργού Εσωτερικών και Διοικητικής Ανασυγκρότησης, η οποία εκδίδεται εντός ενός μήνα, από την έναρξη ισχύος του παρόντος πραγματοποιείται η έναρξη λειτουργίας της Υπηρεσίας Υποδοχής και Ταυτοποίησης. Με την ίδια απόφαση καταργείται η Υπηρεσία Πρώτης Υποδοχής.

17. Όλες οι αποφάσεις κανονιστικού χαρακτήρα και τα προεδρικά διατάγματα κατ' εφαρμογή των διατάξεων του ν. 3907/2011, οι οποίες ρυθμίζουν τη λειτουργία της Υπηρεσίας Πρώτης Υποδοχής, εφαρμόζονται αναλογικά για τη λειτουργία της Υπηρεσίας Υποδοχής και Ταυτοποίησης, έως την έκδοση των αποφάσεων και διαταγμάτων που εκδίδονται κατ' εξουσιοδότηση του παρόντος.

18. Αιτήσεις διεθνούς προστασίας που έχουν υποβληθεί πριν από την 7η Ιουνίου 2013 εξετάζονται από τις αρχές και σύμφωνα με τις διατάξεις που αναφέρονται στο Π.δ. 114/2010, όπως ισχύει. Αιτήσεις διεθνούς προστασίας που υποβάλλονται στις αρμόδιες αρχές του Μέρους Γ΄ του παρόντος χωρίς να έχει εκδοθεί τελεσίδικη απόφαση επί προγενέστερης αίτησης που εκκρεμεί ενώπιον των αρμόδιων αρχών του Π.δ. 114/2010 θεωρούνται συμπληρωματικό στοιχείο της αρχικής αίτησης και εξετάζονται από τις αρχές και με τη διαδικασία του Π.δ. 114/2010.

19. Μεταγενέστερες αιτήσεις που έχουν υποβληθεί μετά την 7η Ιουνίου 2013, εξετάζονται από τις αρχές που προβλέπονται στο Μέρος Γ΄ του παρόντος και σύμφωνα με την προβλεπόμενη διαδικασία.

20. Αιτήσεις ανανέωσης άδειας διαμονής, έκδοσης άλλων νομιμοποιητικών ή ταξιδιωτικών εγγράφων, διατήρησης της οικογενειακής ενότητας, και οικογενειακής επανένωσης δικαιούχων διεθνούς προστασίας, των οποίων το καθεστώς αναγνωρίστηκε από τις αρχές που προβλέπονται στο Π.δ. 114/2010 εξετάζονται και διεκπεραιώνονται από τις αρχές αυτές.

21. Από την έναρξη ισχύος του Μέρους Γ΄ του παρόντος, οι αρμόδιες υπηρεσίες της Ελληνικής Αστυνομίας παραδίδουν αμελλητί στις αρμόδιες Αρχές Απόφασης του Μέρους Γ΄ του παρόντος τους φακέλους των αιτούντων που υποβάλλουν μεταγενέστερες αιτήσεις σύμφωνα με την παράγραφο 19.

22. Από την 1.9.2016 παύουν οι αρμοδιότητες του Τμήματος προστασίας Ευπαθών Ομάδων, Προσφύγων - Αιτούντων Άσυλο της Διεύθυνσης Κοινωνικής Αντίληψης και Αλληλεγγύης της Γενικής Διεύθυνσης Πρόνοιας του Υπουργείου Εργασίας, Κοινωνικής Ασφάλισης και Κοινωνικής Αλληλεγγύης που προβλέπονται στις περιπτώσεις αβ΄ έως αε΄ της παρ. 3 του άρθρου 38 του Π.δ. 113/2014 (Α΄ 180), ως προς το σκέλος τους που αφορά προγράμματα κοινωνικής προστασίας αιτούντων άσυλο, δικαιούχων διεθνούς προστασίας, καθώς και ασυνόδευτων ανηλίκων, οι οποίες ασκούνται εφεξής από τα αρμόδια τμήματα της Διεύθυνσης Υποδοχής της Γενικής Γραμματείας Υποδοχής του Υπουργείου Εσωτερικών και Διοικητικής Ανασυγκρότησης, σύμφωνα με τα οριζόμενα στην παράγραφο 3 του άρθρου 27 του παρόντος νόμου.

23. Η εκτέλεση των προγραμματικών συμβάσεων με αντικείμενο θέματα αρμοδιοτήτων του Τμήματος Προστασίας Ευπαθών Ομάδων, Προσφύγων - Αιτούντων Άσυλο, των οποίων η μεταφορά ρυθμίζεται σύμφωνα με τα οριζόμενα στην παράγραφο 3 του άρθρου 27, του παρόντος νόμου, σε συνδυασμό με την προηγούμενη

παράγραφο του παρόντος άρθρου, ολοκληρώνεται από τις αρμόδιες υπηρεσίες του Υπουργείου Εργασίας Κοινωνικής Ασφάλισης και Κοινωνικής Αλληλεγγύης. Με απόφαση των Υπουργών Εργασίας, Κοινωνικής Ασφάλισης και Κοινωνικής Αλληλεγγύης, Εσωτερικών και Διοικητικής Ανασυγκρότησης και Οικονομικών, ρυθμίζεται η μεταφορά και εγγραφή των πιστώσεων, η αναμόρφωση του προϋπολογισμού των Υπουργείων και κάθε σχετικό ζήτημα για την εφαρμογή του άρθρου 27, παράγραφος 3, καθώς και των συναφών μεταβατικών διατάξεων του παρόντος νόμου.

24. Οι υπηρετούντες υπάλληλοι στο Τμήμα Προστασίας Ευπαθών Ομάδων, Προσφύγων - Αιτούντων Άσυλο της Διεύθυνσης Κοινωνικής Αντίληψης και Αλληλεγγύης της Γενικής Διεύθυνσης Πρόνοιας του Υπουργείου Εργασίας, Κοινωνικής Ασφάλισης και Κοινωνικής Αλληλεγγύης με κύριες αρμοδιότητες τις περιγραφόμενες στην παράγραφο 1 αποσπώνται υποχρεωτικά από 1.9.2016, για δύο (2) έτη κατά παρέκκλιση κάθε άλλης διάταξης και χωρίς γνώμη των οικείων Υπηρεσιακών Συμβουλίων στη Διεύθυνση Υποδοχής της Γενικής Γραμματείας Υποδοχής του Υπουργείου Εσωτερικών και Διοικητικής Ανασυγκρότησης, με κοινή απόφαση των Υπουργών Εργασίας, Κοινωνικής Ασφάλισης και Κοινωνικής Αλληλεγγύης και Εσωτερικών και Διοικητικής Ανασυγκρότησης, διατηρώντας το βαθμό τον οποίο κατείχαν στην προηγούμενη θέση τους.

25. Από 1.1.2017, ο Προϊστάμενος της Διεύθυνσης Οικονομικών Υπηρεσιών Μεταναστευτικής Πολιτικής, ασκεί τα καθήκοντα και τις αρμοδιότητες της παραγράφου 4 του άρθρου 28 του παρόντος νόμου, για την Υπηρεσία Ασύλου, Αρχή Προσφυγών και την Υπηρεσία Υποδοχής και Ταυτοποίησης.

26. Η κατά παρέκκλιση διαδικασία του άρθρου 60 παράγραφος 4 εφαρμόζεται από τη δημοσίευση του παρόντος. Η διάρκεια ισχύος της δεν μπορεί να είναι μεγαλύτερη των έξι (6) μηνών και μπορεί να παραταθεί με απόφαση του Υπουργού Εσωτερικών και Διοικητικής Ανασυγκρότησης για χρονικό διάστημα επιπλέον τριών (3) μηνών.

27. Μέχρι την έναρξη λειτουργίας της Αρχής Προσφυγών, σύμφωνα με την παράγραφο 1, οι προσφυγές κατά των αποφάσεων της Υπηρεσίας Ασύλου, που υποβάλλονται μετά την ημερομηνία δημοσίευσης του παρόντος, εξετάζονται κατ' εξαίρεση από τις Επιτροπές Προσφυγών του άρθρου 26 του Π.δ. 114/2010 (Α΄ 195), όπως ισχύει, σύμφωνα με τη διαδικασία του παρόντος νόμου. Στην περίπτωση αυτή, στις Επιτροπές Προσφυγών του προηγούμενου εδαφίου, διατίθεται προσωπικό της Αρχής Προσφυγών για γραμματειακή υποστήριξη.

28. Μέχρι να καταστεί δυνατή η πλήρης μηχανογραφική υποστήριξη των διαδικασιών του άρθρου 60 παράγραφος 4, ως αριθμός πρωτοκόλλου των εγγράφων που συντάσσονται στο πλαίσιο των διαδικασιών αυτών και για την επεξεργασία των αιτήσεων διεθνούς προστασίας λογίζεται ο αριθμός ατομικού φακέλου του αιτούντος διεθνή προστασία, όπως αυτός αποδίδεται από την Υπηρεσία Ασύλου.

29. Έως 31 Δεκεμβρίου 2016 καθήκοντα γενικής οικονομικής διεύθυνσης για τον τακτικό προϋπολογισμό του ειδικού φορέα «Υπηρεσία Ασύλου», της Αρχής Προσφυγών και της Υπηρεσίας Υποδοχής και Ταυτοποίησης ασκεί η Γενική Διεύθυνση Οικονομικών και Επιτελικού Σχεδιασμού του πρώην Υπουργείου Δημόσιας Τάξης και Προστασίας του Πολίτη.

30. Το άρθρο 96 του ν. 4368/2016 (Α΄ 21), καθώς και οι διαδικασίες χρηματοδότησης δαπανών που αναλαμβάνονται από το Υπουργείο Εθνικής Άμυνας εξακολουθούν να ισχύουν.

Άρθρο 81
Καταργούμενες και τροποποιούμενες διατάξεις

1. Από την έναρξη ισχύος του παρόντος καταργούνται οι διατάξεις των Κεφαλαίων Α΄ και Β΄ του ν. 3907/2011, του Π.δ. 189/1998 (Α΄ 140), καθώς και κάθε άλλη γενική ή ειδική διάταξη που αντίκειται στις διατάξεις του παρόντος ή ρυθμίζει διαφορετικά τα θέματα που αποτελούν αντικείμενό του. Με την έναρξη ισχύος του Μέρους Γ΄ του παρόντος, σύμφωνα με το άρθρο 89, καταργείται το Μέρος Α΄ του Π.δ. 113/2013 (Α΄ 146).

2. Τα άρθρα 33 και 34 του Π.δ. 113/2013 (Α΄ 146) καταργούνται σε δύο μήνες από τη δημοσίευση του παρόντος.

3. Οι υποπαράγραφοι 6, 7, 8, 9, 10, 11 εκτός της υποπερίπτωσης ε ββ), 12, 13 και 14 του άρθρου 9 του ν. 4332/2015 καταργούνται.

4. Η κοινή απόφαση του Υπουργού Οικονομικών και του αναπληρωτή Υπουργού Εσωτερικών και Διοικητικής Ανασυγκρότησης αρμόδιου για την μεταναστευτική πολιτική με αριθμό 1493/20.8.2015 (Β΄ 1856), καταργείται.

5. Η κοινή απόφαση των Υπουργών Εσωτερικών και Διοικητικής Ανασυγκρότησης και Οικονομίας, Υποδομών, Ναυτιλίας και Τουρισμού με αριθμό 85334/ΕΥΘΥ 717/13.8.2015 (Β΄1825) τροποποιείται ως ακολούθως:

α. Το τρίτο εδάφιο του άρθρου 2 «Μονάδα Α2» καταργείται.

β. Η ενότητα «ΙΙ. Μονάδα Α2» του άρθρου 3 καταργείται.

γ. η παράγραφος xiv της ενότητας «V. Μονάδα Γ: ΟΡΓΑΝΩΣΗΣ - ΔΙΟΙΚΗΤΙΚΗΣ ΥΠΟΣΤΗΡΙΞΗΣ» του άρθρου 3, καταργείται.

δ. Στο άρθρο 5 «Στελέχωση της Επιτελικής Δομής» το πρώτο και δεύτερο εδάφιο τροποποιούνται ως ακολούθως:

«1. Το προσωπικό της Επιτελικής Δομής ανέρχεται σε 36 άτομα και κατανέμεται ως εξής:

Α. Κατηγορία Πανεπιστημιακής Εκπαίδευσης (ΠΕ), 32 άτομα.»

6. Από την έναρξη ισχύος του παρόντος καταργείται κάθε γενική ή ειδική διάταξη που αντίκειται στις διατάξεις του παρόντος ή ρυθμίζει διαφορετικά τα θέματα που αποτελούν αντικείμενό του.

Άρθρο 82
Τελικές διατάξεις

1. Η υπ' αριθμ. 8000/20/45/119-δ κοινή υπουργική απόφαση (Β΄ 1880) διάρθρωσης Υπηρεσίας Διαχείρισης Ευρωπαϊκών και Αναπτυξιακών Προγραμμάτων (Υ.Δ.Ε.Α.Π.) και η υπ' αριθμ. 12118/30.10.2015 κοινή υπουργική απόφαση (Β΄ 2338) διάρθρωσης Υπηρεσίας Ασύλου του Υπουργείου Εσωτερικών και Διοικητικής Ανασυγκρότησης παραμένουν σε ισχύ.

2. Οι κάτωθι αποφάσεις εκχώρησης:

α. Η υπ' αριθμ. οικ. 2694/03.11.2015 (Β΄ 2356')

β. Η υπ' αριθμ. οικ. 2952/23.11.2015 (Β΄ 2521)

γ. Η υπ' αριθμ. οικ. 3562/31.12.2015 (Β΄ 2915)

δ. Η υπ' αριθμ. οικ. 26/12.1.2015 (Β΄ 93)

ε. Η υπ' αριθμ. οικ. 183/17.2.2016 (Β΄ 385)

στ. Η υπ' αριθμ. οικ. 182/17.2.2016 (Β΄385)

ζ. Η υπ' αριθμ. οικ. 235/22.2.2016 (Β΄ 544), παραμένουν εν ισχύ.

Άρθρο 83
Έναρξη ισχύος

Η ισχύς του νόμου αυτού αρχίζει από τη δημοσίευσή του στην Εφημερίδα της Κυβερνήσεως, εκτός των διατάξεων του Μέρους Γ΄, οι οποίες τίθενται σε ισχύ σε δύο μήνες από τη δημοσίευση του παρόντος νόμου, και του Μέρους ΣΤ΄, οι οποίες τίθενται σε ισχύ από 20.4.2016. Η παράγραφος 4 του άρθρου 60 τίθεται σε ισχύ από τη δημοσίευση του παρόντος στην Εφημερίδα της Κυβερνήσεως.

Παραγγέλλομε τη δημοσίευση του παρόντος στην Εφημερίδα της Κυβερνήσεως και την εκτέλεσή του ως νόμου του Κράτους.

Αθήνα, 2 Απριλίου 2016

Ο ΠΡΟΕΔΡΟΣ ΤΗΣ ΔΗΜΟΚΡΑΤΙΑΣ
ΠΡΟΚΟΠΙΟΣ Β. ΠΑΥΛΟΠΟΥΛΟΣ

ΟΙ ΥΠΟΥΡΓΟΙ

ΕΣΩΤΕΡΙΚΩΝ ΚΑΙ ΔΙΟΙΚΗΤΙΚΗΣ ΑΝΑΣΥΓΚΡΟΤΗΣΗΣ
ΠΑΝΑΓΙΩΤΗΣ ΚΟΥΡΟΥΜΠΛΗΣ

ΑΝΑΠΛΗΡΩΤΗΣ ΥΠΟΥΡΓΟΣ ΕΣΩΤΕΡΙΚΩΝ ΚΑΙ ΔΙΟΙΚΗΤΙΚΗΣ ΑΝΑΣΥΓΚΡΟΤΗΣΗΣ
ΧΡΙΣΤΟΦΟΡΟΣ ΒΕΡΝΑΡΔΑΚΗΣ

ΑΝΑΠΛΗΡΩΤΗΣ ΥΠΟΥΡΓΟΣ ΕΣΩΤΕΡΙΚΩΝ ΚΑΙ ΔΙΟΙΚΗΤΙΚΗΣ ΑΝΑΣΥΓΚΡΟΤΗΣΗΣ
ΝΙΚΟΛΑΟΣ ΤΟΣΚΑΣ

ΑΝΑΠΛΗΡΩΤΗΣ ΥΠΟΥΡΓΟΣ ΕΣΩΤΕΡΙΚΩΝ ΚΑΙ ΔΙΟΙΚΗΤΙΚΗΣ ΑΝΑΣΥΓΚΡΟΤΗΣΗΣ
ΙΩΑΝΝΗΣ ΜΟΥΖΑΛΑΣ

ΟΙΚΟΝΟΜΙΑΣ, ΑΝΑΠΤΥΞΗΣ ΚΑΙ ΤΟΥΡΙΣΜΟΥ
ΓΕΩΡΓΙΟΣ ΣΤΑΘΑΚΗΣ

ΕΘΝΙΚΗΣ ΑΜΥΝΑΣ
ΠΑΝΑΓΙΩΤΗΣ ΚΑΜΜΕΝΟΣ

ΑΝΑΠΛΗΡΩΤΗΣ ΥΠΟΥΡΓΟΣ ΕΘΝΙΚΗΣ ΑΜΥΝΑΣ
ΔΗΜΗΤΡΙΟΣ ΒΙΤΣΑΣ

ΠΑΙΔΕΙΑΣ, ΕΡΕΥΝΑΣ ΚΑΙ ΘΡΗΣΚΕΥΜΑΤΩΝ
ΝΙΚΟΛΑΟΣ ΦΙΛΗΣ

ΕΞΩΤΕΡΙΚΩΝ
ΝΙΚΟΛΑΟΣ ΚΟΤΖΙΑΣ

ΔΙΚΑΙΟΣΥΝΗΣ, ΔΙΑΦΑΝΕΙΑΣ ΚΑΙ ΑΝΘΡΩΠΙΝΩΝ ΔΙΚΑΙΩΜΑΤΩΝ
ΝΙΚΟΛΑΟΣ ΠΑΡΑΣΚΕΥΟΠΟΥΛΟΣ

ΕΡΓΑΣΙΑΣ, ΚΟΙΝΩΝΙΚΗΣ ΑΣΦΑΛΙΣΗΣ ΚΑΙ ΚΟΙΝΩΝΙΚΗΣ ΑΛΛΗΛΕΓΓΥΗΣ
ΓΕΩΡΓΙΟΣ ΚΑΤΡΟΥΓΚΑΛΟΣ

ΑΝΑΠΛΗΡΩΤΡΙΑ ΥΠΟΥΡΓΟΣ ΕΡΓΑΣΙΑΣ, ΚΟΙΝΩΝΙΚΗΣ ΑΣΦΑΛΙΣΗΣ ΚΑΙ ΚΟΙΝΩΝΙΚΗΣ ΑΛΛΗΛΕΓΓΥΗΣ
ΘΕΑΝΩ ΦΩΤΙΟΥ

ΑΝΑΠΛΗΡΩΤΡΙΑ ΥΠΟΥΡΓΟΣ ΕΡΓΑΣΙΑΣ, ΚΟΙΝΩΝΙΚΗΣ ΑΣΦΑΛΙΣΗΣ ΚΑΙ ΚΟΙΝΩΝΙΚΗΣ ΑΛΛΗΛΕΓΓΥΗΣ
ΟΥΡΑΝΙΑ ΑΝΤΩΝΟΠΟΥΛΟΥ

ΥΓΕΙΑΣ
ΑΝΔΡΕΑΣ ΞΑΝΘΟΣ

ΠΟΛΙΤΙΣΜΟΥ ΚΑΙ ΑΘΛΗΤΙΣΜΟΥ
ΑΡΙΣΤΕΙΔΗΣ Ν. Δ. ΜΠΑΛΤΑΣ

ΟΙΚΟΝΟΜΙΚΩΝ
ΕΥΚΛΕΙΔΗΣ ΤΣΑΚΑΛΩΤΟΣ

ΑΝΑΠΛΗΡΩΤΗΣ ΥΠΟΥΡΓΟΣ ΟΙΚΟΝΟΜΙΚΩΝ
ΤΡΥΦΩΝΑΣ ΑΛΕΞΙΑΔΗΣ

ΠΕΡΙΒΑΛΛΟΝΤΟΣ ΚΑΙ ΕΝΕΡΓΕΙΑΣ
ΠΑΝΑΓΙΩΤΗΣ ΣΚΟΥΡΛΕΤΗΣ

ΥΠΟΔΟΜΩΝ, ΜΕΤΑΦΟΡΩΝ ΚΑΙ ΔΙΚΤΥΩΝ
ΧΡΗΣΤΟΣ ΣΠΙΡΤΖΗΣ

ΝΑΥΤΙΛΙΑΣ ΚΑΙ ΝΗΣΙΩΤΙΚΗΣ ΠΟΛΙΤΙΚΗΣ
ΘΕΟΔΩΡΟΣ ΔΡΙΤΣΑΣ

ΕΠΙΚΡΑΤΕΙΑΣ
ΑΛΕΞΑΝΔΡΟΣ ΦΛΑΜΠΟΥΡΑΡΗΣ

Θεωρήθηκε και τέθηκε η Μεγάλη Σφραγίδα του Κράτους.

Αθήνα, 2 Απριλίου 2016

Ο ΕΠΙ ΤΗΣ ΔΙΚΑΙΟΣΥΝΗΣ ΥΠΟΥΡΓΟΣ
ΝΙΚΟΛΑΟΣ ΠΑΡΑΣΚΕΥΟΠΟΥΛΟΣ

ΕΘΝΙΚΟ ΤΥΠΟΓΡΑΦΕΙΟ

ΕΦΗΜΕΡΙΔΑ ΤΗΣ ΚΥΒΕΡΝΗΣΕΩΣ

Το Εθνικό Τυπογραφείο είναι δημόσια υπηρεσία η οποία υπάγεται στο Υπουργείο Εσωτερικών και Διοικητικής Ανασυγκρότησης, με κύρια αποστολή την έντυπη και ηλεκτρονική έκδοση, εκτύπωση, διαχείριση και κυκλοφορία των φύλλων της Εφημερίδας της Κυβερνήσεως (ΦΕΚ) και την κάλυψη των εκτυπωτικών αναγκών του Δημοσίου. (ν. 3469/2006, Α΄ 131).

ΥΠΗΡΕΣΙΕΣ ΠΟΥ ΠΑΡΕΧΕΙ ΤΟ ΕΘΝΙΚΟ ΤΥΠΟΓΡΑΦΕΙΟ

1. ΕΦΗΜΕΡΙΔΑ ΤΗΣ ΚΥΒΕΡΝΗΣΕΩΣ (ΦΕΚ)

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Η έντυπη μορφή των τευχών ΦΕΚ διατίθεται για μεμονωμένα φύλλα με το ανάλογο κόστος από το τμήμα Πωλήσεων απευθείας ή με ταχυδρομική αποστολή μέσω αίτησης παραγγελίας στα ΚΕΠ ενώ για ετήσια κυκλοφορία τευχών ΦΕΚ η διάθεση γίνεται υπό μορφή συνδρομής από το τμήμα Συνδρομητών.

Πληροφορίες σχετικά με την αποστολή/κατάθεση εγγράφων προς δημοσίευση, την διαθεσιμότητα των τευχών και τους ισχύοντες τιμοκαταλόγους για όλες τις υπηρεσίες θα βρείτε στην ιστοσελίδα. Επίσης στην ιστοσελίδα μπορείτε να αναζητήσετε πληροφορίες σχετικά με την πορεία δημοσίευσης των εγγράφων, εφόσον γνωρίζετε τον Κωδικό Αριθμό Δημοσιεύματος (ΚΑΔ).

Περισσότερες πληροφορίες για δημοσιεύματα και λοιπά θέματα, μπορείτε να αναζητήσετε από το Τμήμα Πληροφοριών καθώς και από το τηλεφωνικό κέντρο του Εθνικού Τυπογραφείου.

2. ΚΑΛΥΨΗ ΕΚΤΥΠΩΤΙΚΩΝ ΑΝΑΓΚΩΝ του Δημοσίου και των φορέων του

Το Εθνικό Τυπογραφείο μετά από σχετικό αίτημα φορέα του Δημοσίου αναλαμβάνει να σχεδιάσει και να εκτυπώσει κάρτες, βιβλία, αφίσες, μπλοκ, μηχανογραφικά έντυπα, φακέλους, φακέλους αλληλογραφίας, κ.ά. Επίσης σχεδιάζει και κατασκευάζει σφραγίδες.

ΕΠΙΚΟΙΝΩΝΙΑ ΜΕ ΤΟ ΕΘΝΙΚΟ ΤΥΠΟΓΡΑΦΕΙΟ

1. ΜΕ ΤΟ ΤΑΧΥΔΡΟΜΕΙΟ, ΤΟ ΤΗΛΕΦΩΝΟ κ.λπ.

Ταχυδρομική Διεύθυνση: Καποδιστρίου 34, τ.κ. 10432, Αθήνα.

ΤΗΛΕΦΩΝΙΚΟ ΚΕΝΤΡΟ: 210 5279000 - fax: 210 5279054

Ωράριο λειτουργίας για το κοινό: Δευτέρα ως Παρασκευή: 8:00 - 13:30

ΤΜΗΜΑΤΑ ΕΞΥΠΗΡΕΤΗΣΗΣ ΚΟΙΝΟΥ

Τμήμα Πωλήσεων: (Ισόγειο, τηλ. 210 5279178 - 180)

Τμήμα Συνδρομητών: (Ημιόροφος, τηλ. 210 5279136)

Τμήμα Πληροφοριών: (Ισόγειο, Γραφείο 3 και τηλεφωνικό κέντρο 210 5279000)

Τμήμα Α1 Παραλαβής Δημοσιευτέας Ύλης: (Ισόγειο, τηλ. 210 5279167, 210 5279139)

2. ΜΕ ΗΛΕΚΤΡΟΝΙΚΟ ΤΡΟΠΟ

Ιστοσελίδα: **www.et.gr**

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Αποστολή ψηφιακά υπογεγραμμένων εγγράφων προς δημοσίευση στο ΦΕΚ: **webmaster.et@et.gr**

Πληροφορίες για γενικό πρωτόκολλο και αλληλογραφία: **grammateia@et.gr**

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ΗΛΕΚΤΡΟΝΙΚΗ ΔΙΕΥΘΥΝΣΗ: http://www.et.gr – e-mail: webmaster.et@et.gr