

The Greek asylum procedure in the first half of 2022: High recognition rates, rise in subsequent applications due to generalised “safe third country” policy

This Refugee Support Aegean (RSA) policy note analyses the main trends and developments in the Greek asylum procedure in the first half of 2022, based on responses to parliamentary questions¹ and on monthly reports of the Ministry of Migration and Asylum.

Key figures

Asylum applications

- ❖ Out of a total of 14,110 asylum applicants in Greece, 43% were registered in Attica, 23% on the Eastern Aegean islands and 14% in Fylakio, Evros.
- ❖ 3,565 subsequent applications were lodged, including 627 subject to a 100 € fee. One in four claims was a subsequent application.

First instance procedure

- ❖ The (in-merit) recognition rate at first instance rose to 65.6%. In the border procedure, it reached 86.6%.
- ❖ The number of inadmissibility decisions based on the “safe third country” concept dropped to 1,137. Most concerned the mainland as only 251 were issued in the border procedure.
- ❖ Three out of four claims processed based on the national list of “safe third countries” were deemed admissible.
- ❖ The main inadmissibility ground was subsequent applications without new elements (1,490). Many of those concern applicants whose initial claims were dismissed based on the “safe third country” concept.
- ❖ The number of first-instance formal decisions remains high, with over 12,000 suspensions, terminations and withdrawals of applications.

Appeals

- ❖ The Appeals Committees took 10,041 second-instance decisions. Only 5.7% of those were positive.

Judicial review

- ❖ The success rate of judicial review of asylum decisions by the administrative courts rose from 10.4% in 2020 to 13.3% in 2021 and 16.3% in the first half of 2022.

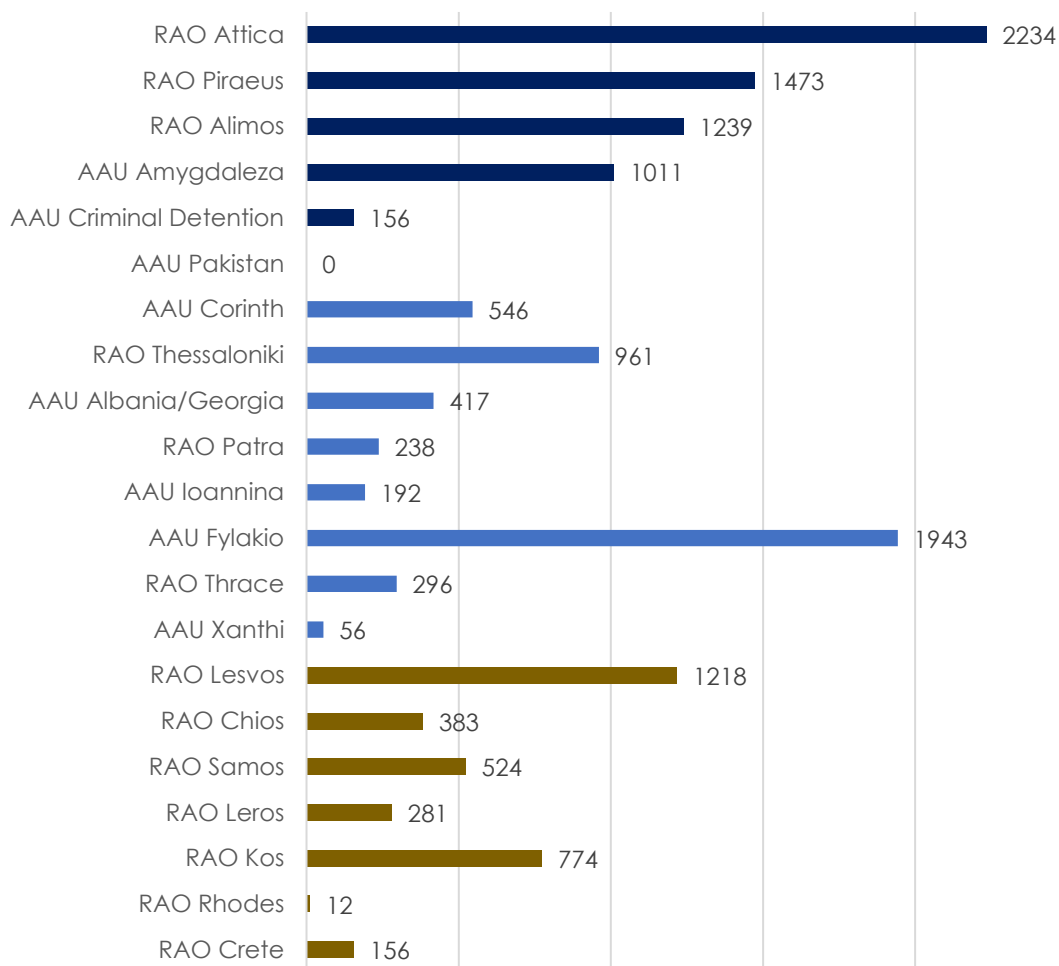
¹ Ministry of Migration and Asylum, Reply to parliamentary question, 484163/2022, 22 August 2022, available at: <https://bit.ly/3AlbJAI>.

Registration of asylum applicants

The Asylum Service registered a total of 14,110 asylum seekers in the first six months of 2022. The number of registered applicants more than doubled the number of entries in Greece (5,504), in particular in light of reduced arrivals on the Eastern Aegean islands. The number of pre-registrations of asylum claims ("registered intentions") pending lodging was only 9,491.

Following a November 2021 Circular of the Ministry of Migration and Asylum, persons arriving on the mainland without having undergone reception and identification procedures are barred from directly accessing the Asylum Service, subject to narrow exceptions. The impact of this policy is reflected in half-year statistics for 2022, given that the majority of pre-registrations were conducted by the Hellenic Police (4,257) and the Reception and Identification Service (3,701). Only 1,533 intentions to seek asylum were registered by the Asylum Service.

Lodging of asylum applications by RAO/AAU: first half 2022

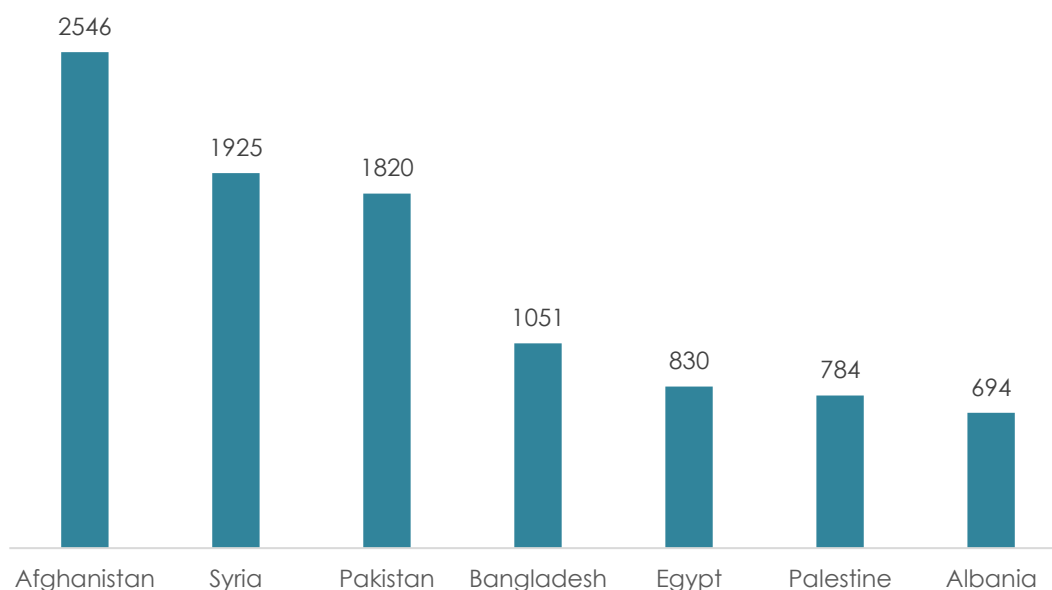


Source: Ministry of Migration and Asylum, Monthly Reports, Jan-Jun 2022

Still in 2022, 43% of asylum seekers (6,113) lodged applications in Attica, while 23% lodged applications on the Eastern Aegean islands (3,180), namely on Lesbos (1,218) and Kos (774). 1,943 applicants lodged claims in Fylakio, Evros.

The main nationalities of asylum seekers lodging applications in the first half of 2022 were as follows:

Main nationalities of asylum seekers: first half 2022



Source: Ministry of Migration and Asylum, Monthly Report, Jun 2022

Subsequent applications

A total of 3,565 subsequent applications were lodged in the first half of 2022. This steady increase on previous years comes in particular as a direct result of the arbitrary use of the “safe third country” concept through the national list of “safe third countries” enacted in June 2021 (JMD 42799/2021). According to Ministry of Migration and Asylum figures, one in four asylum claims was a subsequent application.

Of those, 627 were second or further subsequent applications. They were thereby subject to a 100 € fee per person, in accordance with Article 94(10) of the Asylum Code and with JMD 472687/2021. Accordingly, at least 62,700 € were paid to the Greek State only for the purpose of lodging asylum applications in the first six months of implementation the policy.

Ministry of Migration and Asylum data refer to no more than 23 subsequent applications lodged following a dismissal of the initial claim on “safe third country” grounds.

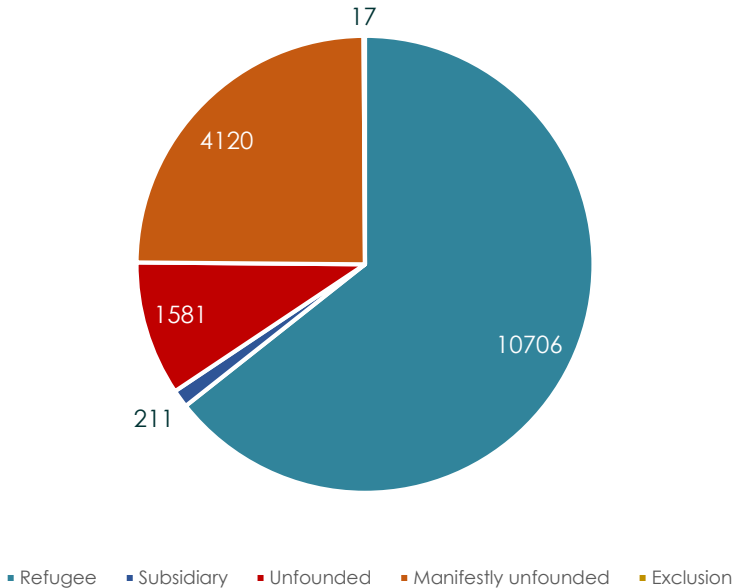
However, official Eurostat statistics for the first half of 2022 demonstrate that 925 subsequent applications were lodged by Afghan nationals, 490 by Syrians and 105 by Somalis,² i.e. applicants for whom Turkey has been designated as a “safe third country” based on JMD 42799/2021.

Furthermore, the Ministry notes that none of the 23 subsequent applications lodged after a dismissal of the initial claim on “safe third country” grounds was subject to the 100 € fee rule. This is a questionable position, given that many people – including RSA clients – paid the fee in 2022 in order to be able to make a new subsequent application, regardless of the grounds for rejection of their initial claim.

First-instance procedure

According to monthly Ministry of Migration and Asylum reports, the Asylum Service issued 32,087 first instance decisions in the first semester of the year. Of those, 16,635 were decisions on the merits of asylum applications:

First-instance in-merit decisions: first half 2022



Source: Ministry of Migration and Asylum, Reply to parliamentary question, 22 Aug 2022

The recognition rate at first instance rose to 65.6% in the first half of 2022. This means that two out of three applications processed on the merits were accepted. The overwhelming majority of positive decisions (10,706) granted refugee status, while only 211 granted subsidiary protection. It is worth noting that the Asylum Service changed its approach to qualification of Afghan nationals for international protection. Whereas a

² Eurostat, migr_asyappctzm.

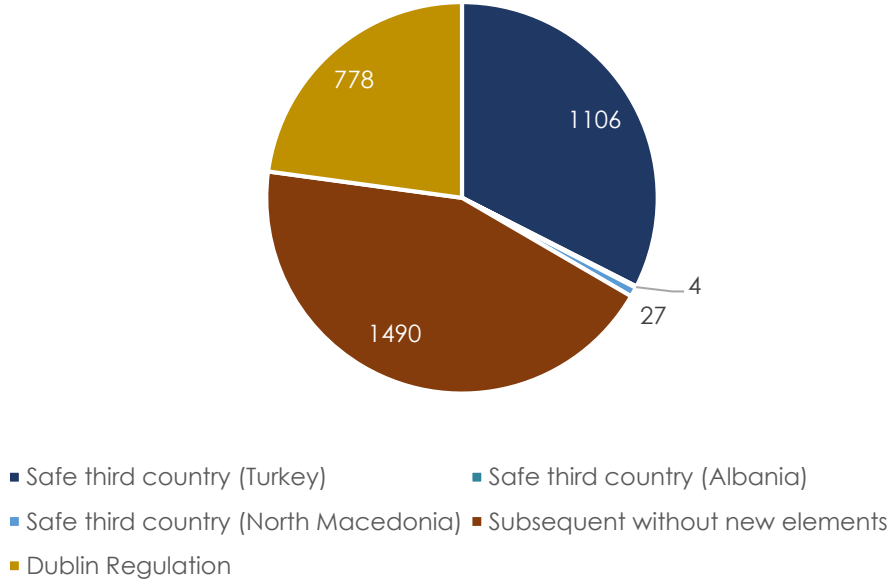
significant number of such cases previously received subsidiary protection,³ following the Taliban takeover of the country in 2021, the Asylum Service seems to recognise Afghans solely under the Refugee Convention and not under subsidiary protection, as confirmed by Eurostat figures.⁴

At the same time, the first half of 2022 was marked by a substantial increase in rejections of applications as manifestly unfounded pursuant to Article 32(2) of the Asylum Procedures Directive. These concern *inter alia* nationals of countries designated in JMD 78391/2022 as “safe countries of origin” such as Albania, Georgia, Pakistan, Bangladesh or Egypt. The Asylum Service issued 4,120 manifestly unfounded rejections, compared to 1,581 unfounded rejections. Yet, the Greek authorities wrongly continue to submit zero figures to Eurostat regarding the use of the accelerated procedure under Article 31(8) of the Asylum Procedures Directive,⁵ in which such cases are channelled.

Inadmissible applications

The Asylum Service dismissed 3,405 asylum applications as “inadmissible” based on the inadmissibility grounds set out in Article 33(2) of the Asylum Procedures Directive, without any examination on the merits and any assessment of qualification for refugee status or subsidiary protection:

First-instance inadmissibility decisions: first half 2022



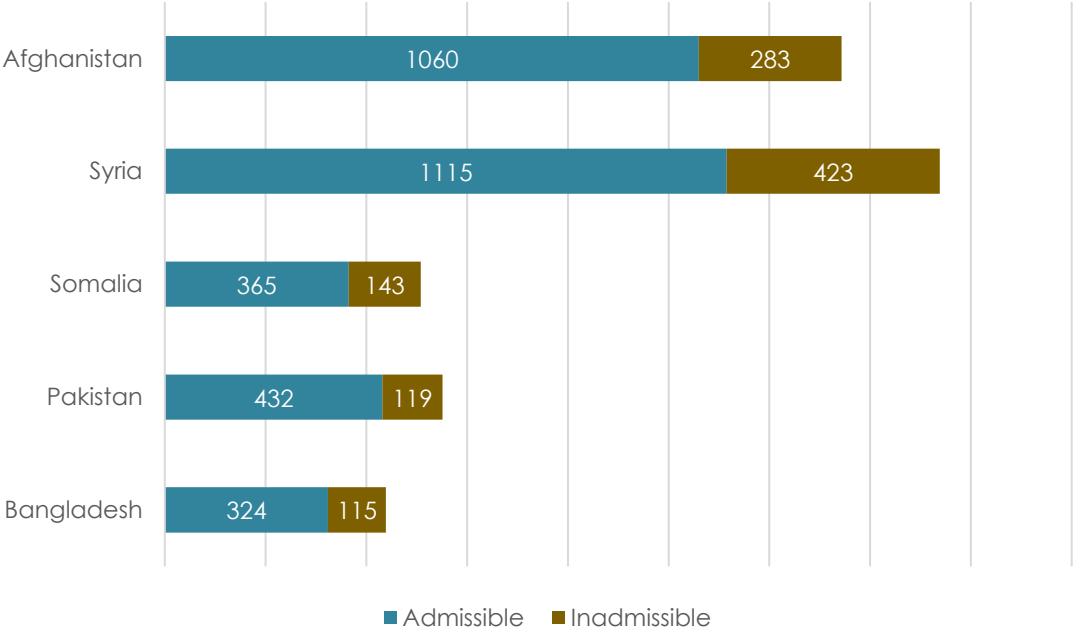
Source: Ministry of Migration and Asylum, Reply to parliamentary question, 22 Aug 2022

³ RSA, *The Greek asylum procedure in figures: most asylum seekers continue to qualify for international protection in 2021*, March 2022, available at: <https://bit.ly/3KhArGi>.
⁴ Eurostat, migr_asydcfstq.
⁵ Eurostat, migr_asyaccm.

The majority of inadmissibility decisions (1,490) concerned subsequent applications which underwent a preliminary assessment under Article 40 of the Asylum Procedures Directive and were deemed by the Asylum Service not to present new substantial elements so as to be further examined. Another 1,137 applications were dismissed as inadmissible based on the “safe third country” concept under Article 38 of the Directive. In 2022 too, most “safe third country” decisions (78%) were issued on the mainland, as only 251 applications were dismissed in the border procedure applicable to asylum seekers remaining on the islands and falling within the scope of the EU-Turkey deal.

According to the Ministry of Migration and Asylum reply to parliamentary questions, during the first six months of 2022, 4,379 decisions were issued pursuant to the national list designating Turkey as a “safe third country” (JMD 42799/2021). Of those, 3,296 deemed the asylum application admissible and 1,083 inadmissible. These figures indicate that three out of four applications processed under the national list vis-à-vis Turkey in the first half of the year were declared admissible:

Implementation of JMD 42799/2021 regarding Turkey: first half 2022



Source: Ministry of Migration and Asylum, Reply to parliamentary question, 22 Aug 2022

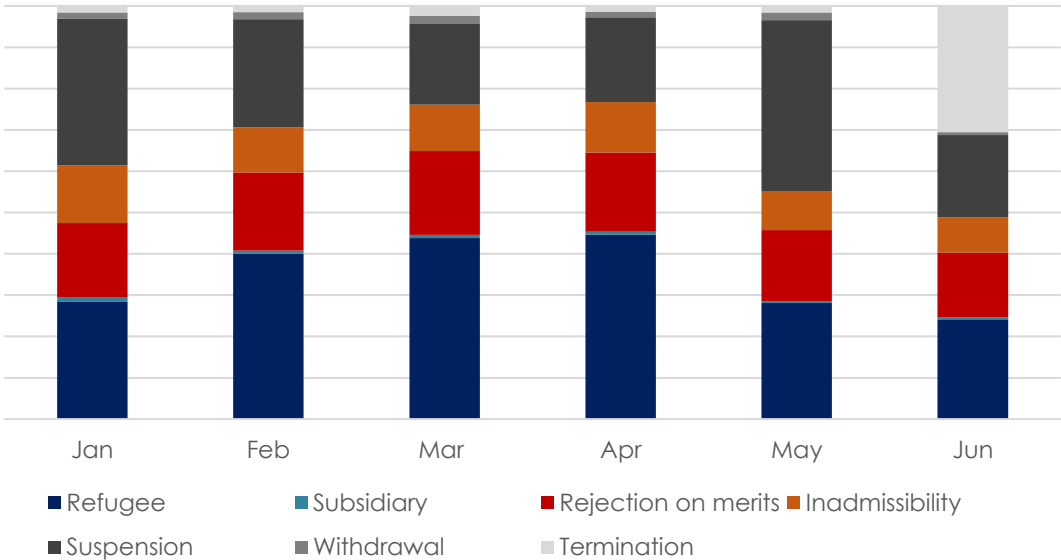
We recall that, despite the drop in inadmissibility decisions based on JMD 42799/2021 in 2022, a large number of applicants whose initial claims had arbitrarily been dismissed on “safe third country” grounds resorted to lodging subsequent applications as the sole avenue for ensuring their case would be heard, in light of the absolute lack of readmission prospects to Turkey for over two years. Many of those applications,

however, were again dismissed as inadmissible, this time for want of new substantial elements, thereby leaving people in legal limbo again.⁶

Formal decisions

More than 12,000 first-instance decisions issued in the first half of 2022 concern suspensions (8,663), terminations (2,904) and withdrawals of applications (452) without any assessment of the admissibility or the merits of the asylum application.⁷ The trend of mass issuance of such decisions at specific points in time persists. For example, in June 2022 alone, the Asylum Service terminated 2,503 cases, while in May alone it issued 2,635 suspensions.

First-instance decisions by month: first half 2022



Source: Ministry of Migration and Asylum, Monthly Reports, Jan-Jun 2022

Border procedure

The “fast-track border procedure” of Article 43(3) of the Asylum Procedures Directive, enacted in 2016 and running uninterrupted for five years for reasons of “mass arrivals”, was discontinued in 2022. However, the Asylum Service continued to apply the border procedure pursuant to Article 43(1) of the Asylum Procedures Directive. 3,180 applicants arriving on the Eastern Aegean islands were channelled into that procedure:

⁶ RSA, *Greece arbitrarily deems Turkey a “safe third country” in flagrant violation of rights*, February 2022, available at: <https://bit.ly/3QSNj8ra>.

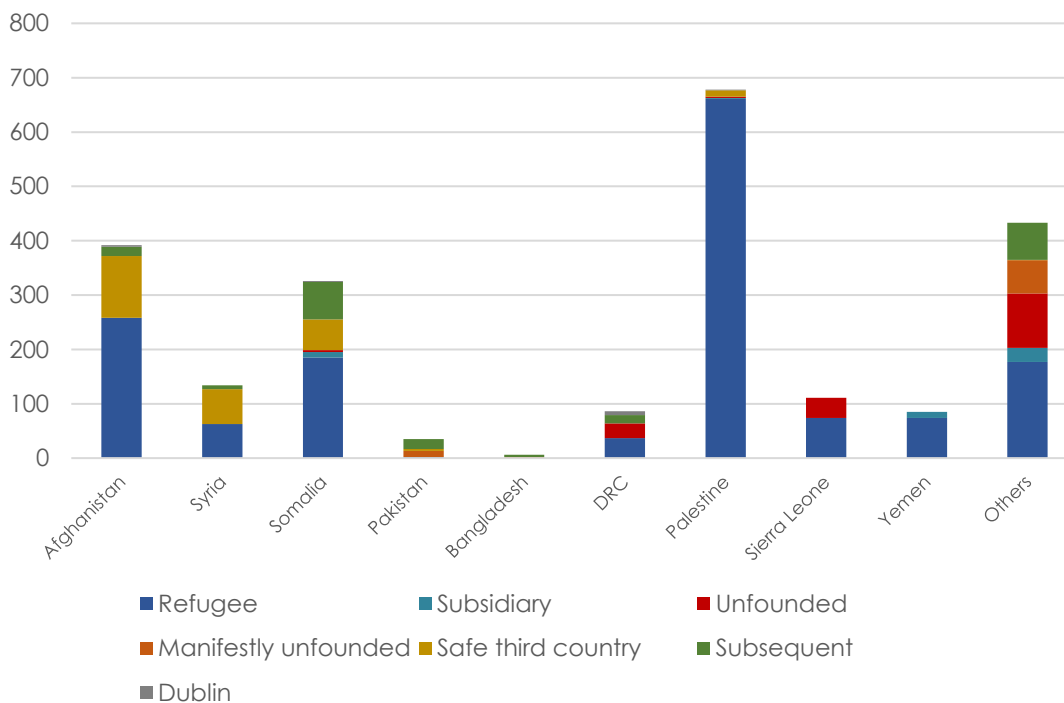
⁷ Note disparities with Eurostat figures, according to which 575 applications were explicitly withdrawn and 8,505 were implicitly withdrawn during the same period: Eurostat, *migr_asywithm*.

Implementation of the border procedure at first instance: first half 2022	
In-merit decisions	1,824
Refugee status	1,531
Subsidiary protection	49
Unfounded	170
Manifestly unfounded	74
Inadmissibility decisions	462
Safe third country	251
Subsequent application without new elements	198
Dublin Regulation	13

Source: Ministry of Migration and Asylum, Reply to parliamentary question, 22 Aug 2022

The Asylum Service took a total of 2,286 decisions in the border procedure, of which 1,824 in-merit decisions and 462 inadmissibility decisions. The main countries of origin of asylum seekers subject to decisions in the border procedure were as follows:

First-instance decisions in the border procedure: first half 2022



Source: Ministry of Migration and Asylum, Reply to parliamentary question, 22 Aug 2022

The recognition rate in the border procedure reached 86.6% in the first half of 2022, far above the overall recognition rate (65.6%).

Moreover, only seven applications were exempted from the border procedure and referred to the regular procedure for reasons of vulnerability and lack of adequate

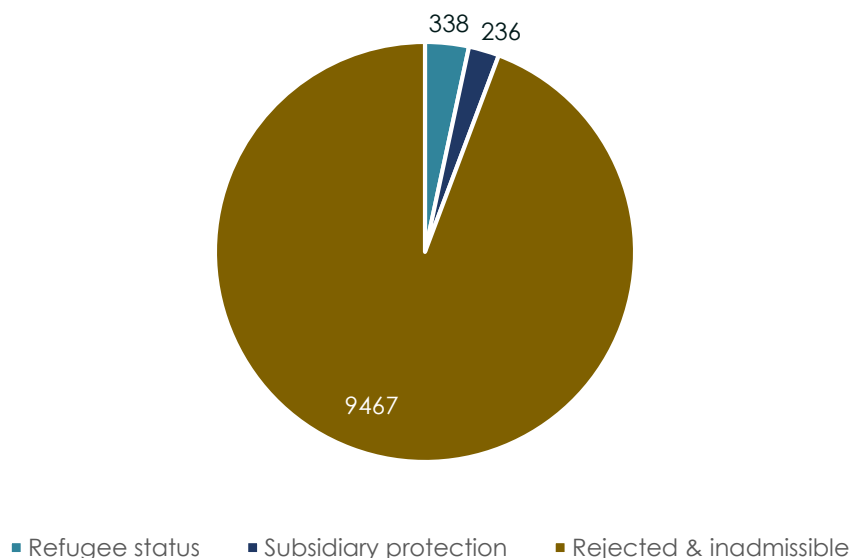
support, under Article 24(3) of the Asylum Procedures Directive. In 2021, the Asylum Service had exempted 1,569 applications from the border procedure on those grounds.⁸

Second-instance procedure

8,302 appeals were lodged against Asylum Service decisions in the first semester of 2022. Of those, 7,513 were lodged on the mainland (90.5%) and 789 on the Eastern Aegean islands (9.5%). According to Ministry of Migration and Asylum data, only in 3,872 cases did appellants request free legal assistance through the Registry of Lawyers managed by the Asylum Service. All legal aid requests were met.

The Appeals Committees took 10,041 decisions in the first half of 2022. Only 5.7% of those were positive:

Second-instance decisions: first half 2022



Source: Ministry of Migration and Asylum, Monthly Report, Jun 2022

As regards the “safe third country” concept, Ministry of Migration and Asylum statistics refer to 387 decisions in which Appeals Committees applied Article 38(4) of the Asylum Procedures Directive to assess the application on the merits due to refusal on the part of the third country to admit the applicant on its territory.

Finally, a sharp rise was noted in the number of appeals rejected as manifestly unfounded under Article 102(2) of the Asylum Code due to failure of the appellant to appear in person or to non-timely submission of a certificate of residence in a reception

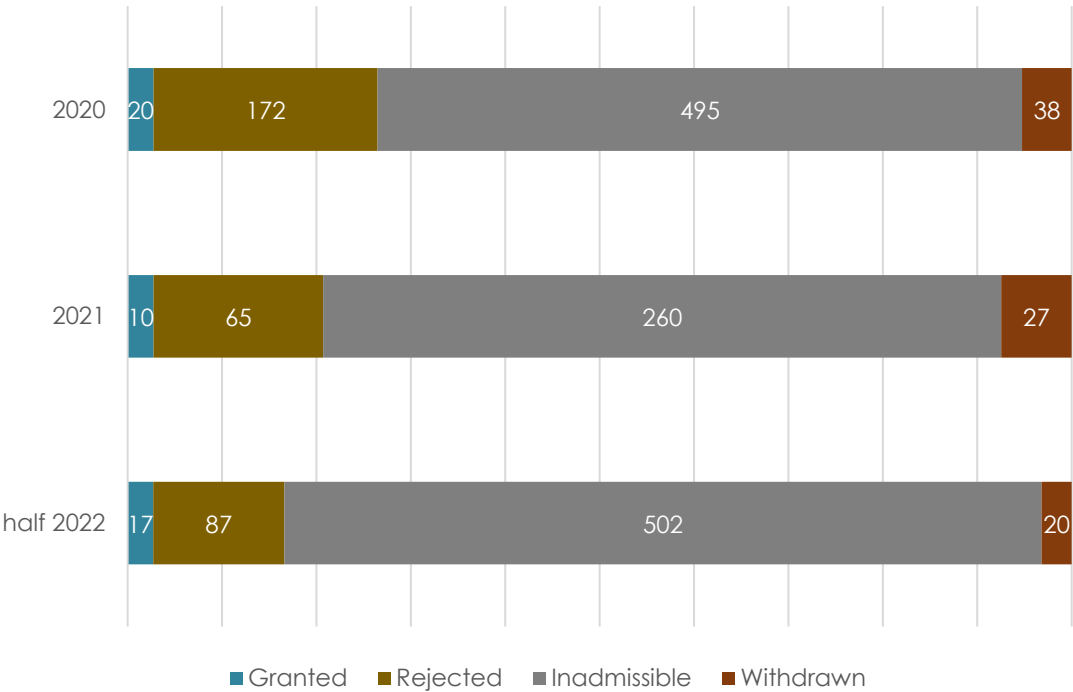
⁸ RSA, *The Greek asylum procedure in figures: most asylum seekers continue to qualify for international protection in 2021*, March 2022, available at: <https://bit.ly/3KhArGi>.

facilities – even though this is often attributed to the authorities. Appeals Committees rejected 892 appeals based on this provision in the first half 2022. They had issued 532 such decisions during the entire year 2021.

Judicial review

In a positive development in Greek statistical practice, the Ministry of Migration and Asylum has improved the presentation of statistics on judicial review of asylum decisions in its June 2022 report. It disaggregates administrative court decisions on judicial review applications by year of decision, on the one hand, and distinguishes rejections of applications from withdrawals, on the other. Both issues had been highlighted in RSA recommendations earlier this year.⁹

Judicial review of asylum decisions: 2020-2022



Source: Ministry of Migration and Asylum, Monthly Report, Jun 2022

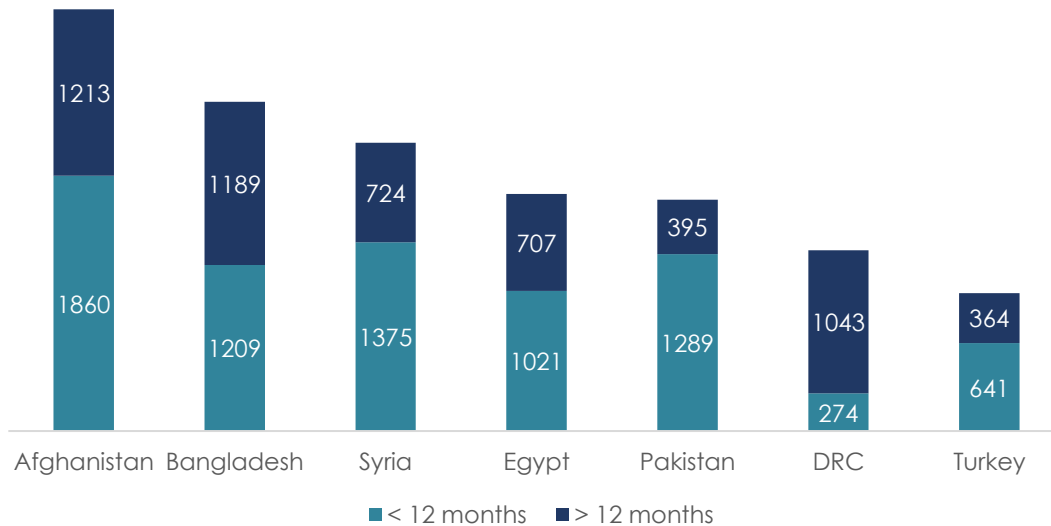
The above figures demonstrate that the majority of judicial review applications against Appeals Committee decisions are dismissed as inadmissible by the administrative courts. As for those judicial review applications that are examined on the merits,¹⁰ the success rate of applications before the courts has increased from 10.4% in 2020 to 13.3% in 2021 and 16.3% in the first half of 2022.

⁹ *Ibid.*
¹⁰ RSA et al., *Greek Asylum Case Law Report*, 1/2022, June 2022, available at: <https://bit.ly/3PMZDpv>.

Pending applications

As of 30 June 2022, the number of pending asylum applications was at 24,553. Of those, 2,404 were pending lodging, 18,177 were pending at first instance and 3,972 at second instance. Out of 18,177 cases pending at first instance, 10,396 were pending for less than one year and 7,781 for over one year:

Main nationalities of pending cases at first instance: 30 Jun 2022



Source: Ministry of Migration and Asylum, Reply to parliamentary question, 22 Aug 2022

In 8,534 pending cases, the personal interview had not yet been conducted by the end of the first half of 2022:

Schedule of pending asylum interviews: 30 Jun 2022				
	2022	2023	2024 or later	Total
Egypt	491	805	155	1,451
Pakistan	1,013	7	1	1,021
Bangladesh	617	218	2	837
Syria	506	167	13	686
Afghanistan	533	147	3	683
Turkey	373	299	3	675
DRC	194	372	109	675
Somalia	224	58	28	310
Albania	298	1	0	299
Cameroon	77	118	15	210

Others	1,231	432	24	1,687
Total	5,557	2,624	353	8,534

Source: Ministry of Migration and Asylum, Reply to parliamentary question, 22 Aug 2022