

Complaint to the European Commission on breach of EU law

Suspension of the right to asylum in Greece

11 September 2025

Complainants:

Refugee Support Aegean (RSA)
Greek Council for Refugees (GCR)
HIAS Greece
Equal Rights Beyond Borders

Description of Problem

I. Facts / Problem

The present complaint concerns an emergency situation unfolding in Greece due to severe breaches of EU law stemming from the enactment and implementation of Article 79 of Law 5218/2025 (Gov. Gazette A' 125/14.07.2025). The urgent situation in question requires immediate measures on the part of the Commission to address (i) a real and imminent risk of removal contrary to the principle of *non-refoulement* and (ii) ongoing arbitrary deprivation of liberty, facing thousands of people currently detained in Greek detention facilities under active, enforceable return decisions ordering their removal to the country of origin or country of transit, and denied the right to make an application for international protection. The return decisions suffice *per se* for the execution of removal of the persons concerned, who remain in detention at the time of writing (cf. Article 107 CJEU Rules of Procedure).

On 14-07-2025, Article 79 L 5218/2025 entered into force. The provision reads: "1. The making of applications for grant of asylum by persons illegally entering the country by any means of sea transport from North Africa is suspended. Such persons shall be returned, without registration, to the country of provenance or origin. 2. The provision of para 1 shall enter into force from submission of the present provision and for a period of three (3) months. 3. The time period of para 2 may be shortened by Act of the Council of Ministers."

At the time of writing, the complainant organisations are aware of more than 1,700 individuals affected by the ban. Over 1,200 people have been placed in different detention facilities in Greece, namely the Pre-Removal Detention Centres (PRDC) of Amygdaleza (nearly 200 people), Xanthi (approximately 25), Paranești (approximately 50) and Tavros (approximately 35), and the "Special Detention Site" (Ειδικός Χώρος Κράτησης) established inside the Controlled Temporary Reception Centre for asylum seekers (CTRC) of Sintiki (over 900 people). These persons are subject to enforceable return decisions to their countries of origin (Sudan, South Sudan, Yemen, Eritrea, Egypt, Bangladesh) or to their country of transit (Libya).

Return to these countries would amount to treatment prohibited by **Articles 4 and 19(2) of the Charter**, bearing particularly in mind the ongoing armed conflict and acute humanitarian crisis prevailing in Sudan (EUAA, Country Guidance Sudan, 23-06-2025) and gross human rights violations, inhuman living conditions and dire exploitation of refugees and migrants prevailing in Libya against the backdrop of rule of law collapse (UNSC Resolution 2769 (2025); OHCHR, Libya: Sites of gross human rights violations must be sealed and impartially investigated – Türk, 04-06-2025). The complainant organisations note that the in-merit recognition rate at first instance in Greece currently stands at 99.8% for Sudan, 98.8% for Yemen and 88.5% for Eritrea (Ministry of Migration and Asylum, Reply to parliamentary question, 152966/2025, 19-08-2025).

The complainant organisations have been able to offer legal representation only to a limited number of individuals (approximately 55 in Amygdaleza, 10 in Paranesti and 20 in Xanthi) to whom Article 79 L 5218/2025 has been applied. The overwhelming majority of people affected by the provision have not been granted linguistic or free legal assistance in order to understand and to challenge the return decisions and detention orders issued against them, nor have they been given the possibility by the Greek authorities to make an application for international protection.

On 05-08-2025, the complainant organisations addressed the President of the Plenary of Greek Bar Associations and requested measures to ensure that individuals subject to Article 79 L 5218/2025 have effective access to legal information, to the possibility to request free legal assistance, and to legal protection.

On 18-08-2025, the Steering Committee of the Plenary of Greek Bar Associations stressed in a public statement that the Greek state is flouting its obligation to provide free legal assistance to persons subject to deportation and return procedures (Plenary of Greek Bar Associations, Μεταναστευτικό-Άσυλο: Η προσήλωση στη διεθνή και συνταγματική νομιμότητα αποτελεί μονόδρομο για κάθε ευνομούμενη δημοκρατική πολιτεία, 18-08-2025).

Incorrect transposition of EU law

Article 79 L 5218/2025 is an incorrect transposition of EU law, notably:

- **Article 6(1) of Directive 2013/32/EU (APD)**, which provides that “When a person makes an application for international protection to an authority competent under national law for registering such applications, the registration shall take place no later than three working days after the application is made”. **Article 6(2) of Directive 2013/32/EU (APD)** provides that “Member States shall ensure that a person who has made an application for international protection has an effective opportunity to lodge it as soon as possible.” The APD provisions, read in conjunction with **Article 18 of the Charter** and interpreted by settled case law of the CJEU, hold that the “making” (υποβολή) of an application for international protection in the meaning of Article 6(1) APD is subject to no administrative formality. No restriction may permissibly be imposed on the right to make an application for international protection (**C-823/21 Commission v Hungary**, 22-06-2023 para 43; **C-72/22 PPU Valstybės sienos apsaugos tarnyba**, 30-06-2022, paras 63-64; **C-821/19 Commission v Hungary**, 16-11-2021, para 136; **C-808/18 Commission v Hungary**, 17-12-2020, paras 97-98; **C-36/20 PPU Ministerio Fiscal**, 25-06-2020, para 93).

Article 79(1) L 5218/2025 contravenes Article 6(1) and (2) APD insofar as it imposes a direct and express prohibition on the making (υποβολή) of applications for international protection and specifies that the persons concerned shall not undergo registration. The provision in question *a fortiori* prohibits the lodging of an application for international protection as well.

- **Article 5 of Directive 2008/115/EC (RD)**, which provides that “When implementing this Directive, Member States shall take due account of: (a) the best interests of the child; (b) family life; (c) the state of health of the third-country national concerned, and respect the principle of non-refoulement.” According to settled case law of the CJEU, this provision, read in conjunction with **Articles 4 and 19(2) of the Charter**, requires Member States to ensure compliance with the principle of non-refoulement already at the stage of issuing a return decision in the meaning of Article 6 RD (**C-663/21 Bundesamt für Fremdenwesen und Asyl**, 06-07-2023, paras 49-50; **C-484/22 Bundesrepublik Deutschland**, 15-02-2023, paras 25-28).

Article 79(1) L 5218/2025 expressly states that persons falling within the scope of the prohibition on making an application for international protection "shall be returned, without registration, to the country of provenance or origin". The terms "without registration" indicate that return proceedings are conducted without an assessment of the personal circumstances of the persons concerned and thereby without examination of potential risks of *refoulement* upon removal from the Greek territory.

Persistent non-implementation of EU law

The effects of the aforementioned breach of EU law standards are confirmed in the implementation of Article 79 L 5218/2025, as detailed in **Section II** of the complaint. Persons to whom the domestic provision has been applied from 14-07-2025 to present have:

- Received standardised return decisions by the Hellenic Police, ordering that each individual "return to his country or to the country from which he arrived". The decisions do not specify a single country of return as required by **Article 3(4) RD (C-924/19 PPU Országos Idegenrendészeti Főigazgatóság Dél-alföldi Regionális Igazgatóság**, 14-05-2020, para 115), nor do they assess whether removal complies with the *non-refoulement* principle pursuant to **Article 5 RD (C-484/22 Bundesrepublik Deutschland**, 15-02-2023, paras 25-28). The decisions are written in Greek and are either notified to the individuals concerned without interpretation or not physically notified to them at all. These deficiencies are owed to systemic failure on the part of Greece to observe EU law standards in return procedures.
- Had their administrative appeals against said return decisions dismissed by the Hellenic Police by standardised decisions. Greek law sets out a five-day deadline for lodging an administrative appeal (*ενδικοφανής προσφυγή*) against a return decision before the Hellenic Police (Article 28(1) L 3907/2011, Gov. Gazette A' 7/26.01.2011, replaced by Article 14(1) L 5226/2025, Gov. Gazette A' 154/08.09.2025). Appeals deemed as submitted within the five-day deadline are dismissed by the Hellenic Police solely through a standardised reference to Article 79 L 5218/2025. Appeals lodged beyond the deadline are dismissed due to late submission, without examination.
- Made applications for international protection in person and in writing. Yet, the Asylum Service has refused to register those applications.

These effects are compounded by the complete absence of linguistic assistance and free legal assistance to persons held in pre-removal detention and subject to return procedures in Greece. At the time of writing, the Greek government has still not set up a legal aid scheme to ensure that persons subject to return decisions can effectively exercise their right to a remedy in line with **Article 13(4) RD** and **Article 47 of the Charter**. Systemic non-compliance with EU law has been highlighted over the past decade by the Commission and Council in the context of the Schengen Evaluation Mechanism (C(2025) 4342 final, 03-07-2025) and in ongoing infringement proceedings (INFR(2014)2231, LFN of 29-09-2022), to no avail.

In light of the foregoing, the complainant organisations believe that the subject matter of the complaint raises priority issues of incorrect transposition of Directives and of persistent failure to correctly apply EU law (2017/C 18/02, point 3). It also presents exceptional circumstances warranting urgent measures to prevent irreparable harm (cf. Article 107 CJEU Rules of Procedure) against the fundamental rights of a large group of persons under Greek jurisdiction who have no effective access to means of redress for the reasons outlined above.

Finally, the complainant organisations note, per settled case law of the CJEU, the EU *acquis* currently in force appropriately caters for situations where Member States "would have to deal with a considerable increase in the number of applications for international protection... a situation which may be unforeseeable and unavoidable" (**C-97/24 Minister for Equality**, 01-08-2025, para 50; **C-808/18 Commission v Hungary**, 17-12-

2020, paras 222-223). Such flexibility is granted *inter alia* by **Article 6(5) APD**, a provision which Greece has chosen not to transpose into its domestic legal order.

The CJEU has consistently dismissed the view that Member States may “generally, on threats to public order or internal security caused by the mass influx of third-country nationals” in order to invoke Article 72 TFEU and to circumvent their EU law obligations (**C-823/21 Commission v Hungary**, 22-06-2023, paras 65-70; **C-72/22 PPU Valstybės sienos apsaugos tarnyba**, 30-06-2022, paras 71-75; **C-808/18 Commission v Hungary**, 17-12-2020, paras 212-226). In fact, in a situation of increased arrivals of applicants for international protection, which the EU legislature has appropriately foreseen through specific provisions, Greece cannot avoid its EU law obligations by invoking said circumstance (**C-97/24 Minister for Equality**, 01-08-2025, para 51).

II. Contacts with national authorities

The complainant organisations hereby provide information on engagement with the responsible Greek authorities in the context of legal representation of asylum seekers affected by Article 79 L 5218/2025. Information on the treatment of cases of people detained in the Amygdaleza PRDC is provided by way of example:

- 1. Refusal to register asylum applications:** Clients detained in Amygdaleza PRDC have submitted written applications for international protection in person before the Hellenic Police management of the Amygdaleza PRDC or directly before the Asylum Service. Applications made in person in the PRDC have been transmitted to the Aliens Directorate of Attica of the Hellenic Police and to the Autonomous Asylum Unit (AAU) of Amygdaleza of the Asylum Service. The AAU of Amygdaleza has responded to the asylum applicants' legal representatives as follows: “In response to your submitted application, we would like to inform you that L 5218/2025 (A' 125) was published on 14.7.2025. Article 79 thereof provides the following: Article 79 Suspension of making of applications for grant of asylum 1. The making of applications for grant of asylum by persons illegally entering the country by any means of sea transport from North Africa. Such persons shall be returned, without registration, to the country of provenance or origin. 2. The provision of para 1 shall enter into force from submission of the present provision and for a period of three (3) months. 3. The time period of para 2 may be shortened by Act of the Council of Ministers.” Neither the Hellenic Police nor the Asylum Service have registered the asylum applications to date.
- 2. Rejection of administrative appeals against return decision:** To the knowledge of the complainants, all clients detained in Amygdaleza PRDC since 20-07-2025 are deemed to have been notified return decisions on 31-07-2025, without having signed a notification slip (αποδεικτικό επίδοσης) themselves. For several clients, the Hellenic Police has not transmitted copies of the notification slips despite repeated requests of the legal representatives. Administrative appeals (ενδικοφανείς προσφυγές) lodged with the Director of the Aliens Directorate of Attica until 05-08-2025 have been dismissed by standardised, succinct decisions referring to Article 79 L 5218/2025. The decisions offer no further reasoning and do not examine the appellants' submissions. Appeals lodged from 06-08-2025 onwards have been dismissed due to late submission, without examination.

The complainant organisations are aware of a classified circular of the Ministry of Migration and Asylum, referring to categories of vulnerable groups exempted from the application of Article 79 L 5218/2025. The contents of said circular have not been disclosed to date. However, standardised dismissal of administrative appeals against return decisions includes cases of persons belonging to vulnerable groups such as unaccompanied children. In addition, survivors of torture detained in Amygdaleza PRDC and represented by the complainant organisations have requested the Hellenic Police to refer them for assessment, to no avail.

- 3. Judicial protection by the ECtHR and domestic courts against removal:** Clients whose administrative appeal has been dismissed on the merits have lodged an application for suspension (*αίτηση αναστολής*) with the Administrative Court of Athens or Piraeus and requested a provisional order (*προσωρινή διαταγή*) to suspend the enforcement of the return decision until the application for suspension is examined. Several clients have requested interim measures before the European Court of Human Rights (ECtHR), since the aforementioned domestic remedies have no automatic suspensive effect.
- On 14-08-2025, the ECtHR granted interim measures under the Rule 39 of the Rules of Court in relation to eight Sudanese asylum seekers, indicating to the Greek government to refrain from removing them until the Administrative Court of Athens decides on their applications for suspension.
 - On 25-08-2025, the Administrative Court of Athens granted a provisional order on the applications of four of the Sudanese asylum seekers covered by the ECtHR interim measures order of 14-08-2025.
 - On 29-08-2025, the ECtHR granted interim measures under Rule 39 concerning four Eritrean asylum seekers whose administrative appeals were dismissed by the Hellenic Police due to late submission. The Court indicated to the Greek government not to remove the applicants until they have had access to international protection procedures.
 - On 05-09-2025, the Administrative Court of Piraeus granted a provisional order on the applications of three asylum seekers until their applications for suspension are decided.
- 4. Challenges against pre-removal detention:** On 20-08-2025, the Administrative Court of Athens dismissed objections against detention brought by four Sudanese asylum seekers covered by the ECtHR interim measures order of 14-08-2025. The Court did not order their release from pre-removal detention in Amygdaleza PRDC, yet it acknowledged that they have made asylum claims and ordered that they remain on Greek territory until their asylum applications have been registered and processed. On 30-08-2025, the Aliens Directorate of Attica rejected the applicants' requests for release. Additional objections are pending before the Administrative Court of Athens.

III. Other

EU funding

Greece receives EU funding under its Asylum, Migration and Integration Fund (AMIF) National Programme for the staffing and management of PRDC (ΕΦ_ΑΜΙΦ_002). It also receives funding under the AMIF National Programme for the staffing and management of CTRC, including sites such as CTRC Sintiki that currently host "Special Detention Sites" used for pre-removal detention purposes (Ministry of Citizen Protection, Reply to parliamentary question, 7017/4/27674-γ', 25-08-2025).

Two of the complainant organisations, GCR and RSA, are members of the Greek Monitoring Committee for AMIF set up pursuant to Article 38(1) of Regulation (EU) 2021/1060 (CPR).

On 15-07-2025, GCR and RSA submitted an urgent request for information (no. β/178/15.07.2025) to the Monitoring Committee, to be informed: (i) of the exact facilities in which persons falling within the scope of Article 79 L 5218/2025 are to be placed; (ii) of the sources of funding and specific actions financing the operation of said facilities; (iii) whether PRDC covered by Action ΕΦ_ΑΜΙΦ_002 under the AMIF National Programme are being or will be used for detention of persons covered by Article 79 L 5218/2025. This correspondence has been communicated to all members and observers of the Monitoring Committee, including DG HOME. No response has been received on the above request at the time of writing.

Direct engagement with the Commission

On 25-08-2025, the complainant organisations and twelve other organisations addressed three European Commissioners with a letter (β/180/25.08.2025) calling upon the Commission to enforce the applicable *acquis* against severe infringements stemming from both the letter and the implementation of Article 79 L 5218/2025.