

AMNESTY INTERNATIONAL PUBLIC STATEMENT

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“GREECE MUST IMMEDIATELY ENSURE THAT ASYLUM-SEEKERS, UNACCOMPANIED CHILDREN AND CHILDREN OF IRREGULAR MIGRANTS HAVE FREE ACCESS TO THE PUBLIC HEALTH SYSTEM”

Amnesty International is profoundly concerned about the continuing failure of the Greek authorities to ensure that asylum-seekers and unaccompanied children can access free healthcare in the public health system, as provided by Law 4368/2016. Furthermore, children born in Greece by parents irregularly residing in the country are also excluded from being able to access the public health system.

Article 33 of Law 4368/2016¹ provides free access to medical and pharmaceutical services provided by the Greek Health System to the uninsured and to members of “vulnerable social groups”. This includes refugees, asylum-seekers (from the moment they express their will to apply for asylum) and minors irrespective of their legal status, including unaccompanied children and children without legal residence in Greece. One of the main aims behind this legislation was to ensure free access to health services to an estimated 2,5 million people who lost their social insurance during the severe economic crisis and to “vulnerable groups”. According to Article 33 para. 3 of Law 4368/2016 and Joint Ministerial Decision Α3(γ)/ΓΠ/οικ.25132/4-4-2016, individuals falling under the scope of Article 33 must have a Social Security Number (“AMKA”) to be able to access free healthcare in the public health system. This number is issued by Citizen’s Service Centres around Greece (“KEP”) or the offices of the Agency for Social Security (“EFKA”). For those asylum-seekers and other members of “vulnerable groups” that do not fulfil the requirements to be granted an AMKA or do not have one, Article 3 of the Joint Ministerial Decision of 2016 provided for the issuance of a special Foreigner’s Health Care Card (“K.Y.P.A”) granting access to free healthcare in the public health system. A circular issued in May 2016, clarified that the granting of such cards would be up to public hospital services, but the process has until now remained inactive.²

Despite the Law 4368/2016, NGOs working with asylum-seekers and unaccompanied children in Greece told Amnesty International of the barriers many asylum-seekers faced in accessing the public health system because they were unable to get an AMKA. For example, Amnesty International was told about cases where people were refused an AMKA because officials said their asylum-seeker’s card was not translated in Greek. The administration has also failed to activate the K.Y.P.A. system resulting in a situation where only the granting of AMKA can guarantee free access to the public health system.

The administrative barriers that many asylum-seekers and unaccompanied children face in getting an AMKA number have significantly worsened since 11 July 2019, when the Ministry of Labour withdrew the circular that regulated how AMKA was to be granted to non-Greek nationals. Since this circular has been withdrawn, there has been no procedure in place to grant AMKA numbers to asylum seekers and unaccompanied children.

Without AMKA, and given the fact that the K.Y.P.A. system is not operational, thousands of asylum-seekers³ and unaccompanied children (who did not already have AMKA) do not have free access to healthcare as envisaged by the Greek legislation. Without AMKA, they can also face difficulties in accessing other services, including seeking employment and social assistance.

NGOs, doctors and the Greek Ombudsperson have highlighted several cases of asylum-seekers who have not been able to get an AMKA and have faced difficulties in accessing free medical and pharmaceutical care they are entitled to

¹Available at: <https://ec.europa.eu/migrant-integration/librarydoc/law-4368/2016-article-33-on-free-access-to-health-care-services>.

² See Ministry of Health Circular, 31 May 2016, Prot. No, Α3γ/Γ.Π.οικ.39364 and <https://www.gcr.gr/en/news/press-releases-announcements/item/736-gcr-replies-to-questions-posed-by-a-foreign-public-authority>.

³ As of 24 September 2019, out of the 14,079 asylum-seekers hosted in ESTIA accommodation, 16 % did not have AMKA. Source: <http://estia.unhcr.gr/en/estia-accommodation-capacity-weekly-update-24-september-2019/>; In August and September 2019 (the two months that since the circular was withdrawn), over 18,260 individuals arrived on the Greek islands (see <https://data2.unhcr.org/en/documents/download/71691>).

under Law 4368/2016 as a result.⁴ Amnesty International is aware of several cases in Athens and on the Aegean islands, where high numbers of asylum-seekers live, where health workers have tried to help and provide care to asylum-seekers even when they did not have an AMKA. However, these health workers have highlighted how, even in these situations, patients would face difficulties accessing regular medication free of cost.

For example, Amnesty International spoke to the doctors of two asylum-seekers living with HIV (one man and one woman), who are being treated in a major hospital in Athens, and also met with their patients. They all explained how if these individuals were discharged, they would not be able to access their anti-retroviral medicines, as they had not been able to get an AMKA.

N* is an asylum-seeker from a Central Africa country, and has been admitted and treated as an inpatient in the hospital's clinic since early May 2019 for CNS toxoplasmosis, which is a serious complication of her illness. She receives antiretroviral therapy and other essential medication while she is hospitalized. As a result of her illness, she suffers from other health conditions, including limited mobility and problems with her vision, as well as depression. N* has applied for asylum with the assistance of an NGO but KEP staff has refused to provide her with an AMKA since there is no circular in place to enable this. Her doctors have taken steps to find her a place to live in, without success. When speaking to Amnesty researchers, they expressed their deep worry that when discharged N* would likely become homeless. Furthermore, as she would not have free access to the life-saving medicines she needs, including her anti-retroviral medication, her condition is also at risk of worsening. She is not in a position to pay for any medication.

The organisation is seriously concerned that despite calls from doctors, civil society, UNCHR and the Greek Ombudsperson, the Ministry of Labour has not proceeded with the issuance of a Circular that ensures the practical access of asylum-seekers and unaccompanied children to free healthcare in the public health system, as provided by Law 4368/2016. Instead, a Circular issued on 1 October "providing clarifications on the granting of AMKA from EFKA and KEP"⁵ states that the issue will be clarified in another Circular. The Circular also disconcertingly excludes from being granted AMKA children born in Greece whose parents have not regularised their migration status, therefore preventing them from accessing free healthcare in the public health system, as the Greek Law 4368/2016 provides.

The current state of things is not only inconsistent with Greece's obligations under the national legislation but is at odds with the country's obligations under International and EU law. In particular, Article 17 para. 3 of Law 4540/2018⁶ which transposes the recast EU Reception Conditions Directive⁷ provides that "asylum-seekers have the right to free access to the Public Health Structures and are entitled to medical and pharmaceutical care including the necessary treatment for diseases and the necessary mental health treatment as required by Article 33 of Law 4368/2016".

Under international human rights law, the right to health includes the right to access health facilities, goods and services free from discrimination. According to the Committee on Economic, Social and Cultural Rights, "The ground of nationality should not bar access to Covenant rights, e.g. all children within a State, including those with an undocumented status, have a right to receive education and access to adequate food and affordable health care. The Covenant rights apply to everyone including non-nationals, such as refugees, asylum-seekers ... regardless of legal status and documentation".⁸

Amnesty International calls on the Greek authorities to urgently take action to ensure that asylum-seekers, unaccompanied children and children born in Greece whose parents have irregular status can access free healthcare through the National Health System, in line with national legislation and Greece's obligations under EU and international law.

⁴ See https://www.efsyn.gr/ellada/dikaiomata/211151_tropopoiisi-tis-kya-gia-tin-apodosi-amka-zita-o-synigoros-toy-politi; <https://www.gcr.gr/el/news/press-releases-announcements/item/1276-synexizontai-ta-proskommata-stin-ekdosi-amka-gia-tous-aitoyntes-asylo-akoma-kai-gia-paidia>; and <https://www.in.gr/2019/10/14/greece/lesvo-allilegyi-ton-giatron-esose-12xrono-prosfyga-xoris-amka/>.

⁵ Circular of the Ministry of Labour and Social Affairs, No. 80320/42862/Δ18.2718, 1 October 2019.

⁶ Available at: <http://asylo.gov.gr/wp-content/uploads/2018/05/%CE%9D%CE%9F%CE%9C%CE%9F%CE%A3-4540-22.05.2018.pdf>.

⁷ 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 (recast).

⁸ General Comment No. 20: Non-discrimination in economic, social and cultural rights, E/C.12/GC/20.