

Valletta Harbour, 18 April 2024
EUAA/ED/2024/133

Ms [REDACTED]

Sent by email to: [REDACTED]

Subject: Your complaint to the European Ombudsman ID 44571

Dear Ms [REDACTED]

Reference is made to your emails of 24 November 2022 and of 13 June 2023 by means of which you brought to the EUAA's attention a number of interview transcripts conducted by caseworkers deployed by the EUAA on the island of Samos, in support of the Greek Asylum Service. Reference is also made to the complaint submitted by you against the European Union Agency for Asylum (EUAA) on behalf of I Have Rights (IHR) and Avocats Sans Frontières France (ASFF) to the European Ombudsman with reference no. 44571 dated 30 January 2024, and which was forwarded to the EUAA by the European Ombudsman.

As a preliminary remark, the EUAA duly apologises for having previously failed to provide you with a written response to your emails of 24 November 2022 and of 13 June 2023, which was due to an oversight from our end. Furthermore, the Agency wishes to note that in the course of the past year it has engaged in communication with your organisation in the context of access to documents requests, as also mentioned in your complaint. In its responses to these requests, the EUAA has disclosed to IHR a number of documents and provided additional information, which provided clear insights into the workings of the Agency. The aim of this letter is therefore to address any remaining issues which were raised in your previous emails to the Agency, as well as to respond to the elements you raise in your complaint to the European Ombudsman.

I. TIMELINE OF COMMUNICATION WITH EUAA

On 24 November 2022, IHR sent an email to the EUAA, claiming that the EUAA failed to properly investigate alleged trafficking experiences of asylum seekers on the island of Samos, and attaching several transcripts of interviews. IHR requested the EUAA to investigate the matter and provide information on follow-up. **The EUAA's response can be found below under Section III of this letter.**

On 18 May 2023, IHR submitted to the EUAA a public access to documents request (hereinafter "first PAD request") registered with reference no. 1780, requesting a list of standard operating procedures (SOPs), guidelines and training material, as well as an overview of the internal complaints mechanisms. On 10 July 2023, in response to this request, the EUAA provided IHR with a list of documents falling under the scope of the request and disclosed four documents.



On 13 June 2023, IHR sent an email to the EUAA claiming that EUAA caseworkers on Samos do not ask follow-up questions when applicants present indicators of being survivors of torture. IHR requested the EUAA to include these cases in quality feedback reports and also to investigate the matter and provide information on follow-up. **The EUAA response can be found below under Section IV of this letter.**

On 24 July 2023, IHR submitted to the EUAA a confirmatory application for public access to documents regarding the first PAD request (hereinafter “confirmatory application to the first PAD request”), which was registered with reference no. 2055. On 1 September 2023, in response to this request, the EUAA disclosed one additional document to IHR.

Part of the confirmatory application to the first PAD request concerned documents not coming within the scope of the initial application. This was therefore considered as a separate new request for public access to documents (hereinafter “second PAD request”), and was registered with reference no. 2065. On 5 September 2023, in response to this, the EUAA disclosed six additional documents to IHR.

On 29 July 2023, IHR submitted to the EUAA another public access to documents request (hereinafter “third PAD request”, registered with reference no. 2096, requesting a list of documents regarding reporting obligations, complaints and internal review procedures. On 15 September 2023, in response to this request, the EUAA provided a list of identified documents and disclosed eight documents to IHR.

On 4 October 2023, IHR submitted to the EUAA a confirmatory application for public access to documents regarding the third PAD request (hereinafter “confirmatory application to the third PAD request”), which was registered with reference no. 2502. On 8 December 2023, in response to this request, the EUAA disclosed five additional documents to IHR and a partial response to a request for information. The Agency’s response on any remaining elements in that request for information is included in the present letter.

On 30 January 2024, IHR and ASFF submitted a complaint to the European Ombudsman. **The EUAA’s response to the claims included in that complaint can be found below under Section V of this letter.**

II. EUAA QUALITY REVIEW AND TRAINING SYSTEM AND ITS APPLICATION IN SAMOS

At the outset, the EUAA would like to outline the quality system that is put in place for enhancing and monitoring the quality of the work delivered by caseworkers deployed as part of an asylum support team in support of the Agency’s operational and technical assistance activities in Greece, in the implementation of the Operational Plan agreed between the Agency and Greece¹ (“the EUAA Greece Operation”). The information contained in this section is additional to the information already provided in response to IHR’s requests for public access to documents. In particular, a detailed presentation of the Asylum Quality Structure applicable in Greece Operations was already disclosed to IHR as an Annex to the EUAA’s response to the third PAD request.

¹ https://euaa.europa.eu/sites/default/files/EL_OP_Greece_2022-2024_signed.pdf



First and foremost, it needs to be acknowledged that the asylum interview is a process which is specific to each individual and which takes into consideration the unique circumstances of the personal story of each applicant. While general guidelines and rules guide the process, it should be underlined that the asylum interview is not an automated system². To this end, to ensure a fair process and mitigate any risks, the quality system described below includes both preventative measures (such as training, SOPs and guidance, team leader review system, shadowing), as well as ex-post quality mechanisms (such as quality reviews). This system forms an integral part of the asylum support provided to the Greek Asylum Service (GAS) by the EUAA Greece Operation. It is implemented through regular activities, as set out in this Section, but also additional activities are put in place on an ad hoc basis, when there are concerns or information about shortcomings or a need for additional reviews and quality support.

(i) *EUAA and GAS caseworkers' tasks in relation to each case*

As a preliminary remark, the Agency would like to offer some clarifications as to the role of the caseworkers deployed in the EUAA Greece Operation, who work *within* the Greek asylum procedure and *not as another instance*. EUAA caseworkers are deployed to provide support to the Greek Asylum Service in the context of Operational Plans signed between the EUAA and Greece. They are tasked with assisting in the processing of individual applications for international protection by conducting interviews and drafting opinions (where applicable). Their tasks however do not include drafting and finalising the decisions on those individual applications, which is clearly a responsibility of the competent national authorities in accordance with the EUAA Regulation³. In particular, transcripts of interviews conducted by EUAA caseworkers (and opinions, where applicable), as well as any documents provided by the applicant are submitted to GAS for the consideration of the GAS caseworker, who is assigned to the case. The GAS caseworker, prior to drafting the decision, may request additional information or conduct an additional interview. Moreover, communication with all Greek authorities relevant to the case is under the responsibility of GAS, and not the EUAA caseworker. This workflow gives GAS a full detailed overview of all information and elements on the cases and enables GAS to proceed with all necessary steps in order to finalise the case and draft a decision, as well as coordinate with other authorities, when necessary.

(ii) *SOPs, guidance and templates*

The EUAA and GAS work in close cooperation in order to provide to the caseworkers Standard Operating Procedures (SOPs), guidance and templates addressing the different aspects of their daily work. These include, inter alia, SOPs and guidance on the different procedures for examining an application for international protection, templates for the different types of interviews, as well as guidance on specific types of cases, which are available on the same basis to GAS and EUAA caseworkers in all locations where they are deployed, in order to ensure consistency and a harmonised implementation of asylum processing processes.

² EASO Practical Guide: Personal Interview, par. 1.2.7, p. 4, "*Before beginning an interview it is important that the case officer mentally prepares him/herself by remembering that each case should be considered on its own merits. When mentally preparing for an interview the case officer should ask him/herself which attitudes, thoughts or preconceptions relevant to the case may influence his/her objectivity and make an effort to avoid them.*"

³ See for example recital 17 and Articles 18(2)(j).



A detailed overview of these SOPs, guidance, templates and instructions was provided to you in Annex I of the EUAA's response to the first PAD request. As per IHR's request, this list included guidelines and procedures that EUAA caseworkers must follow when an applicant discloses information that suggests that they might be a victim of trafficking (disclosed to you as document no 1 under the first PAD request) or of a crime perpetrated by members of national authorities (disclosed to you as Annex of the EUAA response to the confirmatory application to the first PAD request).

(iii) EUAA Team Leaders

The EUAA quality review system includes the EUAA Team Leader who oversees a group of five EUAA caseworkers and is available to provide concrete feedback on the specific cases dealt with by the caseworkers. The Team Leader acts as the reference point for the caseworkers on quality issues and cooperates closely with GAS and in particular the GAS Quality Focal Points per location. Team Leaders act also as multipliers for their team regarding information and guidance received during meetings and/or workshops organised by EUAA and/or GAS.

(iv) Monthly meetings of EUAA Team Leaders and GAS Quality Focal Points

Meetings are held on a monthly basis with each Regional Asylum Office (RAO) bringing together GAS and EUAA personnel from this RAO (the GAS Quality Focal Points, the EUAA Team Leaders and the Head of the Office) with GAS and EUAA personnel from Athens (representatives of GAS Training and Procedures Unit, as well EUAA Greece Quality and Procedures Team). During such meetings, without going into specific cases, challenges encountered are discussed, such as vulnerable profiles, the implementation of EUAA and national guidance, SOPs, working instructions and the engagement of caseworkers in capacity building activities.

(v) Training

a. Induction Training

Prior to deployment, EUAA caseworkers follow an approximately 1-month-long induction training programme, aiming to equip them with the knowledge and skills necessary for their job. This induction training consists of two phases:

- Training on the European Asylum Curriculum (EAC) core modules for caseworkers

This part of the programme comprises training sessions on the EAC core modules for caseworkers, namely 'Inclusion', 'Asylum Interview Method' and 'Evidence Assessment'. All modules consist of online studies of an approximate duration 20-25 hours each, as well as a 2 day-long face-to-face training session or webinar.

The aim of the **Inclusion** module is to provide caseworkers with the knowledge and skills necessary to apply the refugee and subsidiary protection criteria in standard cases to determine whether an applicant is in need of international protection. It focuses on the competencies required to carry out the tasks of asylum officials by analysing all the requisites of refugee status and their application in



accordance with the 1951 Refugee Convention and the Qualification Directive⁴, along with all the requisites laid down in the Qualification Directive for subsidiary protection status.

The aim of the **Asylum Interview Method** module is to prepare caseworkers to conduct a personal asylum interview using the asylum interview method to gather sufficient, relevant and reliable information to assess an application. It focuses on the asylum interview method – the structured interview protocol put forward by the EUAA that is based on research relating to structured interview protocols in other domains, such as psychology, law and social studies. This module adapts these protocols to the specific characteristics of the personal interview and the asylum procedure. The focus is on the five stages of the EUAA Asylum Interview Method (prepare; open; free narrative; explore; and closing) and how to manage the psychological, cultural and environmental factors that may influence the interview process.

The aim of the **Evidence Assessment** module is to outline the knowledge, skills and attributes needed to apply the EUAA's structured method of evidence assessment when assessing an application for international protection so that the risk of subjectivity in individual cases is reduced. It explores how the material facts of a case are established through gathering, examining and comparing available pieces of evidence. It outlines the theoretical aspects and the relevant legislation from a practical perspective and applies the evidence assessment methodology that builds around the three different steps of information gathering, credibility assessment and risk assessment.

- On-the-job coaching sessions

Upon the completion of the training on core modules, caseworkers are paired with an experienced caseworker, who they observe while performing their tasks. They are then assigned cases and they start conducting interviews and drafting opinions, while being shadowed by an experienced caseworker. Once they have processed a small number of cases, they participate in an on-the-job coaching session.

On-the-job coaching sessions are organised in small groups (4 caseworkers) and are facilitated by two coaches. For the purpose of these sessions, caseworkers are asked to select and submit one case fully conducted by them. During the session, they receive feedback and they have the opportunity to discuss aspects related to the content of the core modules that still remain unclear, building on the knowledge and skills already acquired during the first part of the training.

b. Training on vulnerability modules of the EAC

Trainings on EAC modules related to vulnerability, such as 'Interviewing Vulnerable Persons'; 'Interviewing Children'; 'Gender, Gender Identity and Sexual Orientation' and 'Trafficking in Human Beings' are being delivered as part of the continuous professional development of caseworkers.

⁴ Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 laying down 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 (recast), OJ L 337, 20.12.2011, p. 9-26.



The aim of the **Interviewing Vulnerable Persons (IVP)** module is to prepare caseworkers to obtain as much reliable information as possible when interviewing vulnerable persons, to professionally follow up on the interview, to safeguard an applicant with special needs and to prepare the case for the next steps in the process. This module focuses on the legal framework and the definition of vulnerability in the context of an international protection procedure. It addresses the applicant's norms and how the normative framework may be used to identify the most common vulnerabilities and the factors that hamper disclosure when interviewing applicants for international protection, with particular focus on torture and other forms of violence and their impact on the victim. This module includes case studies of difficult interview situations involving vulnerable applicants and how to take care of oneself after such an interview.

The aim of the **Interviewing Children** module is to provide caseworkers with the necessary knowledge, skills and attitudes to conduct a professional and effective personal interview with a child. This module focuses on children's developmental stages, the legal and procedural safeguards for children in the international protection process and child-specific interview techniques. Centering on the best interests of the child, this module explains how to assess the maturity of the child before and during the interview in order to adapt the interview to the maturity and situation of each child.

The aim of the **Gender, gender identity and sexual orientation (SOGI)** module is to provide a practical approach on how to best conduct an interview that supports the disclosure of issues relating to gender identity and sexual orientation. This module provides an overview of norms relating to gender, gender identity and sexual orientation, and explores how these norms influence caseworkers and applicants when cases are assessed for international protection. It addresses human rights violations related to gender, gender identity and sexual orientation, and the legal framework to enable practitioners to conduct an evidence assessment that properly considers the particularities of claims involving gender, gender identity and sexual orientation.

The aim of the **Trafficking in Human Beings (THB)** module is to prepare caseworkers who come in contact with victims or potential victims of human trafficking with the knowledge and skills required to detect and handle signs of human trafficking and to prepare and conduct an asylum interview with a victim or potential victim of human trafficking. This module is composed of two levels. The first level raises awareness of victims or potential victims of trafficking and explores the knowledge and skills needed to identify potential victims of trafficking, along with how to handle an initial encounter. The second level focuses on victims of trafficking who may be in need of international protection. It explains how to prepare and conduct an asylum interview with a victim or potential victim of human trafficking and how to approach decision-making in a protection claim involving such a person.

All of the above-mentioned modules consist of online studies (25 hours approximate duration) and a two-day face to face session or webinar.

c. Other training

Aiming to deploy well-equipped caseworkers, the EUAA has developed as part of the EAC a number of modules dedicated to additional knowledge and skills for caseworkers.



Numerous training sessions on the **Inclusion Advanced** module are organized for caseworkers in Greece. The aim of this module is to provide caseworkers with structured and detailed guidance on complex interpretative issues relating to qualification for international protection, focusing mainly on persecution, serious harm (subsidiary protection) and protection from persecution or serious harm. It critically assesses the work of caseworkers in the context of national practice and CEAS-related jurisprudence while applying conclusions drawn from the case law of the Court of Justice of the European Union (CJEU) and the European Court of Human Rights. This module also explores a method of interpreting EU law and international protection law in the absence of guidance from the CJEU when facing complex interpretative issues relating to qualification for international protection.

Apart from the **Inclusion Advanced** module, various other EAC modules are being delivered in the framework of the EUAA Greece Operation, such as the modules on **Exclusion, Country of Origin Information (COI)** and **Management in the Asylum Context**. Additionally, trainings are organised also at operational level to address specific procedures implemented in the specific operation, such as **Relocation**, Best Interest Assessment (**BIA**) **Interview** and **Operational Induction Session** or are delivered by GAS in order to train all personnel working in the Regional Asylum Offices on specific GAS procedures, such as **Safe Third Country**.

A detailed overview of training attended by all persons who have been deployed by the EUAA on the island of Samos as caseworkers since 2021 and until July 2023 was prepared and disclosed to IHR as document no. 2 enclosed with the EUAA's response to the first PAD request.

d. On-the-job coaching

On-the-job coaching for caseworkers is used widely in the EUAA Greece Operation to provide tailor-made support to caseworkers. Following the same methodology as for core modules, caseworkers work in small groups, facilitated by two coaches, on the basis of cases conducted by them. During these sessions, they have the opportunity to discuss about challenges related to dealing with the specific cases, receive feedback and identify ways to further enhance their knowledge and skills. Thematic coaching sessions are being organised, such as **on-the-job coaching sessions dedicated to vulnerability**.

More detailed information on coaching was provided to you through the concept notes for coaching for 2022 and 2023, namely coaching on vulnerability (2022), coaching on exclusion (2022) and coaching on individualised assessment (2023), which were provided to you as Annexes 3, 4, and 2 respectively to the EUAA response to confirmatory application to the third PAD request.

(vi) *Quality Feedback Reports*

The Quality Feedback Report (QFR) as a fixed quality exercise started in 2016 aiming to provide observations on the quality of the work of the EUAA caseworkers in the field. Under the currently applicable embedded model⁵, the QFR is an exercise conducted in cooperation between GAS and the

⁵ "The notion of the 'embedded model' represents an integrated approach to the implementation of the Plan, applicable exclusively with regard to EUAA experts on contract, including remunerated external experts. In



EUAA with regards to a sample of completed cases (interviews, opinions, decisions) analysed anonymously. It covers cases conducted by GAS and EUAA caseworkers. More QFRs are organised during the year, and they may have a thematic or regional focus or be conducted on an ad hoc basis. One annual QFR is conducted every year with representative sample cases from caseworkers from all GAS locations. Since QFRs are conducted jointly between the EUAA and GAS, GAS is immediately aware of the outcome of the exercise and can therefore take any corrective actions it deems necessary in any specific cases.

The main aim of the report is that all caseworkers, including GAS Quality Focal Points and EUAA Team Leaders, will receive specific guidance based on the commented practices identified in the analysed cases. The report identifies gaps, shortcomings, but also good practices regarding the quality of the procedure. The remarks on practices to be avoided include clear, constructive guidance on how the issue should be dealt with in accordance with the national guidance, the SOPs and EUAA practical guides and tools. The report includes narrative sections, which highlight identified good practices and drawbacks of the cases and it incorporates boxes including pertinent extracts from EUAA tools and guidance, such as the IPSN tool⁶, EUAA Country Guidance, Practical Guides, which were utilized in assessing these specific cases. As clarified in the report, it should be read in conjunction with the SOPs and GAS specialised guidance. As of 2023, the key findings of the report are discussed in the form of a podcast, which is distributed to the caseworkers in the whole territory along with the Quality Feedback Report.

The quality review of each sampled case (interview and decision) is conducted with the use of the EUAA Quality Assurance Tool (QAT)⁷. Each caseworker whose case is reviewed receives individualised feedback through the QAT, where all indicators are marked, specified comments are delivered per indicator and the overall quality of the interview and/or opinion is measured.

Furthermore, the QFR includes a statistical part, which aims to inform GAS and EUAA on the overall quality achieved in the geographic/thematic area of the report's focus. The findings of the report feed into the discussions with GAS on defining and prioritising the focus of quality activities, such as trainings and coaching sessions, the need to develop additional guidance, the need to develop, revise or clarify templates or SOPs, the need to organise dedicated workshops or the need to initiate a thematic quality review. Additionally, the good practices and recommendations suggested in the reports are included in the relevant coaching sessions.

accordance with this model, experts on contract deployed as members of asylum support teams, are embedded within the respective national authorities to ensure utmost efficiency, quality and sustainability of the anticipated results. In practice, those experts on contract are seconded by EUAA to national authorities of the host Member State and therefore perform their assignment(s) on the premises of the relevant national authorities (e.g. the National Asylum Service)", EUAA Operational Plan 2022-2024 Agreed by the European Union Agency for Asylum and Greece, Amendment 2, Section 6.4, available at:

https://euaa.europa.eu/sites/default/files/EL_OP_amendment_2_FINAL.pdf.

⁶ Tool for Identification of Persons With Special Needs: <https://ipsn.euaa.europa.eu/ipsn-tool>

⁷ <https://qat-acc.euaa.europa.eu/examination-on-the-substance-of-the-application/personal-interview-form>



(vii) Shadowing

The aim of shadowing interviews is for GAS and the EUAA to have a clear understanding on the positive and negative practices in interview techniques and other technical/practical issues regarding interviews and the implementation of SOPs. It is also a tool to provide direct individualised feedback to caseworkers. It can identify shortcomings and areas for further support in the caseworker's practices and can highlight good practices. It is also an opportunity for the caseworker to ask for personal feedback and clarify issues they encounter in their day-to-day tasks. The shadowing can take place both for the interviews conducted remotely and for the interviews conducted face-to-face. Guidance to the caseworker is provided by the shadower during breaks in the interview and after the interview is conducted. The main aim is quality assurance and preventing issues from arising which would require the rescheduling of interviews. The findings of the shadowers are collected and assessed for the drafting and delivery of a report, which includes a narrative and statistical part. The report feeds into the discussions on new guidance on asylum processes, as well as planning of capacity building activities.

(viii) Annual planning of training and quality activities

On an annual basis, the EUAA in cooperation with GAS conducts a needs assessment exercise to identify the areas of focus and improvement for caseworkers throughout Greece for the coming year. All findings and recommendations from the quality exercises mentioned in this Section are taken in consideration in this needs assessment. Within the context of this annual exercise, other relevant information may be taken in consideration, such as the information submitted to the Agency by the emails of IHR and the IHR/ASFF.

The training plan for the year is set up on this basis and it is regularly updated throughout the year in order to incorporate any additional needs. In parallel with training sessions on EAC modules, on-the-job coaching sessions are included in the training plan and are planned to take place throughout the year, aiming at further enhancing the knowledge and skills of caseworkers.

The 2024 training plan, which covers also Samos caseworkers, includes sessions on vulnerability modules, such as trafficking in human beings, interviewing vulnerable persons, as well as training on gender, gender identity and sexual orientation.

Similarly, quality assurance activities, such as quality feedback reports and shadowing are planned ahead for the year, based on the findings of the needs assessment. In parallel this planning remains flexible in order to include activities that can be organised ad hoc to react on needs that appear in the course of the year, such as the QFR on Samos cases with vulnerability elements conducted in August 2023 (see below under Section IV).



III. EUAA RESPONSE TO THE EMAIL OF 24 NOVEMBER 2022

Through this email you submitted to the EUAA 17 interview transcripts covering 12 cases of applicants for international protection⁸. The interviews took place between May and August 2022.

Following their review by the EUAA at the time, the following steps were taken:

- Quality review

A Quality Feedback Report was issued in December 2022. The exercise included the review of a total of 382 sampled cases from the whole Greek territory, reviewed anonymously, including 34 cases from Samos, for which concrete feedback was given to the respective caseworkers via completed Quality Assurance Tools. The QFR included also statistical information based on quality indicators.

Although the cases attached to IHR's email were not included in the QFR, the work of caseworkers in Samos was sufficiently reviewed, taking into account that 34 cases were reviewed, while on average 3-4 caseworkers were deployed in Samos during the year 2022. Furthermore, the review addressed cases with similar characteristics to those submitted by IHR: Out of 34 cases reviewed from Samos, 5 cases were of applicants from Sierra Leone and 2 cases from Cameroon (same nationalities as the submitted transcripts). Out of these 34 cases, 24 cases included vulnerability indicators. Out of the 24 cases with vulnerability indicators, 4 of them were of applicants from Sierra Leone and 2 from Cameroon. One case out of the 34 included trafficking indicators (applicant from the Democratic Republic of Congo).

- Monthly meetings of EUAA Team Leaders and GAS Quality Focal Points

From November 2022 until the end of June 2023, 7 monthly meetings took place with the participation of the EUAA Team Leader in Samos. Indicatively, it could be mentioned that in November 2022 the participation of the Samos caseworkers in the EUAA training module in Trafficking Human Beings was discussed and in February 2023 issues on cases of applicants with severe health problems were explored.

- Participation of Samos caseworkers in coaching sessions

In the period between November 2022 and May 2023, three of the five EUAA caseworkers deployed in Samos participated in coaching sessions.

IV. EUAA RESPONSE TO THE EMAIL OF 13 JUNE 2023

Through this email, IHR submitted to the EUAA six interview transcripts for an equal number of cases. The interviews took place between April 2022 and February 2023.

⁸ For 5 cases there are 2 interview transcripts, as the time for the first interview was not sufficient, therefore a second interview was scheduled. Additionally, IHR submitted the decision taken by the Greek Asylum Service on one of the cases.



At that time, following their review by the EUAA, the following steps were taken, in continuation and complementarity of the steps mentioned above:

- Shadowing of asylum interviews

After having received the email of 13 June 2023, a shadowing exercise was immediately planned, in order to have a concrete overview of the interviews containing elements of vulnerability which were conducted in Samos and to provide immediate support to the caseworkers. More particularly, from 28 to 30 June 2023, seven interviews were shadowed in person by two EUAA quality personnel in Samos Asylum Service premises. The shadowing sessions occurred during interviews conducted by all EUAA caseworkers present in Samos during the specified timeframe. The shadowing process included a) discussion between the shadower and the responsible caseworker before the start of the interview, b) monitoring the interview without intervention, c) discussion during the breaks with the aim of supporting the quality of the caseworker's work, d) feedback discussion after the end of the interview to highlight good practices and identify possible weaknesses. The aim of the process was to provide immediate feedback and support to the caseworkers.

- Quality review

A quality review exercise focused on cases with vulnerability elements took place in August 2023, directly after receipt of the email from IHR. The report included anonymized and closed cases only from Samos. Three of the cases submitted via email were assessed in this QFR⁹, as per IHR's request. According to the methodology of the quality review, it was not possible to include the rest of the cases, since the quality review is conducted on closed cases, i.e. cases where the final decision by GAS is issued, and for those cases the final decision was not issued yet.

It should be noted that the profiles of the applicants of the cases reviewed in the QFR were similar to the profile of the cases received both via the first and the second email (e.g. victims of trafficking, female genital mutilation (FGM), survivors of physical and psychological violence), as well in terms of nationalities (e.g. Sierra Leone, Cameroon, Sudan, Syria).

- Monthly meetings of EUAA Team Leaders and GAS Quality Focal Points

From July 2023 until the end of March 2024, 9 monthly meetings took place with the participation of the EUAA Team Leader in Samos. Indicatively, in October 2023 issues on trafficking were pointed out, while in March 2024 issues on trafficking specifically for minor applicants were discussed. In November 2023 impediments on exploration of vulnerabilities were described, while in December 2023 the problems of the procedure on medical screening were raised. Throughout these sessions the national guidance on vulnerability, as well as EUAA relevant tools and guidelines (e.g. Country Guidance, IPSN tool) are consistently emphasized, so as to enforce the Team Leader's – and, consequently, his/her team of caseworkers' – awareness and usage.

- Participation of EUAA Team Leader in Workshops





Regular workshops for EUAA Team Leaders and GAS Quality Focal Points were organised by the EUAA and GAS. After the workshops EUAA Team Leaders and GAS Quality Focal Points act as multipliers informing respectively their teams in the different locations. Among the different workshops organised in 2023, it is relevant to note the workshop on Country Guidance on Somalia, which included specific information on vulnerability profiles such as FGM, sexual and gender-based violence (SGBV), child marriage and forced marriages (November 2023) and on Evidence Assessment (November 2023).

- Participation of Samos caseworkers in coaching sessions

In the period between June until December 2023, four of the five caseworkers deployed in Samos participated in coaching sessions.

- Fundamental Rights Officer of the Greek Minister of Migration and Asylum

In December 2022, the Greek Ministry of Migration and Asylum appointed a Fundamental Rights Officer at the Ministry. Soon after his appointment, the EUAA liaised regularly both with the newly appointed Fundamental Rights Officer and with GAS, in order to be informed and updated on the reporting procedures and requirements for the Fundamental Rights Officer of the Greek Ministry of Migration and Asylum.

Instructions of GAS regarding pushbacks were shared by GAS on 31 March 2023. This document was provided to you as Annex 1 of the EUAA's response to the confirmatory application to the first PAD request.

In September 2023 the complaints mechanism of the Fundamental Rights Officer of the Greek Ministry of Migration and Asylum became operational and available to applicants for international protection¹⁰. For this purpose, specific instructions were provided by GAS to all caseworkers, including the EUAA caseworkers, to inform applicants about the complaints mechanism in cases where the latter mention that they were subject to fundamental rights violations, including pushbacks.

In follow up of this mechanism, the EUAA has requested increased reporting from all EUAA deployed caseworkers: internal reporting to the EUAA is requested, when they encounter such cases in the course of an asylum interview. The EUAA provides an overview of these reports to GAS, to the Fundamental Rights Officer of the Greek Ministry of Migration and Asylum and to the EUAA Fundamental Rights Officer.

It should also be added that the Agency is in the process of establishing an escalation mechanism, under which cases of violations of fundamental rights and international protection obligations, will be reported. For more details, please see below under Section V, heading "*Article 18(6)(c) of the EUAA Regulation*".

V. EUAA RESPONSE TO THE OMBUDSMAN COMPLAINT

¹⁰ <https://migration.gov.gr/fro-complaints/>



In the complaint to the European Ombudsman, IHR and ASFF set out in Section 5 a list of violations of obligations in the conduct of personal interviews allegedly conducted by EUAA caseworkers in Samos.

Seven interview transcripts corresponding to an equal number of cases are attached to the complaint. The interviews took place between June 2022 and March 2023. Two of these cases were also submitted with the email of 13 June 2023.

The EUAA sets out below its considerations regarding the information provided in the complaint to the European Ombudsman.

(i) *General considerations*

a) Methodology

According to the complaint, the conclusions of IHR and ASFF are based on the analysis of the transcripts of 68 cases dated between 8 February 2021 and 26 April 2023, i.e. a period of 27 months. Out of these 68 transcripts, only 7 are attached to the complaint and they refer to interviews that took place during a much more limited period of 10 months, between June 2022 and March 2023. The sections of the complaint under the heading “*Evidence*” include references to percentages and conclusions, which are – according to the complaint – drawn from their analysis of these 68 transcripts. However, since the complaint has given access to the EUAA only to 10% of these 68 interviews, covering a bit more than one third of the period in reference, it is not possible for the Agency to give concrete and justified responses to the statistics and information provided in the paragraphs of Section 5 of the complaint under the heading “*Evidence*”.

b) Data protection and confidentiality

The emails from IHR and the complaint include copies of transcripts, including personal data of applicants, i.e. not only personal data such as name, surname, date of birth, telephone number, information on family members and composition, but also details about the personal history and claims of the persons. These transcripts are shared in full, in non-anonymised versions. IHR/ASFF mention in the emails and in the complaint that the cases refer to “clients”, and therefore the Agency considers that they are acting in their capacity of authorised representatives of the respective data subjects when processing their personal data.

For the purposes of responding to this complaint, the EUAA performed an ad hoc summarised quality review of the interview transcripts submitted by IHR/ASFF (through the two emails and the complaint), aiming to review quality and identify good and bad practices demonstrated in the transcripts. In order to have a comprehensive view of the file, only for specific cases, clarifications were requested from GAS and the Reception and Identification Service (RIS), given that the EUAA does not have access to the Ministry’s databases. This information was requested by using the case number or personal number (not through sharing transcripts)¹¹. The clarifications were received in the form of information, whereas the documents themselves (e.g. decisions or other documents from the file) were not

¹¹ Only in one case where the case number and personal number proved to be wrong, the person’s name was used.



accessed by the EUAA due to data protection considerations. These steps were taken in order to allow the Agency to provide substantiated responses to specific points raised in the complaint (i.e. on cases with trafficking indicators and with torture indicators). Such examples of the caseworkers' practices and extracts of the submitted transcripts are included in the response, while specifically responding below to each section of the complaint.

(ii) *Section 5.2 of the complaint*

a) Confidentiality

In the first part of Section 5.2.2, the complaint confirms the practice of the caseworkers to explain to the applicants at the beginning of the interview the confidentiality assurances. In particular, the respective extracts of the interview template, which clearly explain to the applicant at the beginning of the interview the notion of confidentiality and which are drafted in accordance with the respective guidance provided in the EASO Practical Guide on Personal Interview¹², are included in footnote 41 of the complaint.

EUAA caseworkers are instructed to make sure that they follow the instructions on confidentiality and room set up in accordance with EUAA guidance: *"For reasons of confidentiality, an applicant will normally be interviewed alone or in the company of his/her legal representative or guardian in the case of unaccompanied minors", "The case officer should make certain checks in advance into the suitability of the room and sitting arrangements. Sitting arrangements should reflect the principle that the main line of communication is between the case officer and the applicant and give the interpreter only a supporting role"*¹³.

As a second point, the complaint states that serious doubts are raised regarding the suitability of the interview rooms to ensure appropriate confidentiality due to the fact that asylum interviews are conducted in the facilities of the Closed Controlled Access Center (CCAC) of Samos. Reference is made to the Decision in Strategic Inquiry OI/3/2022/MHZ of the Ombudsperson¹⁴.

The EUAA is well aware of the respective Decision of the Ombudsperson and has carefully assessed the recommendations included therein. However, it should be noted that the focus of the Ombudsman's decision is on the reception conditions for applicants who reside in the CCACs. The requirement for confidentiality in the context of the asylum interview has a very specific and concrete scope, namely that the caseworker is bound by confidentiality¹⁵ and that the personal interview shall

¹² EUAA Practical Guide: Personal Interview, par. 2.4.4. p. 8, *"It is important to stress what confidentiality really means. Many applicants come from countries in which there is no presumption that a government will guard the privacy of its citizens. Therefore, it may be difficult for some to understand the concept of 'confidentiality'. The case officer should also remember that the applicant may have good reasons to be hesitant to disclose information if he/she believes it is not confidential. The applicant might fear others will harm him/her, or he/she may fear for the lives and safety of family members and friends."*

¹³ EASO Practical Guide: Personal Interview, par. 1.3.2, p. 5.

¹⁴ EU Ombudsperson, Decision in Strategic Inquiry OI/3/2022/MHZ, 07 June 2023, para. 48.

¹⁵ 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 (recast), Art. 48.



take place under conditions which ensure appropriate confidentiality¹⁶. The Ombudsperson's Decision does not address the asylum context and makes no reference to confidentiality. Therefore, it is not clear how the assessments and recommendations of the Ombudsperson's Decision are of relevance to confidentiality-related aspects of asylum interviews.

EUAA caseworkers are deployed in the context of the "embedded model". Within this context, the caseworkers perform their assignment(s) on the premises of the national authorities¹⁷ and not in EUAA premises.

Furthermore, the complaint quotes the EUAA Handbook on Evidence Assessment: *"The environment in which an interview takes place may constitute a factor of distortion. The interview requires a quiet room with normal temperature and a calm setting which transmits the message 'you are in a safe place'. This unfortunately is not the case in many different national contexts, as interviews are conducted in hotspots or transit zones. With national administration being under pressure, sometimes the facilities used are not designed for this purpose (e.g., containers)."*¹⁸

Containers (prefabricated office units) used for interviews in Samos have two separate rooms, with air-conditioning, and a toilet between the two rooms. Each interview takes place in a separate room, where only the persons involved in the interview are present, ensuring personal contact and confidentiality. The Handbook quoted above forms part of the EUAA training on Evidence Assessment, which is one of the EUAA core modules included in the Induction training for caseworkers. The aim of this training module is to teach the caseworkers the appropriate techniques, in order to appropriately manage interviews that need to be conducted in non-ideal situations.

b) Atmosphere of trust

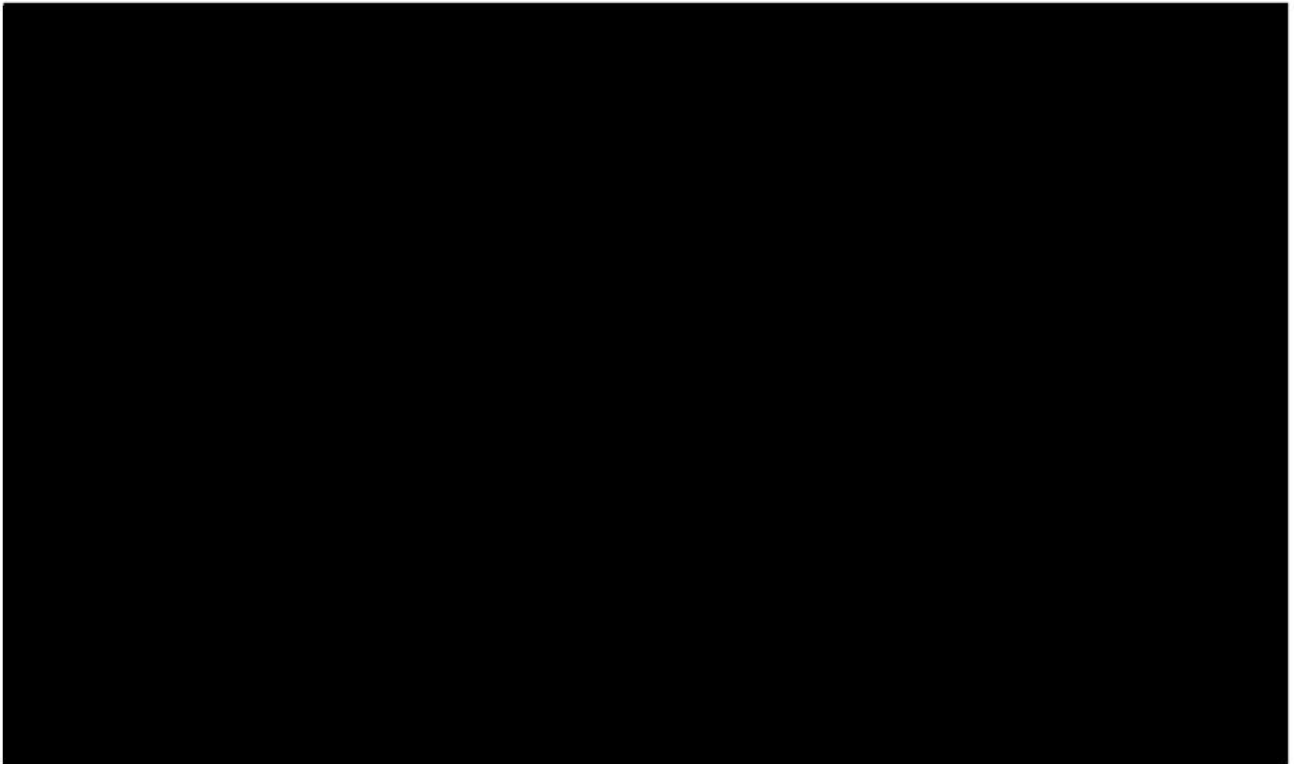
In the second part of Section 5.2.2, the complaint states that the organisations' analysis of the 68 transcripts shows mixed results regarding the behaviour of EUAA caseworkers on establishing and maintaining an atmosphere of trust. Reference is made to 22% (15 cases) of positive examples and to at least 13% (9 cases) where EUAA caseworkers did not show empathy when applicants disclosed experiences of human trafficking and/or serious violence.

As noted above, the EUAA finds itself unable to comment on the quality of cases, when the cases or representative extracts of cases are not presented to the Agency. Furthermore, it should be noted that the complaint's figures are only partial: they present the results of their analysis only for 35% (24) cases. Among these cases they have observed substantially more positive than negative behaviours. Despite the partial sample included in the complaint and the negative findings presented, in fact several positive examples have been identified therein. Further to the positive examples shared by the complaint, the EUAA's review of the submitted cases identified positive examples in the cases reviewed. Representative ones are set out below:

¹⁶ 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 (recast), Art. 15 par. 2.

¹⁷ Operational Plan 2022-2024 Agreed by the European Union Agency for Asylum and Greece, Amendment 2, Section 6.4.

¹⁸ Footnote 44 of the complaint: EUAA, Handbook Evidence Assessment, Version 6.0, May 2022, p. 43.



c) Explaining the reason for follow-up questions

In the third part of Section 5.2.2, the complaint recommends the introduction of a “*Standard to explain the reason for follow-up questions*”¹⁹ referring to “*guiding the applicant through the process of the personal interview by giving explanations on “each step and action of the personal interview”*” and making reference to the EASO Practical Guide: Personal Interview²⁰.

The full content of the third paragraph of the cited paragraph 2.1 Practical Guide: Personal Interview reads as follows:

*“The interview should be regarded as a dialogue in which the applicant should do most of the talking. The case officer’s verbal and non-verbal communication should make clear to the applicant that he/she is in focus. The case officer should also adjust his/her communication according to the needs of the applicant. In practice this means using an appropriate language, giving information in a way that the applicant is able to understand, picking up signs from non-verbal communication and taking the intercultural issues into account. Subtly mirroring the applicant’s body language, posture and pace (tempo) could aid in fostering an atmosphere of trust. **Moreover, by explaining the role of each person present and each step and action in the process**, the case officer could reduce any feelings of tension and anxiety.”*²¹

The text reads as “*each step and action in the process*” and not “*each step and action of the personal interview*”, as incorrectly cited in the complaint.

¹⁹ p. 9 of the complaint.

²⁰ Footnote 36 of the complaint: EASO, Practical Guide: Personal Interview, para. 2.1.

²¹ EASO, Practical Guide: Personal Interview, para. 2.1, p. 6 Bold is added here for purposes of emphasis.



The full cited paragraph 2.1 refers to the establishment of an atmosphere of trust and gives information to the caseworker on how to develop a good communication atmosphere.

In addition, in the same EASO Practical Guide on Personal Interview, under section 2.4. “Provide information to the applicant” it is mentioned that: “It is important that the applicant understands the process. Therefore, giving information is important. **On the other hand, too much information can be overwhelming for an applicant. The case officer should adjust and explain the relevant information according to the individual applicant.** Below are examples of information which should be given in all cases:

- 2.4.1. Explanation on the aim of the interview [...]
- 2.4.2. Information about the interview framework and structure [...]
- 2.4.3. Information about breaks [...]
- 2.4.4. Information about confidentiality [...]
- 2.4.5. Information about the obligations of the applicant/duty to cooperate [...]
- 2.5.6. If applicable, information about on the recording of the interview [...]
- 2.5.7. Information about the written report [...]²².

Furthermore, section 5.4 “Inform the applicant about the next stages of the procedure” explains the information that needs to be provided to the applicant about the next steps of the procedure during the closing of the interview²³.

Indeed, according to the above the caseworker should inform the applicant about the process of the interview, the next stages of the procedure on his/her application of international protection, including, for example, introductory information about the aim and scope of the interview, information on the possibility to appeal in the second instance etc., as described above and included in the respective EASO Practical Guide.

In addition, in accordance with the interview template, the applicant is informed about the process of the interview in relation to the scope of the questions that will be asked and the themes to be discussed: “The interview includes different parts and themes. Every time we move on to a new theme I will inform you about the next set of questions”. This part is also seen in all submitted transcripts. Furthermore, caseworkers use clarifying and reflective questions during the interview as they are of importance when the caseworker needs to elicit from the applicant a correct description of the actual event²⁴.

Regarding the structure and content of the interview in particular, guidance to the caseworkers is extensively provided in the next parts of the Practical Guide.

According to the EUAA methodology, “The case officer should always introduce the frame of the topic before he/she continues with open or more focused questions. The introduction to the focused theme helps the applicant to keep going in the right direction, allowing the case officer to keep the interview focused and to receive relevant information without asking too many questions”²⁵.

²² EASO, Practical Guide: Personal Interview, para. 2.4, p. 8 ,p. 9 Bold is added here for purposes of emphasis.

²³ EASO, Practical Guide: Personal Interview, para. 5.4, p. 23.

²⁴ EASO, Practical Guide: Personal Interview, para. 3.5.4, p. 13.

²⁵ EASO, Practical Guide: Personal Interview, para. 3.4.1, p. 12.



Furthermore, the following instructions are provided to EUAA caseworkers:

*“After assessing the information and redrafting your interview plan, you should explore all relevant topics, using a structured approach. A structured approach will help to create predictability for the applicant, and to contribute to better understanding and improved concentration and memory. (...) You create a structured interview by listing the topics you need to explore further, **and introducing the topics to the applicant**, one by one, in a funnel approach.*

The funnel approach

The funnel approach is an effective way to sequence questions and it should be repeated for every topic where you need information that is more detailed. You should begin with broader questions and continue with questions that are more specific.

One of the challenges in this phase is to keep exploring the same topic until you have sufficient information instead of moving from one topic to another only scraping the surface. The applicant him/herself may also introduce new topics before you have finished. In such situations, you need to consider if you will follow up right away or if you should just make a note and return to it later. Either way, a structured approach will help you to keep track, and if you have to go back, it is easier to refer back to a topic that has already been established (introduced to the applicant)”²⁶

Regarding introducing a focused theme, the caseworkers are taught the following: *“You have learned that to be able to elicit reliable information in the personal interview, you have to cross a Grand Canyon of differences in culture, gender, education, religion as well as individual experiences and beliefs. One of the most efficient communication tools to reduce the gap between yourself and the applicant, and facilitate understanding, is to introduce all new topics, giving information about the topic in question, **and sometimes explain why this topic is relevant for the application**”²⁷*

After the above, it is demonstrated that the EUAA interview techniques include a comprehensive provision of information and explanations during the interview, such as on the process of the interview, on the next steps of the asylum procedure, on the themes that will be discussed during the interview, proceed to clarifying questions during the probing phase etc.²⁸ This allows the applicant to understand the scope, content and reasons of questions asked and to ensure that they are not confused during the interview. This is the reason why no such standard as ‘to explain the reason behind every follow up question’ as is generally suggested in the complaint, was deemed necessary to be included in EUAA guidance on interview techniques.

In addition, we would like to flag at this point that the complaint bases the existence of this standard on the General Recommendations to the Istanbul Protocol, which refers to a different procedure of the asylum interview. Nevertheless, when it comes to vulnerable persons, the EUAA provides specific guidance, tools and respective training modules (see in detail below in following sections of this reply).

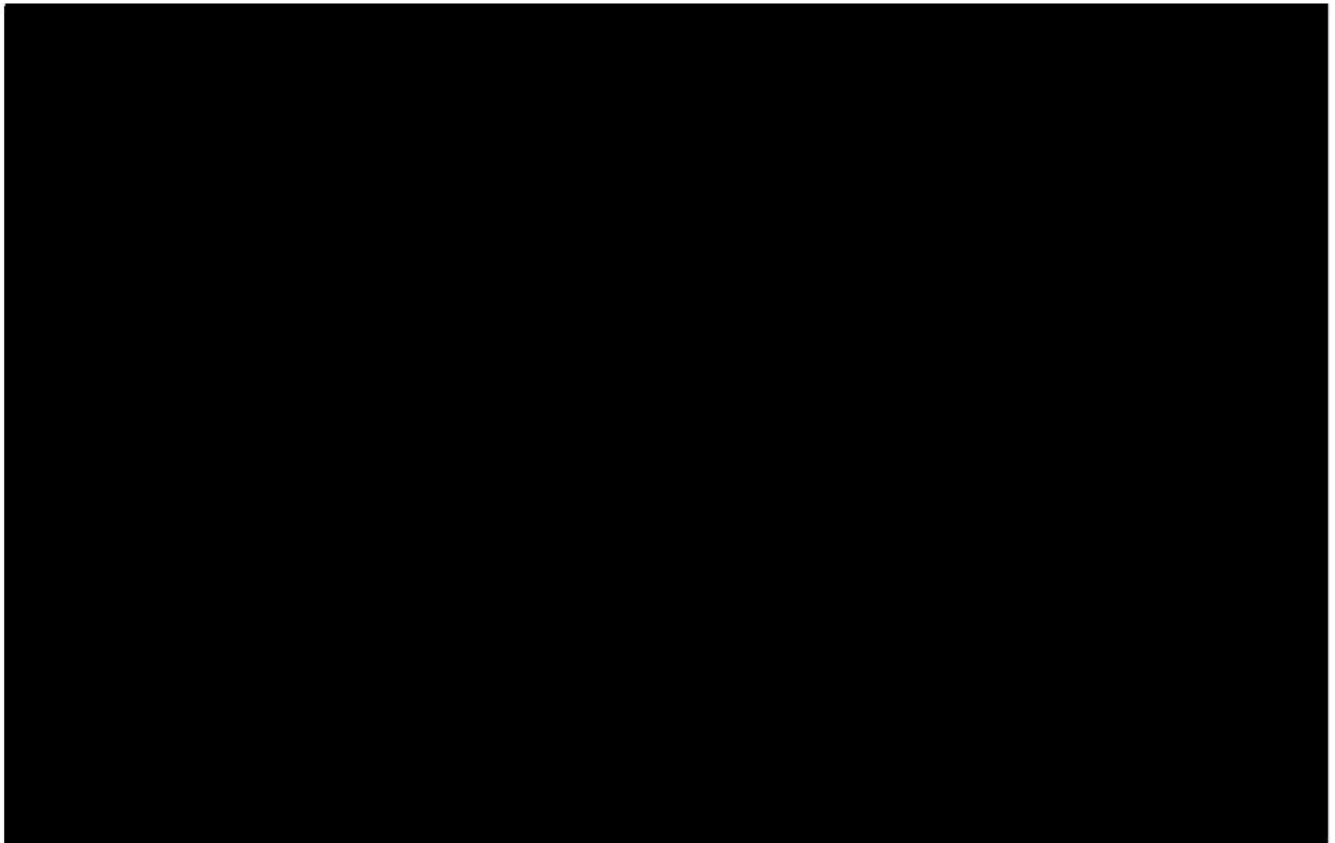
²⁶ EUAA Handbook Asylum Interview Method, para. 5.2, p. 47.

²⁷ EUAA Handbook Asylum Interview Method, para. 4.1, p. 38.

²⁸ See in detail under the chapters of the EASO Practical Guide on Personal Interview.



Following the above we would also like to point out that the EUAA suggested approach is followed in the submitted transcripts and indicative good examples regarding the introduction of topics are set out below:



(iii) Sections 5.3, 5.4, 5.5 and 5.6 of the complaint

Sections 5.3, 5.4, 5.5 and 5.6 of the complaint make reference essentially to the handling by EUAA caseworkers of three types of cases: cases of trafficking in human beings, cases of torture and cases of pushbacks. In order to address the arguments in these sections, the EUAA would like to first outline some introductory considerations on the applicable legal framework and on vulnerability in the context of the asylum interviews and then proceed with commenting on the points raised in the complaint regarding the three types of cases.

a) CEAS-relevant instruments

The Common European Asylum System (CEAS) sets out common standards and co-operation to ensure that asylum seekers are treated equally in an open and fair system – wherever they apply. The system is governed by five legislative instruments. Among these instruments are the three directives below:



- The Asylum Procedures Directive (APD)²⁹ aims at setting out the conditions to create a coherent system to ensure that decisions on applications for international protection are taken efficiently, fairly and are of good quality. It includes dedicated provisions on applicants in need of special procedural guarantees due, inter alia, to their age, gender, sexual orientation, gender identity, disability, serious illness, mental disorders or as a consequence of torture, rape or other serious forms of psychological, physical or sexual violence. It outlines the need to provide adequate support to them to ensure that they can substantiate their application. It also includes dedicated provisions on guarantees for unaccompanied minors.
- The Qualification Directive (QD)³⁰ sets the standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection in order to provide a uniform status for refugees or for persons eligible for subsidiary protection. It also includes provisions on the content of the protection granted.
- The Reception Conditions Directive (RCD)³¹ ensures that common standards for reception conditions (such as housing, food and clothing and access to health care, education or employment under certain conditions) are provided for asylum seekers across the EU to ensure a dignified standard of living in accordance with the Charter of fundamental rights.

As noted above, EUAA caseworkers in Samos are deployed to support the Greek Asylum Service, the authority responsible in Greece for the implementation of the procedure of international protection. Their tasks are implemented in the context of the asylum interview at first instance, for which the relevant applicable legal instruments under CEAS are the Asylum Procedures Directive and the Qualification Directive.

A number of tasks and obligations based on the Reception Conditions Directive are attributed in the complaint to the EUAA caseworkers in the context of the first instance asylum interview, in particular in Section 5.4.1 of the complaint. Indicatively, in this context the complaint states that “(...) *the EASO Guidance on Reception Conditions serve as comprehensive resources for EUAA Caseworkers*”.

It should be clarified that the EASO Guidance on Reception Conditions³² in its Introduction sets out its purpose and scope as follows:

“Purpose and scope of the guidance

The overall objective of this guidance is to support Member States in the implementation of key provisions of the RCD while ensuring an adequate standard of living for all applicants for international protection, including those with special reception needs.

The document has been designed to serve multiple purposes:

²⁹ 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 (recast), OJ L 180, 29.6.2013, p. 60-95.

³⁰ Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 laying down 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 (recast), OJ L 337, 20.12.2011, p. 9-26.

³¹ 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), OJ L 180, 29.6.2013, p. 96-116.

³² [EASO Guidance on reception conditions - operational standards and indicators\[3\].pdf \(europa.eu\)](#)



- (iv) at policy level, it serves as a tool to support reform or development and serve as a framework for setting/further development of reception standards;
- (v) at operational level, it can be used by reception authorities/operators to support the planning/running of reception facilities or to support staff training.

*In addition, the guidance could serve as a **basis for the development of monitoring frameworks** to assess the quality of national reception systems.”³³*

Therefore, it is clear that this is a document not addressed to caseworkers, but to reception authorities aiming to assist them at their tasks, both at policy and at operational level.

It is well understood that IHR/ASFF, through their operational involvement in Samos, identify shortcomings and inefficiencies in the implementation of procedures by RIS, the authority responsible in Greece for registration, identification and reception of applicants for international protection, and the Greek National Public Health Organisation (EODY), the state medical actor in the reception centers. This is underlined in the complaint, among others, by making reference to obligations of the Member States in the provision of reception conditions, in particular to vulnerable persons. However, IHR/ASFF proceed in their analysis to allocate ‘failures’ to EUAA caseworkers in the context of the asylum interview and obligations arising from the reception framework.

It should be underlined that the Agency in its operations does not replace the Member States, who remain at all times responsible for ensuring compliance with the CEAS instruments. Furthermore, the EUAA caseworkers are deployed in support of GAS (and not RIS or EODY). While the asylum interview and EUAA caseworkers do have a role to play on vulnerability, this role has limitations based on the EUAA mandate and it is focused on the provision of special procedural guarantees in order to create the conditions necessary to allow the vulnerable applicant to present the elements needed to substantiate their application for international protection. It is in this context that the Agency provides its comments on the types of cases below.

b) Vulnerability considerations in the context of the asylum interview

The Asylum Procedures Directive has specific focus on vulnerability addressing the issue of the special procedural guarantees. In particular, Article 24 paragraph 3 sets out that: “Member States shall ensure that where applicants have been identified as applicants in need of special procedural guarantees, they are provided with adequate support in order to allow them to benefit from the rights and comply with the obligations of this Directive throughout the duration of the asylum procedure.”

Furthermore, recital 29 of the same Directive clarifies that “Certain applicants may be in need of special procedural guarantees due, inter alia, to their age, gender, sexual orientation, gender identity, disability, serious illness, mental disorders or as a consequence of torture, rape or other serious forms of psychological, physical or sexual violence. Member States should endeavour to identify applicants in need of special procedural guarantees before a first instance decision is taken. Those applicants should be provided with adequate support, including sufficient time, in order to create the conditions necessary for their effective access to procedures and for presenting the elements needed to substantiate their application for international protection”.

³³ EASO Guidance on Reception Conditions, Introduction, p. 7.



The Greek legal framework³⁴ foresees that applicants who are in need of special procedural guarantees, must be provided with sufficient support, so that they can enjoy their rights. Recommended forms of adequate support are, in particular, the possibility of additional breaks during of the personal interview³⁵, the possibility for the applicant to move during the personal interview, if this is needed due to his/her health condition, as well as leniency to minor inaccuracies and contradictions, as long as they are related to his/her state of health.

It is outlined that the interview template, jointly agreed between GAS and EUAA, includes at the introduction the following point: *“you have the right to ask for a short break if you feel tired or unwell during the interview”*³⁶.

Regarding the competence of caseworkers to conduct interviews with vulnerable persons, Article 15 paragraph 3(a)³⁷ of the Asylum Procedures Directive refers to the competence of the caseworker to take account of the personal and general circumstances surrounding the application, including the applicant’s cultural origin, gender, sexual orientation, gender identity or vulnerability. This competence is cultivated via the above-mentioned capacity building plan explained in detail in Section II on ‘EUAA quality review and training system and its application in Samos’ above, which includes among others training, coaching, shadowing, workshops and quality review exercises.

In terms of supporting the caseworkers, who deal with cases of vulnerable asylum applicants, the use of the EUAA IPSN tool³⁸ is suggested via the coaching sessions, shadowing of asylum interviews and Quality Feedback Reports. In the tool all the categories of vulnerable asylum applicants are listed and specific recommendations are provided for the asylum interviews. The IPSN tool aims to support the caseworker in addressing the special procedural guarantees in the context of the first instance interview focusing on this specific step of the asylum procedure.

Indicative examples of following such procedural guarantees (such as additional breaks, moving in the room) from the reviewed transcripts are outlined below:



³⁴ Law 4939/2022, art. 72.

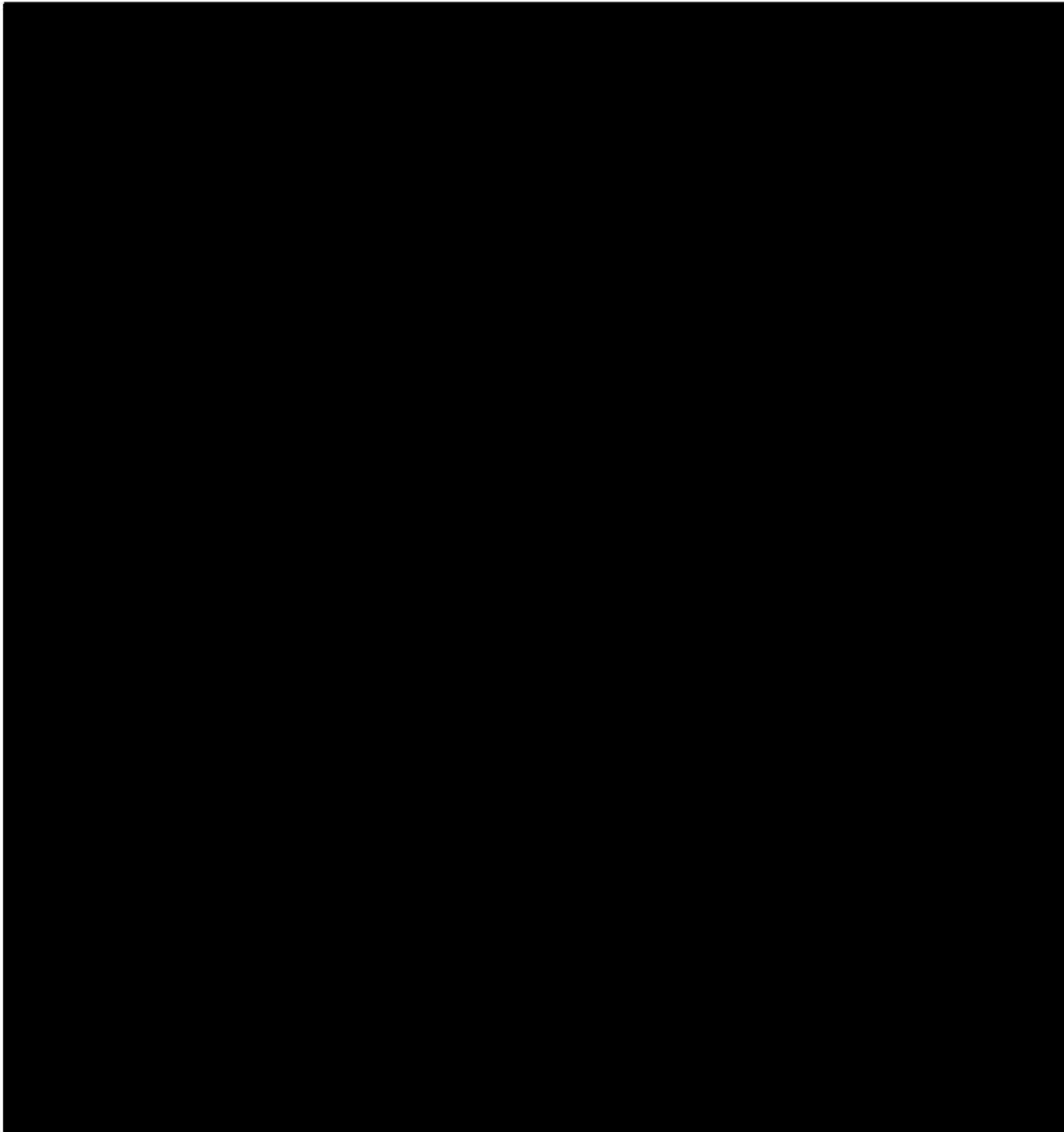
³⁵ Law 4939/2022, art. 82.

³⁶ Point 6 in the introduction of the interview template.

³⁷ Article 15 par. 3 a) of the Asylum Procedures Directive:

“3. Member States shall take appropriate steps to ensure that personal interviews are conducted under conditions which allow applicants to present the grounds for their applications in a comprehensive manner. To that end, Member States shall:
(a) ensure that the person who conducts the interview is competent to take account of the personal and general circumstances surrounding the application, including the applicant’s cultural origin, gender, sexual orientation, gender identity or vulnerability;”

³⁸ <https://ipsn.euaa.europa.eu/ipsn-tool>



c) Cases of applicants with indicators of trafficking in human beings (THB)

The National Referral Mechanism is a mechanism of the Greek State, run in particular by the National Center for Social Solidarity (EKKA) of the Greek Ministry of Social Cohesion and Family Affairs³⁹. EKKA is the competent authority for the comprehensive information and support of the victims.

³⁹ <https://ekka.org.gr/index.php/en/ethnikos-mixanismos-anaforas-en>



It should be noted that the obligation for filling out the referral form in the context of reception lies with EODY (state medical organisation). In order to avoid having two completed forms for the same case, when the caseworker identifies THB indicators during the interview, he/she informs the GAS Quality Focal Point of Samos Regional Asylum Office and he/she communicates with EODY to confirm whether a referral form is completed. If the form for any reason is not completed yet, then it is filled out by the EUAA caseworker and submitted to GAS.

EKKA has delivered targeted sessions on THB, during which caseworkers were trained on how to complete the form and what information should be delivered to the applicants so as to consent or not to this procedure. In accordance with this training, the information in the referral form is not only submitted to the applicant, but also explained and translated to him/her in the course of the interview. In the submitted cases, where the form was explained to the applicant, information provided by the caseworkers was in accordance with the training.

The EUAA followed up with RIS on the submitted cases and enquired on the existence of referral forms regarding the submitted cases. Based on the information received by RIS, in all of submitted cases (14 out of the 14 cases) with THB indicators, the referral form has been completed. In three of the cases the applicants were informed on the referral mechanism during the interview by the EUAA caseworker (as written also in the respective transcripts). In the vast majority of the other transcripts, the caseworker did not state the referral form during the course of the interview, since it was already completed by an EODY doctor and was already included in the file of the applicant.

It is also noteworthy that the EUAA is currently developing and intends to launch in 2024 a referral toolkit on vulnerability accompanied by relevant guidelines and respective training sessions, which are expected to take place for all relevant actors.

After considering the above, the conclusion of the complaint that *“73% of survivors of human trafficking were not identified”* is not substantiated, since it appears that only the transcripts have been assessed and not the full file of the applicant. The cases submitted and reviewed by the EUAA include the referral form. Such forms serve as recognition of the existence of indicators of trafficking and are also considered by the caseworker who is in charge of the case.

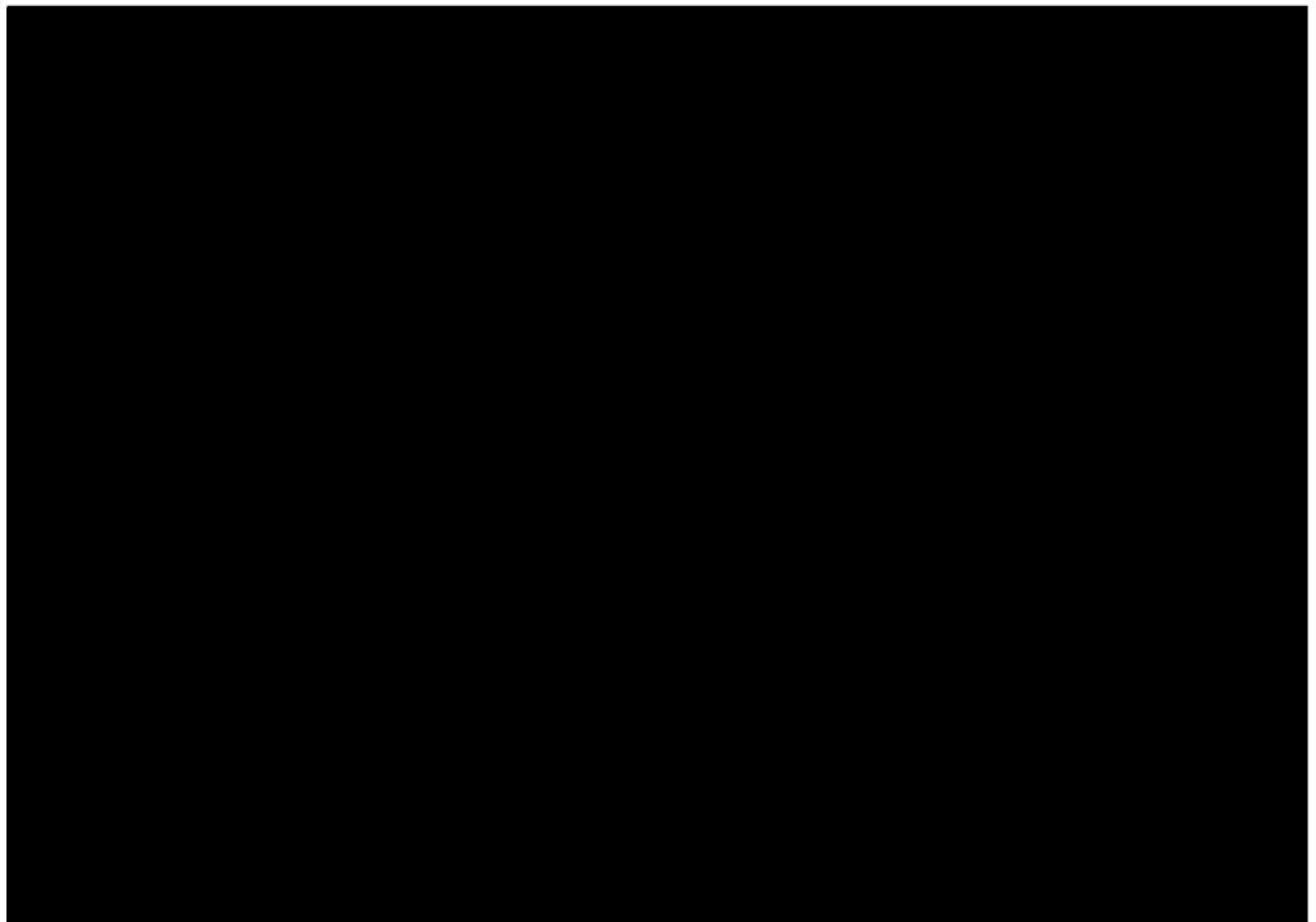
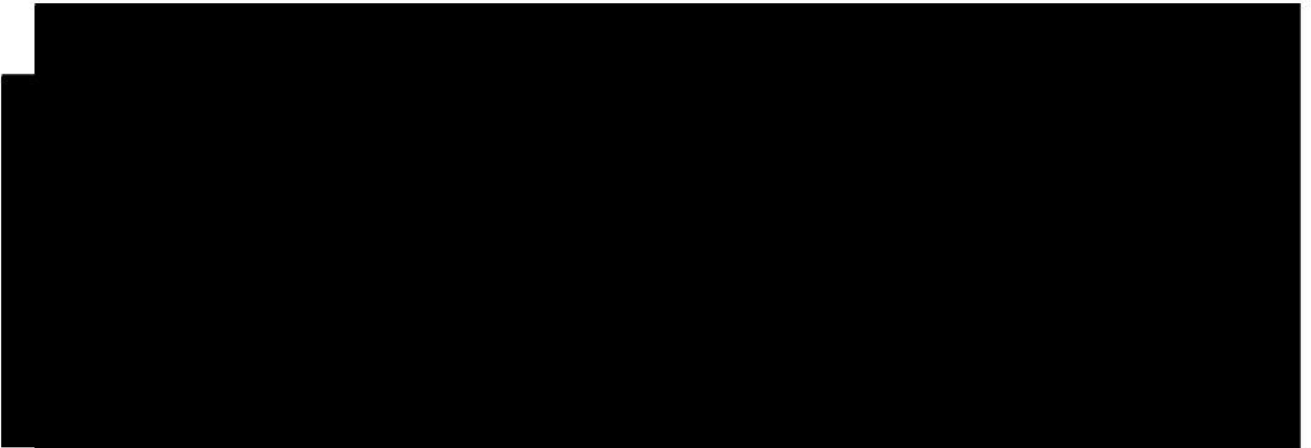
Regarding the questions presented in the complaint that formed part of the analysis in Annex 3 of the complaint, the quantitative questions in relation to trafficking, such as questions 20: *“Was the applicant identified as a survivor of human trafficking?”* and 21: *“Was the applicant informed of their rights as a survivor of human trafficking?”* were not analyzed correctly given that only the interview transcripts were used for this analysis and not elements of the full file that show that indeed the THB referral forms had been submitted in the file by the other responsible relevant actors in the field.

Additionally, regarding question 19 *“Did the caseworker explain why these follow-up questions were being asked?”*, it is recalled that there is no obligation to explain why follow-up questions were asked (see also comments in Section V, ‘section 5.2 of the complaint’: ‘explaining the reason for follow up questions’).



Furthermore, after a review of EUAA internal statistical information, it is pertinent to note that for the majority of the submitted THB cases the opinion of the EUAA caseworker proposed that GAS grants refugee status to the applicant. Consequently, it could be inferred that since the caseworker had received all needed information during the interview, further exploration of the THB indicators was not required.

Indicative examples of correct, discreet and sensitive exploration of THB indicators found in the submitted transcripts are set forward below:





d) Cases of applicants with indicators of torture

- Regarding **identification** of victims of torture

In Section 5.4.2 of the complaint the following is stated *“This pattern persists for survivors of torture, with an identification rate of only 6% of survivors of torture (2 out of 33 cases). This is despite the fact that clear indicators of torture were present during 79% of interviews. Moreover, in 90% of the interviews of survivors of torture the applicants explicitly disclosed their experience. The data further underscores the gap between disclosed information and identification”*, while the Istanbul Protocol is also cited in multiple occasions in the document.⁴⁰

It should be underlined that under the Istanbul Protocol, trained clinicians should examine all signs and *sequelae* of physical and psychological abuse and produce a medico-legal affidavit documenting their conclusions on whether a person could be identified as victim of torture or not.

It is indeed a deficiency that in Greece for the time being no specialized body or practitioners dedicated to the identification of victims of torture operate consistently, similar to the previous ‘Center for Identification for victims of torture’. Such an institution or other specialized body or practitioners could offer expert support, as well as issue relevant certifications in accordance with the provisions of the Istanbul Protocol. Such documentation would be included in the asylum file as medical evidence and would be duly considered by the caseworker. EUAA Greece Operations has posed the issue of lack of prior identification of victims of torture to GAS.

In addition to the aforementioned actions by the EUAA in the context of the Greece Operation, it needs to be added that the EUAA in the Mapping report on Victims of Torture, identification, support and examination of claims⁴¹ has made specific recommendations to Member States on a referral mechanism for victims of torture: *“Ensuring a comprehensive approach in supporting VoT will require the creation of a formal referral system in which all stakeholders are aware of their responsibilities. A MoU between relevant stakeholders is useful. Regular cooperation with medical and mental health professionals and other services helps establish channels for the prompt referral of applicants before and after the personal interview, or for any follow-up that may be needed”*⁴².

The same report also clarifies that *“when it is considered difficult for a victim of torture to provide detailed and coherent statements, more weight is often given to other available evidence, in particular medico-legal assessments. However, the actual weight given to medico-legal reports in the overall evidence assessment may vary depending on the method that was used for the medical assessment.*

⁴⁰ See for example p. 9 and p. 12.

⁴¹ EUAA Mapping Report: Victims of torture: Identification, support and examination of claims, 2023, https://euaa.europa.eu/sites/default/files/publications/2023-03/2023_Victims_of_Torture_Identification_support_and_examination_of_claims_Mapping.pdf

⁴² EUAA Mapping Report: Victims of torture: Identification, support and examination of claims, para. 6.1, p. 43.



This is due to the fact that medico-legal assessments conducted in a standardised manner and in accordance with the Istanbul Protocol take into consideration the psychological, emotional and physical signs of torture or other inhuman treatments, as well as the impact of such treatment on the person.”⁴³

The referral toolkit on vulnerability planned to be launched in 2024 and mentioned under the preceding section is also of relevance in this context.

In the absence of such a specialized system of identification of victims of torture the complaint incorrectly shifts the burden of identification to the caseworker. To this end, it needs to be recalled that the aim of the asylum interview as such is not to perform evaluations and issue documentation on whether the applicant is a victim of torture.

According to Article 4 paragraph 4 of the Qualification Directive, *“The fact that an applicant has already been subject to persecution or serious harm, or to direct threats of such persecution or such harm, is a serious indication of the applicant’s well-founded fear of persecution or real risk of suffering serious harm, unless there are good reasons to consider that such persecution or serious harm will not be repeated.”* The caseworker therefore has to assess and take this into account, among other factors. Caseworkers do identify and explore during the interview material facts that can be linked with past problems or threats, past persecution events, which in turn can be the result of torture or other forms of violence, and special procedural guarantees and adequate support measures can apply, as described above in the respective sections of this reply.

In the said context of Greece, caseworkers follow EUAA training, in particular the module on Interviewing Vulnerable Persons, in order to acquire *“the general knowledge of problems, which could adversely affect an applicant’s ability to be interviewed, such as indications that the applicant may have been tortured in the past”*.⁴⁴ Furthermore, specific guidance regarding interviewing victims of torture is included in the EUAA tools⁴⁵ and provided to the EUAA caseworkers via coaching, training and quality review.

⁴³ EUAA Mapping Report: Victims of torture: Identification, support and examination of claims, para. 3.3.1, p. 27.

⁴⁴ Requirement from the Asylum Procedures Directive, Article 14 paragraph 1 last sentence: *“1. (...) Persons conducting personal interviews of applicants pursuant to this Directive shall also have acquired general knowledge of problems which could adversely affect an applicant’s ability to be interviewed, such as indications that the applicant may have been tortured in the past.”*

⁴⁵ For example, see EASO Practical Guide: Personal Interview, par. 1.2.5 (h). p. 3. *“The case officer should be aware that a victim of such traumatic experiences may experience particular difficulties in recounting his/her application for international protection. The difficulty may arise from the sensitive nature of the experiences that are to be recounted and any previous experience that the applicant may have had with officials in power. Therefore, the case officer, who notices in his/her preparation that the applicant has been subjected to such serious forms of violence or has shown signs of trauma, should remind him/herself to factor this in during the interview and show particular care and sensitivity in such circumstances. The case officer should be aware and accept that for some traumatic events the applicant may not be able or willing to provide details.”*



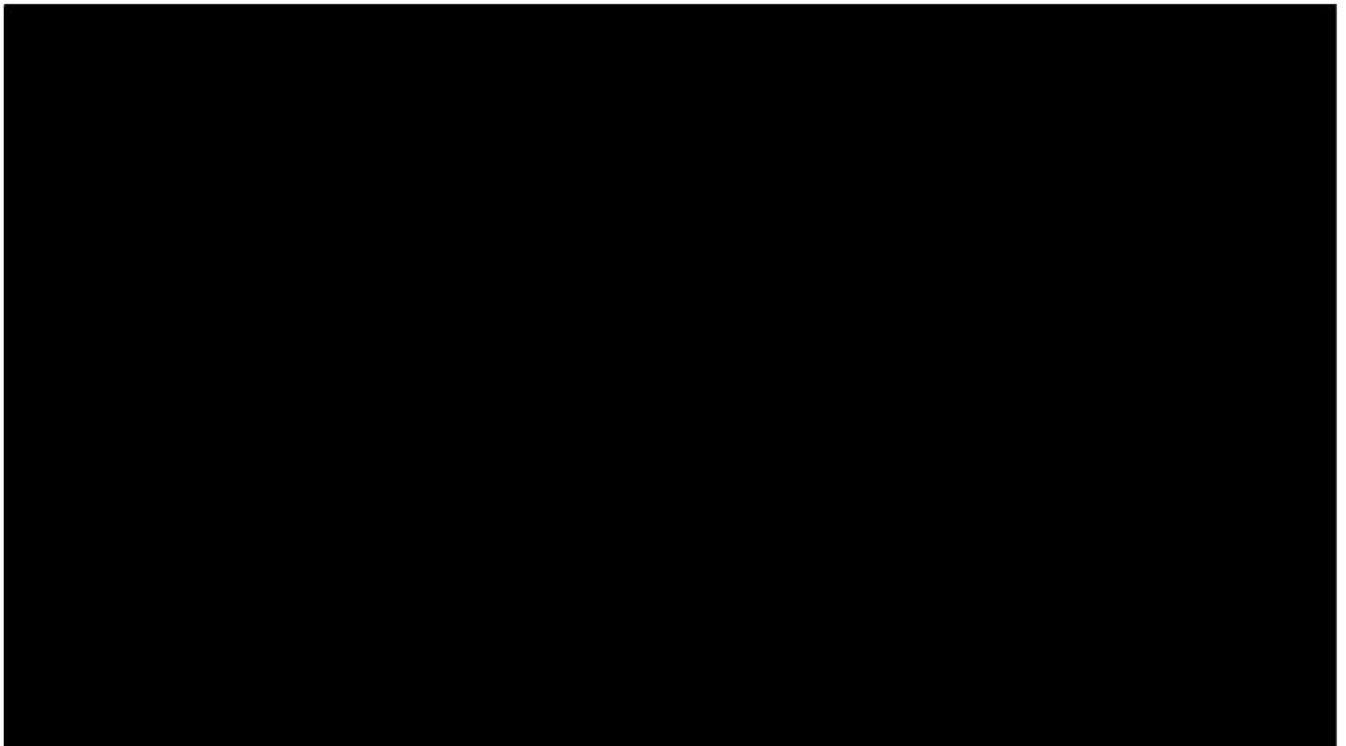
- Regarding **interviewing** victims of torture

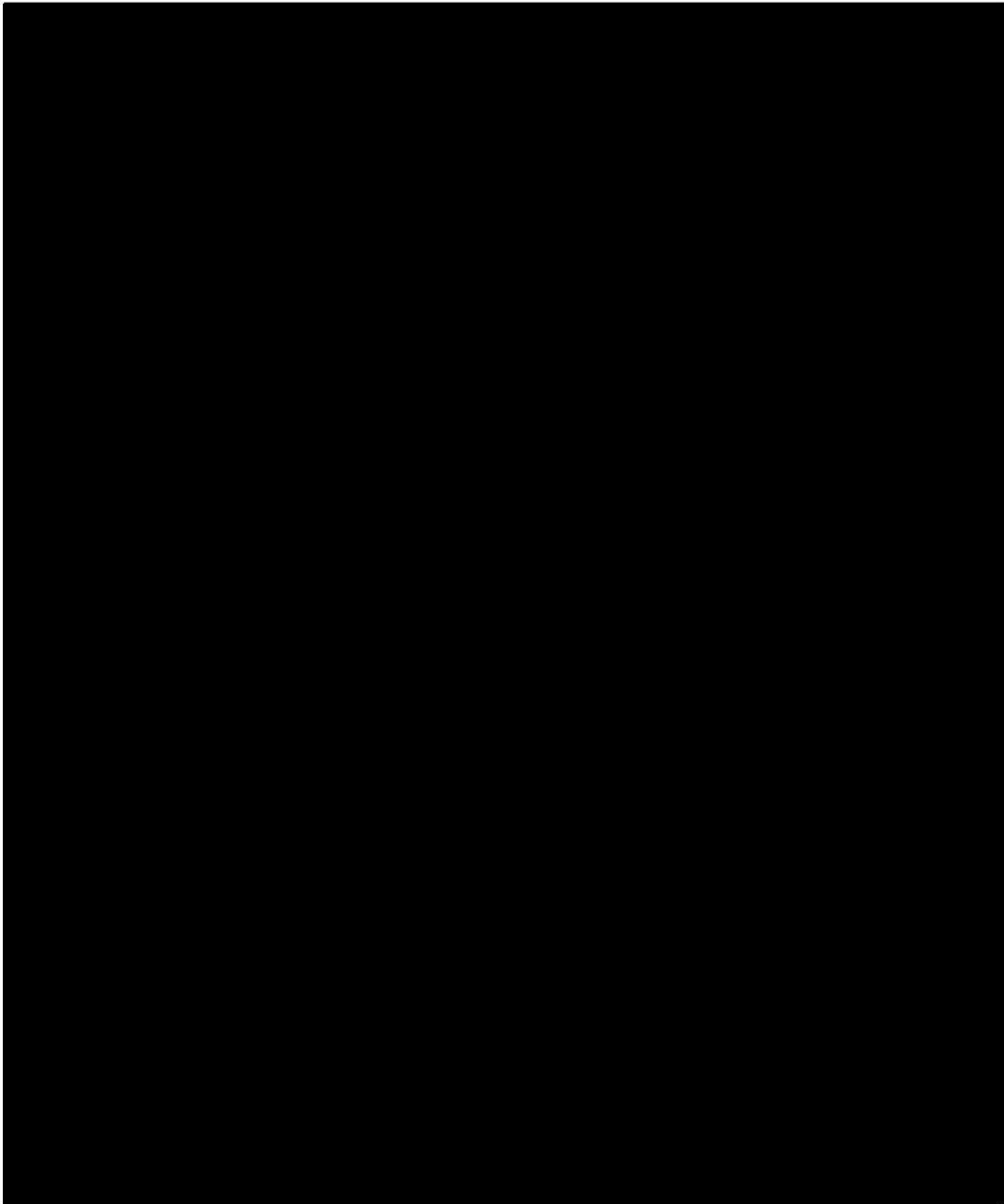
In Section 5.5.2. the complaint states that *“in 20% of the cases, no follow-up questions were asked when torture experiences were explicitly disclosed or indicated”*. Also in this point, as noted in Section V (par. ‘Methodology’) above, the Agency’s possibility to address fully the statement is limited, as only a few of the transcripts analysed by IHR/ASFF have been made available to it.

The analysis of IHR/ASFF is based on a number of questions, provided in Annex 3 of the complaint. Regarding the questions in relation to survivors of torture, the following comments are to be made, when reviewing the questions in relation to the scope of the EUAA caseworker’s duties, as explained above. In relation to Question 27 *“Did the caseworker ask why these follow-up questions were being asked?”*, it is noted that there is no obligation to explain why follow-up questions are being asked (see also comments in Section V, ‘section 5.2 of the complaint’: ‘explaining the reason for follow up questions’).

In relation to question 28 *“Was the applicant identified as a survivor of torture?”* (and similar question 4 on qualitative analysis: *“Was the applicant of international protection identified as a survivor of human trafficking, pushbacks, torture, or serious violence?”*), the Agency notes that there is no such identification process in the sense of an official recognition/certification of survivors of violence included in the asylum interview context.

Conversely, a review of the few transcripts provided suggests that the caseworkers have conducted sufficient exploration of the indicators of torture for the purposes of the asylum interview. Indicative examples are presented below:





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e) Incidents of pushbacks

In Section 5.3, the complaint states that *“In 78% of the cases analysed, EUAA caseworkers did not ask questions that would allow the applicants to disclose their experiences of pushbacks”*, without stating the number of cases in which such questions should have been posed but were not.

In Section 5.5.3 the complaint states that *“instances where pushbacks were explicitly disclosed lacked follow-up questions in more than 61% of the cases concerning pushbacks”*.

In Section 5.6 the complaint makes reference to EUAA caseworkers’ provision of information to applicants for international protection regarding their additional rights as survivors of incidents of serious violence.

According to the Asylum Procedures Directive *“when conducting a personal interview on the substance of an application for international protection, the determining authority shall ensure that the applicant is given an adequate opportunity to present elements needed to substantiate the application in accordance with Article 4 of Directive 2011/95/EU as completely as possible. (...)”*⁴⁷.

Article 4(3) of the Qualification Directive, mentioned above, foresees that:

“The assessment of an application for international protection is to be carried out on an individual basis and includes taking into account:

(a) all relevant facts as they relate to the country of origin at the time of taking a decision on the application, including laws and regulations of the country of origin and the manner in which they are applied;

(b) the relevant statements and documentation presented by the applicant including information on whether the applicant has been or may be subject to persecution or serious harm;

(c) the individual position and personal circumstances of the applicant, including factors such as background, gender and age, so as to assess whether, on the basis of the applicant’s personal circumstances, the acts to which the applicant has been or could be exposed would amount to persecution or serious harm;

(d) whether the applicant’s activities since leaving the country of origin were engaged in for the sole or main purpose of creating the necessary conditions for applying for international protection, so as to assess whether those activities would expose the applicant to persecution or serious harm if returned to that country;

(e) whether the applicant could reasonably be expected to avail himself or herself of the protection of another country where he or she could assert citizenship.”

⁴⁷ Art. 16 “Content of a personal interview”, Asylum Procedures Directive.



More particularly, EUAA guidance regarding the asylum interview notes that *“the very purpose of the interview techniques and attitudes summarised in this EASO practical guide is to enable the case officer to gather accurate and reliable information about the applicant’s reasons for applying for protection in a fair and efficient way”*.⁴⁸ As it is also explained to the applicant in the introduction part of the interview, *“the purpose of today’s interview is to explore the reasons why you left your country of origin and you are seeking of international protection”*⁴⁹.

Furthermore, according to the EUAA guidance, *“depending on the amount of information already available, the case officer should try to identify in his/her preparation the material facts of the application. Material facts are facts that are directly linked to the definitions of a refugee or a person eligible for subsidiary protection. However, the case officer should keep an open mind and take into consideration that new facts might emerge in the process”*.⁵⁰

As it can be concluded based on the set framework, aim and scope of the interview, the caseworkers’ task is to identify and follow up on information that is material to the claim, connected to the reasons why the applicant does not wish to return to their country of origin and/or safe third country. As a consequence, incidents of violence that took place in the country of asylum and are not related to the expressed fear for persecution or risk of serious harm in the country of origin, are not directly relevant to the examination of the need for international protection and thus not material to the claim.

Regarding the provision of information in cases of pushbacks, Section IV above describes the communications with GAS and the Fundamental Rights Officer of the Greek Ministry of Migration and Asylum on the information to be provided to applicants. The EUAA has provided to IHR the written instruction of GAS to EUAA and GAS caseworkers on information to be explained to applicants when pushbacks are mentioned in the course of registrations or interviews (as Annex of the EUAA response to the confirmatory application to the first PAD request). The instruction is dated 31 March 2023. The complaint in Section 5.6.2 notes that in none of the cases reviewed the applicants were informed of the possibility to launch a complaint before any competent authority, noting that *“this stands in contrast”* to the instruction above. However, it should be noted that, according to the complaint, the 68 cases analysed by IHR/ASFF cover the period between 8 February 2021 and 26 April 2023, so covering less than a month after the communication of this instruction. The cases presented to the EUAA in the two emails and in the complaint cover the period June 2022 and March 2023, so all pre-dating the said instruction.

The currently applicable instruction to both GAS and EUAA caseworkers, after the establishment in September 2023 of the complaints mechanism of the Fundamental Rights Officer of the Greek Ministry of Migration and Asylum, is that applicants who make reference to incidents of pushbacks should be advised to report such incidents to the Fundamental Rights Officer of the Greek Ministry of Migration and Asylum, following the procedure stated in the webpage of the Greek Ministry of Migration and Asylum. In addition, EUAA caseworkers are asked to inform also the EUAA about such incidents. As noted in Section IV above, the EUAA provides an overview of these reports to GAS and to the Fundamental Rights Officer of the Greek Ministry of Migration and Asylum.

⁴⁸ EUAA Practical Guide: Personal Interview, para. 4, p. 15.

⁴⁹ Point 3 of the introduction in the submitted transcripts.

⁵⁰ EUAA Practical Guide: Personal Interview, para. 2.1.3., p. 2.



Please see also below, in the Agency's response to Section 6.3 of the complaint, further information on the different internal EUAA mechanisms.

(iii) Section 5.7 of the complaint

Section 5.7 the complaint has the title *"EUAA Caseworkers' Risk to Violate the Principle of Non-Refoulement"* and states that *"The fact that in a high number of transcripts survivors of pushbacks were prevented from disclosing additional information is very concerning"*.

As a preliminary remark, the Agency recalls that in accordance with its mandate and the Operational Plan signed between the EUAA and Greece, the EUAA does not engage in border management activities.

Moreover, the Agency contests this statement in the complaint. It is highlighted that in none of the cases submitted did the caseworker prevent an applicant from disclosing such information⁵¹.

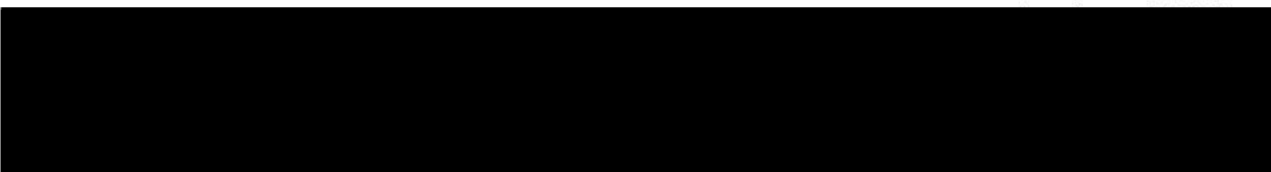
As explained above in Section II, EUAA caseworkers are deployed in support of the Greek Asylum Service and their tasks do not comprise the full tasks of a GAS caseworker. EUAA caseworkers who conduct interviews keep a written transcript of the full interview, which is also recorded. All documents and information that they receive from the applicant are duly documented. The full file of every case handled by an EUAA caseworker is transmitted to GAS in its entirety. Therefore, all information is brought promptly to the attention of GAS. It is the GAS caseworkers who are mandated with issuing the decision on the case.

Additionally, the Agency also refers to the preceding Section of this letter, and in particular the parts regarding the complaints mechanism of the Fundamental Rights Officer of the Greek Ministry of Migration and Asylum.

(iv) Section 6.3 of the complaint

In your letter you claim that the EUAA lacks a "monitoring mechanism" to identify mistakes made by EUAA "employees".

As a preliminary remark, the Agency would like to clarify that in accordance with Article 19(1) of the EUAA Regulation, apart from experts from the Agency's own staff, asylum support teams can also comprise experts from Member States or seconded from the Member States, as well as *"other experts not employed by the Agency"*. It should be noted in this regard that EUAA caseworkers working in support of national authorities in Samos form part of the latter category and are therefore not EUAA "employees". Nevertheless, all asylum support team members are bound to abide by the Code of





Conduct for persons participating in EUAA operational support activities. A decision of the Executive Director on the procedure of following reports of violations of the Code of Conduct is also in place. We note in this regard that both documents were disclosed to IHR in full as Annex III of the EUAA's response to the first PAD request.

Secondly, it should be noted that the EUAA Regulation introduced enhanced obligations in the area of fundamental rights protection, including the obligation (now expressly mentioned) to adopt a code of conduct for experts participating in asylum support teams (Article 58) and the obligation to set up a complaints mechanism (Article 51).

Moreover, the Regulation also introduces the possibility for the Executive Director to suspend or terminate, in whole or in part, the deployment of asylum support teams where, after consulting the fundamental rights officer, the Executive Director considers that there are violations of fundamental rights or international protection obligations by the host Member State that are of a serious nature or are likely to persist (Article 18(6)(c)).

These different mechanisms, while aimed at ensuring that no fundamental rights violations go unreported, are however different in terms of their scope, as will be explained below.

a) The EUAA complaints mechanism

Article 51 of the EUAA Regulation requires the Agency to set up a complaints mechanism to ensure that fundamental rights are respected in all of the Agency's activities. Paragraph 2 of the same article however specifies that "**Any person who is directly affected by the actions of an expert participating in an asylum support team, and who considers that his or her fundamental rights have been violated due to those actions, or any party representing such a person, may submit a complaint in writing to the Agency.**"

Pursuant to the above, complaints may therefore only be submitted by persons directly affected by the actions of asylum support team members which they consider to be in breach of their fundamental rights, or by their representatives. While any party may therefore submit a complaint on behalf of a complainant (i.e. the person directly affected) with their consent, the complaints mechanism is not the appropriate channel for any entity (whether a non-governmental organisation, a member of the public or an EUAA staff member or asylum support team members) to independently bring to the Agency's attention – and without the consent of the person directly affected - alleged violations of fundamental rights. Moreover, a complaint will only be admissible if it concerns the actions of asylum support team members. Host Member State officials do not form part of asylum support teams, and therefore any complaints concerning the actions of host Member State officials would in principle be deemed inadmissible.

As regards the timeline for the adoption of the complaints mechanism, the Agency notes that while it is its responsibility to set up the mechanism, it is the responsibility of the EUAA Fundamental Rights Officer to implement the mechanism, as provided in Article 49(3) of the EUAA Regulation. The complaints mechanism could not therefore be established prior to the appointment of the Fundamental Rights Officer. Moreover, the Agency has over the past two years conducted extensive consultations with stakeholders (including the European Border and Coast Guard Agency, the Fundamental Rights Agency, national human rights institutions, the European Commission, the EUAA



Fundamental Rights Officer and the EUAA Consultative Forum amongst others) in the preparation of the rules for the complaints mechanism. The procedure for the adoption of those rules is now underway and it is foreseen that the complaints mechanism will be established in the coming weeks and will become immediately operational. The Agency will include information on the complaints mechanism on its website, in particular information about how complaints can be submitted, as soon as the mechanism becomes operational.

b) The Code of Conduct for experts participating in asylum support teams

As noted previously, the Agency already has in place since 2016 a Code of Conduct for persons participating in its operational support activities. All asylum support team members are bound to abide by the Code of Conduct for persons participating in EUAA operational support activities. A decision of the Executive Director on the procedure of following reports of violations of the Code of Conduct is also in place. We note in this regard that both documents were disclosed to IHR in full as Annex III of the EUAA's response to the first PAD request.

However, the Agency is currently concluding internal consultations to revise the existing Code of Conduct, prior to formal submission to the Fundamental Rights Officer and the Consultative Forum for consultation in accordance with the EUAA Regulation.

It should be underlined however that the Code will be applicable to asylum support team members, not host Member State officials.

c) Article 18(6)(c) of the EUAA Regulation

Article 18(6)(c) of the EUAA Regulation provides that the Executive Director shall, after informing the host Member State, suspend or terminate, in whole or in part, the deployment of asylum support teams where, after consulting the fundamental rights officer, the Executive Director considers that there are violations of fundamental rights or international protection obligations by the host Member State that are of a serious nature or are likely to persist.

Pursuant to the above, the Agency is in the process of establishing an Escalation mechanism through which information received by the Agency, irrespective of its source or origin, concerning alleged violations of fundamental rights and international protection obligations by a host Member State or its officials will be channelled to the escalation mechanism and escalated as necessary internally, as well as with national authorities, with a view to assessing whether the conditions for the application of Article 18(6)(c) are satisfied.

It is foreseen that the Escalation mechanism will be fully operational in all Member States where the Agency provides support in the course of 2025.

In conclusion, we would like to thank you for your continued interest in the EUAA's activities, and we hereby trust to have informed you on outstanding points of interest regarding the operational and technical assistance provided by the EUAA to the Greek authorities in Samos.



Should you have any remaining questions, then we kindly invite you to address your queries directly to the functional mailbox: greece.operations@euaa.europa.eu.

Yours sincerely,

Nina Gregor
Executive D

