

Dear friend,

As an organization which advocates for the human rights of gay, lesbian, bi, trans and intersex refugees in Greece, and with the conviction that human rights are universal and undivided, we welcome you to our country.

This short guide, is at your disposal, in case you need to apply for asylum protection in Greece, so that you are aware of your rights. Therefore, you should know that:

According to Law **4636/20219**, Article 10, paragraph d, you can apply for asylum, if you belong to:

*“a group shall be considered to form a particular social group where in particular: Depending on the circumstances in the country of origin, a particular social group might include a group based on a common characteristic of **sexual orientation** (gay, lesbian or bisexual). Sexual orientation cannot be understood to include acts considered to be criminal in accordance with national law. Gender related aspects, including **gender identity** (trans), shall be given due consideration for the purposes of determining membership of a particular social group or identifying a characteristic of such a group;”*

Therefore, according to the legislation mentioned above, you have the right to apply for asylum protection, based on your sexual orientation or your gender identity, if in your native country, your life is endangered, your well-being, your freedom, or if you are in danger of being physically harmed or mistreated due to being a gay, lesbian, bi or trans individual.

According to the provisions of the same law (*Article 46*), the Greek authorities are not entitled to detain you solely on the grounds that you are seeking international protection, or that you have entered the country illegally or remain without a permanent residence permit.

Detentions can only be made exceptionally after an individual examination:

- a)** in order to verify the data of the identity or origin or nationality of the person,
- b)** in order to identify the data on which the application for international protection is based, which would otherwise be impossible to obtain, in particular where there is a risk of escape,
- c)** if there is a risk to national security or public order, at the reasoned discretion of the competent authority. In any case, if the measure of your detention is deemed necessary, you should be aware that this is an important reason for speeding up the process of examining your appeal.

According to Article 53 of the same law, after six months from your asylum application (*if the first-degree decision has not been made yet*) you are entitled to have access to work. Also, according to **Article 55** of the same law, the authorities must provide you with the so-called **Temporary Number of Insurance and Healthcare for Foreigners (PAAYPA)**, on the basis of which you have access to the healthcare.

You should keep in mind that you can be included in the vulnerable groups if you are a minor, a direct relative of shipwreck victims (parents and siblings), a

disabled person, an elderly person, if you are pregnant, if you are a victim of human trafficking, if you have a serious illness, mental illness or mental disability, if you have suffered torture, rape or other serious forms of psychological, physical or sexual violence, or if you are a victim of genital mutilation.

Moreover, according to **Article 67**, in addition to vulnerable groups (*as mentioned above*), if you seek asylum protection because of your sexual orientation or gender identity, you are entitled to special guarantees.

Also, according to the same article, appropriate measures are taken by the staff of the places where you live to avoid violence and gender-related violence, including the gender identity dimension (*i.e., if you are trans*), sexual abuse and harassment inside the accommodation centers.

If your appeal is negative in the first degree you have the right to reexamination in the second degree:

- a)** if it has been found unfounded by the normal procedure within **30 days**,
- b)** if it has been rejected by the expedited procedure within **20 days**,
- c)** if it has been deemed in the reception and identification process or at the border within **10 days**, and,
- d)** if deemed inadmissible within **20 days**. For the needs of the examination of your secondary appeal, **it is possible to file a memorandum at**

most 3 days before the examination of your request, either by you or by your authorized lawyer. In case of rejection in the second degree, you have the right to appeal in court (*request for annulment*) to the competent Administrative Court, within **30 days**.

You should also know that:

1. According to the jurisprudence of the Administrative Court of Appeal of Piraeus (401/2019), you have the opportunity to apply for international protection not only because of your sexual orientation (gay, lesbian, or bisexual) or your gender identity (trans), but also due to harassment, threats or other violations you have suffered as a result of your imputed sexual orientation or gender identity.

2. According to the jurisprudence of the Administrative Court of Athens (245/2020), the fact that you may not have stated that you are gay, lesbian, bisexual or trans during your interview in the first degree is not a sufficient reason to reject your request in the first degree (*in fact, this is confirmed by relevant case law of the EU Court*).

So, if you did not state in the first degree that you are gay, lesbian, bisexual, trans or intersex, you can do it in the second degree.

3. According to the case law of the **Court of Justice of the EU** (*Judgment of 2.12.2014, Major Composition Section of the CJEU, Cases C-148,149,150 / 13*):

a) the evaluation of statements and documents or other evidence submitted in support of asylum applications through questioning should not be based on stereotypes about homosexuals, bisexuals or trans persons;

b) questions should not be based on sexual practices of an applicant person.

4. If, in particular, you are trans, based on relevant cases law of the **Magistrates Courts of Thessaloniki (444E/2018)** and **Mytilene (136/2018)** you have the right to request a change of your data regarding the gender and the name you identify, under law **4491/2017**.

We hope all your expectations are satisfied, and have a safe life with the dignity and respect you and all people deserve and we remain at your disposal.



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LGBTQI+ REFUGEES IN GREECE

a short guide

