

CHILDREN CAST ADRIFT



THE EXCLUSION
AND EXPLOITATION
OF UNACCOMPANIED
MINORS (UAMs)

NATIONAL REPORT:
GREECE

ELINA SARANTOU
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NOVEMBER 2019

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[1]

Introduction

[1.1] Mapping a continuum of exclusion

In 2015 and 2016 an estimated 2.3 million third-country nationals entered the European Union (EU),¹ 1,377,349 of those arriving in Greece, Italy and Spain, while 1,030,173 arrived through the Greek-Turkish maritime border.² It was a “crisis” of numbers, but predominantly a “crisis” in reception management. Still struggling in the wake of the longest and most serious economic crisis in the EU’s history, Greece was obviously not ready to face the huge inflows of refugees and migrants of the last few years and had to adjust legislation and establish additional reception services to manage this new reality.

Amid one of the largest humanitarian flows to Europe, non-governmental organisations (NGOs) and civil society mobilised in an unparalleled manner. They played a crucial role in ensuring access to all the services that migrants might have needed and to complement – and, at times, even substitute – those provided by national authorities.

Having arrived in Europe, the journey of the refugees, who have already suffered enormous difficulties to reach what they consider a better and safer place, is far from over. A new journey starts across Europe, through the maze of its member states’ bureaucracy and procedures to seek protection, asylum, or simply the right to remain here. A long journey that – while it may not (always) endanger their lives – will certainly test their resilience, and that, for the luckiest ones, may eventually lead to inclusion in the host society.

Being displaced involves more than just a change of physical location. It entails a dislocation of many aspects of normal life, a violent disruption in the individual’s sense of “belonging”.³ Unaccompanied minors – most frequently adolescent boys in our case – are particularly susceptible to finding themselves physically, mentally, and socially “out of place” during this – hopefully transitional – period of their lives. Families are divided,

1. European Parliament: EU Migrant Crisis: facts and figures, <http://bit.ly/2JtbkTz>. All sites accessed on 9 May 2019 unless otherwise stated.

2. UNHCR, Refugees and Migrants Sea Arrivals in Europe, <http://bit.ly/2HaCL3e>.

3. Sarah Maguire, “Putting adolescents and youth at the centre,” *Being Young and Out of Place*, special issue, *Forced Migration Review* 40 (August 2012).

social bonds are broken, education is disrupted, and children are called upon to make a dangerous journey on their own.

They need to be accompanied on this difficult physical and cultural journey by competent professionals, experienced and willing public authorities, and suitable resources. This is very often not the case. Most unaccompanied and separated minors seem to move through this maze completely neglected by the child protection system, which – while existent in theory and on paper, in legal documents and governmental decisions – is non-existent in practice. Their fate is left to luck, without proper guidance, protection, and safety, left to their own devices for long periods of time in their effort secure their means of survival. Notwithstanding the unprecedented numbers and the unpreparedness of the EU member states, states are obligated to ensure that children in the context of international migration are treated first and foremost as children. The best interest of the child should be a priority whether on the individual scale, or collectively. While steps have been taken in the right direction, they are too few and are taken too slow.

Successful integration is defined by a continuum of protective and inclusive measures. What we have mapped in Greece is a continuum of exclusion.

[1.2] Background on protection procedures

Long before the economic and so-called refugee crisis, refugee and unaccompanied minors' protection has been a longstanding and thorny issue for the Greek authorities.

The Greek government has been repeatedly and strongly criticised over the years by several European and international bodies⁴ for not

4. European Committee for the Prevention of Torture, "Report to the Government of Greece on the visit to Greece carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 23 to 29 September 2008," <http://bit.ly/2HauVXa>; UN Special Rapporteur on Torture presents preliminary findings on his Mission to Greece, 20 October 2010, <http://bit.ly/2YpITKP>; CPT Public statement on Greece, 15 March 2011 <http://bit.ly/2Havi2K>; Report to the Government of Greece on the visit to

complying with its international obligations under several human rights instruments, as well as the EU *acquis* on asylum.⁵ Humiliating living conditions, nonexistent reception provisions, inadequate and inaccessible asylum procedures, systematic detention in inhumane conditions, push-backs and ill-treatment have been but a few of the challenging issues. Refugee human rights in Greece had met with extremely dark years before the infamous *MSS* case in 2011 finally drew Europe's attention to what was actually happening in Greece.⁶ Being convicted several times by the European Court of Human Rights (ECtHR), Greece remains under the scrutiny of the Council of Europe's (CoE) Execution of Judgments Committee,⁷ as well as that of the EU, the latter awaiting to resume transfers to Greece via the Dublin Regulation.⁸

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Greece carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 19 to 27 January 2011, <http://bit.ly/2vKrQAm>; Report submitted by the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Manfred Nowak, 4/3/2011 (A/HRC/16/52/Add.4) to the Human Rights Council, <http://bit.ly/2Lzifxr>; Concluding Observations on Greece Committee Against Torture, 48th session, 7 May-1 June 2012, <http://bit.ly/2WGi5q0>.

5. Infringement proceedings against Greece have been initiated by the EU in the Home Affairs sector 34 times since 2003, most recently in 2018. All refer to compliance with the EU regarding the status and rights of third country nationals, including the asylum *acquis*. Specifically regarding reception conditions and asylum, procedures have been initiated repeatedly over the years, regarding non-compliance with the Directive. <http://bit.ly/2jtZ8Ck>.
6. Key informant.
7. Several cases grouped following up their satisfactory execution due the repeated nature of Greece being found in violation time and again on the same matters regarding asylum seekers and third-country nationals – detention, detention conditions, risk of deportation amounting to violations of articles 3, 5 and 13 of the Convention. Execution in this sense demands not only the compensation of the applicant, but future fundamental changes by the Greek government and proof over the years of material and systematic improvement of the conditions leading up to those repeated identical violations caused by identical circumstance affecting third country nationals seeking international protection (access to asylum, reception conditions, elimination of arbitrary arrest, improvement of detention conditions, accessible and effective legal remedies). The cases below are but a small sample of the actual number of convictions against Greece on the subject matter: *Group of cases M.S.S. v. Belgium and Greece* (30696/09), *Group of cases S.D. v. Greece* (53541/07), *Group of cases Rahimi v. Greece* (8687/08), *Case Sakir v. Greece* (48475/09), *Case R.U. v. Greece* (2237/08). <http://bit.ly/2Vp7WAp>.
8. Cases C-411/10 and C-493/10 *N.S. v. Secretary of State for the Home Department* ruling of the CJEU led to an official condemnation of Greece at the EU level and a refrain from transfers followed. The situation is mirrored in Regulation 604/2013 Dublin III providing for an emergency mechanism that could lead to the suspension of transfers to a particular member state. Several Recommendations have been issued by the European Commission (C(2016) 871, C(2016) 2805, C(2016) 6311) to Greece. A Recommendation to members states favouring transfers to

Unaccompanied and separated children (UAM), being by definition the most vulnerable among the refugee population, were the subjects of this inhumane treatment in its full magnitude and scale.⁹ Accommodation capacity for UAM in Greece was no more than a few hundred – until 2015. This led to massive numbers of children being placed automatically in unbelievably appalling detention conditions for unlimited periods of time¹⁰ or abandoned to the streets, completely excluded from any benefits, support, or representation of any kind.¹¹ Even after consequential placement in a shelter, absconding and returning to a street situation was a common phenomenon.

Several of the existing shelters were in no condition to properly accommodate children and their needs, as they were isolated and/or frequently experiencing severe funding and staff challenges.

The absence of legal representation, guardianship, formalised and governmental best interest assessment and determination procedures, com-

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Greece was issued on 8 December 2016 concerning applicants from 15 March 2017 onwards, excluding unaccompanied minors. Still, it has not been put into full effect by all member states: During 2016, 4,115 take back claims were communicated to Greece by Hungary (97%, approximately 3991 claims) and Switzerland (3%, approximately 123 claims). Only three actually led to a transfer to Greece. After two decisions by the ECtHR ordering Hungary to refrain from return of persons of concern to Greece. (M.S. v. Hungary (64194/16), H.J. v. Hungary (70984/16) Hungary did not communicate any take back claims during 2017.

During 2017 a reduction in real numbers of take back requests was noted (1998 in comparison to 4,115 in the previous year), but this reduction was only virtual. With Hungary completely abstaining from communicating any claim during 2017, a total of 1,998 is a radical increase compared to the remaining 123 claims from Switzerland during 2016. 1,754 were communicated by Germany, while the rest came from several countries that refrained until recently (Switzerland, Belgium, Norway, and Slovenia). 71 transfers were completed, 54 from Germany. Table of Statistics provided by the Greek Dublin Unit available in GCR, Asylum Information Database (AIDA), Country Report: Greece, 2016, pp. 48-53, <http://bit.ly/3007B5Q>, and GCR, Asylum Information Database (AIDA), Country Report: Greece, 2017, pp. 54, <http://bit.ly/2H9viA5>.

9. Concluding Observations on Greece, Committee of the Rights of the Child, 15 June 2012 Consideration of reports submitted by States Parties under article 44 of the Convention CRC/C/CRC/CO/2-3 advanced unedited version (61-64 on asylum seeking minors) European Migration Network, Unaccompanied Minors – an EU comparative study, 12 May 2011, <http://bit.ly/2V7wmcF>.
10. GCR, “Unaccompanied Minors in the Greek-Turkish Borders: Evros Region, March 2011-March 2012,” 22 June 2012, <http://bit.ly/303Utwj>.
11. Human Rights Watch, Left to Survive: Systematic Failure to Protect Unaccompanied Migrant Children in Greece, December 2008, <http://bit.ly/2HgQ4hs>. UNHCR, Unaccompanied minors asylum seekers in Greece, Georgia Dimitropoulou and Ioannis Papageorgiou, April 2008, <http://bit.ly/2VofhAi>; UNHCR, Trees only move in the wind: A study of unaccompanied Afghan Children in Europe, June 2010 (pp. 149-158), <http://bit.ly/2LytaYa>.

bined with inadequate reception services and non-material support, rendered any discussion on durable solutions in Greece futile even in 2015,¹² as they greatly depended on professionals' initiatives and resilience. The concept of "durable solutions", let alone particular measures and planning of inclusion for children, still eludes Greek authorities and national legislation.

It was in this context that Greece was forced by the circumstances dictated by the refugee crisis to address longstanding unresolved issues of child protection. Unfortunately, the exact same issues seem to persist, regardless of any progress noted.

[1.3] Research goals

This research attempts to map and evaluate the sufficiency and progress of the current national protective framework for unaccompanied and separated children in Greece, including legal instruments, services, and governmental institutions, in practice.

At the same time, gaps, obstacles, malpractices, as well as other factors undermining inclusion and the well-being of children as experienced by professionals, will be identified in order for governmental authorities and civil society to address them through relevant proposals.

Lastly, it aims to provide a tool to capitalise on and share the – admittedly overlooked though invaluable – knowledge and experience attained by professionals and experts in the field, for the benefit of governmental authorities as well as younger practitioners.

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12. GCR, Durable Solutions for Separated Children in Europe: National Report: Greece, May 2015, pp. 28-32, <http://bit.ly/307PYBm>.

[1.4] Methodology

The selected methodology concerns 26 interviews with professionals who have worked with UAM for longer than 14 months from 2015 to 2018. Since the protective mechanisms for minors demand a holistic approach, a wide range of professions were chosen to be interviewed, including caretakers, social workers, lawyers, psychologists, sociologists, guardians, nurses, and educators, using a semi-structured questionnaire on issues related to their training, support, and experience, the particular population of children receiving their services, obstacles and problems in exercising their particular professional duties, their point of view on successful inclusion as derived from their experience, cases of exploitation and possible means to address this phenomenon.

The professionals were selected through haphazard and snowball sampling methods, ensuring that they have already served at several different post and duty stations.

The anonymity of the individuals and the organisations currently or formerly employing them was selected in order to a) protect individuals from any possible negative consequences in their working environment from expressing their personal opinions, b) secure impartiality and independence in providing any information and opinions regardless of the current employer. For the purpose of this research, quotations will refer to the relevant practitioner only by their profession.

The questionnaires have been complemented by desk research, selected bibliography, indicative case studies provided by practitioners with vast and many years of professional experience in the field or who have held key positions.

In order to avoid the re-traumatisation of minors, only two selected cases of unaccompanied minors that reached adulthood during the previous years and who are currently living and working in Greece were interviewed as key informants. The research has been conducted with professionals currently stationed in Lesvos, Athens, and Chios.¹³

13. Several professionals currently occupied in one of the three locations have already served at different locations, posts and facilities.

[1.5] Research presentation

Chapters 2 and 3 of the research focus on all relevant national legislation applicable that could seem to be formulating a protection framework for unaccompanied and separated children within the Greek legal framework, serving – or occasionally hindering – durable solutions, and inclusion in particular (e.g. reception, legal status, guardianship), as well as recent legal developments the success and application of which will be determined in the future. Chapter 4 explains the growth of civil society and funding measures in recent years, since during the research both factors were proven to be decisive in the efficacy of the protection framework and its actual application.

The following chapters explain the actual implementation of provisions as experienced by professionals in practice, resulting in a very different reality than the one described in the relevant legislation, and an attempt is made to highlight hindering factors or harmful practices.

Chapter 5 clarifies professionals' remarks regarding the "possibility" of inclusion or any beneficial solution for minors in the Greek context, while section 5.2 attempts from the outset to provide an "image" to the reader of what is actually happening, the paths available for minors upon arrival at a glance. Chapter 6 deals with the Greek reception reality for minors starting with registration and going all the way to final placement at an accommodation facility, options and conditions, malpractices and problematic aspects of living in a shelter that could prove harmful to minors, as well as the phenomenon of children in street situations in recent years.

Although representation of children and securing their legal residence could be seen as part of the general reception mechanism, these two aspects of protection in Greece are highly dysfunctional and problematic, meriting separate chapters: Chapter 7 explains the fragmentation of care and the guardians' involvement, while Chapter 8 describes the difficulties minors and professionals face in securing a legal residence (hindered access, poor quality of judgements, minors in legal limbo), as well as other legal options such as family reunification and its difficulties. The next two deal with additional factors that could foster inclusion – like education

(Chapter 9) – or hinder it, such as difficulties in accessing legal employment and other factors aggravating minors' situation (Chapter 10).

Lastly, Chapter 11 notes the research findings regarding exploitation, as the phenomenon repeatedly occurred in the experiences of all professionals, in an attempt to identify the reasons provoking it, as well as any assessment by professionals on what could be done to prevent it.

A short epilogue concludes the research, presenting a summary of the findings, while relevant recommendations will be separately published in the Comparative Report addressing all three countries involved in the research.

[2]

Current protection systems

Lacking a responsible central authority charged with child protection issues – including the assessment (BIA) and determination (BID) of the best interest of the child and its application towards proper individualised durable solution – protection provisions and services of what could be identified as such a system can be found in several legal instruments and institutions. Additionally, in the absence of an available official BIA and BID procedure, child protection in Greece is characterised as fragmentary, occasional, and random, since it does not aim towards a particular direction regarding the future wellbeing of the children.

Provisions are disbursed over larger pieces of legislation regulating a particular area (i.e. reception conditions, asylum procedure) and/or the relevant governmental services, scattering responsibility for their application to several, different public authorities.

The common element between all authorities being the child, guardianship is the only institution that interconnects with all public services and procedures available from day one. Although the guardian should and could have a decisive and beneficial role to play in the context above, the particular national institution suffers – one might say ever since 1996 – having an undermining and disruptive (if not dangerous, on occasion) effect on the children’s wellbeing and future.¹⁴

Nonetheless, the first half of 2018 was characterised by an intensive and unprecedented legal effort to reform major and longstanding problematic institutions (such as guardianship, reception, and foster care). Their effectiveness and actual application remain to be evaluated in the future.

14. See the relevant case studies by key informants and professionals below.

[2.1] Legal framework

Childhood is protected by the Greek constitution regardless of the nationality and legal status of any child within Greek territory.¹⁵ On an international level Greece has ratified and incorporated into its national legislation, among others, the UN Convention on the Rights of the Child¹⁶ and has the obligation to apply its provisions guided by the relevant General Comments issued by the UN Committee on the Rights of the Child.¹⁷

Children's rights, state obligations and provisions have no immediate application or effect per se, as the wording of the convention leaves the means of implementation – i.e. “how” children will enjoy their rights and “how” states will fulfil their obligations – to the signatory states. Nonetheless, as an international instrument it takes precedence over national law, the contents of which need to comply and be interpreted in the light of the convention.¹⁸

On the regional level, Greece is both a member of the EU and the Council of Europe, adhering also to the European Convention on Human Rights, several accompanying protocols, and the jurisdictions of the European Court of Human Rights. On an EU level, Greece has an obligation

15. Articles 21(1) and 5(2) of the Greek Constitution.

16. Law 2101/1992, Government Gazette 192/A/2-12-1992, On the Ratification of the International Convention for the Rights of the Child.

17. For the purpose of this research particularly, but not exclusively, CRC/GC no 6, (2005) 'Treatment of unaccompanied and separated children outside their country of origin', no 21 (2017) on children in street situations, CRC/GC no 22 & 23 (2017) (Join GC: CMW/C/GC/3-CRC/C/GC22& CMW/C/GC/4-CRC/C/GC23) on state obligation regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return, CRC/GC no 10 (2007) children's right to Juvenile Justice, CRC/GC 14 (2013) on the right to have their best interests taken as a primary priority, such as CRC/GC no 12 (2009) on the right to be heard.

18. Greece is a signatory to all major human rights instruments of the UN, however, concerning the subject matter at hand, the research is limited to the CRC. Greece is also a signatory to the 1951 UN Convention on the Rights of Refugees and Relevant Protocols (Legislative Decree 3989 / 19-26/9/ 1959: Concerning the ratification of the multilateral convention on the Legal Status of Refugees (Gazette A'201), current legislation envisages EU Law (see below), the Geneva Convention as an international instrument should precede when conflict arises with regional instruments (EU).

to, among others, the European Charter of Fundamental Rights,¹⁹ the Common European Asylum System (CEAS),²⁰ and other relevant regulations.²¹

On the national level, Greece struggles to comply with its EU and international obligations, instead over the years it seems to be constantly falling behind.

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19. Charter of the Fundamental Rights of the European Union (2000/C 364/01) Article 24 “1. Children shall have the right to such protection and care as is necessary for their well-being. They may express their views freely. Such views shall be taken into consideration on matters which concern them in accordance with their age and maturity. 2. In all actions relating to children, whether taken by public authorities or private institutions, the child’s best interests must be a primary consideration. 3. Every child shall have the right to maintain on a regular basis a personal relationship and direct contact with both his or her parents, unless that is contrary to his or her interests.”
 20. Regulations and Directives composing the EU acquis on asylum: CEAS consists of five major pieces of legislation: 1) 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 procedures directive); 2) 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 reception conditions directive); 3) Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 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 qualifications directive); 4) Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the member state responsible for examining an application for international protection lodged in one of the member states by a third-country national or a stateless person (Dublin III Regulation); 5) Regulation (EU) No 603/2013 of the European Parliament and of the Council of 26 June 2013 on the establishment of ‘Eurodac’ for the comparison of fingerprints for the effective application of Regulation (EU) No 604/2013 establishing the criteria and mechanisms for determining the member state responsible for examining an application for international protection lodged in one of the member states by a third-country national or a stateless person and on requests for the comparison with Eurodac data by member states’ law enforcement authorities and Europol for law enforcement purposes, and amending Regulation (EU) No 1077/2011 establishing a European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice (Recast Eurodac Regulation).
 21. Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals (the returns directive).

[2.2] Provisions in national law: Rights and procedural guarantees for minors

The protective framework for unaccompanied and separated children remains deficient. Even though several legislative steps have been taken ameliorating refugee protection in Greece since 2013, the protection framework for unaccompanied and separated children – regardless of legal status – still remains occasional and ineffective, relying often on ad hoc interpretations and implementation of responsible authorities which are difficult to challenge.

Given the complicated and perplexing legal framework with numerous applicable provisions, it is surprising that the demand for legal reform of particular institutions has remained a major protection issue over the years.²²

For the period covered by the research, major relevant pieces of legislation have been the Presidential Decree 220/2007 (Reception),²³ Law 4375/2016²⁴ (organisation and functioning of major implicated public services: Asylum Service, Appeals Authority, Reception and Identification Service, border procedure, asylum procedure) amending a long line of provisions found in previous Presidential Decrees and abolishing others, PD 141/2013²⁵ (Qualifications for international protection & content of

22. A full overview of Greek legislation and relevant amendments is available in the Asylum Information Database (AIDA): Country: Greece - Overview of the legal framework, <http://bit.ly/2PS8Lfd>.

23. Presidential Decree 220/2007 on the transposition into the Greek legislation of Council Directive 2003/9/EC from 27 January 2003 laying down minimum standards for the reception of asylum seekers. Gazette 251/A/13-11-2007.

24. Law 4375/2016, "Organisation and functioning of the Asylum Service, Appeals Authority, Reception and Identification Service, establishment of General Secretariat for Reception, transposition of Directive 2013/32/EU of the European Parliament and of the Council "on common procedures for granting and withdrawing international protection (recast)" (L 180/29.6.2013), provisions on employment of beneficiaries of international protection' and other provisions. Gazette 51/A/3-4-2016.

25. Presidential Decree 141/2013 "on the transposition into the Greek legislation of Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 (L 337)

international protection), PD 131/2006²⁶ (Family reunification), Law 4251/2014²⁷ (National protection: Humanitarian status) as amended by Law 4332/2015,²⁸ EU Regulation 604/2013 (Dublin III) directly applicable exclusively for family reunification purposes in other EU Member States due to the particularities of the Greek reality²⁹ and Law 3907/2011 (establishment of major implicated public services – return procedure).³⁰

Reception obligations:³¹ Identification, accommodation, and legal representation of minors

According to PD 220³², the best interest of the child is the first priority of all responsible authorities while implementing its relevant provisions. In cases of children which are victims of abuse, exploitation, neglect, torture

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 on minimum 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).” Gazette 226/A/21-10-2013.

26. Presidential Decree 131/2006 on the transposition of Directive 2003/86/EC on the right to family reunification, Gazette 143/A/13-7-2006. Amended by PD 167/2008, PD 113/2013.
27. Law 4251/2014, “Immigration and Social Integration Code and other provisions,” Gazette 80/A/01-04-2014.
28. Law 4332/2015, “Amending Code of Greek Nationality – amending Law 4251/2014 for the transposition of Directive 2011/98/EU of the European Parliament and of the Council of 13 December 2011 on a single application procedure for a single permit for third-country nationals to reside and work in the territory of a Member State and on a common set of rights for third-country workers legally residing in a Member State - Directive 2014/36/EU of the European Parliament and of the Council of 26 February 2014 on the conditions of entry and stay of third-country nationals for the purpose of employment as seasonal workers and other provision”. Gazette 76/A/09-07-2015.
29. See Section 1.2. ‘Background information on protection of unaccompanied and separated children in Greece’ and relevant footnotes.
30. Law 3907/2011 “on the establishment of an Asylum Service and a First Reception Service”, transposition into Greek legislation of Directive 2008/115/EC “on common standards and procedures in Member States for returning illegally staying third country nationals” and other provisions. Gazette 7/A/26-01-2011.
31. The EU Charter of Fundamental Rights sets out rights and freedoms, including the right to asylum under Article 18 and the Common European Asylum System seeks to ensure comparable living conditions for both applicants for international protection throughout the EU. Most relevant is the Recast Reception Conditions Directive (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. Greece has only recently (end of May 2018) transposed it in its national legislation.
32. Articles 18, 19 (1) (2).

or inhuman and degrading treatment, access to special social services is secured. Particularly for unaccompanied minors, authorities should take all appropriate measures to secure the child's representation by notifying the local public prosecutor for minors or prosecutor of first instance who acts as a temporary guardian, taking all necessary steps for the appointment of a permanent guardian. The competent authorities for receiving and examining an asylum application, are obligated to immediately ensure that the minors' accommodation needs are met, either with a relative, a foster family, or other accommodation shelters/facilities suitable for minors, provided that the particular accommodation protects the child from trafficking or exploitation; taking all necessary steps for the accommodation of siblings, making every effort possible to locate other members of his/her family without undue delay, while at the same time changes in the location of residence of the child should be reduced to the minimum possible. All personnel involved with the children's cases should be appropriately qualified or undergo relevant training on the particularities of children's needs.

The responsible authority for the placement of children is EKKA.³³ When the PD was originally enacted, it assigned the police that located or apprehended the child as the "responsible authority" for securing its accommodation. Following the asylum reform in 2011 – in practice effective since 2013 – and the establishment of a First Reception Service and the Asylum Service,³⁴ those last two authorities are now responsible. Still, the obligation to notify the local public prosecutor remains with all authorities, and the police in particular, wherever or whenever a child is identified as undocumented or homeless.

Law 4375/2016 provides for the Reception and Identification Service, operationally responsible for the detailed registration, identification, and data verification procedures of third country nationals or stateless persons irregularly entering the country, from the first moment of arrival in

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33. The National Centre of Social Solidarity (EKKA) of the Ministry of Labour, Social Security and Social Solidarity is responsible for overseeing the operation of available accommodation facilities for unaccompanied minors and controlling referrals. The acronym is commonly used, being highly recognisable from all actors, as well as in most bibliography.

34. Their establishment took place in 2011. However, actual implementation of relevant legislation and operation of the services was realised in 2013. Both services currently fall under the authority of the Ministry of Migration Policy founded in 2016.

the territory, and the procedures to be followed thereafter according to their particular profile and needs.

Reception and Identification Centres (RIC) or Reception and Identification Mobile Units are available at all major entry points in Greece. Open temporary accommodation facilities are also included under the authority of the RIS (mainly camps and other temporary accommodation schemes).

Reception includes the registration of personal data, including fingerprints, verification of identity, and nationality (through interviews where needed), medical screening and provision of psychosocial support where needed, updated information on rights and obligations including access to international protection, as well as voluntary return programmes, identification of vulnerability, and referral to appropriate care, referral of asylum applicants to the appropriate authorities, referral of those opting out of the asylum process to the competent authorities in the RIC for readmission, removal or voluntary return procedure. The present RICs are the current “hotspots”, although according to the legislation they can be any facility designed and designated for first reception services. As defined by the relevant legislation, unaccompanied minors are considered “vulnerable persons³⁵” subject to a different procedure than that outlined for the borders³⁶ and the general population arriving in Greece. Upon identification, first reception authorities collaborate with other authorities – the public prosecutor³⁷ and EKKA – to secure referral to proper accommodation, while also referring any child wishing to apply for asylum to the responsible Regional Asylum Office usually on the same premises. Medical and psychosocial support and assessment are provided in Reception Centre facilities. Additional options for temporary accommodation before a final placement by EKKA can take place, such as short-term transit shelters also registered in EKKA or other open temporary reception facilities for third country nationals (Camps – Safe Zones for minors within camps on the mainland, under the authority of Reception and

35. Article 14 (8), Law 4375/2016 and article 20 (1) and 3 “Special reception conditions,” article 20 of Law 4540/2018.

36. Article 60, Law 4375/2016.

37. The Law refers directly to the application of article 19, PD 220 and the representation of any child by the local public prosecutor in the context of first reception services prescribed within, immediately upon apprehension and further identification procedures.

Identification Service). Placement in these facilities is controlled and regulated by the competent authorities within the Ministry of Migration Policy.

If at any stage during the identification process³⁸ doubts arise as to whether a third-country national or stateless person is a minor, the manager of the centre shall, by decision, refer him/her to the age assessment procedure³⁹ described in Ministerial Decisions 92490/2013, providing for an interdisciplinary approach, allowing medical determination of age (dental, upper limb x-ray) only as a last resort. Assessment is primarily based on macroscopic features and an examination from a paediatrician, followed by a psychological and social assessment evaluating the person's development in case the paediatrician cannot come to a safe conclusion. In any case, and until the age assessment ruling is issued, the person shall be considered a minor and shall receive the relevant treatment. The law also provides for a procedure to challenge the relevant findings.

Age assessment within the first reception facilities is of pivotal significance since age is the determining factor as to which procedure will be followed by the Reception Authorities regarding representation, accommodation, detention, the need for international protection upon referral to the Regional Asylum Office or return. Unaccompanied minors are excluded from the Border Procedure prescribed⁴⁰ that could lead to a fast return to Turkey. Minors' asylum applications are examined exclusively under the regular examination procedure⁴¹ providing for extended time limits and no admissibility prerequisites before an assessment of the merits. Age also determines if the Dublin Regulation applies in a particular case and what the appropriate articles to be invoked are in order for one's application to be reunited with one's family in another EU member state to be successful.

38. A similar ministerial decision provides for an assessment procedure during the examination of an asylum claim throughout the examination procedure.

39. Article 14 (9), Law 4375.

40. Article 60, Law 4375/2016.

41. Article 45, Law 4375/2016.

[2.3] Detention as a temporary solution

Regardless of international human rights legislation, soft law, and several international guidelines, EU Law – and consequently Greek legislation – still allows for the detention of children. Pending identification procedures or/and referral to proper accommodation facilities (shelters), minors remain under a regime of “deprivation of liberty” within Reception Centres (as all persons), usually separate from adult population.

Detention is to be avoided and used as a “last resort” for a period of time that cannot exceed 25 days, but can be prolonged for another 20 days, if – due to exceptional circumstances, such as a significant increase in arrivals of unaccompanied minors – a referral is not possible within the time limits set, despite the authorities efforts;⁴² during that period children are entitled to recreational activities, playtime, education, and other activities suitable to their age.

Detention takes place – if necessary – after “deprivation of liberty” is authorised by the RIS, with the transfer of the children to the nearest pre-removal centre. Detention can also take place at any time on the mainland, if an unaccompanied child is located by police authorities, until EKKA is able to respond. Other holding facilities, such as cells in police stations, are not excluded in case pre-removal centres lack the necessary capacity to “host” minors.

Though not mentioned in any relevant legislation, the detention of minors for the purpose of a safe referral occurs in facilities under police responsibility, as above, but is authorised by the local public prosecutor for minors or first instance prosecutor, as “protective custody”,⁴³ a measure based on the unlimited authority of the public prosecutor to order whatever measure deemed appropriate and necessary for the protection of children and for an undetermined period of time. Mention should be

42. Article 14 (8) and 46 (10), Law 4375, as amended, however, insignificantly by 4540/2018.

43. A form of Protective Custody can be found in Greek national legislation, applicable to persons who are deemed dangerous to public order or to themselves (e.g. persons suffering from mental illness, persons who are intoxicated or minors who have disappeared willingly or unwillingly from their caretakers), and can take place outside detention premises and until those persons can be returned to the care of their families. (PD 141/1991).

made of the fact that since during this phase children are not detained for administrative purposes (i.e. for the purpose of return or deportation), legal remedies provided by the law to challenge administrative detention do not apply. The particular decisions cannot be challenged before any authority or court of law. Protective custody can only be raised by the public prosecutor, if accommodation in a shelter or camp is secured or a competent and suitable family member proves before the public prosecutor their ability to undertake caring and housing of the child.

[2.4] Legal status

Greek legislation does not provide for any type of residence or temporary protective regime for unaccompanied minors during adolescence. Minors will need to use the options provided through the asylum procedure in order to obtain refugee status, subsidiary protection status, or permission to reside on humanitarian grounds.

According to Law 4375,⁴⁴ applications from unaccompanied minors are registered, examined, and prioritised by the Asylum Service. The assessment of their claim should be handled by appropriately trained case workers. Asylum Service authorities have the obligation to secure the appointment of a guardian upon registration, notifying the public prosecutor and referring the case to EKKA to secure placement.

It should be mentioned that, as a rule, the above aforementioned simple procedure occurs only on the mainland, since no Reception and Identification Centres exist there. All relevant responsibilities to secure representation and housing of UAMs rest with the Asylum Service.

Access to the procedure is limited for minors below the age of 15, who need to be represented and escorted by their appointed guardian throughout all stages of the procedure, except during the interview, during which the guardian's presence is paradoxically described as "optional", not obligatory. Children of all ages have the right to seek counselling and legal advice; they can also be escorted and supported during the

44. Article 51(6) and 45, Law 4375/2016.

procedure by their advisors, (social workers or lawyers usually provided by civil society organisations).⁴⁵

Information on minors' identities and ages are registered with the Asylum Service a) according to the information provided by the Reception and Identification Service; and b) as declared by the applicant on the mainland if no identification took place in an RIS. Should doubts arise regarding the age of the applicant throughout the asylum procedure (first and first instance of examination), an age assessment procedure is also available,⁴⁶ which provides for an interdisciplinary procedure as previously described and similar procedural guarantees and safeguards – the right to challenge the outcome of the assessment, representation during the procedure etc. Identification with the Asylum Service can also be corrected in case of a wrongful registration by providing the asylum service with particular original documentation (national identification papers or a passport) issued by country of origin.⁴⁷

The Asylum Service is responsible for the examination of the claim at first instance – and the referral of the case to the National Dublin Unit if applicable. Examination takes place according to the substantial preconditions prescribed by PD 141/2013 on providing international protection. In the case of a rejection, minors have the right to appeal before the Appeals Authority within 30 days. Only the latter authority can – if international protection is rejected in the second instance as well – refer the case to the Ministry of Interior, proposing the attribution of humanitarian status.⁴⁸ The law⁴⁹ also provides for a judicial review – a sort of “third instance” – before the Administrative Court of Appeal, though only on legal and procedural grounds, the court having no authority to decide on the merits of an asylum application, only to refer back to the Appeals Authority.⁵⁰

45. Article 36 (8) (9) (10) and 45, Law 4375/2016.

46. Article 45, Law 4375, referring to JMD 1981/2016, Joint Ministerial Decision of the Minister of Interior and Administrative Reconstruction and the Minister of Health 1982/16.2.2016 (B'335).

47. Article 43, Law, 4375/2016.

48. Article 19 A (1), Law 4251/2014, as amended by article 8 (25) of Law 4332/2015 – article 22, Law 4375/2016).

49. Article 64, Law 4375/2016 and article 13, Law 3068/2002 (amended by article 49, Law 3900/2010 and article 29 Law 4540/2018).

50. The particular remedy does not have a suspending effect to the return decision followed by

All three types of residence are followed by the right to work, education, and social security under the same or similar prerequisites as Greek and EU nationals residing in Greece. Minors provided with international protection are additionally entitled to the same benefits they had as applicants, i.e. representation, schooling, accommodation,⁵¹ providing also, for the first time in the legislation reviewed, for the authorities' obligation to take under consideration the views of the child.

Minor beneficiaries of refugee status have the additional right to be reunited with members of their family remaining in the country of origin, in Greek territory, by the procedure prescribed in PD 131/2006.⁵² Still there are no known cases available verifying actual implementation of this particular procedure.⁵³

[2.5] Deportation/Involuntary return

Minors that do not apply for asylum or whose claims are rejected fall under the provisions of Law 3907/2011,⁵⁴ which prescribes return proceedings. The best interest of the child should guide any decision regarding return. Namely, a minor can only be returned to their country of origin or country of previous residence if a family member or another person suitable for their care is located there, or if the country has the proper reception facilities in place for the minor's protection. Detention

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the rejection on the second instance. An additional application must be lodged before the court justifying suspension of return either based on a) an evidently well-founded application to annul the judgment already pending or b) proof of irreparable harm in case of return. Both remedies are highly demanding, requiring highly demanding legal aid. Even so, they are characterised by legal professionals as ineffective, most courts being reluctant to annul decisions. Article 64, Law 4375/201. The procedure was once again amended by article 29, Law 4540/2018.

51. Article 32, PD 141/2013 being almost identical to article 19, PD 220.

52. Presidential Decree 131/2006 on the transposition of Directive 2003/86/EC on the right to family reunification, Gazette 143/A/13-7-2006 and 167/2008, 113/2013.

53. Actual and effective application of the relevant law is not confirmed either by professionals and key informants interviewed, or by any available bibliography. The procedure is deemed as "impossible" by legal professionals for all persons attributed refugee status regardless of age, due to several practical and substantial impediments.

54. Article 20, 25, 32, Law 4907/2011.

until the actual return should take place only as a last resort, during which minors are entitled to recreational activities, playtime, education, and other suitable activities for their age. In practice, persons officially registered as minors are highly unlikely to be deported or involuntary returned to their country of origin. Though the provision exists,⁵⁵ as already mentioned, minors – particularly on the mainland – regardless of legal status, are apprehended for protective reasons until a safe referral to suitable accommodation is possible, at which they can remain until they reach adulthood.

Though a positive measure at first instance, the permission does not amount to a residence permit and is not accompanied by any documentation for the child proving location of residence. Minors may have the permission to remain, but lacking any documentation proving age and/or accommodation at a particular shelter, they are susceptible – particularly in the mainland’s major cities – to repeated arrests and/or age assessment procedures ordered by police authorities; the latter not being regulated by law. They usually entail only special medical examinations, namely x-rays, which are highly criticised as inconclusive – and have been repeatedly reported to lead to wrongful registration of minors as adults.⁵⁶

[2.6] Guardianship

Regardless of their legal status, the obligation to secure legal representation by the appointment of a guardian is included in all legislation reviewed, which refers to the public prosecutor and the national institution of guardianship prescribed by the Greek Civil Code,⁵⁷ as amended by Law 2447/1996,⁵⁸ also applicable to children of Greek nationality.

The procedure to appoint a permanent guardian presupposes the

55. Application of the article could not be confirmed either by professionals and key informants interviewed or by any available bibliography.

56. Information verified by interviewed professionals, key informants, and bibliography. See also CRC/GC, no 22 and 23 (2017).

57. Article 1589-1654, Civil Code.

58. Law 2447/1996, Amendment of the Civil Code – Adoption – Guardianship – relevant issues – legal process provisions, Gazette A’ 278.

existence of a “suitable”⁵⁹ adult, a three-member council that will oversee the guardian’s decisions, the formal appointment of all implicated persons by a court upon the initiative of the public prosecutor, and the support of the court and public prosecutor by social services. In the absence of such a suitable person, guardianship can only be assigned to specialised public social services/welfare institutions, to be created – according to the relevant precedential degrees⁶⁰ – within the jurisdiction of every court, for this particular task.⁶¹ These provisions were left inapplicable and the services mentioned were never put in place, while the necessary resources for the specialised supporting social services that could have the capacity to handle such a large number of referred cases and assist public prosecutors and courts, has proven impossible to be secured over the years.

The local public prosecutor acts as a temporary guardian for hundreds of children within their territorial authority until a permanent guardian is successfully nominated by the court. Over the years prosecutors struggled to realise what is demanded of them by Law.⁶² Charging the prosecuting authorities with this additional task has proven to be a real disaster over the years, particularly considering the number of prosecutors and their actual case load as prosecutorial authorities.

“The inefficiency of the national guardianship system deprives children of any actual possibility to participate in the decisions made for them. It is de facto impossible, even with the utmost diligence and effort by them, to develop a personal and individual relationship with the children, such as guardianship implies, that would allow every prosecutor to become the ‘actual guardian’, or even better, the ‘compensatory parent’ needed.”⁶³

59. Suitability of a person is not to be assessed and decided upon exclusively by the court’s margin of appreciation, the law prioritising family members. Article 1592 CC.

60. The relevant PDs were not issued

61. Article 1600 CC and Article 49-52, 53 and 64, Law 2447/1996.

62. “It seems that the procedures followed in order to ensure the representation and protection of unaccompanied children depends on the discretion of the prosecutor and on the supporting services that the prosecutor may have at his or her disposal (such as NGOs, social services)”. UNHCR, France Terre d’ Asile, Save the Children and PRAKSIS, *Protection of Children on the Move: Addressing protection needs through reception, counselling and referral and enhancing cooperation in Greece, Italy and France*, July 2012, available at: <http://bit.ly/308n8k7>.

63. GCR, “Unaccompanied Minors in the Greek-Turkish Borders: Evros Region, March 2011-March

Their relationship with their guardian is limited to the fact that they are the person signing the relevant decisions and/or authorisations to other actors. The large number of unaccompanied minors renders the exercise of the temporary guardian's duties by the local prosecutor practically impossible.⁶⁴ Representation as well as management of their daily problems is impossible. Significant rights become a dead letter without the existence of a guardian.⁶⁵ While "core" domestic law remains unmodified, the wellbeing, protection, access to public services, and inclusion of UAMs are hindered.⁶⁶

It should also be mentioned that the authority of a prosecutor is territorial the prosecutor on the area of residence of the child that falls under his or her authority. In cases where minors change location, temporary guardians – including the responsible prosecutor – change as well, disrupting the continuity of decisions made or actions already taken. At the same time, consistency of decisions is not guaranteed, with every prosecutor having unlimited authority to make decisions affecting the child's best interest on their own, without ever meeting the child.

The Greek guardianship system has been repeatedly criticised over the years⁶⁷ and remains insufficient, requiring broad legislative amendment⁶⁸ that will relieve prosecutorial authorities and secure actual and substantial representation of children in their everyday life.

After the mass influx of refugees and UAM in Greece that resulted in large numbers of refugees and minors residing in almost every Greek prefecture, all public prosecutors were preoccupied with the problem of

2012," 22 June 2012, <http://bit.ly/303Utwj>.

64. Greek Ombudsman, "Migration flows and refugee protection: administrative challenges and human rights," pp. 28-29, 75, <http://bit.ly/2WznIKS>.

65. Ibid.

66. UNICEF and Institute of Child Health, "Rapid assessment of mental health, psychosocial needs and services for unaccompanied children in Greece," October 2017, pp. 20-21.

67. CoE Committee of Ministers, Outcome of 1214th Meeting (DH), 2-4 December 2014 (5 December 2014). CM/Del/Dec (2014)1214, 20.

68. Law 4375 (article 17) provides for the issuance of a PD in the future, regulating the process of appointing a guardian or representative of UAMs. Aerticle 34 explicitly provides for the capacity of the legal representative of a non-profit organisation to be appointed as a permanent guardian. Article 45 refers to article 19 of PD 220/2007 as to the procedure to be followed for the appointment of a permanent guardian, but additionally regulates particular obligations and guarantees for minors for the first time within the Greek legal framework.

representation and guardianship of UAMs within their territorial authority, many of them for the first time. Practices, interpretation, and implementation of the relevant provisions differ between prosecutors and prefectures, depending on the case.

More practical obstacles and complications emerged since the alteration of the definition of unaccompanied children in national legislation.⁶⁹ Currently, Law 4375/2016⁷⁰ defines unaccompanied children as minors arriving in Greece unescorted – or left on their own by a person exercising parental care according to Greek legislation and for as long as such care is not appointed to a third person by law.⁷¹ The practical result of this definition was the increase in the number of children considered as unaccompanied, regardless of any relative/sibling being present in Greece.⁷² A few of the rights of asylum-seeking children and even fewer of the obligations of guardians are further described in Law 4375 for the first time, however, and to a limited extent.⁷³

In practice the prosecutor, acting as a temporary guardian by law,

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69. Article 2(i), PD 113/2013. According to PD 113/2013 a child is considered unaccompanied if located in Greece “unescorted by an adult responsible for their care according to Greek law or custom”, contrary to the previous definition included in article 2 (i), PD 114/2010. Under the old procedure, a child was considered unaccompanied if it was located in Greece unescorted by an adult, responsible for their care either by law or custom applicable in the country of origin.
 70. Article 34 (ia), Law 4375/2016.
 71. Parental care according to Greek family law found in the Civil Code could only be exercised by parents, in the absence of which a third person should be appointed as a guardian by a court, according to the general provisions on guardianship prescribed in the Greek Civil Code.
 72. Until recently, Greek legislation ignored the concept of separated children, the notion of which can be found for the first time in article 3, Law 4540/2018, Gazette A’ 91/22.05.2018. Nevertheless, separated children may have a relative that de facto provides for their care, but until an official authorisation by the prosecutor is given to the relative, separated children are legally treated as unaccompanied.
 73. Article 45, Law 4375: (a) Minors should be immediately informed regarding their guardian, (b) the guardian represents the minor, ensures the child’s rights during the asylum procedure and proper legal assistance and representation before the competent authorities, (c) the guardian or the person exercising the act of guardianship ensures that the UAM is properly and promptly informed particularly on the significance and the potential consequences of the personal interview to take place, as well as on the manner by which they should be prepared, (d) the guardian or the person or the person exercising the act of guardianship is called and has the capacity to be present at the interview, pose questions or comments in order to facilitate the procedure, (e) if the person mentioned above is a lawyer, the UAM cannot additionally benefit from free legal aid provided in article 44 (3) of the law.

authorises civil society actors, particularly legal or social professionals provided by NGOs,⁷⁴ to proceed with certain actions ensuring representation of the minor and access to the asylum procedure in their (prosecutor's) name. Depending on the prosecutor and the practice adopted within a particular prefecture, this authorisation can take many legal forms (e.g. a written authorisation by the prosecutor/guardian enabling specific actions, a prosecutorial order for certain actions, the provision of temporary care assignment to a third party, the appointment of a temporary guardian by order of the court (only rarely and in particular areas of Greece), while a final decision on permanent guardianship is pending), in order to enable civil society actors and relatives of the minors present in the territory to act on behalf of minors or guardians. Still, the official appointment of a permanent guardian decided on by the court may be prescribed by law, but it remains the exception.

74. In addition to any professional of civil society that can obtain a relevant authorisation, there is the Guardianship network for Unaccompanied Minors, which provides providing professionals based in almost every prefecture to undertake the aforementioned duties concerning legal representation of a minor, as well as providing for the child's social and other development needs. Members of the network – though wrongfully called guardians – are persons authorised by the network to take particular actions representing the child, in the guardian's name. The prosecutor remains the responsible agent.

[3]

Recent legal developments

Three new legal instruments were issued between May and July 2018 as part of a massive attempt to reform existing legal institutions. The three laws supplement each other, providing for a new framework addressing all identified shortcomings and gaps in the protection of refugee minors.

[3.1] **A central administrative authority for the protection of minors**

Law 4540/2018,⁷⁵ transposing Directive 2013/33/EU, abolished PD 220/2007 – except for article 19, par. 1 providing for the representation of minors by the prosecutor.⁷⁶ Law 4540 provides for the notion of “separated children” for the first time in the Greek legal context, while it explicitly states that all reception conditions and provisions thereof apply to all unaccompanied or separated children upon identification, regardless of whether asylum will be requested.⁷⁷ Additional accommodation options for minors are provided for, as well as provisions on access to education for children within three months of their registration with the Asylum Service.⁷⁸

For the first time a central administrative authority is named: the Protection Authority for Unaccompanied and Separated children in Greece.⁷⁹ All authorities identifying a minor – including the police – have the obligation to inform the local prosecutor, as well as the local protection au-

75. Law 4540/2018 on the transposition into Greek law of 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 and other provisions, Amendment of Law 4251/2014, Amendments to asylum procedures and other provisions, Law 4540/2018, Gazette A' 91/22.05.2018.

76. Article 31 (6) provides for the annulment of PD 220, except for Article 19 par. 1. Article 31, however, did not enter into force until 22 August 2018 according to article 40.

77. Articles 3 and 4.

78. Article 22 and 13, respectively.

79. Article 22.

thority.⁸⁰ The relevant central authority will be the General Directorate of Social Solidarity of the Ministry of Labour, Social Security and Solidarity, responsible for adopting measures to secure immediate legal representation of all minors – in collaboration with the prosecutor – by appointing representation to a suitable relative or a representative of a legal entity (e.g. a civil society actor). The adequacy of persons acting as representatives is to be regularly reviewed, while efforts to trace family and measures to secure suitable accommodation will take place.

Accommodation options are expanded by foster care arrangements, supervised apartments for minors older than 16,⁸¹ accommodation centres for minors (regular shelters), or other temporary accommodation centres (i.e. camps, transit shelters, hotels) until fostering or semi-autonomous accommodation is available.⁸² Still, while most provisions entered into force upon publication of the law, according to article 40, relevant articles prescribing the above and annulling PD 220 were to enter into force three months after the publication of the law, namely on 22 August 2018.

[3.2] Foster care and semi-autonomous accommodation

Law 4538/2018⁸³ provides for the operational and structural details of the institution of foster care, providing, among other things,⁸⁴ four⁸⁵ fos-

80. The law still does not name or clarify which local authorities these will be.

81. The relevant option is to be regulated in the future by a Ministerial Decision providing for the supervising actors, a minimum of prerequisites, conditions and procedures to be established for the selection, referral, accommodation and all other details demanded for the realisation of the particular accommodation scheme. (Article 22, par. 3, g).

82. Semi-autonomous living or supervised apartments are also mentioned in article 20 of Law 4554/2018 on guardianship.

83. Law 4538/16.05.2018, Measures for the promotion of the Institutions of Fostering and Adoption and other measures (Gazette A' 85/16.05.2015).

84. A national board of fostering and adoption, national and specific registries with EKKA and relevant supervising public agencies, qualification of candidate parent, benefits, supervising and monitoring agencies etc (articles 1-9, 12-14).

85. Placement to a foster parent/s by contract (article 10), by a judicial decision (article 11),

tering schemes depending on several particular circumstances of the child, supplemented by the relevant provisions of the Greek Civil Code when applicable. Though all forms could potentially apply under exceptional circumstances to any unaccompanied child, placement by contract is the less demanding form potentially applicable to all separated and unaccompanied third-country nationals with no exceptional vulnerabilities. A contract can transpire between a guardian (prosecutor) and a foster parent, “always guided by the child’s best interest”, while explicit mention is made to the cases that guardianship is exercised by a legal entity. Account is to be taken and special mention made of the child’s view, and it shall be included by the responsible social service in the contract depending on the maturity and age of the child (article 10). Fostering by judicial decision could also apply to an unaccompanied or separated child, if “imposed by the child’s best interest”,⁸⁶ particularly in cases where the parents (or guardian) are unable or prevented from exercising adequate parental care (article 11).

The law does not explicitly provide for the termination of fostering by contract, while reference is made to the termination of judicial fostering by application of the prosecutor or supervising agency to the court, in case the fostering scheme proves to no longer serve the best interest of the child.⁸⁷ There is an eminent lack of procedural guarantees for the child (such as independent access to the prosecutor or supervising social service), available mechanisms to express particular complaints, or any disagreement in the future.

placement to a professional foster parent serving therapeutic treatment plan (articles 16, 17) and lastly placement as a restrictive condition pending particular criminal procedures (article 18).

86. The wording of article 11 differs from article 10 and refers to children of particular vulnerability as orphans, abused or neglected children, abandoned or endangered children by parents or other persons in their domestic environment. Though not explicitly mentioned, the age of the child and the whereabouts of parents (e.g. imprisoned) are decisive.
87. Either after the child’s complaint or if so perceived by the prosecutor/social service.

[3.3] Guardianship

Law 4554/ 2018⁸⁸ foresees – among other things – provisions for the institutional and procedural framework of guardianships, introducing the notion of “professional guardianships”, as well as substantial provisions on guardian’s responsibilities. The civil code also remains applicable in supplementing the new procedure.

The General Directorate of Social Solidarity of the Ministry of Labour is named as the protection authority, while several other administrative authorities are instituted and organised within the same Ministry and under the supervision of EKKA, each of them charged with particular issues relating to child protection including the efficiency of the accommodation system, bringing all issues of protection under one authority.⁸⁹

Guardianship applies to all minors defined as unaccompanied,⁹⁰ while its agents are to be the public prosecutor (maintaining the authority to appoint the chosen persons), the guardian and the Guardianship Supervisory Board to be established at the Ministry of Labour. Additionally, EKKA’s structures are to include the Directorate of Protection of UAM and several subdivisions therein to handle, manage, and coordinate all relevant matters to guardianships, referrals, and accommodation of minors, including management of temporary accommodation places (camps, hotels, safe zones) previously under the authority of the Ministry of Migration Policy.⁹¹

The procedure remains similar to the former one, replacing the judicial appointment provided for in the Civil Code with a single act of the public

88. Law 4554/2018, Gazette A’ 130/18.07.2018, “provisions on social security and retirement – confrontation of unregistered employment – guardianships of unaccompanied children and other provisions.” Part III articles 13-32.

89. The law provides for separate national registries to be included in the National Registry of Child Protection of EKKA, for UAMs, professional guardians, Accommodation Centres for Minors (articles 24-26, 28), while a Directorate of UAM Protection is instituted in EKKA, divided into three divisions: the first for the coordination, support and assessment of professional guardians, also responsible for securing the children’s right to be heard, as well as supporting the Supervisory Board [see below]. The second for the management of accommodation referrals and placements. The third for supervising and assessing accommodation facilities [article 27]).

90. Separated children included in the notion (article 13).

91. Articles 14, 19, 27.

prosecutor.⁹² Every public authority identifying a minor – particularly the Reception and Identification Service, Asylum Service and police – must immediately inform the local prosecutor and EKKA. The prosecutor acts as a temporary guardian until the appointment of a guardian, during which time they authorise suitable persons to act as legal representatives of the child before the Asylum Service.

Guardians nominated can be either a suitable person available (e.g. particularly in the case of separated children that already have a de facto responsible adult caring for them) or a professional guardian if no suitable person exists, nominated by EKKA from the relevant registry,⁹³ and finally appointed by the prosecutor.

Upon nomination, the prosecutor assigns the case to the Supervisory Board while they remain the responsible authority to resolve any differences between the board and the guardian.⁹⁴

The referring agency remains responsible to inform the child on the appointment of the guardian. Professional guardians (PG) have only territorial competence and are to be replaced when the child is relocated to an area which territorially falls under the competence of a different prosecutor or if/when a suitable person is located to assume guardianship responsibilities.

The particular responsibilities⁹⁵ and duties of professional guardians are mentioned – among other things – while the internal rules of the procedure are yet undefined, and duties and other conditions to be formulated will be included in the relevant contracts. Several of the duties mentioned in the law seem problematic in their fulfilment, depending on

92. Articles 13-16.

93. Details of registry, typical and substantial qualifications, practical details, the content of the contract with EKKA and all other matters are to be regulated in the future pending the issuance of a joint ministerial decision.

94. Yet the law does not foresee future procedures or securing access of a non-professional guardian to the Board (e.g. a relative of the minor assessed) or means to address their relevant proposal before it, despite the particularities of their status and nationality. Being third-country nationals, a need for special professional assistance and support in this task is evident. The substantial difference seems to be that the non-professional guardian remains responsible regardless of any relocation of the residence of the child, as well as the fact that they are charged with the actual care of the child during their everyday life and accommodation together.

95. Article 18.

other governmental and non-governmental services with insufficient capacity (e.g. duty to secure nutrition, legal aid, or interpretation services). Among other things, PGs have the obligation to: Secure substantial means of survival (nutrition, accommodation) by referring the child to responsible actors, provide support with medical services and examinations, secure social benefits, school enrolment, and educational activities; they are explicitly named as responsible parties for securing *all necessary reception conditions*, always entrusting, by law, the actual living conditions and care of the child to a third party,⁹⁶ and by taking all necessary steps to secure the most suitable accommodation environment, foster care, semi-autonomous living space, of shelter, depending on the case.

The guardian is responsible for representing the child before all administrative and judicial authorities, applying all relevant legal remedies through competent legal professionals, as well as providing for translation services and assisting in family tracing and reunification procedures if dictated by the best interest of the child, while they have the obligation to inform the minor in a child-friendly manner of all proceedings and decisions affecting them, securing substantial participation of the child in all relevant procedures.

Several ethical duties are also described, such as the development of a substantial caring relationship with the child, treating it with respect and affection in a non-discriminatory manner, communicating with every child they are providing for at least once a week.

All guardianship agents must take into consideration the views of the child, depending on its age and maturity, as well as to act according to the best interest of the child in every decision. The best interest of the child will be assessed and determined through standard assessment and determination protocols and procedures to be established by EKKK as binding rules of procedure for all, constituting an inextricable part of the guardians' contract, as well as the board's rules of procedure or standard operating procedures.⁹⁷

Though not mentioning the cases or circumstances during which the guardian has the authority to decide on his own for the child, the law provides in an indicative manner for instances and subject matters that are appreciated to be decisive for the well-being of the child, and therefore a decision of the board is required, following the guardian's proposal (e.g. medical matters, decisions af-

96. Article 20.

97. Article 21.

fecting the child's civil status, family reunification, voluntary return, indications of possible abuse within caring environment).⁹⁸

Yet the law does not provide for particular procedural safeguards ensuring the child's actual participation in the procedure or that its views are actually taken into account, demanding no particular or actual proof by the guardianship actors. Furthermore, while EKKA is also mentioned as the responsible authority in securing that the child is heard, at least in relation to its collaboration and relationship with the guardian, the relevant procedure is not prescribed.

Most regrettably, no legal remedy or complaint procedure is provided for the child to express any opposition or complaint regarding its guardian, nor is there the ability to challenge any decision affecting it issued by the three implicated actors, who are given extremely broad authority while remaining essentially unaccountable.⁹⁹

The law was issued in July 2018 but its entry into force depends on the adoption of the rules of procedure for the Guardianship Supervisory Board and their final authorisation by the Minister for Labour at an undetermined date.¹⁰⁰ The actual implementation also depends on the adoption of several ministerial decisions – also at an undetermined time in the future – providing for numerous organisational and substantial details regarding the formulation of the registries, calls for candidates, conditions of future contracts, additional duties, caseloads of PGs, etc., for which the law does not provide.¹⁰¹

98. Article 19.

99. Some form of liability is described only for the guardian in case of poor performance or violation of their contractual obligations. The board, and particularly the prosecutor, remains.

100. Articles 31-32. Upon authorisation of these rules, which will include standard determination and assessing of the BIC procedures, PD 220/2007 will be fully abolished.

101. Articles 21, 24, 27, 28.

[4]

Civil society and funding

The civil society sector has experienced unprecedented growth since 2015. Thousands of professionals were expeditiously and quickly recruited by international and national governmental and non-governmental organisations active in refugee protection in Greece, covering a wide range of services immediately required in response to the refugee population's extremely increased need for reception services, accommodation, medical aid and care, psychosocial support and assistance, legal representation and aid.

Due to the lack of a systematic and coherent child protection framework and pathway, the role of NGO staff has proven intrinsic to the well-being of minors. NGOs were, and still remain to a smaller extent, the basic service providers within reception and identification centres and all new reception facilities (camps, shelters, hotels), supervising and providing for the relevant staff in hundreds of facilities and offices.

The need was such that shortly after August 2015, experienced professionals were no longer available. Young and/or inexperienced practitioners were employed and stationed at the most demanding duty stations or posts that required special training on child protection and care. All non-mental health professionals said there was a complete lack of training on the subject matters by their employers, except for one, formerly-employed by an international NGO on an island duty station. Three had received training, which however was described as elementary and not relevant to they actually had to face in their daily work with children, while most mentioned unofficial and day-to-day employment as the only training received.

Funding

The amounts of money spent in Greece have made it one of the costliest humanitarian operations.¹⁰² However, it still seems impossible to truly see their effects in providing systematic and long-term protection to refugees and UAM.

102. Daniel Howden, Apostolis Fotiadis, "The Refugee Archipelago: The Inside Story of What Went Wrong in Greece," Refugees Deeply, 6 March 2017, <http://bit.ly/307lw9f>.

Specifically: To support the Greek authorities and international organisations and NGOs operating in Greece in managing the refugee and humanitarian crisis, the European Commission allocated over €393 million in emergency assistance since the beginning of 2015.¹⁰³ The emergency funding comes on top of the €561 million already allocated to Greece under the national programmes for 2014-2020 (€322.8 million from the Asylum, Migration and Integration Fund [AMIF] and €238.2 million from the Internal Security Fund [ISF]). Emergency support instrument: In urgent and exceptional circumstances, the European Commission can fund emergency humanitarian support for people in need within the EU. The Emergency Support Instrument aims to provide a faster, more targeted way to respond to major crises. This includes helping member states cope with large numbers of refugees, with humanitarian funding channelled to UN agencies, non-governmental organisations, and international organisations in close coordination and consultation with member states. The Commission released €650 million for the period from 2016 to 2018. €605.3 million has been contracted to date.¹⁰⁴

Though focused on asylum and border security measures, a considerable amount of the Commission's Directorate-General for Migration and Home Affairs (DG Home) funding was granted for actions relating to the humanitarian response to the situation in Greece, notably accommodation, food, and medical care, which were provided by the army for refugees and migrants.

In 2017, DG Home's national programme funding, intended as a longer-term support measure, gradually phased into a measure to tackle the refugee crisis. Therefore, as of 31 July 2017, Greece was no longer considered to be in a state of emergency, and as of 1 August the funding and management of services at migrant and refugee camps were steadily handled by the Greek government, with the Directorate-General for European Civil Protection and Humanitarian Aid Operations (DG Echo) still funding programmes on the mainland. As specifically mentioned, only support for safe zones for unaccompanied minors (UAMs) will continue, while the Greek authorities will take over the funding of all other UAM services.¹⁰⁵

While the funding offered by DG Echo for humanitarian aid allowed for a geographical spread of services, covering the islands and the mainland, it was provided to international NGOs rather than to the state, delaying the govern-

103. In 2015/2016 the Commission was by far the largest humanitarian donor in Greece, accounting for 77% of the total (Source: UN OCHA, September 2016).

104. European Commission, "Managing migration: EU Financial Support to Greece," April 2018, <http://bit.ly/2VqRdNj>.

105. European Commission, "Emergency Support Financing Decision: Operational Priorities," 5 July 2017, <http://bit.ly/2H9xade>.

ment's ability, capacity, and even willingness to manage the situation, leaving it completely unprepared for its gradual undertaking of migration management. This was partly because there was no department/national agency in place to manage the funding received from the AMIF until 2017.

Article 28 of Law 4375/2016 established an autonomous Directorate for Financial Services of Immigration Policy, under the Minister of Interior and Administrative Reconstruction, competent for matters for immigration policy. The Directorate for the Financial Services of Immigration Policy shall have its own budget as a separate entity within the Ministry of Interior and Administrative Reconstruction; the budget shall record appropriations so as to meet the requirements for the implementation of the immigration policy.

The results of this steady move to AMIF national funding resulted in extreme delays in receiving the funds and subsequent strikes by staff of the Asylum Service during a period where applications for asylum were at a peak.

In the case of shelters for UAM, the delays were unquantifiable and directly affected both staff and minors. Specifically, responsibility for funding of most shelters was transferred to the state as of 1 August 2017, and while the first instalment was readily transferred to NGOs managing shelters (October 2017), the delays in receiving the final instalment, and the first for 2018, left all shelters in an extremely precarious position. (This is further analysed below in the section *Shelters*.)

Poor planning

As derived from the questionnaires with staff working in the field, mismanagement and the lack of strategic long-term development of projects was often cited, highlighting a gap between the needs in the field and those developed in project proposals. Many testimonies mentioned that while the situation in the field requires consistent adaptability and flexibility to meet the new priorities as they arise, project guidelines did not allow for such changes.

Furthermore, projects need to be long-term in order to ensure that all stakeholders involved – from staff, to suppliers, and the minors themselves – are investing their effort and time within a more secure framework, rather than in short-sighted temporary projects, such as the ones implemented from 2015 onwards.

[5]

Integration

[5.1] Inclusion as a durable solution

Among the durable solutions, integration in the reception country is the next best strategy for the wellbeing and development of any child for which family reunification is not an option, due to the non-existence of a suitable family member either in an EU member state or in the country of origin. Even in cases where parents exist back home, states have the obligation not to reunite in the country of origin if the parents are not capable or able of providing the appropriate caring and living conditions for the development of the child. All implicated authorities are urged to exercise extreme caution before any such attempt to return a child is made. Regardless of legal status, permission to remain and integrate derives from the state's obligation to protect the integrity, life, health, and development of any child. Eminent humanitarian guidelines dictate that all children must be protected and cared for.

A procedure that will determine the best interest of any child on an individualised basis is imperative since this procedure will identify the proper solution serving its wellbeing and development. As a general principle, these procedures should be available and accessible from the first moment of arrival through competent agencies and actors.

All caring arrangements from day one – securing safe living conditions of a high standard, social benefits and facilitations, protection of the mental and physical health of the child, education, positive stimulations and recreation, development of skills and talents or professional training in order to secure future employment qualifications – are equally important towards inclusion and repeatedly recognised as such.¹⁰⁶

In the case of Greece, despite efforts of civil society, massive funding, and attempts to ameliorate the situation for minors, things do not seem to work in the smooth and timely manner necessary to ensure both the child's protection and its long-term inclusion in society. Talking about children's inclusion with professionals elicited a common reaction of frustration and disappointment.

Summing up the conclusions of this research in a single phrase, one psychologist remarked: "We cannot put them through all this ordeal, and then say: 'Okay, now we are going to re-integrate you'."

106. See Separated Children in Europe Programme (SCEP): Statement of Good Practice (4th rev. ed., 2010), <http://bit.ly/2V7WtjH>; Relevant CRC/GC/ 6, 22, 23, UNHCR Guidelines on determining the Best Interest of the Child, May 2008.

The essence of the matter as revealed by all interviews is that everyday reality and treatment of children, systemic obstacles, deprivation of actual care and decent living conditions, poor case management and malpractices, force children into the margins of society, making them susceptible to all sorts of ill-treatment, abuse, and exploitation. Greek reality has proved extremely challenging for children's patience, depending to a great extent on their personal resilience, abilities, character and even luck (!), the latter showing itself to be a decisive factor on most occasions. Much depends on the time of arrival, the shelter a child finds itself in, and, most importantly, the quality of the professionals that will surround it.

Circumstances are no better for service providers. Fulfilling their duties to the children in this context becomes an ethical obligation to help a child survive, demanding of them a degree of perseverance that often comes at a great personal cost.

[5.2] Reception possibilities

There is a lack of accurate data on the number of UAMs. The most reliable source is the National Centre for Social Solidarity (EKKA), which collects figures from the number of applications addressed for housing. The most recent figures (from 15 June 2018) show the number of UAM in Greece to be at 3,973.¹⁰⁷ Of them, 95.9% are boys, 4.1% girls, while 5.3% are under 14 years old. UAMs often go undetected, particularly when they arrive over the land border with Turkey (Evros), often escaping apprehension and registration with any authority/NGO. Thus, the figure should be treated with caution.

Out of these 3973 UAM, 1,141 already reside in shelters and the other 2,832 are awaiting placement: Some remaining in protective custody (216), others in Reception and Identification Centres in border areas (368), 177 are in camps within the general population and not in a specialised section, 264 are in camps/safe zones, 467 are in hotels used as another form of urgent transit accommodation solution, 238 are in other

107. EKKA, Updated Fact sheet: Unaccompanied minors in Greece, 15 June 2018, <http://bit.ly/2VapAmp>.

types of precarious accommodation (e.g. awaiting eviction, housed by/ with adults who are unidentified by the authorities, most likely of the same nationality), 690 are named as homeless (street situation), while 412 do not mention any type of residence. Out of the 2,832 children waiting for shelter, 78 are girls and 2,754 are boys. It is important to highlight that access to services from the moment of entry towards integration is not a linear or straightforward process, and in Greece in particular policies implemented in 2016 drastically altered the situation in the country, impacting the journey and the potential inclusion of those stranded here – minors included – following the closing of the borders to the Balkans. Furthermore, border areas and particularly islands function separately from and outside the framework in place on the mainland.

This creates a certain incoherence in the effort to map out services.

How UAMs enter Greece

- a. Apprehension at the border – notification of the prosecutor and referral to Reception and Identification Centre (or Mobile Reception & Identification Unit) – Assessment of particular needs (medical assessment, social support/referral to EKKA – referral to the Regional Asylum Office upon demand by the minor – approval of prosecutor if the minor is below the age of 15)¹⁰⁸ – deprivation of liberty pending referral to suitable accommodation¹⁰⁹ – protective custody, if initiated by the RIS administration initially, continued by the prosecutor if necessary – (temporary accommodation at a camp pending placement if available) – placement at a shelter with the approval of prosecutor – initiation (or continuance if already started) of procedures before the Asylum Service.
- b. Reaching the mainland undetected by police authorities¹¹⁰ / fleeing border area before placement at a shelter or transfer to a pre-removal centre¹¹¹ / or absconding from a shelter:

108. Actions within brackets are not obligatory and could occur in a given situation.

109. Extremely young minors and/or female UAMs – depending on age and vulnerability – are usually immediately placed to a transit shelter – if available – or children’s hospital until suitable accommodation is found in the proper shelter.

110. This fact has been repeatedly noted for populations crossing through the land borders with Turkey in the north of Greece and the Evros region in particular.

111. It should be clarified that not all border areas have pre-removal centres and that capacity is often exceeded. In these cases, however, protective custody decisions may be issued, but minors remaining in open spaces actually flee the area undetected.

1. Approaching civil society actors on the mainland to access services: Depending on the needs and wishes of children, as well as their age, the capacity of civil society to respond and the professional opinion of service providers: Referral to EKKA by civil society actors – notification of prosecutor by EKKA/securing access to asylum procedure¹¹² – Notification by Asylum Service of prosecutor and referral to EKKA.

Until placement, minors could be temporarily accommodated in a camp if space is available and depending on their age¹¹³ – in a street situation – in an unregulated temporary environment of their choosing (e.g. family friends, compatriots) – apprehended by police authorities and detained – escorted to police authorities and placed under temporary accommodation in a children’s hospital or transit shelter if available.¹¹⁴

2. By not approaching civil society, minors remain undetected by all authorities unless apprehended by police authorities who will inform the prosecutors and refer the case to EKKA.

The difference between the two possible scenarios – depending on apprehension and the consequences of the absence of any reception procedures on the mainland – are striking. Contrary to expectations, more and more children seem to accumulate in major cities.

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112. The Asylum Service has access to RIS files and can identify persons fleeing an island. Particularly for unaccompanied minors it is evaluated by the Asylum Service, as contrary to their best interest to be returned to the islands or to be referred to the police for their confinement and RAO proceed with the registration, contrary to what would have occurred in the case of an adult.
 113. Very young children (i.e. below the age of 13, depending on circumstances) and female UAMs are excluded from such premises.
 114. Extremely young minors and/or female UAMs depending on vulnerability and particularities of the case.

[6]

Obstacles towards inclusion

[6.1] Reception at the borders

National legislation allows for the Reception and Identification Service (RIS) responsible for carrying out the identification of third-country nationals to be supported by Frontex, the latter being active in almost all border areas in recent years.¹¹⁵

There are different practices followed in violation of numerous children's rights at the borders, but at times, according to professionals, there is even violation of their physical and psychological integrity. While a person waits to be registered, they are left in a space covered by a tent with adults – men and women – sleeping on the floor, with no security guards after 11 pm. Furthermore, identification procedures are undertaken by Frontex staff and their personal opinion is referred to the RIS for endorsement, whose staff readily endorse it, mainly due to lack of capacity.

It has been suggested by civil society that Frontex should only document what is stated by the asylum seeker, and in the case of minors in particular it should do so in good faith. However, the questionnaire used by Frontex for identification and registration is not publicly available.¹¹⁶ There have also been numerous cases of minors complaining to their NGO service providers about Frontex staff¹¹⁷ severely mistreating them, even slapping them, in order to force them to either “admit” that they are adults or that they are of a nationality other than their own. During 2018, an increase in the numbers of so-called *presumed minors* – i.e. minors that have been wrongly identified and documented as adults – has been noted by professionals. These minors remain in Moria Camp, with no further protective and child friendly services, “at the mercy of the numerous dangers rampant in this hot spot”. Although the law provides for the presumption of minority until the age assessment procedure is conclusive, authorities in practice reversed it into a presumption of adulthood, treating them as if they were adults until a conclusion is reached.

115. Law 4375.

116. A request has been made by civil society actors to access a specific file, an answer for which is still pending.

117. In an interview conducted in May 2018 within the framework of the research, it was mentioned that Frontex has recently registered 12 minors as adults, and within three days they had all then been re-assessed as minors through the age assessment procedure.

A person should be treated as a minor for as long as doubt remains as to their age, this protection extending even after the conclusion of the procedure if the professionals assessing the age still have doubts.

Age assessment questionnaires are based on a Eurocentric understanding of a minor's life, which does not enable the identification of the proper individualised pathway for the child.

“Age assessment questions should be culturally relevant to the child's country of origin and route. There is no point in asking a boy from Pakistan or an Afghan who grew up in Iran how many years he has gone to school, or how many years he has been working for. Questions need to be identified to reflect the reality in the country where he was raised, and not based on the Eurocentric way of life.”¹¹⁸

Minors feel safer concealing their age sometimes, intimidated by the rumours that circulate among the population regarding the previous practise that prevailed on the island of “collective protective custody” of minors that left them detained on the island for months,¹¹⁹ or because they are afraid they will be “trapped” in Greece, or because that is what their smuggler has told them to do in order to continue their journey to another member state.

Should a minor decide to correct their identification and be formally and officially registered as a minor, they would, up until recently, have to wait for their interview with the European Asylum Support Office (EASO) in order to be able to state the truth about their age. In the great majority of cases, the interview will be interrupted, and the child will be referred for age assessment. This practice was greatly inefficient, putting minors at great risk since they would have to remain accommodated at the hotspot with adults for a long period of time – sometimes even six

118. This has been mentioned by several professionals working on the borders in the North Aegean islands over the past three years.

119. Minors were forced to stay in a so-called ghost wing, very similar to a prison, with no services, no yarding, and only a shift of care takers to look after their very basic needs. They had to revolt in order to demand better conditions, with extreme acts of violence committed between them. 21 children were taken to hospital, while the rest were locked inside for two days, with no staff presence, no cleaning up of the bloody scenes, broken glass, etc. They had to stage an uprising in order to obtain their basic rights and a tiny bit of respect.”

months before their interview could be undertaken, as a minor, excluded from the border procedure.

This practice recently changed, and referral for an age assessment happens upon registration with the Asylum Service. Professionals mention that

“it would be impossible to undertake this step and correct one’s age in order to be rightly documented as a minor, without the support of professionals from NGOs. The system is complicated, and no information is provided to this end, while there is also no state obligation for a lawyer at the first instance. Not even for minors.”

Despite legal provisions on age assessment as described previously, until very recently, due to the lack of a paediatrician or child psychologist to carry out the age assessment, the Asylum Service referred presumed minors to the public hospital in Lesbos for a dental examination, basing age assessment on the number of wisdom teeth that are still in place. With regards to the upper limb x-ray, the hospital would undertake the exam, and then issue an official statement, stating that no determination could be made on the age of each minor over the age of 15 through such an exam. As of July 2018, presumed minors are now referred to the psycho-social staff of KEELPNO¹²⁰ for an assessment of their age. However, while this is a stark improvement, KEELPNO has a shortage of interpreters, usually requesting from the NGO representing the minor to provide their own interpreter or further postponing the age assessment, and therefore the asylum procedure.

Should a minor be able to provide documentation proving their age, it will be submitted to the Asylum Service. The Asylum service on the particular island does not give any protocol number to verify submission of these documents and they are then referred to Frontex for an examination of their authenticity. Should they be found to be genuine, then the minors’ age is corrected. If not, these documents are confiscated and destroyed, and there is no appeal procedure in place.

120. The Hellenic Centre for Disease Control and Prevention (KEELPNO) provides psychosocial and health services within the hotspots of the northern Aegean Islands and pre-removal centres, as a contractor on the part of the Ministry of Health, as per the Ministerial Decision published in the Government Gazette Issue B’ 3877/06.09.2018.

Consequently, two different procedures have been created, and therefore two “types” of minors: Those who were rightfully registered by the RIS as minors and those who were identified as such by the Asylum Service following a difficult and long procedure.

Risk of false registration

For most of 2017, the Asylum Service authorities did not refer children to EKKA, as it was deemed to fall beyond their responsibilities. The two responsible authorities for the timely identification and registration of minors – the RIS and Asylum Service – did not consult with each other on the matter, and it was left unclarified between them until 2018. Minors that were eventually correctly registered as such before the Asylum Service and not by RIS were not referred to EKKA by anyone. They would see others being transferred either to the mainland or to a shelter before them, even though they had arrived in Greece earlier. This exacerbated their anxiety and frustration as to the procedures in place and their future even more than before. Furthermore, even though their vulnerability interview was rightfully interrupted in order to be transferred to the Asylum Services and integrated into the proper asylum procedure (i.e. not the border procedures), they still had to wait, sometimes for months, while residing in Moria Camp, before their interview was finally held with the Asylum Service and their true age registered.

Minors wrongfully assessed or registered as adults on the islands are at immediate risk of administrative detention and readmission procedures to Turkey. During the “low profile”¹²¹ project, initially a pilot programme, single male asylum-seekers, nationals of countries with a recognition of international protection rate below 25% according to Eurostat, and Syrians,¹²² are detained upon arrival in the Pre-Removal Detention

121. Within the framework of the low profile project implemented by the First Reception Centre and the Hellenic Police, while not prescribed in any legislation, single men from countries with a recognition rate below 25% are detained upon arrival in the Pre-Removal Centre in Moria First Reception Centre, following a decision for detention issued by the Asylum Service, and pending the completion of their asylum procedure, or following the intervention of a lawyer should they be considered vulnerable, or in cases where there is no interpreter available in their language leading to severe delays in the examination of their request for asylum.

122. Due to the EU-Turkey agreement and Law 4540/2018, Turkey is considered to be a safe third country for Syrians, therefore prior to the assessment of the substance of their asylum

Centre of Moria. Consequently, if a minor is wrongly assessed as an adult, they are at imminent risk of being returned to Turkey.

Handling these cases has proved extremely complicated and the bureaucratic obstacles are maze-like, since most competent actors and authorities inside the Reception and Identification Centres (RIC) do not communicate with each other directly.¹²³ Therefore, professionals admit to facing difficulties when trying to release a presumed minor in administrative detention through the age assessment procedure, and it requires both legal aid and competence, as well as patience and the development of relationships of trust and understanding between professionals and the relevant staff of the competent authorities. This highlighted – on more than one occasion – the ad hoc and individualised protection system for minors within the reception system.

“We all – lawyers, the asylum service, the police – do what we can to get people off the island. The whole system works like Schindler’s List, where we are trying to find solutions to get people off the island as quickly as possible...”

“After this ordeal – of trying to convince all the relevant authorities that this is indeed a minor – you have caused more problems to the child than it originally had when it arrived.”

Evros

While the situation is extremely complex in the Northern Aegean islands, minors that enter from the land border with Turkey, through Evros, encounter a very different situation. Evros as a region, and the Fylakio RIC, is excluded from the EU-Turkey Statement and therefore the border procedure. Consequently, there is no admissibility procedure. Should a person seek asylum, in theory they are registered, assessed, and referred

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claim, they first undergo an admissibility interview, in order to examine whether they can apply for asylum in Greece or if they should be returned to Turkey.

123. For example, there are cases where a minor is wrongly registered as an adult and is detained as per the low-profile project. It is impossible to refer them for age assessment as the police consider that the medical examination has already been completed in order for someone to have reached the phase of administrative detention. They therefore do not allow for the referral of persons to a medical examination and assessment, unless a lawyer perseveres to this end.

accordingly. However, testimonies underline the lack of any kind of assessment or medical care, while conditions in Fylakio RIC have been reported in numerous reports as inhumane and degrading.¹²⁴ Many minors that arrive from the land border with Turkey enter the country and are not located and identified by the army or police authorities, and therefore not referred to Fylakio RIC for their initial registration and the enactment of the relevant protection procedures. Professionals state that there are many cases of children who are not identified until they reach a major city (Thessaloniki or even Athens), after many months in most cases, at which point they are either registered through their accessing an NGO or apprehended by police authorities. Still, if a child manages to avoid all these actors, none of the authorities will ever know their presence in the territory and they will remain susceptible to everything and everyone.

“The minors that arrive from Evros are like ghosts. No one has seen them. No one has registered them. It is like they don’t exist.”

Living conditions in Reception and Identification Centres (RIC), “Hot-spots” and Evros (closed off zones)

The conditions in the RICs have steadily improved, moving from “*ghost wings*” in the pre-removal detention centre in Lesvos RIC for example, to sections where minors reside in what has been compared to an army barracks. The food is deplorable, the conditions unhygienic, and there is significant overcrowding. There has been documentation of self-harm, violence, and suicide attempts.¹²⁵ Services are practically non-existent, as is access to education. There is no legal aid. Minors’ documents are kept from them and they are therefore dependent on staff to escort them if they need to go anywhere. This situation is tantamount to being held in administrative detention conditions. Section B is supposed to be safe, as is the Safe Zone in Lesvos RIC. However, numerous instances have been recorded where adults have jumped over the gates to start or continue

124. Preliminary observations made by the European committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), Ad hoc visit to Greece 10-19 April 2018 [CPT/Inf(2018)].

125. “Suicide attempt by an unaccompanied minor,” EFSyn, 4 December 2017, <http://bit.ly/2VUNo2f>.

a fight. At some point there were even tents set up for unaccompanied minors right outside Section B, since there was no space inside. Since the spring of 2018 single women have also been residing in Section B, as there is no more space in the relevant section dedicated for single women.

A recent UNHCR assessment conducted in May 2018 in Lesvos RIC¹²⁶ concluded that minors feel they are being heard, but not listened to, as the situation does not change. They need additional access to medical support (after 4pm), they express helplessness on how to support their friends who are self-harming; they state that they need adequate information and legal representation, their basic needs to be covered (shoes, clothes, a barber), better education and outdoor activities, better food and security. It is striking that these extremely basic needs are still pertinent and have gone unmet three years after the increase in arrivals and two years after the EU-Turkey agreement.

The situation in Evros RIC is even worse, where testimonies underline inhumane and unacceptable hygiene conditions,¹²⁷ lack of interpreters, lack of medical and nursing staff, no identification, vulnerability or age assessment procedures, overcrowding, lack of yarding at times even for two days, and a mixed population – in terms of ages, gender, and medical issues – in the containers and tents.¹²⁸

Detention

The Ministry of Migration Policy had pledged¹²⁹ that no minors would be in detention by the end of 2017. However, at the end of December 2017 there were still 54 documented minors in detention, while in 2018 this number dramatically increased to 216, as of 15 June 2018.

This is apparently due to an increase of unaccompanied minors in Greece overall, and due to the recent evacuation of two abandoned factories in the

126. UNHCR conducted a needs assessment of refugees in Lesvos in May 2018. The report has yet to be released (20 September 2018), but a summary of its findings was presented in the Inter-Agency Working Group in Lesvos on 1 August 2018.

127. Preliminary observations made by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT). Ad hoc visit to Greece 10-19 April 2018 [CPT/Inf(2018)20].

128. Human Rights Watch, Greece: Inhumane Conditions at Land Border, 27 July 2018, <http://bit.ly/2DZ0cdU>.

129. "Minister of Migration Policy: By year's end all unaccompanied children in appropriate structures," AMNA, 2 August 2017, <http://bit.ly/2LARjx6>.

port of Patras, where UAM – among others – illegally resided in order to try and cross to Italy. During their operation, police authorities identified 142 minors, out of which only 37 had been registered, while 105 had never even been registered as seeking protection in Greece. Identified minors were moved to safer accommodation spaces, while 105 minors were transferred to Corinth Pre-Removal Centre under “protective custody”.

Keeping children in detention centres has long been a practice of the Greek government and while the situation has steadily improved over the years, the examples of increasing numbers of minors in detention continue. Again, during the second half of 2017, there was an increase of minors under protective custody in Amygdaleza Pre-Removal Centre, as well as a prolongation of its duration. The Ministry of Migration Policy stated that this was due to the arrival of 1,100 UAM between August and November 2017.¹³⁰

As has been constantly reported by a range of actors, the conditions in Amygdaleza do not meet basic standards and are unacceptable conditions in which to place minors, even temporarily,¹³¹ while there are also shortages in clothes, shoes, and hygiene items, and a lack of beds causing minors to sleep on the floor and on mattresses that have not been disinfected. There are also documented cases of violence, self-harming, and hunger strikes on a regular basis.

“Minors keep on asking us why they are in jail since they have done nothing wrong.”

130. “Increase in the number and detention period of unaccompanied minors,” Avgi, 21 December 2017, <http://bit.ly/2VcaiOj>.

131. Arsis, “Annual report 2017: Athens intervention team of Arsis in the field of detention in Amygdaleza and Tavros pre-removal detention centre,” 22 May 2018, <http://bit.ly/2HaUgiR>.

[6.2] Centres and shelters: the situation on the mainland

While it is important to note that Greece was not familiar with similar situations, nor did it ever have a foster or guardianship system in place, it can be expected that during this third year of the so-called “refugee crisis” certain patterns could be avoided, and best practices could be endorsed to ensure that unaccompanied minors have a safe space in which to reside, whether in transit or permanently until they reach adulthood, and/or are able to stand on their own two feet. However, not all minors have a safe space in which to reside. There are currently three types of spaces that could accommodate minors: Two are temporary, safe zones in camps and hotels, and the only-long term accommodation for children currently available in Greece are shelters.

In practice, minors can also be found residing in squats or in crammed apartments with other third-country nationals, usually adults, to avoid homelessness.

While shelters also present a wide variety of problems, other accommodation options are not in accordance with international standards on reception and living conditions of minors. Furthermore, the list of available shelters and forms of accommodation continues to shift constantly, and they are definitely not sufficient to provide housing to the continuously increasing number of unaccompanied and separated minors in Greece.

Safe zones

There are currently 10 safe zones operating in Greece,¹³² which can accommodate up to 300 minors.

Safe zones have been set up as an alternative to accommodate and provide services and care to UAM and to address urgent safety and protection needs of UAM, including immediate removal of children from detention until longer-term options for placement of UAMs or durable solutions are available.

132. EKKA, Situation Update: Unaccompanied Children (UAC) in Greece, 31 July 2018, <http://bit.ly/2VUhmDw>.

A set of guidelines and recommendations has been drafted by the Child Protection Sub-Working Group – Athens,¹³³ setting up the framework for the operation of the safe zones and standards to ensure that these spaces are suitable for minors. These guidelines were also “endorsed” by the Ministry of Migration Policy and the Ministry of Labour. However, since there are no official state-issued guidelines or any relevant legislation, their existence is not binding for the state and they are selectively implemented as an option within particular camps under the Ministry of Migration Policy.

Minimum standards state that a child should remain in the safe zone for a maximum of 12 weeks. In reality, however, there are cases of UAM living in safe zones for over a year and of others leaving – many passed the 12 weeks because they reached adulthood and were moved to reside in the camp with the rest of the adult population, upon turning 18. This is mainly because children residing in safe zones are usually referred there after detention and are usually older than 16 years, therefore they will be the last to be referred to a shelter. Priority is given to children in designated hotspot areas, children in detention, younger children, and the homeless. Safe zones and hotels seen as a much more favourable living environment than the rest, therefore minors residing there could not be prioritised. The recommendations also state that there should be strong community links with the camp in order to ensure their protection. In practise tensions grow among UAMs and the general population in several camps.¹³⁴ They also mention that every safe zone should be situated in the vicinity of support services and have a UAM specialised service provider that can provide dedicated support (case management services) and cover the basic needs to the children within it.¹³⁵ It also states that the implementing agency of the safe zone is responsible for the services provided to the UAC, including the daily care and protection of the

133. Working Groups (WGs) were established in 2015 in order to coordinate the relevant stakeholders, identify pertinent issues in each field relevant to the management and protection of migration and subsequent solutions. One of these WGs – the Child Protection WG – drafted *Minimum Standards for Safe Zones for Unaccompanied Children (UAC) in Open Accommodation Sites*, <http://bit.ly/2vOAioH>.

134. Many complaints have been made in Schisto and Eleonas camp, among others, by refugees residing there about the danger that the safe zone brings to the rest of the site.

135. *Ibid.*, n. 131.

UACs, however they will not act as their legal guardians. As this is not an obligation, it is of course up to interpretation, and there have been instances where children in safe zones do not have clothes or hygiene kits and the service providers involved argued about which of all the organisations present should take care of the children.

Hotels

In March 2018 hotels were set up as emergency solutions to respond to the growing number of unaccompanied and separated minors on the islands. Twelve hotels are now operational with a capacity of 500 spaces. The hotels are managed by the International Organisation for Migration (IOM) and funded by the European Commission within the framework of a project entitled “ERAcUMiC: Emergency Response in Accommodating Unaccompanied Migrant Children”.¹³⁶ The aim of this programme is to provide temporary accommodation and protection services, covering basic needs, access to primary healthcare with one medical unit present per accommodation facility, legal counselling, psychological support, educational activities, and courses, as well as arrangements for enhancing the external services provided to UAMs, qualitatively and quantitatively strengthening the assistance capacities within the current emergency response to increase UAM accommodation places and to provide appropriate services.

There were also testimonies of certain floors in hotels being used to house minors, while the rest of the hotel continued to work in its proper capacity. Some hotels are at a great distance from the city, making minors feel further excluded. Some hotels are in disadvantaged areas and some even used to be “love hotels”. While there are services provided, they cannot cover the large number of minors residing in one single accommodation space.

Once again, this is a short-sighted, temporary step; another non-permanent solution that will allow minors to feel safe and protected. It is also a costly project and one is left to wonder whether the funds used here could have been better utilised to develop more permanent and safe accommodation spaces such as shelters.

136. IOM, “Emergency Response in Accommodating Unaccompanied Migrant Children - ERAcUMiC,” <http://bit.ly/2VPBk2l>.

Access to permanent accommodation

While the Greek state is responsible for the care and protection of these children, there is a chronic shortage of suitable community-based accommodation for minors. The total number of UAC referrals received and processed by EKKA between January 2016 and January 2017 is 5,192. By 15 August 2018 the number had reach that of 14,810, only a year and a half later.¹³⁷

In January 2017 the national capacity for the accommodation of children was reported as 1,312 places, of which 813 referred 28 long-term facilities (shelters), while 499 were in 22 transit shelters. The number of unaccompanied children accommodated in long-term and transit shelters was 1,312, while 1,301 unaccompanied children were waiting for a place. The estimated number of minors in Greece was 2,300.¹³⁸

On 31 January 2018 the estimated number of unaccompanied children in Greece was 3,270. Of those, 2,312 were on a waiting list for a shelter. 269 children on the waiting list remained in enclosed facilities (RIC) and police stations under “protective custody”. Despite the increase, a year later (January 2018) the capacity dropped to 1,101 places, 783 in 33 long term facilities and 318 in 16 transit shelters.¹³⁹ In June 2018, 2,832 minors were improperly accommodated,¹⁴⁰ out of the 3,973 documented by EKKA minors currently in Greece, pending placement to a shelter.

As of August 2018,¹⁴¹ the estimated number of minors in Greece is 3,290. An increase of 90 more spaces was noted since January, reaching

137. EKKA, Situation Update: Unaccompanied Children (UAC) in Greece, 15 August 2018, <http://bit.ly/2H9wYuy>.

138. EKKA, Situation Update: Unaccompanied Children (UAC) in Greece, 13 January 2017, Out of the unaccompanied children on the waiting list, 277 were in closed reception facilities (RIC) and 18 detained in police stations under “protective custody,” <http://bit.ly/2Vdbgtt>.

139. More information and Tables of all available places and details can be found in the GCR, Asylum Information Database (AIDA), Country Report: Greece, 2016, pp. 113-115, <http://bit.ly/3007B5Q>, and GCR, Asylum Information Database (AIDA), Country Report: Greece, 2017, pp. 141-142, <http://bit.ly/2H9viA5>.

140. See above, under section 5.2. “Improperly accommodated” refers to minors who are living in precarious situations, including safe zones, specially designated areas in camps and hot-spots, in flats with many nationals, in squats, in “protective” custody and in street situations, and actually “homeless”.

141. EKKA, Situation Update: Unaccompanied Children (UAC) in Greece, 15 August 2018, <http://bit.ly/2H9wYuy>.

a total of 1191 in 53 long term shelters with 1,175 places and 4 Semi-Independent living apartments with 16 places, currently running as a pilot programme.¹⁴²

There are 2,242 reported pending cases, of which: 296 in RICs, 127 in protective custody, 161 in open temporary accommodation facilities, 254 in safe zones, 413 in hotels (emergency accommodation), 254 in informal housing, 300 with no location reported, and 437 reported as homeless.

It is obvious that the capacity is still one third of what is actually actual needed¹⁴³ and the number of pending cases remains the same and will continue to remain so since capacity has been reached. The waiting list cannot move forward unless a child absconds from a shelter or leaves after adulthood or is transferred to another member state. If no progress is made, that would be the only way for a child to be safely referred to a shelter.

It has also been noted as common practice for children in protective custody to be transferred to safe zones, from which they often abscond, choosing a street situation until a shelter is found or choosing to remain on the street, taking a different and dangerous path towards an irregular life in the country. Cases where a child moves directly from protective custody to a shelter, enabling its smoother integration – i.e. where it can start feeling safe and finally plan its future – are very rare.

Key informants ascertain that this has always been the way things were with minors' accommodation in Greece, wishing for someone to abscond so children can be moved out of detention or away from the streets – even at a time when no safe zones and hotels or any option existed, except for a few hundred places in shelters. It is striking to them that in 2018, and after all the funds spent over the last three years in Greece, “we are still in the same situation. What is it that still goes wrong?”

Professionals mentioned that a space in a shelter is a constant demand of minors remaining either in a RIC, a safe zone, detention, on the street, or even of those accommodated informally. Minors anticipate security and stability. The waiting period, however, can be exhausting even for professionals, who are unable to provide a definite answer to minors.

142. The number does not include transit spaces, which currently consist of 300 places in 10 safe zones and 550 in 12 hotels.

143. UNHCR also mention it in January 2018 UNHCR, Fact Sheet, Greece, 1-31 January 2018, <http://bit.ly/2VWSevY>.

While frustration and disappointment burden all implicated parties, minors often despair.

The average waiting time before a placement in a shelter takes place differs depending on the age, sex, and vulnerability of the child, starting from a few days, to one or two weeks for extremely young children, female minors, or other extremely vulnerable cases, up to several months for healthy male teenagers, the latter being the majority. An average three to four months is anticipated, but there have also been cases where a response from EKKKA was received concerning minors that were not seen for months in our offices and were nowhere to be found.

Accommodation also depends on the support of the child by professionals who would be able to put pressure on EKKKA, keeping them informed of any deterioration of its living conditions or health. “A child came to us which had registered with the Asylum Service on its own and had been waiting for shelter for over 10 months. When it came to us, I saw that it couldn’t stay on the streets for another day. It was extremely vulnerable. We found shelter for it that same day.”

This quote from a social worker in Athens highlights both how intrinsic the role of civil society has become in providing protective services in light of the gaps left by the state, and also the factor of luck (!) that could determine – or not – the wellbeing of a minor in Greece.

Children in street situations

There has been an influx of refugees in the border areas, despite official efforts to contain the population away from the mainland; an effort failed and mirrored in all major cities, Athens being the largest one. During the last few years, major cities saw an unprecedented number of UAMs and other very vulnerable individuals in street situations, overwhelming service providers in local offices of civil society.

A key informant underlines the fact that there is no way to actually assess the number of homeless children, not even from EKKKA figures. Applications to EKKKA that do not explicitly mention “homeless” are not counted as such. Informal housing or leaving a blank on the application form could mean anything, and much depends on the person filling in the application. A child in a squat could become homeless the next day, but it would fall under informal accommodation, as would children living in

deplorable conditions with other third-country nationals, e.g. in a rented apartment, usually paying for their accommodation with money or other means. These minors should also be considered homeless, but they are not, unless explicitly mentioned as such by EKKA. There is also the case of minors that refuse to be referred to EKKA, choosing to remain where they are (friends, compatriots), and all of a sudden also become homeless in the most literal meaning of the word, trying to find shelter in squares and municipality parks.

Having to deal with an unprecedented number of children living in dangerous situations, namely in street situations or worse, altered the nature of the services provided on the mainland into “first line” response services. Conditions resemble those of an emergency situation no different than the one faced in the North Aegean islands. Service providers often find themselves in impossible situations, particularly during winter months. Most cases concern homeless children or children residing in complete insecurity with unknown family friends of the same nationality that have just arrived in Athens. The main issue still arises from the fact that minors are not able to access reception facilities in due time, if at all.

In 2018 there was also a radical increase in UAMs accumulating in open public spaces for weeks. Homelessness caused serious harm to many cases (deterioration of physical and mental health, victimisation, several threats to their security, actual crimes committed against UAMs caused by the fact that they remain in a “street situation” for long periods of time, left to secure shelter by their own means, despite service providers efforts. “2018 was the first time that we had cases of children actually arriving battered and hurt in the office after spending nights in parks or other public spaces, and medical interventions were urgently needed. Still their placement could not be accelerated despite EKKA’s efforts.”

Another professional, working primarily with homeless children, mentions: “He came to the office and he wanted to jump out the window from despair. What could I do? Nothing, absolutely nothing except calm him down and avoid any harm coming to him, but he was right.”

Unfortunately, regardless of the efforts and the quality of the services, there are cases that cannot be helped.

“We had teenagers ‘transform’ before our eyes over the months that followed their initial arrival to the office, from shy children, to angry teen-

agers, as a result of uncertainty, futile waiting, anticipation, and mixing with the wrong crowd on the streets. Others were teenagers that we lost track of before actually being able to provide for them. Some of them left Greece illegally and reappeared to let us know they were safe; still most of them vanished.”

But there are even worse scenarios than this. Another professional states:

“I had a case, he was living in the local municipality park for months, in the cold, in the rain, there was nothing I could do. All sorts of persons approached him in the park trying to lure him with money or a warm home, into selling himself. And one day, he did. It was raining, and he couldn’t hold on any longer. So, he went. He needed a roof. What could I honestly tell him since I had nothing to offer him to prevent this?”

[6.3] **Poor case management**

While procedures have recently been put in place to ensure the quality of services and living conditions in shelters, with respect to the UN Convention on the Rights of the Child,¹⁴⁴ the available spaces are too few and the guidelines only ensure the framework for the proper functioning of shelters; the individualised pathway for child protection and empowerment is left in the hands of each NGO that runs a shelter, and in particular, in the hands of staff working daily in these shelters. Furthermore, not all shelters for UAM are funded by the state mechanism. Therefore, not all shelters are forced to comply with the relevant guidelines.

Nonetheless, some shelters seem to empower minors to identify, develop, and pursue their life and interests, while others are run by inexperienced staff at best, insisting in applying rules and procedures in a way that does not help minors feel welcome and respected in the so-called “home environment” a shelter claims to be, in stark contrast to individualised assessment of needs and approaches towards minors. In some of the worst cases mentioned by professionals, serious indications were noted of drug abuse and affiliation of some residents with criminal networks. It is up to the NGOs managing the shelters to ensure that staff are

144. Guide for the Application and Operation of Hosting Facilities for UAMs, <http://bit.ly/2PYRSiX>.

properly selected and trained, that each minor is treated as an individual and provided with the necessary time each child might need to adjust to the relevant environment and develop beneficial relationships with other residents and staff of all professions available in the shelter.

Insecure and precarious funding

AMIF-funded shelters were left without any funding (liquidity and insecurity of final response) for an average of six months. This is in stark contrast to the long term and steady development of relationships of trust that professionals mentioned as one of the most important tools in helping minors open up, discuss their problems, and eventually stand on their own two feet.

Staff can also become anxious and angry as they are unpaid for up to six months at times. Their daily job and practice require calmness and serenity, they need to feel safe in their environment and have the clarity of mind to be able to deal with urgent situations. The insecurity of funding works heavily against the effort and patience needed to work with, guide, and support any adolescents, let alone ones that are in an even more complicated and traumatic situation.

The severe delays in funding also cause shortages in the distribution of pocket money to the minors residing in shelters, as well as shortages in covering basic needs, such as clothes and shoes from charity. This leads minors to identify other, more dangerous means to cover their needs.

Minors already feel insecure due to the severe delays in the completion of their legal status and their understanding of the precarious economic situation in Greece. The insecure funding worsens this situation even more.

It is also interesting to note that due to the insufficient available spaces for accommodation, children that abscond are placed last on EKKA's waiting list. After minors that are homeless, in detention, or on the islands, the minors that have absconded are the last to be reassigned a space in shelters. In a sense, one might say that they are penalised for acting out their anxiety and frustration; others see reason in this practice, since some minors have been waiting for so long to be given a chance in a shelter, it wouldn't be fair for them to remain waiting while others move in and out of shelters at their own will.¹⁴⁵

145. Little has been written about absconding from shelters. A 2018 report, *Children on the Run*:

Urbanisation

Professionals working in shelters, as well as key informants, mention the importance of developing shelters outside major cities or in the suburbs to avoid exposing minors to illegal or criminal activities and in order to bring them into contact with more beneficial and positive stimuli. The many shelters located in a non-urbanised environment, which can achieve stability in a smaller and in more homely community, have been shown to help minors thrive in the past.

Major cities, and the centre of Athens in particular, where many service providers, shelters, and public services are located, seem to have a detrimental effect on minors, since all sorts of stimuli are available and within the minors' reach, at any time. Professionals stress the fact that the so-called “Bermuda triangle” of Omonia–Viktoria–Pedion tou Areos, the central Athens districts whose major open and public spaces are notorious for illegal, dangerous and violent incidents – should be avoided. It was also suggested that NGOs carefully consider which area they choose to develop a shelter and to avoid precarious neighbourhoods, such as areas with a concentration of brothels.

The countryside has proven to give minors the opportunity to interact with the local community on a smaller and more peaceful scale. The local community is more open to receiving them, and relationships are more intimate. This gives the children the opportunity to better understand the culture and language in a calmer environment as well as to concentrate on themselves in a constructive and creative manner.

.....

Experiences of unaccompanied minors leaving shelters in Greece, <http://bit.ly/2Hb4zDk>, outlined recommendations similar to those suggested in this report. Namely, shelters are recommended to ensure that minimum standards are met and that basic needs are covered including: Food, clothes, psychosocial support, legal aid, recreational activities and access to education and healthcare, providing correct and individualised information to children about the process for legal appointments and family reunification or relocation procedures, ensuring that all members of staff are aware and trained on issues of absconding, in order to address absconding and to implement sessions that inform minors of the risks of human trafficking and smuggling. It recommends that the Greek authorities and EU member states provide durable lawful solutions for unaccompanied children in Greece that would present a viable option other than absconding, including integration procedures for asylum applicants in Greece, family reunification and even alternatives such as relocation, faster family reunification and relocation procedures for vulnerable groups, including unaccompanied minors, provision of reliable information to unaccompanied minors on the process of their asylum claims, as well as family reunification and relocation applications.

Misapplication/Abuse of existing guidelines

Many professionals underlined the fact that in many shelters staff lack a critical mind or the will to assess how, when, and why to apply certain rules. Many incidents occurring in shelters, such as denying entrance to a minor who has not respected curfew hours, calling on police to discipline children when they have been acting out, make minors even more aggressive than before.

One shocking example from the professionals' testimonies is an incident that occurred in a shelter for UAM girls.

"There was one particular female resident that was frequently late in returning to the shelter and it was obvious that she was not in need of money. For me the fact that she was not, was highly troubling. But other co-workers thought that there is no need to keep her in the shelter, since she is obviously undisciplined. 'Don't worry; she has her ways,' they would say. Unspeakable things, completely unprofessional, complete ignorance on how to deal with a girl that shows indications of exploitation. But I was hired as a caretaker and our opinion was not valued in case management... Was it coincidence that in the particular shelter we had incidents every now and then or that many minors in the same shelter were characterised as being mentally unstable and in and out of hospitals frequently? I do not think so. There was something was really wrong in that shelter. We knew these minors, we had them visiting the office frequently, they never gave us any trouble."

While this shelter no longer exists, it highlights perfectly how the wrong person at the wrong time, or the misapplication of existing rules and procedures, can lead to harming the child, even if this happens indirectly.

Many professionals, caretakers in particular, underline the fact that children associate with them in a more substantial manner.

"Not raising a superficial professional front with the child can make all the difference. Teenagers in particular need someone they can relate to and respect at the same time; then they will listen to you. If you try to impose rules on them without explaining the purpose they serve, or if you try to impose your authority before proving you deserve to be trusted and listened to, they will not respect you and you will eventually lose them. Respecting their wishes, their

personality, treating them as equals is all they need, and discipline will come eventually.”

The children's safety – or for some the desire to avoid responsibility – provides a pretext for all sorts of unjust and unfair procedures that could smother teenagers and make them feel unwanted once again in their new environment.

“There were all sorts of rules imposed in such a strict and stiff manner. Teenagers wished to feel creative, they wanted to contribute something, assist in the kitchen, let's say. No, access to knives is forbidden, minors are not allowed in the kitchen. Why? Couldn't they just participate under supervision in what was going on in the kitchen? Little things that seem insignificant but are not. How are they to feel at home in this environment?”

Poor case management

An underlying common factor in many shelters is the lack of a permanent and streamlined system, with well-trained staff who provide care and work with only one thing in mind: The child's best interest. Many shelters described by the professionals interviewed follow a rigid guideline that does not allow for children to see the staff as persons with whom they could build lasting relationships of trust, but only as employees, in the strictest term of the word.

“We are going back in time to the same political discussion we were having in the 1990s, with regards to the deinstitutionalisation of persons with mental health illnesses, and how we are to reintegrate the patients of Leros mental health unit back into society. We have had this conversation before and are making the same mistakes. We should use that experience to learn and improve the situation.”

In many cases, the minor is not asked their opinion, while activities are undertaken to “tick the box”; minors are not provided with an individualised action plan based on their needs and desires, but must follow predetermined rules and guidelines that might not be in their best interest, but have been drafted collectively to secure peaceful functioning of the shelter. On the other hand, all testimonies mentioned the need for an indi-

vidualised action plan that will help the child realise its dreams, particularly for such a complex group with very particular realities.

“Professionals are unable to understand both the cultural differences and the child's specific condition.”

Furthermore, most of the minors are close to the age of adulthood. They are also very different to the European adolescent model. They have taken their life into their own hands and, bearing a great responsibility, have managed to reach the shores of Europe to seek protection. Some might have seen their family slaughtered, some might be victims of trafficking and exploitation, some child soldiers, others sent to Europe to work and send money home. While it is understandable that it is difficult for any European to grasp the vast cultural differences, specialised, intense, and on-the-job training must be provided in order to make up for this chasm. Minors need to be shown flexibility, respect, patience and trust. They are treated like children, whereas they are actually young men.

“It is interesting to mention, that when children first enter the shelter they are like wild animals. If they receive the calmness, care, and understanding they need, they start to behave once again like adolescents with well thought out needs. Should this treatment not be given to them, they continue to act in frustration and anxiety.”

Many professionals also highlighted the lack of time and skills required in order to focus on long-term integration, in implementing activities that would open up the shelter and the children residing there to the local community, and vice versa.

“I have seen minors transform due to the daily efforts we make. After a period of three months they can see that they can trust you; that you respect them, and they can therefore feel free to trust you in return. This relationship is something that is steadily built up, with time and lots of effort on both sides.” The successful cases where minors remained in the shelter and utilised this opportunity to gain some stability and calmness in their life, is mainly attributed to the staff, who work fervently, at times against the system in place, without training or supervision, to ensure minors are provided with individualised and in depth care, as outlined in the various handbooks and guidelines available.

As in all other sections outlined, our interviews have highlighted the child protective system in Greece is individualised, and therefore acciden-

tal, while there is no overarching strategy and assessment of the quality of services being provided to minors. The assessments conducted instead concern rigid time-sheets, schedules, and stringent financial procedures, rather than long-term, quality assessments on whether the child's best interests are being met, or whether the policies and practices followed are pushing them further away.

"We try to make minors fit into our own model of protection and rules, without having explained anything to them about the culture, or without asking them what they want."

"There are no precautions for what happens to these children when they reach the age of 18. What happens after the children turn 18? Are they prepared to face society? Have we helped them prepare to face society?"

Mental health issues

Poor identification and protection measures, "protective custody" in detention centres and at times even police stations for prolonged periods until a space in a shelter is identified, insecurity and anxiety with regards to their legal status and their future in general, including the aforementioned issues in accommodation sites, are only some of the factors that burden minors' mental health.

It is therefore not surprising that many minors, particularly adolescents that reside in shelters, suffer from mental health issues, such as sleep disorders, depressive episodes, behavioural problems, aggressive behaviour towards other minors or staff. There are also children with much more serious disorders, such as psychotic episodes, self-harming episodes, suicidal tendencies, and dependencies on drugs or alcohol.

It is clear that the current child protection system cannot fully respond to these children's needs. Shelters – let alone the other accommodation sites mentioned – are geared towards covering basic needs and not handling complex mental health issues. This applies particularly to such a sensitive group of adolescents who have already experienced violence and exploitation either in their country of origin or on their journey.

The national health system on the other hand is not able to handle such complex issues, both due to the prolonged financial crisis, and due to the lack of interpreters at hospitals. There are currently no shelters

specifically developed for meeting the needs of children with mental health problems. When displaying a disorder or a complex behaviour, staff are not able to deal with either the causes or the symptoms. Children are sent from one shelter to another, or to police stations, or even mental health hospitals, where they are given drugs. Minors then return to the shelter, without anyone having substantively dealt with their mental health issue and without having received the specialised care they need.

On the other hand, mental health professionals underline an overuse of medication and of their services often by staff working in the accommodation, who “most of the time resort to us, in order to feel better themselves”. Children who are difficult to handle are often perceived as having mental or psychological issues that need to be addressed by case managers lacking the experience or the will and capacity to actually handle the case. Referral to a therapist often serves as a relief or transfer of the responsibility at hand. Resorting to medication is, unfortunately, the easiest thing to do; it is much easier to prescribe medication than to actually dedicate the time and commitment necessary to support the child in overcoming a potential crisis.

Professionals underline that most of the time the issues at hand are a normal reaction considering the particularities of adolescence and the circumstances these minors find themselves in.

Cases have been documented where minors are prescribed heavy medication by order of a psychiatrist. The minor may continue to take this medication for six months or more, unless a new psychiatric assessment says otherwise. “In Greece, it is very easy for children to end up in a bed of a mental health hospital. It is even worse for these kids, as professionals often do not know how to deal with either the causes or the symptoms.”

“The case that makes me smile the most is that of a minor they brought to our shelter, a complete wreck. He was under extremely heavy medication, he had trouble adjusting and was sent from one shelter to the other, so when he eventually came to us, he was so damaged by all this, almost hopeless. Completely withdrawn. I could see why he was trouble for the personnel of the shelters he was previously in. And we did it, we made it. He just needed prop-

er counselling, more time than you could normally give to a case, but it was all he needed, no medication, nothing like that.”

The above however, was cited by an experienced professional, who has been working in this field long before 2015. Following our interviews with professionals, it would be fair to say that most people currently working with minors in Greece have a long way to go before acquiring the skills that can only come from years of experience and training.

[7]

Representation and participation of children: an absence

The legal responsibility for deciding minors' best interests lies with the public prosecutor. Yet, UAM might enter the official system of care at different points during their journey in Greece and might meet and get processed by a range of diverse actors, including state authorities, NGOs, volunteers, solidarity groups, etc. All these persons one way or another directly or indirectly place children on a certain path and, at times without knowing it, influence the children, in practice making decisions for them. Social workers, psychologists, lawyers, members of the guardianship network are all implicated in the course a minor will ultimately take. All pursue a direction they assess as serving the child's best interest according to their individual opinions, but nothing guarantees coherence or even cooperation among these actors, often leading to greater confusion for the child. An unfortunate consequence of the fragmentation of available care, is that minors have to repeat themselves over and over again to all these professionals, giving details about their past, trying to understand who does what, and to whom they should turn to in case of need, experiencing an exhausting situation, for what seems to be in vain in their eyes.

"Imagine having a different person talk to you about accommodation, another for your papers, another to help you go to school, different people when you are finally given space at a shelter, and at the same time all of them asking you to be patient. Now, put all these factors in the mind of a teenager who, most of the time, cannot even be patient if they want to. The gap that a 'parent figure' leaves, a proper guardian, creates chaos in their minds. Someone else should be dealing with all these issues for them."

While it is assumed that these actors are operating with the best interest of the child in mind, not being officially responsible for such decisions creates a void when it comes to taking responsibility. It is up to the personal and professional ethics of the service provider to actually try their best in order to achieve the best possible outcome for the child.

Only recently¹⁴⁶ has the National Dublin Unit of the Asylum Service developed a new tool for UAM best interests assessment (BIA) aiming to facilitate the family reunification requests under Dublin Regulation (EU) 604/2013, as this was a request and sometimes even a prerequisite for minors to be transferred to other member states. This BIA is meticulous and has been drafted by utilising the experience of NGOs through the exchange of best practices.

All interviews mention the need for an adult who will act as guardian and counsel to the minor, who will not be the occasional staff of an NGO, but a well-trained and suitable person who will support and help the minor from the moment of arrival until adulthood.

Though the legal framework exists, in practice all actors implicated in case management indirectly decide on the course of action that will follow. Depending on the age of the child, the prosecutor will be implicated by authorising the relevant persons, but all information and aspects of the case reach them through the relevant actor. The prosecutor has no immediate knowledge of either the child or the particular circumstances. In this context, there is no guarantee that minors' views are in fact taken under consideration or that any child is actually heard by the person responsible by law to take the decisions.

Unfortunately, as described above, new relevant legislation seems to neither secure actual participation of the child in the decisions nor any remedy for them to express their objections or challenge the relevant decisions.

Though at first the significance of such a remedy, including more precise and strict guarantees securing children's right to be heard, might not be obvious, and often remains in the sphere of theoretical discussion, one of the key informants shared a very recent case which is currently pending against Greece before the ECtHR, concentrating all the problematic aspects of child protection in Greece, and of guardianship in particular, in one case. It also provides an incomparable example of fragmentation of care and case management as well as the detrimental effects inexperienced professionals can provoke.

146. Ministry of Migration Policy, "Best Interests Assessment for Dublin UAMs cases: A new tool to serve the needs of family reunification applications of unaccompanied minors," 2 August 2018, <http://bit.ly/2VWoglm>.

“It is a truly unprecedented case for Greek reality and one might wonder if this is indeed the first such incident, or if it’s just the first that had the chance to reach the court. It is a shocking case, particularly for legal professionals with long years of experience in the field of refugee protection, an ‘unimaginable situation.’”

Four unaccompanied minors’ siblings of Palestinian origin – three boys (aged 16, 12 and 8) and a girl (aged 14) – arrived in Greece with their father in August 2016. They remained unaccompanied in the Greek territory. Their mother, a third-country national of a different nationality, remained in a third country irregularly.

In September 2016 the children were recognised as refugees. When it came to their accommodation, however, for no apparent reason, the siblings were separated and placed under four different caring arrangements. The girl was given to a foster parent while the boys were all placed in different shelters, one of them even in a different city, far away from the others. Communication between the children was violently and unjustifiably interrupted.

Some of the children were assigned a member of the guardianship network acting in the name of the prosecutor, a legal advisor within the services provided in the shelters, and a social worker, while the female was in foster care under the protection of her foster parent.

In July 2018, and for what seemed to the children to be completely out of the blue, the prosecutor, decided to return them to a neighbouring third country, and from there, according to the responsible Greek authorities, the children would be transferred to the West Bank.

Several legal actions were ordered of which the children were not aware. The prosecutor authorised a lawyer working for the NGO responsible for the shelter where one of the boys was hosted to cancel the international status attributed to all four children with the Asylum Service. The Asylum Service accepted the cancellation, no questions asked. The children, the personnel responsible for their care in the other shelters, and the foster parent, were not informed about this procedure and the fact that they no longer possessed refugee status.

Arrangements were also made with Palestinian diplomatic representation in Greece in order to proceed in family tracing and arrange the procedure of return to the West Bank.

Despite the wishes of the children and their mother not to be returned, and their refusal to travel, a return date was arranged for 24 July 2018. The mother was not even informed by the authorities of the time and date of the arrival of her children.

What is striking to see in this particular case is that:

- a. The prosecutor never met the children. Again, social workers in place with the children in their everyday environment and the foster parent were never asked to provide information for the prosecutor. Consequently, it is doubtful that prosecutorial authorities were aware of all the facts and information relevant to the status of the children and their mother, before reaching such a drastic decision. Despite the fact that the prosecutor invoked the best interest of the children as the basis for this decision in their reunification with available family members in particular, it is not clear how this determination was made, what information was actually available, and by who provided it, if it wasn't the persons who actually knew these children. No social assessment and best interest determination took place.
- b. From all implicated actors of civil society and numerous personnel involved in the case, despite the fact that they were all aware of the children's refusal and despair and the circumstances of their mother, none – not even the legal advisors and members of the guardianship network assisting each child separately – but one expressed objections in giving up the child for return to the prosecutor, suggesting that the decision was harmful and unjustified considering the fact that neither the child nor its mother consented to this return.
- c. The children were recognised as refugees of Palestinian origin, while their mother remained, undocumented, in a third country. This makes it unequivocally obvious that their best interest dictated their reunification with their mother in Greek territory as prescribed by law. It is hard to assume that the prosecutor was unaware of this option. And yet, family reunification in Greece, the host country of these refugee children, was not officially assessed.
- d. What guarantees, if any, for the children's safety upon return were provided by Palestinian authorities to the prosecutor, before the prosecutor actually ordered the return, since the mother was not aware?

Return was literally averted a few hours before the scheduled flight. One of the siblings finally gained access to proper legal advice – contrary to his siblings who seem to have been restricted by the assisting personnel from contacting anyone else as well as each other (!) – and appealed to the European Court of Human Rights, asking it to intervene and stop the Greek authorities. The court responded immediately asking for information from all implicated actors (the child and prosecutorial authorities) and on 24 July 2018 ordered Greek authorities to refrain from any return. However, the Prosecutor for Minors on 25 July suspended the return of the children and requested assistance from the NGOs involved in order to proceed in the return in the near future. The ECHR decided to maintain the interim order against Greece. The merits of the case are now before the ECtHR 34298/18 A.J. against Greece, pending further communication with Greek authorities.

On 21 September 2018 the children were transferred to the Asylum Service. They were registered as asylum seekers and an interview was scheduled for November 2018. No state authority involved (Asylum Service, prosecutor) invoked the illegal cancellation of their asylum status in order to directly grant international protection. No person acting on behalf of the children upon authorisation from the prosecutor made such a demand on behalf of the children either. Currently the children live in four different houses and can meet only once a week for one hour, in the presence of social workers and translators. Communication between them is still hindered and they cannot meet freely.

It is extremely hard to see how the handling of these four siblings could serve their interest. Apart from their return to the West Bank, their separation from each other, their anxiety until the last moment and their fear of return, can hardly be justified from a best interest perspective. It raises a number of questions on how decisions are made and how a minor would ever be able to challenge them.¹⁴⁷

147. The case was communicated on 5 November 2018, application no. 34298/18, A.J. against Greece, <http://bit.ly/2PVZqTv>.

[8]

**Trapped: lengthy and
time-consuming procedures**

Even when a minor is properly identified as such, there are severe delays in the asylum family reunification, and/or other relocation procedures with a wide variety of severe consequences that do not take into account the best interest of the child, which act as severe obstacles to a child's integration, and sometimes lead children to situations of extreme anxiety, self-harm, and even exploitation.

Furthermore, professionals are not able to provide any certain and specific answers with regards to how long a procedure shall take, how quickly they will be able to move to the mainland or to a shelter, further exacerbating the minor's anxiety and frustration. It also leaves minors in a protracted state of "limbo", in which they refuse to take the necessary steps to integrate, and instead simply wait, unwilling to participate in any educational or recreational activities.

There are testimonies that claim that lots of minors in reception centres end up cutting themselves as they think that their case will be processed faster and that they will be moved to the mainland. However, while this is a shocking circumstance in itself, it is further aggravated by the fact that the relevant authorities' response is that they do not know what to do with children with mental health issues or where to place them, as there is no shelter specifically designed for such cases. Therefore, the minor harms themselves in more ways than one, as after this radical expression of frustration they are once again not protected as the system does not know what to do with them, causing further delays to their placement in a shelter.

These adolescents have already made a huge journey on their own, down paths that are equally dangerous and illegal. They will not be stopped or trapped in a situation for long, and will identify illegal and more dangerous routes to follow to get to their destination.

As nearly all professionals mentioned, the network of smugglers is much more efficient, swift, and is more prepared to provide the answers that minors want to hear: That they can leave the country as quickly as their means will allow them to, albeit illegally.

[8.1] Access to procedures

In 2016 the Asylum Service received 51,091 applications, out of which 2,352 were lodged by UAM.¹⁴⁸ That same year the total number of decisions issued at first instance was 9,319, out of which 6,608 were negative. The Appeals Authority received 2,092 appeals, out of which 1,817 were negative, while 248 decisions attributed refugee status, and 27 attributed subsidiary status. In 2016 the Appeals Authority was also reformed, with the establishment of an independent Appeals Authority in July 2016. For the period from 21 July 2016 until the end of that year, these newly functioning committees received 3,130 appeals, 1,341 decisions were issued, while 1,214 were pending. What is striking to see, is that out of 1,341 decisions, 1,201 were rejections on the merits of the case, and only 15 were favourable to the applicants. 5 were attributed refugee status, 1 was given subsidiary protection, and only 9 were referred for humanitarian status to the Ministry of Interior.

National NGOs underlined a glaring discrepancy between appeal recognition rates under the Appeals Authority committees after the reform brought by Law 4399/2016, and the outcome of the second-instance procedure so far, as well as between recognition rates before and after the effects of the June 2016 reform.¹⁴⁹ International protection recognition rates at second instance from 2014 to 2016 reveal a sudden drop of only 6 positive decisions (0.44%) by the particular authority, while in previous years and authorities kept recognition rates at more or less 16-13%. However, rejections grew steadily from 83-86% to 96.4% in the second half of 2016. In 2017 the situation remained more or less the same, though extreme delays in access and examination of claims is noted. The Asylum Service received 58,661 applications during that year, out of which 2,275 were lodged by unaccompanied minors. By the end of the year 36,340 applications remained pending, while 12,149 cases were rejected.¹⁵⁰ The Appeals Authority received 11,632 appeals and by the

148. Statistics available at GCR, Asylum Information Database (AIDA), Country Report: Greece, 2016, pp. 8-9, <http://bit.ly/3007B5Q>.

149. *Ibid.*, pp. 46-47.

150. Statistics available at GCR, Asylum Information Database (AIDA), Country Report: Greece, 2017, pp. 8-9, <http://bit.ly/2H9viA5>.

end of the year 4,368 were still pending. 4,354 decisions on the merits were issued, leading to 4,077 rejections (93.8%) and 277 positive decisions (123 attributing international protection – 80 for refugee status and 43 for subsidiary protection – and 154 referring applicants for humanitarian status).¹⁵¹

Access to the procedure on the mainland has been problematic ever since 2013. A system for granting appointments for registration through Skype was inaugurated in 2014, but access still remains difficult. The available hours for Skype access per week are extremely limited, leading to a great number of people wishing to opt out of the procedure, regardless of their repeated efforts which may have lasted for months. At the same time, during 2017 the appointment secured through Skype was actually a pre-registration appointment, providing applicants with an asylum seekers' card but no actual file or case initiated with the authority before a full registration appointment could be granted. National NGOs report cases pending for full registration for almost a year.¹⁵²

Vulnerable cases are the exception, as registration can be scheduled – through the intervention of professionals – directly with the Asylum Service. The identity details of the applicant are forwarded and an appointment for registration is fixed. During 2017 several Regional Asylum Offices (RAO) became operational in Attica, sharing authority for registration and examination of a claim depending on the applicants' nationality. While some regional offices seem to function correctly, access to others – such as the Piraeus RAO responsible for asylum seekers including Afghan nationals – is extremely limited, resulting in indefinite and usually lengthy waiting periods before an appointment can be secured.¹⁵³

151. Break down by country of origin and additional information *ibid.*, p. 46.

152. Statistics available at GCR, Asylum Information Database (AIDA), Country Report: Greece, 2017, pp. 36-39, <http://bit.ly/2H9viA5>.

Pending applications at first instance for full registration: 31 December 2017:

Length of pending procedure	Number
< 6 months	24,905
6-9 months	4,146
9-12 months	3,237
> 12 months	4,052

153. By Decision of the Head of the Asylum Service, number 16654 (Gazette 43352/B3614/12.10.2017) initiating the operation of the Regional Asylum Offices of Piraeus and Alimos, Piraeus RAO

[8.2] Legal limbo

The waiting period between the full registration of a UAM asylum applicant and their interview at first instance with the asylum authorities, may last a year or more. Namely, applications of UAMs registered during 2017 were scheduled for examination several months after registration; most were scheduled for 2018, while a few were scheduled for 2019. By the end of August 2018, appointments for interviews for the asylum procedure were fully booked until 2020. Most of these minors will have reached adulthood by the time their asylum claim is examined.

“It’s as if the authorities have found a way to solve the problem to their advantage without actually doing anything: Remain an applicant until adulthood, miss out on any chance you might have to regularise your residence in Greece as a child, to go to school or build a future in Greece. What is even worse, you do all these things and when we examine you, after you have turned 18, any reason you might have had as a child for international protection will most likely have disappeared, and you will not be entitled to humanitarian status either, you will not be entitled to... anything, actually, like housing, healthcare, anything, and then, we can finally send you back without breaking any rules. What is even better, is that you would want to leave on your own, otherwise you will

.....

started operating on 20 October 2017 and is responsible for the examination of all applications within the territorial authority of Attica lodged by Afghani and Bangladeshi nationals. Alimos RAO, also operating since 20 October 2017, would be responsible for the examination of all applications within the territorial authority of Attica, lodged by stateless persons of Palestinian origin, Egyptians, and Syrians, with the exception of those falling within the authority of the Asylum Unit’s “fast track” of international protection applications, also within the territorial authority of Attica. Attica RAO remains responsible for all applications that do not fall under the authority of RAO Piraeus and Alimos. Since the decision, registration of the relevant applications takes place regardless of vulnerability in the competent RAO, based on the nationality of the applicant. So far, the separation has proven ineffective and harmful for the registration of particular nationalities. While the Attica and Alimos RAOs respond adequately in scheduling registration, Piraeus RAO – and applications of Afghani and Bangladeshi nationals – has not responded so far. GCR is aware of several cases of Afghans (vulnerable families and UAMs) whose identity details were forwarded to the AS and afterwards to relevant RAO pending for registration for several months (September 2017-January 2018). At the same time, Skype access for the particular nationalities has proved also ineffective.

have to remain in Greece as a ‘ghost’, an irregular migrant, in and out of detention until you are finally deported.”

The quality of decisions regarding UAMs has also been criticised by all professionals interviewed, as well as by national agencies and organisations.¹⁵⁴ Troublesome similarities appear in all decisions rejecting claims of minors. Procedural shortcomings (absence of a guardian during the procedure, absence of proper legal representation and aid), as well as substantial ones regarding refugee status determination (the lack of any mention or evaluation of the child’s best interest, an obvious lack of knowledge concerning particular forms of child persecution in general and in particular in their countries of origin or proper evaluation of a minors credibility) make it almost impossible for UAMs undergoing the procedure on their own to obtain international protection status, with children of Syrian nationality as the only exception.

“Reading these decisions and decisions of first instance regarding UAMs that had no legal aid and support during the procedure, makes you forget what you are reading about. Apart from the date of birth of the applicant, from which you can deduce that the case concerns a minor, there is often nothing else there. Whether you are reading about an adult from Pakistan or Afghanistan, or a minor of the same origin, it’s the same reasoning, the same logic, the same rules of examining one’s credibility, often the same wording. Not all of them are so strikingly wrong, in the sense that they at least appear to have taken under consideration the age of the applicant – the operative word being ‘appear’ – but others are even worse. They don’t even ‘try’ to look substantiated, there is not even a mention to his age or the concept of the principle of the best interest of the child.”

Though legal professionals strive to familiarise authorities with particular forms of child persecution, such as forced labour or exploitation, particularly for certain nationalities, so far authorities appear resolved not to allow such a claim for international protection to succeed.¹⁵⁵

154. Network for the Rights of Children on the Move and Greek Children’s Ombudsman. See also the Network for the Rights of Children on the Move, annual report, January 2017-January 2018, <http://bit.ly/2Q242aU>. An English summary is available at <http://bit.ly/2Hab7Db>.

155. A lawyer interviewed mentions as an indicative case – among several others which are almost identical – the case of a minor from Pakistan who claimed that he had to work since

While there are cases where the case workers were completely oblivious to the situation in the minor's country of origin, professionals are generally in agreement that most case workers treated children well. Once again, this underlines the ad hoc and arbitrary manner in which the child protection system works. However, there also seems to be a common agreement that in assessing claims for some nationalities – notably-Pakistan – there seems to be a principle of discrimination and minors are not given the benefit of the doubt.

“You have to be nearly dead in order to get refugee status if you're a minor from Pakistan.”

On the other hand, the asylum process is so complex, and the definition of persecution so narrow that minors need to be prepared and supported throughout this procedure. Particularly since it is the only opportunity throughout the asylum procedure during which they will be able to speak their voice and relate their story in person.

Lengthy procedures, the tendency to reject claims of UAMs of particular nationalities even at the second instance, the lack of their best interest assessment in the reasoning of decisions, as well as the fact that the Appeals Authority in practice does not refer cases for humanitarian status to the Ministry of Interior, have resulted in more and more minors finding themselves in a

the age of 9 in extreme conditions, that he fled his country of origin as he was facing extreme hardship and violations of his rights as a child and as a human being. His interview was brief, he was not asked about working and living conditions in his country of origin or about his claim of having been subjected to child labour. The first instance decision rejected the application on the grounds that poor living conditions and poverty or the wish for better employment could not justify the need for international protection, overlooking the age of the applicant and his rights as a child. His best interest was not taken into consideration; it was neither evaluated nor mentioned. The minor appealed on his own to the Appeals Authority. The decision of the Appeals Authority upheld the validity of the decision of first instance without a new interview and rejected the applicant. The Appeals Authority did not refer the applicant for humanitarian status reasons. A subsequent application for asylum was lodged on the basis that substantial aspects of the claim were not decided upon during the first procedure, due to the child's inability to present his claim in full detail lacking social and legal support. The applicant was accepted once more in the asylum procedure. The examination took place a few months later. The first instance decision accepted the past persecution of the minor as a victim of forced labour, but despite the age of the applicant and the fear of revictimisation in case of return, failed in the same way to see any future hardship that could amount to persecution.

state of limbo for extremely long periods of time, while it is probable that many will remain in the same situation even after having reached adulthood.

This brutal reality has been noted and the issue has been raised repeatedly in 2017 at several occasions and by several NGOs participating in the Network for the Rights of Children on the Move, a network created and supported by the Greek Children’s Ombudsman.¹⁵⁶ In November 2017 during the Regional Meeting of European Ombudspersons for Children held in Athens, the secretary general of the Ministry of Migration Policy accepted that a legislative solution should be found concerning the legal status of UAMs whose applications for asylum are rejected by the authorities, but no actual efforts have been made in this direction so far.¹⁵⁷

[8.3] Family reunification

“Procedures take so long that children start learning Greek and are then moved to another country. In one case, the minor was reunited with his family after two and a half years.”

Family reunification¹⁵⁸ through the Dublin Regulation is a widely applicable and familiar procedure for Greek practitioners. Every year thousands of persons are reunited and transferred from Greece to other EU member states.

In 2016, Greece communicated 4,886 outgoing Dublin requests, the majority of which have been “take charge” claims for family reunification reasons, out of which 699 concerned UAMs with family members abroad and 451 concerned dependency and humanitarian reasons. During 2017

156. Network for the Rights of Children on the Move and Greek Children’s Ombudsman. See also the Network for the Rights of Children on the Move, annual report, January 2017-January 2018, <http://bit.ly/2Q242aU>. An English summary is available at <http://bit.ly/2Hab7Db>.

157. Safeguarding and protecting the rights of children on the move: the challenge of social inclusion, Regional meeting of European Ombudspersons for Children (ENOC), Athens, 13-14 November 2017, meeting summary, <http://bit.ly/2LAiecF>. A shorter version is also available in English (see pp. 5-6), <http://bit.ly/2HaXWlZ>.

158. For the purpose of this research relocation between EU member states, being an exceptional measure that only lasted a few years, will not be examined. Nonetheless, mention should be made that the programme initiated in 2015 has been characterised by most professionals as a failure, since the number of persons set out to be relocated was never reached due to several obstacles set by the rest of the EU member states and their denial to secure places. Nonetheless, 596 UAMs managed to register from 2015 until the recent final closure

nearly twice as many claims (9,784) were communicated, of which 7,606 were on family reunification grounds¹⁵⁹ and 1,642 were based on humanitarian and dependency clauses.¹⁶⁰

Unfortunately, 2017 saw a change in member state practices concerning the acceptance of claims for reunification, as well as the transfer of successful claims, leading to a backlog of hundreds of persons pending transfer during 2018, which had not yet been dealt with at the time this report was compiled.

Germany in particular, being the primary receiver of family reunification claims, began a very strict and at times legally unjustifiable application of the regulation, leading to massive numbers of rejections that would not have existed a few months earlier,¹⁶¹ as well as to hundreds of persons stranded in Greece for more than a year after their acceptance to travel, since Germany had unilaterally placed a limit on the number of persons transferred every month, invoking administrative reasons.¹⁶²

These practices were and continue to be exhausting for UAMs and

of the program. 350 were reported to have been accepted in early 2017, while the total number of accepted cases throughout 2017 came to 260. Statistics available at GCR, Asylum Information Database (AIDA), Country Report: Greece, 2017, p. 111, <http://bit.ly/2H9viA5>.

159. The particular number of claims based on article 8 during 2017 is not available. For the purposes of this report, claims on humanitarian grounds are also important. All the cases that exceed the three-month limit – many of which refer to UAMs – fall under the humanitarian clause are category, however the exact number is not provided. More than half of these take-charge claims were addressed to Germany
160. Statistics and additional information, GCR, Asylum Information Database (AIDA), Country Report: Greece, 2016, pp. 49-50, <http://bit.ly/3007B5Q>, and GCR, Asylum Information Database (AIDA), Country Report: Greece, 2017, pp. 53-54, <http://bit.ly/2H9viA5>.
161. "In 2017, the overall average time between the lodging of the application and the actual transfer to the responsible member state was 215 days (7 months). However, since the Court of Justice of the European Union (CJEU) judgment in *Mengesteab* on 26 July 2017, Germany has altered its practice and no longer considers that the 3-month deadline for the issuance of the outgoing request begins with the formal lodging of the asylum application, but with the making of the application. (...) This shift in German practice has resulted in several outgoing requests being rejected as submitted after the deadline, on the grounds that they were sent within 3 months of full registration, but well beyond the 3 months of the asylum application. The Greek Dublin Unit has asked for the re-examination of those cases under the 'humanitarian' clause, but once again received again negative responses from the German Dublin Unit." Statistics available at GCR, Asylum Information Database (AIDA), Country Report: Greece, 2017, pp. 56, <http://bit.ly/2H9viA5>.
162. *Ibid.*, p. 57. "In March 2017, an agreement between the German and the Greek Government has reportedly led to the introduction of a monthly limit on the number of people transferred to Germany under the Dublin Regulation. The cap has been set at 70 people

professionals assisting them, since no one knows when they will travel, placing everyone in an impossible situation. “We had to tell them something, anything, but at the same time make sure that they don’t get their hopes up.”

Despite efforts to prioritise transfers, professionals were not successful, particularly those working with children placed in shelters, as they were not considered to be a priority. Hundreds of families in extreme living conditions, persons with disabilities and health problems, etc., took precedence over UAM residing in shelters. Minors started losing faith in the persons assisting them, while professionals had to find a way to calm the children down, ensure that they did not lose hope, and intervene when several of them started acting out, “threatening” to abscond and/or travel irregularly.

“It was an anticipated reaction. How can a teenager understand the ways sovereign states work or accept that this is right? In their eyes, it was the lawyers’ fault. What kind of lawyer are you – they would say – if you let them do this. Of course, as professionals we did everything possible, but, still, it makes you wonder.”

per month. The agreement reached the media in May 2017, and the European Parliament by way of parliamentary question on 13 July 2017. (...) 27 civil society organisations addressed an open letter to European Commission on 27 July 2017 to express their ‘serious concerns on the de facto violation of the right for family reunification and breach of relevant provisions stipulated in the EU Regulation 604/2013 (Dublin III Regulation), regarding asylum seekers’ transfers from Greece to Germany under family reunification procedure.’ The European Commission admitted the existence of such an agreement, but stated that it was only effective for April and May 2017. ‘On this basis, the Commission understands that the two member states are not restricting per se family reunification under the Dublin Regulation, but that they have agreed due to logistical reasons to prolong for a certain period the delay during which these persons are normally transferred to Germany. The transfer arrangements under the Dublin Regulation concern the relationship between the two member states involved and are therefore subject to the agreement between the relevant authorities. In the Commission’s view, such arrangements do not raise an issue of compatibility with EC law.’ Upon request by GCR, the Asylum Service responded that the German Dublin Unit requested in March 2017 a reduction in Dublin transfers, for administrative reasons, while the Greek Dublin Unit highlighted the deadline for the transfers, provided for in the Regulation. After putting consistent pressure on the competent authorities, a greater number of transfers were achieved from September 2017 onwards, while at the same time German authorities consented to the transfer of all the cases whose transfer deadline had already expired due to this delay. On March 2017, 580 transfers took place towards Germany, while just 73 were effectuated on April 2017 and 69 on May 2017.” (115, 109, 116, 200, 254, 464 in the months that followed respectively and lastly 344 in December 2017).

[9]

Education

According to Article 9 of Presidential Decree 220/2007, the right to education is a fundamental right for every child. It is also one of the minors' most common requests after their basic protection needs such as shelter and legal papers have been met. It is also enshrined in the Convention on the Rights of the Child in several articles,¹⁶³ and, as mentioned in Comment 6,¹⁶⁴ all activities for the protection of minors should take into account the best interest of the child.

It is estimated that in the school year 2016/17, 2,643 children joined 145 afternoon classes in 111 public schools. Moreover, according to the Ministry of Education, approximately 2,000 refugee and migrant children attended morning Reception Classes (ZEP) in the school year 2016/17.¹⁶⁵

However, while steps have indeed been taken by the competent authorities to ensure that refugee minors have access to the educational system in Greece, there are several recurring issues which render their access, integration, and retention in schools problematic, as will be outlined below.

Aggravating factors impeding access to education

The concept of refugee education coordinators was set up by the Ministry of Education¹⁶⁶ to act as the connection between Reception Accommodation Centres and schools, in order to organise the educational activities implemented by NGOs and/or other institutions, to act as a point of contact for parents, and to identify solutions to improve the quality of the education.¹⁶⁷

163. Articles 23, 24, 28.

164. Committee on the Rights of the Child, Thirty-Ninth session, General Comment No. 6 (2005), Treatment of unaccompanied and separated children outside their country of origin.

165. ESPN Flash Report 2017/67, Integrating refugee and migrant children into the educational system in Greece – European Commission.

166. In March 2016, the Ministry of Education set up a scientific committee in order to draft and submit proposals for the integration of refugee children into the educational system. After a survey in 44 Refugee Accommodation Centres, the Committee in co-operation with International Organisations (UNHCR, UNICEF, IOM) and other Ministries, proposed certain initiatives for the education of refugee minors during the school year 2016-17. See: <http://bit.ly/2JgaB98>.

167. Sixty-two Refugee Education Coordinators were appointed to all RACs who were responsible for the education of refugee children. Depending on the size of the Centres and the number of children, each centre was staffed with one to three RECs. On Lesbos, for example, there are three RECs.

With regards to the formal integration of refugee minors into the national educational framework, two different systems were created to accommodate them, Reception Facilities for Refugee Education (RFRE),¹⁶⁸ whose capacity was for 20 students per class, and Preparatory Classes (ZEP Reception Classes).¹⁶⁹

RFRE's were criticised for segregating refugees from the rest of the school community, since refugee minors had to attend school in the afternoon, while all other children attended school in the morning, working against any possibility of long-term inclusion and applying a highly discriminatory approach to the education of refugee minors. "Children will follow your example. If you treat them like foreigners and segregate them from society, then why would we blame them when they refuse to integrate into society..." They were an important improvement, however, their capacity is limited.

There were also a number of administrative issues that highlighted the fact that the system was not adapted to respond to the particular needs

168. These belong to the formal national educational framework for primary and secondary education, established in areas where there were Reception accommodation centres (camps) or any kind of accommodation provided to third-country nationals being funded and/or run by the Greek State, the UNHCR or national NGOs during afternoon hours, <http://bit.ly/2Hbz8bW>; Overall, the Ministry of Education estimated that approximately 7700 children aged (6-15 years old) plus 2000 pre-school children (4-5 years old) were living in Reception Accommodation Centres managed by the UNHCR. The UN High Commissioner also estimated that about 2000 unaccompanied minors were in the process of being transferred or had been transferred to special hospitality structures (e.g. shelters and Safe Zones). From October 2016 to March 2017, 107 DYEP were established according to Ministerial Decisions in 7 out of 13 educational districts. It is estimated that during the school year 2016/17, 2643 students of primary and secondary education joined 145 afternoon classes in 111 public schools

169. ZEP stands for Educational Priority Areas. The aim of the preparatory classes is the equal integration of each student in the national educational system, and they have been in operation in certain public schools since 2010, for immigrants. The main difference from the RFREs is that it is a morning school which takes place at the same time with classes for all other students, and not as a separate afternoon school only for refugees. Preparatory classes, composed of students who do not have the required knowledge of the Greek language, follow a particularly flexible form of institutional and teaching interventions, and allow the school to individually assess the real needs of each student, and what is best for them, thus providing them with everything that is necessary for their integration into the educational system, as per national legislation. The educators in the reception classes are also responsible for the smooth integration of students into the formal educational system and for their positive interaction with the rest of the students.

of refugee minors. Many children did not give correct personal information and a large percentage were registered both in afternoon and morning school because there was no connection between the two systems, and due to the constant moving of refugee students from one accommodation centre to another and the subsequent registration to another school without having first informed either the school the child was leaving or the new school the child would be attending.

This led to documented cases where minors' graduation from school was endangered due to the lack of coordination between the various systems developed: One minor nearly failed their school year and was not able to take their final exams, because the previous school had not documented the fact that they had moved and were therefore still counting absences. There is no "educational folder" accompanying the minor through which all stakeholders involved could have access to the child's educational "past".

Selection, training and retention of educators

The role of educators is pivotal in the educational process: They are in direct communication with the children, have the day-to-day responsibility of teaching the children and caring for their emotional and intellectual development. This connection is what makes the difference in the actual implementation of the ministry's initiatives. It is therefore important that the educators hired to teach refugee minors are qualified, trained and experienced in teaching refugees.¹⁷⁰

Furthermore, the very particular situation that unaccompanied minors find themselves in, demands well-trained and experienced educators both in teaching Greek as a second language and knowledgeable and experienced in socially interacting with vulnerable children coming from different countries with different cultures and religions. Refugee students do not speak Greek (at least not very well) have often endured traumatic experiences, have been away from any educational framework for a long time, and some have never attended school – even in their mother tongue.

However, in practice, the educators that were selected by the Ministry

170. This has also been highlighted by the Scientific Committee of the Ministry of Education in the Assessment Report of the Integration Project of Refugee Children in Education (2016-17), <http://bit.ly/2JgaB98>.

of Education did not have the qualifications, the experience, or the training; they were also employed on a part-time basis and some were even called to start teaching in the middle of the school year. In addition, they had no access to training, while only a small percentage of them had the chance to participate in a short training course provided by the Institution of Educational Policy. Furthermore, the continuous turnover of teachers¹⁷¹ also caused problems in the learning procedure and the school dropout rates, because students had no one person to refer to, and no continuity and regularity in the educational process, while on the other hand, all professionals interviewed mention the importance of building long-term substantial relationships of mutual trust and understanding.

In other words, educators had to deal with multicultural and heterogeneous classes with different mother tongues, different cultures and different educational levels, with minimum training, guidance and support, both for the quality of their work, as well as their psychological well-being.

Living conditions

In order to follow the educational framework and the regularity of attending school and studying, children need to live in a safe and comfortable environment. If, on the other hand, they feel insecure and have no schedule in their “home”, they will not easily attend school. Moreover, constantly moving to other areas, cities or countries also plays an important role in their regular attendance. Students are often moved to different place or country, far from the school they were initially registered in. The feeling of being in a transit situation with an unknown future affects the minors’ regular attendance.

Lack of information and motivation

Information about attending school and the educational framework in Greece was not provided, making minors feel insecure and disoriented, and they were forced to attend school because they were told to. If any information was given at all, this was up to the accommodation staff, who enthusiastically encouraged minors to go to school.

Furthermore, most minors are certain that Greece is a transit country

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171. It is indicative, for example, that in the Primary RFRE classes in Athens teachers changed four times from October 2016 to March 2017, <http://bit.ly/2VdG8tT>.

for them. Consequently, their motivation to learn the language or go to school is very low. Instead, learning the language of the country and attending school makes them feel even more trapped in a country they do not desire to stay in. Those who have accepted the fact that they are going to stay in Greece have a more regular attendance at school.

As is consistently repeated throughout the research, adolescents will not, in most cases, simply follow orders without being listened to and having the benefits of this next step explained to them. It is the role of the support system to listen to their needs and desires, and to formulate the next step together with them. It is important to motivate them to participate in educational and other activities, even if in transit, to keep them from being excluded in this society or the next.

Reaction of the local community

While a large proportion of society was open to and accepting of refugees as people in need, hostile reactions by other sections of society have also been documented. In particular, with regards to schools, many parents were opposed to refugee students, because they did not want their children to go to school with refugee children.¹⁷²

Central coordination, networking, exchange of best practices

A strong network between the Ministry of Education, the NGOs, and all the organisations and non-formal educational initiatives should be established in order to exchange best practices, ideas, results, and potentially a common curriculum used by all stakeholders involved.

In parallel with the establishment of specific structures for refugee education, a system of sporadic non-formal educational initiatives has

172. In one incident, a politician and MP of the far-right party Golden Dawn, Yiannis Lagos, and supporters, threatened the educators of an elementary school in Perama, a suburb of Piraeus, in order to prevent them from teaching refugee children. Another severe incident took place in Oraiakastro, a suburb of Thessaloniki. The first day that 9 refugee students were to attend school, parents (or locals) with flags and racist slogans were waiting for them outside the school. Fortunately, the police did not allow these parents to continue and the refugee students were finally allowed to enter the school. Also, there was an anonymous denunciation against teachers who taught refugee students in Keratsini, a suburb of Piraeus, prompting the response of the General Secretary of the Ministry of Education, Giorgos Angelopoulos, who declared that these actions were unacceptable and condemnable, and would not stop the Ministry and the Greek state from fulfilling their obligations, which derive from international conventions and simple morality.

flourished since 2015, partly in order to cover the gaps or delays in the formal education system, and partly due to the funds available. While many recurrent issues were also present here, such as the lack of training of educators, the lack of an overall supervision of these activities, short-term projects, lack of continuity, etc., non-formal educational initiatives played a crucial role for many minors, particularly for those who did not have access to any other educational system. Certain non-formal institutions and non-formal learning methods made an important contribution to the education of refugees, which, however, have not been utilised to their full extent since there is currently no coordination and feedback between formal and non-formal education. The role of non-formal education,¹⁷³ if coordinated and complementing the formal educational programme, could yield extremely positive results and provide the necessary tools for minors to regularly attend a steady educational framework.

“We are learning on the job. Fine, yes, that is the best way to learn, but not when you have no tools and are directly affecting children’s lives.”

Lack of individualised plans for minors

Unaccompanied minors have all taken a particular journey to get to Europe, they have taken their life into their own hands, and travelled along dangerous paths to get here. Some might have even come to work, or may have worked for many years and have developed a particular set of skills. It is therefore important that each minor is listened to and an individual action plan is formulated, which, while including the formal educational framework, can better accommodate their dreams and the life they want to create for themselves.

While education is undoubtedly the primary tool towards inclusion and it is important that access to an inclusive and welcoming educational system is streamlined for all refugee minors, it is equally important that

173. Non-formal education is the training provided in an organised educational framework outside the formal educational system and may lead to the acquisition of certificates recognised at a national level. It includes initial vocational training, continuing vocational training, and general education. Non-formal education has a long history in Greece and plays a major role in the supplementary education of students. The education of children and the necessary qualifications for their future were and still are obtained from both formal and non-formal education. For example, knowledge of a foreign language or the supplemental teaching at private schools (non-formal) to better prepare students at public school (formal).

these adolescents are heard and helped to develop their own life and pursue their own desires. Should this plan include their need to work and make money, then this should also be taken into account, and with the proper guidance, accommodated into their life framework.

Key informants, former UAMs and professionals interviewed, underline the fact that an individualised assessment of the minors' skills and potential often points in a different direction. Many minors have a very particular idea of what they wish to do, they have clear desires, wishes, hobbies; others are more creative, even artists, and wish to follow a different path than the one set out for them in school. "When I came and told them that I am, and wish to be, a musician, the response I got was that this is not possible in Greece. So, what if someone does not want to go to school, what if his talent is something else, he should be supported in pursuing this."

All sorts of obstacles exist preventing UAM from accessing what seems to be a given for a minor that is an EU national. "It was my case worker who did everything possible for me on her own. I am enrolled in a music school, I work, I do all the things I desire. But it was not available. It was her personal efforts that made it possible for me and obviously this cannot happen for everyone." The same applies for children that wish to receive vocational training, but language barriers, reluctance of schools, and primarily administrative obstacles, like registering with the responsible tax office, make it impossible.¹⁷⁴

"When minors themselves are asked, the majority want to learn; not just the language, they have a thirst for knowledge. However, the various obstacles in the system cause them to be disheartened."

174. Even though minors in Greece have the right to work under certain preconditions, they are not entitled to their own registration number with the tax services. A registration number (TIN) can only be provided if the minor provides an adult's TIN to be linked with them, obviously making it impossible for unaccompanied third-country nationals to do obtain one.

[10]

**Employment and other
aggravating factors**

All testimonies and fieldwork underline the fact that many minors either want to or need to work, either to survive or due to immense pressure to send money home. This is also – following family ties – the reason why they are so eager to move on to Northern Europe.

“Minors know, even before they arrive, about the difficult economic situation that Greece is in, and this is why they are determined to leave.”

According to national legislation, minors over the age of 15 are allowed to work, within the framework of very particular and controlled conditions and requirements. However, we very rarely come across accommodation facilities that will actively try to secure legal employment for minors, in combination with fulfilling their educational needs and further employment training.

As many professionals stated, aside from the need to work in order to send money back home to their families, many minors are perceived as children by western society, even though they have been supporting themselves and their families for years before they arrive in Europe. Being able to work is a part of their identity, contributing to their self-realisation, and it should be respected as well as properly channelled through the available legal paths.

The need to secure the means of their survival, when it comes to children in street situations, or additional money for small material luxuries, such as new or better shoes or a mobile phone, are listed by professionals among the common factors leading to child exploitation.

Lack of information

All the testimonies speak of lack of information provided to minors, let alone in a manner and tone they understand and respectful of their age, gender and cultural background, while all professionals participating in the research state that one of the main requests of minors is information with regards to where they are, their rights and obligations in Greece, available procedures and services, and a timeframe.

At no point are they provided with information on the cultural norms in Greece, at least, not until they are identified by an NGO, while the quality of the services provided by the NGO is not always the best and the information provided is up to the organisation itself – there are limited handbooks issued and distributed by the state. Namely, in early 2018, the Asylum Service issued a booklet guiding minors on their rights and relevant procedures in Greece, requesting that NGOs distribute it.¹⁷⁵ However, it should be distributed to minors upon arrival and we should not wait for NGOs to distribute them in Athens and Thessaloniki after minors have most probably planned their route. The Ministry of Education also released a guideline in seven languages for parents and NGO staff on accessing education.¹⁷⁶

Even when they have been informed about their rights, it is not the same as being able to act upon those rights. Therefore, supporting and empowering minors to better analyse the risks they face and to develop their own strategies in order to reduce exposure to and mitigate the effects of these risks, must be maintained as a core strategy in child protection work. Protection that is achieved by minors themselves, rather than delivered to them, is likely to be more durable.

175. "I am under 18 and I seek asylum in Greece": <http://bit.ly/2DZZf51>.

176. See: <http://bit.ly/2JDxYsP>.

[11]

Exploitation

Although already mentioned, homelessness and the street situations minors find themselves in are major factors exposing minors to exploitation. However, they are not the only ones.

Exploitation of minors often begins in their country of origin, but usually starts during their attempt to enter the EU. While the EU-Turkey agreement was supposed to prevent the crossing of asylum-seekers into Europe, 2018 has seen a stark increase of UAM seeking protection in Greece. In some cases, minors have paid to get to Greece, in other cases to proceed to other member states, and sometimes they are tricked into thinking that they are paying to reach Germany or the UK, but their trip stops in Greece. While in Greece, in an attempt to save additional money or as a means to survive, minors may become victims of all sorts of exploitation; exploitation, however, is usually not perceived as such by teenagers. Others may be victimised and tricked into becoming involved with illegal activities, but professionals underline that most of them get themselves involved in such situations willingly and without realising the possible consequences of their behaviour, not perceiving themselves as victims. Most of them maintain an illusion of controlling the situation, something they choose for their own benefit and they can stop doing if they wish to.

All professional and key informants interviewed were directly or indirectly aware of minors in their care being exploited, either through illegal employment, sexually, or by criminal networks implicated in theft and the drug trade.

Labour exploitation

While there are a few testimonies of unaccompanied minor labour exploitation on the islands, the majority of instances occur on the mainland.

It has been noted by professionals that minors from Pakistan and Bangladesh in particular, are usually unaware of the fact that they have the right to not work and be cared for in the EU. Their anxiety to not fail their families or even fear that their family might persecute them should they return empty-handed, starts them down a certain path upon arrival.

“Can I work?” It is their first question and when they hear that they cannot work legally, with everything legal employment entails, they are devastated. But they do it anyway; they feel they do not have a choice.”

Minors work illegally in agricultural jobs, in laundries, gas stations, or factories. Some testimonies refer to €15 a day, others to €17, others to much less, while there have also been cases where minors go to work – particularly in agricultural work – and do not get paid at all, having to walk home from Thiva after a full day’s work. There are even testimonies of minors being given electric shocks because they demanded their money.¹⁷⁷

“Namely, if these young adolescents need to work – for whatever reason – there is no reason to tell them they cannot; instead try and open other paths down which both the child’s needs are met and integration is also not hindered.” Depending on where they are accommodated, pocket money is given to adolescents and they can decide how to spend it. There are cases where, due to the grave delays in receiving instalments, shelters rely on donations, including for clothes and shoes. However, the minors are at an age where they are formulating their character and their image is extremely important to them. Wearing shoes or clothes that they do not like or which are larger sizes than what they wear, leads them to find money for their clothes elsewhere.

“Testimonies point to a best practice in a specific shelter, where after ensuring access to the educational framework that was in each child’s best interest, the director identified suitable positions for the minors and escorted them to work, informing the employer that he is closely monitoring and supervising this situation.”

Sexual exploitation

Sexual exploitation of unaccompanied minors is a phenomenon that has already been identified and documented. There have been documentations of sexual exploitation networks both for boys and girls.¹⁷⁸ There is,

177. The professional mentions a video sent to her by the victim’s brother.

178. FXB Centre for Health and Human Rights, Harvard University, Emergency Within an Emergency: The Growing Epidemic of Sexual Exploitation and Abuse of Migrant Children in Greece, 2017, <http://bit.ly/2RNgy33>.

Unfortunately, a wide range of types of sexual exploitation encountered, ranging from networks of men and women (Greek nationals) in the so-called “Bermuda triangle” of Omonia–Viktoria–Pedion tou Areos, cases of compatriots to the minors, and sexual exploitation by other minors in shelters, etc. The frequency and severity of each case should be examined in great detail and solutions should be sought on an individualised basis.

It is, however, much more difficult to examine than work related exploitation through the methodology developed in this research, as the majority of professionals highlighted that minors do not easily discuss this matter with them.

Some are ashamed and embarrassed to open up. They also do not feel comfortable discussing this with persons they see as “staff”, and are weary of discussing it with one member of staff when they know that the rest of the staff in the shelter will also find out. Furthermore, the frequent turnover of staff and the subsequent mobility of minors – whether of their own choice or due to the transfer from the island to Athens or to a number of accommodation spaces – also makes building lasting relationships of trust which would lead to their opening up more difficult.

Others believe nothing will change even if they speak to someone about this, causing them to feel further excluded by the child protection system in place, which leads them to trust and listen to their compatriots and friends more. Of all professionals interviewed, only one had a child inform her and ask for help. But again, it was a child in a shelter on an island that was given the time to develop a beneficial relationship with its caretaker.

The only tools available to professionals in identifying such cases are awareness and observation gained through time, and long-lasting relationships of trust built with members of the local community.

“The child should feel that it is being protected. That the shelter is watching and supervising where it is going, when and with whom, what time it comes back, what kind of a state it is in when it returns. Since there are no parents, the child needs to feel that someone is protecting it and looking out for it.”

Drug abuse

There are testimonies that point to the use of recreational drugs by minors, as well as cases where they are used as drugs smugglers. Sisa, in particular, is one of the most common since it is sold incredibly cheap and is very easy to find in central Athens. It is called “cocaine of the poor” or “austerity’s drug of choice”.¹⁷⁹ Its long-term side effects are insomnia, delusions, heart attacks, and violent tendencies.

“Sisa gives you a lot of energy, it stops you from feeling hunger, and raises your self-confidence. It fills the exact gaps that these children are facing. It is used by the children that are completely excluded. That are treated like the rubbish by a system that produces rubbish. They do not have access to shelter or services and are in a black hole.”

There is no precaution outlined by the state on what to do with these children. As in most sections outlined in the research, it is as if no one had considered that there might be refugee minors with mental health or addiction issues. This is another example of how short-sighted the reception strategy has been this far.

The main cause professionals attribute to the exploitation of minors is the need for money, starting from covering basic needs – which may in some cases seem trivial from our perspective – to more covering substantial needs. Namely:

- Lack of clothes, shoes, and basic items, either because the shelter does not have any to distribute, or because the clothes distributed are not wanted by the minors.
- Sending money home to their parents. This causes a lot of pressure on minors.
- Saving money for the smuggler who will take them to the country they want to go to.
- Covering travel expenses to reunite with their families due to the lack of state funding.
- Because they want to work, either to continue doing what they liked like when they were home, or because they have no interest in the educational framework available.

179. “Austerity’s Drug of Choice,” Vice, 16 May 2013, <http://bit.ly/2Jbw2s3>.

The main reasons professionals gave in the majority of cases in which they were not able to prevent exploitation, even if they were aware of it, are:

- The lack of securing means of survival for the minor, leaving them with no alternative (see 6.2.d: Children in street situations).
- The severe delays in procedures trapping them in a state of “limbo”: Truly viable solutions can only be identified and implemented together with the child, if it has a safe environment in which it feels protected enough to be able to discuss and tackle this issue. Severe delays in the legal procedures, the lack of appropriate living conditions, the mobility that the state puts them through following long waits in inappropriate living conditions, insecurity regarding their future due to the delays in the procedures, do not form the protective framework that would help a child resist the attraction of making “easy” money.

“One boy was extremely badly behaved and was involved in various small thefts and bad behaviour, because he was sure that he would be able to meet his brother in another member state. He didn’t care, since he thought he wouldn’t be staying in Greece. However, when he found out that he had to stay in Greece, he immediately tried to change his behaviour. I only hope it is not too late.”

- The lack of training on how to approach this subject. All staff must be trained on how to deal with such issues and have a support system in place so they know who to call, when, and why. This includes the caretakers – who bear the largest burden of communication with the minors – the cook, the cleaning staff, etc.
- The lack of holistic child protection: This level of complication and sensitivity requires an immediate, holistic, and well thought out approach. With discretion and based on an individualised support network, the minor’s underlying needs will be identified, together with possible viable solutions that the child will also be persuaded to follow.
- The lack of support the child receives in building relationships of trust with his community through a point of contact it can trust; a focal point.
- A lack of proper information: Both regarding their rights and the relevant procedures in Greece, including the right to education and the

right to employment, as well as regarding STDs, the consequences of drug use, and conducting other potentially criminal activities.

“The minor first needs to understand it themselves, through inclusion. It is only in time and through the development of a stable network that any child will accept to open up and show a deeper self.”

- A lack of safe accommodation: A safe space in a safe area preferably outside Athens or at least in areas and neighbourhoods where minors are not exposed and vulnerable to temptation.

“The island felt more like home, more protected. Here, the conditions are wild for them.”

The above focuses the staff's inability to prevent or stop exploitation, since the burden of child protection has unfortunately fallen on their shoulders. However, such serious allegations should also involve the state and call upon the judicial, administrative and political branches of the state to intervene and provide protection to these children by prosecuting felonies.

[12]

Epilogue

“If they are lucky, and not from Pakistan, they might be identified by the staff of an NGO who are sensitive and professional, and who will help them stand on their own two feet. But it is all ad hoc and a matter of chance. There are no clear guidelines for what you should do the moment a child comes to you looking for help. There is no child protection framework referral pathway set out. Everything is based on who you know and previous experience.”

The mapping of the child protection framework in Greece – or lack thereof – directly answers the question posed. Yes, at times it makes exploitation the only available solution. It is interesting to note that each of the sections analysed in this research identify recurring and similar obstacles which lead to clear, overarching conclusions.

Namely, the lack of clear guidelines, pathways, the stark incoherence between the legislative framework and the practices followed in day-to-day reality, the lack of an efficient guardianship system to guide the child through the extremely complex reception and asylum procedure in Greece, the extremely poor identification and reception conditions, together with the lack of individualised treatment and mapping of durable solutions, including minors’ own needs and desires, has led to a fragmented ad hoc child protection system, filled with shortcomings, greatly dependent on individual persons; persons – sometimes randomly chosen – who will greatly affect a child’s life. NGO and competent national authorities staff, with few tools and little support, trying to make up for the gaps inherent in the child protection system, have an intrinsic role to play in whether a minor will be able to access and enjoy the rights enshrined in the directives and conventions, or whether it will be left on the fringes of society, often at great personal cost.

Furthermore, the professionals that the child protection system greatly depends on mention little or no training. The few that did indeed participate in a training course mentioned that it was pure theory, and while providing an initial and theoretical understanding on the situation of refugees’ day-to-day reality, the exchange of best practices with more experienced professionals proved to be more helpful and useful in overcoming obstacles. It is therefore safe to conclude that on-the-job guidance and supervision are key elements in supporting staff.

It is also crucial to note that nearly all professionals mentioned the lack

of counselling and psychological support. In cases where they do receive support, it is seen as a luxury and is one of the first things to be dropped from budgets if cuts are necessary. In other cases, it is on an ad hoc basis, with someone who does it voluntarily.

Instead of trying to heal those most vulnerable among the refugee population, the current child protection framework leads to their re-traumatisation; by the time they have reached the point – if they ever do – where they have legal papers, safety in a shelter, access to the educational system, and an individualised plan for their future, they have been asked to share their story and journey in such great detail and with so many different people and sectors (with uncertain results), that they lose faith in the possibility of anything changing, of being able to trust anyone, of imagining a viable life in this country.

Unaccompanied and separated minors, even the youngest among them, take on adult responsibilities. Due to the complex situations in their countries of origin, the reasons for which they were forced to leave their country (whether it was due to a war or in search of a better future), and their perilous journey to reach the EU, they very often become carers and parents; they reach adulthood long before their 18th birthday. Their past and current realities are extremely complex, and individualised long-term attention needs to be paid to each case. In short, the intricacies of child protection are multiple and extremely complex, while the system in place does not seem to answer any of the questions and dilemmas that arise.

Without annihilating the role and strength of each individual in standing on their own feet and reformulating their future, supportive and empowering services and mechanisms are necessary to ensure that minors are guided and protected once they have reached the EU. Instead of forcing minors and the professionals trying to assist them to work against the system to ensure protection – leaving minors at the peril of exhaustion, anxiety, frustration and exploitation – the state is responsible for enabling its future citizens to integrate and become integral and equal members of its country.

About the authors

Elina Sarantou is an anthropologist with an MA in Human Rights, currently working for HIAS Greece in Lesbos. She has worked in civil society for over ten years, mainly in the humanitarian and protection sectors. She has developed proposals and strategic papers for highly demanding funders and policymakers on a wide variety of protection issues (asylum, victims of torture, minors in administrative detention, homelessness, etc.).

Aggeliki Theodoropoulou is a lawyer with years of experience in refugee protection. She has worked extensively in the field with refugees and unaccompanied children in several parts of Greece, as well as in matters relating to child protection, researching and reporting for the Greek Council for Refugees (GCR) on relevant topics. She is currently deputy coordinator of the GCR's legal unit and a child protection expert.

CHILDREN CAST ADRIFT

The Exclusion and Exploitation of Unaccompanied Minors (UAMs)
National Report: Greece

A publication of the
ROSA LUXEMBURG STIFTUNG, OFFICE IN GREECE

with the collaboration of
GREEK COUNCIL FOR REFUGEES
HIAS and STEPS

AUTHORS

Elina Sarantou
Aggeliki Theodoropoulou

RESEARCH PROJECT COORDINATOR

Ilektra Apostoli

EDITOR-IN-CHIEF

Electra Alexandropoulou

COPYEDITING

Michael Webber

PROOFREADING

Damian Mac Con Uladh

LAYOUT

Erifili Arapoglou – enArte

COVER ILLUSTRATION

Danai Parouniadi

PRINTED BY

G. Kostopoulos Printing House

This publication is free of charge.

Athens

First edition November 2019

ISBN 978-618-84465-3-3

FOR COPIES, PLEASE CONTACT:

Rosa Luxemburg Stiftung, Office in Greece
Kallidromiou 17, 10680 Athens
Tel. (+30) 210 3613769
www.rosalux.gr/en

This publication, like many of the activities of the Office in Greece of the Rosa Luxemburg Stiftung, was funded by the German Federal Foreign Office for Economic Cooperation and Development.

The mapping of the child protection framework in Greece – or lack thereof – highlights how malpractices lead minors to social exclusion and even exploitation. The lack of clear guidelines, pathways, the stark incoherence between the legislative framework and the practices followed in day-today reality, the lack of an efficient guardianship system to guide the child through the extremely complex reception and asylum procedure in Greece, the extremely poor identification and reception conditions, together with the lack of individualised treatment and mapping of durable solutions, including minors' own needs and desires, has led to a fragmented ad hoc child protection system, filled with shortcomings, greatly dependent on individual persons; persons – sometimes randomly chosen – who will greatly affect a child's life.

WITH THE COLLABORATION OF

