

“THE CHILDREN THAT DON’T GO ON HOLIDAY”

**REPORT OF “NETWORK FOR CHILDREN’S RIGHTS”
ON THE IMPLEMENTATION OF THE UN CONVENTION ON THE RIGHTS OF THE CHILD**



**Greece
Athens, July 2018**

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A few words about the Network for Children's Rights

The Network for Children's Rights, hereafter referred to as The Network, is a nonprofit organization whose goal is to defend the rights of children as enshrined in the UN Convention on the Rights of the Child (1989). The members of the Network are people who respect human rights, especially those of children, and are willing to take action in order to defend and promote them. Together they form a network of solidarity that uses the power of knowledge and culture to improve the quality of life of children and to offer them the joy and inspiration of team effort and group initiative.

As such, the Network reaches out to all children regardless of ethnic origin, race, gender, religion or language, through specialized programmes, creative group activities, non-formal education, as well as psychosocial and legal support. Moreover, the Network develops initiatives and interventions that aim to promote, raise awareness and respect the rights of the child, some of which remain virtually unknown to many people, even today.

Through its programmes, the Network comes into direct contact with children and their families, and has the ability to identify and highlight any problems reported regarding the implementation of the Convention on the Rights of the Child.

Refugee children and in particular the vulnerable social category of unaccompanied minors seeking international protection, are another group that concern the Network. As can be observed in the relevant chart of the National Center for Social Solidarity (EKKA), on June 15th 2018, the number of unaccompanied minor applicants for international protection had reached 3,510.¹ This figure does not include illegally residing minors who have not yet been registered and are therefore unknown to both the Asylum Service and EKKA.

¹The latest detailed statistics of EKKA can be found at: https://www.e-pronoia.gr/sites/default/files/gr_ekka_dashboard_15-7-2018_0.pdf. (Last visited 26/07/2018, In Greek).

In general, the majority of the issues the unaccompanied minors face is related to the sectors of health and social welfare, family situation, education, and legal representation. Furthermore, issues arise regarding the discrimination and the unequal treatment during their access to the public and administrative authorities.



Key Facts

3,510* Estimated number of UAC currently in Greece
 Out of the total:
94,3% Boys
5,7% Girls
7,2% <14 years old

1,191 Total number of places in UAC shelters and SIL apartments

2,485* UAC in the waiting list for shelter, out of which:
341 in RICs
137 in Protective custody

14,443 Total number of UAC referrals received and processed between January 2016 and 15 July 2018.
 Out of which:
11,958 have been processed and completed,
2,485* have been processed and are in the waiting list for shelter

*The numbers of total estimated children and children in the waiting list include 214 separated children

Figures dynamically change and may be adjusted based on verification by EKKA. All figures are based on referrals.

With support from:



**Situation Update:
 Unaccompanied Children (UAC) in Greece**

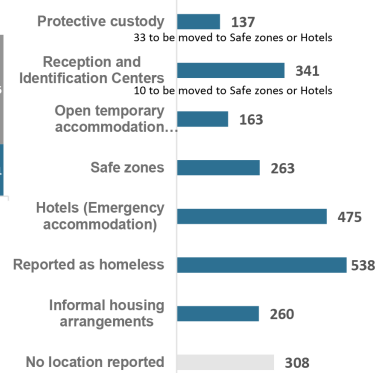
15 July 2018



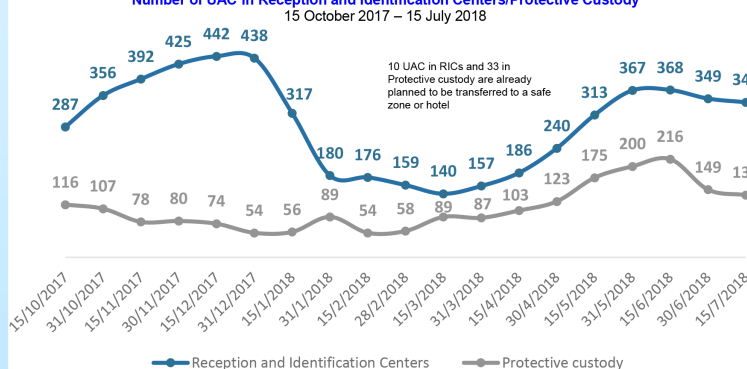
Number of places in UAC shelters and SIL apartments vs. Waiting list
 15 October 2017 – 15 July 2018



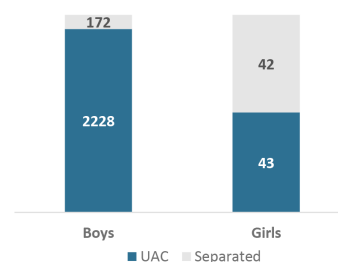
Reported place of stay of children in the waiting list – Total: 2485



Number of UAC in Reception and Identification Centers/Protective Custody
 15 October 2017 – 15 July 2018



Waiting list disaggregated by sex and type



1 General principles – Equal treatment of cases – Discrimination

In accordance with the provisions of Article 2 of the International Convention on the Rights of the Child (hereafter referred to as the CRC), any discrimination based on race, colour, gender, language, religion, political or other beliefs of the child or its parents or legal representatives, or its national, ethnic or social origin, is prohibited. From its day-to-day presence in various fields, as well as through the services it provides to refugee children, the Network has identified several incidents of unfavourable treatment by police and general administrative authorities towards minors from countries such as Algeria, Morocco, Pakistan and Afghanistan, who are seeking international protection. All too often, when these unaccompanied minors are identified and referred to reception and identification centres, they are treated as detainees and transferred to detention facilities, where they are forced to live together with other detainees, thus depriving them of the protection provisions stipulated by the CRC for their status. In addition, many requests for international protection made by unaccompanied minors from Algeria, Morocco and Pakistan are directly and expeditiously dismissed, without the Asylum Service examining each case in substance. This violates numerous rights of unaccompanied minors applying for international protection in Greece, in particular Articles 2, 3, 6, 12, 13, 16, 19 and 22 of the CRC.

A specific example of discrimination against a minor of Afghan origin was observed during the summer months of 2017: The Asylum Service postponed the interviews of two unaccompanied minors, one from Syria and the other from Afghanistan without sufficient reasoning. The Syrian child's interview was rescheduled for just two weeks after the original date (the initial interview was scheduled for 11/7/2017 and rescheduled for 27/7/2017), while the Afghan child's interview was rescheduled for almost a year later (the initial interview was scheduled for 11/7/2017 and rescheduled for 10/5/2018) without taking into consideration the best interests of the child.

Another serious problem that arises throughout the whole spectrum of public administration is the confirmed absence of intercultural mediators, resulting in a lack of adequate interpreters in the country's public hospitals and more generally in all public, administrative and judicial authorities of the country with whom applicants for international protection come into daily contact. The Asylum Services are an exception to this; they are however severely under-staffed, and particularly long delays in servicing requests have often been reported.



2 Health and welfare

From the moment that Greece came face to face with the humanitarian crisis, large shortages in personnel and medical equipment have been observed in public hospitals and nursing institutions in the country. The state's complete lack of provision of interpreters in hospitals continues to be a major issue. (Some hospitals do provide interpreters but these are supplied by non-government organisations, and not by the state.) As a result, when children (unaccompanied or not) and their families visit a hospital due to a health issue, the doctors who perform the necessary examinations face severe difficulties in communication. This has an impact on proper diagnosis, medical care and ultimately, the treatment they have to provide. In practice, this lack of interpreters leads to a systematic violation of Article 24 of the CRC.

The creation of a state register of cultural mediators would enable children in need of special care (those with developmental problems, mental health problems or physical disability) to be supported in special institutions of the public health system.

The services provided inside the refugee accommodation centres (camps) are not specialized, while the necessary facilities and equipment are not available. At the same time, it is essential to support refugees, and especially child refugees, within the network of medical services already in place, rather than create separate units specifically for them, which may increase their risk of ghettoisation.

Refugee accommodation centres are in fact totally unsuitable for the well-being of children with physical disabilities, developmental problems or mental health issues. This is not only because they are far removed from urban centres and any institutions that can offer appropriate support, but also because the living conditions in them are considered dangerous. Camps lack the appropriate logistical infrastructure that would ensure the well-being of children with physical disabilities or developmental problems. Therefore, the provision of Article 23 of the CRC is seriously violated.

A specific example of this is the case of an unaccompanied minor from Syria living in a Juvenile Accommodation Residence who developed suicidal tendencies and had to be hospitalised twice, after two suicide attempts. On the first occasion, the child returned to the Residence just after a day of hospitalisation, without having been given the necessary treatment due to the lack of an interpreter in the hospital. On the second occasion, he remained in the corridor of the hospital's psychiatric department for 20 days due to a lack of beds. On both occasions, the child returned to the hostel even more distraught, and refused any care or medical treatment.



3 Family-environment and alternative care

Although a Member State of the European Union, Greece is not considered a destination country by refugees and migrants, but a transit country to other Member States. In the majority of cases, unaccompanied minors arriving in Greece hope to benefit from the right to family reunification and to rejoin members of their family who reside in another Member State.

According to the International Convention on the Rights of the Child, any measure that ensures a refugee minor's right to reunification with their family and prevents further traumatising, should be taken and enforced. In practice, however, the implementation of CRC Articles 10 and 22 concerning family reunification of minors with members of their families residing in another country is particularly problematic. In particular, there has been a systematic violation and obstruction of reunification procedures through 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"), known as the Dublin III Regulation.

In practice, the majority of EU Member States refuse to accept the reunification of minors with their family members, creating several obstacles in the process. Germany, in particular, is delaying the fulfillment of its obligations by setting a maximum number of transfers from Greece, with the agreement of the latter.² This situation has led family members with minors, who have long been expecting reunification with the rest of the family in Germany, to adopt extreme forms of protest such as hunger strikes.

A further problem is that from August of 2017 until January of 2018, minors and families with minors, who have been given permission to travel to the country where their relatives reside, are obliged to cover the cost of the ticket themselves, because the Ministry has yet to finalise the agreement for a programme for the financing of transition tickets to the country of family reunification. As a result, minors are forced into illegal work or exploitation, as they themselves have to look for a substantial amount of money in a very short time.

Moreover, with regards to a child's right to a family environment or, in the absence of such an environment, to alternative parental care - guardianship, fostering or adoption - as enshrined in international and EU documents that are legally binding for Greece,³ the question of who represents minors deprived of their parents either temporarily or permanently is extremely crucial. According to Greek law, (Greek Civil Code Article 127 et seq.), minors have either no capacity or only limited capacity to enter into contracts, while their supervision and representation in any case, contract or trial, and the administration of any property they may own, is entrusted to their parents in the exercise of parental responsibility (Greek Civil Code Article 1510). It is therefore absolutely crucial to appoint a representative for each minor without delay, who will take care of the minor's affairs and well-being, based primarily on the best interests of the child.⁴

In the Greek legislative framework, the provision of alternative forms of parental care - in the form of adoption, guardianship and fostering - continues to be inadequate, despite the fact that this is included in the United Nations High Commission of Human Rights on the Rights of the Child in its Concluding Observations on Greece.⁵

Guardianship, Fostering and the Operation of Shelters for Unaccompanied Minors Seeking International Protection.

Regarding the guardianship of minors, Law 220/2007 stipulates that the Prosecutor for Minors, or in his absence, the Public Prosecutor of the Court of First Instance, acts as the temporary guardian of the minor. Specifically in the case of unaccompanied refugee minors, Law 4375/2016, (which transposes into Greek law Directives 2013/32 / EU and 2013/33 / EU that relate to common procedures for granting and withdrawing international protection status and to requirements for the reception of applicants for international protection) merely refers to Article 19 paragraph 1 of Presidential Decree 220/2007, without introducing any change to the existing slow and dysfunctional guardianship system. The ineffectiveness of the system that appoints the Prosecutor of Minors or the local prosecutor as temporary guardians has been repeatedly observed, and has been highlighted by the Secretary General of the Council of

³See indicatively: 1. Articles 18,20,21,22,25,27,39 of the International Convention on the Rights of the Child, ratified by Greece through Law 2101/1992 (Government Gazette 192/A/2-12-1992). 2. General Comment No.6 (2005) of the Committee on the Rights of the Child: "Treatment of unaccompanied and separated children outside their country of origin", paragraphs 2-22, 33-38, 39-40, 88-89, 95-99. 3. European Union, "Charter of Fundamental Rights of the European Union", 26 October 2012, 2012/C 326/02, Article 24, available at: <http://www.refworld.org/docid/3ae6b3b70.html> (last visited 25/7/18). Moreover, unaccompanied minors seeking asylum are protected by Directive 2013/33/EE of the European Parliament and of the Council of 26 June 2013, laying down standards for the reception of applicants for international protection (recast) and by Directive 2013/32/EE of the European Parliament and of the Council of 26 June 2013, on common procedures for granting and withdrawing international protection (recast), especially the preamble and Articles 2,21,23,24,25

⁴L. Aggelopoulou, H. Emmanouilidou, M. Mourtzaki, "Law 4375/2016 and challenges faced in the protection of unaccompanied minors". The Marangopoulos Foundation For Human Rights, 2016 p20. Available at http://www.mfhr.gr/images/pdf/OmN_4375.2016.pdf (last visited 25/07/18). (Last visited 25/07/2018, In Greek)

⁵Committee on the Rights of the Child, "Consideration of reports submitted by States parties under article 44 of the Convention Concluding observations: Greece , 15 June 2012", UNDoc.CRC/C/GRC/C/2-3 paragraphs 40-45

Europe in his recent report on Greece and the Former Yugoslav Republic of Macedonia.⁶

The large legislative gap surrounding the immediate protection and care of unaccompanied minors seeking international protection is not covered by the aforementioned provision of Article 19 of Presidential Decree 220/2007, even in conjunction with the other provisions of Articles 1589 et seq. of the Civil Code. None of these meets the needs demanded by the best interests of minors as defined in the CRC and in accordance with the urgent priority given by the EU Commission to those interests.⁷ Prosecutors are in fact unable to carry out their duties as temporary guardians because of the sheer quantity of unaccompanied minors allocated to each of them. There are so many cases that it is not practically possible for them to be served properly by such a small number of prosecutors.

The state – and more specifically the Ministry of Labour, Social Security and Social Solidarity - introduced a draft bill intended to fill the gaps in the guardianship system for unaccompanied minors. The bill, entitled “Welfare and Pension Regulations, Handling of Undeclared Labour, Increased Protection of Workers, Guardianship of Unaccompanied Minors and Other Provisions,” was submitted for public consultation during the first week of June and was enacted into law on July 10th 2018. Articles 13 to 32 deal with the guardianship of unaccompanied minors. In our opinion, turning the prosecution authorities into a judiciary organ will make the whole process even more difficult because it gives more responsibility and a bigger role to the prosecutors who lack the necessary support and logistical infrastructure. Furthermore, they have not received the training required to deal with unaccompanied minors and the many issues relating to them, and their numbers are certainly inadequate.

One major problem is that the maximum permissible time between identifying a minor and informing the prosecutor is not actually specified, nor is there a time limit on the allocation of a guardian. Furthermore, there are far too many ambiguities in the bill and it would be better if the regulations were not dependent on Ministerial Decisions (MD) and Joint Ministerial Decisions (JMD), but rather were passed into law.

Even more worrying is the fact that there is no categorically stated requirement for the appointed guardian to ensure that the unaccompanied minor’s basic needs – such as food and clothing – are met with immediate effect.

⁶Report of the fact-finding mission by Ambassador TomášBoček special representative of the Secretary General of the Council of Europe on migration and refugees to Greece and “The Former Yugoslav Republic of Macedonia”, 7-11 March 2016, SG/Inf(2016)18, 26 April 2016, para 4f, https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=0900001680648495 (last visited 4/11/17).

⁷European Commission - Press release, “Protecting all children in migration: Commission outlines priority actions”, Brussels, 12 April 2017, available at: http://europa.eu/rapid/press-release_IP-17-906_en.htm (last visited 5/11/2017); European Commission, Communication from the Commission to the European Parliament and the Council, “The protection of children in migration”, {SWD (2017) 129 final}, Brussels, 12.4.2017, COM(2017) 211 final, available at: https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/20170412_communication_on_the_protection_of_children_in_migration_en.pdf (Last visited 25/07/2018, In Greek).

Further concerns include the lack of provision for a permanent cultural mediator, and the lack of clarification concerning the availability of legal aid and psychological support for unaccompanied minors.⁸

The bill lacks a clause that states explicitly how unaccompanied minors who are either homeless or in unsafe housing will be included in the guardianship system described. Although the bill stipulates that all unaccompanied minors must be housed, it does not say what will happen to this particular group if there are insufficient accommodation centres or foster homes for them all. According to statistics from EKKA this is the case at present.

Far too many issues rely on Ministerial and Joint Ministerial Decisions, such as recruitment, training, the necessary qualifications and experience that professional guardians must have, and the number of unaccompanied minors allocated to each guardian.

Finally, there is no doubt that the three-member board of supervisors, as provided for in Article 19 of the bill, will be unable to fulfill the task of addressing the needs of all the unaccompanied minors in Greece at the moment. According to the latest count by EKKA, the number of unaccompanied minors in Greece is 3,510.⁹

The current legal framework for fostering in Greece has up till now been defined in the provisions of Articles Civil Code 1655-1665, Law 2447/1996 and Presidential Decree 86/2009. Even though Article 20 of the CRC promotes fostering, rather than placement in an institution, as the best solution in the absence of the biological family, Greek practice has been the reverse. Fostering has remained an extremely bureaucratic and cumbersome process, leading to a preference to place minors in private or public institutions, rather than implement a family-centred approach such as the fostering system.¹⁰

The Human Rights National Action Plan 2014 developed by the Ministry of Transparency and Human Rights, defined the conditions, requirements and details for the organisation and operation of the fostering system, and gave immediate priority to reforming the legal framework for the fostering of minors. The aim was to minimise the number of children living in institutions, establish a National Fostering Register and make the procedure more effective. Moreover, in 2014 it was announced that the creation of the Child Protection Network was to be achieved by the end of 2016. In addition, the aim was to record and collect data on child protection issues, so as to compile both National and Subsidiary Registers (National Register of Child Protection, Register of Children at Risk, Adoption Register and Fostering Register, with the data included in the latter to be defined by a relevant Ministerial Decision), also by the end

⁸ For detailed comments on the draft law please go to <http://www.opengov.gr/minlab/?p=3902> and to the website page of Network for Children's Rights Q <http://ddp.net.gr/2018/06/11/%cf%84%ce%bf-%ce%b4%ce%af%ce%ba%cf%84%cf%85%ce%bf-%cf%83%cf%84%ce%b7-%ce%b4%ce%b7%ce%bc%cf%8c%cf%83%ce%b9%ce%b1-%ce%b7%ce%bb%ce%b5%ce%ba%cf%84%cf%81%ce%bf%ce%bd%ce%b9%ce%ba%ce%ae-%ce%b4%ce%b9%ce%b1/>. (Last visited 25/07/2018, In Greek)

⁹https://www.e-pronoia.gr/sites/default/files/gr_ekka_dashboard_15-7-2018_0.pdf (Last visited 25/07/2018, In Greek)

¹⁰See footnote 3; also UNICEF: "Unaccompanied refugee and migrant children in urgent need of protection" (Geneva 6.5.2016) concerning the need to appoint guardians promptly and to place minors with foster families.

of 2016. The National Center for Social Solidarity of the Ministry of Labour, Social Security and Social Solidarity (which has the legislative initiative) and the Ministry of Justice, Transparency and Human Rights, have been authorized to implement the this plan.¹¹

The Action Plan, which should have been implemented by the end of 2016, appears to be largely realised by the new draft law “Measures for the Promotion of Fostering and Adoption”, which was introduced on 27 November 2017 for public consultation by the Ministry of Labour, Social Security and Social Solidarity, but for which we have serious reservations concerning its structure and mode of operation.¹² The bill was enacted into law on 15 May 2018 (Law 4538/2018, Government Gazette A” 85/16-05-2018, with the title “Measures for the Promotion of Fostering and Adoption and Other Provisions”. In particular, this law provides for the establishment of a National Register of Minors and Special Registers of Minors, a National Register of Prospective Foster Parents and Special Registers for Prospective Foster Parents, a National Register of Approved Foster Parents for Minors and Special Registers of Approved Foster Parents for Minors.¹³ The institution of fostering is organised into contractual, judicial, professional fostering, and fostering as a measure supervised by the Supervision of Minors and Social Assistance Services.¹⁴ Of particular concern is the fact that, unlike judicial fostering, no competent authority has been given responsibility to supervise contractual fostering. Instead, it is left to the natural parents or the guardian to request intervention by the authorities. Furthermore, it should be mandatory to obtain a license from the courts before entering into a contractual fostering.

The new legal framework for the operation of shelters for unaccompanied refugee minors and the institution of guardianship, which has been in its preparatory stages since 2016, is expected to bring about the reform of the system of alternative parental care. This has become more imperative than ever before, especially in recent years with the increase of refugee and migratory flows to Greece.¹⁵

The publication of “Guidelines for the Establishment and Operation of Accommodation Centres for Unaccompanied Minors” in May 2017 has of course been a major step forward towards proper regulation. The guidelines explain the operation and funding of the centres and include detailed instructions for minimum requirements regarding infrastructure and provisions, as well how they should be staffed and what activities they should offer.¹⁶ Even though the guidelines contain precise stipulations for the operation of

¹¹ Available at : http://www.ministryofjustice.gr/site/Portals/0/uploaded_files/uploads_04/ETHNIKO_SXEDIO_MARCH%202014.pdf, pp147-148 (Last visited 25/07/2017, In Greek)

¹² The Network took part in the public electronic consultation for the draft law and made the following comments:

The powers given to the “National Council for Fostering and Adoption” are far too wide-reaching and they will in fact prevent it from operating efficiently.

Separate provisions should be made for minors without official documents (such as a death certificate) seeking international protection and who therefore find it difficult to prove certain facts.

The involvement of and supervision by social services in contractual fostering should be come pulsory, as it is in judicial fostering. This should be regardless of whether it is deemed necessary by the natural parents or the guardian, or whether they have found a suitable foster family themselves. Furthermore, contractual fostering should require a legal license.

Foster parents should have the option of declaring their foster child as a family member on their tax returns. The Supervision of Minors and the Social Assistance Services should be added to the list of supervisory bodies.

the accommodation centres, there are considerable delays in their practical application across the board. Equally problematic is the fact that the necessary funds due to authorities that run the camps are also subject to long delays. What is also typical is the total lack of inspection of these shelters by the state authorities, who are consequently completely unaware of what is actually going on in them. To conclude, all these problems arise from the fact that the guidelines are not a legislative document and are therefore not legal binding.



Foster parents should have the option of declaring their foster child as a family member on their tax returns. The Supervision of Minors and the Social Assistance Services should be added to the list of supervisory bodies. Article 15 Section B should contain the following additional phrase: “if they discover, either through proof, or after being told by the minor (depending on his or her age and maturity) that the fostering is....”

Furthermore, Article 15 Section B does not make it clear whether the supervising prosecutor has the legal power to remove a child from its foster parents through the courts.

In Article 8 Paragraph 2 Section B, the definition of good psychological, mental and physical health is far too vague, nor is it stated anywhere which body is responsible for the judgment. The phrase “suffer from chronic, contagious illness” should be replaced by “face challenges as a result of chronic, contagious illness”.

Overall, the organisations assigned to supervise the system are understaffed, which will result in further reduction in the quality of supervision offered.

Finally and crucially, the Network believes that the minor’s opinion should always be heard and, depending on his or her age or maturity, taken into consideration.

All the Network’s observations can be found in Greek at <http://www.opengov.gr/minilab/?p-3589>

¹³ See Articles 5-7 and 9

¹⁴ See Articles 10-11,16-17

¹⁵See M Kouzinopoulou “A new legal framework for the operation of hostels for unaccompanied refugee minors and the guardian system. Psychological support for the Hellenic Coastguard by SOS Children’s Villages” Available at <http://taxpress.gr/archives/75862> (Last visited 25/07/2017, In Greek)

¹⁶ «Guidelines for the Establishment and Operation of Accommodation Centres for Unaccompanied Minors», drawn up by the Special Coordination Service for the Implementation of Programmes of the Asylum Migration and Integration Fund, the Internal Security Fund and others, Athens, May 2017.(Last visited 25/07/2018, In Greek).

4 Education

During the course of the Network's activities with teenagers, some children (particularly second-generation immigrants) have been identified as being under great pressure by their families to 'undertake their responsibilities' and work to supplement the family income. Moreover, girls are highly likely to bear the burden of housework and may also be entrusted with the care of younger family members. Such factors increase the likelihood of school failure.

One of the major issues we face when formulating an integrated intervention plan aimed at inclusion, is the danger of school failure (dropping out of school), mainly due to teenagers distancing themselves from the school community and rupturing social ties with their peers and educators, rather than because of poor school performance (and grades).

It is commonly accepted that the risk of dropping out of school is greater for children living in extreme poverty, even if their school performance is high. Difficult living conditions lead some children to withdraw from school and seek employment (usually undeclared) in an attempt to find additional income.

Major issues and obstacles have also been identified concerning child refugees residing in Greece and their access to education. There are cases where parents themselves do not wish their children to enter the Greek education system. Their refusal is often related to cultural differences and/or their desire for Greece to be just a transit country (and not their final destination). They do not want to participate in the Greek education system and therefore keep their children out of it.

The biggest challenge, however, is the lack of a steady, integrated education system that is easily accessible to child refugees. These children had no access to the national school system or to formal education until the academic year 2017-2018, except for some afternoon classes. These were called RFREs (Reception Facilities for Refugee Education) and were created exclusively for children of refugees residing in refugee accommodation centres, thus contributing to their social exclusion.

Within the framework of the RFREs, there is now provision for the creation of nursery schools within the refugee accommodation centres. Additionally, within the last year, action has been taken to ensure that refugee children that have been housed

in apartments in urban areas are enrolled in the morning classes of their local schools.

Despite these significant and encouraging steps, there are big delays in the organisational process of the entire education scheme. Consequently, even though the academic year is almost half way through, many nursery schools within the accommodation centres have not yet started operating, while many child refugees have either not yet begun attending school, or are struggling to follow lesson plans or to comprehend what they are being taught, because learning support is not included in the scheme.

A further concern is the lack of regular cultural mediators in schools. Their presence would allow both children and their parents to be properly informed about matters related to attendance and school life in general.

All these issues hinder the smooth and steady integration of child refugees.



5 Special measures

On 19th December 2011, the United Nations General Assembly approved the Third Optional Protocol of the Convention on the Rights of the Child (CRC),¹⁷ which came into force on 14th April 2014. According to this protocol, children themselves have the right to apply before The Committee on the Rights of the Child¹⁸ should their rights (as defined by the CRC and its first two optional protocols) be violated. Greece has not ratified this 3rd Optional Protocol yet, thus depriving minors of their right to appeal if their rights are violated, a legal process through which refugee children would be able to achieve immediate and applicable results.

Furthermore, the long delays by the Asylum Service in examining the applications for international protection lodged by refugee minors, cause major problems in the minors' lives, their mental and emotional health, and hinder their integration into Greek society. Bearing in mind the negative experiences during the journey from their country of origin to Greece, combined with the state of uncertainty about their legal status, the impact on their already poor mental health is significant, while their integration and access to a normal life is made even more difficult.

As far as legal proceedings are concerned, minors from foreign countries face special challenges. Due to a lack of interpreters, cases involving refugee minors as victims in criminal court cases are repeatedly postponed, resulting in further discrimination against the underage victims and their families. In handling criminal cases involving minors, the police are often quite negligent in the arrest, preliminary investigation and interrogation of those involved. Consequently, suspects are likely to escape illegally and, thus, justice is not served. Finally, it has been noticed that there are cases where police officers try and prevent refugee minors from reporting an incident in which they have been the victims.

¹⁷https://treaties.un.org/doc/source/signature/2012/CTC_4-11d.pdf

¹⁸<http://www.ohchr.org/EN/HRBodies/CRC/Pages/CRCIndex.aspx>

Such an instance was noticed in the Mixed Jury Court in Piraeus, where the criminal case of an assault on a minor female applicant for international protection (child of a single-parent family), which had been scheduled to go on trial on 23rd October 2017, was adjourned until 31st October 2017 due to the lack of a Farsi language interpreter, even though the secretariat of the court had been informed one week before the initial hearing that a case was to be discussed in that court for which a Farsi-speaking interpreter was required. Even on the day of the discussions that followed the initial adjournment, and despite the fact that the court was by now aware that the presence of a Farsi-speaking interpreter was compulsory for the trial to go ahead, an interpreter turned up just two hours before closing time.

“Protective” custody

Due to lack of sufficient accommodation facilities for unaccompanied minors, hundreds of children are detained in “protective custody” (Presidential Decree 141/1991, Government GazetteA – 58/30-40-1991) for several months. Nevertheless, as determined by the Office of the High Commissioner for Human Rights (OHCHR), the UN Special Rapporteur on the Human Rights of Migrants, the UN Working Group on Arbitrary Detention, the UN Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the UN Children’s Fund (UNICEF), and the UN High Commissioner for Refugees (UNHCR), detention is never in the best interests of a child.¹⁹ The main priority of all the States that have ratified the Convention on the Rights of the Child should be the abolition of provisions for the detention of minors, and adoption of alternative practices. Every effort must be made to ensure that the rights of children are respected, so that they are not exposed to the unnecessary damage caused by detention. There is no doubt that detention has both immediate and long-term effects on children’s mental health.²⁰ In any case, refugee minors crossing borders are primarily children and should be offered the protection that all children, regardless of their origin, are entitled to.

The report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) was particularly critical of the continued detention of unaccompanied minors in Greece. The Commission visited Greece in April and July 2016²¹ in order to examine the living conditions of refugees and immigrants in the hotspots on the islands following the implementation of the European Union-Turkey Joint Statement, and to assess the treatment and conditions of detention of foreign nationals, both children and adults, in Athens and Thessaloniki.

According to the report, the conditions of detention in the special holding facilities at both Amygdaleza and Petrou Ralli are unacceptable and clearly unsuitable

¹⁹https://idcoalition.org/wp-content/uploads/2017/06/Briefing-Paper_Never-in-a-childs-best-interests_June-2017.pdf

²⁰Dudley, M., et al. (2012) “Children and young people in immigration detention.” *Current Opinion in Psychiatry*, 25(4): 285-292.

²¹<https://rm.coe.int/pdf/168074f90d/https://rm.coe.int/pdf/168074f85d>

for children, because the former resembles a warehouse, while the latter operates like a large detention centre, but with even less facilities. As stated in the Report: “Placing unaccompanied minors, many of whom have undergone traumatic journeys and experiences, in these detention centres for several weeks or months is difficult to comprehend.”

The issues raised about protective detention are stressed further by the findings of the survey “Rapid assessment of mental health, psychosocial needs and services for unaccompanied refugee minors in Greece”, which was carried out on behalf of UNICEF in collaboration with the Institute of Child Health and with the support of the Rights, Equality and Citizenship Programme of the European Commission during April-July 2017.²² This study exposes the fragile mental state of unaccompanied children in Greece. It is quite obvious that their mental condition is exacerbated by being under detention for “protection purposes” for weeks or even months, especially since the detention facilities lack the necessary supporting infrastructure, such as psychosocial services. Instead, minors should be provided with well-staffed and equipped accommodation, in accordance with the best interests of the child, which should always be a priority and which exclude the option of detention.

At the same time, Article 32 of Law 3907/2011 (incorporating Article 17 of Directive 2008/15/EC into Greek law) in conjunction with Article 46 par.10 case b provides for the avoidance of detention of minors seeking international protection and permits them to be detained only as a last resort and for the sole reason of their safe referral to a suitable shelter. Only under exceptional circumstances can minors be detained for up to a maximum of 25 days, which may be extended for another 20 days, in a detention facility that needs to be exclusively for minors. Further, as provided by law, minors should be able to engage in leisure activities, including games and recreation, suitable for their age, and should be given unhindered access to education. Unfortunately, none of the above procedures are actually followed, because in fact prosecutors and police themselves often ask us to intervene and apply pressure so that unaccompanied minors, who are detained in protective custody for 50 and sometimes even 60 days, may be placed in shelters. Furthermore, there is no possibility of freedom, play or entertainment and obviously no access to education. It should be noted that Greece has already been convicted by the ECHR in the *Rahimi v. Greece* case for illegal detention and inhuman treatment of an unaccompanied minor.²³

Safe zones for unaccompanied minors

One type of alternative accommodation are the so-called safe zones, located within refugee accommodation centres for the purposes of accommodating and protecting unaccompanied minors residing there. The Ministry of Migration Policy and the Ministry of Labour, Social Security and Social Solidarity have been working jointly since November 2016²⁴ to develop a

²²<https://www.unicef.gr/παρουσίαση-έρευνας-για-την-ψυχική-υγεία-των-ασυνόδευτων-παιδιών/a2-1028-8> (Last visited 25/07/2018, In Greek).

²³[https://hudoc.echr.coe.int/eng#{%22fulltext%22:\[%22case8687/08%22\],%22documentcollectionid2%22:\[%22GRANDCHAMBER%22,%22CHAMBER%22\],%22itemid%22:\[%22001-163386%22\]}](https://hudoc.echr.coe.int/eng#{%22fulltext%22:[%22case8687/08%22],%22documentcollectionid2%22:[%22GRANDCHAMBER%22,%22CHAMBER%22],%22itemid%22:[%22001-163386%22]})

²⁴https://greece.iom.int/sites/default/files/Annex%20A_1.PDF

specific plan setting out the minimum standards for the terms and operating conditions of safe zones, as well as the placement procedures of unaccompanied minors in them. These reception facilities have not yet been formally established by the Greek state, even though they already operate in some refugee accommodation centres, such as the one in Eleonas, which has been running for almost a year now.

There are major issues regarding the operation of safe zones, a key one being that they are not in a specially protected area that is separated from the accommodation site. Anyone can have access, thus putting at risk the safety of the refugee minors placed in them. In addition, there are problems concerning how long minors should stay there. According to the standard operating procedures of the safe zones, minors should not remain in them for more than 12 weeks; that is, the maximum stay is considered to be a three-month period. The original purpose of these structures was to provide minors with temporary housing until they were placed in a shelter or transferred to another country under the family reunification or relocation scheme. However, this guideline is not followed in actual practice, meaning that safe zones, instead of being temporary options, end up being permanent facilities for accommodating minors. Hence, the most important principle of the Convention on the Rights of the Child is violated, since permanent residence in open accommodation sites is certainly not in the minors' best interests.

The Legal Status of Unaccompanied Minors without Legal Documents

It is a fact that the Greek state does not provide a stable and comprehensive system of child protection, which would provide each child on Greek soil the minimum rights as stipulated by the CRC. This results in the denial of basic legal rights to numerous unaccompanied minors, not only because the Greek state delays in issuing legal documents, especially International Protection Applicant Cards, but also because it offers no protection whatsoever to unaccompanied minors whose asylum application has been rejected by the Appeals Authority of the Asylum Service.

The significant delays in registering unaccompanied minors by the Asylum Services – for the most part there is a waiting list of over three months – leads to a denial of their rights as specified in the CRC, the Greek Constitution, European and national law. The way things stand at the moment, unaccompanied minors are left without legitimate papers for an extremely long time, meaning that they remain without legal status. Those entering the country by land face the biggest problems because they do not pass through Reception and Identification Centres.

The Asylum Service rejects many children at the first interview, decreeing that they do not conform to the typical refugee profile nor do they fulfill the criteria that allow them to be covered by the Geneva Convention (proof of their numbers can be found in the statistical data of the Service). These decisions are reached for too hurriedly and without sufficient examination of each case.

Whenever an appeal is heard and then rejected – and this tends to be the norm - the unaccompanied minor in question has his International Protection Applicant Card taken away from him and simply becomes an illegal immigrant. In fact, the card is removed even if there is an application of revocation against the appeal decision, because the application does not have an automatic suspensive effect. The young person is only protected if an application of suspension is issued at the same time as the application of revocation.

It would therefore be desirable for Article 67 of Law 4375/2016 to include an obligation on the part of secondary guardians to refer all cases of unaccompanied minors whose application for international protection has been permanently rejected to the relevant authorities, in accordance with Article 19A (par.1 section f) of Law 4251/2014. We also believe that the term “Accommodation Centre for Unaccompanied Minors” should be explicitly included in article 19A paragraph 2, section d. of Law 4251/2014, the way the term “care homes” is.

Article 36 paragraph 1, section b of Law 4375/2016 states that “Any alien or stateless person has the right to apply for international protection. The application is submitted before the competent receiving authorities, which shall immediately proceed to register it fully. If this is not possible, a simple registration of the minimum necessary elements shall be completed no later than three (3) working days after the application is made, followed by full registration, as soon as this is rendered possible.” Paragraph 5 of the same article states: “Where simultaneous applications for international protection by a large number of third country nationals or stateless persons make registration, as provided in paragraphs 1

In practice not only are none of these deadlines adhered to, but more importantly, unaccompanied minors are trapped in the unusual position of being in the country illegally. Even though their desire to seek international protection has been explicitly stated, (through the email sent by organisations to the office responsible for vulnerable cases, requesting an appointment for full registration) they remain homeless, without legal documents, at heightened risk and under dangerous conditions.



6 Recommendations to the Greek state

Taking into account the abovementioned comments, the Network for Children's Rights is in the process of submitting to the Greek State the following proposals and recommendations:

1. The creation of a national register of interpreters is an absolute priority and should be established as soon as possible. Interpreters are required: daily at hospitals and any public services that deal with those that have applied for international protection and those that have already been granted it; occasionally in court and at police stations of districts where a large number of applicants and recipients of international protection resides; and in hospitals and police stations whose jurisdiction includes open refugee reception centres.

2. Minors seeking international protection and those that have been granted it should be fully integrated into the normal school day at nursery, primary and secondary level. Furthermore, it should be made possible for them to learn their mother tongue in school.

3. We recommend issuing legal documents to unaccompanied minors who are not in possession of papers, as soon as they are identified. The same should apply to minors accompanied by a member of their family other than their parents. Unaccompanied minors entering Greece overland do not receive an interdepartmental memo by the police authorities, therefore it is essential to put in place a system for the submission of a certified application, so that there is a formal written record of their desire to request asylum. The purpose of this application would be twofold: firstly (delete) first, it would act as a temporary record of the minor's identity details and secondly it would protect him/her from administrative deportation until such time as he/she acquires an International Protection Applicant Card. As a result, any bureaucratic delays and failures would not harm the best interests of the child. An alternative would be to carry on with the existing legal framework but to ensure that unaccompanied minors are indeed registered within three days of their being identified.

4. We further recommend setting up a humanitarian scheme that will offer immediate protection to all unaccompanied minors from the moment they are identified until their coming of age, at which point they will be reassessed. The Greek state should also be obliged to offer this right to unaccompanied minors whose application for international protection has been rejected by the Asylum Service and who are still under-age.

5. It would be advisable to create a system of protection and support for young people aged 18-21. At present, the Greek state offers no welfare, integration or assistance programmes for this particular age group. When state welfare is absent, youths of this age are prone to committing offences and it is therefore imperative that the Greek state sets up specific programmes for them.

6. It would be advisable to enact into law the “Guidelines for the Establishment and Operation of Accommodation Centres for Unaccompanied Minors”, drawn up in Athens in May 2017 by the Special Coordination Service for the Implementation of Programmes of the Asylum Migration and Integration Fund, the Internal Security Fund and others. The guidelines cover, explain and ensure the smooth operation of the accommodation centres to a very satisfactory degree.

7. Safe Zones should be abolished and replaced simultaneously by a sufficient number of accommodation centres with the capacity to house all unaccompanied minors who, according to applications for accommodation to EKKA, are homeless or living in unsafe housing.

8. Detention of any kind of unaccompanied minors, even under the guise of protection, must be terminated, because it is in clear breach of the CRC and of articles 1, 3 and 5 of the European Convention on Human Rights that relate to inhuman and degrading treatment and punishment. The immediate referral and placement of unaccompanied minors in accommodation centres, where they can be offered total support, is the only appropriate course of action.

--> Regarding Law 4538/2018: “Measures for the Promotion of Fostering and Adoption and Other Provisions”

It would be advisable to have a competent authority in charge of contractual fostering, in the same way that it is for judicial fostering. It should not be left to the natural parents or the guardian to request involvement if and when they deem it necessary, and it should be regardless of whether they have found a suitable foster family themselves. It should be mandatory to obtain a license from the courts before drawing up a contractual fostering agreement.

--> Regarding Law 4554/2018: “The guardianship of unaccompanied minors”

It is our recommendation that guardians be appointed by Prosecutors for Minors where these exist, or by local Public Prosecutors of the Court of First Instance in all other regions of the country. The prosecutors will be solely responsible for all matters relating to unaccompanied refugee minors, particularly in regions where the majority are located, namely Athens, Piraeus, Thessaloniki and the N.E Aegean islands, such as Chios, Mytilini and Samos, which is where they are first identified. The prosecutors should be given special training in child protection and they should have up to date information about refugee numbers and of the cultural profile of the minors. They should always be accompanied by an interpreter. They should

concentrate exclusively on matters relating to unaccompanied minors so that they can play a meaningful role and be able to judge whether a particular relative is suitable to act as guardian.

It is of paramount importance to explicitly limit the time allowed for notifying the Prosecution Service to a maximum of 24 hours from the moment that the unaccompanied minor is identified, and it should be a regulatory requirement to appoint a guardian within 5 days at the most.

Guardianship by a relative should always be preferred in cases where a) this is the wish of the minor and b) the relative is considered suitable. The suitability or otherwise of the relative shall be examined by the Prosecution Service by reading the individual history or the brief report compiled by the referring bodies, and by talking with both the child that is separated from its immediate family and with the family members that accompany him or her and wish to act as guardians. There should be a professional guardian to offer assistance, especially as regards practical issues and in order to facilitate contact with public services.

We recommend including a requirement for guardians to give a monthly allowance to every unaccompanied minor in order to cover personal expenses, at least until he or she has been placed in an accommodation centre. Teenagers over the age of 15 should be allowed to spend their monthly allowance themselves under the supervision of the guardian. In the case of children under 15, the guardian will be solely responsible for how the sum is spent. At the end of every month, the guardian must submit an expense report to the supervisory committee, which will assess whether the minors' allowance has been spent correctly. It is imperative that more supervisory committees than just the single one provided for in the draft bill be set up. Only then can they play a useful role and have the capacity to offer adequate supervision.

The guidelines for the selection and training of suitable professional guardians can be found in the manual entitled "Guardianship for Children deprived of Parental Care",²⁵ published by the European Union Agency for Fundamental Rights, and these must be rigidly followed.

It should also be added that the guardian should: a) have the necessary knowledge and experience in matters of child protection, including child development, childrearing and child psychology b) understand and acknowledge difference of both culture and gender c) be fully knowledgeable about the national systems of healthcare, education and child protection and d) be reasonably acquainted with the legal framework, especially as it pertains to detention and asylum of unaccompanied minors seeking international protection. Equally essential is past employment and work experience in the child protection sector. We also suggest that appropriate significance be given to the basic attributes and personality traits (mental balance, composure, patience) that guardians must possess in order to fulfill their role correctly.

²⁵Handbook titled: "Guardianship systems for children deprived of parental care in the European Union" published by the European Union Agency for Fundamental Rights (FRA), edition 2015, fra.europa.eu/sites/default/files/fra_uploads/fra-2014-guardianship-children_el.pdf p.36 in Greek and in the website <http://fra.europa.eu/en/publication/2014/guardianship-children-deprived-parental-care-handbook-reinforce-guardianship> in English. See also : <http://fra.europa.eu/en/publication/2015/guardianship-children-deprived-parental-care> in English.

Finally, as regards the number of unaccompanied minors that each professional guardian shall be allocated, experience and past practice have shown that it should be between 5 (five) and 10 (ten). This number would enable the guardian to offer a quality service and develop a relationship of trust with his charges. Naturally, individual circumstances and specific needs should be taken into account in any decision.