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Meeting: 1230 meeting (9-11 June 2015) (DH)

Item reference: Communication from a NGO (Greek Council for Refugees) (29/05/2015) in the M.S.S. and Rahimi groups of cases against Greece (Applications No. 30696/09, 8687/08)

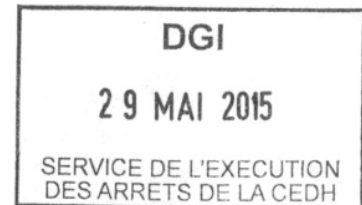
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Réunion : 1230 réunion (9-11 juin 2015) (DH)

Référence du point : Communication d'une ONG (Greek Council for Refugees) (29/05/2015) dans les groupes d'affaires M.S.S. et Rahimi contre Grèce (Requêtes n° 30696/09, 8687/08)
(anglais uniquement)

Informations mises à disposition en vertu de la Règle 9.2 des Règles du Comité des Ministres pour la surveillance de l'exécution des arrêts et des termes des règlements amiables.



**COMPLEMENTARY SUBMISSION OF THE GREEK COUNCIL FOR REFUGEES
TO THE COMMITTEE OF MINISTERS OF THE COUNCIL OF EUROPE
IN THE CASE OF *M.S.S. v. BELGIUM & GREECE* (Application No 30696/09):
THE ISSUE OF UNACCOMPANIED MINORS**

The present submission of the Greek Council for Refugees (GCR), complementary to the one dated 2 March 2015, means to address a series of issues of concern regarding the treatment of unaccompanied minors (hereinafter: “UAMs”) in Greece.

Country information - Demographics

The actual number of UAMs arriving in Greece on an annual basis is unknown. There is data on apprehensions for illegal entry at the border areas of Greece, yet it does not include info based on age, gender or vulnerability categories. The only available and official data regarding actual numbers of UAMs derives from the new Asylum Service’s statistical information, regarding asylum applications submitted by UAMs, and from the National Centre of Social Solidarity’s (in Greek / hereinafter: “EKKA”)¹ statistical data on requests for placing UAMs in reception facilities, received by them. Recorded requests for placement in a reception facility more than doubled in 2014 (2390 requests) over 2013 (1150 requests). In addition, within the first 6 months of the new Asylum Service’s operation, where 196 children applied for asylum, there were 758 requests for placement addressed to EKKA, whereas within 2014 there were 447 requests for asylum and 2390 requests for placement in a reception facility. In essence, only 1 out of 5 (20,4%) UAMs requesting housing, have applied for asylum.

¹ EKKA established the Service for the Management of Accommodation Requests of Asylum Seekers and Unaccompanied Minors, as assigned by the Ministry of Health and Social Solidarity by virtue of Ministerial Decision 93510/28-07-2011 (GG B 2016/2011)



Asylum Service, Statistical data:

Asylum Applications <u>7.6.2013² - 31.12.2013</u>			Jan 2014 - Dec 2014	
Men	3654	75,9%	7647	81,1%
Women	1162	24,1%	1785	18,9%
Total	4816	100,0%	9432	100,0%
Unaccompanied Minors	196	4,1%	447	4,7%

Unaccompanied minors' requests for placement received by EKKA in 2013³

<u>Unaccompanied Minors</u>	<u>Average Age</u>	<u>Over 12 years</u>	<u>Up to 12</u>	
male	16y 5 m 2 d	1078	22	1100
female	13y 11m 16 d	38	12	50
	16y 3m 23 d	1116	34	Total 1150 UAMs

Unaccompanied minors' requests for placement received by EKKA in 2014⁴

<u>Unaccompanied Minors</u>	<u>Average Age</u>	<u>Over 12 years</u>	<u>Up to 12</u>	
male	16 Y 5m 13 d	2245	56	2301
female	12y 11m 3 d	54	35	89
	16y 3m 25d	2299	91	Total 2390 UAMs

² The new Asylum Service started operating on 7th June 2013.

³ EKKA, The Service for the Management of Accommodation Requests of Asylum Seekers and Unaccompanied Minors, Annual report 2013

⁴ EKKA, The Service for the Management of Accommodation Requests of Asylum Seekers and Unaccompanied Minors, Annual report 2014



Identification & Referral

The law⁵ stipulates that, competent authorities and local administration “*shall take care to provide special treatment to applicants belonging to vulnerable groups [...] in particular unaccompanied minors...*”⁶. However, a specific procedure for identifying vulnerable groups is not foreseen. The same legislation, regarding minors, places particular emphasis on the best interest of the child which should be a primary consideration of the competent authorities. Moreover, authorities responsible to receive and accommodate shall ensure access to Social Care Services for minors who have been victims of any form of abuse, neglect, exploitation, torture or cruel, inhuman and degrading treatment, or who have suffered from armed conflicts, and, if necessary, shall ensure that they receive appropriate mental health care and qualified counselling⁷.

Law 3907/2011⁸ regarding the establishment of the First Reception Service (hereinafter: “FRS”) foresees the identification and referral of vulnerable groups. The mission of the First Reception Centres (hereinafter: “FRCs”) and First Reception Mobile Units (hereinafter: “FRMUs”) is the implementation of first reception procedures, within the limits of their regional jurisdiction for all third country nationals who are arrested for entering or staying in the country without the proper legal documents. The procedures include: a. the identification of their identity and of their nationality including their age when there is doubt, b. their registration, c. a medical examination and, if needed, the necessary treatment and psychosocial support, d. their information on their rights and responsibilities, particularly for the conditions under which they can qualify for an international protection status and their referral to the competent regional Asylum Office in case they apply for international protection and e. the care for those who belong to vulnerable groups so that they can benefit from the relevant procedure.

⁵ Presidential Decree (hereinafter: “PD”) 220/2007 *Transposition into the Greek legislation of Council Directive 2003/9/EC from January 27, 2003 laying down minimum standards for the reception of asylum seekers*, available at: <http://www.refworld.org/publisher/NATLEGBOD/DECREES,GRC,49676abb2,0.html>

⁶ Art. 17 PD 220/2007

⁷ According to art. 18 par. 1 PD 220/2007: “*The long-term interest of the child constitutes a prior concern of the competent authorities while implementing the dispositions regarding minor asylum seekers*”.

⁸ 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*, available at: <http://www.refworld.org/docid/4da6ee7e2.html>



The Head of the Medical Screening and Psychosocial Support Unit of the FRC, upon identification of persons belonging to vulnerable groups shall recommend to the director of the FRC their referral to the competent body of social support or protection.

At the moment there is one FRC facility in Fylakio-Orestiada (i.e. at the Greek-Turkish land border) and two FRMUs on the islands of Lesbos and Samos (i.e. at the Greek-Turkish sea border) with limited capacity. The FRMUs' task in identifying individuals with specific needs is challenged, as the necessary individual counselling by medical and psychosocial teams cannot be carried out promptly and effectively, due to the high number of arrivals, the fast administrative processing by the police, and the detention environment. Consequently, there is a potentially large number of individuals with their specific needs undetected.⁹ The identification of vulnerable groups and their referral is even more challenging in other areas of Greece where there is no FRS presence. In these areas that receive approximately 50% of new arrivals, the Hellenic Police is in charge, which is unable to respond effectively. The newly-arrived may be detained for undetermined amount of time in police cells, port facilities or in other temporary locations, first reception procedures are hastily conducted and newcomers are released without proper determination of nationality or assessment of medical or specific needs.¹⁰

Provided that the FRS does not have the capacity to operate throughout Greece, all those apprehended being undocumented are subject to detention and their transfer to a FRC or FRMU is neither immediate nor guaranteed. According to UNHCR, *"In total, the FRS was able to register and screen 6,228 individuals during January - September 2014. This corresponds to only around 20 per cent of the total number of new arrivals in this period."*¹¹

Age assessment

The majority if not all UAMs entering Greece in an irregular manner do not possess any legal documents. The inexistence of a standardized age assessment procedure of possible UAMs hinders the protection of the best interest of the child. Upon their arrest, the Hellenic Police determines their age based on the minors' declaration or based on the policeman's own assessment, basically on the sole criterion of

⁹ UN High Commissioner for Refugees (UNHCR); *Observations on the Current Situation of Asylum in Greece*, Dec. 2014, available at: <http://www.refworld.org/docid/54cb3af34.html>, p. 9

¹⁰ *Ibid*, p.11



appearance. There are also instances where obviously minors declare that they are adults – and are recorded as such - and do not apply for asylum mainly because they want to move on to another country or to avoid a long detention period.

Children in detention may undergo a medical assessment when there is doubt regarding their age. Yet, legal safeguards relevant to an age assessment procedure, which may be used in the framework of examining an asylum application as stipulated in art. 11 par. 4 PD 113/2013, are not applied¹². An age assessment procedure for young people was established by a Ministerial decision on 29 November 2013¹³, but it is applicable specifically in the framework of first reception procedures and is initiated when there is doubt regarding one's age. According to the Greek Ombudsman, the Greek State should: *“expand, mutatis mutandis, the scope of the aforementioned Ministerial Decision regarding the determination of the age of all unaccompanied minors that purport to be minors without having been through the processes of the First Reception Centres”*¹⁴.

In the FRC, responsible for conducting the age assessment are the medical doctors of the Medical Control and Psychosocial Support Unit of the FRC. In case the initial medical assessment based on the macroscopic characteristics of the individual is inconclusive, the cognitive, behavioural and psychological development of the person is examined by a psychologist and a social worker. As a measure of last resort, the individual can be referred to a public medical institution for medical examinations (i.e. determination of bone age by left wrist and hand x-rays, dental examination and panoramic dental x-ray)¹⁵. The estimations and the

¹¹ *Ibid*, p. 9

¹² PD 113/2013 *Establishment of a single procedure for granting the status of refugee or of subsidiary protection beneficiary to aliens or to stateless individuals in conformity with Council Directive 2005/85/EC ‘on minimum standards on procedures in Member States for granting and withdrawing refugee status’ (L 326/13.12.2005) and other provisions*, available at: <http://www.refworld.org/docid/525e84ae4.html>; See also: Greek Council for Refugees Document No 509/12.6.2014, addressed to the Ministry of Public Order and Citizen Protection/Aliens Directorate and other competent authorities, entitled: *“Administrative detention of persons declaring to be minors and age assessment procedure”*. The said document presents the age assessment procedure followed and the issues the latter raises in terms of safeguards and in terms of protecting the best interest of the child (Doc. available upon request).

¹³ Ministerial Decision No. Y1.Γ.Π.οικ.92490 (Ministry of Health) *Program of medical screening, psychosocial diagnosis, support and referral of third country nationals entering without legal documents, to first reception facilities* (Official Gazette B’2745/29-10-2013). available at: <https://www.unhcr.gr/prostasia/nomiki-prostasia/o-nomos-stin-ellada/nomothesia-gia-to-asylo.html>

¹⁴ Greek Ombudsman, *The issue of age assessment of unaccompanied minors*, Oct. 2014, http://www.synigoros.gr/resources/porisma_diapistosi-anilikotitas-asynodefton-anilikon.pdf (in Greek)

¹⁵ See art. 6 of Ministerial Decision No. Y1.Γ.Π.οικ.92490.



assessment results are delivered to the Head of Medical Screening and Psychosocial Support Unit, who recommends to the Head of the FRC the official registration of age, also noting the reasons and the evidence supporting the relevant conclusion. The individual concerned has the right to be informed of the result and the right to appeal against it.

The minors' legal representative (i.e. practically the Public Prosecutor for Minors, who acts by law¹⁶ as a provisional guardian), does not need to consent on this but only needs to be informed. Thus, the age assessment procedure is initiated without the minor's legal representative's consent, but the latter (or someone appointed by this person) may be present during the procedure.

Other procedural safeguards¹⁷ include:

- UAMS are informed prior to the examination of their asylum application and in a language which they understand, on the possibility that their age is determined through a medical examination, the method of examination to be used, the possible consequences of the result of the medical examination on the examination of the asylum application, as well as the consequences of a refusal on the part of the UAM to undergo the medical examination.
- The UAM or his/her guardian consents to the conduct of an examination for determining his/her age.
- The decision to reject an application by an UAM who refused to undergo this medical examination shall not be based solely on that refusal.
- Until the completion of the medical examination, the person who claims to be a minor shall be treated as such.
- If the results of the medical examination are not firmly conclusive, then he/she shall be treated as a minor.

Given that the FRS due to insufficient resources was able to register approximately only one out of 5 new arrivals in Greece between January - September 2014, many UAMs may have gone undetected and thus left without any protection¹⁸.

¹⁶ Art. 19 par. 1 PD 220/2007

¹⁷ Art. 3 par. 3 PD 113/2013

¹⁸ Ms Matina Poulos (Greek Ombudsman), recently underlined that a large number of children, instead of being referred to the First Reception Service's facilities, they get transferred by the Hellenic Police to detention centres, as was the case of 100 children that had been transferred from Mytilene to Amygdaleza Detention Centre. *"Children are referred to detention centres as if they were adults because they have not been subjected to first reception procedures"*



Guardianship

According to PD 220/2007, as far as UAMs are concerned, the competent authorities shall take the appropriate measures to ensure the minor's necessary representation. To this purpose, they shall inform the Public Prosecutor for Minors or, in the absence of this latter, the territorially competent First Instance Public Prosecutor, who shall act as a provisional guardian and take the necessary steps in view of the appointment of a permanent guardian for the minor. The appointment of legal guardian applies to all UAM regardless of their status as asylum seekers.¹⁹

Law no. 2447/1996, article 1592 provides that the court appoints an adult as the minor's guardian. In the absence of such a person, article 1600 stipulates that *"...the guardianship of the minor is assigned to an institution or association especially founded for that purpose, which has appropriate personnel and infrastructure, or otherwise in the competent social service"*. However, this provision cannot be applied in practice because such an institution or association has not been established, leaving the public prosecutor the only person responsible for the minor. The great number of children assigned to the public prosecutors does not allow for a real and effective contact with the child. Public prosecutors (as regards UAMs) usually act after they receive a notification from the FRS, or a request from the Asylum service, the IOM or an NGO and based on the request they issue a relevant order. Their limited resources and staff, seriously restricts their ability to effectively act in the child's best interest and ensure that the UAM's rights are respected. No statutory agency holding overall responsibility for the welfare of UAMs is in place. In essence the guardianship system remains ineffective²⁰.

[...]. *There is a gap between the establishment of a procedure and its implementation*", she said (See: <http://www.newsbeast.gr/greece/arthro/780846/sovaro-provlima-me-tin-kratisi-anilikon-stin-amugdaleza>)

¹⁹ According to article 19, par. 1 PD 220/2007: *"As far as unaccompanied minors are concerned, the competent authorities shall take the appropriate measures to ensure the minor's necessary representation. To this purpose, they shall inform the Public Prosecutor for Minors or, in the absence of this latter, the territorially competent First Instance Public Prosecutor, who shall act as a provisional guardian and shall take the necessary steps in view of the appointment of a guardian for the minor"*. Also, under Article 19, par. 2 (a): *"When an unaccompanied minor lodges an asylum application, the authorities competent to receive and examine it shall take immediately the following measures: They shall ensure that the accommodation needs of the child are covered by placing him/her with adult relatives, with a foster-family, in Accommodation Centres with special provisions for minors, or in other accommodation suitable for minors and that this form of accommodation shall protect him/her from the risk of trafficking or exploitation. [...]"*; See also: Ministry of Interior Circular, Prot. No.: 5401/1-261100, February 23, 2008, Section 3.

²⁰ Following an initiative of the Ministry of Justice, Transparency and Human Rights, a dedicated Task Force on unaccompanied minors was established in 2013. It consists of representatives of the co-responsible authorities



Care Arrangements - Housing

Greek Law provides for the obligation of the authorities competent to receive and examine the asylum applications of UAMs, to take immediate measures that satisfy UAMs' accommodation needs (in foster families or accommodation centres with special provisions for minors). Measures that ensure the wellbeing of UAMs include: the obligation of the authorities - to accommodate siblings together, to trace the members of the family of the children concerned and to limit the changes of residence of the children.²¹

Moreover, the Head of the FRC upon recommendation of the Head of the Medical Screening and Psychosocial Support Unit is responsible to refer UAMS to the competent authority so that they receive services as appropriate. According to the Asylum Service, all applicants who are registered are asked whether they are in need of accommodation. If they do, the Asylum Service communicates the applicant's request for accommodation to EKKA. A provision which is not included in the Reception Directive (2003/9/EC) has been added to the relevant Greek law (art. 13 par. 2 PD 220/2007), specifying that *"housing in a reception facility cannot exceed one year and after that asylum seekers are facilitated so that they can find an appropriate private accommodation place"*. In practice, however, the vast majority of UAMs leave the centres before the lapse of the year, but even if they remain in the centre for more, at least as per hosting facilities managed by NGOs, they are not forced out. According to PD 141/2013 (art. 32 par.3 c d), UAMs granted international protection, have the right to housing in UAM reception centres or in other accommodation appropriate for minors.²²

(Ministry of Justice, Hellenic Police, First Reception Service, Asylum Service, Ministry of Labour, UNHCR and the Greek Ombudsman). The aim of the task force is to develop a national strategy on UAMs. UNHCR mentions that this group, *"has been identifying existing gaps and looking at guardianship schemes elsewhere in Europe with a view to proposing improvements for Greece. However, pending the outcomes of this study, the guardianship system remains highly insufficient"*, UN High Commissioner for Refugees (UNHCR), *UNHCR observations on the current asylum system in Greece*, December 2014, page 23, <http://www.refworld.org/docid/54cb3af34.html> ; See also: European Commission, *Staff Working Document on the Assessment of the implementation Greek Action Plan on Asylum and Migration management*, 6 October 2014, SWD(2014) 316 final, available at: http://www.europarl.europa.eu/RegData/docs_autres_institutions/commission_europeenne/swd/2014/0316/COM_SWD%282014%290316_EN.pdf, p. 10.

²¹ Article 19, par. 2 PD 220/2007

²² PD 141/2013 *Adaptation of Greek legislation to the provisions of Directive 2011/95/EC of the Council of 13 December 2011 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted (recast)*



The number of reception centres for UAMs seeking asylum in Greece has remained relatively stable since 2010, when 9 reception centres specifically accommodated UAMs with a total capacity of approximately 330 places. Currently, 2 out of these centres, having the largest capacity, namely the Centre of Boys Childcare in Konitsa (80) and the Hospitality Centre for Unaccompanied Minors in Agiassos Mytilini (80), are not in operation, yet smaller centres (11 in total) are now operating, bringing the total capacity of accommodation for UAMs in 2015, to 335.

Reception Centres for Unaccompanied Minors:

Centre	Location	Capacity
Apostoli centre estia NGO of the Church	Athens	20
ARSIS Association for the Children's Care	Alexandroupolis, Evros	22
ARSIS Association for the Children's Care	Oraiokastro, Thessaloniki	30
ARSIS Association for the Children's Care	Makrinitza, Volos	30
Greek Red Cross Hospitality Centre for UAMs in	Agria, Volos	48
Institute of Youth and Life Long learning (in Greek: "INEΔΙΒΙΜ") -Girls	St. Anargyroi, Athens	20
Institute of Youth and Life Long learning (INEΔΙΒΙΜ) - Boys	Anogeia, Crete	25
NOSTOS	Moschato, Athens	65
Society for the Care of Minors	Athens	15
Praxis with Greek Red Cross	Patras	30
STEGI PLUS Praxis	Athens	30

The duration of the centres' operation and the services they provide vary, since stable funding is not guaranteed and there are not any standard operating procedures mandated by law for ensuring the

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provision of standardized services by the professionals involved (e.g. psychologists, lawyers, teachers). The daily expenses allowance foreseen by law²³ is not ensured in most of the centres due to limited funding.

The average waiting period from the registration of the referral for a placement in a reception until the actual placement of the child in a facility is 37 days (a period during which children remain in detention), while the average duration of stay at an accommodation facility is only 51 days.²⁴ Many children having to wait several weeks for placement finally decide not to accept placement and remain out of a protective environment, while those who do accept placement do not stay long for various reasons.²⁵ Consequently, any assessment of long term needs remains just an assessment which can not materialize in a real prospect.

Education

The unconditioned access to schooling and education of minors is stipulated in Greek law. The minor children of applicants and applicants who are minors have access to the education system under similar conditions as Greek nationals²⁶. Access to the education system shall not be postponed for more than 3 months from the date of reception of the application by the minor. Also, the Immigration Law guarantees the access to primary and secondary education to all migrant children living in Greece irrespectively of their status of residence in the country.

The registration of a child at school requires a person with parental responsibility, role that a guardian should fulfill, in order to monitor the child's performance, his/hers participation in events and trips and generally to advise, support, communicate and work with teachers to resolve any problem. In the absence of a guardian, access to schools is ensured only for UAMs in reception centres and to UAMs who may receive services from NGOs. Even when enrolled at the intercultural schools, problems occur if they have

²³ Article 1 (p) PD 220/2007

²⁴ EKKA - Annual report 2014, *op.cit.*

²⁵ UNHCR notes that "*For a variety of reasons, including the type and quality of accommodation provided, the negative perception of the protection situation in Greece, and predetermined views as regards preferred final destination countries, the majority of children abscond*", UNHCR, *op.cit.*, p. 22; Children who come to GCR for assistance, often mention as reasons why they do not want to either enter or stay in a reception center and prefer to leave Greece instead, that the services at the reception centers do not cover their needs, that they do not have many chances of receiving protection, that they do not feel they have real support to integrate, that in Greece the overall situation is not as good as in other member states.

²⁶ Article 9 PD 220/2007



not attended any schooling, for 15 and 16 year old children cannot be in the same class with 6 and 7 year old ones. According to UNHCR: “.... *lack of introductory language classes or other targeted support services undermine the effective enjoyment of this right. Furthermore, the right to education is impaired by the refusal or severe delays in school enrolment due to a requirement for documentation (i.e. birth certificates) which asylum-seekers cannot necessarily meet*”²⁷.

Health

All asylum applicants are entitled to receive free of charge the necessary health, pharmaceutical and hospital care²⁸. UAMs have also access to health care regardless of their legal status.²⁹ However, as many children are deprived of a protective environment, they may not even be aware of this right. Moreover, issues regarding the quality of care may be born due to communication barriers, since hospitals do not have interpreters and frequently ask for the assistance of NGOs. NGO Metadrasi³⁰ which has been very active in the interpretation field provides assistance to the hospitals upon available funding and staff.

Family tracing and family reunification

Family reunification is stipulated in the Greek law and can occur through the application of either the Dublin Regulation³¹ or the Family Reunification Directive³². When an unaccompanied minor lodges an asylum application, the authorities competent to receive and examine it shall endeavor to trace the members of the minor’s family as soon as possible³³. Moreover, the Department of Refugee and Asylum seekers’ Protection of the Unit of Social Perception and Solidarity Directorate of the Ministry of Employment, Social Security and Social Solidarity, subsequent the granting of international protection and

²⁷ UNHCR, *op.cit.*, p. 23

²⁸ Article 14 PD 220/2007

²⁹ Ministry of Health Circular Pro. No. Y4A Y4α/οικ. 45610 02/05/2012

³⁰ <http://www.metadrasi.org/eng/content/translationservices>

³¹ 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 (recast), 29 June 2013, OJ L 180/31-180/59; 29.6.2013, (EU)No 604/2013, available at: <http://www.refworld.org/docid/51d298f04.html>

³² PD 131/2006 Transposition into the Greek legislation of the Council Directive 2003/86/EC of the Council on the right to family reunification

³³ Article 19 par. 2 (c) PD 220/2007



*“in the framework of protecting the best interest of the unaccompanied minor, shall endeavour for the fastest possible tracing of the members of his/her family”.*³⁴

No family tracing mechanism or procedures are in place. Family tracing is initiated in practice when a minor applies for asylum and asks to be reunited with his family or relatives who are in another EU member state. Only in cases when a parent or another close relative of the child is in another member state, reunification may be realized under the criteria set forth by the Dublin Regulation. Family tracing is also foreseen in cases of return, as stipulated in Law 3907/2011, transposing the Return Directive (Directive 2008/115/EC).

The Asylum Service inquires about the existence of relatives or other family members but does not conduct family tracing per se. Only the International Committee of the Red Cross and the Hellenic Red Cross constantly involved with family tracing, while the NGO “The Smile of the Child” implements programs involving family tracing³⁵. The International Organization for Migration also conducts family tracing, however this is usually done when a minor is to be returned to his/her country of origin. Greek NGOs (e.g. The Greek Council for Refugees, Ecumenical Refugee Programme, Arsis, PRAKSIS) providing assistance to asylum seekers and refugees are involved in family tracing in the framework of the legal and social services they provide to minors, but mainly for family reunification purposes.

The best Interest of the child shall be a primary consideration while tracing the members of a minor. However, the way the Dublin Regulation / Family Reunification Directive are implemented in practice, does not necessarily ensure that the best interest of the child is served.

Asylum & legal status

Asylum applications submitted by unaccompanied minors are always examined according to the regular procedure³⁶. Also, when an UAM lodges an asylum application, the authorities competent to receive and examine it *“shall take action according to paragraph 1 of article 19 of PD 220/2007 in order to appoint a guardian for the minor. The guardian or the person exercising particular guardianship acts shall be given the*

³⁴ Article 32 par. 5 PD 141/2013

³⁵ <http://www.synergia-net.it/en/european-projects-list/net-for-u-%E2%80%93-needs-tackling-and-networks-tracing-for-unaccompanied-minors-integration-pre121-pe49.html>



opportunity to inform the unaccompanied minor about the meaning and possible consequences of the personal interview and, where appropriate, how to prepare himself/herself for the personal interview. The guardian or the person exercising particular guardianship acts is invited and may be present during the minor's interview and shall be allowed to ask questions or make comments, so as to facilitate the procedure." An UAM above 14 years old, can lodge an application on his/her own behalf, but an UAM under 14 years old, shall lodge an application through a legal representative³⁷. Amongst others, safeguards prescribed by article 11 of this PD include: a) case workers who conduct interviews to an UAM must have the necessary knowledge regarding the special needs of the minors and must conduct the interview in such a way as to make it fully understandable by the applicant, taking, in particular, account of his/her age, (b) the best interest of the child shall be a primary consideration when implementing the provisions of this article.

NGOs' staff members cooperate with the Public Prosecutor so that they receive an order to represent children (especially those under 14 years old who are unable to apply alone) in the asylum procedure and are present during the asylum examination. Since the guardian has the discretion to be present during the examination of an asylum application by a minor over 14, in practice reasons described earlier (section "guardianship") prevent the guardian (i.e. the public prosecutor) from being present. As a result UAMs over 14 are left without legal representation and protection in the asylum procedure. Very few children over 14, are assisted preparing for their asylum examination, the interview, and have a lawyer or a social worker be present with them during the asylum examination. This service is provided only by few NGOs or pro bono lawyers.

Minors (as all other applicants) whose applications for international protection have been rejected may be granted a residence permit on humanitarian grounds. However, the relevant application for receiving this permit is examined on the condition that the case of the applicant has been referred to the Ministry of Interior by the competent (asylum) decision authorities, following an assumption that the person referred, may meet one or more of the defined prerequisites for obtaining a permit on humanitarian grounds.³⁸ In practice, this referral is rarely conducted. Provided that being an UAM is not one of the prerequisites for

³⁶ Art. 11 par. 6 PD 113/2013

³⁷ Art. 35 par. 3, 4 PD 113/2013

³⁸ Joint Ministerial Decision No. 30651/3.6.2014. (Gov. Gazette B' 1453/05-06-2014).



qualifying for a humanitarian residence permit, a referral cannot be made for all UAMs. GCR has recorded a number of cases of unaccompanied minors who have been granted with no status/residence permit at all. In essence, there is no guarantee that UAMs will have a legal residence status until they reach 18.

As indicated in the earlier in this report, only a small percentage of children arriving in Greece apply for asylum, while a great number of these applications are submitted as a means for reunification with their family or relatives through the Dublin Regulation.

Integration

According to the Asylum service data, in 2014 there were 447 requests for asylum submitted by UAMs and international protection was granted thus far (many cases are still pending) to 106 minors³⁹. When a UAM receives international protection he/she has the right to stay in a reception facility for minors or in another appropriate facility⁴⁰. In addition, beneficiaries of international protection participate in appropriate integration programmes of the competent Departments of the Ministry of Employment, Social Security and Social Solidarity⁴¹. The rights of the UAM to education, vocational training, health care, language support and employment are also stipulated in the law.

While various actors are responsible to implement actions in this respect (Ministries of Education, Employment, Health, Justice and NGOs as well), in practice there is not a clear integration policy dictating a set of appropriate and targeted integration measures (policies and procedures) nor is there any appropriate body or a guardian to ensure that the UAM has enrolled in an integration programme or participates in a set of actions (i.e. education, training, language support, employment), for his/her integration.

Since many UAMs do not want to enter a reception facility and those who enter leave soon thereafter⁴², the implementation of an integration programme is extremely difficult. Moreover, the programmes

³⁹ In particular, 78 UAMs received protection status at first instance (53 refugee status and 25 subsidiary protection) while 29 received protection status on second instance (19 and 9 respectively). This data was provided by the Asylum service upon request.

⁴⁰ Art. 32 (c) PD 141/2013

⁴¹ Art. 35 PD 141/2013

⁴² See footnote number 21



developed by the Ministry of Employment are rather limited in their scope since they have been entirely based on ERF funding, the great bulk of which has intended to support reception needs, thus placing integration matters in the “back seat”.⁴³ As a recent research indicated, *“Integration measures have been mostly on paper but in practice rather minimal.”*⁴⁴ At the moment there is no state funded integration programme in place. The last two projects operated by the Greek council for Refugees and the Hellenic Red Cross, financed by ERF, ended in December 2014 and it has not yet been announced when AMIF which is to replace ERF, will be initiated. According to UNHCR: *“For children who remain in Greece, they face the same socio-economic integration challenges as adults, but are often at higher risk of labour and sexual exploitation”*⁴⁵.

Durable solutions & the best interest of the child

The “Durable Solutions” concept is not included in any of the legal documents related to asylum in Greece. On the contrary, the concept of the “Best Interest of the Child” is found in many legal documents and should guide the actions of all relevant actors. Provided that there is currently no best interest determination procedure or guidelines, in practice various actors apply the concept either in the manner they understand it or according to their internal best interest determination principles or procedures.

There are many actors involved in responding to the needs of UAMs: police authorities, lawyers, social workers, UNHCR staff, reception centres’ staff, doctors, teachers, guardians (public prosecutors), interpreters, lawyers, NGOs, asylum and immigration officials. Many of these actors provide services according to their roles and available means. Respectively, monitoring and evaluation of the actions and services relevant to a “durable solution” is inherent in the procedure each actor follows.

Not all the services are available throughout Greece however. In the big cities and particularly in Athens children may find more support and services and at the same time they may live in conditions of destitution, exposed to great risks, since no one - given the limitation of the identification mechanism and the guardianship system- can assume responsibility for them.

⁴³ Of the total ERF budget for 2012 (5.099.682) and for 2013 (4.009.053), the amounts allocated for integration related matters were 387.272 and 219.060 respectively, <http://www.ypakp.gr/>

⁴⁴ Hellenic Foundation for European and Foreign Policy (ELIAMEP), *Migration in Greece – Recent Developments in 2014*, available at: http://www.eliamep.gr/wp-content/uploads/2014/10/Migration-in-Greece-Recent-Developments-2014_2.pdf, pages 16-17

⁴⁵ UNHCR, *op.cit.*, p. 23



GCR has observed that certain actors through their actions, may either contribute somehow to the attainment of durable solutions or expose a minor to various risks. The place in which a UAM arrives in Greece determines to a great extent the possibility for a prospective durable solution. When UAMs arrive in the islands where the FRS is not operational or has no competence, then the police become administratively responsible to manage new arrivals. Given their limited capacity and expecting more people to come, their conduct with newcomers is hurried and limited and in this respect a lot of UAMs are recorded as adults. Then they get transferred to detention centres and while an age assessment is an option, when it does take place it does not serve the best interest of the child, as the benefit of the doubt which should be in favour of the minor is not applied⁴⁶. As a result many children remain detained for lengthy periods and are also subjected to deportation procedures. On the other hand, if UAMs arrive in the North-Eastern part of Greece, they may have better luck, as the police, after a relatively short detention period, will transfer them to the FRS. The latter, even with a restraint capacity, through its operation mechanism and procedures, can facilitate to some extent prospects of a durable solution for them. The same (UAMs have more chances of being identified and referred to the competent authorities), applies at the islands where FRMU operate, assisted by UNHCR and NGOs.

It appears that actions of state actors in Greece primarily focus on meeting a UAM's particular need when it arises within a limited options environment and restraint capacity. Their actions are guided by their obligation to implement according to their mandate; it is the fulfilment of the action that receives more attention rather than the UAMs who are the subject of the action and their long term wellbeing. The lack of a best interest assessment soon after a child enters Greece and a subsequent best interest determination procedure in conjunction with the lack of someone to assume real responsibility of the child, renders a durable solution a roulette rather than a real prospect.

This does not mean that long term protection is excluded. It is a possibility which derives as a "side effect" since it is not based on a concrete plan following a best interest determination. For example, the competent authorities for examining an asylum application can facilitate the family reunification with a

⁴⁶ See: Greek Council for Refugees Document No 509/12.6.2014, *op.cit.*, presenting the age assessment procedure followed and the issues it raises in terms of protection safeguards and in terms of protecting the best interest of the child.



child, which is a durable solution, but their actions do not stem from a wish to find this particular durable solution, but rather from applying the relevant provisions of the Dublin Regulation. The same applies for returns which result when someone has no legal status in Greece. When envisaged protection guarantees for returning minors are in place, minors could be returned home which is also a durable solution. Yet, the idea of this kind of return to the country of origin is not the durable solution for the minor him/herself, but the mere application of the law in terms of returning those staying illegally.

Detention

I. Overview

The Greek legislation does not prohibit the detention of UAMs. UAMs are detained: a) when apprehended entering the country in an irregular manner for the purpose of deportation, b) while waiting placement at a reception centre and c) they are also deprived of their liberty when they undergo screening procedures at a FRC.

While all third country nationals entering the country irregularly should first go through the FRS screening procedures, as a consequence of limited capacity of FRS to receive new arrivals, the majority of them do not benefit from reception services as foreseen by legislation⁴⁷. As a result, many cases of newly arrived children who are not identified as UAMs are detained. The absence of a standardized age assessment procedure (the one mentioned above is applicable only to those who enter a FRC or FRMU), makes matters worse for children who are mistakenly identified and registered as adults, as they are exposed to lengthy detention periods and deportation procedures.

Children who have received services at a FRC or a FRMU and have been assessed as minors may be detained as well. GCR lawyers and social workers having visited Amygdaleza Pre-removal Detention Centre in November 2014, recorded 58 UAMS who had been transferred there from the island of Lesbos (where a FRMU operates) and had been detained since their arrival in Greece (end of August- beginning of September 2014), awaiting placement in a reception facility for minors⁴⁸⁴⁹.

⁴⁷ UNHCR, *op.cit.*, p. 9

⁴⁸ As ECRE also reports, third country nationals arriving in the northern part of Greece, including UAM, are initially detained at the Fylakio Detention Centre until they are transferred to the FRC next door, where they are then held for screening purposes for a maximum stay of 25 days, and are subsequently transferred back to the Fylakio detention Centre or to the Paranesti Detention Centre in Drama (as per UAMs), until a place at a reception centre for minors



The detention of minors combined to the lack of alternatives to detention, the lengthy periods of detention, the absence of or the problematic age assessment procedure at detention centres and police detention facilities, the substandard conditions minors are exposed to while detained – often together with adults - reported by various actors, raise serious concerns.⁵⁰

II. Overview of detention conditions

Despite the establishment of pre-removal detention centres for detention of third country nationals in view of removal in 2012, Greek authorities continued placing third country nationals under administrative detention in police holding cells during 2014⁵¹. However, since mid-December 2014 GCR has noticed that detention in police stations in Attica region does not last more than a few days⁵². Except from problems that are common in all detention facilities, including the pre-removal detention centres (overcrowded, dirty, inexistent or insufficient healthcare services, lack of clothing, bad quality and insufficient quantity of food, lack of hygiene products, lack of ventilation, lack of heating and/ or hot water, problematic communication with the ‘outside world’, no provision for leisure activities and recreation), detention in

becomes available (See: European Council on Refugees and Exiles (ECRE), *What’s in a name? The reality of First “Reception” at Evros - AIDA Fact-finding visit in Greece*, Febr. 2015, <http://www.ecre.org/component/downloads/downloads/992.html>, p. 13)

⁴⁹ The Greek Ombudsman also reports that on 11th July 2013, three minors who had been registered as adults and had been served with a deportation order by the Police authority of Ierapetra, Crete were transferred at Amygdaleza special holding facility for minors, provided that they obviously were under 18. The Public Prosecutor and EKKA were both notified so that a referral for placement in a reception centre for minors is processed. However, despite the issuance of a placement order by EKKA, the said minors were not transferred to the reception centre designated; instead they were moved to a detention centre for adults in the north-eastern part of Greece (Fylakio, Orestiada) and were eventually sent back to Turkey on the grounds of the relevant bilateral Greek – Turkish readmission protocol. The Greek Ombudsman sent an inquiry to the competent authorities regarding this incident, yet the authorities’ response did not indicate whether or not any age assessment procedure was followed with these children (see: Greek Ombudsman, *The issue of age assessment of unaccompanied minors*, op.cit. p. 2)

⁵⁰ See: AIDA Country report: Greece, April 2015 update, available at: <http://www.asylumineurope.org/reports/country/greece>; European Migration Network (EMN), *The Use of Detention and alternatives to detention in the context of immigration policies 2014*, available at: http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/docs/emn-studies/12a_greece_emn_national_report_detention_alternatives_en.pdf

⁵¹ The Greek Ombudsman in its Annual Report for 2014 mentions that in November 2014, 2.160 out of 6.283 persons were detained in detention facilities of police stations and police directorates, Greek Ombudsman, *Annual Report 2014*, available at: <http://www.synigoros.gr/resources/docs/ee2014-00-stp.pdf> (in Greek) p. 149

⁵² Campaign for the access to asylum, *Conditions of administrative detention and access to asylum procedure*, 23 October 2014, available at: http://asylum-campaign.blogspot.gr/2014/10/blog-post_23.html (in Greek)



police holding cells also excludes the possibility of yarding because police stations do not provide open areas. In some cases, access to toilets is also limited and there is not artificial and/or natural lighting⁵³. These conditions have been subject for criticism by many reports issued by International, European and national human rights monitoring bodies and NGOs⁵⁴.

III. Minors detained with adults

(i.) Amygdaleza Pre-removal Detention Centre

The Greek Ombudsman, following a monitoring visit to the Amygdaleza Pre-removal Detention Centre (August 2014), reported the absence of any standard age assessment procedure and stressed that *“in a place where allegedly minors and adults had been detained together, there have been some registered by the Hellenic Police as adults, yet a lot of them were obviously minors and/or claimed to be minors”*⁵⁵.

GCR visited Amygdaleza Pre-removal Detention Centre on 17 and 18 December 2014 in order to assist UAMs. During the visit, GCR staff met 27 UAMs from Afghanistan, Iran, Bangladesh and Pakistan who were detained in a separate wing of the detention centre, in conditions not differing from those adults were subjected to, which are *a fortiori* unsuitable for children. Many of them were wearing summer clothes and shoes, complained about the insufficient quantity and the bad quality of food, the lack of hygiene products and the fact that they could not communicate with their families because mobile telephones were not allowed and the public telephone of their wing was out of order. GCR findings were communicated to the competent authorities on 20 January 2015, together with a request to transfer the minors to

⁵³ UN Human Rights Council, *Report of the Special Rapporteur on the human rights of migrants, Addendum: Mission to Greece*, 18 April 2013, par. 48-51, available at: <http://www.refworld.org/docid/51b983ab4.html>

⁵⁴ ECtHR, *M.S.S. v Belgium and Greece* App no 30696/09 (ECtHR, 21 January 2011) par. 159-166. Most recent : European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), *Report to the Greek Government 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 4 to 16 April 2013*, 16 October 2014, available at: <http://www.cpt.coe.int/documents/grc/2014-26-inf-eng.pdf>; UNHCR, *Observations on administrative detention of third country nationals, including asylum-seekers, in Greece*, 29 August 2013, available at: http://www.unhcr.gr/fileadmin/Greece/Extras/other/Detention_Observations_by_Head_of_Office_EN_2013.pdf; Greek Ombudsman, *Monitoring visits in Amygdaleza, Korinthos and Attica Directorate of Aliens (Petrou Ralli): Problems and Suggestions*, 29 May 2013, available at: <http://www.synigoros.gr/resources/diapistwseis-stp-29-05-2013--2.pdf> (in Greek) and *Report after the monitoring visit at Amygdaleza Detention Center*, August 2014 http://www.synigoros.gr/resources/ekthesi_aftopsias_amigdaleza_2-18-2014.pdf, (in Greek); Médecins Sans Frontières, *Medical assistance to migrants and refugees in Greece: findings from MSF's intervention in detention facilities for migrants, January–April 2013*, available at: http://www.msf.org.uk/sites/uk/files/greece_refugees_2013.pdf; *Idem*, *Invisible Suffering*, 1 April 2014, available at: http://www.msf.org/sites/msf.org/files/invisible_suffering.pdf; Campaign for the access to asylum, *op.cit.*

⁵⁵ Greek Ombudsman, *The issue of age assessment of unaccompanied minors*, *op.cit.* p. 2



accommodation centres.

During another GCR visit in March 2015, 7 minors were recorded wrongfully registered as adults who were all detained with young and other adults in the same wing of Amygdaleza Pre-removal Detention Centre. 3 of them were included in previous GCR documents dated 28 November 2014 and 20 January 2014 respectively. Since then, they had remained in detention. All 3 minors were registered as being born on 1.1.1997. However, the minors informed GCR staff that they had actually been born in subsequent months of 1997, thus, they were still under 18 years old at that time. Detention conditions were the same as those of the previous visit. Moreover, huge rats were running around. GCR's findings were communicated to the competent authorities by fax on 24 March 2015.

(ii.) Corinth Pre-removal Detention Centre

GCR visited Corinth Pre-removal Detention Centre on 5 and 9 December 2014 in order to assist 137 persons from Iraq, Iran and Afghanistan who were rescued at sea, near Crete, on 25 November 2015. While the rest of the 600 passengers were released at Crete, those 137 were transferred in Corinth while some minors were transferred to Amygdaleza. During GCR's visit, 7 minors were identified, wrongfully registered as adults and detained with adults. Some of them told GCR staff that during their detention they started suffering from a skin disease (probably scabies). Most of them were wearing summer clothes and shoes despite the cold. According to their allegations, the quantity of food was not sufficient and they didn't receive any shampoo. They also complained about the difficulty of access to the medical staff of the detention centre as well as public hospitals for further monitoring. GCR's findings were communicated to the competent authorities on 11 December 2014, by a document in which the authorities were asked to release immediately all detainees and apply alternative to detention measures, if necessary. Moreover, the Asylum Service was asked to register their asylum applications and to make use of article 12 (4) of PD 113/2013 recommending their release.

Concerning detention of minors wrongfully registered as adults in Corinth Pre-removal Detention Centre, it should also be noticed that during summer 2013 GCR had informed the authorities that more than 17 children had been detained there with adults⁵⁶. The day of GCR's visit the minors complained that they had not been offered breakfast and lunch and they were hungry. The Deputy Director of Corinth Police Directorate, who was present in the detention centre that day, informed us that the staff had considered that all Muslim detainees would fast for Ramadan. Thus, food would be served once per day, in the



evening. He also added that if somebody did not wish to fast, he should inform the staff of the centre. However, the children said that they were not informed about this decision. Moreover, some of them mentioned that they were afraid of adults if they did not fast and in order to avoid violent reactions they would eventually fast.

(iii.) Attica Aliens Police Directorate Detention Centre

GCR visited the detention centre of Attica Aliens Police Directorate (Petrour Ralli) on 15 May 2014 in order to inform 50 minor detainees from Egypt who had been recently rescued at sea about the asylum procedure and their relevant rights. The children alleged that their ages varied from 15 to 17 years. However, some of them looked younger. Half of them were detained in women's wing and the rest in men's wing, in different cells from those destined for adults. Most of them were suffering from itching skin irritations (probably scabies), which allegedly had appeared since the first days of their transfer in the detention centre. The minors told GCR staff that doctors had not examined them and they did not follow any medical treatment. Moreover, most of them did not have shoes and had not changed clothes since the shipwreck, about one month ago. They also complained about the small quantity and bad taste of food and the fact of being hungry. Finally, they told GCR staff that they had not received any phone cards despite the fact that they were not allowed to keep their mobile phones. Thus, they could not inform their families that they had been rescued. Under these circumstances, the children did not wish to receive any information about the asylum procedure or let GCR staff know, at least, if they had any supportive family environment in their country. Most of them told GCR staff that they wanted to return to Egypt as soon as possible in order to stop suffering in detention. GCR findings were communicated to the Greek authorities by fax after the visit. Here, it should be mentioned that the Greek authorities indicated the above-mentioned situation as a successful example of individual assessment procedure used to determine the appropriateness of detention of third-country nationals: *"After mass arrests and until identification is complete, each case is assessed individually based on the information available in the relevant folder and a decision on detention is made. Typical was the case of 345 third-country nationals that were arrested in April 2014 in Crete; those coming from Egypt were detained and Syrians were released."*⁵⁷.

⁵⁶ Greek Council for Refugees Document No. 980/12.7.2013 (Doc. available upon request).

⁵⁷ EMN, *op.cit.*, p.21



(iv.) Komotini and Fylakio Pre-removal Detention Centres

In GCR Document No 509/12.6.2014 entitled "*Administrative detention of people declaring to be minors and the age determination process*", related to the administrative detention of 102 potential underage persons detained with adults, GCR raised the problematic practice of unsegregated administrative detention of children with adults, the extremely poor conditions of detention, and the highly problematic process followed by the authorities regarding age determination of the UAMs detained, not taking into account of the documentary evidence that may bear and/or the cultural differences of their home countries, resulting in the deduction of uncertain conclusions as per their age, which were yet official and binding. The majority of such findings always conclude to the adulthood and never to the infancy of the potential minors. Moreover, neither the principle of the best interest of the child, nor the benefit of the doubt is taken into consideration by the authorities. After GCR's report, the Headquarters of the Hellenic Police decided *inter alia* the establishment of special teams of doctors of various specialties responsible for examining all obvious minors, a decision which in practice has not always been implemented, and in any case differentiates from the procedure defined in the Ministerial Decision applicable in persons subjected to first reception procedures⁵⁸.

(v.) Paranesti Pre-removal Detention Centre

In GCR Document No 06/2.10.2015, the attention of the competent authorities was drawn to 20 potential underage persons of Afghan origin that were found to be detained with adults. The majority of these individuals had been subjected to uncertain medical age determination tests, while they had reported to GCR staff psychosomatic problems as a result of their detention and the lack of proper hygiene conditions. Some of these people had even expressed the will to seek asylum, without – in most cases - their request being registered by the competent authorities.

(vi.) Thessaloniki Aliens Police Directorate Detention Centre

In GCR Document No 057/14-11-2014 reference was made to the competent authorities for an UAM from Mali detained with adults in detention centers of the Aliens Directorate of Thessaloniki. His detention under these conditions had been based on a medical report which was in favor of the probability of his being an adult and did not take into consideration the copy of the birth certificate the child was bearing. After the intervention of GCR, the child was transferred to the detention center of Liti-Migdonia where



minors are detained and placed under protective custody until a special hosting facility is found for their accommodation.

Another Afghan minor was transferred from Paranesti Pre-removal Centre to Thessaloniki Aliens Directorate Detention Center in order to have the asylum and family reunification procedure initiated (his sister had been an asylum seeker in Sweden). The minor was detained with adults and was asked to complete and send to Sweden the documents necessary for the family reunification alone. After GCR intervention dated 17 March 2015, he was transferred to Liti (where minors are held), while he received help by the police staff in order to complete the form.

IV. Detention of families with minor members

Greek legislation does not prohibit the detention of families in view of removal. However, article 32 par. 1 and 2 Law 3907/2011 provides that *“Unaccompanied minors and families with minors shall only be detained as a measure of last resort, only when no other adequate and less coercive measure can be used for the same purpose, and for the shortest appropriate period of time [...]. Families detained pending removal shall be provided with separate accommodation, guaranteeing adequate privacy”*.

During 2014 GCR assisted many refugee families who had just arrived in Greece and were detained in the Aliens Directorate of Attica Detention Centre, including 4 mothers from Syria and 1 from Iraq with children aged between few months and 11 years, a Palestinian mother with her children and 2 families with young children from Afghanistan. GCR also found a Syrian family with an 18month old daughter detained in Fylakio (Orestiada) Pre-removal Detention Centre. In the above-mentioned cases, mothers and children were detained in different cells from those the fathers were. It should be underlined that those families should have never been detained in view of removal because they were refugees. The Greek authorities should instead have facilitated their access to the asylum procedures and should have provided accommodation according to the provisions of PD 220/2007⁵⁹.

⁵⁸ Ministerial Decision No. Y1.Γ.Π.οικ.92490 (Ministry of Health), *op.cit.*

⁵⁹ See also: ECtHR, *Popov v France* App No. 39472/07 and 39474/07 (ECtHR, 19 January 2012) par. 134: *“The Court is of the opinion that whilst mutual enjoyment by parent and child of each other’s company constitutes a fundamental element of family life (see Olsson v. Sweden (no. 1), 24 March 1988, § 59, Series A no. 130), it cannot be inferred from this that the sole fact that the family unit is maintained necessarily guarantees respect for the right to a family life, particularly where the family is detained. It finds that the fact of confining the applicants to a detention centre, for fifteen days, thereby subjecting them to custodial living conditions typical of that kind of institution, can be regarded as an interference with the effective exercise of their family life”*.



V. Detention of minors whose parents are legally residing in Greece

During 2014 GCR assisted 2 minors in detention whose parents had been asylum seekers in Greece.

In the first case, a 13 year-old boy from Somalia had been arrested while playing with his schoolmates and had been transferred to Amygdaleza special holding facility for minors. Despite the fact that GCR informed the authorities that the mother of the boy, his minor sisters and the boy himself were asylum seekers legally residing in Greece, his release did not take place until the intervention of the Prosecutor for Minors, two weeks after arrest. It should be noted that the detention centre for UAMs does not meet the basic standards, which is why CPT recently requested that this facility is “*no longer used for the detention of unaccompanied minors*”⁶⁰.

In the second case, GCR assisted a 16 year-old boy from Pakistan whose father had been an asylum seeker. The boy did not have access to asylum procedures. Thus, he was arrested and transferred to Amygdaleza Pre-removal Detention Centre where he was detained with adults. His asylum application was registered while in detention. GCR submitted his original birth certificate to the Public Prosecutor for Minors asking for his release. The Public Prosecutor informed GCR that she would order a DNA test in order to prove the family link with the father. Until then, the Public Prosecutor ordered the transfer of the boy to an accommodation centre for minors in order for him not to be detained with adults, on 27 March 2014. GCR Social Service found a place in an accommodation centre on 7 April 2014 and informed the competent authorities that the transfer should take place as soon as possible. On 10 June 2014 GCR received a fax from the Hellenic Police’s Headquarters mentioning that a medical certificate had been issued after the arrest of the boy in 2013. According to the certificate, the boy had been found to be 20 years old and the police authorities had initiated a criminal process against him because he had declared to be born in 1997. On 11 June 2014, the Asylum Service issued its first instance decision, which accepted that the boy was a minor. However, despite the Prosecutor’s order and GCR’s multiple interventions, the boy remained in Amygdaleza Pre-removal Detention Centre (for adults), for almost 18 months.

VI. UAMs seeking asylum in detention

GCR regrets that the competent asylum authorities do not make sufficient use of article 12 (4) of PD 113/2013 for minor asylum seekers who are detained in facilities for adults⁶¹. Article 12 (4) of PD 113/2013

⁶⁰ CPT, *op.cit.*, par. 78-81

⁶¹ See: Greek Council for Refugees, *Submission of the Greek Council for Refugees to the Committee of Ministers of the Council of Europe in the case of M.S.S. V. Belgium & Greece*, 25 April 2014, <https://wcd.coe.int/ViewDoc.jsp?Ref=DH->



provides that the detention order is taken after a relevant recommendation is issued by the Head of the respective asylum examination authority (i.e. the Head of the competent Regional Asylum Office or the Director of the Appeals Authority)⁶². For instance, in the above-mentioned case of the 16 year-old boy from Pakistan, as well as in the case of another minor who had been detained with adults in Elliniko Detention Centre in 2014, the Head of the competent Regional Asylum Office had proposed the prolongation of detention.

Concerning minor asylum seekers in Corinth Pre-removal Detention Centre, GCR was recently informed that the asylum application of one of the minors rescued at sea, as well as another minor assisted by GCR in 2014, had been registered by Patras Asylum Unit in March 2015. However, the day of the transfer to the said Asylum Unit, the staff of the detention centre did not inform the minors about the purpose of the journey in order to bring their birth certificates and other documents proving that their family members had been granted refugee status in other EU Member States. Thus, they were wrongfully registered as adults and their application for family reunification according to the provisions of Dublin Regulation was not taken into consideration.

Conclusive remarks

The importance of a legal framework which places the child in its center, combined with policies that support the child and the guardian's role and mean to develop relationships of trust, could safeguard the best interest of the child and facilitate durable solutions. The Greek legal framework has serious gaps in terms of protecting the best interest of the child and there is a complete absence, even in paper, of a best interest assessment and a best interest determination. The absence of a statutory body responsible for the overall protection of the child and the fragmentation of services provided are particularly alarming. The positive changes mentioned earlier may alleviate some of the areas of concern, but the major issues jeopardizing the protection of UAMs in Greece still remain.

[DD\(2014\)591&Language=lanFrench&Site=CM](#), p. 15; See also: Campaign for the access to asylum, *op.cit.*

⁶² This condition needs to be fulfilled when detention is imposed on grounds of cases (a) and (c) of article 12 par. 2, i.e. for the determination of the actual data of his/her identity or origin and when detention is necessary for the prompt and effective completion of the examination of his/her application. Furthermore, article 12 (6) provides that the possible lack of appropriate facilities and difficulties in ensuring decent living conditions of the detainees shall be also considered when deciding on the imposition or prolongation of detention.



Until a comprehensive national strategy, including the enhancement of the legal framework and the instauration of a functional guardianship system, which will ensure the effective protection of all minors, is established, UAMs in Greece will continue to be affected by the problematic identification process upon their entry into Greece, the lack of a standardized and uniform age assessment procedure, the ineffective guardianship system, the lack of an appropriate referral mechanism, the lack of reception facilities, prolonged detention under unsuitable conditions and limited integration prospects. They will continue to be exposed to the risks of living on their own, of traveling illegally to other EU countries in search for a protective environment and even of going back to their countries of origin, after having lost hope.

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GREEK COUNCIL FOR REFUGEES

[GREEK COUNCIL FOR REFUGEES – SPECIAL CONSULTATIVE STATUS WITH THE UN \(ECOSOC\)](#)

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