



**EUROPEAN COMMITTEE OF SOCIAL RIGHTS
COMITÉ EUROPÉEN DES DROITS SOCIAUX**

6 February 2019

Case Document No. 2

International Commission of Jurists (ICJ) v. Greece
Complaint No. 173/2018

OBSERVATIONS BY THE GOVERNMENT ON ADMISSIBILITY

Registered at the Secretariat on 31 January 2019



31/01/2019

HELLENIC REPUBLIC

Ministry of Labour, Social Security and Social
Solidarity

Directorate of International Relations
Department of Relations with International
Organizations

Observations of the Greek Government

on the admissibility of Collective Complaint 173/2018

International Commission of Jurists (ICJ) and European Council for Refugees and Exiles (ECRE)

v. Greece

Further to your letter of 07/12/2018, in which you invited the Greek Government to make written submissions on the admissibility of collective complaint 173/2018, *International Commission of Jurists (ICJ) and European Council for Refugees and Exiles (ECRE) v. Greece*, we have the honor to make the following observations:

As to the adoption of immediate measures

1. As regards the complainant organizations' request for the adoption of immediate measures (para 225 of the complaint), kindly note the following:

2. The requested measures by the complainant organizations which are called "immediate" are inextricably linked, on the one hand, to the discussion on the merits of the complaint, on the other hand, to measures and legislative acts recently adopted (for instance the new law on guardianship) and to an ongoing process of implementation which has not yet been finalized.

The protection of unaccompanied minors is a national policy priority. Results and improvement are expected in the near future since Greece has identified this as a priority issue and is working hard to address the difficult current situation.

3. Comments cannot be made concerning para.225 of the complaint on immediate measures without touching at the same time upon the merits of the case. Nonetheless, we wish to make the following observations, as briefly as possible, bearing in mind the nature of the admissibility stage:

- i. Greece's policy not to refuse any minor's entry to the country ensures that all Unaccompanied Minors (UAMs) are treated first and foremost as children, irrespective

of their migration status. The reception conditions are provided to both asylum-seeking and non-asylum seeking UAMs. Immediately after arrival, unaccompanied children are provided with material reception conditions that include housing, food and clothing and non-material reception conditions such as medical and psychological screening.

- ii. The Migration and Social Integration Code, hereinafter the Code (Law 4251/2014), aiming at protecting all vulnerable groups and eliminating of all forms of discrimination, provides that all persons residing in Greece, regardless of their residence status or of that of their parents, enjoy the right to education including the enrollment to public schools for children of refugees, asylum seekers and foreign citizens. Foreign minors have full access to health care regardless of their residence status or of that of their parents.
- iii. The national legislative framework of legal migration, as codified by the Migration and Social Integration Code (Law4251/2014), provides for a protective regime for children's rights, so that minors of third countries enjoy enhanced protection, in accordance with the principles of equality and non-discrimination on the grounds of race, sex, language or religion and with respect to their specificities. Especially, they enjoy their fundamental rights, the right of protection of childhood and the right of family unit.
- iv. Law 4540/2018 was introduced in May 2018, which transposes Directive 2013/33/EU on Reception Conditions into the Greek legislation and stipulates, *inter alia*, that there are two competent authorities responsible for unaccompanied minors (article 22):
 - (a) The Reception and Identification Service [RIS] of the Ministry for Migration Policy, which is responsible for the reception and identification of unaccompanied and separated children (UASCs) at the Reception and Identification Centres [RICs],
 - (b) The General Directorate for Social Solidarity of the Ministry of Labour, Social Security and Social Solidarity, which is responsible for the social protection of UAMs.
- v. By virtue of Law 4540/2018, provision is made for the housing of unaccompanied minors (UAMs) (aged 16+) in supervised apartments. Housing unaccompanied minors in supervised apartments aims at their support and their self-empowerment for their smooth transition to adulthood. Two pilot projects concerning UAMs housing in supervised apartments are running the current period, in six supervised apartments by UNHCR and UNICEF.
- vi. The Ministry of Labour, Social Security & Social Solidarity has already provided buildings of its property in order to be renovated - refurnished for the accommodation of unaccompanied minors.
- vii. Furthermore, the Ministry of Labour, Social Security & Social Solidarity proceeded in the regulation of the legislation concerning the guardianship of unaccompanied and separated minors. Law 4554/2018 has been recently adopted, which is based on the best interest of the child, as defined by international conventions, European directives and the Greek Legal system. The said law constitutes a very important development, as for the first time in the Greek legislation on aliens, reception and asylum procedures, a guardianship system is being established.

- viii. Following the adoption of the law on guardianship, the Ministry of Labour, Social Security and Social Solidarity: a) is currently elaborating the adoption of secondary legislation as prescribed in the said law. The legislation provides also for the Registry of Unaccompanied Minors in an effort to secure them by ensuring immediate access to all the information needed and enabling appropriate action for their protection to be taken at any time. b) has signed a tripartite agreement with UNHCR and NGO METAdrasi for the implementation of a transition programme concerning guardianship law. The National Centre of Social Solidarity (EKKA), responsible entity for the guardians according to the Law, is also a partner. The transition programme will last nine months, starting from January 2019 until September 2019 when the guardianship system is expected to be fully implemented by state authorities. The Transition Programme provides for the protection and safeguarding of unaccompanied minors (UAM) residing across Greece (in protective custody, RICs, Hospitals, Shelters and SILs, Hotels and Safe zones) including homeless children, through the deployment of Authorized Minors' Guardians as provided in the Law (4554/ 2018).
- ix. By virtue of the said law, the National Centre for Social Solidarity (EKKA) is set as the competent authority for the provision of guardianship to unaccompanied and separated children (UASC), and provides for a pool of professional guardians.
- x. Since the 22nd of August 2018, the EKKA has taken over all the referrals of unaccompanied minors (from the Reception and Identification Centres (RICs), the Police Stations, Safe Zones, IOM facilities, etc.). Homeless children are also referred to the EKKA.
- xi. A National Action Plan on the Rights of the Child is being elaborated under the coordination of the General Secretariat of Human Rights of the Ministry of Justice, Transparency and Human Rights, with the participation of all sectors of the Administration, highlighting the important role of independent bodies, such as the Children's Ombudsman and the National Commission of Human Rights.
- xii. Third country minors residing in Greek territory are subject to compulsory education, as are nationals.
- xiii. Third-country minors, attending all levels of education, have unrestricted access to the activities of the school or the educational community.
- xiv. In the Greek educational system, the same rules on school enrollment apply for all children, regardless of residence status. As a general rule, children in Greece attend the nearest school in the district where they live.
- xv. Migrant students are supported by: a) Greek language support or tutorial teaching within the mainstream program in "Receptions classes" functioning in primary and secondary schools situated in "educational priority zones" (ZEP). b) As from the school year 2016-17, the Ministry of Education, Research and Religious Affairs (MoE) has established

afternoon classes, named “Reception School Facilities for Refugee Education” (DYEP in Greek). The DYEP targets specifically newly-arrived refugee children and is a preparatory stage for the integration to the morning school. The Reception classes’ scheme targets all children in need of language support.

4. In light of all the above, the Greek Government deems the applicant organizations’ request for the adoption of *immediate measures* unfounded, prior to giving due consideration to its observations on the merits, since it considers that, in fact, steps were immediately taken and efforts are continuously made, in cooperation with all relevant actors at international, EU, bilateral and national level, to tackle the challenges presented by the unprecedented refugee crisis of the recent years.

As to the claim for legal costs

5. The Additional Protocol to the European Social Charter Providing for a System of Collective Complaints does not provide for compensation for legal costs. Furthermore, the Committee of Ministers has never awarded such a sum following a respective decision of the European Committee of Social Rights, since there is no legal basis for taking such action. In any case, we believe that the complainants’ claim for compensation of legal costs is inadmissible as it has no legal basis in the Collective Complaints Protocol. Therefore we ask the European Committee of Social Rights to declare it inadmissible.