



**EUROPEAN COMMITTEE OF SOCIAL RIGHTS
COMITE EUROPEEN DES DROITS SOCIAUX**

18 March 2020

Case Document No. 8

**International Commission of Jurists (ICJ) and European Council for Refugees and
Exiles (ECRE) v. Greece**
Complaint No. 173/2018

**FURTHER RESPONSE BY THE GOVERNMENT
ON THE MERITS**

Registered at the Secretariat on 21 February 2020

ADDITIONAL OBSERVATIONS
OF THE GREEK GOVERNMENT ON THE MERITS OF
COLLECTIVE COMPLAINT No 173/2018

***“International Commission of Jurists (ICJ) and
European Council for Refugees and Exiles (ECRE)
v. Greece”***

By letter dated 07/12/2018, the Council of Europe (Directorate General of Human Rights and Rule of Law – Department of the European Social Charter) informed the Greek government that the international non-governmental organisations *International Commission of Jurists (ICJ) and European Council for Refugees and Exiles (ECRE)* lodged collective complaint No 173/2018 against Greece, on the rights of unaccompanied and accompanied migrant – refugee – asylum seeker children on the Northern Aegean islands and of unaccompanied children on the mainland of Greece, alleging breach of articles 7para.10, 11 para.1 and 3, 13, 16, 17 and 31 paras.1 and 2 of the Revised European Social Charter.

The complaint was declared admissible by the European Committee of Social Rights (ECSR), by decision dated 23/05/2019, and the Greek Government submitted their observations on the merits on 13/09/2019. The Complainant Organizations submitted their additional observations, which were communicated to the Greek Government by the 20/12/2019 letter of the Deputy Executive Secretary of the European Committee of Social Rights.

The Greek government with the present response has the honor to present its additional observations on the merits of collective complaint No. 173/2018, *International Commission of Jurists (ICJ) and European Council for Refugees and Exiles (ECRE) v. Greece*.

The present text adds new information as regards certain points of the first memorandum of the Greek Government and supplements as well as updates other points in it.

Introductory Observations

The Greek Government wishes to bring to the attention of the European Committee of Social Rights the following issues which the Government considers to be of major importance for the consideration of the case:

A. The Greek Government reiterates that the situation it has been confronted with due to the increased migration flows is exceptional, unprecedented, extreme, and also creates circumstances/conditions that often exceed the carrying capacity of the islands of the North Aegean Sea, which have been called upon, pursuant to the EU- Turkey Joint Declaration of the 18th of March 2016, to lift the main burden of the first reception of people arriving via sea borders to the Greek territory.

In both memorandums (the one already submitted and the present one), the Greek Government presents the measures taken during the last years with the aim to address the issues arising in the context of respect for and protection of human rights.

In this context, we would like to refer to the following statistical data on migration flows and unaccompanied minors:

According to the 2019 Operating Plan Agreed by EASO and Greece¹, *since mid-2015, Greece is facing large-scale arrivals of refugees/migrants. The imposition of border restrictions and the subsequent closure of the Western Balkan route in March 2016, resulted in about 50,000 third-country nationals remaining in Greece. This created an unprecedented burden on the Greek reception system.*

Furthermore, according to the Report on 2018² of the European Asylum Support Office (EASO): *in 2018, approximately 20.325 UAMs applied for international protection in the EU+, indicating a sharp decrease of 37% compared to 2017. Almost three quarters of all applications were lodged in just five EU+ countries: Germany, Italy, the United Kingdom, Greece and the Netherlands. Furthermore, regarding receiving countries, in 2018, most applications for asylum were lodged in Germany, France, Greece, Italy and Spain. Greece became the country with the third - highest number of applications lodged in the EU+ in 2018, increasing for the fifth consecutive year, to 66.965 applications. The main influxes in 2018 were directed to Germany, France, Greece and Spain. Greece received two of the main flows (Syrians to Greece and Afghans to Greece).*

As of 30 September 2019, some 80,800 refugees and migrants had arrived via the three Mediterranean routes to Europe, a 21% decrease compared to the same period last year (102,700). In this period, some 46,100 people arrived in Greece, 23,200 in Spain and some 7,600 in Italy. In addition, some 1,200 people arrived by sea in Cyprus, along with some 2,700 people to Malta³.

Furthermore, according to the most recent statistical data of the National Center for Social Solidarity (EKKA) on unaccompanied minors in Greece: As of 15/01/2020, there were **5.389 unaccompanied children in total in Greece**, out of which, 92,7% are boys, 7,3% girls and 8,8% younger than 14 years old⁴.

B. The complainant organizations claim that the issues pertaining to the case under discussion are demonstrative of *a systemic problem, of longstanding duration in Greece (see para 14 of their response)*. Also in para 18 of their allegations, the complainant organizations claim that the Greek Government should have initiated a number of measures and actions that they have failed to implement.

It is undisputable that the issue of the recent migratory flows is serious, persistent, and tightly linked to human rights, as well as complex and multifaceted. The Greek Government is implementing a comprehensive policy on the issue of migration with the

¹ 2019 Operating Plan Agreed by EASO and Greece, Valletta Harbour and Athens 19 December 2018, p.4, <https://easo.europa.eu/sites/default/files/OP-Greece-2019.pdf>

² European Asylum Support Office (EASO), Annual Report on the Situation of Asylum in the European Union 2018, p.12, <https://www.easo.europa.eu/sites/default/files/easo-annual-report-2018-web.pdf>

³ "DESPERATE JOURNEYS - Refugee and Migrant Children arriving in Europe and how to Strengthen their Protection", January to September 2019, UNHCR - The UN Refugee Agency, p.1, <https://reliefweb.int/report/greece/desperate-journeys-refugee-and-migrant-children-arriving-europe-and-how-strengthen>

⁴ See attached file (National Center for Social Solidarity - EKKA, Situation Update: Unaccompanied Children (UAC) in Greece, 15/01/2020) which includes analytical data: (a) as to the number of unaccompanied children per accommodation type (b) as to the number of unaccompanied children in reception and identification centers/protective custody (c) as to the number and places of UAC shelters, safe zones and hotels (d) as to the number of available places by type and region.

aim to address the main aspects of the issues that arise, mainly as regards vulnerable people, especially children.

As will be described below, the legal framework has been improved very recently in order, on the one hand to facilitate, on the other hand to speed up the processing of the applications for international protection. This is an ongoing process aiming at addressing all aspects of the matter immediately.

Recent Developments

In November 2019, a new law on international protection was adopted. The said Law 4636/2019 is presented in detail directly below⁵.

In addition, the Council of Ministers proceeded (on 10 February 2020) with the issuance of a Legislative Act (PNP) which authorizes the Ministry of Migration and Asylum “to requisition, on grounds of public interest, necessary property and land for managing the crisis, so as to address the extremely urgent need to avert jeopardizing public order and health”. Pursuant to this act, the newly appointed Minister of Migration and Asylum has engaged in consultation with the local authorities with the view to finally determine the specific locations on the islands of Lesbos, Chios and Samos, where areas are to be requisitioned in order to ensure direct decongestion of open reception facilities in these islands. As stated by the government spokesperson, relevant facilities, next to existing ones, are planned to be created in Leros and Kos as well, in state-owned areas where supervised closed reception facilities for asylum seekers are going to be built.

The Government is implementing an integrated plan based on four axis:

- Border Patrol
- Accelerating asylum procedures
- Increase returns
- Closed facilities (“Supervised closed facilities refer to determined and strict rules of internal order, which refer to both the operation of the centres and the mobility of the guests. In these facilities will reside a) the new arrivals to facilitate identification and asylum process, b) those demonstrating delinquent behavior and c) those not entitled to asylum and forwarded to the return process”).

The Government, at the same time, puts emphasis on the islands’ decongestion, that bear the greatest burden, and on the support of local communities. It, also, assumes targeted actions for the internationalization of the problem and the shaping of a new political responsibility and solidarity by the EU. In this context, the urge of the UN High Commissioner on Refugees is noteworthy: *In light of the high number of unaccompanied children and the limited hosting and care capacity, UNHCR continues to **advocate for the relocation of unaccompanied children from Greece to other European countries***⁶, an urge that emphasizes on the European dimension of the issue.

Legal Framework

The protective framework for unaccompanied minors and children separated from their families remains a primary concern for the legislator. Several legislative steps have been taken since 2013 in order to improve the protection of minor refugees in Greece.

⁵ L.4636/2019 “On International Protection and other provisions” (OG 169/01-11-2019)

⁶“DESPERATE JOURNEYS - Refugee and Migrant Children arriving in Europe and how to Strengthen their Protection”, ο.π., σελ.12

Below you can find the instruments that are in force in this specific period: Law 4636/2019 (on international protection and other provisions)⁷, Law 4554/2018 on guardianship⁸, Law 4540/2018⁹ (on the reception of applicants for international protection), Law 4538/2018 on fostering, Law 4332/2015¹⁰, Law 3907/2011 (establishment of major relevant public services – return process)¹¹, P.D. 220/2017 (Reception)¹², P.D. 141/2013 (Requirements for international protection and the content of the international protection)¹³ and P.D. 131/2006 (Family Reunification)¹⁴, and the European Regulation 604/2013 (Dublin III).

The following are significant additions to the current legislation:

- Ministerial Decision No.Δ11/οικ.60207/2717 «Semi-independent living of unaccompanied minors aged over 16 at supervised flats»
- Ministerial Decision No.Δ11/οικ.26945/1074 «Register of Accommodation Centers for Unaccompanied Minors»
- Ministerial Decision No. Δ11/οικ.26943/1073/2019 «Register of Unaccompanied Minors»

According to P.D. 220/2017, the *Child's best interest* is the primary concern of authorities in implementing the relevant provisions. More specifically, as regards unaccompanied minors, authorities should take all appropriate measures in order to ensure their representation by notifying the Public Prosecutor for Minors or the Public Prosecutor at the Court of First Instance, who acts as temporary guardian. The relevant authorities responsible for receiving and examining an asylum application are obliged to immediately ensure that minors' accommodation needs are met, by placing them either with adult relatives, a foster-family or other accommodation facilities suitable for

⁷ Law 4636/2019 «On International Protection and other provisions» (O.G. 169/1/1-11-2019).

⁸ Law 4554/2018 (O.G. 130 A'/18-07-2018), «Social security and pension regulations – Addressing undeclared work – Enhancing protection of workers – Guardianship for unaccompanied children and other provisions», Part C', Articles 13-32.

⁹ Law 4540/2018 transposing into Greek legislation the provisions of Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013, laying down standards for the reception of applicants for international protection and other provisions, Amending Law 4251/2014, amending asylum procedures and other provisions, Law 4540/2018 (O.G. 91/A/22-05-2018).

¹⁰ Law 4332/2015 «Amending the Greek Nationality Code – Amending Law 4251/2014 transposing into Greek legislation the Directives 2011/98/EU of the European Parliament and of the Council of 13 December 2011 on a single application procedure for a single permit for third-country nationals to reside and work in the territory of a Member State and on a common set of rights for third-country workers legally residing in a Member State and 2014/36/EU on the conditions of entry and stay of third-country nationals for the purpose of employment as seasonal workers and other provisions», (O.G. 76 A'/09-07-2015).

¹¹ Law 3907/2011 «Establishing the Asylum Service and the Initial Reception Service », transposing into Greek legislation the provisions of Directive 2008/115/EC «on common standards and procedures in Member States for returning illegally staying third-country nationals» and other provisions, (O.G. 7 A'/26-01-2011).

¹² Presidential Decree 220/2007, transposing into Greek Legislation the provisions of Directive 2003/9/EC of 27 January 2003 laying down minimum standards for the reception of asylum seekers (O.G. 251 A'/13-11-2007).

¹³ Presidential Decree 141/2013 «transposing into Greek legislation the provisions of Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 (L 337) on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (recast)» (O.G. 226 A'/21-10-2013).

¹⁴ Presidential Decree 131/2006 on the Harmonization of Greek legislation with Directive 2003/86/EC on the right to family reunification (O.G. 143 A'/13-7-2006). Amended by P.D. 167/2008, and P.D. 113/2013.

minors, provided that such an accommodation solution protects the child from trafficking or exploitation. Moreover, authorities should take action to ensure that siblings are accommodated and live together, making efforts to locate family members the soonest possible, while changes in residence location of unaccompanied minors should be reduced to the minimum possible. All personnel involved in cases of unaccompanied minors should be appropriately qualified or undergo training on the needs of minors.

The EKKA is the authority responsible for the placement of children. Initially the Presidential Decree stipulated that police authorities that located and detained minors would be responsible for ensuring appropriate accommodation for them, but after the asylum reform in 2011 –that practically became effective in 2013– and the establishment of the Initial Reception Service and the Asylum Service, both these authorities are now competent. However, all authorities must notify the local Prosecutor and, in particular, the police authorities wherever and whenever an undocumented or homeless child is located¹⁵.

A new Law on international protection was adopted in November 2019 (Law 4636/2019¹⁶).

This law makes a major breakthrough in the legislative framework governing the provision of international protection, since it collects and updates in a single instrument all provisions governing the qualification and status of third-country nationals or stateless persons as beneficiaries of international protection, refugee status or the status for persons eligible for subsidiary protection, the reception of all the above mentioned applicants, the procedure for granting and revoking international protection status and provision of legal protection.

Collecting in a single legal instrument all national regulations transposing the Directives that mainly constitute the Common European Asylum System had become a necessity. There is a need for a legislative framework which shall be user-friendly for all those who implement the law, namely judges and lawyers. This law aims at: a) introducing in the Greek law a clear legal framework, b) correcting inherent planning errors of the unstructured Greek asylum system till today, c) redesigning a new system which will be in line with the requirements of the EU-legislator and will indeed respect in practice the rights of asylum seekers. Moreover, this law shall have all the qualitative features that will allow the Greek asylum system to deal with today's reality where it is required to work: closed borders, increased refugee flows, lack of Greece's carrying capacity to receive all third-country nationals or stateless persons who wish to enter and remain in the Greek territory, for reasons that are not consistent with the spirit and the purpose of international protection, d) laying down clear and specific rules, putting thus an end to the lack of clarity till today on what really applies at legislative level e) addressing in an effective way, through the speeding up of the procedure, the consequences leading to migrants being caught *in limbo* for long periods in a status of non legally residing in the country, without proper protection and exposed to illegal networks of trafficking and exploitation f) remedying the consequences of a legislation that ignored that the international protection law is qualitatively and substantially different from the law on foreign nationals in a broad sense.

Specifically, regarding the new law, we would like to inform you of the following:

The new Law 4636/2019¹⁷, adopted in November 2019, stipulates that the Reception and Identification Service (RIS) is operationally responsible for the detailed record

¹⁵ https://rosalux.gr/sites/default/files/publications/national_greece_gr_final_1211web.pdf.

¹⁶ Law 4636/2019 "On international protection and other provisions" (OG 169/01-11-2019)

¹⁷ Law 4636/2019 «International Protection and other provisions» (O.G. 169/01-11-2019)

keeping, identifying and verifying the details of third-country nationals or stateless persons who illegally enter the country, from the moment they arrive at the Greek territory. This Service is also responsible for the subsequent procedures that should be followed depending on the profile and the needs of the specific national.

According to the new law, the reception includes five (5) distinct stages (article 39 of Law 4636/2019), that apply also to the unaccompanied minors:

- (a) Informing
- (b) Reception and Identification
- (c) Record keeping and Medical Screening
- (d) Referral in order to initiate procedures for granting international protection status
- (e) Further referral and transfer

Unaccompanied and accompanied minors belong to *vulnerable groups* and thus they are offered specialized care and protection and are subject to procedural and substantive guarantees (article 39 para.5[d] Law 4636/2019). Where doubts arise as to whether a third-country national or a stateless person is a minor, by decision of the Center's Head, a specific procedure shall be initiated in order to establish his/her maturity, in accordance with Joint Ministerial Decision No 1982/16-02-2016 (O.G. 335 B'). In any case, until the age assessment is completed, the person shall be considered a minor and shall be treated accordingly. The procedure referred to in the previous section shall be initiated whenever a doubt arises as to whether a person is a minor. According to article 39 para.6 (aa) of the same law, the applications of vulnerable persons for international protection shall be given priority.

According to article 39 para.8, throughout the reception and identification procedure, pursuant to the provisions laid down as appropriate, the Head and the personnel of the Center shall ensure that third-country nationals or stateless persons:

- a) are accommodated in decent living conditions,
- b) maintain their family unity,
- c) have access to urgent health care and any necessary treatment or psychosocial support,
- d) receive treatment as appropriate, provided that they belong to vulnerable groups, in particular if they are unaccompanied minors or persons with disabilities. Moreover, special care shall be taken in order to ensure that these persons shall remain at the Reception and Identification Centers in specific and accessible areas, as far as possible, until the completion of reception and identification procedures,
- e) are adequately informed of their rights and obligations,
- f) have access to guidance, legal advice and assistance on their status,
- g) keep contact with civil society organizations that are active in migration and human rights and provide legal or social assistance,
- h) have the right to communicate with their relatives and close family members

Moreover, according to article 39 para.9 of the same law, the role of international and European organizations, such as the International Organization for Migration, the UN High Commissioner for Refugees and the European Asylum Support Service, is strengthened in providing assistance during the reception and identification procedure.

As regards **education**, article 51 of the new law provides for the following:

«1. Applicants who are minors and minor children of applicants, during their stay in the country, must attend primary or secondary education units of the public education system. The competent authorities must provide the necessary and adequate means in order to support and facilitate the procedure that should be followed to this end. The conditions for their enrolment are similar to those applicable for Greek nationals while facilitations shall be provided in case they have difficulties in providing the required supporting documents, as long as no removal order pending against themselves or against their parents is enforced. These applicants do not lose the right to attend secondary education schools solely due to reaching adulthood. A decision of the Minister of Education and Religious Affairs regulates issues relating to specific terms and conditions on the implementation of the present paragraph.

2. Enrolling in public schools shall take place the latest within three (3) months after the identification procedure has been concluded. If the applicants who are minors and minor children of applicants do not comply with the requirement of paragraph 1 and do not enroll or do not attend the respective school courses because they do not wish to be included in the educational system, the material reception conditions shall be limited in accordance with article 57 et seq., and the administrative sanctions that apply to Greek citizens shall be imposed on the adult members of the minor's family.

3. In order to facilitate the inclusion in the public education system, temporary educational activities may be offered, inter alia, within the accommodation centers, in the context of informal education. These activities cannot substitute formal education.

4. Where the child's access to the education system is not possible due to specific reasons relating to the minor, appropriate measures to this end shall be taken, in accordance with the provisions of the existing legislation.

In the new law there are specific provisions that apply both to minors in general (article 59) and in particular to unaccompanied and separated minors, (article 60), ensuring thus their protection as vulnerable persons.

Below you can find both articles that clearly present the guarantees for minors.

Minors¹⁸

«1. The best interests of the child shall be a primary consideration for the competent Authorities when implementing the provisions of the present law. They shall ensure a standard of living adequate for the minors' physical, mental, spiritual, moral and social development. In assessing the best interests of the child the Authorities shall in particular take due account of the following factors: a) family reunification possibilities, b) the minor's well-being and social development, c) safety and security considerations, in particular where there is a risk of the minor being a victim of human trafficking and d) the views of the minor in accordance with his or her age and maturity.

2. The competent Authorities as appropriate, shall ensure access to rehabilitation services for minors who have been victims of any form of abuse, neglect, exploitation, torture or cruel, inhuman or degrading treatment or who have suffered from armed conflicts, and ensure that appropriate mental health care and specialized treatment is provided when needed.

¹⁸ Article 59 of Law 4636/2019 (art.23 Directive 2013/33/EE)

3. *The competent Authorities shall ensure that minors have access to leisure activities, including play and recreational activities, appropriate to their age and sex, within the accommodation centers, and also access to open-air activities.*

4. *The competent Authorities shall ensure that minor children of applicants or applicants who are minors reside with their parents, their unmarried minor siblings or with the adult relative who is responsible for them by law, provided it is in the best interests of the minors concerned».*

Unaccompanied and separated minors¹⁹

«3. The General Directorate for Social Solidarity, Ministry of Labour and Social Affairs, is the Authority responsible for the protection of unaccompanied and separated minors and in cooperation with the National Center for Social Solidarity or other authorities:

a. Shall immediately take the appropriate measures in order to comply with its obligations under the present law and ensure the necessary representation of unaccompanied and separated minors, ensuring thus the exercise of their rights as well as compliance with the obligations provided for in the present law. To this end, the authority shall take the necessary actions for the appointment of a representative through the local competent Public Prosecutor and shall immediately inform the unaccompanied minor about the appointment of his/her representative. In case a legal entity is appointed as representative, a physical person who is member of that legal entity must be appointed, who will perform the duties of the representative. The competent Authority for the protection of unaccompanied and separated minors shall assess regularly the eligibility of representatives and the availability of the necessary means for representing unaccompanied minors.

b. Shall start tracing the members of the unaccompanied or separated minor's family, assisted by certified bodies and organizations, as soon as possible, after an application for international protection is filed. In cases where there may be a threat to the life or integrity of the minor or his or her close relatives, particularly if they have remained in the country of origin, care is taken to ensure that the collection, processing and circulation of information concerning those persons is undertaken on a confidential basis so as to avoid jeopardizing their safety.

c. Shall ensure that unaccompanied minors are placed with foster families and are supervised.

d. Shall ensure that unaccompanied minors are referred and accompanied to accommodation centers for unaccompanied minors or to other accommodation centers, provided that they are suitably laid out for as long as they shall remain in the country or until they are placed with a foster family or at supervised flats. Changes in residence location of unaccompanied minors shall be limited to the minimum and only if they are necessary.

e. Shall ensure the residence of minors with their adult relatives or other adult persons who shall take care of them, provided that it is in the best interests of the minors and that procedures have been completed assigning these persons the task of looking after the minor, by the law.

¹⁹ Article 60, para.3 Law 4636/2019 (art.24 Directive 2013/33/EE)

f. Shall ensure that siblings shall live together, account taking of their age, sex, maturity and the best interests of the minor.

g. Shall ensure for the accommodation of unaccompanied minors who have reached the age of 16, in supervised flats while protecting the minors. By decision of the Minister of Labour and Social Affairs, the supervising bodies, minimum requirements and the terms and procedures for the selection, referral, residence and completion of accommodation and any other necessary detail are specified.

4. The personnel of bodies working on cases of unaccompanied and separated minors shall be appropriately trained and shall continuously undergo training on minors' needs. They shall be bound by the code of conduct and confidentiality rules in relation to any personal information they may obtain in the course of their work.

5. The person acting as representative of the unaccompanied minor who is appointed in accordance with case a, para.3, must have the necessary knowledge and expertise, in order to perform his/her duties ensuring the best interests and the well-being of the minor. Persons whose interests conflict or could potentially conflict with those of the unaccompanied minor may not be appointed as representative. The person appointed as representative shall be changed by the authority referred to in paragraph 1 only in case of failure to represent due to real or legal reasons».

Law 4636/2019 (O.G. 169 A'/1-11-2019)	
On International Protection and other provisions	
Article 32	Unaccompanied minors
Article 39	General Provisions on reception and identification procedures (in particular paras. 4-5 of the article)
Article 41	Definitions
Article 42	Scope (of the present law regarding minors, unaccompanied or not and separated minors)
Article 48 para. 2	Detention of vulnerable persons and applicants with special reception needs (in particular detention of minors)
Article 51	Education of minors
Article 60	Unaccompanied and separated minors

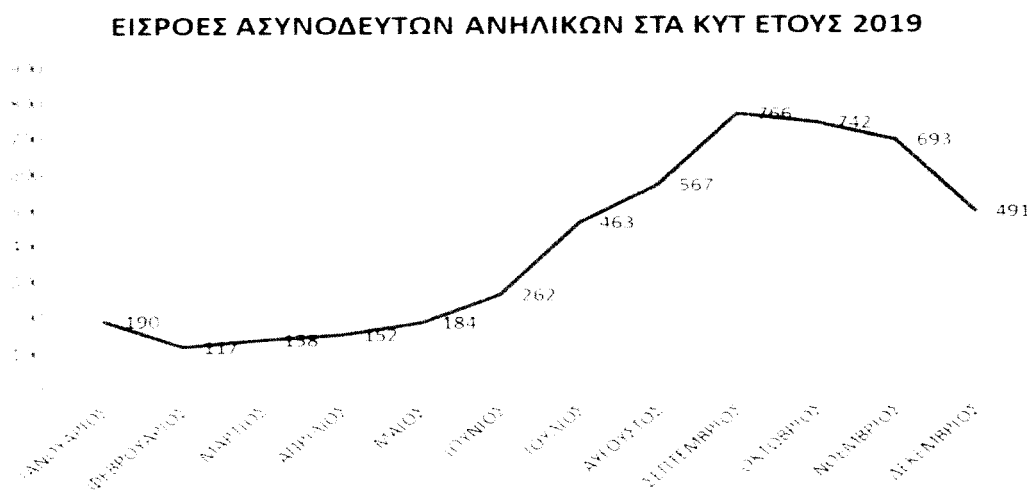
Legal framework for the protection of minors, unaccompanied or not and separated minors under law 4636/2019 (A' 169).

As regards the allegations, we would like to inform you of the following:

a) Number of unaccompanied minors at RIS

01/01/2019 - 31/12/2019	RECORD KEEPING OF UNACCOMPANIED MINORS PER RIS
KOS	424
LEROS	120
LESVOS	1516
ORESTIADA	371
SAMOS	444
CHIOS	357
TOTAL NUMBER OF RECORDED UNACCOMPANIED MINORS	3232

The diagram below presents the arrivals of unaccompanied and separated minors at Reception and Identification Centers in 2019 showing the increasing flows of unaccompanied minors.



b) Time for the completion of reception and identification procedures

The Reception and Identification Centers (RIC) are reception centers and temporary accommodation centers for newcomers without the legal formalities of third countries nationals, and not detention centers. The restriction of freedom, which can be extended by a maximum of 25 days, is the absolutely necessary time period for the reception and identification procedures to be completed (see relevant Article 14, para.2 of Law

4375/2016). It is especially justified and aims for the completion of the reception and identification procedures.

Detention may be extended for an additional 20 days in special cases, such as of an increase in arrivals of unaccompanied minors where referral to an appropriate facility is not possible within the estimated time period despite the authorities' efforts. In these cases, the Reception and Identification Service decides on the restriction of freedom and during this period, children enjoy the right to engage in activities and have access to education as well. In any case, restriction (of freedom) for the strictly necessary time period is always a last resort, and efforts to find the appropriate facilities are constantly being made (article 48, para.2 Law 4636/2019. Also, in accordance with Article 48 para.2, minors are in detention only as a last resort, always in their own interest and if alternative and less restrictive measures are proven to be non applicable.

With regard to children in families, Article 48 para.3 stipulates that: families in detention shall be provided with separate accommodation with the consent of all their adult members, under conditions ensuring the private and family life protection. In duly substantiated cases and for a reasonable time period, which shall be as short as possible, the competent authorities may derogate from the previous paragraph.

c) Provision of Food Services

At the Reception and Identification Centers, private companies with which the Ministry of Defense is affiliated, provide food services while the Ministry of Health contributes to the distribution and control of food. The said contracts provide that every beneficiary shall be provided with three meals on a daily basis (breakfast, lunch, dinner), while provision is made for special diet for those suffering from chronic diseases requiring specific nutrition (for example diabetics), for infants and pregnant women.

Distribution takes place within the safe zones and minors have access to all meals.

d) Access to health services

The third reception stage is Registration and Medical Screening (Article 39, para.5, Law...). This stage also provides care for those in vulnerable groups, such as children. In particular, the Head of the Center or Unit, after a reasoned recommendation by the competent medical staff of the Center, shall refer persons, belonging to vulnerable groups, to the relevant social support or protection body as appropriate. A copy of the medical screening and psychosocial support file shall be sent to the head of the appropriate body where they reside or are referred to. In any case, the follow-up treatment is ensured where necessary. The finding that a person belongs to a vulnerable group has as its sole consequence the immediate coverage of the particular reception needs of that person and the assessment of his or her application as an absolute priority. Particular attention shall be paid to the special needs of families with children under fourteen (14) years of age, in particular, toddlers and infants.

A table with the number and specialties of EODY (National Public Health Organization) personnel and military doctors of the Department of Medical Screening and Psychosocial Support of the Service is available at the local RICs. It includes a

breakdown of the kind of services provided and the number of physicians, psychologists and social workers working in the RICs to serve the needs of children residing in the RICs, and thus their effective access to healthcare and psychosocial support.

Medical Screening and Psychosocial Support Unit (into force in 14.01.2020)	LESVOS	CHIOS	LEROS	SAMOS	KOS	OUTPOST
PHYSICIANS	3 (Philos II)	1 (Philos II) + 1 (ARMY)	1 (Greek Navy 10:00- 13:00)	2 {1(Philos II) + 1(ARMY)}	2 {1(Philos II) + 1(ARMY, when needed)}	1 (ARMY)
NURSES	10 (Philos II, the 4 assistants)	6 (Philos II)	5 (Philos II) + 1 (Greek Navy)	3 (Philos II)	4 (Philos II)	2 (Philos II)
PSYCHOLOGISTS	8 (Philos II)	4 (Philos II)	4 (Philos II)	1 (Philos II)	4 (Philos II)	3 (Philos II)
SOCIAL WORKERS	4 (Philos II)	2 (Philos II)	2 (Philos II)	2 (Philos II)	2 (Philos II)	3 (Philos II)
MIDWIVES	2 (Philos II)	2 (Philos II)	1 (Philos II)	1 (Philos II - Maternity Leave)	2 (Philos II)	1 (Philos II)
COORDINATORS	1 (Philos II)	1 (Philos II)	1 (Philos II)	1 (Philos II)		1 (Philos II)
INTERPRETATORS- CULTURAL MEDIATORS	7 (Philos II)	1 (Philos II)		3 (Philos II)	2 (Philos II)	
RESCUERS	1 (Philos II)	1 (Philos II)	1 (Philos II)			2 (Philos II)
PHARMACISTS						
SOCIAL SCIENTISTS					1 (Philos II)	
CAREGIVERS	1 driver (Philos II)					

e) Facilities

The Reception and Identification Service (RIS) in cooperation with the Ministry of Defense and the International Organization for Migration, undertakes infrastructure projects, including all infrastructure improvement projects. These consist of air conditioning maintenance, projects relating to the sewage system and the electrical installations, etc.

f) Transfers

The Reception and Identification Service (RIS) shall make every effort to speed up the transfer procedures of third-country nationals to the mainland (for whom geographical restriction has been lifted), with a view to rapidly decongesting the Eastern Aegean islands and as a consequence, to ensuring adequate living and hygiene conditions. At the service's initiative, continuous efforts are made to increase the number of accommodation places in mainland facilities in order to meet the basic needs of the asylum seekers eligible to enter the reception system. For this reason, Law 4636/2019 in Article 39 para 7 defines the stage of further referral and transfer, especially in cases of vulnerable groups:

In the fifth stage of "Further referral and transfer":

Due to urgent needs because of the increase in arrivals or the adequate completion of the procedures of the previous paragraphs and particularly, in the case of persons belonging to vulnerable groups, the Head of the Reception and Identification Center at the country's borders may by decision refer the third-country national or stateless person to the Reception and identification Centers mainland or designate the residence in other appropriate structures, so that the reception and identification procedure shall be continued and completed. When deciding, particular account shall be taken of the principle of family unity and the child's best interest. In accordance with paragraph 3 of the present article, the applicant shall be informed of this decision. Under the same decision the transfer details of third-country nationals or stateless persons are regulated by the Regional Services of the Reception and Identification Service.

In November 2019, a National Coordinator for the Unaccompanied Children was appointed under the Prime Minister's Office. Extraordinary operations were carried out for the transfer of unaccompanied minors from the RIC of Lesvos to a *permanent accommodation center in Agios Andreas, Attica* with the assistance of the Reception and Identification Service and other jointly responsible agencies, for the RIC's decongestion and consequently the improvement of minors' living conditions in the RIC of Moria.

As regards specific allegations of the complaint in question

The Reception and Identification Service is responsible for the reception and identification of unaccompanied minors in the Reception and Identification Centers. Within this context, it also ensures through the competent Public Prosecutor the immediate assignment of the separated minor's care to his/ her adult relative, provided that this is considered to be in the best interest of the minor. The relative shall act as the representative of the minor for the acts expressly assigned to him/ her by the competent Prosecutor.

The safe zones/ safe areas operate in the local RICs under the Reception and Identification Service, and the International Organization for Migration is the

implementation body. In safe areas within the RIC's premises, services such as 24-hour presence of specialized care staff, caregivers' services, psychosocial and psychological support, legal assistance, non-formal education activities and recreational activities, interpretation and personalized assistance and transfer from/to services, are provided. At the same time, the improvement and maintenance of glazing infrastructures is undertaken to upgrade the living conditions of unaccompanied children hosted in safe zones.

Below are tables with the breakdown of staff and services provided to unaccompanied/separated minors. The specialized staff has been recruited and carries on its activities within the safe areas/ zones that are already operational in the RICs of Lesbos, Chios, Leros and which are under construction in the RICs of Samos and Kos respectively:

LESVOS		CHIOS	
Profession	Number	Profession	Number
IOM - IKLAKTIDA		IOM	
Field Coordinator	1	Field Coordinator	1
Team Leader	1	Child Protection Specialist	2
Social Worker	4	Psychologist	1
Nurse	2	Interpreter	2
Legal Assistant	1	Caregiver	9
Educator	3		
Caregiver	12		
Interpreter	2		
Cleaner	2		
Psychologist	1		
Total	26	Total	15

KOS		SAMOS		LEROS	
Profession	Number	Profession	Number	Profession	Number
IOM - METADRASI		IOM - METADRASI		IOM - ZEUXIS	
Field Coordinator	1	Field Coordinator	1	Field Coordinator	1
Safe Area Manager	1	Safe Area Manager	1	Team Leader	1
Social Worker	1	Safe Area Officer	1	Social Worker	1
Psychologist	1	Psychologist	1	Psychologist	1
Caregiver	2	Social Worker	2	Caregiver	8
Legal Assistant	1			Educator	1
Total	7	Total	6	Driver	1
				Interpreter	2
To be deployed (until end of January)		To be deployed (until end of January)		Total	16
Caregiver	7	Caregiver	13		
Social Worker	2	Legal Assistant	1	To be deployed (until end of January)	
Psychologist	2	Interpreter	2	Interpreter	1
Legal Assistant	1	Doorman	4	Social Worker	1
Educator	2				
Interpreter	1				
Total	15	Total	20	Total	2

More specifically:

RIC MORIA

Education

In the year 2019, eight (8) unaccompanied minors were enrolled in public formal education under the RIC's concern, as it is shown by the attached documents 1, 2 and 3, while seven (7) children were registered with the care of the Minors Safe Zone which cooperates with the RIC, but it is managed by the International Organization for Migration. Additionally, unaccompanied minors were enrolled in Greek public school reception classes by the NGO structures Iliaktida AMKE operating in Mytilene.

We should also take into account the fact that reception classes are currently operating in several schools in Mytilene and particularly in the evening upper secondary school (minors' education), in the 1st and 4th High School and in the 1st and 2nd EPAL (Vocational Senior High School). For younger children and for any reception classes in nursery schools and primary schools we refer you to the Directorate of Secondary Education of Lesvos Prefecture.

Deadlines

Regarding the deadlines for the procedures, the following shall apply.

Third-country nationals, claiming to be minors during the first screening that would have already being carried out by the Hellenic Police or the former guardianship

network of the Metadrasi NGO, completed their first registration on the same day, in accordance with article 9 of Law 4375/2019, by the Citizenship Identification and Verification Unit in cooperation with the European Border and Guard Organization (FRONT.EX.), having firstly received the necessary information by the above mentioned Unit in cooperation with UNHCR and I.O.M.

On the same day (or the next working day if the arrival had taken place in the afternoon, on a holiday or on a weekend) those claiming to be minors, were referred to the RIC's Secretariat for Unaccompanied Minors for further information on the procedures by the Agency's employees, for their accommodation in specially designed areas and the management/ referral of their cases to the Public Prosecutor's Office of Mytilene, EKKA (National Center for Social Solidarity) etc.

According to Article 14.2 of Law 4375/2016, the restriction of their freedom was never applied in practice for them, since procedures were being completed on the same day (i.e. registration, identification, registration of asylum claim, referral of the claim to the Regional Asylum Office, issue and signing of all necessary administrative documents) while, based on the available information, from 2017 and onwards, no detention in the Hellenic Police Pre-Removal Detention Center (PROKEKA LESVOS) has ever been imposed to a minor for administrative or penal reasons.

During the previous year, the PHILOS 1 program of the National Public Health Organization ceased to employ physicians, psychologists and social workers in May 2019 until September 2019, when new contracts launched via the PHILOS 2 program.

Therefore, until May, the medical recording/ screening were performed approximately two months after arrival for adult third-country nationals and within almost three (3) maximum days for minors.

During the summer months the Medical Screening and Psychosocial Support Unit (EODY) operated solely with nursing staff and at times with medical officers or civil society physicians and in combination with the expected increase in arrivals that time of the year, it took about six months for adults, whereas despite the adverse conditions, minors continued to be prioritized and examined on average within three (3) months after their arrival.

With the launch of PHILOS 2, there were already some 4.000 medically unregistered cases to be dealt with, along with those arriving in the meantime, so third-country nationals were given a new appointment for medical screening after approximately six (6) months (three minors), from their arrival until 1/1/2020, when arrivals from 1/1/2020 began to be prioritized in accordance with the new legislative framework. Today, the unregistered unaccompanied minors (arrivals of 2019) are 94.

In 2019, unaccompanied minors were referred to mainland accommodation centers (and also to Mytilene, where temporary centers-transit operate) six months after their arrival at the RIC.

Minors with particularly vulnerable characteristics or with concerns about their safety at the Center, were prioritized and usually transferred within three months to more appropriate locations.

The problem with the limited number of facilities or their limited capacity makes it difficult to estimate, on average, the transfer time, since, depending on the time period, this varied a lot.

However, the majority of the eighty (80) children transferred to the settlements of Agios Andreas Attica on December 2019 were arrivals of the summer of 2019.

Safety

As regards the identification and safeguarding of the safety of unaccompanied minors who are currently, temporarily, not accommodated in wings, we inform you that:

From Monday, 20/1/2020, the RIC initiative begins in collaboration with the NOR.CAP body and the NGO Better Days, so that by the end of the month, all minors registered as residents in “New Arrivals Tent” and “Camp” shall be tracked and their data updated so that we can get a complete and accurate picture of their current situation, since the probability of errors is a consequence of the overcrowded RIC.

Guardianship for unaccompanied children

In light of the comprehensive enforcement of the newly adopted Guardianship legal framework, a “transitional guardianship program” was implemented during the previous year, in the form of a Tripartite Agreement among the Ministry of Labour and Social Affairs [National Centre for Social Solidarity (EKKA)], UNHCR and the NGO “METAdrasi”.

- a. the tripartite Agreement could not be extended over December 2019 and till February 2020 in order to cover the needs until the Guardianship regulatory framework enters into force (as of 1 March 2020)
- b. the technical and operational procedures and actions needed for EKKA to be fully capable of implementing and in line with the relevant Guardianship provisions have exceeded the anticipated timeframe (March 2020).

Taking the afore-mentioned facts into consideration, the Ministry of Labour and Social Affairs, EKKA and the Authority for the Asylum, Migration and Integration Fund have jointly elaborated on alternative proposals and scenarios vis-à-vis the design and implementation of a transitional program providing for the representation of unaccompanied minors and until the full implementation of Law 4554/2018 (whose postponement is under consideration). According to the transitional program, EKKA will be outsourcing external actors (entities) in order to organize and manage a system of “Authorized Representatives” assigned to unaccompanied minors. The entities must meet several requirements and criteria proving for their operational and scientific competence and will need to undertake direct recruitment and employment of human resources (coordinators, technical experts, Authorized Representatives of unaccompanied minors). More precisely, an Authorized Representative of

unaccompanied minors (AR) is a trained professional authorized by the competent Public Prosecutor to carry out specific duties with regard to the minor's affairs and realization of rights, to represent the minor before the authorities, to actively participate in making decisions that affect each minor's life, to help the minors integrate into the local community, to enhance their life skills as well as to perform other duties in line with the minors' best interests. In this sense, the Authorized Representative is responsible for undertaking a number of tasks and duties with the aim to ensure and promote the child's well-being, likewise a guardian. The Authorized Representative is also considered a legal representative of unaccompanied minors, as per the national law».

Accommodation places for UAMs

During 2019 there was a large scale increase of UAMs arrivals in the Greek territory. As illustrated in Table 1 below, arrivals more than doubled in July and August 2019, compared to the same months of the three previous years while June also saw significant increase of incoming UAM flows.

	2016	2017	2018	2019
January	214	98	84	188
February	261	79	80	117
March	405	129	162	138
April	158	70	242	147
May	178	128	189	147
June	118	165	215	262
July	109	107	200	463
August	195	203	258	565

The Ministry of Labour had proceeded with the submission of a strategic plan for the accommodation and care of unaccompanied minors. At the time of the first submission in April 2019 the number of UAMs had reached the number of 3.785 while in August 2019 the number of UAMs reached 4.393. Similarly, unprecedented arrivals of UAMs were also recorded within the following months of 2019. According to the EKKA *Dashboard on the situation of unaccompanied minors in December 2019* (1st quarter), the estimated number of UAMs was 5.655. Although there was an intense effort on creating new places in order to meet the needs for the accommodation, there was also a need for reviewing the strategic plan due to the unforeseen developments.

It is also worth noting that during the period from July to October 2019 the Ministry of Labour and Social Affairs had to proceed with the phase-out of hotel scheme for the accommodation of the UAMs due to non available emergency funding from the

European Commission specifically for the hotel scheme operation. The phase-out from the hotels was a complex endeavour requiring close, on-going cooperation between the IOM, EKKA and the Ministry to organize and carry out the transfers of UAMs from hotels, as places in UAM shelters and SIL apartments became available and upon an individual assessment of each minor's profile and needs. Meanwhile the Ministry submitted a request to the European Commission, asking for the suspension of the phase - out of the hotels' scheme as well as the re-activation of relevant places.

According to the latest EKKA dashboard (15.1.2020), the current situation regarding the accommodation places is as follows;

- 1533 places in long term accommodation schemes (shelters/ SIL apartments);
- 841 places in temporary accommodation schemes;

Furthermore, 120 more places are planned regarding the SIL scheme in the upcoming period while 74 UAMs are placed in emergency accommodation scheme.

The Ministry of Labour and Social Affairs:

- (a) has issued the legal framework regarding the operation of the SIL apartments for the accommodation of UAMs (16+) and cooperates intensively with the AMIF R.A. for the issuance of the relevant call under the AMIF National Programme;
- (b) is in cooperation with the Fund Operator of the EEA Financial Mechanism 2014 - 2021 (www.humanrights360.org) on the "Programme II: Asylum & Migration" for the development of new UAM shelters (total of 225 places) under an open call for proposals. The call has closed and the evaluation procedures have already been initiated with the aim to having approved the proposals fulfilling the criteria by the end of March 2020;
- (c) is working together with the Reception and Identification Service recommending the establishment and operation, from 1 January to 31 December 2020, of five (5) additional Safe Zones, preferably within the Open Accommodation Sites that are expected to be constructed in the Greek mainland. There is a persisting need for the continuation of the existing ten (10) Safe Zones until the end of December 2020, as an appropriate alternative short - term UAM accommodation modality, in parallel with the gradual expansion of long-term accommodation modalities and in line with the emerging needs».

Access to education

Provisions to facilitate access to education for the relevant population include the following:

- Education is a fully established right which the Hellenic Republic is obliged to ensure and provide to all children regardless of origin (articles 16, 28 of the Greek Constitution, articles 28, 29 of the UN Convention on the Rights of the Child [ratified by Law 2191/1992]).
- In accordance with par. 7, 8 of article 21, Law 4251/2014 (OG 80/A'), *Concerning the enrollment of third - country minors (all grades) in Greek schools*, the Ministry of Education and Religious Affairs issues implementation Circulars. As regards

primary education for the 2019-20 school year, matters are regulated through the Circular on “*Student enrollment in Primary Schools for the school year 2019-20. Completion of 2018-19 subject teaching*” (No F.6/58025/D1/12-04-2019). Issues pertaining to secondary education are regulated on the basis of the Ministerial Decision “*Registrations, Transfers, Study and issues relating to school life in secondary education*” (No 10645/GD4/2018 (120 B’) M. D.).

- The Ministerial Decision concerning the establishment of Reception Facilities for Refugee Education (RFRE) of 2019-2020, was issued on 1st October 2019. In addition to these structures, children of migrants’ and refugees’ children can also have access to the Greek educational system through the special Reception Classes (RC), or through the formal school system.
- In implementation of article 51, Law 4636/2019 (A’ 169) “*On International protection and other provisions,*” a Ministerial Decision 2099/GD4 (B’ 208, 9-1-20) has been issued by the Ministry of Education and Religious Affairs and focuses on “*Enrollment to primary and secondary education school units of under-age applicants or children of applicants seeking international protection in the Greek territory.*”

Overall, for the current school year, it is estimated that through Reception Facilities for Refugee Education (RFRE, operating during after school hours) and Reception Classes (operating in school units, morning program), 9,800 children of refugees and migrants (seekers of international protection or otherwise) are currently enrolled and active in the Greek educational system (Table 1.), with the number expected to rise as the school year progresses. This is confirmed by trends: the relevant number amounted to 7,608 students during September-December 2019²⁰.

More specifically, according to the most recent data, 88 RFRE structures (these include more than 180 classes) provide education to 2,856 under-age applicants or children of applicants seeking international protection in Greece: 33 RFRE of Kindergarten divisions, 40 RFREs of Primary School and 15 RFREs of Junior High School. Moreover, 4,043 pupils attend primary education school units and 2,901 attend secondary education school units.

Furthermore, in these specific schools approximately 4,000 teachers, educators and other personnel are employed (Table 2.).

Table 1.
Number of asylum seeking pupils (enrolled and active) by school grade in RFREs and Reception Classes (September 2019-February 2020 data)

A. Pupils in 88 Reception Facilities for Refugee Education (RFRE):	
Primary Education:	2,564
Secondary Education:	292
Total: Number of Registered Pupils in RFREs of Primary and Secondary Education:	2,856 Pupils

²⁰ Source: General Secretary for Primary and Secondary Education (Ministry of Education and Religious Affairs).

B. School Units (Morning Programme)	
Primary Education	
Number of Registered Asylum Seeking Students in Schools Units in Reception Classes:	1,266
Number of Registered Asylum Seeking Students in Schools Units without Reception Classes:	2,777
Total:	4,043 Pupils
Secondary Education	
Number of Registered Asylum Seeking Students in Schools Units in Reception Classes:	2,338
Number of Registered Asylum Seeking Students in Schools Units without Reception Classes:	563
Total:	2,901 Pupils
Total of Students:	9,800 Pupils

Source: "myschool" (retrieved on 04-02-2020), Department for the Coordination and Monitoring of the Refugee Education at the Ministry of Education and Religious Affairs

Table 2.
Number of Teachers in RFREs and/or Reception classes by school grade (September 2019-February 2020 data)

1. Number of permanent teachers who work on a full teaching schedule or exclusively serve in RFREs of Primary and Secondary Education:	5
2. Number of substitute teachers of full & partial Teaching Schedule who serve in Reception Classes of Primary and Secondary Education:	3,583
Primary Education:	3,048
Secondary Education:	535
3. Number of substitute teachers of full & partial Teaching Schedule who serve <u>in RFREs of Primary and Secondary Education:</u>	280
Primary Education:	232
Secondary Education:	48
Total of teachers:	3,863

Source: "myschool" (retrieved on 04-02-2020), Department for the Coordination and Monitoring of the Refugee Education at the Ministry of Education and Religious Affairs

For the current year, access to education for refugees in the north-eastern Aegean islands has been provided by:

- the primary school Reception Facility for Refugee Education (RFRE/DYEP) in Lesbos as well as the pre-primary and secondary school reception structure.
- the pre-primary and primary refugee education programme on the island of Kos.
- the programmes for pre-primary, primary and secondary education on the island of Chios.

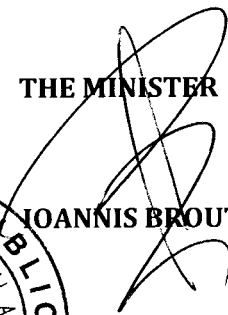
Additionally, a call of interest to prospective for-hire temporary teachers has been issued (No 1791916/E1/7-02-2020) so that necessary vacancies to be filled in.

CONCLUDING REMARKS

In light of the information presented above, the Greek Government calls on the European Committee of Social Rights:

- (i) to take into account all the above parameters, i.e., the extraordinary nature of the situation as regards the increase in the migratory flows and the carrying capacity of the Greek islands of the North Aegean Sea, as well as the fact that the process of adopting new measures and legislation in order to facilitate and speed up the procedure for granting international protection is still ongoing,
- (ii) to consider all relevant actors that should contribute towards remedying the situation, and
- (iii) to recognize the efforts of the Greek Government to address this unprecedented humanitarian crisis

in order to hold that the complaint under consideration is unfounded.

THE MINISTER

IOANNIS BROUTSIS

