Unaccompanied migrant children in Greece

SUMMARY

Since the beginning of the migratory crisis in 2015, growing numbers of unaccompanied children have been seeking protection in Europe. With increased migratory pressure in Greece along the EU’s external border with Turkey at the beginning of 2020, and following the Greek government’s official request for support, the European Commission launched a relocation scheme to speed up relocation of unaccompanied minors from the Greek islands to other EU Member States.

Human rights organisations had denounced the precarious and difficult conditions in which unaccompanied minors had been living in the Greek hotspots, calling for structural solutions in the form of more solidarity and responsibility sharing among EU Member States, and a coordinated, child rights-based approach to addressing the many gaps in the protection afforded to unaccompanied children arriving in Europe.

However, recent legislative changes in Greece, such as the establishment of the Special Secretariat for the Protection of Unaccompanied Minors (SSPUAM) and a new relocation scheme, have served to improve the situation of unaccompanied minors in the country drastically. Measures include the creation of an effective and sustainable child protection system, better reception conditions, and changes to the accommodation system for unaccompanied minors.

At the end of 2020, a new law put an end to the practice of detaining unaccompanied children on the sole grounds that they were homeless. This was followed in January 2021 by the introduction of an emergency response mechanism that offers children support and a safety net.

This publication is an update of a briefing of May 2020 by Ingeborg Odink.

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**Glossary**

A *child* means any person under the age of 18 unless under the (national) law applicable to the child majority is attained earlier (United Nations Convention on the Rights of the Child, or CRC, Article 1). This means that any instruments governing children in the territory of the state cannot define a child in any way that deviates from the norms determining the age of majority in that state.

*Unaccompanied children* (UAC/also referred to in this publication as unaccompanied minors: UAMs) are children who have been separated from both parents and other relatives and are not being cared for by an adult who, by law or custom, is responsible for doing so (International Committee of the Red Cross, *Inter-agency Guiding Principles on Unaccompanied and Separated Children*, Geneva, 2014).

*Separated children* are those separated from both parents, or from their previous legal or customary primary care-giver, but not necessarily from other relatives. These may, therefore, include children accompanied by other adult family members (ibid.). In the context of migration to the European Union, an unaccompanied minor, as defined by the Qualification Directive (Directive 2011/95/EU), refers to a minor who arrives on the territory of an EU Member State unaccompanied by an adult responsible or who is left unaccompanied after he or she has entered the territory of the Member States.

*International protection*: a refugee status or a subsidiary protection status as defined in Article 2, points (e) and (g) of the Qualification Directive (Directive 2011/95/EU).

*Relocation*: the transfer of persons in need of international protection from one EU Member State to another EU Member State (Council Decision (EU) 2015/1523 of 14 September 2015 establishing provisional measures in the area of international protection for the benefit of Italy and of Greece).

**Background**

After the refugee crisis of 2015, various types of, mainly temporary, accommodation facility were developed to address the phenomenon of over-concentration of unaccompanied minors (UAMs) in reception and identification centres (RICs) and in police stations, in precarious situations. However, despite all those efforts, there was no coordinated or and-long-term planning for the reception and protection of UAMs in Greece. The competent authorities responded mainly with ad hoc and short-term measures, such as temporary camps, temporary accommodation or hotels. This resulted in the vast majority of unaccompanied minors being left outside the appropriate protection framework.

According to statistics published by the Hellenic National Centre for Social Solidarity (EKKA), the number of UAMs in Greece increased by 42 % between December 2018 and December 2019, while the estimated number of unaccompanied minors at the end of 2019 reached 5 301 – the highest number of UAMs ever registered in Greece. The UAMs’ main countries of origin were Pakistan (500), Afghanistan (247), Bangladesh (249) and Egypt (224).

At the end of February 2020, Turkey’s decision to open its borders with Greece and Bulgaria prompted thousands of refugees and migrants to flock towards the Turkish-Greek border in the hope of entering Greece. A few days later, Turkey suspended return operations from Greece on grounds of the pandemic. While Greece was still struggling to cope with the high numbers of refugees and migrants at its borders, the country’s National Security Council decided to increase the level of deterrence at its borders to the maximum. In addition, applications for asylum were suspended for one month, and Greece invoked Article 78(3) of the Treaty on the Functioning of the European Union (TFEU) to seek full European support.

On 4 March 2020, the European Commission presented an action plan in support of Greece, which was subsequently approved by the extraordinary Justice and Home Affairs Council meeting. The action plan provided additional financial support for Greece to support border and migration management. It also included the building of increased reception capacity, and enhanced operational support from the European Border and Coast Guard Agency (Frontex) and the European Asylum Support Office (EASO, now EUAA), as well as the activation of the EU Civil Protection Mechanism.
Following the joint visit of the Presidents of the EU institutions to Greece, on 6 March 2020, the Commission presented its action plan for immediate measures to support Greece, and brought forward a new voluntary relocation initiative under which UAMs from the Greek islands would be relocated to other EU Member States. Moreover, in the context of the solidarity efforts, the European Commission agreed with Greek Prime Minister Kyriakos Mitsotakis that priority should be given to the action plan’s first step: finding solutions for the vulnerable group of around 1 500 UAMs in the overcrowded hotspots, by means of voluntary relocation from Greece to other EU Member States. The initiative would be funded through the Asylum, Migration and Integration Fund (AMIF).

To address the situation of UAMs in Greece and the fragmentation of responsibilities in the field, a Special Secretariat for the Protection of Unaccompanied Minors (SSPUAM) was established in March 2020. As a result, most of the responsibilities for the protection of unaccompanied minors were gathered under the Ministry of Migration and Asylum and a comprehensive plan for the protection of UAMs was implemented for the first time in Greece.

The SSPUAM has helped to step up efforts to register UAMs and to detect and offer immediate protection to UAMs in precarious living conditions. It has also helped with the transfer of UAMs from the islands to secure facilities on the Greek mainland; the adoption of appropriate ways to determine cases of juvenile delinquency, based on internationally approved practices and respect for human rights; and support for education and vocational training for UAMs.

The Commission, meanwhile, facilitated the immediate transfer and accommodation of 406 unaccompanied children and teenagers from Lesvos to the mainland of Greece after the fire in the Moria camp. In December 2020, the Commission signed a grant agreement with the Greek authorities, contributing €276 million for the construction of reception centres on five Greek islands, including a new multi-purpose reception and identification centre (MPRIC) on the island of Lesvos.

Work on the latter started in autumn 2021, while the new centre in Samos was inaugurated on 18 September 2021 and the centres on the islands of Kos and Leros opened in November 2021. The new facilities on Samos, Kos and Leros include reception facilities, safe zones for unaccompanied children and teenagers and other vulnerable persons, facilities for procedures after first arrivals and the necessary administrative areas, facilities needed to provide access to services, common and recreational areas, and pre-removal centres.

In addition to bilateral support, 14 countries showed Greece solidarity by sending assistance through the Union civil protection mechanism following the fire, while the EU coordinated the delivery of over 171 000 shelter items and co-financed their transportation to Greece. Finally, in the period between 2020 and 2021, the Commission supported Member States with the aim of limiting the impact of the pandemic in the area of asylum. In particular, the Commission offered guidance regarding the implementation of EU provisions. According to the guidance, Member States were to give priority to the evaluation of possibilities for identifying family members and collecting consent at the registration stage, with the aim of composing a list of priority cases.

### Unaccompanied children in Greece: Key data

The estimated number of UAMs registered in Greece as of 15 December 2021 was 2 217. All of the UAMs were housed in appropriate long-term or temporary accommodation facilities.

- 1 587 UAMs were living in long-term accommodation centres appropriate for their age and needs.
- 305 UAMs were living in supported independent living apartments (long-term accommodation modality).
- 77 UAMs were accommodated in temporary accommodation structures for relocation.
- 0 UAMs were in safe zones as their transfer had been completed in November 2021.
- 37 UAMs were in open accommodation facilities.
- 211 UAMs had recently arrived in Greece and were in RICs for registration. The children had to quarantine before being transferred to long-term accommodation facilities.

Source: National Centre for Social Solidarity, December 2021.
Overall, since the beginning of the migratory crisis in 2015, the EU has provided Greece with continuous operational and financial support. According to a communication from the Commission, published at the end of September 2021, the EU has allocated over €3.3 billion in funding to Greece, to help the country improve reception capacities, living conditions and medical care for refugees and migrants, and accelerate asylum procedures, increase returns, and improve border protection. This EU support has also allowed an increased focus on the most vulnerable, including unaccompanied minors.

Currently, UAMs arriving to Greece stay in the islands' reception identification centres (RICs) for only a very short period of time – for Covid-19 quarantine and registration purposes – and are then immediately transferred to appropriate accommodation facilities on the mainland or on the islands.

**Emergency response mechanism**

The emergency response mechanism, based on Article 78(3) TFEU, was used for the first time in the context of the refugee crisis in 2015 to set up two temporary relocation schemes to alleviate the migratory pressure on Greece and Italy. The first scheme applied respectively to a total of 40,000 persons (from states with an average asylum recognition rate of above 75%) in need of international protection, who had arrived in either Italy (24,000) or Greece (16,000) after 15 April 2015. The second scheme applied to a further 120,000 people seeking international protection in Italy and Greece. Under the Council Decisions adopted to this end in 2015 and 2016, the Member States participating in this voluntary mechanism received a lump sum of €6,000 from the AMIF for each person relocated.

The ‘hotspots’ or RICs on the Greek islands were set up in 2015, as part of the Commission’s agenda on migration. The aim was to improve the coordination of EU agencies’ and national authorities’ efforts on the EU’s external borders and to deal with the initial reception, identification, registration and fingerprinting of asylum-seekers and migrants. They have however struggled in the past with serious overcrowding and a structural lack of places for unaccompanied children.

In addition to the above, in order to do away with the legal ‘protective custody’ of UAMs, in March 2020 the SSPUAM designed a national emergency response mechanism for UAMs living in precarious conditions. The mechanism is implemented in collaboration with the UN High Commissioner for Refugees (UNHCR), child protection agencies, and prosecution and police authorities. Its central axis is a 24-hour telephone line, managed by the SSPUAM since 5 April 2021.

**Implementation of the voluntary relocation scheme**

The current voluntary relocation scheme was a joint initiative of the Greek government and the European Commission, officially proposed by the European Commission in March 2020, in an attempt to provide immediate protection for those UAMs that were outside the Greek protection system. The voluntary relocation initiative followed previous requests from the Greek government to its counterparts to help relocate UAMs from the Greek islands to other EU Member States and commitments of support from the Commissioner for Home Affairs Ylva Johansson at the European Parliament’s January 2020 plenary session. Both highlighted the extremely difficult conditions for UAMs in the Greek hotspots.

The relocation of asylum-seekers from Italy and Greece was designed not only to relieve the pressure on these Member States but also to ensure prompt access to asylum procedures for the people relocated. At the same time, under the Council Decisions on relocation, Member States were to prioritise the relocation of vulnerable people, including unaccompanied children and other children in particularly vulnerable situations.

While all UAMs were eligible to participate in this scheme, priority was given to those based on the islands and in the RIC in Fylakio, Evros, UAMs who were homeless or in other precarious conditions, and those detained in the context of protective custody. The SSPUAM has prioritised locating all minors who had been reported as homeless, in order to enable the national system to keep accurate data on the number of UAMs based in Greece and plan their care plan according to their needs.
The SSPUAM coordinates two main population groups for the purpose of the initiative: UAMs, and children suffering from a chronic illness and living with their family members in RICs on the islands. The programme is implemented on the basis of the **standard operating procedures** (SOPs) developed in agreement with all stakeholders involved. The national authorities involved in the programme are the Hellenic Asylum Service, the Reception and Identification Service and the Hellenic Police. In addition, strategic partners include the EUAA, the International Organization for Migration (IOM), UNHCR, and the United Nations International Children’s Emergency Fund (UNICEF), as well as its collaborating bodies.

The participating European countries are Belgium, Bulgaria, France, Germany, Switzerland, Ireland, Italy, Croatia, Lithuania, Luxembourg, the Netherlands, Portugal and Finland. However, in parallel with the implementation of the programme on the agreed objectives, there is the possibility for additional countries to participate. Between April 2020 and the end of December 2021, a total of 1 179 UAMs were relocated to these countries, representing 76.7% of the official total commitment of 1 536 UAMs. The relocation of 357 UAMs is still pending.

Strengthening national capacity for long-term accommodation for UAMs

With the objective of guaranteeing accommodation for minors, the Greek authorities have increased the national accommodation capacity in terms of places in long-term accommodation facilities. According to official data, there are currently 2 242 places for long-term accommodation for minors, up from 1 376 places on 30 November 2019.

The Greek authorities have thus finally managed to create the 2 000 long-term places in accommodation for minors it had agreed with the European Commission back in 2017. Moreover, the SSPUAM – after securing the required funding – is in the process of arranging for an additional 300 long-term accommodation places. As shown by the needs analysis and based on the existing SSPUAM data, the national capacity for hosting UAMs is currently estimated at 2 500 places in long-term accommodation structures.

At European level, when arrivals exceed the national capacity of 2 500 places in long-term accommodation, the relocation mechanism should be activated, in order to offer immediate and effective protection for UAMs arriving in Greece.

**Framework for the protection of unaccompanied minors in the context of relocation**

**International framework**

Regardless of background, citizenship or immigration status, unaccompanied or separated children are all first and foremost children and have rights as such, as guaranteed by the [1989 UN Convention on the Rights of the Child](https://www.unicef.org/). Nearly universally **ratified**, including by all EU Member States, the CRC outlines universal standards for the care, treatment, survival, development, protection and participation of all children. In addition to the above, States Party are obliged to ensure the rights set out in the Convention for each child within their jurisdiction **without discrimination** of any kind, irrespective of the child’s status (Article 2), providing that the **best interests of the child shall be a primary consideration** in all actions concerning children. The CRC also establishes the **right of all children to life, survival and development**, while Article 10 provides for all children the **right to a family life**, including the obligation for governments to deal with applications by a child or his or her parents to enter or leave a country for the purpose of family reunification in a positive, humane and expeditious manner.

Every child has furthermore the right to **adequate living conditions** (Article 27), **health**, including **access to healthcare** (Article 24), and **education** (Article 28), as well as the right to be protected
from physical, mental and sexual violence and abuse, economic exploitation, and all other forms of exploitation prejudicial to any aspects of their welfare (Articles 19, 32, 34, 35, 36).

Furthermore, Article 37, prohibits the unlawful or arbitrary detention of children, stating explicitly that any arrest, detention or imprisonment of a child ‘shall be in conformity with the law and shall be used **only as a measure of last resort** and for the shortest appropriate period of time’ (Article 37(b)) and that ‘every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age’ (Article 37(c)).

Article 22 refers directly to unaccompanied refugee children, and **obliges states to take appropriate measures** to ensure that a child, whether accompanied or unaccompanied, who is 'seeking refugee status or who is considered a refugee' receives appropriate protection and humanitarian assistance. This entails an obligation for governments to help trace the parents or other members of the family of an unaccompanied minor with a view to family reunification.

In addition, **General Comment No 6**, adopted by the Committee on the Rights of the Child in 2005, contains a list of recommendations addressed to states on how to implement the obligations contained in Article 22 CRC in practice, and on how to interpret the whole of the CRC with respect to unaccompanied minors. The Committee’s recommendations include the appointment of a competent guardian (Article 18 CRC) as rapidly as possible, as a key procedural safeguard to ensure respect for the best interests of an unaccompanied or separated child, adding that such a child should only be referred to asylum or other procedures after the appointment of a guardian.

In affording proper treatment for UAMs or separated children, states must also fully uphold non-refoulement obligations deriving from international human rights, humanitarian and refugee law. Meanwhile, Article 20 CRC, in combination with Article 22 CRC, implies an obligation for states to ensure alternative care for unaccompanied children outside their country of origin, while in large-scale emergencies, interim care must be provided for the shortest time appropriate for UAMs.

The 1951 United Nations Convention Relating to the Status of Refugees (the **Refugee Convention**), additionally refers to the need to ensure the protection of children from the perspective of **family unity**. Other international human rights treaties, such as the United Nations International Covenant on Civil and Political Rights (**CCPR**) and the International Covenant on Economic, Social and Cultural Rights (**CESCR**) also defend the right to family life and/or contain specific child protection provisions. The United Nations **New York Declaration for Refugees and Migrants**, adopted in 2016, specifically addresses the particular vulnerability of unaccompanied and separated children, calling, inter alia, for UN Member States commit to stop using detention for the purposes of determining migration status.

At regional level, the **Council of Europe** (CoE) protects and promotes human rights, including children’s rights, on the basis of the CRC, the **European Convention on Human Rights** (**ECHR**), the **European Social Charter** (**ESC**), and other legal standards. The European Court of Human Rights (**ECtHR**)) has developed a considerable body of case law obliging member states, including all EU Member States, to take the vulnerability of minors into account, referring also to the particular vulnerability of unaccompanied minors in the migration context.

**EU legal and policy framework**

The EU is committed to promoting the protection of the rights of the child, and this principle is written into the Treaty on European Union (Article 3(5)). Children’s rights are also enshrined in the EU Charter of Fundamental Rights (notably in its Article 24). Although the EU itself is not party to the CRC, the CRC plays a crucial role in guiding **EU law on children’s rights**.

More specifically, since its reform in 2015, the **common European asylum system** (CEAS) also acknowledges the vulnerability of unaccompanied minors. The recast **Asylum Procedures Directive** provides for special procedural guarantees, including the obligation for Member States to take
measures to ensure that a representative represents and assists each UAM in asylum proceedings, with a view to securing an outcome that is in the best interests of the child and exercising legal capacity for the minor where necessary. The Qualification Directive reinforces the provision on the tracing of family members of unaccompanied minors who have been granted international protection. If return is identified as the child’s best solution, the Return Directive obliges Member States to make sure that ‘he or she will be returned to a member of his or her family, a nominated guardian or adequate reception facilities in the country of return’.

The recast Reception Conditions Directive provides for a dignified standard of living for all applicants, with access to basic healthcare and education and proper housing, and stipulates that unaccompanied minors must be provided with accommodation suitable for their age, taking into account gender and other specific reception needs. Unaccompanied minors must furthermore ‘be detained only in exceptional circumstances. All efforts shall be made to release the detained unaccompanied minor as soon as possible’ (Article 11(3)).

In principle, the Dublin Regulation, finally, prioritises family reunification for unaccompanied minors. The regulation, which establishes the criteria and mechanisms for determining the Member State responsible for examining an application for international protection, mandates that ‘respect for family life’, and unaccompanied minors’ ‘best interests’ must be a ‘primary consideration’ when applying the regulation (Recitals 13 and 14). Accordingly, if an unaccompanied child applies for asylum in one State, his or her application must be examined in the Member State where a parent, responsible adult, sibling, or relative who can take care of the child is legally present, provided this is in his or her ‘best interests’ (Article 8(1)(2)). For the Member State where the unaccompanied minor lodged an application for international protection, this entails an obligation to take appropriate action without delay to identify the family members, siblings or relatives of the unaccompanied minor on the territory of Member States, while protecting the best interests of the child.

On 23 September 2020, the Commission proposed a new pact on migration and asylum. It sets out improved and faster procedures throughout the EU’s asylum and migration system. In addition, the pact underlines the need to implement and reinforce EU law safeguards and protection standards for migrant children. The new rules aim to guarantee the best interests of the child in the decision-making procedure, while taking into account the children’s specific needs during screening. They strengthen family reunification procedures and foster a stronger solidarity mechanism for the relocation of unaccompanied children and applicants with vulnerabilities.

Under the new pact, families with children under 12 and unaccompanied children will be exempt from border procedures, and representatives for unaccompanied minors should be appointed quickly and be provided with sufficient resources. The new pact also introduces a strengthened role for the guardian in assessing the best interests of the child when it comes to possible transfers between Member States. It establishes a mechanism for assessing the best interests of the child in all circumstances involving the transfer of a child between EU Member States, and proposes a new form of transfers under what are referred to as return sponsorship procedures.

Furthermore, through the enlarged definition of ‘family members’, and the inclusion of siblings and families formed in transit countries, the new pact aims to strengthen family reunification procedures. Under the solidarity mechanism established by the Asylum and Migration Management Regulation (AMR), relocation of unaccompanied children is prioritised and Member States will receive a higher financial contribution from the EU budget.

Following the 2010-2014 action plan for unaccompanied minors, the 2017 Commission communication on the protection of children in migration more recently presented a series of coordinated actions to address the protection gaps and needs that children travelling with or without their families face once they reach the EU, spanning identification, reception, implementation of procedural safeguards, and establishment of durable solutions. On a more practical level, EASO has published guidance on reception conditions for unaccompanied children, as well as a report on asylum procedures for children.
Moreover, the new comprehensive EU strategy on the rights of the child (2021-2024) and the European Child Guarantee are major policy initiatives put forward by the European Commission in September 2021 to ensure the protection of the rights of all children, and to secure access to basic services for vulnerable children.

Greek legal and policy framework

At national level, under the 'no child alone' policy launched in November 2019, at a time when there were over 5 000 UAMs present in the country, the Greek government committed to establish more shelters, improve access to social services, and, in tandem with the Greek 'Guardianship Law (Law 4554/2018), provide staff to act as legal guardians for all UAMs. Since then, Greece has demonstrated significant improvement in the protection of UAMs, in particular in the provision of quality accommodation and care.

In coordination with the European Commission, Greece has put a relocation scheme in place, with the aim of supporting the relocation of unaccompanied children and teenagers, as well as other vulnerable refugees and families, from Greece to other participating Member States. At the same time, the Greek authorities announced the development of a comprehensive national strategy for the protection of unaccompanied minors. This plan was to be implemented through the establishment, in February 2020, of the Special Secretariat for the Protection of Unaccompanied Minors (SSPUAM) within the Ministry of Migration and Asylum, focusing on the implementation of the voluntary relocation scheme to other Member States and on a national action plan with immediate crisis responses, as well as short- and long-term goals and policies.

This was Greece's first coordinated, comprehensive and multiannual strategic plan for an integrated framework for the care and protection of UAMs in Greece. The national strategy has four main pillars of action: (a) improving the reception and hosting system and safeguarding UAMs' rights, (b) finding and implementing sustainable solutions for every child; (c) protecting UAMs from all forms of violence; and (d) modernising the collection of data concerning the population of UAMs.

Among the progressive measures was the legal abolition of 'protective custody' and the gradual phasing out of 'safe zones' and hotels as types of accommodation. The SSPUAM was responsible for drafting the legislative reform, which abolished the protective custody system. It was adopted by the Greek Parliament in December 2020. In addition to the above, the establishment of supported independent living apartments demonstrated a marked shift from institutional care and other more isolated and segregated settings to more appropriate, supported and empowering independent living.

For some 20 years, Greece had had a system of protective custody as a temporary solution for the protection of UAMs. For this, the country had been heavily criticised by the Council of Europe and other EU organisations, all alleging human rights violations. On 31 March 2020, all 331 unaccompanied minors under protective custody were finally transferred to long-term accommodation facilities.

At the same time, the National Emergency Response Mechanism (NERM) was launched – a protective mechanism for tracing, registering and providing emergency accommodation as an alternative care model for homeless UAMs, in close collaboration with UNHCR. The NERM addresses the needs of unaccompanied minors who are homeless, in precarious conditions, unregistered or unidentified. The tracing and referral mechanism is coordinated by the SSPUAM, in accordance with Law 4636/2019 (para. 3(60)), as amended and in force. It should be noted that the NERM includes a 24-hour helpline, also offering immediate protection for UAMs experiencing abuse or neglect and/or victims of trafficking and exploitation.
Stakeholder concerns

In response to the proposed relocation initiative for unaccompanied minors, 64 non-governmental organisations (NGOs) issued a joint statement on 4 March 2020 calling on EU Member States to commit to the emergency relocation of this group of particularly vulnerable children from the Greek islands to other European countries immediately, giving precedence to existing family links and the best interests of each child.

In their statement, the NGOs highlighted the precarious situation of unaccompanied children in the Greek hotspots, referring to a series of persistent protection gaps. These included unhygienic and unsafe conditions; deprivation of access to the most basic services, such as shelter, water, food, medical care and education; psychological distress; insufficient age assessment procedures; a lack of guardianship; and a case registration backlog, meaning that hundreds of unaccompanied children on the islands were in danger of missing their chance to apply for family reunification.

In the midst of the growing coronavirus pandemic, NGOs from all over Europe launched a second appeal on 24 March 2020, urging the EU institutions and the Greek government to evacuate the refugee camps on the Greek islands immediately in order to avert a ‘humanitarian catastrophe’, relocating first unaccompanied children, as planned, and the most vulnerable refugees. Médecins Sans Frontières (MSF) criticised in this context the health authorities’ lack of a credible emergency plan, stressing that this made the evacuation of the Greek islands all the more urgent, as ‘the overcrowded and horrific living conditions in the camps – or hotspots – on the Greek islands formed the perfect storm for a Covid-19 outbreak’.

With regard to the initiative of the European Commission and a group of Member States to relocate unaccompanied children from the Greek islands, the EU Agency for Fundamental Rights (FRA) urged Member States to agree on a simple and practical workflow as soon as possible, to avoid a lack of clarity and delays in the relocation process. To this end, FRA prepared a paper providing practical suggestions for the relocation of unaccompanied children from Greece, building on lessons learned from previous mandatory and voluntary relocation schemes.

The guidelines were followed by a full report on the topic, published in May 2020, exploring the challenges and good practices gathered during the implementation of relocation programmes. In a similar vein, UNICEF, UNHCR and IOM established Minimum Child Protection Standards for Identification of Unaccompanied Children to be Relocated from Greece to other countries in the European Union in line with international child rights legal frameworks, including the CRC, and the Refugee Convention, which set out the considerations according to which international protection needs should be established.

Other organisations, for example the Hungarian Helsinki Committee and Statewatch, have criticised the controversial practice in the Greek hotspots of placing unaccompanied minors in ‘protective custody’ in police stations and police detention facilities before being placed in an appropriate shelter. The practice has also been condemned by the ECtHR, which on several occasions granted interim measures under Rule 39 of the Rules of the Court, ordering Greece to release the unaccompanied children concerned from detention (‘protective custody’) and to transfer them to suitable accommodation. Further to that and already being under supervision for relevant decisions, the Greek state proceeded at the end of December 2020 to the deletion (Article 41 of Law 4760/2020) of Article 118 of the Presidential Decree 141/1991, regarding ‘protective custody’ of unaccompanied minors, which de facto amounts to detention.

On 12 July 2021, the European Committee of Social Rights (ECSR) published the decision on the merits in International Commission of Jurists (ICJ) and European Council for Refugees and Exiles (ECRE) v. Greece Complaint No. 173/2018. In their complaint, ICJ and ECRE alleged that there are serious systemic flaws in Greek law, policy and practice, depriving unaccompanied migrant children in Greece both on the mainland and on the Greek Aegean islands of Lesvos, Kos, Samos, Chios and
Leros, as well as unaccompanied migrant children on the Greek islands of the rights to housing, health, social and medical assistance, education, and social, legal and economic protection.

Other issues – both in the context of the Greek hotspots and in EU Member States in general – have been the lack of an EU-wide protocol or catalogue for assessing age based on medical imaging and the absence of a systematic and standardised approach to conducting best interests assessments based on the standards outlined in the Dublin III Regulation, in order to facilitate family reunification. Refugees International also warned in this regard of the implications of the new, more restrictive, Greek asylum law, adopted in November 2019.

After publishing a handbook on guardianship in 2014, FRA published a focus paper in 2019 on the fundamental rights considerations to take into account when dealing with the sensitive issue of the return of unaccompanied minors who are not entitled to stay. FRA also published in 2020 a report providing practical suggestions to the EU and to the Member States on the relocation of unaccompanied children from Greece. In 2021, FRA furthermore published a report consisting of a case study on the situation of unaccompanied children outside the child protection system and aiming to illustrate protection challenges that unaccompanied children face.

Furthermore, FRA has stressed that Greece has been among EU Member States that have implemented changes to core procedures related to the characteristics, appointment or role of guardians. In particular, the reform of the legal framework on the guardianship system has led to setting up systems where local prosecutors will be able to appoint guardians identified by EKKA, a national organisation under the Ministry of Labour and Social Affairs. Overall, important steps were taken in enhancing the independence of appointed guardians, as for instance with recent changes staff in accommodation centres were excluded from becoming guardians. At the same time, Law 4554/2018 established a registry of professional guardians to be implemented by EKKA and introduced a more accessible complaints system in its implementing acts.

Moreover, as Greece declared Turkey a ‘safe country’ to return migrants and refugees to, in June 2021, the International Rescue Committee (IRC) warned that 80% of children supported by IRC risk being denied asylum in Europe and being deported. At the same time, MSF denounced the fact that 456 children, including 32 unaccompanied minors, suffered from mental health problems in Lesbos between 2019 and 2020.

Recent legislative and policy changes in Greece have gradually led to more positive assessments. In fact, the IRC published a report regarding supported independent living and the protection of UAMs in Greece, which analyses the improved situation of UAMs in Greece, particularly in terms of protecting and supporting UAMs, including through the provision of increased models of accommodation. The report also highlights the main challenges that still need to be addressed and provides relevant recommendations, such as phasing out safe zones; free legal assistance for UAMs; and establishing an effective permanent guardianships system.

In December 2021, UNHCR also underlined the significant progress made in Greece towards addressing the plight of unaccompanied refugee children. At the same time, as the relocation programme remains an ad-hoc government scheme, which depends on pledges of other EU Member States, UNHCR has been advocating to offer additional relocation opportunities through multi-year programmes based on regular funding, which will continue to benefit the most vulnerable UAMs.

**Position of the European Parliament**

Since the 2015 migration crisis, Parliament has made a series of proposals to address shortcomings in the European asylum and migration policies, including the reform of the common asylum system, strengthening border security and supporting the integration of refugees.

With regard to the situation in the Mediterranean, Parliament has called consistently for a ‘holistic’ EU approach to migration, stressing the need for special protection for vulnerable groups – such as
Unaccompanied children and women and girls – relocation, mutual recognition of asylum decisions, operational support measures and a proactive interpretation of the current Dublin Regulation and the Temporary Protection Directive, as tools for internal solidarity.

The European Parliament has always prioritised unaccompanied children in its positions, as they are all children potentially in danger, and it has stressed that child protection, rather than migration policies, must be the leading principle for Member States and the EU when dealing with UAMs, thus respecting the core principle of the child’s best interests.

In recent years, Parliament has therefore called repeatedly on Member States to apply in full the specific provisions of the CEAS concerning UAMs, including access to legal assistance, guardianship, the right to family reunification, access to healthcare, accommodation and education, the right to be spoken to in a comprehensible language and to be interviewed by properly trained officials, reiterating that Member States should not detain children on the grounds that they are migrants.

Parliament also repeatedly expressed concerns about the worrying and deteriorating situation of unaccompanied minors in the Greek hotspots, calling consistently for solidarity and a fairer system for sharing responsibility. It backed the temporary relocation schemes proposed by the European Commission in 2015 to relieve the migration pressure on the frontline states, and welcomed, through its Committee on Civil Liberties, Justice and Home Affairs (LIBE), the 2015 Commission proposal for a permanent crisis relocation mechanism under the Dublin system, withdrawn in 2019 due to opposition in Council. In addition, Parliament worked on adjustments to the rules for the Asylum, Migration and Integration Fund (AMIF), for both the previous and the current framework, first to recommit remaining amounts for relocation and second to release more targeted funds for UAMs and emergency assistance, including voluntary relocation.

In this light, Parliament welcomed the announcement, at the January 2020 plenary session, by Commissioner Ylva Johansson, that financial and operational support for the Greek hotspots was to be stepped up, and expressed its support for the new relocation initiative for UAMs, in the context of the debate of 10 March 2020 on the migration situation at the Greek-Turkish border and the EU’s common response. Parliament adopted the related draft amending budget on 17 April 2020. It did not do so however without expressing concerns, and echoing, at the same time, the statement made by Parliament’s President, David Sassoli, following his visit to the Greek islands in early March 2020. In light of the pandemic, Members also called for the urgent evacuation of the Greek island camps as they threatened to become an even bigger fundamental rights and public health problem.

In a letter of 23 March 2020 to Commissioner for Crisis Management, Janez Lenarčič, Members of the LIBE committee called for the preventive evacuation of the overcrowded camps, and for continuation of the measures to ensure prompt relocation, in particular of children.

The LIBE committee discussed the situation in Lesbos following the fire that destroyed the Moria refugee camp, which left some 12 000 asylum-seekers, including 4 000 children and other vulnerable persons without shelter, during its meeting on 10 September 2020. On 26 October 2020, the LIBE committee again discussed the situation on the Greek islands following the destruction of the Moria refugee camp. On 30 November 2021, the LIBE committee presented its report on addressing situations of crisis and force majeure in the field of migration and asylum following the European Commission’s proposal of a new pact on asylum and migration of September 2020. The legislative package relating to the pact also included a proposal for dealing with crisis and force majeure in the field of migration and asylum, aimed at establishing a mechanism for dealing with mass influxes and irregular arrivals of third-country nationals in a Member State. Finally, in December 2020, Members of the LIBE committee called for a sustainable solidarity mechanism among EU Member States. Particular emphasis was placed on the need to protect children, and the need for UAMs to benefit from reinforced measures such as effective guardianship.
MAIN REFERENCES


ENDNOTES

1. The ‘protective custody’ of UAMs was legally abolished with the deletion of Article 118 of Presidential Decree 141/1991, and the introduction of a new provision with Article 43 of Law 4760/2020.


3. The national strategy was developed in October 2020, setting out the action plan for each activity designed and accomplished by the SSPUAM. It has been updated regularly. The national strategy was presented and sent in early 2021 to the Directorate General of Home Affairs of the European Commission. The policy document was published on 17 January 2022 and available until 1 February 2022 for the purposes of electronic public consultation.

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