

# **“WITHOUT PAPERS, THERE IS NO LIFE”**

**Legal barriers in access to protection for unaccompanied children in Greece**



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This policy paper was written by Agapi Chouzouraki and edited by Daniel Gorevan. All photos by Agapi Chouzouraki / Greek Council for Refugees.

The names of children have been changed for protection reasons. All websites, if not otherwise indicated, have been accessed between 25/01/2023 and 31/05/2023

# EXECUTIVE SUMMARY

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This report shows the considerable challenges confronting unaccompanied children seeking asylum in Greece. These challenges are due to the country's complicated asylum system and lack of a special residence permit for children. Not having proper documents makes children feel unsafe and insecure and is an infringement of their fundamental rights.

Most unaccompanied children rely on Asylum Seeker's Cards which must be renewed every one, three, or six months to give them the right to stay in Greece. However, many children struggle to obtain these documents because of a range of legal barriers, leading them to become "undocumented."

Multiple obstacles contribute to the difficulties unaccompanied children face in navigating towards a stable residence permit regime. These include non-uniform application of the age assessment procedure, a non-functioning guardianship system, denial of asylum claims, limited scope for administrative appeal following denial, and judicial appeals inaccessible to most children. The report also highlights disproportionate challenges for children of certain nationalities, such as Pakistan, making them more likely to end up without documents.

Misidentification of children as adults is a recurring problem. Contesting misidentification is a monumental task for a child, particularly without a guardian or age-appropriate free legal aid. The yet not applied in practice system for state-appointed guardians for lone children on the move further complicates matters.

Greece's application of the "safe third country" concept further jeopardises a child's asylum request. It requires that a child from a specific country justifies why they didn't seek asylum in the so-called "safe third country" they came from. This is a stressful and often impossible task for an ill-equipped unaccompanied child.

Children face substantial challenges when their asylum claims are denied, as they often don't have the support needed to articulate their fear of persecution.

Indicatively, in 2022, only 981 positive first-instance decisions were assigned to unaccompanied children out of 3,175 applications lodged, leaving the vast majority of children without documentation, given that the asylum procedure is – at the moment – the main way for an unaccompanied child to regularise the stay.

Children who are denied asylum are not automatically entitled to a residence permit, leaving them vulnerable to exploitation and abuse. This report stresses the need for a special residence permit for unaccompanied children, ensuring their full rights at least until they reach adulthood. This would help children in Greece transition to the recently established ten-year residence permit when they come of age.

Undocumented children live in a state of insecurity and fear of deportation. This fear is particularly sharp for children who are mistakenly registered as adults, exposing them to potential harm, or to being returned.

Many adolescents are eager to earn a living but are often at risk of becoming victims of exploitation and abuse. Without legal documentation, children can also accumulate debts from covering their basic needs, leaving them even more exposed to abuse and potential involvement in criminal activities.

While Greek laws guarantee free medical care for all vulnerable groups, undocumented children continue to grapple with challenges in accessing healthcare. The lack of necessary documentation, coupled with overwhelming demand, has put a strain on healthcare accessibility.

Their mental health bears the brunt of their circumstances. Displacement and traumatic experiences have led to a significant number of refugee children suffering from post-traumatic stress disorder. But they often go unreported and untreated, due to documentation issues and difficulty in assessing emergencies.

Educational access is another hurdle-filled area. Beyond legal stipulations, the lack of inclusive school practices and logistical difficulties lead to de facto segregation. The absence of a guardian to monitor their academic progress only worsens their educational plight.

Greek laws today fall short in offering adequate protection to these unaccompanied children.

The situation calls for immediate government intervention, with steps such as:

- issuing special residence permits for these children or simplifying legislation to grant humanitarian residence permits without passport, visa or other unattainable requirements
- applying in practice the national guardianship system for unaccompanied migrant children and
- providing free age-appropriate legal aid together with ensuring continuous training for judges, lawyers, and other professionals working in this area.

The European Union must:

- ensure Greece's compliance with EU acquis
- oversee the disbursement of EU funds and
- respond promptly to any infringements of the EU asylum acquis or fundamental rights.

A concerted, collaborative effort from Greek government authorities, civil society organisations, and EU institutions is urgently required to ease the burdens on unaccompanied children and lay the groundwork for their stable future.



# 1. INTRODUCTION

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*“Please tell them that without papers, there is no life and that we left everything to seek asylum here.”*

*Qasim\*, a 17-year-old boy from Pakistan, now living in Thessaloniki*

Greece’s complex asylum system and lack of a special residence permit for unaccompanied children on the move often leaves child refugees and migrants without basic civil documentation, undermining their basic rights, their safety and their security. This report, based on in-depth interviews with 12 unaccompanied children<sup>1</sup> and youth and an overview of the Greek legal asylum system, identifies key legal barriers children face in obtaining documents and the effects this has on their lives<sup>2</sup>.

Unaccompanied children typically use an Asylum Seeker’s Card to regularise their stay. On rare occasions, if they are survivors of serious crimes and have a passport, they might use a residence permit provided by the immigration legislation. Asylum Seeker’s Cards are time-limited and must be renewed every one, three or six months. Also, there are documents that temporarily prohibit return and prove the right to stay in

Greece. Such temporary judicial orders, issued after an annulment application<sup>3</sup>, are hard to obtain particularly due to the lack of age-appropriate free legal aid for minors. Given that temporary measures do not offer a stable protective framework, children without these documents are referred to as “children without documents” or “undocumented children” in this report.

Based upon the experience of the Greek Council for Refugees (GCR), there are substantial numbers of undocumented refugees in the country. In 2022 alone, GCR provided legal aid to at least 1,912 people including 149 children, with a fifth of these cases focusing on the legalisation of their stay. The true scale of the problem remains largely hidden, however, as by definition there are no official statistics for undocumented people in the country.

# 2. LEGAL BARRIERS IN ACCESS TO PROTECTION

## 2.1. ACCESS TO DOCUMENTS THROUGH THE ASYLUM PROCEDURE

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*“When I didn’t have papers, and was waiting to get registered, it was like a prison. I didn’t have the possibility to leave the camp, go to the market, see where we are. I spent all my time on my mobile phone.”*

*Mahir\*, a 14-year-old boy from Iraq, now living in Alexandria camp*

Numerous barriers in the Greek asylum system cause unaccompanied children to become undocumented.

In 2022 alone, 9,633 asylum applications in Greece were filed by children - more than a quarter of the total filed - 3,175 of which were unaccompanied children.<sup>4</sup> In May 2023, almost half of unaccompanied children are from Afghanistan and Pakistan with others coming from countries such as Syria, Somalia and Egypt.<sup>5</sup>

Unaccompanied children who are identified by police are commonly detained for a short period<sup>6</sup> and then referred to the National Emergency Response Mechanism (NERM) to facilitate their registration with the Asylum Service. Those who reach one of Greece’s eight Reception and Identification Centres (RICs)<sup>7</sup> without police interception are directly registered by the Asylum Service, aided by the RIC.<sup>8</sup>



### **2.1.1 NON-UNIFORM APPLICATION OF THE AGE ASSESSMENT PROCEDURE**

*“I was in quarantine area when I arrived, they told me not to leave, I had no documents and I didn’t know what to do.”*

*Naadir\*, a 17-year-old boy from Afghanistan, now living in Lesvos, registered as adult*

Lone children on the move often go through an age assessment procedure that frequently misidentifies children as adults.<sup>9</sup> Children incorrectly determined to be adults must challenge this result within short legal deadlines using specific home country documents.<sup>10</sup> This is a near-impossible task for a displaced unaccompanied child without a guardian or free legal aid.

Children misidentified as adults must first pre-register online at the Asylum Service, followed by an in-person registration. However, the online platform is plagued by technical problems, making the process to pre-register long and difficult.<sup>11</sup>

Even when successfully pre-registered online, the Asylum Service does not recognise the appointment to register as valid proof of the intent to claim asylum. Thus applicants are still treated as undocumented and can be detained in order to be returned. Despite the GCR’s consistent litigation on this issue and multiple court decisions against this practice, it persists.<sup>12</sup>

### **2.1.2 LACK OF A FUNCTIONING GUARDIANSHIP SYSTEM**

*“I don’t know exactly how long I am in Heraklion, my sister says 4 months; she has papers, I don’t, we wait.”*

*Rasha, a 10-year-old girl from Syria, now living in Heraklion, Crete, unregistered for months due to the lack of a guardian*

Children under 15 years old must be registered by a legal representative<sup>13</sup> acting on their behalf.<sup>14</sup> Regrettably, Greece has no state-appointed guardians for lone children on the move yet, despite multiple legislative efforts.<sup>15</sup> Until the reformed guardianship law is operational (which is expected during this autumn), local Public Prosecutors act as temporary guardians of all unaccompanied children in their area of competence. However, usually they never even meet the children they are responsible for. In some cases, employees of the Reception and Identification Centres (RICs) where the child is staying are appointed as their temporary legal representative.<sup>16</sup>

### **2.1.3 CHILDREN’S ASYLUM CLAIMS DEEMED INADMISSIBLE**

*“I have never been outside the camp, I am afraid that if I leave the camp, the police might ask for my documents and will deport me back to Türkiye and then to Afghanistan. And then I will have no choice but to commit suicide.”*

*Hakim\*, a 17-year-old boy from Afghanistan, now living in Lesvos CCAC, unregistered*

Unaccompanied children that are registered as asylum seekers risk becoming undocumented because of the Greek government’s application of the “safe third country” concept.

A child of a certain nationality<sup>17</sup> arriving from what the government deems a “safe third country”<sup>18</sup> must convincingly explain to authorities why they did not apply for asylum in that country (usually Türkiye). This is a stressful situation for children: failure to make a compelling case can lead to their claim being declared inadmissible. Consequently the claim won’t be examined on its merits<sup>19</sup> and their Asylum Seeker’s Card will be invalidated. Given the lack of guardians and age-appropriate free legal aid, unaccompanied children are inadequately equipped to challenge such negative outcomes alone.

## 2.1.4 DENIAL OF ASYLUM CLAIMS

*“I tried to enter Greece more than 3 – 4 times. The last time, they stripped me off my clothes and when I managed to re-enter, I was only with a t-shirt and so cold. Thank God an old lady saw me at the bus stop and gave me a thick jumper.”*

*Qasim\*, a 17-year-old boy from Pakistan, now living in Thessaloniki*

When a child’s application for asylum is considered admissible, they must go through an interview process. Children are not provided with the assistance they need to articulate why they have the fear of persecution<sup>20</sup> needed to make an international protection claim.

In 2022, just 981 positive decisions of first instance were assigned to unaccompanied children.<sup>21</sup> In the same year, 3,175 applications for asylum were lodged by unaccompanied children.<sup>22</sup> Even after taking into account that some decisions spill over from previous years, we can assume that around two thirds of unaccompanied children are rejected by the asylum procedure and thus remain in the country without documents.

Until a final decision is issued, children must regularly renew their Asylum Seekers Card<sup>23</sup>. Failure to do so for reasons as simple as attending school or falling ill<sup>24</sup> can lead to case cessation and undocumented status.

*“I asked for help to get papers, but no one would help me. I used to have papers, but they took them back, I don’t know why. I’m already 6-7 years in Greece, if I had papers I could get Greek identity, now I will have to wait 7 more years.”*

*Anna\*, a 17-year-old girl from Pakistan, now living in Athens, who used to be wrongly registered as adult<sup>25</sup>*

As per FRA findings, children of certain nationalities, notably Pakistan, face disproportionate challenges in the Greek asylum process leaving them more vulnerable to being left without documents than others.<sup>26</sup>

## 2.1.5 LIMITED SCOPE FOR ADMINISTRATIVE APPEAL FOLLOWING DENIAL

Post-denial, children may appeal leading to a quasi-judicial case review at a second instance in front of the Appeals’ Committee. However, there are multiple barriers to success including:

1. deadlines that differ depending on the procedure applicable<sup>27</sup>
2. servicing rules that allow a *fictio juris* delivery of an asylum decision, leaving applicants uninformed that they been rejected in order to exercise their right to appeal,
3. legal technicalities (e.g. physical presence of the applicants in Athens where the Committees lie),
4. the need to provide legal argumentation to sustain the claim<sup>28</sup>,
5. children are not necessarily heard by the Committees’ members during the examination.

Free legal aid at second instance is mandatory upon request under national and EU law. However, this legal aid is often unsuitable and not age-appropriate for an unaccompanied child. In addition, only two hours of free language interpretation are guaranteed by the State.<sup>29</sup> The extremely low percentage of cases accepted by the Appeals’ Committee<sup>30</sup> underscores the necessity for age-appropriate free legal counselling and psychosocial support throughout the proceeding.





## **2.1.6 JUDICIAL APPEAL: INACCESSIBLE TO MOST CHILDREN**

A child has just 30 days<sup>31</sup> to appeal a negative asylum decision. The court procedure, heavily reliant on written evidence, does not require a hearing. A temporary judicial order can protect the child's right to stay until the court's decision.

State-run free legal aid<sup>32</sup> is ill suited for child applicants<sup>33</sup>.

Children must grapple with a complex Greek-only written procedure and submit documents such as tax documents, solemn declarations, and proof of residence.

Most importantly, the lawyers appointed are not trained in international protection claims of children, and the deadline to appeal is not extended until the legal aid lawyer is appointed, if a lawyer is appointed at all.<sup>34</sup>

Most court decisions are negative<sup>35</sup>, leaving children with no legal right to remain.

## 2.2. LIMITED ROUTES TO RESIDENCY OUTSIDE THE ASYLUM PROCESS

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Often, children denied international protection cannot return to their country of origin.<sup>36</sup> Yet a negative decision does not entitle a child to a residence permit. They are left vulnerable to risks including exploitation and abuse. Additionally, adolescents that want to work cannot be legally employed, nor can they legally travel outside Greece.

Until 2020, children denied asylum could request a humanitarian residence permit<sup>37</sup>, a route now only available to victims of severe crimes (e.g. victims of trafficking<sup>38</sup>, domestic violence, labour exploitation<sup>39</sup>). This is a daunting process, requiring substantial proof of crime. It is practically inaccessible to unaccompanied children without age-appropriate free legal aid.

Unaccompanied children who are transitioning to adulthood face continued challenges. Over 90% of the estimated 4,028 unaccompanied children living in Greece in 2020 are older than 14.<sup>40</sup> By 1 January 2023, around 1,000 unaccompanied children in Greece were expected to reach adulthood.<sup>41</sup>

Greece's new Migration Code allows<sup>42</sup> regularisation of ex-UASC status with a ten-year residence permit conditional on three years of schooling before turning 23 years old and on healthcare coverage, the latter being problematic if the person is undocumented.

**Almost half of EU Member States and Norway<sup>74</sup> provide a residence permit solely linked to the minor status, a policy that Greece has yet to adopt.<sup>75</sup>**

Importantly, in Italy, a **child does not need a passport for a residence permit**, contrary to Greece's standard requirement for non-asylum-related permits. Submitting a passport should not be mandatory to grant this special residence permit for unaccompanied children. Children on the move do not possess one for multiple reasons (such as loss on the journey, confiscation by smugglers, or never owning one).

# 3. IMPACTS OF LIVING UNDOCUMENTED ON THE LIVES OF CHILDREN

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*“I lost my family in the war and I came to Greece where there is peace - here I don’t feel that someone will come to kill me, but I am not calm because I still don’t have papers and I don’t know where fate will take me.”*

*Ahzar\*, a 17-year-old boy from Syria, now living in Thessaloniki*

The limited access to residency outside the Greek asylum system leaves many children, including unaccompanied children, without the necessary documents allowing them to stay in Greece. This profoundly impacts on their lives.

## 3.1. IRREGULARITY OF STAY ADDS VULNERABILITY

*“I was deported to Türkiye 25 days ago and I came back. They tore up my paper, they didn’t even see it”, says Faizan\*, a boy from Pakistan who just turned 18 and is now living unregistered in Thessaloniki. “I’m scared without papers because the police can catch me and send me back to Türkiye again”, he says. Before being deported, he had been seven months in Greece and he was trying to book an appointment with the Asylum Service. “Now I’m 18 years old. The police stopped me yesterday and handcuffed me, I told them in Greek that I want asylum and they let me go”, the boy said, “but I’m afraid they will deport me, they’ve done it to me twice. Without papers you can’t go out, you can’t work, you can’t do anything”.*

Insecurity and fear of being apprehended and sent back is prominent in almost all children interviewed. Many avoid leaving their accommodation unless absolutely necessary. Unless they challenge incorrect registration, unaccompanied children registered as adults face specific risks such as being detained with adults, and potential return.

Girls, often without any documents,<sup>43</sup> have greater difficulty proving their age.

Children continue their perilous journey due to the lack of legal documentation and absence of educational prospects in their first countries of asylum. However, onward movement to other EU countries exposes children to risks including violence and exploitation by people smugglers.<sup>44</sup>

Although there is no official data, a notable rise in the number of cases of child sexual exploitation and abuse in Greece emerged after the pandemic.<sup>45</sup> Almost half of the undocumented Pakistani children interviewed for a FRA relevant report reveal being victims of sexual harassment.<sup>46</sup>

## 3.2. INCREASED RISK OF EXPLOITATION

*“They put me in a brothel, I didn’t know what was there. That’s where I met my boyfriend, he told me ‘this isn’t right, you have to get a good job, I’ll take care of you like a man takes care of a woman’.”*

*Anna\*, a 17-year-old girl from Pakistan, now living in Athens*

Almost all the adolescents interviewed wanted to work. However, their irregular status makes them vulnerable to exploitation. Adults can easily exploit undocumented children that need a job or a place to live.

Child labour is a general problem in Greece.<sup>47</sup> Research shows that lack of workplace contracts, underpayment, and workplace abuse can harm physical health and lead to depression.<sup>48</sup> Children interviewed for this report say it's impossible to work legally without residency documents. They often resort to invisible labour, mostly in family households.<sup>49</sup> Another issue can be pressure from home to work: unaccompanied children have reported that they left shelters because they had to work.<sup>50</sup>

*“When I came I was 11 years old, I arrived alone, entered from the north and I went straight to Athens; I went to my uncle in hope for some care, but he was not good, he made me work illegally. I didn't know at all what is legal and what is illegal. When I got caught by the police that's when I found out it's illegal to work so young.”*

*Anna\*, a 17-year-old, girl from Pakistan, now living in Athens*

In 2021, 22.3% of presumed victims of Trafficking in Human Beings (THB) were children. In 2020 it was 44.3%. The link between THB and youth employment in the shadow market (e.g. in the agricultural sector)<sup>51</sup> is not to be ignored. Despite apparent underreporting, the scale of undocumented workers (an estimated 10,000)<sup>52</sup> implies significant exploitation.

Field research shows that undocumented youngsters accumulate debts to pay for basic necessities<sup>53</sup> such as food and shelter making them vulnerable to exploitative situations<sup>54</sup> including involvement in crime.<sup>55</sup>

*“I paid 3,500 euros to come from Turkey to Thessaloniki via Evros; they left me on a road and 10 days later I arrived in Thessaloniki. I have no papers, I have no appointment at the Asylum Service, I've been trying for 3 months already. Now where I live, I owe them 800 euros for food and shelter, we live together 5 people. If I had papers I could have a job, I would rent a house.”*

*Qasim\*, a 17-year-old boy from Pakistan, now living in Thessaloniki, unregistered*

### **3.3. ACCESS TO HEALTH CARE**

*“I have a kidney medical issue, a rock, but it's not easy to go the doctor; they didn't have interpreter, every time I went, they told me to leave and come back when I will have papers. Now I have papers and every time I have an appointment. I have to wait 5-6 hours to see IF a doctor can see me, if they have an interpreter.”*

*Abas\*, a 17-year-old boy from Afghanistan, now living in Diavata camp, registered as adult*

Under Greek law free medical care is provided in public hospitals to all vulnerable people - including children - regardless of their status.<sup>56</sup> The reality often falls short due to overwhelming demand, and care is provided only in cases of medical emergency. Also, children who lack documents face multiple challenges in accessing health care as they need to prove they are a minor. Many cannot access free medication as they don't have PAAYPA or an AMKA (Greece's social security number).<sup>57</sup>

*“When I was a small child, my uncle did not take me to the doctor, I was going alone. After I left my uncle, I was 13 years old, I needed some [medical] examination, but I didn’t have papers So, I used the AMKA of another person to do the examination, what else could I do? Nobody would help me.”*

*Anna\*, a 17-year-old girl from Pakistan, now living in Athens*

Children who are rejected by the asylum procedure can be exposed to serious health risks due to deactivated temporary social security number (PAAYPE).<sup>58</sup> Structural changes like the compulsory e-prescription system, the documented lack of doctors and nurses,<sup>59</sup> and limited intercultural mediators in public hospitals<sup>60</sup> make access to health even more challenging.

*“It’s been over a month I have scabies and nobody has examined me, I scratch my whole body the whole night, I can’t sleep, but the doctors told me to go again next week.”*

*Hakim\*, a 17-year-old boy from Afghanistan, now living in Lesvos CCAC, unregistered*

### **3.4. MENTAL HEALTH AND PSYCHOSOCIAL IMPACTS**

*“We were 50 in the boat, me and my friend were the only ones to survive from the shipwreck. Everyone else is dead. I still have nightmares at night.”*

*Abas\*, a 17-year-old boy from Afghanistan, now living in Diavata camp, registered as adult*

Up to 54% of refugee children met diagnostic criteria for posttraumatic stress disorder (PTSD).<sup>61</sup> Being alone and displaced, these children may suffer from trauma or specific physical or mental health needs.<sup>62</sup>

*“I try to forget the pain inside me but I still feel I’m in danger because I don’t have my papers yet.”*

*Ahzar\*, a 17-year-old boy from Syria, now living in Thessaloniki*

In children’s own words, they cited feelings of constant fear and loneliness as the second-highest risk to their wellbeing after access to food and shelter.<sup>63</sup> The causes of their flight, such as violence, often contribute to mental health issues. Barriers such as lack of documentation, problems in disclosing mental health problems (e.g. due to the lack of interpretation) and the difficulty to assess if a mental health issue is an “emergency” complicate mental health

treatment in Greece.<sup>64</sup> These medical issues often go unreported and untreated.

### **3.5. EDUCATION**

*“If I had papers, I would go to school - as long as I don’t have papers. I don’t know what to do with my life.”*

*Faizan\*, a 18-year-old boy from Pakistan, living in Thessaloniki, unregistered*

Undocumented children without social security numbers (AMKA or PAAYPE), may come across difficulties regarding access to education such as inaccessibility of the vaccinations required for school enrolment.<sup>65</sup> Greek law stipulates that a child with or without documentation should be enrolled into the Greek schooling system.<sup>66</sup>

Nonetheless, reports by GCR and Save the Children International (SCI)<sup>67</sup> show that lack of planning of reception classes, transportation issues, and insufficient inclusive school practices create a de facto school segregation.<sup>68</sup> In 2022, around 17,281 refugee and asylum-seeking children aged 4-15 reside in Greece. Despite 95% of them being enrolled only 75% (12,285 students) attend school.<sup>69</sup>

*“I wanted to go to school, but I only went for one week- my uncle wouldn’t let me, he put me to work.”*

*Anna\*, a 17-year-old girl from Pakistan, now living in Athens*

The absence of a guardian who could monitor their academic progress and ease complexities arising from not having documents (e.g. participating in excursions, state exams), creates an additional barrier to schooling. A special residence permit for unaccompanied children, lasting until adulthood, would ensure their transition to the newly institutionalised ten-year residence permit when they come of age.

*“Some children had official papers and I looked at them and said I wish I could get papers one day, too.”*

*Mahir\*, a 14-year-old boy from Iraq, now living in Alexandreia camp*

## CONCLUSION AND RECOMMENDATIONS

The existing laws in Greece do not offer sufficient protection for unaccompanied children who are far from their families and home countries. The asylum procedure is unsuitable for many of them.

To resolve this, the Greek government needs to deliver a special residence permit for all unaccompanied children or simplify existing legislation, adapting it to the reality of children on the move.

This permit, issued independently from the asylum procedure and serving the child’s best interest, is the only way to provide lone children on the move with a safe and stable framework as they grow into adulthood.

Such a permit would remove the *“constant fear [that] you are illegal”* as Qasim said. It would also align Greece with the other EU countries and Norway,<sup>70</sup> where unaccompanied children are granted a permit linked to their status as children, lone and on the move.

An intermediate solution that does not need the institutionalisation of a new residence permit is a child-friendly adaptation of the existing law: article 19A of law 4251/2016<sup>71</sup> allows for humanitarian-based permits for minors hosted in boarding houses or in need of special protective measures. There are no objective grounds to differentiate these children from unaccompanied children hosted in shelters, but this generally happens.<sup>72</sup>

Despite requests from civil society organisations during recent consultations<sup>73</sup> on the revised Greek Migration Code, the final bill voted in Parliament did not explicitly include the humanitarian protection of unaccompanied children in shelters. However, the government can still intervene to exempt children from the obligation to present a passport and a visa and to provide free age-appropriate legal aid. This would help reduce the risks to unaccompanied children.

# 4. RECOMMENDATIONS

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## THE GREEK GOVERNMENT SHOULD:

1. Grant special residence permits to all migrant and asylum-seeking children that extends for a few years after turning 18, to make transition to adulthood smoother and their schooling uninterrupted.
2. Amend the existing procedure to grant children a humanitarian residence permit on the basis of art.134 of the new Migration Code, removing the obligation to provide a passport, a visa or other documents that might not be in possession of a child on the move.
3. Immediately apply a uniform national guardianship system for unaccompanied migrant children as prescribed by law.
4. Ensure continuous child rights training and asylum claims training for specialised judges, lawyers and professionals working with children.
5. Provide age-appropriate free legal aid for all unaccompanied children, to help children with:
  - Supporting an international protection claim and follow-up throughout the asylum procedure until an annulment application in front of the courts and subsequent application if needed
  - Age assessment doubts and disputes
  - Information, counselling and file preparation to apply for humanitarian status
  - Problems with the law (e.g. survival crimes, minor thefts)
6. Train labour inspectorates and other monitoring bodies in the identification and swift referral of children on the move to child protection services.

## THE EUROPEAN UNION SHOULD:

1. Continue to monitor Greece policies' compliance with EU acquis, especially regarding access to legal representation and guardianship, reception conditions, and access to child tailored information. Deploy appropriate procedures to address any violation.
2. Oversee disbursement of EU funds to Greece, including on emergency basis, ensuring they don't support policies that are not in line with the EU acquis.
3. Act swiftly on violations of the EU asylum acquis or fundamental rights, for example by suspending, fully or partially, operations and support by European agencies, and suspending the disbursement of funding.

# ENDNOTES

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- 1 The term unaccompanied, in this report includes also separated children on the move (UASC)
- 2 Children and youth interviewed were between the ages of 10 and 18, including 9 boys, 2 girls and 1 transgender child identifying as female
- 3 See below 2.1
- 4 46 of which (1,45%) were subsequent applications, see MoMA's statistics, December 2022, Appendix A, p. 7
- 5 Situation Update, UAM in Greece, May 2023
- 6 At the time of writing the detention time is 1-2 days until referred to NERM, but this is subject to the influx of unaccompanied children at the given time, as usually the Greek sheltering system for UASC runs on maximum capacity
- 7 Currently there are five RICs operating on the islands (Lesvos, Chios, Samos, Leros, Kos), two RICs operating in mainland Greece (one in central Greece at Malakassa, Attika and one in the north at Diavata, Thessaloniki, Central Macedonia) and one RIC in Evros area (Fylakio).
- 8 See MoMA's Circular no 504912/2022 for Malakassa (Attika) and Diavata (Central Macedonia)
- 9 See recent European Council of Exiles and Refugees (ECRE) Legal Note: Age Assessment in Europe: Applying European and international Legal Standards at all Stages of Age Assessment Procedures, December 2022 and Fenix Humanitarian Legal Aid report A Child's Best Interests? Rights Violations in the Absence of Presumption of Minority, October 2022, as well as the Greek Ombudsperson inquiry to the MoMA of 19 December 2022 regarding multiple and chronic issues of the age assessment procedure (available upon request). See also, Asylum Information Database (AIDA) country report: Greece, p. 113, accessed 30 June 2023
- 10 In just 15 days, children are required to present an original birth certificate or other identification document, officially translated in Greek, see Joint Ministerial Decision 9889/2020, Gov. Gazette 3390/B/13-8-2020
- 11 The problems of the online platform functionality have been flagged to the Asylum Service administration by members of the Legal Aid Sub-working Group with a letter on 22 November 2022. See also, Refugee Support Aegean (RSA) and Pro Asyl, Refugees without identification documents. The Greek Asylum Service must urgently resolve technical problems, October 2022. At the time of writing, the Asylum Service's "Alkyone" system was offline since 5 May 2023 due to "technical reasons" (upgrade/maintenance). A month later, the upgrade was not completed and the old version of the system was re-launched, leaving the Asylum Service's procedures with multiple problems, see the Press Release of the Association of the Employees of Asylum Service and Appeals Committees, 9 June 2023 (in Greek, available upon request)
- 12 GCR, 21 March 2023 relevant Press Release. It's interesting to note that the Legal Counsel of the State filed an application to revoke the first of the said Court decisions, a legal possibility that has been exercised in extremely rare cases so far; the said application has been dismissed by the Court.
- 13 At the moment of writing, state-run guardianship of unaccompanied children is still non-existent in Greece, as law 4960/2022 that was set up to fill in the chronic protection gap is not yet applied in practice
- 14 Art. 69 (13) law 4939/2022
- 15 In July 2022, legislation 4960/2022 was put in force in order to smooth out the deficiencies of the previous system (dating back to 2018)
- 16 Information shared by a Child Rights Advocacy Network (CRAN) member on 10 April 2023
- 17 Children of five nationalities: Afghanistan, Syria, Somalia, Bangladesh and Pakistan. According to relevant statistics, the vast majority of unaccompanied children in Greece come from these countries. See MD 427/2021 (GG B 2425 2021)
- 18 A catalogue of the 17 countries that are considered "safe" by the Asylum Service is published and updated by MoMA, the last being the one of February 2022, which, surprisingly, contains even Ukraine.
- 19 Application of Dublin Regulation 604/2013 is another reason for inadmissibility, but is not examined here, as the child remains with the asylum system (family reunification procedure)
- 20 UN High Commissioner for Refugees (UNHCR), Guidelines on International Protection No. 8: Child Asylum Claims under Articles 1(A)2 and 1(F) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees, 22 December 2009, HCR/GIP/09/08, p. 3
- 21 See MoMA's statistics, December 2022, Appendix A, p. 14- there's no number of the 2nd instance outcomes regarding UASC, nor the rejection decisions concerning the said group
- 22 It is noted that the overall number of UASC cases being rejected is not publically available
- 23 This process is held only via applicant's physical presence at the competent Asylum Office every 1, 3 or 6 months



24 Art. 75 (10), law 4939/2022

25 Anna was wrongfully registered as an adult by the Asylum Service, and her request for asylum was rejected. GCR helped Anna to file a subsequent asylum application and correct her information. Anna's testimony was given while she was witing to know if the Asylum Service would accept to review her case. More recently, Anna was informed about the fact that her application was accepted, and therefore she is now register as a child and her request will be re-examined.

26 European Union Fundamental Rights Agency, Unaccompanied children outside the child protection system – Case study: Pakistani children in Greece, December 2021, p. 69

27 Border (express) procedure or normal. When in border procedure of art. 95 law 4939/2022, the asylum decision of first instance is issued in just 7 days after the asylum interview. Unaccompanied children are not exempt from this procedure (par.4).

28 It is noted that the body is exclusively constituted by court judges

29 Art.1 (6) of the relavant MD. Given that the child hasn't met the lawyer before, it's evident that the clause is not designed to cover the needs of a lone child on the move.

30 According to MoMA's statistics, in 2022, positive decisions amounted to just 6.24% of the total filed

31 Although the general deadline to appeal is 60 days (art. 46 of presidential decree 18/1989), foreigners for issues regarding their residence permit have to appeal in front of the competent court in just 30 days

32 Of law 3226/2004 and law 4274/2014 art.31 . See also art. 37 of presidential decree 18/1989

33 See the Athens Bar Association Press Release of 14 November 2022 on lawyers' abstention of duties due to the 3-years payment arrears

34 A Court's approving act is necessary in order to benefit from state's free legal aid.

35 For example, according to MoMA statistical data in 2022 out of 1,247 decisions issued by Administrative courts, just 46 of them were positive, see p. 17. Indicative court cases of unaccompanied children are included in the 2nd volume of Arsis NGO (in Greek)

36 It's noted, however, that according to the relevant statistics, in 2022, 134 unaccompanied children were returned in their home countries. The majority of these children is estimated that have been returned to Albania upon a bilateral agreement between the two countries

37 Papadopoulos, Vas., GCR Board Director, available at <http://bit.ly/3YSxmIZ> (in Greek). According to this abolished provision, if the Appeals' Committee found no grounds to grant the child with an international protection regime, could "refer" the child to the competent Ministry so that the latter granted the child with a residence permit on humanitarian grounds.

38 According to GRETA's 2nd Evaluation Round, Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Greece, March 2023, just one (1) residence permit for survivors of THB was issued in 2020 and none (0) in 2021. The average per year for the last three years before that (2017-2019) was 18 residence permits and it'

39 Art. 19A of law 4251/2014 (Immigration and Social Integration Code). This residence permit is valid for one or two years, renewable

40 See GCR, Oxfam and other partners' report Teach us for what is coming: The transition into adulthood of foreign unaccompanied minors in Europe: case studies from France, Greece, Ireland, Italy, and the Netherlands, June 2021

41 See CRAN event "Children without documents-children at risk. Till when?" of July 2022

42 CRAN has been consistently voicing this need in Greece, see Joint Press Statement above and joint comments uploaded at the Migration Code Public Consultation site regarding art. 162 (now 161). In the Public Consultation the art. 162 provisioned paradoxical perquisites such as already having a residence permit and having being admitted in a vocational school or university

43 Various reasons account for this, from identify proof as a security risk per se to fear of identity papers being taken away from the police authorities, see Save the Children International, Girls on the Move in the Balkans, June 2020, p. 30

44 Children on the Move: background paper, High Commissioner's Dialogue on Protection Challenges, International Journal of Refugee Law, Volume 29, Issue 2, June 2017, pp. 356–381, par. 16

45 See UNICEF Greece Country Office, Deputy Representative's Statement and In and Kathimerini newspapers on this issue. See also Committee on the Rights of the Child, Concluding observations on the combined fourth to sixth periodic reports of Greece, CRC/C/GRC/CO/4-6, June 2022, par. 26

46 Most often, older men of Greek and Pakistani origin tried to touch them or offered money or clothes or mobile phones, in exchange for sexual favours, see FRA, op.c., p.58

47 Which has risen to a 94% in 2022, see more TANEА, The "dark world" of child labour, 5 December 2022 (in Greek)

48 Drydakіs, N. Adverse working conditions and immigrants' physical health and depression outcomes: a longitudinal study in Greece. *Int.Arch. Occup. Environ. Health* 95, 539–556 (2022). <https://doi.org/10.1007/s00420-021-01757-0>

49 Save the Children International in-depth analysis, September 2022, Wherever we go, Someone does us Harm: Violence against refugee and migrant children arriving in Europe through the Balkans , p.55

50 European Center for Research in Human Rights and Humanitarian Action (EKEKDAAD) of the Panteion University of Social and Political Science, Study on homeless unaccompanied children in Greece, October 2022, p.17

51 See case of Chowdhury and others v. Greece (also known as the “Manolada case”) whose applicants were represented by GCR

52 Many of whom are land workers from Bangladesh and Pakistan, domestic workers, and persons employed in the construction industry and tourism, see GRETA's 2<sup>nd</sup> Evaluation Round, Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Greece, March 2023

53 Unaccompanied children are normally hosted through the NERM in shelters (ranging from emergency to semi-independent living arrangements), but there is still a significant number of UASC that remain outside this mechanism, living in precarious conditions or homeless. According to the information shared by the SSPUAM in the Child Protection Working group, in January 2023 there were approximately 600 unaccompanied children outside the NERM currently in Greece. Different reasons accounted for this, such as absconding from a shelter, lack of trust to this system and more.

54 At the time of writing, the minimum full time wage is 611 euros net. According to law 4251/2014 art. 29, a landlord that would rent a house to an undocumented migrant would face a fine up to 3,000 euros. The European Commission against Racism and Intolerance (ECRI) by the Council of Europe by its recent report on Greece (2022), strongly encourages the Greek authorities to amend the relevant legislation, in order to reduce the risk of exploitative or abusive situations, see p. 11

55 See National Strategy for the protection of Unaccompanied Minors, SSPUAM, January 2022, p. 97

56 Art. 33 of law 4368/2016, par. 2c, sub par. i mentions specifically all children up to 18 years old

57 PAAYA is a temporary social security number for asylum seekers. See also MSF statement about access to healthcare for asylum seekers and undocumented people in Greece and Greece denies health care to severely sick refugee children | Doctors Without Borders - USA. Also, see PICUM, The COVID-19 vaccines and undocumented migrants in Greece . In 2021 the issue of vaccination of undocumented migrants was finally settled with JMD 5160/2021 and 70413/2021

58 Information shared during the meeting of the Protection Sub-Working Group of Lesvos, 6 April 2023 and also during the meeting of Child Rights Advocacy Network, 10 July 2023. It must be noted that according to art. 55(2) of law 4636/2019 and art. 59 of law 4939/2022 if an unaccompanied child is rejected by the asylum system, her/his PAYPPA (the temporary social security number) remains active until majority or return- but in practice it's not an automated procedure: a special application must be filed in front of the Asylum Service in order for the PAAYPA of the child to actually remain activated

59 For detailed information on State's expenditure on public health, see Amnesty International v. Greece Complaint No. 217/2022 in front of European Committee of Social Rights, November 2022, especially par.23

60 METAdrasi, an NGO providing interpretation services, is covering interpretation needs in public hospitals, but its function is dependent on available funding. According to a report by ERT channel in May 2018 in just 6 months there were more than 1,000 medical incidents of children in just one hospital (Children's hospital Kyriakou in Athens) that needed interpretation services to get medically treated.

61 Bronstein and Montgomery, as referred to by Jacqui Scott, Barbara Mason & Aisling Kelly (2022): 'After god, we give strength to each other': young people's experiences of coping in the context of unaccompanied forced migration, *Journal of Youth Studies*, DOI: 10.1080/13676261.2022.2118033

62 See Effective guardianship for unaccompanied and separated children in the context of migration Recommendation CM/Rec(2019)11 of the Committee of Ministers and Explanatory Memorandum, October 2022, p. 26

63 European Center for Research in Human Rights and Humanitarian Action (EKEKDAAD) of the Panteion University of Social and Political Science, Study on homeless unaccompanied children in Greece, October 2022, p.34

64 Erik Teunissen, Alexandra Tsaparas, Aristoula Saridakis, Maria Trigoni, Evelyn van Weel-Baumgarten, Chris van Weel, Maria van den Muijsenbergh & Christos Lionis (2016) Reporting mental health problems of undocumented migrants in Greece: A qualitative exploration, *European Journal of General Practice*, 22:2, 119-125, doi: 10.3109/13814788.2015.1136283

65 See more on this at UNICEF, A Situation Analysis of Children and Youth, Greece, 2020, p. 84

66 Par. 8 art. 21 law 4251/2014

67 See Greek Council for Refugees, Save the Children International and Terre des Hommes Hellas, Must do better. Grading the Greek government's efforts on education for refugee children, July 2022 and Greek Council for Refugees, Save the Children International, Back to School? Refugee children in Greece denied right to education, September 2021

68 Vergou, P. (2019). Living with difference: Refugee education and school segregation processes in Greece. *Urban Studies*, 56(15), 3162-3177. <https://doi.org/10.1177/0042098019846448>, as well as Simopoulos, G. & Alexandridis, A. (2019) Refugee education in Greece: integration or segregation? *Forced Migration Review*, 60, 27-29

69 Ministry of Education, data available at: <https://www.minedu.gov.gr/ekpaideusi/refug-educ>

70 Almost half of the total EU Members: unaccompanied children in thirteen EU MS and Norway could be granted a status specifically linked to their minority, see European Migration Network, Transition of unaccompanied minors to adulthood, November 2022, p. 4.

71 From 1 January 2024, this clause is going to be substituted by art. 134 of the recently passed Migration Code, law 5038/2023

72 Mainly due to the lack of explicit inclusion of unaccompanied children in the law's wording and the fact that, by definition the child does not possess a passport and/or a visa, together with other documents such as the written consent of the parents to be under the care of an institution. A full list of documents to be submitted according to the existing – and excluding- framework can be found here (in Greek)

73 CRAN Joint Press Statement, 16 March 2023

74 BE, BG, CZ, DE, FI, HR, IT, LT, MT, NL, PL, SE, SK, NO. See more at European Migration Network, Transition of unaccompanied minors to adulthood, November 2022, p. 4. Also, for detailed information for the residence permits of unaccompanied children and other countries efforts to respond to the issue on integration of the children (e.g. the UK's and Ireland's responses), see PICUM, Regularisation mechanisms and programmes: Why they matter and how to design them, 2022. More specifically, Italy has institutionalised the "Permesso di Soggiorno per Minore Età" and Spain reformed in 2021 the "Reglamento de la Ley de Extranjería". as. For the positive impacts the latter has on the life of children see more at <https://picum.org/spain-over-16-000-young-migrants-obtain-residence-permits-thanks-to-2021-reform/> with the comments of Save the Children Spain

75 According to UN Committee on the Rights of the Child (CRC), General comment No. 6 (2005): Treatment of Unaccompanied and Separated Children Outside their Country of Origin, 1 September 2005, CRC/GC/2005/6, "Local integration is the primary option if return to the country of origin is impossible on either legal or factual grounds. Local integration must be based on a secure legal status (including residence status) and be governed by the Convention rights that are fully applicable to all children who remain in the country [...]"

