

# UNACCOMPANIED MINORS ASYLUM SEEKERS IN GREECE



A study on the treatment of unaccompanied minors applying for asylum in Greece  
Commissioned by UNHCR's Office in Greece

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April 2008

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## Executive Summary

### A study on the treatment of unaccompanied minors applying for asylum in Greece

#### Introduction

1. During the recent years, among the aliens who enter the country and apply for asylum, and with increasing frequency, are to be found children or adolescents who arrive alone in Greece, without their family or another adult who accompanies and takes care of them. These children who apply for international protection, are known in the refugee jargon by the term unaccompanied minors.
2. This special category of children refugees faces problems and difficulties in a double capacity: as children they are equally vulnerable and have the same needs as other children, while, as refugees they face comparable experiences and have similar requirements to other refugees. They are, therefore, a doubly vulnerable group of refugees and asylum seekers; the State must, therefore, adopt special, more favourable legislation for their treatment as well as their legal and social protection and care.
3. The United Nations High Commissioner for Refugees (UNHCR) and the Office of the Ombudsman, have already dealt with the issue of unaccompanied minors and their treatment by Greece in a document published in June 2005, and entitled '**Guidelines for the treatment of unaccompanied children applying for asylum**'. This study takes place almost three years after the publication of these «Guidelines». Its objective is to analyze (from a legal and practical point of view) the situation of unaccompanied minors who arrive in Greece and apply for asylum or who are, otherwise, in need of international protection; in this context it provides a comprehensive evaluation of the Greek institutional framework for tracing, protecting and assisting unaccompanied minors. In parallel it examines the extent to which the Greek State abides to its international and national obligations for the care of these children.

4. The study deals in particular with the following issues: the treatment of childhood by the authorities, detention of minors and their freedom of movement, guardianship issues, social integration during the asylum procedure and the provision of reception conditions (accommodation, health and education) and the refugee status determination procedure. Finally and in addition to the analysis, the study makes concrete proposals for improving the situation, both in the short and the medium term.

### **Statistical data**

5. The study found a number of problems in this area. The only primary such data are those provided by the (former) Ministry of Public Order for the unaccompanied minors who have lodged an application for asylum and those submitted by the Ministry of Health and Social Solidarity for the minors housed in the different Accommodation Centres. These data are insufficient for the formation of policies and their accuracy and validity appear questionable. With the exception of asylum applications lodged by unaccompanied minors, the other statistics notified by the Headquarters of the Hellenic Police to the UNHCR (refugee status granted, humanitarian status granted, rejections at 1st and 2nd instances, renewals of statuses and interruptions of the procedure) do not make references to the age of the applicants.
6. The statistical representation of minors who do not enter the asylum procedure is even more obscure. The official position of the State is that there are no official statistics breaking down by age group those aliens arrested either when entering illegally into Greece or at a later stage. The same is true of deportation orders issued by the territorially competent police authorities.

### **Access to the asylum – and to the territory**

7. An objective research on the possibilities for minors to enter the territory of Greece is impossible due to lack of the necessary data. Even so, the data examined do not show a different treatment of minors compared to other

aliens who attempt to enter Greece illegally. Border authorities treat minors as other aliens, in this respect.

8. The conditions concerning access of minors to asylum at points of entry are unclear and differ according to the specific point of entry and in any given period of time. In all cases minors who appear or are arrested at the border receive insufficient information or even no information whatsoever on their rights concerning asylum and, more generally. There is no specialized State infrastructure at the border areas for receiving these children and no staff trained in the special techniques necessary for the examination of their claims to protection.

#### **Childhood consideration and age assessment by the authorities**

9. The study did not come across any case in which the authorities used medical methods to confirm the age of a minor. In most cases, the authorities accept and record the age declared by the minor in the asylum application. Whenever the age recorded is different - usually higher - than that declared by the minor, this is a result of a visual and scientifically unsubstantiated judgement of the authorities. The study, however, found out that the registration of unaccompanied minors by the State, and in particular by the Police authorities, generates two categories of problems: firstly, the recognition of the age minority of the applicant and, secondly, the recognition of the fact that the minor is unaccompanied. There are cases where the authorities register minors under a different age than they themselves declare. In parallel, there have been reported cases of unaccompanied minors registered by the authorities as accompanied by adults.

#### **Detention and freedom of movement**

10. Greek asylum legislation does not contain specific provisions for the detention of minors or other aliens only on the grounds that they apply for asylum. In practice, however, detention is ordered in the context of the procedure for an administrative deportation of aliens who have illegally entered the country. This provision does not distinguish between minors and adults. Till recently there was no perceptible differentiated treatment of minors who entered Greece illegally, whether or not they applied for asylum. This situation seems

to have somehow changed during these last years, although the authorities do not have any consistent policy either on the issue of detention, firstly, and of the detention of minors, in particular. This practice varies in each Police Directorate and is, partly, due to the wider policy of authorities on detention of illegal entries. The authorities often try to detain male minors separately. This is not the case with the girls; they are always detained in the same premises with other women.

### **Appointment of a Guardian**

11. Even though the Greek legislation foresaw, already in the Presidential Decree 61/99, the appointment of the Public Prosecutor for Minors as a special temporary guardian of the minor until the final decision on his claim, in practice this former has very rarely been effectively involved in any act concerning the minor. The absence and a permanent (and effective) guardian creates extremely serious and wide problems which arise in almost every aspect of the minor's life. The State, though, does not seem to be aware either of the significance of the existence of a guardian for the life of the minor or of the complications created by his absence and does not demonstrate the needed attention to cover this legal and practical vacuum. The operation of the guardianship by the Minors' Public Prosecutor set up by P.D. 61/1999 has been inadequate. The modification of the relevant provisions according to the P.D. 220/2007 is a positive step, since guardianship is extended to unaccompanied minors even before they apply for asylum. The new system, though, is interpreted narrowly by some Public Prosecutors who consider that, according to them the only competence belonging to the provisional guardian is to «take the necessary steps for the appointment of a [permanent] guardian of the minor». Finally all prosecutors also stressed that they are practically unable to effectively perform their duties as guardians due to their overwhelming work load.

### **Interim care**

12. In Greece, there are basically four facilities accommodating unaccompanied minors, asylum seekers. They are run by private associations operating (with one exception) with funding from the Ministry of Health and Social Solidarity

through the European Refugee Fund. They are situated in Anogeia (Crete), in Makrinita (Volos), in Thessaloniki and in Athens. In full capacity, they can cater for 90-95 minors. Most minors residing in these Centers are of Afghani origin.

13. A common and main issue in all Centers is funding, both in terms of financing available and the orderly disbursement of funds. The Centers are financed on a yearly basis; this does not allow for long-term programming and at the same time creates liquidity problems which affect the proper operation of the Centers, the morale of the staff and, finally, the adequate provisions of services by the centers themselves. It was also noticed that the staff of the Centers need continuous training and updating on all the legal and institutional provisions for minors, so as to be able to better and more effectively assist in defending the rights of this category of refugees.
14. The study found a differentiation in the operation conditions, the services and the benefits, as well as the quality of these services provided by each Center on issues such as the hours and the frequency of language courses, the emphasis given to education or the existence of legal assistance. There are also structural differences between Centres due to their location: centres located in big urban areas have, and provide, easier access to the rights and services due to the proximity of relevant structures and specialized services (intercultural schools, specialised health services, wider legal and social assistance).
15. A common problem is also the length of the asylum procedure and its frequent negative conclusion. This situation creates emotional stress and anxiety to minors which de-motivate them in all their efforts to integrate into Greek society and in the activities of the Centre.
16. As far as health services are concerned, minors do not undergo any systematic medical screening tests at points of entry. Only minors residing in the existing Accommodation structures undergo medical screening after their arrival in the Centers, care of the administration and the social service of the Centers.
17. Even though the study did not discover any particular problems concerning the access of minors residing in the Accommodation centers to free health care services, there have been reported problems in the case of minors who required medical care while lacking the special asylum seeker's card («red card»), despite the explicit exception contained in article 84 of law 3386/2005.



Furthermore, even when access is provided, there are problems in the diagnosis due to practical communication problems with the medical and health personnel.

18. As far as the education of the minors is concerned, even though the law on intercultural education stipulates the establishment of intercultural schools and the possibility to enroll foreign pupils in elementary and secondary education with incomplete documentation, minors' education remains problematic and incomplete, especially in some Centres, mainly due to the recalcitrance of authorities, ignorance of the legislation or lack of interest. There are no data on the education of minors living outside accommodation centers.
19. The overwhelming majority of minors do not join any official vocational or technical training program, they could make use of for their future employment either in Greece, if they stay here, or in their countries of origin, for those minors that will return there. Even though the law provides extensively and restrictively on the work of minors, most of unaccompanied minors, even under the age of 15, in Greece work without a work permit and in violation of the provisions of the law and without any possibility of control and supervision on the conditions of employment.

### **Refugee Status Determination Procedure**

20. Even though the existing legislative framework on the refugee determination status procedure (P.D. 61/1999) does not contain any specific provision for the examination of applications lodged by unaccompanied minors, various provisions in P.D. 220/2007 and the Convention on the Rights of the Child impose the need to accelerate and treatment of applications lodged by unaccompanied minors. It appears, though, that the procedures followed by the asylum authorities for the determination of refugee status for unaccompanied minors are not different from those followed for adults; it is also not treating their claims to international protection in a different way. Indeed, the practice followed both by the central and territorial police authorities leads to the safe conclusion that, on the contrary, the Greek State applies a plan to delay the processing of an asylum application of a minor till he reaches the adult age.

21. At first instance, the cases of asylum applications where childhood was taken into account and the age of the application was considered before decision on the claim was reached are extremely few. The capacity of the Advisory Appeals' Board to intervene in order to prioritize the examination of applications by minors is non-existent since the Asylum Department decides on the compilation of the roll and the applicants to be invited to the Board.

### **Unaccompanied minors not applying for asylum**

22. a problem going beyond the extent of this study but appearing more and more intensely and confirmed during the study too is the case of unaccompanied minors in need of international protection who enter the country without wanting to apply for asylum, often despite the efforts of various organisations to inform them of this right. In recent years, their number has significantly increased and exceeds that of unaccompanied minors applying for asylum. Many reasons lead to this situation: the fact that minors do not know the meaning and the consequences of asylum, that they feel the necessity to work in order to provide for their family in the country of origin, or that they wish to continue their journey elsewhere. These minors do not enter any system for the protection of minors, there are not enough data on their numbers, but only calculations and extrapolations based on the number of those arrested. The State does not make public any data, with a breakdown per age, on the aliens arrested for illegal entry or on the administrative deportation orders issued by the various Police Directorates.

### **Conclusions - Proposals**

23. It is important to improve immediately the quality and the elements included in the statistics made public by the Hellenic Police Headquarters (and, possibly, other State authorities too, such as the Ministry of Merchant Marine - Hellenic Coast Guard).with data on the numbers of unaccompanied minors arrested for illegal entry into, or stay in, the country, the numbers of police deportation orders issued for them and of effective deportations completed for minors. In addition, the comprehensive tables for adjudications of international protection statuses (refugee or subsidiary protection) must include the age of beneficiaries.

24. Even though entry into the territory is a sovereign right of the State, this right is mitigated and limited by the country's international obligations (the Geneva Convention, the European Convention on Human Rights and the Convention on the Rights of the Child). As a result, the interception or prevention of entry policies operated by the border authorities against illegal entries must take into account the possible presence of minors and the protection needs arising thereupon. A first and crucial such step is the explicit exclusion of minors from the scope of any Readmission Agreement, notably the Readmission Protocol with Turkey.
25. The usual policy of authorities after the minor arrives in the country and is arrested, consisting in issuing a deportation order and releasing the minor does not amount, alone, to providing protection and does not discharge the State from its obligations; indeed such practices expose the minor to renewed risks of exploitation..
26. The effective rather than apparent access to asylum at points of entry can only be ensured if the competent services there are staffed with specialised personnel.
27. It is proposed to establish, at some points of entry, closed reception and temporary accommodation centres for those minors who do not apply for asylum. Their objective should be to accurately record the minors, to examine the reasons of flight from the country of origin, to investigate on the legal status they should be put under, to trace their family, to protect them from smugglers and, generally, from exploitation and to put in place the State obligations for their family reunification or safe repatriation if this latter is feasible and serves the child's best interests.
28. In the case of minors the only return solution consists in safe repatriation. It is proposed to explicitly prohibit the administrative deportation of minors.
29. Detention of minors on the basis of administrative decisions is not justified.
30. Given that the Greek State does not wish for or cannot apply safe repatriation policies, and, in any case, repatriation is often not feasible, it is proposed to establish a temporary protection status for minors till they reach the age of 18 and possibly after that, too.
31. A definitive solution to the problem of guardianship can be achieved with the establishment of a special body of guardians under the supervision of a

Ministry with the exclusive tasks of guardianship of minors. This body may be integrated, from an administrative point of view, either within the Judicial Social Services or within the existing Juvenile Custody Services of the Juvenile Courts.

32. Given the figures of the asylum applications lodged by unaccompanied minors it is necessary, firstly to increase the number - and the available places - of accommodation centres for minors. The Ministry of Health and Social Solidarity must give emphasis not only to cover the basic needs of minors (board and lodging and basic educational needs); it should also aim to cater for their effective needs and to provide quality services. It is proposed that centres be allowed to operate on a longer period– possibly with the same time period of the European Refugee Fund – and to set up a national reserve in order to cover liquidity gaps in the regular inflow of funding.
33. It is also important that the Ministry of Health and Social Solidarity establishes an internal regulation with the minimum services and operation rules provided by these latter and to proceed, on a regular and permanent basis, to their evaluation.
34. It is necessary to provide special and continual training and information both to the centers and to involved local services (health, education etc.) on the rights of these minors.
35. It is proposed to set up a body of accredited interpreters who would be called by any state service on the occasion needed for a correct and complete communication with the alien; the state budget should bear the relevant costs.
36. Finally, as far as the refugee status determination procedure is concerned, it is proposed to conclude in priority (within six months or, at the latest, a year) the examination of asylum applications lodged by minors.

## **Acknowledgments**

*We wish to thank all those individuals, institutions and structures who contributed to the completion and success of this study. We thank the Hellenic Police Headquarters for allowing us access to the files of unaccompanied minors applying for asylum and for the interviews with the Heads of the Departments. We thank the United Nations High Commissioner for Refugees, in particular Ms. Ariana Vassilaki, for the administrative and logistical support of the study and Mr. Panagiotis Papadimitriou, U.N.H.C.R. Border Monitoring Officer and member of the Legal Assistance Unit of the Greek Council for Refugees for the highly interesting and valuable information provided. Without the substantial involvement and support of the administration and in particular of the staff of all the Accommodation Centres, the study would have been very difficult to finalize; for this reason, we wish to extend our most sincere thanks to the persons responsible and especially the staff of the Centres for the time they spent with us and the patience with which they replied to all our questions. We also wish to thank the Public Prosecutor's services and the officials from the Ministry for Health and Social Solidarity for the interviews provided to us. Finally we wish to thank the Greek Council for Refugees, in particular Spyros Kouloheris, Sandi Protogerou and Xenia Passa from the Legal Assistance Unit and Thanos Mantas from the Social Service, as well as ARSIS Athens (particularly Maria Kaldani and the members of the team working with unaccompanied minors) for the very useful and seminal information provided.*

## **1. Introduction: The objective and the methodology of the study**

During the recent years Greece has become the destination of an increasing number of aliens who enter the country and apply for international protection. Among them, and with increasing frequency, are to be found children or adolescents who arrive alone in Greece, without their parents, family or another adult who accompanies and takes care of them. These children who apply for, or are in need of, international protection are known in the refugee jargon by the term unaccompanied minors<sup>1</sup>. According to the United Nations High Commissioner for Refugees (UNHCR) definition, an unaccompanied minor is a child under 18 years of age (or under the legal age of majority, according to the legislation of the asylum country) who has been separated from both parents and is not being cared for by an adult who, by law or custom, is responsible for caring for it and requests to receive refugee protection in the asylum country. The Greek legislation adopts a similar definition<sup>2</sup>.

The reasons that lead these children to flee their country are similar to those of adults: the incessant warfare, civil strife, and human rights violations force these children away from their homes. In the case of unaccompanied minors, though, other causes, too, play a role in their departure: the dissolution of the family due to the death or disappearance of the parents, exploitation, forced military recruitment, the desire of a better life are often reasons that make them abandon their homeland in a solitary search of protection and future in another country.

This special category of children refugees faces twofold problems and difficulties when applying for international protection in another State: firstly, as children they are as vulnerable and have the same needs as other children. As refugees, on the other hand, they face comparable experiences and have similar requirements to other refugees. They are, therefore, a doubly vulnerable group of refugees and asylum

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<sup>1</sup> . Another term for the same category of children, used in parallel, is «children separated from their families». This study will use exclusively the term “unaccompanied minors”, also employed in the Greek legislation.

<sup>2</sup> . Article 1 point (f) of the Presidential Decree 220/2007 defines an unaccompanied minor as «any third country national and stateless person below the age of eighteen who arrives in the territory

seekers; the State must, therefore, adopt special, more favourable legislation for their treatment as well as their legal and social protection and care. The effective combination of both these dimensions for the protection of children who apply for asylum is an issue which all developed countries and the international community have been confronted with and striven to accomplish, with various degrees of success.

The issue of refugee children has concerned the international community ever since the international protection system was established. Nevertheless, till recently there were no specific provisions for refugee children. The 1951 Geneva Convention on the Status of Refugees does not include any special reference to children; it applies to all refugees, irrespective of age. The adoption by the United Nations, in 1989, of the Convention for the Rights of the Child drew again the attention of various European countries to refugee children. In Greece, too, the question of a specific protection for unaccompanied minors applying for asylum emerged only in recent times as a separate issue in the country's legal and welfare system, in a disjointed way and belatedly, as a response to the arrival of children who were not accompanied by an adult. The recognition of the need for special treatment of refugee children was significantly enhanced by the interventions of non-governmental organisations (NGOs) defending refugee rights, children's rights or, more generally, who are active in the field of human rights, the activities of the United Nations High Commissioner for Refugees (UNHCR) and the findings of the Office of the Ombudsman. These latter organizations published, in June 2005, a document entitled "**Guidelines for the treatment of unaccompanied children applying for asylum**" aiming to draw the attention of the authorities to protection issues arising whenever unaccompanied minors apply for asylum.

This study takes place almost three years after the publication of these «Guidelines». Its objective is to analyze (from a legal and practical point of view) the situation of unaccompanied minors who arrive in Greece and apply for asylum or who are, otherwise, in need of international protection. In this context, the study provides a comprehensive evaluation of the Greek institutional framework for tracing, protecting and assisting unaccompanied minors, while in parallel it examines the extent to which

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of Greece unaccompanied by an adult responsible for him and for as long as he is not effectively taken

the Greek State abides to its international and national obligations for the care of these children. The study uses the “Guidelines” as a reference point: the practice followed by the authorities and the legislative framework are measured and compared to the proposals of the Guidelines.

The issues dealt, more specifically, in the study are: the treatment of childhood by the authorities, detention of minors and their freedom of movement, the appointment of a guardian, social integration during the asylum procedure and the provision of the necessary care and assistance in terms of reception conditions (accommodation, health and education), family reunification, the refugee status determination procedure, integration following the status determination or, in case of a rejection, the subsequent treatment of minors based on the principle of the best interests of the child.

Finally and in addition to the analysis, the study makes concrete proposals for improving the situation, both in the short and the medium term.

The study examines the existing legislation and checks it upon the practice followed. As far as legislation is concerned, it looks at all legislative texts – at national, international and European level – concerning the asylum procedures and status determination, specific provisions on the asylum applications lodged by minors but also the protection of childhood, more in general, in all areas of interest of the study. Insofar as the practice followed, the researchers conducted a number of personal interviews with involved actors (a complete list in Annex A) on the basis of a semi-structured questionnaire (Annex B). They also had personal interviews and team discussions with minors residing in Accommodation Centers.

Furthermore, the researchers examined and analyzed all the statistical data they were able to access during the study which were available by the competent State authorities (Ministry of Interior -formerly Ministry of Public Order, Headquarters of the Hellenic Police-, Ministry of Health and Social Solidarity and the Public Prosecutor’s Offices), by the U.N. High Commissioner for Refugees, the UNHCR Border Monitoring Officer and by non-governmental organizations (all the existing

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into the care of such a person or a minor who was left unaccompanied after having entered Greece».



Accommodation Centers for unaccompanied minors, the Greek Council for Refugees -G.C.R. - and ARSIS – Association for the Social Support of Youth).

The researchers also studied a large but random sample of files kept in the Asylum Department of the Hellenic Police Headquarters, concerning unaccompanied minors who have applied for asylum in the years 2006 and 2007. These were a total of 73 files for minors, nationals of 8 countries: the majority (52) was from Afghanistan. We also examined the roll of all applicants invited before the Committee of article 3 paragraph 5 of P.D. 61/99 (Advisory Appeals' Board)<sup>3</sup> throughout the year 2007 (6.448 individuals) in order to determine the number of minors appearing before the Committee. Finally the researchers went through 198 rejection decisions, issued during the second half of 2007, to asylum applications lodged by minors.

The study was conducted between December 2007 and March 2008.

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<sup>3</sup> . This Committee is commonly known as Advisory Appeals' Board (or, simply, Board). We will use this term throughout the study.

## **2. The political and social context**

This study is exclusively addressing issues arising while an unaccompanied minor applies for asylum or, more generally, is in need of international protection. It cannot, however, ignore the wider social, administrative and political context of Greece not can it be read in isolation from the overall problems of the Greek society. In fact, unaccompanied minors who apply for asylum in Greece have to face – sometimes in a harsher way than adults due to their vulnerable position- the same dysfunctions and problems that affect the asylum procedure in general, while they also endure the same shortcomings and deficiencies of the country's welfare system.

As to the first issue, it must be recognized that both the legislative framework for the protection of refugees and asylum seekers and, especially, the modalities and ways it is applied suffer from serious deficiencies. These deficiencies are related to the relatively recent character of the international protection system in our country, the shortage in trained personnel and the inadequate technical and logistical support, the bureaucratic ways the police services run the asylum procedure, the concentration of decision-making in the Athens central headquarters and the fact that the entire procedure is encumbered by unfounded or abusive applications. All these problems are factors that affect unaccompanied minors comparatively more than other adults. Many of the issues tackled, therefore, in this study cannot be dealt with in isolation and for the minors alone; the researchers are of the opinion that the Greek State, confronted with its obligations arising from international law and, increasingly so, from the European asylum legislation must proceed to a radical review and reform of the existing system for the qualification and the protection of refugees; a large number of issues particularly pertaining to minors might, thus, find a solution.

On the other hand, one should not ignore that the Greek society, in general, and the Greek State in particular are much less sensitive to issues related to the protection and care of childhood. This pattern is observed vis-à-vis Greek minors too, and it is even more acute vis-à-vis alien minors. Any proposal to improve the treatment of unaccompanied minors applying for asylum cannot overlook these decisive,

sometimes, parameters. The study, therefore, tries, to the extent of the possible, not to depart too much from the Greek reality and to exploit as much as possible the existing institutional and welfare framework. .

### 3. Statistical data

#### 3.1. Asylum applications

Any credible effort to respond to the problems of unaccompanied minors should be founded on a complete, clear and wide-ranging picture of their numbers and protection needs in our country. The establishment and knowledge, therefore, of comprehensive statistical data is a necessary prerequisite in order to set up and implement the appropriate policies and, possibly, to allocate the necessary funds. However, the only primary such data available are those provided by the (former) Ministry of Public Order<sup>4</sup> for those unaccompanied minors who have lodged an application for asylum and by the Ministry of Health and Social Solidarity for the minors housed in the various Accommodation Centres. These data are insufficient for the formation of policies and their accuracy and validity appear questionable.

Firstly, the study detected a number of errors which raise questions as to the accuracy of the total number of the asylum applications (for unaccompanied minors and overall)<sup>5</sup>. In addition, the other statistics notified by the Headquarters of the Hellenic

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<sup>4</sup> . Following the September 2007 parliamentary elections, the Ministry of Public Order ceased being a separate Ministry and was incorporated, as a General Secretariat, in the Ministry of Interior. The examination of asylum applications continued to be the competency of the Headquarters of the Hellenic Police and this administrative modification does not seem to have provoked any substantial change in internal activities. The study continues, on occasions, to use the term "Ministry of Public Order" mainly for historic references. In any case, it refers to the specific competencies of the Hellenic Police services in the field of the processing and examination of an asylum application.

<sup>5</sup> The accuracy of these statistics is challenged by the State authorities themselves. In a letter (ref. num. in Greek Π2α./Γ.Π. οικ. 30094 dated 4.3.2008) the Ministry of Health asked from the Asylum Department of the Ministry of Interior to inform them as the exact number of unaccompanied minors who applied for asylum in 2007 because, although the information they had received from the Asylum Department was that «the total final number of asylum applications from unaccompanied minors was 44....another letter by the [same Department] asked them to provide accommodation for 147 unaccompanied minors asylum seekers». Another indication of these possible inaccuracies is the fact that the official statistics of the Headquarters of the Hellenic Police for 2007 show that no application for asylum was lodged in the Police Directorate of Rethymnon, (which is territorially competent for the Minors' Accommodation Centre of Anogeia). The data in the Centre, though, prove that one minor residing there had lodged, during that year, an application for asylum. These statistical inaccuracies do not affect only minors; they extend to the entire asylum procedure. For example, the official number of decisions taken in 2007 to interrupt the asylum procedure which was notified to the UNHCR (93) is significantly smaller than the number of interruptions, for reasons of unknown abode of the applicants, communicated every week to the Advisory Appeals' Board (one of the researchers, Dr. Papageorgiou is also a member of the said Board); these interruptions are counted in the hundreds for any given year. Irrespective of the causes of these errors which, according to the researchers, are

Police to the UNHCR (refugee status granted, humanitarian status granted, rejections at 1st and 2nd instances, renewals of statuses and interruptions of the procedure) do not make references to the age of the applicants. Any effort, therefore, to investigate statistically the follow-up of asylum applications lodged by minors is very problematic, since it requires an individualised research and investigation through each separate application.

According to the official statistical data of the Ministry of Public Order, the unaccompanied minors who lodged asylum applications in Greece were as follows:

Year	2002	2003	2004	2005	2006	2007
Numbers	247	314	302	158	165	44 <sup>6</sup>

There is no further breakdown between girls and boys. All available evidence, though, show that the number of girls under the age of 18 applying for asylum is tiny.

The age breakdown of minors shows that the number of applicants who are under 15 when arriving in Greece is very small<sup>7</sup>. A typical case of an unaccompanied minor is a male adolescent aged 16-18. Most are Afghani nationals (102 out of the 302 for 2004, 102 out of the 158 for 2005 and 74 out of the 165 for 2006), followed by minors from Iraq, Pakistan and Bangladesh. Almost all minors (as the overwhelming majority of asylum seekers, in general) do not possess any identity document and the registration of their age is based upon their declaration.

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due to administrative disorder (delays in filing and processing reports, lack of cross-verification of data or negligence) the problem of statistical inaccuracies remains.

<sup>6</sup> . The data for 2007 are indicative of the problems that affect the statistical representation of minors, asylum seekers. The initial data provided to the UNHCR by the Headquarters of the Hellenic Police gave a number of 658 unaccompanied minors, asylum seekers, for the year 2007. The Head of the Asylum Department, Mr. Stavrakakis, explained to the researchers that this number was wrong, as it included all minors (including those accompanied) who had applied for asylum in Greece. He provided a number of 44 as the final figure of the unaccompanied minors, asylum seekers. It has to be pointed out, though, that another table of the same service for the same year 2007 (the table comprising the breakdown by age group and gender) stated that the age group 0-18 years included 976 men and 104 women.

<sup>7</sup> . In 2004 24 unaccompanied minors under the age of 14 applied for asylum; they were 6 in 2005 and 32 in 2006 (MPO). The age structure for the year 2007 cannot be taken into consideration due to the problems mentioned in the previous footnote.

These numbers show a significant fluctuation of the arrivals each year; no firm conclusion, however, can be reached as to the reasons for these significant changes. The drop in the number of applicants for 2007 may be linked to the diffusion, among minors, of the provisions concerning minors in Council Regulation 343/2003 (Dublin-II Regulation)<sup>8</sup>. This Regulation stipulates that asylum applications lodged by unaccompanied minors shall be examined by the Member State where the minor has lodged it for the first time (contrary to the usual rule that the asylum application is examined in the first country of entry into the E.U.); it seems that the minors or their smugglers have become aware of this. As a result, it may be that those minors who would rather continue their travel to another E.U. Member State prefer not to apply for asylum in Greece, to leave the country illegally and lodge an asylum application in that E.U. Member State<sup>9</sup>. Given the few positive decisions on protection statuses granted by our country and the lengthy procedures, such conduct may be justified, although it may be the source of even more problems and higher risks for minors<sup>10</sup>. In any case, given that the total number of unaccompanied minors, in general, does not seem to decrease, it emerges that the reduction of the number of unaccompanied minors who apply for asylum leads to the increase in the number of minors living in the country without having lodged an asylum application (see below) and hence without any statistical representation.

### **3.2. Minors who do not apply for asylum**

The statistical representation of minors who do not enter the asylum procedure is even more obscure<sup>11</sup>. This group includes minors who enter illegally into the country without being arrested by the border authorities as well as those who have been arrested, detained for some time and let free with a deportation order but remain in Greece or try to leave illegally for another European State. There are only estimates as

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<sup>8</sup> . Council Regulation (EC) 343/2003 of 18 February 2003 “establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national”. Official Journal of the European Communities (hereinafter O.J.) L 50. 25.2.2003.

<sup>9</sup> . This is demonstrated both by the declarations of minors themselves and by NGO representatives.

<sup>10</sup> . Minors put their lives at risk, in this way.

<sup>11</sup> . The paucity of data on unaccompanied minors, asylum seekers is not limited to Greece. According to the Program on «Separated Children in Europe» there are, at any given moment, in Europe, about 100.000 unaccompanied minors. However, they remain "invisible" to the authorities unless they apply for asylum. Cf. Jacqueline Bhabha “Minors or Aliens. Inconsistent State Intervention and Separated Children asylum-Seekers” in ‘European Journal of Migration and Law’. Vol. 3 (2001) pp. 283-314.

to their numbers, based, mainly, on calculations by NGOs. The official position of the State is that there are no official statistics breaking down by age group those aliens arrested either when entering illegally into Greece or at a later stage<sup>12</sup>. The same goes for statistics on deportation orders issued by the territorially competent police authorities. There are, therefore, no official and valid records of the total number of minors in the country, as long as these latter have not applied for asylum. The same NGOs estimate that the total number of unaccompanied minors in need of international protection may well exceed 1000 individuals<sup>13</sup>. Although this figure might seem excessive, the existing evidence justifies it. For the year 2007 alone, the Reception Program of the Greek Council for Refugees handled a total of 150 cases of unaccompanied minors (nationals, overwhelmingly, of Afghanistan with fewer Somalis and Bangladeshis). 130 of them declared to have entered Greece in 2007, while the rest entered in 2006. Very few were in possession of the special asylum seeker's card («red card»); the rest had only deportation orders issued, in their majority, by the Police Directorates of Lesbos, Chios, Samos and Dodecanese. These deportation orders stated, in their large majority, as the residence of the minor either the offices of G.C.R. or of «ARSIS»<sup>14</sup>. During the recent (January 2008) police operations to evacuate the informal camp of Patras, which provided, for years, shelter to asylum seekers and other, mainly Afghanis, aliens it became patent that a large number of minors, most of whom had not applied for asylum, lived there on their own<sup>15</sup>. Another indication that Greece receives an increasing number of minors who arrive from "refugee-breeding" countries who do not apply for asylum is the fact that, while the study was being completed, around 100 unaccompanied minors were detained in detention centres of the Evros and Rodopi Prefectures<sup>16</sup>.

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<sup>12</sup> . In reply (ref. num. 4591/2/November 2007 to a relevant request by the UNHCR, the Ministry of Interior - Headquarters of the Hellenic Police providing data of arrests of illegal entries in the first ten months of 2007 includes 20,836 Asians (among whom were 7.817 Afghanis and 7.233 Iraqis) and 4,104 Africans (among whom 2,655 Somalis). The letter also states that there are no available data as to the age breakdown of those detained.

<sup>13</sup> . «ARSIS». (M. Kaldani).

<sup>14</sup> . Th. Mantas. G.C.R. social worker, in charge of the Reception Program.

<sup>15</sup> . Their exact number varies. A document by the Ombudsman and on the basis of a calculation by the Greek Red Cross that took place in Patras on 24 and 25 January 2008 mentioned that 132 minors were traced among a total of 136 persons counted (ref. num. 18364/09/2.2 dated 5-2-2008). In a letter to the Secretary of State of Interior (ref. num. GREAT/HCR/033/1-2-2008), UNHCR estimates the total number of minors in the camp to around 250. It also points out that according to the report of the Red Cross «56 of these minors had expressed their wish to apply for asylum in Greece».

<sup>16</sup> . P. Papadimitriou in a Border Monitoring Mission.

This problem has other aspects, too, in particular of trafficking and of criminality in general, as will be developed in the relevant chapter. Another element that further distorts the accuracy of the statistical representation of the number of unaccompanied minors in the country is the fact that, occasionally, the official documents register a different date of birth of minors than the one they declare (so as to appear as adults) while, in other cases unaccompanied minors have been, erroneously, registered as accompanied by other adults<sup>17</sup>. This practice, whose extent it is impossible to estimate, seems nonetheless both frequent and widespread enough.

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<sup>17</sup> . On this issue see below point 5.2.2.



## 4. The institutional framework and infrastructures

### 4.1. The legislative framework

A number of national and international texts make reference to the need for a special and more thorough protection of children. To begin with, the obligation to look after the best interests of the children and to protect their rights is enshrined in the Greek Constitution (in particular in article 21 paragraphs 1 and 3 but also in several other articles). Moreover, the State duty to protect childhood is not limited to Greek nationals alone but extends to all children in the Greek territory.

The most complete, to date, legal text protecting the political, economic, social and cultural rights of the child is the United Nations Convention on the Rights of the Child adopted in 1989. The Convention, following its ratification by Greece, by virtue of law 2101/1992<sup>18</sup>, is an integral part of the Greek legal order and has precedence over all other national legislation. The Convention stipulates that the protection of the rights enunciated in it is not depending on the nationality or ethnic origin of the children and does not distinguish between nationals and aliens or between children residing legally or illegally in a country (article 2). In practice, however, a number of provisions in the Convention remain inapplicable in our country for children, nationals and foreigners alike, in violation of article 4 of the Convention that stipulates that

*«States Parties shall undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in the present Convention...».*

More specifically, as far as the right to asylum is concerned, article 22 of the Convention, referring to States Parties obligations, underlines that...

*«States Parties shall take appropriate measures to ensure that a child who is seeking refugee status or who is considered a refugee... shall, whether*

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<sup>18</sup> . Official Gazette of the Hellenic Republic (hereinafter O.G.) A' 192. 02.12.1992.

*unaccompanied or accompanied by his or her parents or by any other person, receive appropriate protection and humanitarian assistance in the enjoyment of applicable rights set forth in the present Convention ...»*

It also emphasizes the importance of tracing the parents and of making every effort for the child's

*« Reunification with his or her family».*

Finally, it stresses that a State is obliged

*«...where no parents or other members of the family can be found... [to accord] the same protection as any other child permanently or temporarily deprived of his or her family environment for any reason».*

The obligations set by the Convention have not, as of yet, been the object of any special legislative action in Greece, with the exception of the particularly succinct provisions in the asylum legislation. The Greek legislative framework on unaccompanied minors applying for refugee status remains, thus, incomplete. Until the entry into force of Presidential Decree (P.D.) 220/2007, the only reference to unaccompanied minors could be found in article 1 para. 4 of the Presidential Decree 61/1999<sup>19</sup>, according to which:

*«An asylum claim can also be submitted by an alien aged between 14 and 18 years old who is not accompanied by his parents if, from the general situation the interviewer considers that his mental maturity allows him to comprehend the meaning of this action. In any other case of asylum claims submitted by aliens under 18 old who are not accompanied by their parents or other guardian, the competent police authority informs the Public Prosecutor for Minors and, when such does not exist, the locally competent First Instance Public Prosecutor, in order that he acts as a special temporary guardian of the minor until the final decision on his claim has been taken».*

Following the adoption of the Maastricht treaty and, even more, of the Amsterdam Treaty, the European Union embarked on an effort to harmonize the national

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<sup>19</sup> . O. G. No 63 (A'). 6 April 1999.

asylum policies, in view of establishing a Common European Asylum System (CEAS). In this context, the Union adopted a number of legislative texts, in particular Directive 2003/9/EC «laying down minimum standards for the reception of asylum seekers in a Member State»<sup>20</sup>, Directive 2003/86/EC «on the right to family reunification»<sup>21</sup>, Directive 2004/83/EC «on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection»<sup>22</sup> and Directive 2005/85/EC on « Minimum Standards on Procedures in Member States for Granting and Withdrawing Refugee Status»<sup>23</sup>. These texts include more detailed provisions of the examination of asylum; applications lodged by unaccompanied minors. They are gradually – even if belatedly – integrated in the Greek legal order. At the same time, older texts adopted by the Union, in particular the Council of Ministers Resolution of 26 June 1997 on "unaccompanied minors who are nationals of third countries"<sup>24</sup> remain still valid, although only as “soft law”.

The entry into force of Presidential Decree No 220/2007 on «adapting the provisions of Council Directive 2003/9/EC of 27 January 2003 into Greek legislation»<sup>25</sup> modified the legal framework for unaccompanied minors. Articles 18 and 19 of the said P.D. stipulate that:

*«The best interests of the child shall be a primary consideration for the competent authorities when implementing the provisions that involve minor applicants» (article 18)*

And that

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<sup>20</sup> . Council Directive 2003/9/EC of 27 January 2003 laying down minimum standards for the reception of asylum seekers. O.J.L 31 dated 06.02.03.

<sup>21</sup> . Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification O.J. L 251 dated 3.10.2003.

<sup>22</sup> . Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted O.J. L 304 dated 30.9.2004.

<sup>23</sup> . Council Directive 2005/85/EC of 1 December 2005 “on Minimum Standards on Procedures in Member States for Granting and Withdrawing Refugee Status”. . O.J L 326 dated 13.12.2005.

<sup>24</sup> . O.J C 221, 19/07/1997 p. 0023 – 0027.

<sup>25</sup> . O.G. No 251 (A') 13 November 2007.

*« The competent authorities take as soon as possible measures to ensure the necessary representation of unaccompanied minors. For this reason, they inform the Public Prosecutor for Minors and, when such does not exist, the territorially competent First Instance Public Prosecutor, who acts as a temporary guardian of the minor and takes the necessary steps for the appointment of a guardian of the minor».*

Directive 2005/85/EC, which has not yet been transposed into national law <sup>26</sup>, contains more detailed provisions for the examination of an asylum application lodged by unaccompanied minors.

In addition to special provisions in the asylum legislation, unaccompanied minors applying for asylum are also protected by the general provisions on minors. For instance, the provisions of articles 1589 and following of the Civil Code on the guardianship of minors apply also to such minors, insofar as the appointment of guardians is concerned. Similarly applicable are the provisions on minors contained in the Criminal Code and in particular the Criminal Procedures Code. Specific legislation for minors (e.g. on their employment conditions) also applies for this category of unaccompanied minors.

Furthermore, the recent internal circular of the Ministry of Interior on the application of **P.D 220/2007 for the reception conditions of asylum seekers<sup>27</sup>** also plays a **significant role on the practical aspects of protecting the minor.**

Finally, the aliens' legislation and, above all, law 3386/2005 on «entry, residence and social integration of third-country nationals in Greece»,<sup>28</sup> is of major importance for minors, especially these provisions that refer to the criminal and administrative consequence of the illegal entry and exit of aliens and the conditions and procedures for the issuance of an administrative deportation order.

#### **4.2. Structures for the social support of unaccompanied minors**

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<sup>26</sup> . The Presidential Decree that transposes this Directive into national legislation was in a drafting stage when this study was being completed.

<sup>27</sup> . Circular with reference number 5401-1-261100 dated 23.02.2008.

According to P.D. 220/2007 (article 1 point 14) the reception and accommodation of all asylum seekers, and thus of unaccompanied minors too, is a competence of

*«the services of the Ministry of Health and Social Solidarity which are responsible for the implementation of a full set of measures for the reception and accommodation of applicants».*

At the same time, according to article 19 para. 2 (a) the authorities competent to receive and examine an asylum application of an unaccompanied minor (that is the services of the Hellenic Police) when an unaccompanied minor applies for asylum

*« Ensure that the accommodation needs of the child are covered by hosting it in accommodation centres with special provisions for minors or in other accommodation suitable for minors and that the child's accommodation protects it from the danger of trafficking or exploitation».*

On the basis of the above, the responsibilities of the State for the protection of an unaccompanied minor are divided between the Ministries of Health and Social Solidarity and that of Interior (Hellenic Police).

Today, unaccompanied minors, asylum applicants, in Greece are accommodated in the following institutions which act as Accommodation Centres:

- Reception Centre for Refugees and Asylum Seekers of Thessaloniki - Social Solidarity
- Centre for Reception, Accommodation and Support of Unaccompanied Minors Asylum Seekers– ARSIS and Elliniki Merimna of Volos
- Reception Program for Refugees Aliens Unaccompanied Minors of the National Youth Foundation – Unit of Anogeia (Crete)

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<sup>28</sup> . O.G. No 212 (A'). 3-8- 2005.

The first structure provides shelter to vulnerable groups in general (women, families with minor children, unaccompanied minors and single-parent families) while the other two attend exclusively to unaccompanied minors. During the year 2007 these structures were financed by the Ministry of Health (through the European Refugee Fund). Their total capacity for unaccompanied minors is 85 persons.

Besides these structures that operate through State financing, certain accommodation needs of unaccompanied minors are covered, sometimes on an occasional basis, by other structures, mostly NGOs. More specifically, during the last years, the Shelter for the Care of Minors of the Association for the Care of Minors accommodates on a systematic basis a substantial number of unaccompanied minors and acts as a reception and protection focal point for these children.

The increase, during these last years, of the numbers of unaccompanied minors obliged State authorities to accommodate minors in other facilities or centers which were not equipped adequately in order to cater for the special needs of this particular group; such a facility is the Hellenic Institute for Development and Cooperation (ELINAS) set up for adult asylum seekers. During the period of the study, the Ministry of Health interrupted the funding of this structure and for this reason it was not included in the study<sup>29</sup>.

Besides accommodation facilities for unaccompanied minors, asylum seekers, the Ministry also funded in 2007 the following activities:

- Greek Council for Refugees (G.C.R.) - Reception Program aiming to provide information and counselling to unaccompanied minors, to facilitate their access to various services, to cover the minors' initial needs etc. The Program also allows for the temporary accommodation of unaccompanied minors in hostels. .
- ARSIS – Association for the Social Support of Youth – Integration Program for minors and young people; its objective is to provide information and social

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<sup>29</sup> . Funding (through the European Refugee Fund) was interrupted due to problems in the cooperation with this institution (Charissopoulou, Tassopoulos).

support in issues relating to employment, health, education and housing and to offer legal counselling.

- Greek Red Cross – Legal Assistance and information to unaccompanied minors in the informal camp of Patras.

All these structures are funded by means of (mostly European) programs on a yearly basis.

For the year 2008 the Ministry has already agreed to finance a new shelter for unaccompanied minors in the Major Athens area, to be implemented by the Municipality of Vyronas.

According to article 7 of P.D. 266/1999, establishing the Lavrion Accommodation Centre, asylum seekers *«aged under than 15 who are not accompanied by a parent or a guardian» «may be housed in the state institutions existing for nationals»*. This provision is the justification for the absence of any specialized institution for very young unaccompanied children. On the basis of it, unaccompanied minors of a very young age are referred for protection to child care facilities (such as the institution «Agios Andreas» in Kalamaki). These structures, however, are neither equipped nor staffed adequately for the special needs of these minors; usually they even lack an interpreter in the language of the child. As a result, these children are isolated and, eventually, leave the Center while, in many cases, they even disappear and remain thus unprotected from trafficking and exploitation.

None of the existing centers offers the possibility to accommodate girls. The few cases of unaccompanied girls are transferred, if the need appears, to other structures, usually run by non-governmental institutions. A recent such case of two Somali under-aged girls is illustrative: the girls arrived illegally in the island of Lesbos, and remained under surveillance for a short time (during which one of them, who was pregnant, had her baby). Since they did not wish to apply for asylum, it was finally decided to refer them to the NGO shelter «the Child's Smile». Briefly after, though, they absconded<sup>30</sup>.

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<sup>30</sup> . The case received widespread attention in the press and the TV.

Given the limited capacity of these Centers and the fact that, especially in recent years, they constantly operate in full capacity, any sudden increase in the number of unaccompanied minors obliges the authorities to find ad hoc solutions. For example, after the Patras police evacuated the informal camp there and discovered that a large number of Afghani unaccompanied minors lived there, the Ministry of Health decided to refer, provisionally, 26 of them to the Center for Assistance to Autistic Children in Magnisia, under the auspices of the Greek Red Cross. In order to cater for their accommodation needs, staff was hired (instructor, guard, social worker) with 2-month contracts.



## **5. Issues examined on the basis of the U.N.H.C.R. and Ombudsman 2005 ‘Guidelines for the treatment of Unaccompanied Children applying for Asylum’**

### **5. 1. Access to the asylum**

#### **5.1.1. The legislative framework**

According to the “Guidelines” (point 1)

*The competent authorities must never refuse entry to unaccompanied minors who request protection nor oblige them to return at points of entry to the country. Unaccompanied children must be excluded from the scope of any readmission agreement signed between Greece and third countries. They should not be detained for infringing immigration law provisions; in such case, detention orders should be repealed and the children referred to the authorities competent for their protection and care, as appropriate to their age and to their category of minor aliens. At the same time, these children must be entitled to apply for asylum.*

The issue of access to asylum for unaccompanied minors includes two different aspects: access to the Greek territory and access to the asylum procedure properly speaking. The first aspect has important political and legal ramifications, touching upon the fundamentals of state sovereignty and goes significantly beyond the scope of this study. In brief, it should be stated, nonetheless, that entry of all aliens in Greece is based on the provisions of law 3386/2005. Article 2 point (c) of this law excludes from its scope

*«...refugees and persons who have applied to be granted refugee status, as per 1951 Geneva Convention...»*

In practice, however, the border authorities do not treat refugees different from other aliens. Given that the overwhelming majority of refugees, including minors, arrive in the country in violation of the provisions of the a/m law, access of refugee children in the territory becomes of paramount importance. Article 33 of the Geneva Convention answers, in theory, to this problem; it waives the sanctions on illegal entry for refugees. This theoretical approach, though, is of little practical use, to the extent that the interception practices employed by the authorities do not allow them to identify a refugee and to provide him with a different treatment in his effort to enter Greece.

The minor's access to the asylum is governed by the P.D. 61/1999 and in particular article 1 para. 1 which includes the general rule that

*«An alien who, before any Greek authority at entry points of the Greek State or in the inland, declares, in written or oral form, that he is requesting asylum in our country or in any other way asks not to be deported to a country on the grounds of his fear of persecution because of race, religion, nationality, social class or political opinions, is considered as an asylum seeker according to the 1951 Geneva Convention»*

And the paragraph 4 mentioned above in point 4.1 which was abrogated by the P.D. 220/2007.

The Ministry of Interior circular mentioned also above in point 4.1 (with reference 5401-1-261100 from 23.02.2008) indicates that, when unaccompanied minors lodge an asylum application, the territorially competent authorities take the following measures:

*« refer immediately to the Central Authority the a/m application so as to ensure, in cooperation with the competent services of the Ministry of Health and Social Solidarity, that the accommodation needs of the minor are covered, either by placing him with adult relatives or with a foster family or in Accommodation Centers with special provisions for minors or in other accommodation suitable for minors...»*

Finally, although according to article 2 para. 1 of P.D. 61/1999

*«Competent authorities for examination of a claim and setting the asylum procedure in operation are the Aliens' Sub-Directorates or Departments, the Security Departments of the State Airports and the Security Sub-Directorates or Departments of the Police Directorates»*

another circular of the Hellenic Police Headquarters to all Police Directorates <sup>31</sup> specifies that *« the competent service for the examination of the claim and for setting the entire asylum procedure is the Police authority of the place where the minor was assigned to reside»* [i.e. the place where accommodation was found for him].

### **5.1.2. Analysis of the current situation**

It is impossible to conduct an objective research on the possibilities for minors to enter the territory of Greece. Any such research can only be based on the data provided by the border authorities. The researchers are not aware of any case of refoulement of minors, or more generally of aliens. Allegations of such informal returns, however, appear from time to time in the press; they concern mainly the Evros region. The UNHCR has officially referred to assertions by detainees claiming that “they have been returned to Turkey across the Evros river and that these returns were not realized under the lawful conditions»<sup>32</sup>. In any case, the Greek authorities recognize that they use policies aiming to prevent entry or intercept at sea illegal aliens<sup>33</sup>, while, during these last years, the Readmission Agreement between Greece and Turkey has been reactivated<sup>34</sup>. From the information received, there does not

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<sup>31</sup> . Document with reference number 5401/1-235508, dated 14-9-2006 «asylum applications by aliens, unaccompanied minors».

<sup>32</sup> . Cf. Correspondence between UNHCR (reference number GREAT/HCR/45/21-2-2008) to the General Police Director of Eastern Macedonia and Thrace). The existence of such claims was also confirmed by P. Papadimitriou, UNHCR Border Monitoring.

<sup>33</sup> . Cf. relevant declarations of the representative of the Greek Coast Guard in the conference «‘Interception, Rescue and Refugee Protection at European Sea Borders’» organized by the UNHCR and the Greek Ministry of Mercantile Marine under the auspices of the European Commission, Representation in Greece. Athens. 29.1.2008.

<sup>34</sup> . P. Papadimitriou (Border Monitoring) qualifies the access to asylum in this area as problematic. See also the press communiqué from 16 NGOs entitled «Refoulement of Iraqi nationals fleeing to Greece» (dated 1-8-2007) which express their concern on the reactivation of the Protocol for Iraqi nationals.

seem that a different treatment is afforded to minors compared to other aliens who attempt to enter Greece illegally. There is no evidence demonstrating that the border authorities proceed to examine the age of persons prevented from entering the country.

Access of minors to asylum is linked to the more general problems in access; these problems strike minors more relentlessly, since the lack of information and the absence of any social and psychological support affect them more directly and have a greater impact on their protection later on.

The conditions of access to the asylum at points of entry are, first of all, unclear and differ according to the specific point of entry and in any given period of time. The Evros region is, in this respect, very problematic with severe difficulties in access<sup>35</sup>. These difficulties are manifest by the fact that the number of asylum applications submitted in 2007 in the Police Directorates of the region (Alexandroupolis and Orestiada) was only 47. The authorities in the area do not seem to treat minors differently from the rest of illegal entries, except for the different detention period (see below). In other regions, the access of minors to asylum is facilitated. As of recent, the authorities in Chios encourage all unaccompanied minors to apply for asylum and refer them to the relevant Accommodation Centers<sup>36</sup>. The same is true for the police authorities of Magnisia<sup>37</sup>. It appears that the decision on specific policy for the treatment of minors at this stage pertains to the local police authorities – obviously with the consent of the central services. However, one cannot detect any consistency in the approach taken by the central authorities and these differences obviously create disparities between minors.

In all cases, nonetheless, minors who appear or are arrested at the border receive insufficient information or even no information whatsoever on their rights. This lack of information is not only referring to asylum matters but to their rights in general. Today there is no specialized State infrastructure at the border areas to receive these

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<sup>35</sup> . According to P. Papadimitriou, there are problems in the access to asylum in this region, especially for detainees who wish to apply for asylum and have no legal assistance.

<sup>36</sup> . P. Papadimitriou.

<sup>37</sup> . G. Karaiskos.

children and no qualified staff in the special techniques necessary for the examination of their claims to protection. Even in these regions where minors enter the asylum procedure, such as Chios, they are not adequately informed as to the meaning and the implications of the asylum application<sup>38</sup>. Equally inoperative is the specific legislation for unaccompanied minors (care, guardianship, counseling, interpretation etc.). The only exception is that, occasionally, the Minors' Public Prosecutor is notified of the application lodged by the minor.

An additional statistical and substantial issue arises with the problematic interpretation and application of the Hellenic Police Headquarters circular (with ref. num. 5401/1-235508 from 14-9-2006) on «asylum applications by unaccompanied minors». This circular, already mentioned above, draws the attention of police authorities to the issue of unaccompanied minors and sets internal rules for creating a favorable and safe environment for minors during the period of the examination of their asylum application (including the immediate notification of the Ministry of Health and Social Solidarity for the minors' accommodation and of all other involved services). In this context, the circular specifies that the *«territorially competent service for the examination of the application and for the entire asylum procedure is the Police Service of the place which has finally been assigned as the place of residence for the minor»* [meaning the place where an accommodation facility for the minor was found]. Although this provision appears, at first sight, sensible, its application gives rise to problems either because the minor disappears on the way between the place where he expressed the desire to apply for asylum and his final destination or because the asylum authorities in the place of residence of the minor delay the start of the asylum procedure. During that stage, the minor remains “invisible” not only statistically (he is not registered as an asylum applicant but only, possibly, as in need of accommodation) but also practically (the authorities of the place where the minor expressed the desire to apply for asylum do not make follow-up investigations on the fate of the minor and the continuation of his asylum application)<sup>39</sup>.

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<sup>38</sup> . P. Papadimitriou.

<sup>39</sup> . This is perhaps the explanation for the discrepancies between the figures of unaccompanied minors registered with the Asylum Department and the number of requests for accommodation submitted by this latter to the Ministry of Health (cf. the above mentioned document of the Ministry of Health to the Asylum Department dated 4-3-2008). For instance, the statistics on unaccompanied

In recent years, and in particular in 2007, the overwhelming majority of asylum applications are lodged in the major urban centers and in particular in Athens (during 2007 the Aliens' Directorate of Attica received 93.99% of all asylum applications). Even though access to the competent services for lodging an asylum application is far from perfect, it appears that minors have an easier access to the asylum procedure in Attica. Various sources (mainly NGOs) <sup>40</sup> confirm that the competent services generally provide for the priority registration of applications submitted by unaccompanied minors and the speedy completion of the initial interview and the issuance of the special asylum seeker's card. What is more important is that this priority treatment does not only apply to cases referred to the police by NGOs, as was the case in the past, but also to individual applications. In particular, during 2007, the practice followed by the Asylum Department of the Aliens' Directorate of Attica is to invite minors during the first week following their appearance before the Asylum Department and to complete the procedures for issuing the "special asylum seeker's card" («red card»)<sup>41</sup> within the ensuing month<sup>42</sup>. Even though this is a significant improvement compared to the past, the waiting period of one month before the minor receives the «red card» substantially exceeds the 3-day period prescribed by the law.

Such practice is not followed by all Police Directorates. In particular, the situation observed during 2007 in the territorial competence of the Rethymnon Police Directorate – which is competent for the Anogeia Accommodation Centre – leads to the conclusion that effective – rather than formal – access to asylum does not exist. The administration of the Anogeia Centre reported that during the entire year 2007, only one interview of a minor residing in the Center took place. As for the rest, the competent police authority was merely renewing the "red cards" for minors, which were issued in the past. A significant number of minors continue being in possession

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minors for the year 2007 include only some of the minors residing in the Anogeia Center since, technically, their asylum applications have not all started, as of yet.

<sup>40</sup> . ARSIS (Kaldani), G.C.R. (Mantas) and F. Parthenidis (Society for the Care of Minors).

<sup>41</sup> . The special document provided to asylum seekers is called, according to article 2 para. 7 of P.D. 61/99 «special asylum seeker's card». The cards themselves were entitled, in the past ««special document of an alien that applied for refugee recognition». Their most recent version contains the phrasing of the P.D. this formulation is also followed by article 5 of P.D. 220/2007. In any case, the card is commonly known as «red card».

<sup>42</sup> . Ch. Gavras. Asylum department. Aliens' directorate of Athens. This development is confirmed by other sources, too (Mantas).

only of police notes, the oldest of which dates back to the beginning of 2007. The Department of Security of the Perama Police Station, which is competent for the asylum procedures for the area, claims that these delays are due to the excessive work burden it faces due to the investigations on criminal operations in the neighbouring Zoniana area. However, these delays had already arisen before the Zoniana affaire. According to the administration of the Centre, the competent police services had promised, in the past, to speed up the procedures for the pending applications, but these promises were not fulfilled when the study was completed (April 2008)<sup>43</sup>.

*An unaccompanied minor (Afghani national born in 1990) lodged an asylum application in Patras on 12-12-2006. On 24-1-2007, the Security Sub-Directorate of Patras referred him to the Lavrion Reception Center for Asylum Seekers for the continuation of the examination of his asylum application. He remained in Lavrion, legally, for 5-6 months but, during that period, he did not manage to receive his asylum seeker's card (red card) by the competent police authorities there. In July 2007, the Lavrion Reception Center referred him to the Anogeia Center because of reconstruction works in the former. The minor left for Anogeia, always without a "red card". The Perama Police Station provided him with a new police note and a new interview date. On 21//11/2007 the minor was arrested by the Perama Police Station for lack of identity documents and on 23/11/2007 an administrative deportation order, with detention order, was issued against him. In addition, the said administrative deportation order by the police changed his date of birth – to the year 1988. Eventually, the order was repealed and the minor let free. Till the end of the study (April 2008) he was still without any asylum seeker's document and by now is, for the Greek State, 20 years old.*

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<sup>43</sup> . N. Dramountanis.

## 5.2. Childhood consideration and age assessment by the authorities

### 5.2.1. The legislative framework

According to the "Guidelines" (point 2)

*...once the authorities have identified an alien minor, their acts can only be part of their efforts to protect the minor's rights. In this context it is important to establish the legal category to which this minor belongs ...the identification procedure is particularly significant since it leads to differentiated obligations as to the kind and the extent of the benefits and services provided by the State.*

The Council Resolution of 26 June 1997 on "unaccompanied minors who are nationals of third countries" specifies in article 3 paragraph. 1 that

*«Member States should endeavour to establish a minor's identity as soon as possible after arrival, and also the fact that he or she is unaccompanied»*

While article 4 paragraph 3 notes that

*« ... In principle, an unaccompanied asylum-seeker claiming to be a minor must produce evidence of his age... If such evidence is not available or serious doubt persists, Member States may carry out an assessment of the age of an asylum-seeker. Age assessment should be carried out objectively. For such purposes, Member States may have a medical age-test carried out by qualified medical personnel, with the consent of the minor, a specially appointed adult representative or institution»*

Contrary to the "Guidelines", the Greek aliens' legislation (law 3386/2005) does not include any specific reference to the special treatment of the group of unaccompanied minors who appear before the authorities, with the exception of the obligation to inform thereupon the Public Prosecutor for Minors. A recent circular of the Hellenic



Police stresses again the necessity to alert the Public Prosecutor for Minors even when minors do not apply for asylum<sup>44</sup>.

Also, according to the “Guidelines” (point 4)

*The procedure to establish the age of a child, when this is considered necessary, must be entrusted to an independent expert paediatrician, with the adequate know-how...examinations must never be forced [while] the benefit of the doubt should also apply.*

At the moment there is no legal provision on assessing the age of a person (even less so of a minor) through medical exams. However, both the Council Directive 2005/85/EC on the Minimum Standards on Procedures in Member States for Granting and Withdrawing Refugee Status and the draft Presidential Decree that transposes belatedly this Directive into national law include provisions that allow the use of medical examination methods in order to assess the age of unaccompanied minors in the context of the examination of an asylum application<sup>45</sup>. Such exams should include information guarantees for minors and should only take place with their consent.

### **5.2.2. Analysis of the current situation**

The registration of unaccompanied minors by the State, and in particular the Police authorities, generates two categories of problems: firstly, the identification of the applicant as a minor and, secondly, the registration of the fact that the minor in question is unaccompanied.

As far as the first category is concerned, the study found out cases where the authorities register minors with a different date of birth that they themselves declare; this may take place either during the first registration or, less frequently, in a

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<sup>44</sup> . Circular with ref. number 5401/1-261100 dated 23-2-2008.

<sup>45</sup> Article 17 paragraph 5 of the Directive.

subsequent official document<sup>46</sup>. Usually, the authorities act in this way because they have doubts as to the true age of the applicant. On occasions, this may be simply due to communication difficulties or to the ignorance of the calendar used (mainly in the case of Afghans). Besides these errors, though, there have been obvious cases when a child has been registered as 18 years old<sup>47</sup>. It is uncertain whether these discrepancies are due to a conscious attempt by the authorities to artificially reduce the number of unaccompanied minors (and, therefore, the relating State obligations) or are simply administrative dereliction of duty. We also lack enough available data on the dimensions of the problem. It represents, nevertheless, another statistical and genuine problem when dealing with cases of unaccompanied minors. The assessment of the age of an applicant is part of the wider issue of the acceptance of personal data provided by the applicant and should be dealt with in a comprehensive way.

On the other hand, the study also ascertained the reverse case, namely the cases when a young adult declares to be under age while evidently above 18. This practice seems to grow as aliens find out (or suspect) that, by alleging to be minors, they may get a more lenient treatment (in particular concerning the time of their detention in view of their deportation following their arrest when entering Greece) and, especially, that they will not fall within the aforementioned provisions of Regulation 343/2003<sup>48</sup>.

A more significant issue arises from the fact that a number of unaccompanied minors are registered as accompanied by an adult. This appears to occur in some entry points, such as Lesbos: a number of cases were reported where the authorities issue deportation orders for (usually very young) adults in which they add the names of one or more minors; these young adults are often compatriots of the minors, have probably arrived together with them and are, thus, deemed to accompany the minors.

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<sup>46</sup> . The discrepancy appears usually between the age mentioned in the administrative deportation order and that registered when the minor lodges the asylum application as it appears in the special asylum seeker's card. In other cases, when the official documents do not present any age discrepancy, the minors themselves declare it to other institutions (NGOs or Accommodation Centres).

<sup>47</sup> . Such cases were reported by S. Protogerou, from G.C.R. legal assistance unit. The same was ascertained in the case of a minor residing in Anogeia: the first three official documents (including a deportation order issued in Mytilini) referred to him as being born in 1990 while a later deportation order mentioned as year of birth 1988.

<sup>48</sup> . An extreme such example reported by an accommodation centre, concerns an applicant who is 32 years old, married with two children who declared to be minor of age, this declaration had been accepted by the authorities and the applicant was referred to an accommodation centre, where he, later admitted his real age.

However, these latter have neither declared to be together with the said adult nor have they any personal or family relationship whatsoever.

Both the frequency and the similarity of these incidents and the existence of a specific standardized field for this purpose in the deportation order notes, leads the researchers to the conclusion that these are not isolated errors; we are not, nonetheless, able to verify the dimension of the problem. As mentioned before, such cases have been reported with deportation orders issued in Mytilini; it does not appear to be limited to this area only<sup>49</sup>. It generates a number of serious issues: the involuntary association of a minor with an adult who is not even a relation renders, if anything, more difficult the protection of the former. Such practices, which seem to be put into effect without even a summary examination of the relationship between the two, encourages trafficking or, at any rate, increases the danger of exploitation of the minor. It must be stressed that this practice has been observed only with minors who entered Greece illegally and were given a deportation order; when these minors lodge an application for asylum unaccompanied, the authorities open, in any case, a separate file for them, as unaccompanied, even when there is a close relative (with the exception of a parent or, sometimes, an older sibling) present.

As far as age assessment medical examinations are concerned, the study did not find out any case in which the asylum authorities (or the authorities in general) used medical methods to corroborate the age of a minor. In most cases, the authorities accept and record the age declared by the minor in the asylum application. Whenever the age recorded is different - usually higher - than that declared by the minor, this is a

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<sup>49</sup> . Cf. G.C.R. letter to the Ministry of Interior denouncing this situation, with copy to the Ministry of Health, UNHCR and the Office of the Ombudsman (ref. num. 729/2007 dated 30.10.2007). The letter explicitly denounced the fact that «in many cases...minors are not registered as unaccompanied but rather as accompanied... [whilst]... they themselves report to us that they have no relationship or do not even know their alleged accompanying person ». There has been no reaction from the Ministry to this complaint. The examination of the files of minors in the Hellenic Police Headquarters leads to the same conclusion. Among the files examined, one belonging to an Afghani national, unaccompanied minor, included a deportation order issued for an adult accompanying person (born in 1985) who appeared to accompany 4 minors, in total. Evidence that this is a conscious practice is, according to the researchers, the fact that when, the minor applied for asylum, the territorially competent authorities did not pay any attention to trace the alleged accompanying person but started the asylum examination procedure as if the minor were unaccompanied from the beginning. The question that arises is the fate of the other minors recorded in the same deportation order: obviously, since they never entered the asylum procedure, the State never took into account their age and they remain invisible for the authorities.

result of a visual and scientifically unsubstantiated judgment of the authorities<sup>50</sup>. The study also was informed of one single case where the NGO running the centre where the minor was accommodated arranged, at its own expenses, a medical test for assessing the minor's age<sup>51</sup>.

Both the existing and the future legal framework allow police authorities to request age assessment medical examinations for minors who are not in possession of documents indicating their age. Equally, any minor has the right to refuse to undergo such examinations. Given, though, the relatively high cost of these examinations and the impossibility to assess conclusively the exact age, independently of the medical method used, it is highly unlikely that the authorities will adopt such measures<sup>52</sup>. The only interest shown by the authorities towards this objective during the study referred to the possibility to use such examinations so as to be allowed to place unaccompanied minors aged 16 or over in accommodation centres for adult asylum seekers<sup>53</sup>.

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<sup>50</sup> . See below.

<sup>51</sup> . N. Nigritinou. The issue concerned a minor whose application would be examined by another E.U. Member State on the basis of Regulation 343/2003. The age assessment medical examinations had been requested by the said Member State. During the discussions with representatives from «Social Solidarity» in Thessaloniki, they expressed the opinion that a wider use of such medical methods might be more favourable for minors and fairer in terms of the correct use of the limited funding for minors.

<sup>52</sup> . It should be stressed that some E.U. Members (such as Austria) do not allow medical examinations for non-medical purposes. In addition, such examinations expose the minor to dangerous radiation.

<sup>53</sup> . I. Tassopoulos. He probably refers to the provision in article 4 para. 4 (d) of the 1997 Resolution on unaccompanied minors which states that «Member States may place unaccompanied minors aged 16 or above in reception centres for adult asylum seekers». Directive 2003/9 includes a similar provision in article 19 para. 2 which, though, was not transposed in P.D. 220/2007.

## 5.3. Detention and freedom of movement

### 5.3.1. The legislative framework

According to the Guidelines (point 5)

*Unaccompanied children who apply for asylum must never be detained for entering the country without following the legal procedures.*

At the same time article 37 of the Convention for the Rights of the Child stipulates that

*« ...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»*

The fourth paragraph of the same article underlines that

*«Every child deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation of his or her liberty before a court or other competent, independent and impartial authority, and to a prompt decision on any such action»*

Greek asylum legislation does not contain specific provisions for the detention of minors (or of any other alien) only on the grounds that they apply for asylum. Also, article 31 of the Geneva Convention prohibits Contracting States from «imposing penalties [on refugees] on account of their illegal entry or presence». Detention – in its usual form for minors – is only provided for by law 3386/2005 and only in the context of the procedure for an administrative deportation of aliens who have illegally entered the country (articles 76 and following and, especially, article 81). More

specifically, given that the overwhelming majority of asylum seekers enter Greece illegally and are not in possession of any travel or other document, the detention mentioned above is ordered after the alien is arrested for illegal entry, the Public Prosecutor refrains from pressing charges as per article 83 of law 3386/2005 and the territorially competent Police Director issues an administrative order of deportation against the said alien (article 76).

This provision does not prohibit the detention of minors who entered the country illegally and who do not lodge (or do not lodge immediately) an asylum application. It does not contain any specific provision for the detention of minors in view of their hypothetical deportation. Neither does it prohibit the deportation of these minors. Article 79 simply prohibits the deportation of a minor whose

*«Parents or the persons who have the care of the minor reside legally in Greece»*

Or who is under obligation of

*«A reformatory measure imposed by a ruling of the Juvenile Court».*

In the case of detained minors, article 67 para. 3 case 25 of Presidential Decree 141/1991 applies: this provision imposes the separate detention of minors and women<sup>54</sup>.

European legislation, in particular Directive 2005/85/EC, does not have any special reference to the detention of minors applying for asylum. Article 17 para... 6, though, stipulating that

*«The best interests of the child shall be a primary consideration for Member States when implementing this Article»*

is obviously applicable to the issues of their detention, too.

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### **5.3.2. Analysis of the current situation**

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<sup>54</sup> . O.G. (A') 58 dated 30-04-1991.

Till recently (2005) there was no perceptible differentiated treatment of minors who entered Greece illegally, whether or not they applied for asylum. Typically, a minor arrested for illegal entry, especially at entry points, would be issued a deportation order and be detained for the maximum period allowed for the detention of aliens to be deported (3 months according both to articles 76 and 81 of law 3386/2005 as well as of the previous legislation based on law 2910/2001); these procedures would be followed independently of whether the minor applied for asylum or not. Often, but not always and depending on the capacity of the detention centres, the authorities tried to detain (male) minors in separate premises.

This situation seems to have somehow changed during these last years, although the authorities do not have any consistent policy either on the issue of detention, firstly, and of the detention of minors, in particular. This is a new attitude of the police authorities, mainly at entry points; the practice varies in each Police Directorate and is, partly, a corollary to their policy on the detention of illegal entries, more in general. For instance, the authorities in Lesbos and the Dodecanese detain aliens, entering illegally who are nationals of countries where deportation cannot take place, for a few days only, while in the past they detained them for the maximum period<sup>55</sup>.

In other areas where aliens are still detained for three months, minors are often detained for shorter time and/or in separate premises<sup>56</sup>. The authorities often try to detain male minors separately. This is not the case with the girls; they are always detained in the same premises with other women<sup>57</sup>.

According to UNHCR findings, in areas of the North East Aegean, aliens who entered the country illegally and applied for asylum were detained for the maximum, three-

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<sup>55</sup> . P. Papadimitriou reported that in Rhodes and Kos, during 2006 and 2007, minors who were arrested for illegal entry were released after three days. He also stressed though that these minors did not enter the asylum procedure and that there was no further involvement of authorities in their protection after that. As he pointed out, the Kos authorities adopted recently a policy of detaining aliens who apply for asylum for the maximum period of three months, while releasing earlier those aliens that did not express such an intention.

<sup>56</sup> . This is the case in Chios, for instance (P. Papadimitriou). In the island of Kos, minors and families are detained for a very short time in a hotel. In Thessaloniki, minors detained are freed after a month, more or less (N.Nigritinou).

<sup>57</sup> . P. Papadimitriou.

month, period while persons from the same nationality who did not want to apply for asylum were freed earlier, with an average detention period of 20-30 days<sup>58</sup>.

According to the Asylum Department of Athens, minors who apply for asylum there are not detained, while minors detained in the Deportation Department who express their intention to apply for asylum are referred to the Asylum Department and, after the lodging of the application, are let free<sup>59</sup>.

With the exception of the island of Chios, where the authorities demonstrate a conscious effort to monitor and follow-up on minors arriving in the island even after the end of their detention period, we have not found any other efforts by authorities elsewhere to intervene and provide assistance or monitoring on minors after the end of their detention<sup>60</sup>.

It is worth stressing, though, another issue, of recent appearance, which reveals again the close connection between the problems faced by unaccompanied minors and the general shortages in the welfare system of Greece. Following the involvement of various structures and institutions (UNHCR, the Ombudsman, NGOs and other groups for the protection of children), publicity in the press and the implementation of P.D. 220/2007 on the detention conditions and, more in general, on the lack of protection for minors arriving unaccompanied in the country, the authorities, mainly from the police side, started being more attentive to the issue. This increased attention, however, led, paradoxically, to lengthier detention for the minors arrested in some entry points (namely the Evros region) since the authorities keep the minors in detention premises while inquiring for accommodation facilities for them and all such facilities are full<sup>61</sup>.

Besides administrative detention in view of deportation, an increasing number of minors (asylum applicants or not) who are in need of international protection are arrested for illegal exit from the country and use of forged or falsified travel

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<sup>58</sup> . Cf. Letter by UNHCR to the head of the General Police Directorate of the N-E Aegean Isles (GREAT/HCR/188/29-11-2007). UNHCR condemns this practice since it acts as a deterrent to the lodging of asylum applications.

<sup>59</sup> . C. Gavras.

<sup>60</sup> . P. Papadimitriou.



documents (usually forged passports). During the last two months of 2007 the Security Department of the Police Directorate of the Athens Airport notified to the Juvenile Custody Service of the Juvenile Court of Athens the arrests of 80 Somali and 93 Iraqi minors, in the Athens airport, for violation of article 87 § 7 (illegal possession or use of a passport of other travel document) of law 3386/2005 while trying to board a plane. These minors, following their arrest, are taken before the Public Prosecutor and, whether or not this latter, refrains from pressing charges, are detained for lack of identity documents, are issued an administrative order of deportation and let free<sup>62</sup>.

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<sup>61</sup> . P. Papadimitriou.  
<sup>62</sup> . A. Spyropoulos.

## 5.4. Appointment of a Guardian

### 5.4.1. The legislative framework

The issue of the representation and protection of the minor who is not accompanied by a parent or guardian is crucial for his future. For this reason, the 'Guidelines', describe, in point 7, a number of proposals for a relevant State action. These proposals cover the entire period from the first appearance of the minor before the Greek authorities to the completion of the asylum procedure and the minor's coming of age. According to these proposals

*From the moment an unaccompanied child who wishes to apply for asylum is located... the Public Prosecutor for Minors is informed in order to act as a temporary guardian of the minor and represent and assist him during the refugee determination status procedure. In the long term, it is necessary to appoint a guardian or counsel to ensure the provision of advice to the minor and to protect his rights as well as to represent him on issues related to his education, social welfare and care, health needs as well as in the issuance of identity documents etc.*

*For this reason [the competent Ministries] should examine, as a priority, the establishment of the Judicial Social Service set up in article 49 of law 2447/1996 which can take over the guardianship of unaccompanied children...*

*...independently of his legal status...the guardian's competences must be the following:*

- to ensure that all decisions concerning the child are in accordance with the principle of the child's best interests.*
- to ensure that an unaccompanied child receives adequate care, housing, education, language assistance and health care services.*
- to advise and consult the child.*
- to contribute in finding a durable solution, taking into account the principle of the child's best interests.*

*- To be the link between the child and the various structures and institutions providing services to him.*

*- To advocate in favor of the child, if necessary.*

*- to examine the possibilities to trace the child's family and reunite the child with his family.*

*In order to ensure the necessary protection of unaccompanied children, the guardian must be appointed within a month from the child's location by the competent authorities...*

As already pointed out, Greek legislation is very brief on this issue. The previous legislation (article 1 para. 4 of P.D. 61/1999) simply laid down that

*«An asylum claim can also be submitted by an alien aged between 14 and 18 years old who is not accompanied by his parents if, from the general situation the interviewer considers that his mental maturity allows him to comprehend the meaning of this action. In any other case of asylum claims submitted by aliens under 18 old who are not accompanied by their parents or other guardian, the competent police authority informs the Public Prosecutor for Minors and, when such does not exist, the locally competent First Instance Public Prosecutor, in order that he acts as a special temporary guardian of the minor until the final decision on his claim has been taken».*

Following the adoption of P.D. 220/2007 the special requirements for the guardianship of minors are included in its article 19 paragraph 1. According to it

*« The competent authorities take as soon as possible measures to ensure the necessary representation of unaccompanied minors. For this reason, they inform the Public Prosecutor for Minors and, when such does not exist, the territorially competent First Instance Public Prosecutor, who acts as a temporary guardian of the minor and takes the necessary steps for the appointment of a guardian of the minor».*

In addition, the provisions of the guardianship of minors contained in the Civil Code (articles 1589-1654) also apply in the cases of aliens, since the Code does not distinguish between nationals and aliens in this area.

In 2003, a draft law on the establishment of Units for the Care of Minors was debated. The draft, though, was never adopted. The Ministry of Justice tried, in 2007, to bring back this draft and set up a special advisory committee to formulate relevant proposals. The committee's findings, which are currently before the competent legislative committee of the Ministry of Justice (and may, therefore, undergo modifications) refers to cases of unaccompanied minors and includes provisions not only for their accommodation, but also for appointing these Units as guardians for those minors housed with them<sup>63</sup>; these Units would operate as non-profit making Private Law legal entities under the supervision of the Ministry of Justice.

#### **5.4.2. Analysis of the current situation**

All non-governmental structures emphasized the extremely serious and wide-ranging problems that arise from the absence and a permanent (and effective) guardian. Several even consider it as the primary and most urgent issue – both for the structures and for the minors themselves, since it affects each and every integration policy. The daily acts that require the consent of a parent or guardian are innumerable and arise in almost every aspect of the minor's life – from registration to school and the justification of school absences to the issuance of a tax registration number or of a work permit<sup>64</sup>; its ramifications extend to issues of health and sports activities<sup>65</sup>. Furthermore, the guardian is not only an administrative and legal representative of the

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<sup>63</sup> . According to I. Charisopoulou a first such Unit, if the law is adopted and implemented, would be established in Athens and house ten unaccompanied minors.

<sup>64</sup> . Article 136 of the Civil Code stipulates that « a minor who has completed his fifteenth year of age may, with the general consent of the persons who exercise care on him, sign an employment contract as an employee. If this consent is not provided, the court rules, following an application by the minor». However, given that the competent authorities for issuing the work permit require always the consent of the person «who has care on the minor» and that the minor has never the effective possibility to request a judicial ruling against the -nonexistent - guardian and ask to be allowed to work, this provision in practice prohibits any legal employment opportunity for such minors.

<sup>65</sup> . The social service of “Social Solidarity” in Thessaloniki reported an emblematic case, whereby asylum seekers accommodated in “Social Solidarity” were prevented from registering in a Thessaloniki sports' club (in this case for swimming) because they could not provide a consent by the legal guardian.

minor, but acts as a reference point and a role model for the latter, especially when the minor is away from his country and natural family.

In addition, the legislation does not exclude refugee children from the requirement of the guardian and the competent authorities rarely show understanding and tolerance to the absence of the guardian for unaccompanied minors, asylum seekers, despite the fact that, exactly due to their status, it is difficult for them to supply either a parent or a warder, and continue to require the consent of persons who are responsible for them. The study demonstrated that, even when the requirement for the presence or consent of a guardian is circumvented, this is due either to the personal contacts of the staff of the Accommodation Centres where the minors reside or, simply, to ignorance of the legal requirements by the competent services<sup>66</sup>.

The State, on the other hand, does not seem to be aware either of the significance – in practical and social terms – of the existence of a guardian for the life of the minor or of the complications generated by his absence and does not demonstrate the needed attention to cover this legal and practical vacuum. The operation of the guardianship by the Minors' Public Prosecutor set up by P.D. 61/1999 has been inadequate. In practice, it appears that the involvement of the Minors' Public Prosecutor as the special temporary guardian was limited, in the best case scenario, to being notified by the police authorities that the minor had applied for asylum<sup>67</sup>. We did not come across any event where the Minors' Public Prosecutor, as a guardian, participated, ever formally, in interviews taken in the context of a minor's examination of the asylum application<sup>68</sup>. The competent prosecuting authorities in Athens undersign, when asked, power-of-attorney to minors' lawyers for legal acts in the context of the asylum

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<sup>66</sup> . The Centers' administrations attested to this.

<sup>67</sup> . Most files for unaccompanied minors examined by the researchers report that the Minors' Public Prosecutor was notified and that «a guardian was appointed». This is mostly the case for minors who apply for asylum inside the country rather than at points of entry. It also appears that police authorities more experienced in asylum issues are more attentive to the issue of notifying the Minors' Public Prosecutor. This was, for instance, the case in the Police Directorate of Magnisia.

<sup>68</sup> . Some of the asylum seekers' files examined, in particular for interviews taken by the Police Directorate of Magnisia, contain references that the guardian was present or participated in the interview. The competent Public Prosecutor for Minors of Volos, Ms. Dimitriadou reported that she has never been invited to attend, nor attended an interview with a minor.

procedure<sup>69</sup>. If asked by the asylum authorities, they also undersign appeals and other procedural requests for minors.

*We were reported the case of a minor where the asylum application had been rejected at 2<sup>nd</sup> instance, and the competent Minors' Public Prosecutor who had been appointed as provisional guardian refused to undersign an application for annulment of the negative decision before the Council of State; the Prosecutor, rather than consider the best interest of the child, opposed the move on the grounds that the success of the appeal were uncertain due to the unanimous rejection of the asylum appeal before the Committee of article 3 para. 5 of P.D. 61/1999<sup>70</sup>.*

The modifications of the rules concerning the guardianship of unaccompanied minors laid down by the P.D. 220/2007 are an advance: following the specific relevant requirement by the Council of State<sup>71</sup>, guardianship is extended to unaccompanied minors even before they apply for asylum<sup>72</sup>. It also represents a means of pressure of the prosecuting authority to the welfare services in case, for instance, of mass arrivals of unaccompanied minors, a burden which, in the past, fell upon social workers or NGOs alone. The researchers, though, are doubtful as to whether this legislative development contributes, practically, to the improvement of the situation, in particular as far as the appointment of the permanent guardian is concerned.

It appears that the new provision of article 19 para. 1 of the P.D. 220/2007 on temporary guardianship is interpreted narrowly by, some at least, Public Prosecutors as far as its content is concerned. More concretely, during the discussions between the researchers and the Athens Public Prosecutor's Office for Minors, these latter pointed

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<sup>69</sup> . One such case was attested: the former Public Prosecutor for Minors, Ms. Poischina, signed such a power-of-attorney to a lawyer for the defense of a minor asylum seeker before the Advisory Appeals' Board. The minor was eventually granted refugee status.

<sup>70</sup> . This case was reported by S. Protogerou (GCR), N. Moshos, lawyer for the Makrinitsa Accommodation Center but also from A. Zissis, Head of Public Prosecutor's Office in Volos.

<sup>71</sup> . Cf. point 26. Minutes of the meeting and opinion of the Council of State (opinion number 204/2007, issued by the 1<sup>st</sup> summer break section) commenting upon the /m draft presidential decree.

<sup>72</sup> . It must be pointed out that for the first time, the competent Public Prosecutor for Minors of Patras appointed himself temporary guardian for the unaccompanied minors of Patras, even before these apply for asylum.

out that, according to them the only competence belonging to the temporary guardian is to «take the necessary steps for the appointment of a [permanent] guardian of the minor»<sup>73</sup>. All prosecutors interviewed also stressed emphatically that they are practically unable to effectively perform their duties as guardians due to their overwhelming work load.

All other institutions that could, perhaps, take over the guardianship of minors face a similar workload. It is a fact that all structures for the care of minors in Greece are understaffed and lack the practical capacities to perform such guardianship duties.

The “Guidelines”, as mentioned, stress the need for the priority establishment of the Judicial Social Service, laid down in article 49 of law 2447/1996<sup>74</sup>, which could take over the task of guardian for unaccompanied children».

This is an optimistic position, not only because the said law is in fact inoperative. The law does not explicitly rule that this service take over guardianship, in general: indeed as article 53 points out, their main task is to

«...provide assistance and support...to parents or guardians, when performing their duties of care for the minors ...and to help and advise natural parents who wish to give their child for adoption as well as to those who wish to adopt a child’

And to conduct social research. The other services mentioned in the same article as competent, at least provisionally, that is

*«...the Societies for the Protection of Minors, already operating in the First Instance Courts, through their existing social services...the Juvenile Custody Officers, the Social Workers of the Ministry of Justice...of the Ministry of Health and of the Prefectures as well as the social welfare organizations under their supervision»*

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<sup>73</sup> . Th. Botsis and S. Papataxiarchis. Other prosecutors even expressed ignorance as to the legislative modification and the existence of this competence of theirs.

<sup>74</sup> . Law 2447/1996. Adoption, as a code, of the draft law on «Adoption, guardianship and foster care of minors, judicial assistance, judicial trusteeship of alien property and relating provisions substantive, procedural and transitory provisions». O.G. A’ 278 dated 30-12-1996.

are, if anything even more overwhelmed by work and understaffed and, as a result, already complain about their present tasks.

The researchers consider that of greater use for the objectives of the study are the provisions in article 64 of the same law, according to which

*«A presidential decree, issued on a proposal by the Ministers of Justice and Health, will indicate these institutions and associations which, due to their specialized staff, will be considered appropriate to take over the guardianship of minors, according to article 1671 of the Civil Code...[these institutions] operate under the control and supervision of the Ministry of Health»*

Also article 66 provides that

*«Each year the State Budget contains, on a mandatory basis, under the Ministry of Justice budgetary post, the expenditure required for the appointment and the remuneration of guardians... This provision will enter into force following a relevant presidential decree, issued on a proposal by the Ministers of Finances, Justice and Health».*

These provisions have not yet been implemented, neither does there appear any political will to implement them, as it would require significant financial costs. At present, therefore, there is no effectively operating structure in Greece that can take over, by law, the guardianship of an unaccompanied minor who has applied for asylum.

On the other hand, the existing Accommodation Centres (and their administrators, personally) are very reluctant, if not outright negative, to take over guardianship for the minors they host<sup>75</sup> for a number of reasons: these Centres were created through private initiative and the responsibilities that might possibly arise from taking over guardianship (especially the unpredictable legal obligations the Centres of individually their staff may face due to acts of minors) are too serious for the administrators of the Centers and too onerous for the Centers themselves. They also



point out that they are open Centers and do not wish to be continually supervising the minors, while, at the same time, they believe that such a development would mean that the State conveys again its obligations concerning minors to third parties.

In practice, there have been few occasions when a citizen took over voluntarily the guardianship of an unaccompanied minor; in most cases this was done in order to overcome insurmountable legal or other obstacles and required the personal responsibility and selflessness of the guardian<sup>76</sup>.

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<sup>75</sup> . A position shared by all the representatives of Accommodation Centers.

<sup>76</sup> The member of the Social Service of G.C.R., M. Michailidou, took over the guardianship – on educational issues alone – for two minors during 2006 in order to allow these children to register in school.

## 5.5. Social protection (interim care -health – education and vocational training)

### 5.5.1. Housing - accommodation

During the study the researchers visited the existing housing structures for unaccompanied minors who have applied for asylum and which operate with the funding of the Ministry of Health and Social Solidarity through the European Refugee Fund.

It was also considered useful to comprise in the study the accommodation shelter of Association for the Care of Minors, despite the fact that it is not included in any official activity of the Ministry of Health and Social Solidarity, as, during these recent years and on a constant basis, almost all minors it provides accommodation to are unaccompanied minors asylum seekers, and the Centre is considered by all actors in the field (G.C.R., ARSIS etc.) as a significant accommodation facility.

<b>Summary table of the Accommodation centres for Unaccompanied Minors Asylum Seekers and of the services provided there</b>				
	<b>Reception Program for Refugees Aliens Unaccompanied Minors– EYF- Unit of Anogeia (Crete)</b>	<b>Reception Centre for Refugees and Asylum Seekers of Thessaloniki - Social Solidarity</b>	<b>Centre for Reception, Accommodation and Support of Unaccompanied Minors Asylum Seekers– ARSIS and Hellenic Care of Volos</b>	<b>Shelter for the Care of Minors – Association for the Care of Minors</b>
Location	Anogeia (Crete)	Thessaloniki	Makrinitza (Magnisia)	Athens
Capacity	25 persons	Up to 30 <sup>77</sup> persons	30 persons <sup>78</sup>	12 persons <sup>79</sup>

<sup>77</sup> The Centre is not exclusively addressed to unaccompanied minors. Its capacity totals 70 individuals; from among them, it provides to accommodate up to 30 minors. On March 2008 there were 34 unaccompanied minors.

<sup>78</sup> At the time of the study it accommodated 31 persons.

<sup>79</sup> At the time of the study it accommodated 14 persons.

Funding	Ministry of Health and Social Solidarity – European Refugee Fund	Ministry of Health and Social Solidarity – European Refugee Fund	Ministry of Health and Social Solidarity – European Refugee Fund	Self-financed
Duration of accommodation <sup>80</sup>	Till adulthood	Till adulthood	Till adulthood	Till adulthood
Freedom of movement	YES (no exit after 21.00)	YES (no exit after 24.00)	YES (no exit after 21.00. Minors may, however, leave in the evening and spend the night out with special permission)	YES (Minors may, however, leave in the evening and spend the night out with special permission)
Consulting and social support services	Social worker and psychologist on part-time	Social worker and psychologist	Psychologist	Social worker
Greek language courses	In-house by instructors on an hourly basis	In-house by instructors on an hourly basis or by volunteers when there is no funding	In-house through a program by IDEKE – not on a continuous basis or by volunteers in the premises of ARSIS in Volos	The minors join Greek language courses organized by other structures such as G.C.R. - «PYXIDA» program and ARSIS.
Interpretation	Provided by Greek-speaking minors	YES (employs 3 interpreters)	Minors residing in the Center and speaking Greek act as interpreters. Volunteers cover extra needs.	Minors residing in the Center and speaking Greek act as interpreters. In some cases, interpretation is provided by other structures, such as G.C.R. and ARSIS.
Legal assistance	On a case-by case legal assistance services mostly provided by the G.C.R. Legal Assistance Unit <sup>81</sup> .	YES. Cooperation with a lawyer and a human rights jurist.	YES. Cooperation with a lawyer.	Legal assistance services mostly provided by other structures, such as the G.C.R. the Ecumenical Refugee Program, ARSIS, Lawyers' group
Pocket money	YES. (54 euro / month )	YES. (20 euro / month)	NO	NO
Other material reception	Monthly bus card	Free bus tickets	bus card Phone card	Free tickets
Personal	free	free	free	free

<sup>80</sup> . Usually minors remain there enough time after their coming of age until they can achieve, usually by finding a job and a flat, self-sustained living.

<sup>81</sup> . Despite the fact that the EYF has its own legal service, the administration of the Center stated that their cases are not, in practice, served by this latter. They reported, indicatively, a case of a minor accommodated in the Center and unlawfully arrested by the police authorities, where there was no assistance from the EYF. In practice the legal needs of the Center continue to be served by the G.C.R.

hygiene articles				
Internal regulation	Minors are informed orally of their rights, obligations and operation rules of the Center.	Minors sign a relevant application form and acceptance of terms of accommodation and operation of the Center.	Minors sign a private agreement of acceptance of the terms of accommodation and operation of the Center.	Minors sign a relevant application form and acceptance of terms of accommodation and operation of the structure.
Education	The Center aims to register minors to school.	Schooling is compulsory.	Schooling is not compulsory.	Schooling is compulsory for those aged under-16.
Health services	At the local Health Services.	At the local Health Services. In-house nurse.	At the local Health Services	At the local Health Services
Mental Health	Heraklion hospital (no specialized services for adolescents)	Mental Health Centres and other structures.	Mental Health Centres.	Specialized Mental Health structures for adolescents. Aiginiteio Hospital (department of intercultural medicine)
Employment	Efforts undertaken. Minors who are employed do not, nevertheless, possess work permit and social security.	Not actively promoted.	Actively promoted. Minors who are employed do not, nevertheless, possess work permit and social security.	Actively promoted for older minors. All minors who are employed possess work permit and social security.
Leisure, educational, athletics and other activities.	Minors are assisted in joining sports activities (local football club). Other leisure activities are organized (excursions, cinema etc.), usually on a monthly basis and according to funding.	Minors are integrated in sports and leisure activities of the community (Tae kwo Do, theater group etc.). A football team is set up.	Minors are integrated in sports and leisure activities of the community (TaekwoDo, conservatory, computer courses etc.). Volunteers organize, in turns, other activities in-house, such as painting.	Minors are integrated in sports and leisure activities of the community. They also actively participate in activities organised by other structures such as ARSIS, G.C.R. etc.

### **An account on the Accommodation Centers**

### **A. Reception Program for Refugees Aliens Unaccompanied Minors of the National Youth Foundation – Unit of Anogeia (Crete)**

The reception program for unaccompanied minors, asylum seekers is implemented by the National Youth Foundation (NYF) in its premises of Anogeia (Crete) since 2000. It is financed by the NYF and the Ministry of Health and Social Solidarity and the European Refugee Fund. Its capacity totals 25 individuals and during these last years it always operated in full capacity.

The Ministry of Health and Social Solidarity, through its Directorate of Social Care and Solidarity decides on the minors to be accommodated in the Center. The Program's budget covers the travel costs of the minor to the Center. Immediately after their arrival, the minors undergo a medical examination at the local Health Centre<sup>82</sup> and lodge an asylum application in case they have not already done so, to the competent Security department of the Perama police station<sup>83</sup>. At the time of the study, the Center hosted 25 unaccompanied minors, all Afghani males, aged 15 to 21 years.

The Program employs one social worker (3 times/week), one psychologist (2 times/week) και 2 language teachers on an hourly basis.<sup>84</sup> Each newcomer receives a lump sum of 100 euro for clothing. Subsequent clothing needs are covered either by donations of cloths or at the minors' expenses. The Program, besides accommodation in 5-person bedrooms provides board (3 daily meals). The menu is drawn up taking into account the minors religious and cultural particularities. The minors' daily program includes one hour of Greek language in groups of 4 – 5 persons, provided in the Center by teaching staff and (group or individual) sessions with the social worker and the psychologist.

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<sup>82</sup> The majority of minors have not undergone any screening medical test at the points of arrival...

<sup>83</sup> . Very few minors arrive in the Center having already received their "pink card". Most have only a police note and have to submit their application to the local police department, in order for the first interview to be conducted and the asylum seeker's card to be issued. In most cases, the waiting period for the "red card" takes many months.

<sup>84</sup> . The Anogeia unit has a permanent staff of 12 (administrative and assisting personnel) who cover, in part, the needs of the Program (secretariat, cleaning, guard, cooking).

Most minors train at the local football club facilities and some are members of the team. Some children participate in sports activities in the city of Heraklion. In these cases, they are given a monthly reduction card for their transport.

All minors receive 54 euro per month as pocket money to cover their personal needs. The Center aims to organize every month common activities for the guests, such as excursions, cinema etc.

As far as education is concerned, the objective, especially for younger children, is to enroll those who wish it to school. However, today out of all minors accommodated in the Center, only four have enrolled in secondary education and attend classes in the local Junior High School.

Vocational training and employment are the main concerns of guests. However, the realistic possibilities existing for the minors in the area are very limited. As a result only three of the minors have a regular job in a local business – without being in possession, though of either a work permit or social insurance. Most minors are employed occasionally in seasonal agricultural or stock farming activities.

The main problems emphasized by the minors have to do with their asylum examination procedures (lengthy delays in receiving their «red card», many years of waiting period for their application to be completed with frequent negative final decisions) as well as with a wider feeling of insecurity created as to their possibility to remain permanently in Greece. This feeling is a deterrent factor in all integration efforts they undertake. Issues more specifically linked with the Centre include their demands for more hours of Greek language courses and extra educational and training programs (such as computer courses, English and technical training). Those attending school wanted extra tutoring courses (the Anogeia High School does not operate introduction classes or remedial courses) as well increased possibilities to work.

The main problems stressed by the Center's administration are connected directly to the financing of the Program; its reduction imposes to cut down on educational and leisure activities and to limit creative occupation.

Furthermore, the delays in the effective disbursement of funds from the NYF's headquarters to the Anogeia unit causes problems to the orderly operation of the Center since it leads to delays (often of several months) in the payment of salaries to the Program staff and of the pocket money to minors.

At the same time, the location of the Center is a source of difficulties since Anogeia is a small town with few health, education and vocational training infrastructures and limited job opportunities. The nearest city is Heraklion (1 hour away by bus) but the low frequency of bus services and the fare do not allow minors to move there on a daily basis.

## **B. Reception Centre for Refugees and Asylum Seekers of Thessaloniki - Social Solidarity**

The Reception Centre for Refugees and Asylum Seekers of Thessaloniki is operated by Social Solidarity since 2000 and is financed by the Ministry of Health and Social Solidarity and the European Refugee Fund.

The Centre is not providing accommodation to unaccompanied minors only. Its target groups include vulnerable groups, such as families with children and single-parent families. The Program's capacity totals 70 individuals; from among them, it provides that it will accommodate up to 30 minors. This number, however, is often exceeded<sup>85</sup>. During the period of the study, it provided accommodation for 29 unaccompanied minors, mostly Afghanis males aged 16 to 19 years<sup>86</sup>.

The Ministry of Health and Social Solidarity, through its Directorate of Social Solidarity decides on the minors to be accommodated in the Center. The Ministry also covers the travel costs of the minor to the Center. Immediately after their arrival, the

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<sup>85</sup> . During our visit to the Center, it provided accommodation to 29 minors. At a later contact with the Center we were informed that the number had increased to 34.

<sup>86</sup> One minor has been registered with a different birth date and his documents register him as an adult.

minors undertake a medical screening in a Thessaloniki hospital<sup>87</sup> and lodge an asylum application in case they have not already done so<sup>88</sup>.

The Center employs a total of 17 persons for the Program. Besides its Director, staff includes 1 social worker, 1 psychologist, 1 child minder, 1 lawyer, 1 jurist specialized on human rights issues, 1 nurse, 3 interpreters, 1 cook, 1 cleaning staff, 1 guard, 1 staff in foodstuff logistics, 1 computer expert and 1 secretary.

The Centre provides accommodation in rooms that often sleep 6 persons<sup>89</sup> and board (3 meals daily). All minors, besides personal hygiene stuff provided free-of-charge receive as pocket money the amount of 20 euro per month for personal expenses.

The administration of the Center considers that an absolute priority for the minors is their access to education. In this context, soon after their arrival, the minors are enrolled in the Pylaia Intercultural High School and attend classes there<sup>90</sup>. In parallel, they receive Greek language courses in the Center by teaching staff or, when the Center cannot afford it, by volunteers.

At the same time, the administration of the Center aims to facilitate the access of minors to educational, athletic or leisure activities. Most minors participate in the Center's football team and attend, in parallel, other activities realized by public or private institutions.

The administration of the Center, contrary to the emphasis on the education of minors and, later on, their registration with vocational training programs<sup>91</sup> do not aim to insert minors in the labour market. Several minors, however, especially of an older age, are allowed to work on condition that they also attend school. In practice, these

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<sup>87</sup> . The majority of minors have not undergone any screening medical test at the points of arrival.

<sup>88</sup> Many minors arrive in the Center having already expressed their desire to apply for asylum but have not, as of yet, had the necessary interview with the police authorities and have not received their asylum card".

<sup>89</sup> Whenever the number of persons accommodated in the Center exceeds the maximum foreseen, the number of persons sleeping per room increases, necessarily.

<sup>90</sup> Minors start attending classes immediately, even if they arrive in the Center in the middle of the school term, following a relevant request by the Center's administration.



minors who lack a work permit are employed on occasional basis in auxiliary jobs (distributing leaflets, car laundries).

The problems stressed by the guests are not diverse from those presented by minors living in other accommodation centers: they are centered in the examination procedures of their asylum applications. Insofar as this particular center is concerned, some minors expressed their displeasure with the prohibition to work.

The problems and difficulties underlined by the administration of the Center are linked to the decreasing and irregular financing. They also pointed out that they would like to set up, with a 5-year programming period, a separate accommodation structure for unaccompanied minors; they believe that the existing infrastructures in the present facilities do not allow them to provide minors better services of higher quality and more suitable to their special needs.

### **C. Centre for Reception, Accommodation and Support of Unaccompanied Minors Asylum Seekers– ARSIS and Hellenic Care of Volos)**

The Centre for Reception, Accommodation and Support of Unaccompanied Minors Asylum Seekers is operated by ARSIS, Association for the Social Support of Youth και the charitable society "Hellenic Care" of Volos since 2006, in the premises of this latter in Makrinitisa; is funded by the Ministry of Health and Social Solidarity and the European Refugee Fund. The Program's capacity is 30 persons. It always works in full capacity and, sometimes, exceeds the provided number of minors accommodated<sup>92</sup>. During the time of the research, it housed 31 unaccompanied minors, in their overwhelming majority of Afghani origin, all males, and aged 15-20.

The Ministry of Health and Social Solidarity, through its Directorate of Social Care and Solidarity decides on the minors to be accommodated in the Center and covers the travel costs of the minor to arrive to the Center.

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<sup>91</sup> . It was reported that some minors continue their education, after high school, in technical and vocational High Schools.

Immediately after their arrival, the minors undergo a medical examination at the local Hospital<sup>93</sup> and lodge an asylum application at the Security Department of Volos<sup>94</sup>.

The program employs 1 psychologist, 1 lawyer, 1 Administrator and 1 keeper.

The program's philosophy includes the participation of minors in the daily life of the Centre. In this context, minors are responsible for keeping their lodgings as well as the common rooms clean (self-organised cleaning groups). Furthermore, instead of prepared meals each minor individually receives foodstuff on a weekly basis and is allowed to prepare his (or the group's) meals in the common kitchen. The choice of meals takes into account the minors' religious and cultural diet.

All minors receive a monthly bus card for free transport and one phone card per month. Clothing needs are covered by donations.

The minors receive Greek language courses in the Centre in cooperation with the Institute for Continuous Education for Adults (IDEKE in Greek)<sup>95</sup>. These courses, though, are not offered on a permanent basis. Throughout their stay, they can also attend Greek language courses, offered by volunteers twice a week, in the premises of ARSIS in Volos.

The Center also makes efforts to facilitate the participation of minors in other educational and leisure activities organized by volunteers either at the Volos premises of ARSIS (for instance computer courses) or in the Centre (such as painting courses). Furthermore, some minors participate free of charge in other activities organised by other structures or private entities (guitar courses in the Volos Conservatory, Tae-kwo-do training in a private structure).

The centre's administration has set as a priority to train minors and integrate them in the job market, in view of their preparation for a self-sustained living after they leave

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<sup>92</sup> . In case the number of guests exceeds the maximum foreseen, the sleeping rooms have to be re-arranged accordingly, something that creates problems in the distribution of minors by room.

<sup>93</sup> The majority of minors have not undergone any screening medical test at the points of entry.

<sup>94</sup> . Few minors arrive in the Center having already received their "red card". Most have only a police note and have to submit their application to the local security department, in order for the first interview to be conducted and the asylum seeker's card to be issued. The card is issued relatively soon.

<sup>95</sup> . These programs have duration of three months.

the Center. In this context, the Center's administrators have signed private agreements with potential employers for a possible employment of the minors<sup>96</sup>; parallel efforts to find jobs for the minors are also undertaken with the support of the social service of ARSIS Volos. During the study, seven of the minors had a permanent job, most had occasional employment and only four had not had any job during their stay in the Centre. None of the minors, though, was in possession of either a work permit or of social security.

As far as vocational training is concerned, it is not possible to insert the minors in any official training and technical education program<sup>97</sup>. During the study, though, it was reported that two minors participated in a program of the Volos Municipality' Institute for Vocational training (IEK in Greek), while five others were preparing for the certification exams for computer knowledge (ECDL)<sup>98</sup>.

Contrary to inserting minors in employment, schooling is not considered by the administration of the Center as a basic parameter for the integration of minors. It should be stressed that, throughout the years of operation of the Centre, no minor enrolled in a school. The Centre' administration point out further difficulties in this direction: firstly the minors themselves are not particularly keen in going to school, preferring instead to find a job. Then, they pointed out that the competent Direction of Secondary Education considers there is no legal framework for the enrollment of unaccompanied minors, asylum seekers in education.

The problems underlined by the minors are related, there too, in issues linked to the asylum examination procedure (negative decisions, prolonged for years waiting period for the examination of the application) as well as the feeling of insecurity linked to their possibility to remain, eventually, in Greece; this insecurity is hindering any integration effort they undertake and has also a psychological negative impact on them.

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<sup>96</sup> . This practice is analyzed in the chapter on employment.

<sup>97</sup> . The difficulties and problems encountered are analyzed in the relevant part.

<sup>98</sup> . Minors are supposed to pay themselves for the examination fees but, after an intervention by the Center, fees were reduced for them.

More specific needs concerning their stay in to the Center relate to their request for more hours of Greek language courses, on a permanent basis and finding a lasting paid job; some minors also expressed their desire to get school education and vocational training. They also expressed the need for further social support.

The problems and difficulties pointed out by the administration of the Center are mostly linked to the limited and irregular funding of the Center.

#### **D. Shelter for the Care of Minors (Association for the Care of Minors)**

The Shelter is operated by the Association for the Care of Minors (founded in 1924), in an owned building in the center of Athens (in the area of Exarcheia). The operation of the Shelter is funded by the Association's own sources and is part of its charitable activities. As already mentioned, the Institution is not only addressed to unaccompanied minors who apply for asylum. However, during these last years and in response to the increasing need for accommodation and support of this category of minors, it systematically houses unaccompanied minors who apply for asylum.

Its capacity is 12 persons. The Institution is practically always operating in full capacity and, sometimes, even exceeds the anticipated numbers of guests. During the period of the study, 14 minors were accommodated there; out of them 12 were unaccompanied minors, asylum seekers<sup>99</sup>, mostly Afghanis, male, aged 10 -20 years.

Minors usually arrive in the Center after having been referred there by another structure. The decision to accept a minor is taken by the Board of the association, following a recommendation of the social worker. The decision takes into account the social background, the profile and the needs of the minor.

At a first stage, immediately after the decision to accept the minor is taken, this latter undergoes a preventive medical screening. In the case that the minors have not lodged an asylum application, they do so with the legal assistance of other institutions such as G.C.R., the Ecumenical Refugee Program or ARSIS.

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<sup>99</sup> Three guests are conventional refugees. Two of them are unaccompanied minors.

The Center employs one social worker, one cook, one cleaning staff and one guard.

Minors receive three daily meals. In some cases, they are given the opportunity to cook their meals themselves. Despite the fact that there is a cleaning lady, minors assist in lesser tasks such as dish-washing, shopping etc. and contribute in the general cleanliness of the Center<sup>100</sup>.

The Center gives emphasis in the setting of an individual integration plan for each minor according to the age, the needs and the capacities of the minor; the objective is his gradual insertion in the Greek society and the preparation for his independent and self-sustained life.

Most services related to Greek language courses, education, creative work etc. take place outside the Center, in cooperation with other structures. In this context, minors follow Greek language courses provided, free of charge, mainly by ARSIS or G.C.R. («PYXIDA» program). In addition, they are motivated to attend educational and leisure activities organized by relevant structures.

Schooling is compulsory for all minors under the age of 16, who are usually enrolled in intercultural schools<sup>101</sup>. Most minors, in parallel to school, also follow tutoring classes. Effort is undertaken to insert those minors who do not attend school in the job market. Contrary to the case in other reception and accommodation centers and despite the practical impossibility to issue a work permit for the minors due to the absence of a guardian, all employed minors, living in the Center, have both a work permit and social security<sup>102</sup>.

The minors do not raise any particular problems concerning their stay in the Center. Most issues stressed are linked to the asylum procedure, namely the lengthy waiting

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<sup>100</sup> . They are obliged to follow the assigned program.

<sup>101</sup> 4 minors attend secondary education and one is in elementary school.

<sup>102</sup> . In order to have the work permit issued, the social worker undersigns the relevant application without being officially a guardian. 2 minors are employed as tailors, 1 as a delivery boy, 1 in a cafeteria, 1 as a waiter and one as an assistant cook.

period for the examination of their application and the feeling of insecurity and uncertainty as to their future in Greece.

The Center's administration points out the need to increase staffing and the limited financial capacity of the Association.

### **E. Findings and problems encountered**

A common and main issue in all Centers is funding, both in terms of financing available and the orderly disbursement of funds. The Centers are financed on a yearly basis which does not allow long-term programming and at the same time raises liquidity problems which affect the correct operation of the Centers, the morale of the staff and, finally, the adequate provision of services by the centers themselves.

Under-funding leads to understaffing of the Centers with, as a result, an impact on their operation. It was also noticed that the staff of the Centers need continuous training and updating on all the legal and institutional provisions for minors, so as to be able to better and more effectively contribute in defending the rights of this category of refugees. Training and updating is even more urgent in remote Centers where access to information is more limited.

Given that most unaccompanied minors arrive in the Center when approaching the adult age and that they would have to leave the Centers soon after they become 18, there is rarely the time for the Centers to organize an orderly integration process for the minors and to prepare them for a self-sustained existence. This situation also creates a feeling of frustration for the staff of the Centers who realize that, after all, their facilities are only used to cater for the minors' basic needs but not for shaping a long-term integration policy. This feeling is heightened by the lack of any interim structure where the young adult could address himself and continue the personal integration program he has undertaken.

All Centres also complain of problems relating to the asylum procedure (not only its long delay but also its frequent negative conclusion); these problems create feelings of stress and anxiety to minors, as well as depressive behaviour and a feeling of

frustration which de-motivates them in all their efforts to integrate into Greek society and in the activities of the Centre.

Guardianship (or rather the absence thereof) is also a major issue, due to the many and multiple implications on the minors' lives and on all aspects of the protection and exercise of their lawful rights.

The study found inconsistencies in the operation conditions, the services and benefits, as well as the quality of these services provided by each Center. Issues such as the hours and the frequency of language courses, the emphasis given on education, the providing of legal assistance should be treated equally both from the Centers themselves as well as from the supervising Ministry; a differentiated treatment leads to disparities between minors.

There are also structural differences between Centres due to their location: Centres located in big urban areas have and provide easier access to the rights and services due to the proximity of relevant structures and specialized services (intercultural schools, specialised health services, wider legal and social assistance).

## **5.5.2. Health**

### **5.5.2.1. The legislative framework**

Point 10.2 of the “Guidelines” mention that

*Unaccompanied children must undergo preventive medical screening following their arrival in the country in order to achieve timely diagnosis of diseases and receive, afterwards, equal treatment on health services as children who are Greek nationals.*

Such is not provided for by Greek legislation: P.D. 220/2007 specifies, in article 8, that applicants undergo medical screening only if *«there are serious indications that render [screening] necessary»*, in order to ascertain that they are not suffering from any dangerous disease. Besides, the general provisions (articles 15-17 of P.D.

266/1999<sup>103</sup> and 12 and 14 of P.D. 220/2007) apply; they stipulate that asylum seekers receive free medical care on condition that they do not have social security and they are financially destitute (this last requirement is phrased differently in P.D. 266/1999).

As far as general health services during the asylum procedure, till recently the Greek legislation (basically the P.D. 266/1999) did not include any specific reference to the access of unaccompanied minors to health services, despite the relevant provisions in the “Guidelines” which require that

*Special attention must be given to the health needs of the minors, due to their previous hardship and ill-treatment, physical handicaps and the psychological consequences of violence, traumatic experiences and loss, as well as the results of racism and xenophobia they may suffer in exile. For many unaccompanied children, access to counseling services is of vital importance for their recovery.*

Now, though, the P.D. 220/2007 includes, in article 14, a general provision that specifies that the needs of vulnerable groups (such as minors, according to article 17 of the same text) receive specialized medical care. The same P.D. also includes a special clause in article 18 para. 2 whereby the competent authorities of the Ministry of Health and Social Solidarity, whenever they have to deal with minors (whether unaccompanied or not), victims of torture or other forms of violence, must ensure that they be given «adequate psychological care and specialized treatment», if needed.

In any case, the immigration legislative (law 3386/2005) explicitly stipulates in article 84 that

*«Public services, public entities... institutions and companies of public utility and social security institutions are bound not to supply their services to third country nationals, who ... do not prove that they have entered and reside legally in the country. Hospitals, health centres and clinics are excluded, regarding third country nationals who need to be hospitalized or minors »*

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<sup>103</sup> . O.G. 217 A' dated 20-10-1999.



### 5.5.2.2. Analysis of the current situation

Despite the specific provision in article 8 του P.D. 220/2007 mentioned above, there are not, in practice, any, systematically organized, preventive medical screening for aliens at entry points<sup>104</sup>. It appears that such exams take place on a sporadic basis, mostly through the activities of the Mobile Unit of the Center for Control and Prevention of Diseases and, on occasions, according to the capacity of the local medical and hospital services, as well as the possibilities of the police and other local authorities. In any case, the decision to organize a medical screening is not linked to the age of the minors but rather depends on other parameters, such as the number of detainees, the duration of detention, the number of staff in the local police station and the capacities of the health services at points of entry<sup>105</sup>.

The study found out that all unaccompanied minors, asylum seekers, who are accommodated in the existing structures, have undergone preventive medical screening during the initial period after their arrival in the Center, care of the administration and the social service of the Centers. This policy, though, according to the administration of the Centers, besides creating an extra burden on them since it relocates a State responsibility to the Centers, is further problematic since it nullifies the concept of «prevention»: minors are screened when already residing in the centers. If they are found to have a contagious disease, they may have already passed it on other in-mates<sup>106</sup>.

The study did not come across any particular problems insofar as access to free health services was concerned. The minors' medical and hospital needs were covered by the health services in the areas where the Accommodation Centers were located (Health Centers, hospitals). In some cases (mainly in provincial towns) and despite the

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<sup>104</sup> . M. Kaldani, P. Papadimitriou.

<sup>105</sup> According to I. Charisopoulou, given the large number of arrivals and the limits of the local health services at points of entry, as well as the cost incurred, it is practically impossible to have all minors screened. As a result, priority is given to persons arriving from high risk countries. In any case, all unaccompanied minors (as well as adult asylum seekers) who are accommodated in a reception facility are screened.

<sup>106</sup> . N. Nigritinou.

unequivocal legislative provision on free access to health and medical care, the social services of the Centers had to intercede for achieving such access<sup>107</sup>.

There have been, however, cases of minors in need of medical assistance and who are not in possession of the “special document of an alien who applied for asylum”, («red card»)<sup>108</sup>, despite the explicit exclusion of minors contained in article 84 of law 3386/2005. In such cases, it was necessary to intervene either before the police authorities so as to accelerate the issuance of the ‘red card’ or before the hospital administrations in order to ensure that the minor, not in possession of this card, would, nonetheless, receive free access to the needed care. It was widely stressed, though, that minors are much better treated now than was the case in the past and that any residual problems (mainly due to ignorance of the law or to communication problems) are solved by means of such interventions<sup>109</sup>.

However, even when free access to health is ensured, problems remain in the field of diagnosis, due to practical communication inabilities between patients and health personnel. Minors who are either housed in the existing accommodation facilities or are supported by other structures (such as G.C.R. or ARSIS), are usually either accompanied by social workers or interpreters and, in any case, their communication is, in some way or other, ensured. It is not known how the health services deal with cases of minors who either live alone or with other adults.

All accommodation facilities reported cases of minors with stress management problems, emotional disorders (depression) as well as other mental health problems. These needs for special psychological care and specialized treatment are catered by the local mental health care services, which, though, are not often specialized on juvenile or intercultural issues.

A major problem, at all stages of this procedure – both for the diagnosis and for the treatment – is linked with the communication difficulties. In the treatment phase, lack

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<sup>107</sup> . Y. Dalamanga, N. Dramountanis.

<sup>108</sup> . Mantas. As mentioned already, the waiting period for the issuance of a ‘red card’ in Athens has been significantly reduced compared to the past; in some cases, though, it still can be a month. During that time, minors receive a police note which, in many cases, is not recognized by the administration of the hospitals.

of communication is of paramount importance since communication with the therapist and the proper expression of one's feelings is essential and even the presence of an interpreter can rarely cover this vacuum<sup>110</sup>. Furthermore, in most cases, interpretation is carried out by friends or compatriots of the minor who speak Greek or English without, though, having any special training.

### 5.5.3. Education

#### 5.5.3.1. The legislative framework

Point 10.3 of the "Guidelines" mentions that

*Unaccompanied children must have access to basic education on an equal basis with all children living in Greece.*

*Schools must adopt a flexible and welcoming approach in dealing with unaccompanied children and provide them with the opportunity to follow courses in a second language.*

According to Greek legislation

*«Schooling is compulsory in elementary education and lower high school, as long as the minor is not over 16 years of age.... The person who is caring for the minor and fails to enroll or to supervise the minor's school attendance is punishable according to article 458 of the Criminal Code»<sup>111</sup>.*

More specifically, the education of alien pupils is regulated by law 2413/1996<sup>112</sup> on the intercultural education. This law provides for the creation of intercultural schools. Furthermore, a ministerial decision (in Greek Γ1/708/7-9-1999)<sup>113</sup> determines issues relating to the establishment and operation of introductory classes and tutoring

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<sup>109</sup> . Mantas.

<sup>110</sup> F. Pathenidis, Th. Mantas.

<sup>111</sup> . Law 1566/1985 ( O.G. 167 A' ).

<sup>112</sup> . O.G. 124 .A' 17-6-1996.

<sup>113</sup> . This ministerial decision annuls all previous provisions on matters relating to the establishment and operation of introductory classes and supplementary courses. The initial legislation introducing these types of education was law 1403/83 (O.G. A' 173/14-11-1983).

courses in ordinary schools in order to ensure the organized integration of alien pupils in the educational system in the framework of intercultural education.

The legislation also stipulates for the possibility for alien pupils to enroll in school with incomplete documentation<sup>114</sup>; furthermore, it also specifies the procedures to grade alien pupils who are unable to produce documentation on their school level<sup>115</sup>. Law 3386/2005 (article 72 para.3) also stipulates that non-Greek nationals may enroll at school without all required documentation. Finally, there are also other favorable provisions relating to the performance of pupils during the first years of their studies<sup>116</sup>.

P.D. 220/2007 (article 9) provides that

*«Minor children of asylum seekers and asylum seekers who are minors have access to the education system under similar conditions as Greek nationals for so long as an expulsion measure against them or their parents is not actually enforced».*<sup>117</sup>

The same article provides, further, that integration in the educational system should not be delayed for more than three months after the application for asylum is received. This period may be extended to one year if the minor receives special language training that would allow him to enter more easily the educational system. Finally, it clarifies that access to secondary education will not be prevented for the sole reason that the minor has reached the age of majority.

### **5.5.3.2. Analysis of the current situation**

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<sup>114</sup> . Article 72 of law 3386/2005. P.D. 155/78 (O.G. A' 33/8-3-1978) makes special reference to children that come from areas with violent disturbances and who cannot produce and educational certificates.

<sup>115</sup> . P.D. 155/78 article 9 (O.G. A' 33/8-3-1978).

<sup>116</sup> . P.D.182/1984 article 3 (O.G. A' 60/1984) replacing P.D.155/78 article 2 (O.G. A' 33/8-3-1978).

<sup>117</sup> . The Greek Council for Refugees has lodged an application to annul before the Council of State against P.D. 220/2007 on the basis of this provision. It alleges that this provision represents an erroneous transposition of the text of the Directive and violates the European Convention on Human

Despite these unambiguous legislative provisions, the study found out that the majority of unaccompanied minors applying for asylum are not inserted in the educational system.

Although there are no exact figures for minors living outside Accommodation Centers, it appears that the number of those who attend school is extremely low<sup>118</sup>.

The situation for minors living in Accommodation facilities varies according to the specific Center: some centers oblige minors to attend schools<sup>119</sup>, others do not<sup>120</sup>. As an indication, out of the 25 children accommodated in the Anogeia Center, only 4 attend the local school, while, out of the 31 children of the Makrinitza Center, none attends school.

The reasons for the small number of schooled unaccompanied minors and the obstacles they encounter are the following:

- A fundamental problem for enrolling unaccompanied minors in education is linked to the absence of a guardian and, thus, of a legal representative. In the cases that unaccompanied minors manage to enroll in a school, this is achieved because the social worker of the Center who accompanies the minor signs the application, without authorization, as the guardian and the School Headmaster accepts the signature<sup>121</sup>. As mentioned, in some cases, the Centers contacted the competent Prosecutor, as the temporary guardian, but the latter refused to sign the relevant application considering that this act does not make part of the temporary guardian's tasks<sup>122</sup>. In other cases, the Headmaster does not ask for the signature of the guardian<sup>123</sup>.
- The majority of minors are above 16 years, and they do not request to go to school since their priority is finding a job.

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Rights (insofar as the issue of compulsory education is concerned) as well as the Convention on the Rights of the Child.

<sup>118</sup> . Th. Mantas, M.Kaldani.

<sup>119</sup> . Social Solidarity, Shelter of the Association for the Care of Minors, especially for the under-

16.

<sup>120</sup> . Makrinitza Accommodation Center.

<sup>121</sup> . F. Parthenidis, Th. Mantas, M. Kaldani.

<sup>122</sup> . F. Parthenidis.

<sup>123</sup> . This is the case for Anogeia and Social Solidarity, in Thessaloniki.

- A large number of minors, especially from Afghanistan, are either illiterate or have only one or two years of schooling; as a result, it is particularly difficult or even impossible to insert them, more generally, in any education system.
- Most minors prefer to work either to earn money for themselves or because they feel they have a moral duty to contribute in the financial subsistence of their family in the country of origin.
- Many minors who enroll in a school leave it, later on, since intercultural schools are very few<sup>124</sup> and absent in many areas, while most schools lack introductory classes and tutoring courses.

In particular, Makrinita reported<sup>125</sup> the preposterous refusal of the Direction of the Magnisia Secondary Education to enroll the minors in school, alleging that there is no legal framework for enrolling this group of pupils or that the minors had incomplete documentation. As a result of this rule, during the last two years that the Program is on and till the end of the study, no minor had managed to enroll in the education system.

Minors, usually, follow Greek languages courses either in the accommodation centers or at other structures<sup>126</sup> for about a year; following this, these children who finally continue school are enrolled in the education system. Greek languages courses often are provided in parallel with school, at least for the first school year, since introductory classes are either non-existent<sup>127</sup> or inadequately operating.

*Unaccompanied minors must have access to teaching in their mother tongue, so as to maintain their cultural identity.*

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<sup>124</sup> . Almost all intercultural schools are situated in the major Athens and Thessaloniki areas. They are in total 13 elementary schools (3 in Athens and 9 in Thessaloniki), 8 Junior High Schools (5 in Athens and Thessaloniki) and 4 Lyceum High Schools (3 in Athens and Thessaloniki).

<sup>125</sup> N.Moschos , Y.Dalamanga.

<sup>126</sup> . Greek languages courses, as well as tutoring courses, in the major Athens area are offered, free of charge, mostly by NGOs, such as the Greek Red Cross, G.C.R., ARSIS, Voluntary Work etc. in provincial towns, on the other hand, there are no other such services besides the courses offered by the Centers, themselves.

<sup>127</sup> . For instance, in the Junior High School of Anogeia there is no introductory class. As a result, children who enter school have integration and attendance difficulties.

No accommodation center provides courses in the minors' mother tongue. No other structure or NGO active in the field appears to offer such service either.

The discussions both with minors and with the administration of the Centers confirmed that education in the mother tongue is not demanded by children; their priority being their (social and economic) integration in the Greek society, they would rather learn Greek.

Insofar as cultural identity preservation is concerned, there have been cases where children were encouraged and assisted to develop and present activities linked to their cultural background, such as local dances, traditional cooking etc.<sup>128</sup>.

#### **5.5.4. Vocational training and employment**

##### *Vocational training*

*Unaccompanied minors of older age must receive vocational and technical training.*

Most unaccompanied minors do not join any official vocational or technical training program, they could make use of for their future employment either in Greece, if they stay here, or in their countries of origin, for those minors that will return there.

With the exception of two guests in the Makrinitza Center who joined the Volos Municipality Institute for vocational training (in Greek IEK), no other unaccompanied minor residing in one of the existing accommodation centers attended any vocational or technical training program. In the case of the Makrinitza minors, though, the two minors were registered thanks to the cooperation and the solidarity relations established between the local institutions. Such is neither the typical case, nor does it conform to the existing legislation<sup>129</sup>.

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<sup>128</sup> . The Anogeia Center mentioned cases where minors were encouraged to present folk dances, dresses and cooking in local activities and manifestations organized, or attended, by the Center.

<sup>129</sup> . Y. Dalamanga.

These difficulties in enrolling in vocational or technical training programs are directly related to the more general problems of access to education and to the absence of the guardian, as pointed out in the relevant chapters of this study.

Specifically, a necessary condition for enrolling in vocational training schools (Technical Lyceums, training programs organized by the Organisation for the Employment of the Work Force -OAED etc.) in Greece is the possession of a diploma from a Junior High School; very few unaccompanied minors, asylum seekers, are in possession of such a diploma for the reasons mentioned above (either they do not join the education system in Greece or they are not in possession of equivalent school certificates in the country of origin).

There also other, out-of-school, vocational training programs, organized either by OAED or the Centers for vocational training, which could be of use to unaccompanied minors above 15, if they are registered as unemployed in the relevant OAED records; a necessary condition for registration in these records, though, is to possess a work permit.

The existing legislation (article 136 of the Civil Code) stipulates that minors above 15 may, on conditions, get a work permit with the consent of the person having their care, that is, in the case of unaccompanied minors, of their guardian. As previously mentioned, though, the institution of the guardianship in Greece faces significant and serious problems in its practical implementation: even in these cases where the competent Prosecutor has been appointed as provisional guardian, it is practically impossible for a minor to get a work permit since the prosecutor - temporary guardian are of the opinion that the representation of the minor in areas such as employment, education and other areas falling outside the scope of the asylum procedure are not part of their competences. This interpretation, in conjunction with the absence, in the overwhelming majority of cases, of a permanently appointed guardian leads to the de facto exclusion of unaccompanied minors from all out-of-school vocational training programs through OAED, CVT etc.

### Employment



According to article 4 of P.D. 189/1998<sup>130</sup> asylum seekers,

*«are entitled to temporary employment in order to meet life's needs», on condition that «after searching the labor market, no interest was expressed for the particular post either from a national or from a E.U. citizen or a recognized refugee, a person of Greek descent»; the legislation also sets the condition that they should not be “staying in a special Temporary Residence Centre intended for aliens seeking asylum».*

Article 10 of P.D. 220/2007 maintains this possibility for employment of asylum seekers according to the P.D. 189/1998, without excluding any more those residing in reception centres since, in article 10 para. 2 it mentions that

*«Asylum seekers who start being employed while residing in Accommodation Centers must inform thereof the Director of the Center».*

The existing legislation allows the employment of minors having completed 15 years of age, under specific conditions<sup>131</sup>. Other provisions indicate the procedure for issuing a work permit for the minors, require that the minor receives a relevant employment card after undergoing specific medical examinations by the competent work inspectorate<sup>132</sup>, lay restrictions and conditions for the categories and kind of employment of minors<sup>133</sup>, sets the terms for such employment<sup>134</sup> and the mechanisms and institutions for the control and verification of all these protective measures for the minors.

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<sup>130</sup> . Presidential decree No 189/1998 on "Conditions and Procedures for the Grant of a Work Permit or Any Other Assistance for Occupational Rehabilitation to Refugees Recognised by the State, to Asylum Seekers and to Temporary Residents on Humanitarian Grounds". O.G. A' 140/25/6/1998.

<sup>131</sup> . Law 1837/1989, P.D. 62/1998 «measures for the protection of youth during employment, in compliance with Directive 94/93/EC» transposing in Greek legislation the Directive 94/93/EC from 22 June 1994 «on the protection of minors during work». Law 3144/2003 covers other more specific issued.

<sup>132</sup> . Law 837/1989.

<sup>133</sup> . Ministerial decision 875/2003 on «types of employment, jobs and activities for which minors are not allowed to work», issued in implementation of law 3144/2003.

<sup>134</sup> . Such situations, for instance, are the prohibition of night work, overtime work, working in unhealthy environment, transport of heavy weight and use of dangerous equipment.

Furthermore, law 3144/2003 sets the criminal and administrative sanctions for an employer who violates the a/m provisions as well for the person responsible for the minor's care whenever a minor is employed in violation of the law.

In practice, though, and despite all these specific measures and the protective legislative grid as well as the inability of most unaccompanied minors to receive a work permit as explained above, the overwhelming majority of unaccompanied minors, even under 15, in Greece work without a work permit and in violation of the provisions of the law and without any possibility of control and supervision on the conditions of employment.

The information provided by the Accommodation Centers indicates that a large number of minors are employed without a work permit, health insurance and social security. In most cases, the administration of the Center itself mediates towards this objective, in order to respond to the pressing relevant «requests» by the minors, in particular those of an older age, to get a paid job and work experience and training.

It appears that the problems and difficulties mentioned above concerning the access of minors to vocational and technical training programs and to employment, the need to prepare minors for an independent and self-sustained life through a paid job that will provide them with financial autonomy (it must be recalled that minors will have to leave the Centers after reaching the adult age) as well as the intense desire of minors themselves to enter the job market have contributed to the creation of a situation where informal employment seems to be the only way for the minors' integration in Greek society. This situation is a fact that cannot be ignored.

In an effort to offset this reality, they try to have a discreet supervision of the minors' working conditions, in order to avoid the exploitation of minors or their exposure to dangerous work conditions.

It is in this context that one has to look at the practice introduced by the Makrinitisa Accommodation Centre administration to sign with potential employers private agreements for the future employment of minors residing in the Centre.

Specifically, ARSIS, as the organisation responsible for the operation of the Centre, has proceeded to private agreements with local businesses which stipulate the possibility for minors residing in the Centre to work there, offering their services on a voluntary basis; the objective is to provide minors with «practical education». These agreements, though, do not specify the conditions and terms of employment (work program, hours and days of employment, wages).

The phrasing of these agreements does not allow to conclude firmly as to their legal and binding character, nor whether they protect and guarantee the rights of minors who may possibly be employed in these businesses. In cases, for instance, of accidents at work, overtime or night work or when the wages are not paid, these agreements do not even prove the presence of the particular minor in the work premises since they do not refer to an individual but to all minors, in general.

Furthermore, despite the fact that the intention of the organisation is to facilitate minors in getting work experience, such agreements might lead to a *sui generis* work exploitation of those minors working in the specific businesses which achieve, in this way, uninsured seasonal labour force. At the same time it is debatable whether the objective of acquiring «practical education» is achieved, since, on the basis of these agreements, minors are employed as unskilled labour in auxiliary jobs.

In the case of the Anogeia Centre, 3 of the guests work on a permanent basis in a local business without social security, despite the fact that they are, by now, adults and can, therefore, get a work permit. The administration of the Centre fears that, if minor employees claim social security, this might lead to the interruption of their work relationship, something they consider undesirable in a small town with few employment opportunities. They opt, therefore, for a discreet surveillance of conditions and terms of the minors' employment and the possibility for them to continue participating in the activities and educational programs of the Centre.

In the Makrinitza Centre, too, most minors work, whether systematically or not, without having either a work permit or social security. During the period of the study, 7 minors had a permanent job, while only 4 did not work at all.

In Thessaloniki, the rule of the Centre is not to allow minors residing there to work and to oblige to attend school. Older minors, though, who express pressingly their desire to work, are channelled to light and auxiliary jobs, with the assistance of a network of employers established by the Centre's social service. Such work, though, is always provided in conjunction with school education. Minors, in this case too, do not have either a work permit or social security.

The case of the guests residing in the Shelter of the Association for the Care of Minors is exceptional, as all minors who are employed are in possession of a work permit for minors, a health card and social security<sup>135</sup>.

**The researchers were informed of the case of a Pakistani unaccompanied minor, of 11 years of age who came for assistance to the G.C.R. Legal Assistance Unit and declared that he was working in a business of a fellow national for more than 12 hours per day. The child lived with an alleged «uncle» of his, who was, later on, discovered not to have any family relationship with the minor. The Public Prosecutor for Minors was not notified of the minor's presence<sup>136</sup>.**

It is difficult to get accurate data concerning the forms and conditions of employment of unaccompanied minors residing outside the Accommodation Centres. The information at the disposal of structures such as G.C.R. and ARSIS, though, show that their overwhelming majority works without a work permit and social security<sup>137</sup>. They also evidence several incidents of exploitation of minors (such as overtime work or wages that are not proportional to the work offered), or employment in positions that are considered dangerous and unhealthy for the psycho-social development of minors (such as construction, truck unloading).<sup>138</sup>

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<sup>135</sup> . The social worker in the Shelter undersigns, in lieu of guardian, for the issuance of work permits. This is possible either because the competent authorities tolerate this practice or because they ignore the legal requirements. This situation, though, underlines again the disparities in the treatment of minors in the fields of employment and work, and demonstrates the absence of effective supervisions by the competent Ministries.

<sup>136</sup> X. Passa.

<sup>137</sup> . The evidence is strengthened by the statistics of the Service for the Custody of Minors. During the judicial period 2006-07 there have been 55 new cases for violation of the legislation on intellectual property (illegal selling of CDs). In their majority, they have to do with minors, asylum seekers and in possession of a «red card», of African origin who either live on their own or with fellow nationals.

<sup>138</sup> Th.Mantas, M.Kaldani.

## 5.6. Family reunification

Before the adoption of P.D. 220/2003 the Greek asylum legislation did not include any specific provision for the reunification of minors with other family members. Article 19 paragraph 2 c of this P.D. requests from the asylum authorities to make efforts so as to

*«trace, as soon as possible, the members of the minor's family».*

If necessary, this must be done in a confidential way, so as not to

*«put in danger the security [of these minors] ».*

article 22. para. 2 of the Convention on the Rights of the Child requires from Parties

*«to protect and assist [an unaccompanied] child and to trace the parents or other members of the family of any refugee child in order to obtain information necessary for reunification with his or her family »*

article 3 of the Council resolution of 26 June 1997 on "unaccompanied minors who are nationals of third countries" invites Member States to

*« endeavour to establish a minor's identity as soon as possible after arrival, and also the fact that he or she is unaccompanied »*

so as to

*«enhance the prospects of reunification of the minor with his family in the country of origin or a third country».*

Paragraph 3 of the same article provides that Member States

*«with a view to reunification to endeavour to trace the members of the family of an unaccompanied minor as soon as possible, or to identify the place of*

*residence of the members of the family, regardless of their legal status and without prejudging the merits of any application for residence».*

Greece does not make effective efforts to unite unaccompanied minors with their families, with the exception of the cases that a parent or another close relative of the child is in another European Union State and reunification may be realized on the basis of the criteria for the determination of the State responsible for the examination of an asylum application set in Regulation 343/2003. Even in these cases, though, the authorities are not always fully aware of the possibilities provided for in this Regulation. This is particularly the case at points of entry. The researchers were reported a case of 3 Afghani minors (two siblings aged 10 and 15 and a cousin aged 16) detained, at the time, in the Detention Centre of Phylakion (municipality of Kyprinos, Evros). In addition to the fact that the cousin was registered as an adult, aged 18 who accompanied the children (hence the minors had not even been identified as unaccompanied minors) the authorities did not give evidence of any particular activity to provide different treatment for the minors (in particular given that one of the siblings was a 10-year old girl). They did not take any steps either when the children informed them that their mother was in Germany (providing them even with her phone number)<sup>139</sup>.

## **5.7. Refugee Status Determination Procedure**

### **5.7.1. The legislative framework**

The procedures for the recognition of refugee status are set in the P.D. 61/1999 (in particular articles 2-4). These articles do not contain any specific provision for the examination of applications lodged by unaccompanied minors. The competent authorities, therefore, do not on the basis of this P.D. have an obligation to treat

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<sup>139</sup> . P.Papadimitriou, Border Monitoring. The case illustrates also the problems in the protection of minors arising due to the implication of several State services (police, prefecture, regional health authorities) in the administration of detention centres. Other issues are also evidenced: the erroneous registration of a 16-year old as an adult of 18, the absence of communication possibilities with the children due to the lack of an interpreter, the inaction of the Public Prosecutor for Minors and, finally, the general indifference of authorities. It is very probable that, had the Border Monitoring not been visiting the area (and without the involvement of G.C.R. and the Child' Ombudsman, after a relative of the children alerted them in Athens), these children would have never been of concern and care to the Greek State.

differently applications lodged by minors. On the contrary, P.D. 220/2007, in article 17 mentions the need of «special treatment of applicants who belong to vulnerable groups, such as ... unaccompanied minors», while article 18 sets that the «best interests of the child shall be a primary consideration» for the competent authorities. Similar obligations arise from other national and international texts, mainly the Convention on the Rights of the Child, but also from the general administrative principle of the good administration.

Directive 2005/85/EC, allows Member States in article 23 para. 3 to

*«prioritize or accelerate any examination [for asylum] ...where the application is likely to be well-founded or where the applicant has special needs»*

This is obviously the case with minors who belong to a group with special needs.

Finally, the E.U. Council of Ministers Resolution of 26 of June 1997 on “unaccompanied minors who are nationals of third countries” makes explicit reference in article 4 para. 2 to the fact that

*«Having regard to the particular needs of minors and their vulnerable situation, Member States should treat the processing of asylum applications by unaccompanied minors as a matter of urgency»*

Besides these binding legislative texts, the UNHCR has also prepared special guidelines for unaccompanied minors which include «special procedural guarantees for the examination of asylum application submitted by unaccompanied minors». These guarantees are included in a special UNHCR publication<sup>140</sup>. Among these guarantees, emphasis is given to the need of the presence and participation of experts in the procedure to assess the emotional maturity and judgment of the minor and to allow a satisfactory assessment of the reasons of his flight taking into account that children express their fears in a way different from adults. The guidelines also point out the need of legal representation of the minor by an adult and stress that when

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<sup>140</sup> . Refugee Children. Guidelines on Protection and Care. UNHCR. Geneva. 1994.

examining an asylum application by a child refugee, the authorities should apply liberally the benefit of the doubt.

### **5.7.2. Analysis of the current situation**

The combination of the a/m provisions should entail a speedier conclusion of the examination procedures of asylum applications lodged by unaccompanied minors so as, if anything, to allow them and the institutions taking care of them to know what they should aim for (either a process for integration in the country or the preparation of the minors' safe repatriation).

The picture of the situation is totally different. The procedures followed by the asylum authorities for the determination of refugee status for unaccompanied minors are not different from those followed for adults.

In particular, among the files examined, we did not come across any special – faster – treatment of these applications. Indeed, the practice followed both by the central and territorial police authorities leads to the safe conclusion that, on the contrary, the Greek State applies a plan to delay the processing of an asylum application of a minor till he reaches the adult age. These delays are particularly blatant and onerous in the cases of minors accommodated in the Centers (even more so in the Center of Anogeia<sup>141</sup>).

More specifically, given that the majority of minors are Afghans, one would expect the Afghani minors would dominate the numbers of persons granted protection status. However, during the year 2007 Greece granted refugee status to 6 Afghans while another received humanitarian protection. From among them, only one was a minor when refugee status was granted (at first instance) and another was a minor when he had lodged the asylum, his application had been rejected at second instance, he had appealed against it before the Council of State and, eventually, received refugee status as an adult<sup>142</sup>.

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<sup>141</sup> . Cf. point 5.1.2.

<sup>142</sup> . This conclusion is reached after the examination of the decisions on individual cases taken by the headquarters of the Greek Police and notified to the UNHCR. It must also be stressed again that



For some years now, the Asylum Department has “frozen” the processing of applications by Afghani nationals. Whether or not one agrees with this practice, it is a fact that it shapes significantly and negatively the fate of the applications by Afghani minors. In this way, the majority of these latter will only reach the final stage of the asylum procedure and appear before the Advisory Appeals’ Board when already adults.

At first instance, the cases of asylum applications where childhood was taken into account and the age of the application was considered before decision on the claim was reached are extremely few. The cases therefore of a minor receiving protection at first instance are insignificant<sup>143</sup>. There are no official aggregated data on the rejected applications lodged by minors – the relevant figures have “disappeared” among the total of 973 first instance rejections concerning Afghanis. The same goes for other the categories of data.

*During the second semester of 2007, the General Secretary of the Ministry of Public Order (or, after the elections, of the Ministry of Interior) issued 198 negative decisions at first instance for asylum applications concerning unaccompanied minors and going through the regular examination procedure. Among them 10 referred to minors born in 1993, 1 to a minor born in 1994, 4 born in 1995 and one born on the 1/7/1996 (an 11-year old boy that is).*

The files (mostly referring to applications lodged in 2006) examined in the Headquarters of the Hellenic Police – Asylum Department offer a similar picture<sup>144</sup>. Very few of the applications were completed and ever fewer ended favourably for the applicants.

Asylum granted 1 <sup>st</sup> instance	2
Asylum granted 2 <sup>nd</sup> instance	6

there are no aggregated tables with the age of persons who are granted international protection by Greece.

<sup>143</sup> . See above.

<sup>144</sup> . We wish to stress once more that these data cannot be considered as representative but only as indicative.

Interruption (or proposal to interrupt) the procedure <sup>145</sup>	5
Rejection 1 <sup>st</sup> instance and non-lodging of appeal	1
Rejection 2 <sup>nd</sup> instance	2 <sup>146</sup>
Rejection 1 <sup>st</sup> instance and appeal in time	17 (at least – not all files were updated)

10 files (mostly applications lodged in 2007) were either totally void (that is there was only a dossier with the minor's name) or only included the initial personal data on the minor.

The situation is even more indicative concerning the treatment at 2<sup>nd</sup> instance of applications by minors (after the rejection at 1<sup>st</sup> instance and the lodging of an appeal in time) by the central asylum authorities. During 2007 the Advisory Appeals' Board examined 6.448 appeals to 1<sup>st</sup> instance negative decisions<sup>147</sup>. Out of them only 31 concerned unaccompanied minors (a rate of 0, 5%), all male. One of them was an Afghani and 5 were Iraqis (one was in detention). The rest of the minors were nationals of Bangladesh of Pakistan and, to the opinion of the researchers, they had been called before the Board not because they were minors but rather due to their nationality (the Asylum Department, in its efforts to reduce the attractiveness of the asylum procedure to aliens that it considers to be, in principle, economic migrants, gives priority to the speediest processing and rejection of applications lodged by these nationalities). One of the applicants, a Pakistani national born in 1989, received a humanitarian protection status.

<sup>145</sup> . All the interruption cases are based on article 2 paragraph 8 of P.D. 61/1999 stipulating that «during the entire examining procedure, the asylum seeker is obliged to stay at the place of residence which has been stated by him or assigned to him. In case of arbitrary departure, the procedure for the examination of his asylum claim is interrupted following relevant decision issued by the Secretary General of the Ministry of Public Order, which is notified to the asylum seeker, considered as a person “of unknown residence”. In another case, the minor applied for remedy on the basis of the same paragraph of the P.D. and the interruption decision was repealed.

<sup>146</sup> . In one case the applicant did not appear before the Appeals' Board. In another the applicant appeared but the Board ruled unanimously in favor of rejecting the application on the grounds that the minor does not fall within the scope of the Geneva Convention and that the best interests of the child impose his safe repatriation and unification with his mother who was living in the country of origin.

<sup>147</sup> . Data provided by the Ministry of Interior – Hellenic Police to the UNHCR. The list includes all asylum seekers whose name was in the Board's role, irrespective of whether they were invited in time or whether the examination of their application had been, subsequently, interrupted due to their unknown abode. It is also irrespective of whether the applicants appeared or not before the Board.

From the above, the Board's roll included a specific reference to the childhood for only four Iraqis; for the rest this was surmised by their year of birth. It is also noteworthy that the procedure for these four was eventually interrupted because they had not been found in the address they had provided.

In one case, the interruption of the procedure at 2<sup>nd</sup> instance was decided because the police authorities who tried to locate the minor in order to invite him for the interview before the Appeals' Board looked for him in the same address (road and street number) of a different city. The researchers pointed out this error of the Administration to the competent asylum authorities who promised to correct the mistake and re-open the procedure for the said minor.

The Advisory Appeals' Board due to the relatively small number of unaccompanied minors it interviews and to its "passive" character in its functioning (the Asylum Department decides on the compilation of the roll and the applicants to be invited to the Board) is unable to play a significant role in the status determination of minors. However, in view also of its possible transformation into a determining organ (after the legislative framework on asylum is modified) it is crucial that it establishes a consistent, unambiguous and well-reasoned jurisprudence for the examination of applications lodged by unaccompanied minors; these positions should include taking into consideration the age factor in all cases an application by a minor is examined – even after he has come of age – and the organizational and substantive improvement of the right to be heard before the Board.

During the last two years, the Asylum Department examines all applications for asylum lodged by minors under the regular procedure. Indeed, there have been cases where the Department itself took back 1<sup>st</sup> instance rejecting decisions taken before the minor appeared to the Appeals' Board because they were taken under the accelerated procedure. This policy aims to allow the Minister to grant humanitarian protection status to minors, if he deems appropriate<sup>148</sup>.

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<sup>148</sup> . The position of the Ministry of Public Order and the Greek Police continues to be that, during the accelerated procedure the organ that decides at 2<sup>nd</sup> instance is not the Minister (as in the case of the regular procedure) but rather the General Secretary of the Ministry. This latter is not competent

***An Afghani minor born in 1990 arrived in Greece in 2004. He received his «red card» on 15/3/2005 and is accommodated ever since in the Anogeia Centre. On 26-10-2005 the 1<sup>st</sup> instance decision rejecting his application was issued. He appealed in time and waits, ever since, to be invited before the Advisory Appeals' Board.***

The study found out serious administrative problems in the Asylum Department. Firstly, there is an excessive delay in updating the applicants' files (including obviously the minors') due to flaws in the in-service processing of correspondence. It is noteworthy that ten of the minors' files examined (mostly applications lodged in 2007) did not include any document, despite the fact that the minors were in possession of a "red card" and the required interview had, thus, taken place. Many other files were obviously not updated. Such administrative delays further increases, in particular for minors, the delays in the processing of their applications<sup>149</sup>.

At the same time, we discovered a number of serious administrative errors in the files; these errors were due, according to the Asylum Department, to staff negligence<sup>150</sup>. Three of the files examined contained a recommendation by the local police authorities in favor of granting refugee status to the applicants. The introductory note to all three files (which incidentally were the only ones from among all the files examined where the local authorities recommended asylum status) erroneously mentioned that the recommendation of the local authorities was negative<sup>151</sup>.

Factual errors in the files were also encountered: an Afghani minor (with obvious Hazara physical appearance as established in the photograph affixed to the file) was

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to grant humanitarian status which is an exclusive competence of the Minister. This position is challenged both the UNHCR and by scholars and asylum advocates who argue that Minister is competent to grant humanitarian status irrespective of the kind of the examination procedure followed, since this competence is a separate and autonomous one from the asylum decision.

<sup>149</sup> . N. Stavrakakis, Head of the Asylum Department, explained that the secretariat of the Hellenic Police Headquarters has a tremendous number of filing to do, hence the delays. He suggested that the upcoming on line connection of public administration, in particular of the police services, will substantially improve the situation.

<sup>150</sup> . N. Stavrakakis.

<sup>151</sup> . According to the Asylum Department, this error is due to the fact that introductory notes are standardized forms and include as a permanent field the statement that the (territorially competent) Police Directorate DOES NOT agree to grant refugee status to the applicant.

mentioned as of Afghan nationality in the first official documents in relation to his asylum application, but was suddenly reclassified into "unspecified nationality and Palestinian ethnic origin" in another document which proposes to interrupt the examination of his application as well as the administrative decision to interrupt it.

A recurrent problem is the total absence of any reference to the minor age of the applicants during and in the assessment of the minor's interview. There has been no interview from among the files examined where the age of the applicant was mentioned as an element to take into account when ruling on the protection claim. The only exception referred to a case of a group of six Afghani minors who had been granted asylum in 2006 under the same circumstances<sup>152</sup>. In these cases, the asylum decisions were particularly detailed, mentioned the age of the minors as a reason that could justify possible inaccuracies in the presentation of the claim and made reference to the international obligations of the country as well as the relevant texts. One of the decisions went even so far as to specify that, despite the fact that the minors' parents lived in Pakistan, the minor's flight was justified due to the situation in the country of origin.

## **5.8. Integration following the Refugee Determination Status**

Given the very small number of minors recognized as refugees in Greece, it is difficult to draw safe conclusions as the minors' situation after recognition. Those minors that receive quickly refugee status usually remain with the accommodation institutions where they lived previously. The efforts to integrate and to offer them the conditions for gradually becoming self-sustained are usually undertaken by the administration of these Centers<sup>153</sup>.

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<sup>152</sup> . These minors were part of a bigger group of refugees (among whom some of very young age) who were arrested, near the city of Almyros, hidden in a lorry. They were detained for deportation for a long period and, while detained, had applied for asylum. When, following pressures on the Police, they were called before the Appeals' Board, the local police let them free – by mistake, as they claimed. As a result, they escaped, contacted with their smugglers, were held prisoners by them in a hideout in Athens and were, eventually, traced by the police and brought before the Board. Their case received wide publicity in the press and through NGOs. Those who, finally, appeared before the Board (the six minors and the adult brother of one minor) were granted asylum. The fact that the reasoning for their case is not repeated in many other similar cases of unaccompanied minors - who often have the same origin and background-, creates the impression that recognition was more due to the wish of the authorities to atone for their responsibilities and their administrative errors.

<sup>153</sup> . F. Parthenidis and ARSIS.

The administrative problems encountered during the period of the asylum application persist also after recognition. Guardianship remains a central one. The previous asylum legislation but also P.D. 220/2007 today do not extend the guardianship by the Public Prosecutor for Minors after status recognition. Minors need, therefore, a permanent guardian who should be appointed on the basis of the provisions of the Civil Code. This procedure has not been followed in any of the cases examined. In fact, these minors are in a legal vacuum and their guardianship needs are provided for, on an informal basis, by the administration of their Centers.

This practice though is impeded when they have to come into contact with more unaccustomed administrative institutions, whenever the physical presence and consent of the guardian is needed. A main issue in this field is the issuance of refugee travel documents to minors. During the study, we encountered two such cases where the minor (with the consent of the Center where he lived) applied for a travel document. Neither succeeded. In the first case, the competent Public Prosecutor for Minors refused to give her consent for the application claiming (perhaps reasonably) that she did not know where the minor wanted to travel and what he wanted to do. In the latter case, the police authorities informed the minor that he was not allowed to have a travel document issued because he was not of age<sup>154</sup>.

### **5.9. Unaccompanied minors not applying for asylum**

In recent years, there is an increase in the number of unaccompanied minors in need of international protection who enter the country without wanting to apply for asylum, often despite the efforts of various organisations to inform them of this right. Many reasons lead to this situation, among them, the fact that minors do not know the meaning and the consequences of asylum or that they feel the necessity to work in order to provide for their family in the country of origin. As already mentioned, this trend might also originate from the dissemination among minors (or among their smugglers), of the provisions of EC Regulation 343/2003 (Dublin-2) which allows the examination of an asylum application lodged by a minor of age in the country where the minor first applies for asylum. It is possible that minors prefer rather than lodging

an asylum application in Greece, to continue their journey illegally to another EU Member State and apply for asylum there.

Either way, it is a confirmed fact that the number of these minors is on the increase; in addition these persons are not put under any system for the care of minors. As already mentioned, there are not enough data on their numbers; one can only make estimates based on extrapolations from the total number of aliens arrested. In any case, the State does not make public any data, with a breakdown per age, on the aliens arrested for illegal entry or on the administrative deportation orders issued by the various Police Directorates.

There is no doubt, though, that this number is significant and growing fast, while in parallel, nationalities are diversified. During the period of the study, it was reported that around 71 minors (mostly Somalis and Afghanis) were detained in detention centres of the Evros Prefecture, while 22 others were detained, during the same time, in the Rodopi Prefecture<sup>155</sup>.

This problem has other aspects, too, in particular of trafficking and of criminality in general. It should be pointed out that, between September 2007 and February 2008, an incomplete calculation carried out by the Juvenile Custody Service of the Juvenile Court of Athens confirmed at least 22 cases of Somali minors, in their majority aged 13-16, all male (with the exception of a girl held in the women's prison of Korydallos) arrested for drug-related offences in the area of Omonoia. They all held deportation orders issued, in their majority, by the Police Directorates of Lesbos, Samos and Attica. All orders had very recent dates of issue (in some cases the 30-day deadline usually allowed for them to leave the country had not even elapsed). Their numbers, obviously, do not appear in any official statistics and are a proof that the number of unaccompanied minors arriving from countries like Somalia who are, *prima facie*, in need of international protection is much higher than the figures appearing in the

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<sup>154</sup> . ARSIS Makrinitisa.

<sup>155</sup> . P. Papadimitriou reported that none of these minors, who were already detained for two months, wanted to apply for asylum, despite the fact that he himself had informed them thereof.

asylum statistics<sup>156</sup> and that the dimensions of the problem of unaccompanied minors in the country is bigger than thought of.

It becomes even more difficult to confirm the numbers of and record this group of minors since, as already mentioned, many of them are either registered in the police deportation orders as adults (with a change of their date of birth) or declare themselves to be adults or, finally, are registered as minors accompanied by an adult<sup>157</sup>.

The research into this matter goes beyond the capabilities of this study. It raises, nonetheless, a number of issues that should be examined by the asylum as well as the law enforcement authorities and by the services responsible for the care of minors. As mentioned during recent months an important number of Somali minors (more than 22) have been arrested for drug-related offences, in the area of Omonoia. These children did not, obviously, come to Athens without having some associates. They also did not start drug dealing from scratch. It is to be assumed, therefore, that there is a trafficking and exploitation ring of minors that should be of concern to the authorities, outside the scope of asylum<sup>158</sup>.

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<sup>156</sup> . The official statistics for unaccompanied minors for 2007 (which are previously mentioned are not accurate insofar as they included all minors rather than only unaccompanied ones) included only 9 asylum applications by Somali minors (out of whom 4 were aged 0-5).

<sup>157</sup> . See also point 3.2.

<sup>158</sup> . The authorities (anti-trafficking unit of the Security Directorate of Attica) are already aware of the problem both following relevant reports by NGOs (V. Terzidis – G.C.R.) and on the basis of their own evidence.



## **6. Conclusions - Proposals**

As pointed out in the beginning of this study, the issue of unaccompanied minors cannot be dealt with without taking into account a number of parameters linked to the Greek reality, namely the overall deficiencies of the asylum procedure, the flaws and limitations of the country's welfare system and the human trafficking and exploitation dimension. It must also be kept in mind that, for a number of minors in need of international protection, Greece is a transit station rather than the final destination. The study found out that there are a number of prerequisites for a comprehensive and durable solution to the problem of unaccompanied minors: these include changes in the country's immigration policy, in the asylum procedure and, globally, in the Greek social welfare system. If the study extended to these areas and made proposals for changes in the relevant policies, it would run the risk to become a list of wishful thoughts or a political manifesto. The researchers opted, thus for proposals that may be, realistically, implemented in the current context and which aim to help improve the situation today, rather than designing a global, comprehensive and definitive solution that requires political will and significant funding.

### **6.1. Statistical recording**

The statistical representation of the unaccompanied minors provided by the available official data is incomplete (including only minors who have applied for asylum) and inadequate (the study established calculation mistakes and errors in recording the age of the minor and/or the fact that the minor is not accompanied). Given, though, that all minors deserve in principle protection from the State, it is intolerable that the authorities ignore the actual number of unaccompanied minors in the country. Given that the Greek authorities maintain the practice to issue deportation orders for minors arrested for illegal entry into the country and given that an increasing number of minors never enter the asylum procedure, it is important to improve immediately the quality and the elements included in the statistics made public by the Hellenic Police Headquarters (and, possibly, other State authorities too, such as the Ministry of Merchant Marine - Hellenic Coast Guard). The statistics should include, as a minimum:

- The numbers of unaccompanied minors arrested for illegal entry into, or stay in, the country with breakdown by gender, age group, nationality and Police Directorate that made the arrest.
- The numbers of police deportation orders issued for unaccompanied minors with breakdown by gender, age group, nationality and Police Directorate that issued the order.
- The numbers of deportations for unaccompanied minors effectively completed with breakdown by gender, age group, nationality and Police Directorate that effectuated the deportation.
- Possibly, the establishment of other statistical sub-categories provided by law, such as minors who are victims of smuggling or trafficking.
- The comprehensive tables for adjudications of international protection statuses must include the age of beneficiaries.

The objective of these proposals, which do not engage any financial cost but only an administrative burden is not, obviously, the mere improvement of statistics; better statistics can be exploited in formulating, more effectively, State policies for the protection of minors.

## **6.2. Access to the asylum and protection of the minor**

- Entry into the territory is a sovereign right of the State. This right, however, is mitigated and limited by the country's international obligations arising not only from the Geneva Convention, but also from the European Convention on Human Rights and the Convention on the Rights of the Child. As a result, the interception or prevention of entry policies operated by the border authorities against illegal entries must take into account the possible presence of minors and the protection needs arising thereupon. A first and crucial such step is the explicit exclusion of minors from the scope of any Readmission Agreement, notably the Readmission Protocol with Turkey.
- From the moment the minor arrives in Greece, the country assumes obligations towards this latter, irrespective of his legal status. The current

practice of authorities hampers or does not facilitate the minors' access to some form of protection. The usual policy of authorities, consisting in issuing a deportation order and releasing the minor does not amount, alone, to providing protection and does not discharge the State from its obligations; indeed such practices expose the minor to renewed risks of exploitation. Even when the authorities provide minors with some basic information on the structures they could apply for assistance (such as G.C.R. and ARSIS who run specific activities on unaccompanied minors) such information does not cover the State obligations.

- Effective rather than apparent access to asylum at points of entry can only be ensured if the competent services there are staffed with specialised personnel. This requires political will and financial commitment.
- Minors who do not apply for asylum do not receive, up till now, any form of protection. The researchers are of the opinion that the authorities should examine, for this group, the possibility to establish, at some points of entry, closed reception and temporary accommodation centres for unaccompanied minors. These facilities should not to be understood as a copy of the existing detention centres and be staffed with specialised personnel. Their objective should be to accurately record the minors, to examine the reasons of flight from the country of origin, to investigate on the legal status they should be put under, to trace their family, to protect them from smugglers and, generally, from exploitation and to put in place the State obligations for their family reunification or safe repatriation if this latter is feasible and serves the child's best interests.
- At first sight, this proposal might seem financially costly; one should calculate it, however, bearing in mind the costs already undertaken by the State for minors, at points of entry, the costs for the police and the courts concerning the further treatment of these minors and the social costs of juvenile delinquency in general.

- As far as the use of medical methods for assessing the age of minors without identity documents is concerned, the State, on the basis of the current legislation has the right to require such exams. As long as such assessment is not applied, though, the authorities are obliged to accept the relevant declarations of the minor and refrain from arbitrary and unjustified registrations on minors with different date of birth than the one declared. Furthermore, the permanent inclusion in the decisions rejecting asylum applications that "the alien did not present a national passport or any other document proving or confirming the personal identity data» represents a further obstacle for the minor who, obviously, could not anticipate the need and conform to such requirements.

### **6.3. Detention and deportation**

- A State which applies the principles of rule of law does not deport minors; it only provides for their safe repatriation. The authorities must also realize that a minor without residence documents in Greece is not merely an illegal alien but also a child without protection and without identity; as long as the State tolerates such a situation it violates a number of national and international obligations. It appears that the Greek State does not wish for or cannot apply safe repatriation policies, and, in any case, repatriation is often not feasible. It is therefore proposed to provide such minors with a temporary protection status till they reach the age of 18; such a status may, on conditions, be prolonged even after reaching adult age. This status may either be established by a special legal text, or introduced in the legislation on international protection (in the context of the draft Presidential Decree reforming the asylum legislation) or, finally, be included in the cases of residence permits «on humanitarian grounds» allowed under article 44 of law 3386/2005 (in this latter case, the provision should exclude the beneficiaries of such a status from the obligation of legal entry, stipulated in article 6 of the law).
- In order to ensure that the Greek authorities with abide with the country's international obligations concerning the protection of minors, it is proposed to

explicitly prohibit the administrative deportation of minors with a relevant modification of article 79 in law 3386/2005.

- Taking into account the provisions on detention and imprisonment contained in the Convention for the Rights of the Child, which is national law with precedence over other legislation, the detention of minors as a result of an administrative decision taken according to the provisions of law 3386/2005 is not justified. An administrative measure taken by a non-judicial organ cannot be considered to be a «last remedy». Furthermore, the conditions and operation of detention centres in our country do not respect the other conditions of article 37 of the Convention.

#### **6.4. Guardianship**

- Unaccompanied minors, asylum seekers in Greece today do not enjoy any effective guardianship. The interpretation and application of P.D. 220/2007 by the competent Public Prosecutor's services has not yet been modified. Having in mind that these services are, in practice, unwilling or unable to play the role of guardian and that the various social care institutions, which might take over this task, are insufficiently staffed, the improvement of the situation under the current system is in doubt.
- This situation, however, does not release the Prosecutor's services from their other obligations, beyond *stricto sensu* guardianship issues, on other activities concerning the minors, no matter their legal status. These obligations, though, also remain ineffective, mostly because the competent Public Prosecutors pay attention to the minor's legal status rather than the fact that he is a minor. This is partly due to insufficient information of Public Prosecutors about this special category of children and the absence, outside major urban centres, of Public Prosecutors for Minors. As a first step, it is, thus, proposed to set up a separate Minors' Prosecutor career within the Public Prosecutors' services. Such a measure, proposed even by Public Prosecutors themselves as well as by child care structures, would allow specialisation, better awareness of issues

and problems related to minors and, thus, of the specific needs of unaccompanied minors, too.

- As long as the State retains the existing system of temporary guardianship by the Public Prosecutors, it is necessary to proceed to a systematic and permanent information and updating policy vis-à-vis the Public Prosecutors for Minors and, more in general, Public Prosecutors acting as guardians for minors as to the minors' real needs and to the Prosecutors' obligations in all aspects of the protection of unaccompanied minors.
- A definitive solution to the problem of guardianship can be achieved with the establishment of a special body of guardians (who need not necessarily be civil servants) under the supervision of the Ministry of Justice or the Ministry of Health and Social Solidarity. Such guardians will receive remuneration as per article 66 of law 2447/1996 and their exclusive tasks will be guardianship of minors. This body may be integrated, from an administrative point of view, either within the Judicial Social Services, to be set up according to law 2447/1996, on condition that their competencies are modified to this effect, or within the existing Juvenile Custody Services of the Juvenile Courts.
- For the time and on a provisional basis in order to reply to the immediate and urgent practical daily problems arising from the absence of a guardian, it is proposed to apply, *mutatis mutandis*, the provisions of article 1601 of the Civil Code on temporary guardianship. This article allows the appointment of a special temporary guardian for specific guardianship issues (such as education or employment). Such a provisional solution could be used especially for minors residing in Accommodation Centres where the function of such a special temporary guardian could be entrusted to the persons responsible for these centres.
- It must be stressed that this proposal is not an alternative to the previous one, nor can it be used as a substitute for a definitive solution to the issue of guardianship. As already pointed out, the guardian is not acting only as a

representative of the minor; s/he also plays a role in protecting and guaranteeing the minor's rights but also in the development of the minor's personality. If this measure is adopted by the authorities, it should not be considered as a further unloading of State responsibilities to private structures but rather as an effort to respond, provisionally to urgent and immediate needs of only a small number of minors who have entered the asylum procedure and live in accommodation centres.

#### **6.5. Interim care - accommodation centres**

- Given the figures of the asylum applications lodged by unaccompanied minors and the obligation of the State to protect childhood irrespective of the minor's legal status, it is necessary, firstly to increase the number - and the available places - of accommodation centres for minors. It is also considered more useful to establish more, smaller facilities which are deemed more appropriate for achieving the protection and integration policies. It is evident that existing places are insufficient to cover the existing needs.
- The Ministry of Health and Social Solidarity must give emphasis not only to cover the basic needs of minors (board and lodging and basic educational needs); it should also aim to cater for their effective needs and to provide quality services. Such an objective requires long-term planning and secure funding. Given that a major problem for all Centres is insufficient but also irregular funding (due to the annual character of funding) it is proposed that centres be allowed to operate on a longer period— possibly with the same time period of the European Refugee Fund. It would also be helpful to set up a national reserve in order to cover liquidity gaps in the regular inflow of funding.
- Besides funding, it is important that the Ministry of Health and Social Solidarity establishes, at least for the centres it finances, an internal regulation with the minimum services and operation rules provided by these latter. Obviously, these minimum requirements should go beyond trying simply to

cater for the minors' basic needs (board and lodging and Greek language courses) and aim to provide them with quality services and effective enjoyment of their rights, with a long-term objective to integrate them smoothly in Greek society and to prepare them for an independent living. This regulation could, for instance, provide guidelines and standards on issues such as education, employment and staffing (both in terms of the number of staff and of their specialisations).

- In addition, the supervising Ministry must proceed, on a regular and permanent basis, to an evaluation of the accommodation centres as well as of the other structures it finances. Such an evaluation, though, should not be limited to the existing evaluation of programs as required by the European institutions and which is, fundamentally, of a financial nature and controls the correct use of the funds. Instead, it should become an effective and genuine evaluation of the services offered and the results achieved by these centres.
- Furthermore, it is considered necessary that the supervising Ministry provides adequate information to involved State services (in the fields of health and education, for instance) on the rights of these minors; such information is particularly needy in the areas where Accommodation Centres are located. It must also provide effective support and assistance to the administration of these Centres in their efforts to ensure and actively defend their guests' social rights.
- The continual evolution of issues relating to minors renders necessary the special training of the Centres personnel at the beginning of their functions and their continual updating.
- If it is decided to set up new accommodation facilities in the future, as deemed necessary, the location of the new centre should be decided taking into account the integration possibilities offered. Setting up such centres outside major urban centres aggravates the integration of minors.
-



- Currently, there are no accommodation facilities for girls and for children under 14. Given the small number of these minors, the current practice of referring them to either centres for women or to specialised child care institutions for Greek nationals may be considered sensible. However, the lack of specialised personnel and of language communicators results in these children leaving such centres. In view of the current numbers, it is not indispensable to set up special structures for these groups of minors. It is essential, though, that at least one or two of these structures be staffed with the needed specialised personnel to cater for the needs of unaccompanied minors.
- As far as health and education matters are concerned, the problems evidenced, which are not related to the absence of a guardian, are due to the ignorance of the legislative provisions by the competent State services or to their refusal to apply them rather than to the absence of regulatory framework. Specific problems encountered in the field of education are linked to bad or incomplete application of the legislation on the intercultural education (which is defective and must be improved) and affect all foreign pupils rather than this group of minors alone.
- The difficulties in communication between minors and authorities and State services is a huge problem and appears at all stages of the asylum and integration procedures (with the police authorities and with other state services, such as health care). It is, however, a more general problem that extends to all categories of aliens and should receive a general solution. It is proposed to set up a body of accredited interpreters who would be called by any state service on the occasion needed for a correct and complete communication with the alien. It is also proposed that the State budget includes a special expenditure post for this body without a financial cost for the involved state services.

## **6.6. Refugee Status Determination procedure**

- The dysfunctions of the asylum system in Greece aggravate the problems in the refugee status determination procedure for unaccompanied minors

applying for asylum. The researchers are of the opinion that the only effective proposal for the solution of these problems for minors is the priority (within six months or, at the latest, a year) conclusion of the examination of asylum applications lodged by minors. Any other proposal (for instance to improve the procedures, to train the competent authorities, to use specialised personnel etc.) are welcome and positive but do not constitute a solution. It is proposed to include in the, currently under examination, draft Presidential Decree reforming the asylum legislation a deadline for the examination of applications from minors. Granting minors subsidiary protection, as a minimum, is not only a State obligation but also good administrative practice since it releases authorities from the administrative burden of handling these applications and, at the same time, offers minors legal security, better integration opportunities into Greek society and, possibly, the possibility to resettle or search for other forms of durable solutions in other countries in a lawful way.

## ANNEX A

### Visits and contacts with institutions and authorities

institution/authority	Contact person	Date of meeting
Ministry of Interior (formerly of Public Order) - Asylum Office	Captain Nikolaos Stavrakakis	On several occasions
Ministry of Health and Social Solidarity – Directorate of Social Provision and Solidarity	Ioannis Tassopoulos – Ioanna Charissopoulou	26/2/2008
Athens Public Prosecutor's Officer - Department for Minors	Sylla Papataxiarchis and Theodora Botsa	23/1/2008 &
Social Solidarity - Thessaloniki	Nona Nigritinou - Director	5/2/2008
Security Department of the Athens International Airport	Andreas Spyropoulos head of the Asylum Office	13/2/2008
Aliens' Directorate of Athens- Asylum Department	Christos Gavras	13/2/2008
ARSIS Athens	Caterina Poutou, Maria Kaldani, E. Legaki, M. Soulele	25/2/2008
Anogeia accommodation unit	Nikolaos Dramountanis	3/3/2008
Rethymnon Public Prosecutor' Office	Lefkothea Terzitanou	3/3/2008
Juvenile Custody Office of the Juvenile Court of Rethymnon	Charoula Theodoraki, Officer	3/3/2008
Volos Public Prosecutor	Achileas Zissis, Head of the Office	5/3/2008
Makrinitza Accommodation unit	Yiola Dalamanga - Nikos Moschos	5/3/2008
Volos Police Directorate - Security Department	Georgios Karaiskos	5/3/2008
Greek Council for Refugees - Legal Assistance Unit	Spyros Koulocheris	6/3/2008
Association for the Care of Minors	Fotis Parthenidis	6/3/2008
Greek Council for Refugees - Legal Assistance Unit	Panagiotis Papadimitriou	7/3/2008
Volos Public Prosecutor'	Maria Dimitriadou	7/3/2008

Office (telephone interview)		
Greek Council for Refugees - Reception Program	Thanos Mantas	28/2/2008
Greek Council for Refugees - Legal Assistance Unit	Sandi Protogerou	7/3/2008
Greek Council for Refugees - Legal Assistance Unit	Xenia Passa	27/3/2008

## ANNEX B

### Questionnaire

#### **A. Protection of childhood and identification of the minor (police)**

Do you, as a rule, check the age of young aliens (if yes, how)?

Do you check where parents are or the reasons for their absence (outside the asylum procedure)?

Do you examine the relationship between the minor and other aliens or the presence of other relatives/caregiver?

Do you conduct a preliminary personal interview? If yes, with what content?

Has there been conducted, either ex officio or following a relevant request by the minor, an age assessment examination?

Has the minor been kept separate from the other aliens (if yes, with whom else has he been assigned)?

Has the minor been provided with information on the asylum application? If yes who provided it (also NGOs?) and what was the content?

Has there been a search into collateral criminal law issues (smuggling, trafficking and exploitation) and information on other structures for the protection of minors?

Has there been special medical screening?

Did you notify the authorities for the protection of unaccompanied minors? If yes when and with what object/result?

Statistical data

#### **B. Registration and documentation (police)**

Do you register unaccompanied minors separate from the other aliens?

Do you follow a different/speedier procedure for providing documentation, conducting interviews in the case of unaccompanied minors (how often, how faster)?

Do you take finger prints from minors? If yes, in which cases?

#### **C. Freedom of movement and detention (police);**

Are unaccompanied minors detained, and, if yes, for how long? When did the practice you describe appear?

Do you apply different practices for unaccompanied minors who enter the asylum procedure, for those who belong to a sub-category with special needs (i.e. victims of trafficking) and for minors who do not wish to apply for asylum? If yes, what does this practice consist of?

Do you follow a different/speedier procedure for releasing the a/m minors? (How often, how faster)?

Do you treat deportation differently? Cases?

What is the objective of the deportation order?

How do you treat those minors who do not wish to apply for asylum not do they belong to a sub-category with special needs, following their release?

Are there (or are they being planned) special detention premises for UAM? If yes, what are their differences with detention premises for other aliens?

#### **D. tracing the family**

Do you systematically try to trace the parents, or in their absence, another close relative of the minor in Greece, the country of origin or elsewhere in the E.U.? In which cases?

Do you systematically invoke the provisions of the Dublin-II regulation for those minors that declare they have parents or other members of their family elsewhere in the E.U? Results?

### **E. Appointment of a Guardian or Counsel**

How long following the arrival/appearance of the minor is the competent Public Prosecutor for Minors informed and through which procedure? Frequency of reaction?

Do you inform the Prosecutor for all cases of unaccompanied minors or only for the cases of asylum seekers?

In the cases of asylum seekers, do you inform the Prosecutor before the application of when they express their intention to lodge it?

How is the role of the temporary guardian being enforced, in practice, by the Public Prosecutor for Minors (in the legal representation of the minor during the asylum procedure, in other legal acts and in providing protection and care to the minor)?

Frequency of meetings between the guardian and the minor, and results thereof?

Who is appointed as a guardian (when, for how long and with what results? For which duties)?

Do you follow the procedure described in the Civil Code for appointing a guardian?

If yes, frequency and cases (are there criteria (such as age) followed in deciding whether the procedure of the Civil Code would be used in the cases of specific minors?

Whenever the procedure described in the Civil Code is used, who is appointed as a guardian (a private individual, a relative or a child care institution? NGO)?

In the cases of minors residing in accommodation Centers for Unaccompanied Minors, Asylum Seekers, in other NGO hostels or in other state-run or private child care institutions, do you follow the Civil Code procedure in order to allow these latter to take over guardianship for these minors? If no, why?

How and by whom are appointed guardians controlled as to the performance of their duties?

### **Pressing charges and judicial deportation rulings for unaccompanied minors**

According to article 45 A of law 3189/03, the Public Prosecutor may refrain from pressing charges against a minor on condition that the minor committed an offence which, had it been committed by an adult would be considered as a petty offence or as a misdemeanor, and if it is deemed that pressing charges is not necessary to deter him from committing new offences. The Prosecutor may, also, without pressing charges impose out-of-institution reformatory measures or a fine of up to 1000 euro. Are minors accused for illegal entry ever been imposed such measures?

### **Judicial treatment of minors for illegal entry/stay**

#### **Data:**

*From police*

Number of UAM registered

Number of UAM in the asylum procedure

Number of UAM for whom the Prosecutor was notified

Number of UAM referred to other structures such as G.C.R./ ARSIS/ NYF

*From the Prosecutor's Office*

Number of UAM for whom they were notified by the Police

Number of UAM, asylum seekers for whom they acted as temporary guardians

Number of UAM for whom a guardian was appointed on the basis of the Civil Code

Number of UAM referred to a child care/accommodation structure

## **F. Interim Care – Health – Education – Training**

### **Accommodation centres for Unaccompanied Minors. Asylum Seekers**

Are there operation standards (internal regulation, state certification) of the Centre?  
(For general accommodation centres) are their special operation standards for Unaccompanied Minors?

Description of the Centers (choice of the way it operates, division of space etc.).

- Staff (type and numbers)
- Statistics (capacity, age and sex groups).
- Other material reception conditions/ how are they covered and by whom (clothing, school items, personal hygiene items, pocket money)?
- Other activities (education/ sports/ leisure/ cultural etc...)?
- Contacts with the local community?
- How is the minor prepared for leaving the Centre? How does the prospect of self-sustained life in Greece or of repatriation affect the way the minor deals with integration issues?
- Do you attempt to trace parents? Do you cooperate with other structures to this aim? When the children know where their family is, do you facilitate, somehow, the communication between the two sides?
- How do you cater for information and legal aid?
- Who requests the accommodation or refers the minor? What is the procedure followed?

#### **Health:**

- Medical screening for transmissible diseases
- Previous vaccination control? Vaccination? Data?
- Medical care/ access (existence of medical or nursing personnel in the center?)
- have you considered/applied the possibility of foster families for the minors?

#### **Education – Training**

- Are Greek language courses and enrolling in school or vocational training courses mandatory for the minor?
- Greek language courses (where, by whom, frequency, regularity, levels, special treatment for illiterates)
- Schooling in elementary/secondary education. Completion of mandatory education?
- Participation in vocational training or technical schools
- Do you elaborate an individual plan for each minor (for education, training)? If yes, who makes it? What parameters do you take into account (age, sex, previous training, and personal desires)? What is the procedure followed? - Statistics (number of minors in school etc.).
- Equivalence with Greek certificates?

-How do you treat the issue of employment of minors? Do you, and how, watch for guaranteeing that their rights are being taken care of and that the conditions of employment of minors are being respected?

### **Data**

Internal Rules of Procedure for the Centers

Personnel lists

The funding proposal (in cases the centers are funded by a specific program)

Legal status/ by-laws of the association

Lists of minors accommodated (age, sex, country of origin, legal status)

Certificates of enrollment in schools, vocational training programs etc.

### **G. Refugee Status Determination Procedure**

Duration of completion (1<sup>st</sup> and 2<sup>nd</sup> instances)

Does childhood act in favor of the minor?

Statistics (2005-6)

### **H. Repatriation and family reunification**

Are there cases of repatriation of unaccompanied minors who have not entered the asylum procedure or whose asylum application has been rejected?

Have unaccompanied minors expressed their desire to return home?

Has there taken place a voluntary repatriation of unaccompanied minors?

Cases of (re-) appearance of parents?