



**Permanent Mission of Greece
to the United Nations Office
and other International
Organizations in Geneva**

No.: 6170.7/AS 560

NOTE VERBALE

The Permanent Mission of Greece to the United Nations Office and other International Organizations in Geneva presents its compliments to the Secretariat of the Special Rapporteur on the human rights of migrants, at the Special Procedures Branch of the Office of the High Commissioner for Human Rights (OHCHR), and, with reference to the Special Rapporteur's letter dated 16 March 2020, has the honour to attach herewith the responses of the Greek Government to the questionnaire on "ending immigration detention of children and seeking adequate reception and care for them".

The Permanent Mission of Greece to the United Nations Office and other International Organizations in Geneva avails itself of this opportunity to renew to the Secretariat of the Special Rapporteur on the human rights of migrants, at the Special Procedures Branch of the Office of the High Commissioner for Human Rights (OHCHR), the assurances of its highest consideration.

Geneva, 30 April 2020



Enclosure: As stated

**Secretariat of the Special Rapporteur
on the human rights of migrants
Special Procedures Branch
Office of the High Commissioner for Human Rights
In Town**

Email: migrant@ohchr.org
(Subject: "submission to GA report")

1. Please provide information on any legislation or policy that prohibits or restricts the use of immigration detention of children and their families in your country. Grateful if you could kindly submit the original text of the legislation or policy, accompanied by an English translation if it is in a language other than English, French or Spanish.

The legal framework (Law 4636/19) regulating Reception and International Protection procedures includes several provisions relevant to the restriction of freedom of third-country nationals entering Greece, including unaccompanied minors. First, unaccompanied minors (UAM) entering Greece are accompanied to the competent Reception and Identification Center (RIC) where they are subject to the reception and identification procedures.

Art. 48 par. 2 of the same Law foresees that “Minors shall be detained only in exceptional circumstances, always in line with their best interests and only if proven that alternative and less restrictive measures cannot be applied. The duration of detention should be as short as possible, while every possible effort is taken for the referral and transfer of children to age-appropriate care and accommodation facilities. For those purposes, migrant children can never be detained in regular juvenile detention facilities. The referral and placement procedure may not exceed the period of twenty-five (25) days. In case of exceptional circumstances, such as the significant increase in the number of minors who enter the Greek territory and despite the reasonable efforts of the competent authorities, it is not possible to complete the referral procedures within twenty-five (25) days, the restrictive measures can be extended for a period of twenty (20) days. Unaccompanied minors are detained separately from adults. While in custody, minors have the right to engage in age-appropriate leisure, educational and recreational activities.” (art. 48 par. 2).

Furthermore, unaccompanied minors can be detained under the provisions of articles 30 and 32 of Law 3907/2011, foreseeing that unaccompanied minors can be “administratively detained” pending their return to their country of origin, only if no other more effective and less restrictive measures can be applied. In such cases, the minors’ best interests shall be fulfilled and respected throughout the relevant procedures and with the condition that they will be returned to a member of their family, guardian or appropriate care and accommodation facilities, following a relevant research and verification by the Greek authorities (art. 25).

According to the afore-mentioned provisions, immigration detention of unaccompanied minors shall only be used as a last resort and only pending the completion of referral and placement to appropriate accommodation or return procedures (under certain criteria).

2. Please provide information on existing non-custodial alternatives to immigration detention of children in your country (e.g. community-based reception solutions) and elaborate how these alternatives effectively enhance the protection of the rights of migrant children and their families.

Unaccompanied minors are by law entitled to age and gender-appropriate, alternative care and accommodation arrangements, in accordance with their personal needs. Placement is, in

principle, carried out by technically competent staff appointed in the National Center for Social Solidarity (hereinafter EKKA) following the submission of a relevant Referral made by NGOs or public services and upon a thorough assessment of each minor's needs, characteristics, additional vulnerabilities and other circumstances. For the time being, various types of care modalities are operational in Greece, as per follows:

I. Long-term accommodation modalities:

- a) Collective accommodation centers (shelters) with a capacity varying from 17 to 40 children each; age and gender segregation are applied.
- b) Supported Independent Living, where groups of 4 children above the age of 16 years old reside in apartments with minimum support and supervision by a team of professionals
- c) Foster care in families, mainly for younger children (less than 14 years old)

Long-term accommodation modalities demonstrate an efficient role in the protection and care of minors, based on a tailored, rights-based approach and taking into consideration each child's best interests and characteristics. Minors cared for in the said facilities are entitled to a wide range of services for the fulfillment of their respective rights, including psychosocial support, access to medical and legal aid, access to education and recreational activities etc. Best interests assessment is also widely applied and followed in the said modalities, towards the identification and implementation of durable solutions (e.g. family reunification etc.) based on each minor's profile and individual needs.

II. Short-term (transit) modalities, which were established in 2017 as interim form of temporary care for UAM in order to address their urgent safety and protection needs through their rapid transfer from detention and the RICs. There are two types, as follows:

- a) Safe Zones are separate areas within open accommodation sites in the mainland, with a capacity of 30 children.
- b) Hotels for UAM, each accommodating a maximum of 40 UAM.

Short-term modalities serve as an appropriate transitional stage for facilitating the removal of children from inappropriate sites or conditions into an organized care and support system, towards their subsequent placement in long-term modalities, where durable solutions can be effectively organized and pursued.

According to the most recent data¹, there are 1687 places available for long-term accommodation (not including foster care) and 719 places for short-term accommodation.

¹ EKKA Situation Update: UAC in Greece, 31-3-2020, available in http://www.ekka.org.gr/images/%CE%A3%CE%A4%CE%91%CE%A4%CE%99%CE%A3%CE%A4%CE%99%CE%9A%CE%91_2020/EKKA%20Dashboard%2031-3-2020.pdf.

Nevertheless, the said capacity does not suffice to cover the existing needs, as a number of 5252 UAM reportedly remains in Greece.

3. Please provide information on any existing good practices or measures taken in your country to protect the human rights of migrant children and their families while their migration status is being resolved, including inter alia their rights to liberty, family life, health and education(e.g. by ensuring effective access to inter alia adequate reception, healthcare, education, legal advice, family reunion).

Regarding the protection and representation of UAM, in July 2018 the Greek government (Ministry of Labor, Social Security and Solidarity) adopted critical new legislation on Guardianship, with Law 4554/2018 which entered into force on 1 March 2020. A tripartite agreement was signed among the United Nations High Commissioner for Refugees (UNHCR), the Ministry of Labor and Social Affairs (MoLSA)/ EKKA and METAdrasi (a Greek NGO) for the implementation of a “transitional guardianship scheme”. The program provided for the protection and safeguarding of UAM through the provision of case management services, including the minor’s legal representation before the authorities and third parties, as well as facilitating the minor’s access to health aid, education, legal and psychosocial support. The program also aimed at ensuring the smooth and gradual transition to the proper implementation phase of the guardianship scheme, based on the recruitment and assignment of 55 “Authorized Minors’ Representatives” in various locations across Greece. The transitional programme was implemented for one year (January-December 2019) and over 1600 UAM were assigned with a Representative.

Furthermore, within the framework of promoting alternative, community-based care arrangements for UAM remaining in Greece, the Supported Independent Living (SIL) for adolescent UAM was launched in early 2018 with the support of UNHCR and UNICEF. The scheme aims at enhancing the empowerment of older UAM (over 16 years old) living in private apartments to become independent and enter adulthood in line with their evolving capacities, development needs and best interests. The scheme was at first implemented on a pilot level (with the support of the EC- DG Home), while in June 2019 the MoLSA issued a Guide introducing Minimum Standards and SOPs for SIL with the aim of ensuring smooth transition into the institutional framework of implementation which was eventually launched with the issuance of a relevant Ministerial Decision in December 2019 (No. Δ11/οικ.60207/2717/2019, effective as of 01 March 2020) laying down the institutional framework on the establishment and operation of SIL apartments. Each apartment welcomes a maximum of 4 unaccompanied children aged 16-17 years supported by a multidisciplinary team responsible for ensuring the children’s protection through access to a range of core and integrated support services. Professional guardians assigned to the UAM also play a crucial role in serving the minors’ interests, in coordination with the appointed staff. While the caregiving team is not present 24/7 in the apartment, daily/regular contact and supervision is provided depending on the evolving needs and capacities of each individual child and a member of the team is on-call to respond to any emergencies 24 hours a day. The program has been praised for its efficiency in providing for a

caring and supporting environment for adolescents to build their confidence and self-esteem and to assume responsibility over their own protection and well-being as they move towards adulthood. As of 31-3-2020, 43 SIL apartments were operational with a total capacity of 172 places.

4. Please indicate any challenges and/or obstacles in the development and/or implementation of non-custodial alternatives to immigration detention of children and their families.

As communicated to the state authorities by the organizations operating alternative care arrangements, limited funding opportunities and resources remain the main challenge against the development of such alternatives. Limited sustainability of available funding is also an exacerbating factor. More precisely, and as reported, institutions providing accommodation mainly rely on the National Funding Programme of AMIF (Asylum, Migration and Integration Fund), however the application, assessment and monitoring procedures are lengthy and bureaucracy laden. On the other hand, private funding is not safe for an organization to rely upon. Unforeseen events and developments play also a significant role to the insufficiency of alternative care arrangements, such as the constantly changing numbers of UAM arrivals within a short period of time. For instance, according to data provided by EKKA, the estimated number of UAM living in Greece on 31 March 2019² was 3774 UAM, while on 31 March 2020 the number had increased to 5252 UAM.

5. What support could other stakeholders (other than your Government) provide to strengthen the development and/or implementation of non-custodial alternatives to immigration detention of children and their families that enhance the protection of their rights?

As per national and international law and practice, promoting alternative care arrangements and durable solutions for unaccompanied minors are the most suitable and appropriate ways to end or minimize detention. Therefore, besides the state's efforts, the following policies or support measures could also be of crucial importance:

-WHAT: Increase the capacity of alternative, long-term accommodation and care arrangements, with the aim to cover the needs so that no children are placed in detention pending their transfer to an accommodation facility. WHO: Regional authorities (e.g. municipalities), international organization and NGOs that have the legal capacity to establish and operate accommodation facilities.

-WHAT: Foster care, especially for younger children less than 14 years old, is identified as one of the most suitable out-of-home care arrangements for children whose parents cannot perform parental responsibilities and care, including unaccompanied children, at least until a more durable solution is identified (relocation, family reunification, adoption etc). WHO: NGOs and

² http://www.ekka.org.gr/images/EKKA_Dashboard_31-3-2019.pdf

international organizations with an expertise and experience in child protection, to assist the regional, competent authorities (social service of the administrative regions) in further expanding their mandate and scope for a wider inclusion of unaccompanied children to be benefited from the scheme.

-WHAT: Relocation is the legal transfer of third country nationals, including unaccompanied children from one state to another within the framework of regional, multi- or bi- lateral agreements among states. Relocation is identified as a durable solution for unaccompanied children, as long as this is in their best interests, following individual and careful best interest assessment or determination procedures applied in the host country by trained professionals or a guardian. WHO: Multilateral or bilateral agreements among host and recipient states need to be signed and implemented; to this aim, such initiatives could be launched, promoted and supported by regional bodies and institutions (e.g. the European Commission).