



## CHILD FRIENDLY JUSTICE IN ACTION

### NATIONAL REPORT - GREECE

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The population of children on the move has reached the highest levels ever recorded according to the United Nations.<sup>1</sup> Every single Member State of the European Union that has ratified the 1951 Geneva Convention on the Status of Refugees and adopted its humanitarian values has a legal obligation to protect persons seeking asylum. Greece has opened its doors to people in search of safety, becoming the second refugee population- receiving country in the EU since 2015, thus creating a new reality for the Greek society. Some of the children on the move travelling unaccompanied apply for asylum while others wait for relocation or family reunification applications to be decided so that they can move on to other member states. Children are left alone to navigate the complicated asylum system themselves without sufficient information, with linguistic barriers whilst facing multiple other adversities as they try to rebuild their lives in their new surroundings and realize their right to seek asylum, to security, to health care, to education and to employment. **In the constantly changing Greek asylum procedures child friendly justice is necessary not only in the process of examination of asylum claims but also to ensure the effective implementation and respect of children's rights connected to basic needs. Adapting the justice system to children's needs is a necessity.**

Given the current context in Greece and Europe where thousands of unaccompanied children on the move go missing, and exposed to outrageous living conditions, sexual violence and trafficking, it is important to ensure that child - friendly principles are secured and implemented during throughout the administrative proceedings.

According to the Council of Europe, Child-Friendly Justice refers to “justice systems which guarantee the respect and the effective implementation of all children’s rights at the highest attainable level, bearing in mind the principles listed below and giving due consideration to the child’s level of maturity and understanding and the circumstances of the case. It is, in particular, justice that is accessible, age appropriate, speedy, diligent, adapted to and focused on the needs and rights of the child, respecting the rights of the child including the rights to due process, to participate in and to understand the proceedings, to respect for private and family life and to integrity and dignity.”<sup>2</sup>

These guidelines of Child friendly Justice “should apply to all ways in which children are likely to be, for whatever reason and in whatever capacity, brought into contact with all competent bodies and services involved in implementing criminal, civil or administrative law.”<sup>3</sup> In case the principles of Child Friendly Justice are not sufficiently implemented and the procedures are not child friendly, children are at risk of being traumatized.

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<sup>1</sup> Το 1 τοις εκατό της ανθρωπότητας έχει ξεριζωθεί: Έκθεση Παγκόσμιες Τάσεις της Ύπατης Αρμοστείας, 18/6/2020 available at [https://www.unhcr.org/gr/15589-global\\_trends\\_2019.html?fbclid=IwAR0\\_xuxZqG0ymISmWVjzLWbtxcRFkpmkO7CgmH-lpidLLd9l-AdBKHErI4](https://www.unhcr.org/gr/15589-global_trends_2019.html?fbclid=IwAR0_xuxZqG0ymISmWVjzLWbtxcRFkpmkO7CgmH-lpidLLd9l-AdBKHErI4)

<sup>2</sup> Guidelines of the Committee of Ministers of the Council of Europe on child friendly justice (Adopted by the Committee of Ministers on 17 November 2010 at the 1098 th meeting of the Ministers' Deputies), 17

<sup>3</sup> Ibid, 16

The aim of this research is to examine whether or not and in what extent the aforementioned principles are implemented during the whole asylum procedure and whether the administrative asylum system in Greece is adapted to the specific needs of children and their vulnerability. In Greece the research was focused on unaccompanied minors in the context of asylum proceedings .

The Child-Friendly Justice in Action project (CFJ in Action) is a European project co-financed by the European Commission's Erasmus+ programme and aimed at promoting the adaptation of administrative procedures (international protection, residence, alternative care) to the specific needs of children, as set out in the Guidelines of the Committee of Ministers of the Council of Europe for Child-friendly Justice.

The CFJ in Action project is one of the projects of the Child-Friendly Justice European Network (CFJ EN), coordinated by Defence for Children International (DCI) Belgium and currently including 7 members (DCI-Belgium; DCI-Spain; DCI-France; DCI-Greece; DCI-Italy, DCI-Netherlands and DCI-Czechia). This network aims to promote the fundamental principles of child-friendly justice, by improving the visibility of expertise in this field, and by promoting the exchange of good practices between European partners.

This project, coordinated by DCI-Belgium and the DCI-World Service Foundation, was carried out jointly in seven Member States of the European Union, in partnership with DCI-Belgium, DCI-Spain; DCI- France; DCI- Greece; DCI- Italy; DCI-Netherlands and DCI- Czech Republic.

This report presents the results of the Greek national research carried out within the framework of the CFJ in Action project. Its purpose is to assess the implementation of the Council of Europe Guidelines on Child Friendly Justice at the various stages of the administrative procedure taking place in the framework of application for international protection of unaccompanied foreign children in Greece. It aims to highlight the obstacles to the implementation of these guidelines at the various stages of the procedure, but also to point out the inspiring practices used in Greece, if any. This report will be combined with the national reports of the other six project partners to produce a European report that will be used to develop a practical information tool for professionals in contact with children. This tool aims to promote the principles of child-friendly justice to professionals.

From the methodological point of view DCI GREECE completed a desk research regarding the national legislation and practices as well as the realization of interviews (DCI Greece conducted eleven qualitative interviews) and questionnaires answered by the personnel of the asylum offices both in the first and second degree, social workers, psychologists, guardians and lawyers working in NGOs or inside the Camps, in the field of asylum, migration and child protection. Nine children also took part in the research by answering the questionnaires and they also participated in the theatrical act where Boals' techniques were implemented.<sup>4</sup> Children were also asked by our team to draw how they felt during different stages of the asylum procedures in an attempt to discover their emotions.

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<sup>4</sup> Boal's techniques use theatre as means of promoting social and political change. 'It is a theatrical workshop which is equal parts performance, activism practice, and educational forum. Within the performance, audience members are not passive but active, engaging with each other to tackle issues of oppression, economic inequality, sexism, racism, and other challenges. The workshop uses theatre, and specifically acting, to give people tools to actively deal with these issues, not just see them resolved by characters on stage. <https://study.com/academy/lesson/theatre-of-the-oppressed-definition-history-characteristics.html>

Additionally, this report is also capturing our first-hand experience in the field and our participation in the monthly meetings on child protection with UNHCR in children’s rights forums, round tables and working groups.

DCI GREECE is one of the few human rights organizations specifically focused on children’s rights in Greece. Its highest value is the pursuit of each child’s best interests and the enjoyment of their childhood with dignity. For more than two years, DCI GREECE has supported and advocated for the vulnerable child populations of children on the move, homeless children and children deprived of liberty: providing direct legal services and support to children in urgent need, investigating and documenting children’s rights violations, sharing its specialized legal expertise with other professionals on the field and litigating strategically to bring social change at a European and International level. DCI’s Greece main goal is to fill in the significant gap in the existing legal assistance and representation officially provided to refugee children, and act as a direct observer of the state of children’s rights in the country through the individual cases it receives on a daily basis.



## **Description of the National Context in Terms of Administrative Proceedings**

From 2016, the asylum procedure in Greece has undergone a lot of substantial reforms many of which were driven by the adoption of the EU-Turkey agreement on 18 March 2016. The adoption of Law (L) 4375/2016 in April 2016 and its following amendments in June 2016 have gone through the procedure before the Asylum Service. Provisions of L 4375/2016 related inter alia to the implementation of the EU-Turkey statement have been re-mended in March 2017, August 2017 and May 2018. In November 2019 the new Law 4636/2019 was adopted bringing new changes in the asylum procedures, while more recently, reference is also made to article 1 of Presidential Decree 4 / 2020 and Law 4686/2020.

Among others, the new measures:

- maintain the examination of asylum applications of unaccompanied children with the fast-track procedures (Law 4636/2019), which is not in their best interest.
- abolish the priority of examining asylum claims of vulnerable asylum seekers (unaccompanied children, victims of torture, violence, etc.), risking their exclusion from the more favorable treatment provided by EU law for their protection.
- further reduce deadlines, particularly for appeals.
- abolish the possibility of the Independent Appeals Committees to refer cases to the Ministry of Immigration and Asylum for the issuance of residence permits for humanitarian reasons, endangering the fundamental rights of people who, although not entitled of international protection, have the right to reside in Greece, such as unaccompanied children and people with serious health problems.
- further generalize the use of administrative detention, making this method the norm, against the provision of EU law, where it is an exception.

These constant changes in the law in such a short period of time are creating further delays, while the fact that are provisions which do not reflect the reality in the field, lead to possible violations of national and EU law.

### **Reception and Identification Procedure**

#### **Greek Islands**

A fast-track border procedure is applied to applicants subject to the EU-Turkey statement, i.e. applicants arrived on the islands of Eastern Aegean islands after 20 March 2016, and takes place in

the Reception and Identification Centres (RIC) where hotspots are established (Lesvos, Chios, Samos, Leros, Kos). Under the fast track border procedure, interviews may also be conducted.

Upon arrival on a Greek island, refugees including unaccompanied minors are taken to Reception and Identification Center. There, the police or Frontex (the European Border and Coast Guard Agency) check their identity and nationality. Police officers, who in the vast majority are males ask questions for instance about first name, family name, family members , age and nationality. They take fingerprints, if the minor is over 14 years old and a picture. An interpreter who speaks the language should be present during this procedure.

These first-instance procedures are of great importance since they determine the future of the minors stay in Greece, his/her access to accommodation and to services available for asylum-seekers. Inter alia at the Reception and Identification Service minors's health condition is also checked and an age assessment is conducted to verify their age, in case where there is a doubt as to the age of the third-country national.

Worth mentioning that due to the lack of staff capacity at the Hellenic Centre for Disease Control and Prevention (HCDCP) services, unaccompanied minors only get pre- registered without being able to proceed with their full registration at the Asylum Office immediately.

With the law 4636/2019 as it was amended with the law 4686/2020, the full registration in the RICs will be conducted from the Reception and Identification Service (RIS) personnel. This means that the RIS personnel needs to be trained appropriately for these procedure as since now the full registration was taking place solely from the Asylum Service.

#### Age assessment of unaccompanied children

In Greece, the age assessment is carried out either by the Ministerial Decision 92490/20132 (MD 92490/2013) as part of the first reception procedures in the First Reception Centers (FRC) – and the Common Ministerial Decision 1982/20163 (CMD 1982/2016) as part of the asylum procedure.<sup>5</sup>

Ministerial Decision 92490/2013 lays down the age assessment procedure in the context of reception and identification procedures. Moreover, Joint Ministerial Decision 1982/2016 provides

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<sup>5</sup> Key issues in age assessment procedures of unaccompanied migrant children in Greece and Germany – Assessing age or children's needs?, Magdalini Alexandropoulou, 16

for an age assessment procedure for persons seeking international protection before the Asylum Service.<sup>6</sup>

## Age assessment

Ministerial Decision 92490/2013 of the Minister of Health established for the first time in Greece the age assessment procedure applicable within the context of the First Reception Service.<sup>7</sup>

According to MD 92490/2013 the age assessment should be based on macroscopic features (i.e. physical appearance) such as height, weight, body mass index, voice and hair growth, following a clinical examination from a paediatrician, who will consider body-metric data. The paediatrician will justify his or her final estimation based on the examination data and observations. In case the person's age cannot be determined through the examination of macroscopic features, an assessment by a psychologist and a social worker will follow in order to evaluate the behavioral and psychological development of the individual. As a measure of last resort, the person will be referred to a public hospital for specialized medical examinations such as dental or wrist X-rays.<sup>8</sup>

After the age assessment procedure is completed, the individual should be informed in a language he or she understands about the content of the age assessment decision, against which he or she has the right to appeal in accordance with the Code of Administrative Procedure, submitting the appeal to the RIC within 10 days from the moment he/she will receives the decision on age assessment. In reality, this short deadline prevents the person to receive all the identification documents proving their age, not only because in many cases persons under an age assessment procedure remain restricted inside the RIC, but also because the majority of the international applicants do not have such documents with them.

According to our findings, the age assessment of unaccompanied children is a challenging process and the aforementioned procedure is not followed in an important number of cases.

“The current circumstances within the FRCs, which, according to the interviews, are operating more like “self-managed haunts” (LLA\_GR), do not allow the implementation of the methodologies as prescribed by law. Initially, the lack of experts in the field, such as pediatricians, leads to examinations being carried out only by a psychologist or a social worker (usually in no more than 20 minutes) or the direct referral of the children to public hospitals (MdM\_GR, LLA\_GR).”<sup>9</sup>

For vulnerable cases, the medical team has also to prepare a vulnerability report, that becomes part of minor's asylum application. This usually happens in a couple of days or could take longer, depending on how many medical experts are available at the particular center. Theoretically, it

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<sup>6</sup> Joint Ministerial Decision 1982/2016, Gov. Gazette B'335/16-2-2016.

<sup>7</sup> Ministerial Decision n. Υ1.Γ.Π.οικ. 92490/2013 “Programme for medical examination, psychosocial diagnosis and support and referral of entering without legal documentation third country nationals, in first reception facilities”

<sup>8</sup> MD92490/2013

<sup>9</sup> Key issues in age assessment procedures of unaccompanied migrant children in Greece and Germany—Assessing age or children's needs?, Magdalini Alexandropoulou, 17

should take no longer than 1 or 2 days. However, there are incidents where unaccompanied minors have remained inside the RIC for a longer time.

The authority in order to decide about the placement must take into consideration some specific criteria. According to Article 14(8) L 4375/2016, the groups that are considered as vulnerable groups are: unaccompanied minors; persons who have a disability or suffering from an incurable or serious illness; the elderly; women in pregnancy or having recently given birth; single parents with minor children; victims of torture, rape or other serious forms of psychological, physical or sexual violence or exploitation; persons with a post-traumatic disorder, in particularly survivors and relatives of victims of ship-wrecks; victims of human trafficking.

Applicants exempted due to their vulnerability have their geographical restriction lifted. However, like the Council of Europe Commissioner for Human Rights noted in her latest report, “the vulnerability assessment procedure, which plays a major role in the transfers to the mainland since vulnerable persons are among the few asylum seekers eligible for transfers, is reportedly excessively lengthy and often fails”.<sup>10</sup>

Additionally, a basic requirement for the transfer of the unaccompanied minors to the mainland is the availability of a safe shelter.

Those who do not meet the standards and, therefore, are not considered vulnerable, are obliged to stay at the island, until their asylum decision is finalized. They are under “geographical restriction”. They get transferred to the “pre removal centres” while waiting for the decision.

As abovementioned with the new law, the applications of the vulnerable persons will not be prioritized. (4686/2020) This means that also the asylum applications of unaccompanied minors will not be prioritized as well. Additionally, the new law distinguishes between children below and above 15 years old. Children above 15 years old will not be excluded from the border procedures and according to law they are not considered to be vulnerable. This means that they cannot even be excluded from the EU – Turkey deal and thus can be returned there.

Additionally, with the future establishment of closed centres all asylum applicants including children will have to stay for at least 25 days on the islands until their asylum process is completed. That means that their asylum application will be examined while in detention. Until now the maximum is 25 days until their registration and medical examination is conducted.

### **Reception and identification procedures in Evros**

Persons who enter Greece throughout the Greek-Turkish land border in Evros are subject to reception and identification procedures at the RIC of Fylakio, Orestiada. People including unaccompanied minors are transferred to the RIC, where they remain restricted. Children remain

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<sup>10</sup> Council of Europe, Report of the Commissioner for Human Rights of the Council of Europe Dunja Mijatović following her visit to Greece from 25 to 29 June 2018, Comm DH(2018) 24, 6 November 2018, available at: <https://bit.ly/2lwG4EG>

there under the context of protective custody, until a safe facility is found. There are many cases where children remained in the RIC more than a month due to the lack of shelters.<sup>11</sup>

Incidents of wrong age assessment have also been found in Evros. Example reported to DCI Greece: Unaccompanied minor from Afghanistan entered Greece through Evros borders. A police officer while filling the document with the details of the child looked the child and said: “There is no way you are under 18 “, so he wrote next to the date of birth section 37 years old!” The boy claims he was back in that time 17 years old.

On the other hand, DCI Greece has encountered also many cases of children who have crossed through the borders of Evros and who were not registered by the authorities at all. These children make their way to Athens and reside in parks or in squats if they are lucky, not knowing how to register/apply for international protection and how to request a shelter. They do not have a legal guardian. These hundreds of children are in a limbo situation, invisible by the authorities and exposed to all kinds of dangers that homelessness and youth can bring. DCI Greece files requests for shelter on behalf of those children, but many times NCSS does not reply at all or takes months to find a place. They justify this long delay by invoking the lack of adequate places for all the unaccompanied children in Greece.

### **First Degree Procedure**

Asylum applications are submitted before the Asylum Service. Twelve Regional Asylum Offices and eleven Asylum Units were operational at the end of 2018. The Asylum Service is also competent for applying the Dublin procedure, with most requests and transfers concerning family reunification in other Member States. Access to the asylum procedure still remains an issue of concern.

## **Asylum Procedure**

### **1) Application for International Protection**

#### **a. First Degree Access to Asylum Procedure - Delays**

Children that do not live in a facility/camp so as to have the support of a lawyer or social worker are left alone to navigate the asylum system. Most of the homeless children or children that live in the squats or at the parks are provided in most of the cases with false information by the smugglers. As a result, they are not aware of their Rights, such as their right to legal support, their right to apply for asylum and the asylum procedures, their right to a safe shelter and their right to family reunification. This lack of proper information lead on the one hand many children to choose illegal ways to escape from Greece and on the other hand prevent children from exercising their rights while exposing them

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<sup>11</sup> Protest of unaccompanied minors against their prolonged stay inside the RIC, 5 February 2019, available in Greek at: <https://bit.ly/2WSGfgp>

to great danger. A significant number of the homeless unaccompanied children are still unregistered, thus staying invisible and exposed to sexual and financial exploitation.

According to the procedure in order to book an appointment with the relevant asylum office so as to apply for international protection, the applicant must call through skype on specific hours and days depending their country of origin. Children that do not have the support of an Organization mention their difficulty to book an appointment with the Asylum Office through skype. Worth to mention that homeless children, rarely have access to the internet. In most of the cases there is a significant delay in setting up the date for registration (4-24 weeks depending on the country of origin and the Asylum Office).

In case of unaccompanied minors if the minor is under 15 years old his application for international protection must be submitted by the appointed representative. If she/he is over 15 years old, the minor can submit his/hers application him/herself.

During the application for international protection, the minor is being photographed and fingerprinted and the fingerprints are entered into the European Central Database EURODAC so in case the minor has submitted an application for international protection in another European state where the 'Dublin III' Regulation is in force, he might be transferred there for the examination of his/hers application. At the same time during the registration procedure the asylum authorities inform the Prosecutor and in case the minor is homeless also NSSS so has to place him in a facility suitable for minors. During the whole process there is an interpreter that translates all the information so as the child to be informed. In the extreme case that there is no interpreter available then a new appointment is scheduled. That appointment though further delays the registration procedure. At this point of registration, the child either applies for international protection or for family reunification through the Dublin Regulation.

According to national legislation and more particularly Article 45 L 4375/2016, the competent authorities, when receiving an application from unaccompanied minors, shall act in accordance with paragraph 1 of article 19 of the Presidential Decree 220/2007, for the appointment of a guardian. In 2018, the new Law on guardianship 4554/2018 was voted<sup>12</sup>, without however being implemented yet. According to the new law, a guardian will be appointed to a child who is unaccompanied and under the age of 18 years old.

Guardian shall represent the minor, ensure that her/his rights during the asylum procedure are safeguarded, as well as ensure the appropriate legal assistance and representation before the

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<sup>12</sup> Under Article 18 of the new law, the Guardianship Commissioner for Unaccompanied Minors has responsibilities relevant to the integration of unaccompanied minors, which include: ensuring decent accommodation in special reception structures for unaccompanied minors; representing and assisting the minor in all judicial and administrative procedures; accompanying the minor to clinics or hospitals; guaranteeing that the minor is safe during their stay in the country; ensuring that legal assistance and interpretation services are provided to the minor; providing access to psychological support and health care when needed; taking care of enrolling the minor in formal or non-formal education; taking necessary steps to assign custody of the minor to an appropriate family (foster family), in accordance with the applicable legal provisions; ensuring that the minor's political, philosophical and religious beliefs are respected and freely expressed and developed; behaving with sympathy and respect to the unaccompanied minor.  
<https://ec.europa.eu/migrant-integration/librarydoc/greek-law-no-4554-of-18-july-2018-on-the-regulatory-framework-for-the-guardianship-of-unaccompanied-minors>

competent authorities. These provisions are in conformity with the provisions of article 25 of the EU Asylum Procedures Directive.

The Guardian shall also ensure that the unaccompanied minor is timely and properly informed, especially regarding their asylum personal interview, and how she/he should be prepared for it. The Guardian may attend minor's personal interview and may ask questions or comments to facilitate the procedure.

### **Asylum Interview – Prioritization**

According to Article 8 L 4375/2016, minors belong to the vulnerable groups of the refugee population. This means that they must receive special attention able to meet their special needs. However, the way the asylum system perceives children seems not to take into account their vulnerability. Article 45 (8) L 4375/2016 provides that the principle of safeguarding the best interest of the child must be strictly applied during the process of examining children's international requests. In practice, however, significant delays are being observed regarding the conduct of the asylum interviews. For instance, children that were registered and applied for international protection throughout 2019, have their interviews scheduled for 2021 or 2022. This practice violates directly the best interest principle, as it poses children on a standby mode or a long time impacting negatively their already poor mental state. Many children also during this time children become adults, thus depriving the special protection they are entitled to as children.

### **Hearing**

First of all, no state funded free legal aid is provided under law at first degree. That means that children that are not supported by an NGO are not legally represented. As aforementioned regarding minors, according to article 45 of law 4375/2016, when an unaccompanied minor submits an application for asylum, the authorities have to nominate a legal guardian to represent the minor during the asylum process and to guarantee the efficient legal support and legal representation of the child. The guardian is invited and can participate at the asylum interview. (See on page 13 however the problematic of Guardianship)

National legislation and more particular Article 52(13)(a) L 4375/2016 expressively explicitly state provides that each caseworker conducting the asylum interview must be "trained in particular as of the special needs of women, children and victims of violence and torture." Additionally, case workers conducting personal interviews with unaccompanied minors must have the necessary knowledge of the specific needs minors and conduct the interview in such a way so that it is fully understood by the applicant. They should also take into account their age, maturity and the psychological consequences of their traumatic experiences. (Article 45 & 52 L 4375/2016)

Moreover, the interview shall be conducted with the assistance of an interpreter, in accordance with Article 41 (1b), capable of guaranteeing the necessary communication in order for the person concerned to be able to fully explain the reasons which led him to leave her/his country of origin.

## Child Friendly Conditions

Participating in administrative and judicial proceedings is very stressful for children, even more for refugee children that have experienced loss, trauma and violence back in their country of origin or during their displacement journey. For this reason, measures should be taken so as children to feel safe and protected during the hearing. Our experience with unaccompanied minors has shown that many children do not feel comfortable at all during the asylum interview. They feel like they are being interrogated, like they did something bad. Children fail to fully understand what means asylum interview and international protection mean, since they are not given sufficient information to enable them understand their rights and the procedures. For this reason, it is difficult to participate effectively in the proceedings and to be heard in a meaningful way.

Unfortunately, due to the high number of cases and the lack of staff, case workers do not always have the sufficient time to prepare the child and speak with her/him before the hearing in a child friendly space/environment so as to reduce their anxiety and to build a relationship of trust.

## Asylum

### *International Protection*

Children granted the refugee status are entitled to remain in the country for three years, to have access to education, healthcare, the labor market and social security. Residence permit valid for three years is provided, as well as travel documents.

### *Subsidiary Protection*

In case the minor secures subsidiary protection, she or he will also be entitled to remain in the country for three years, to have access to education, health care, the labour market and social security. A residence permit is also given, which is valid for three years. Additionally, the minor may apply for travel documents, if she/he is unable to obtain a national passport.

### ***b. Second Instance***

In case a minor's application for International Protection is rejected, the child has the right to appeal the decision to the Appeals Committee, within the deadline stated in the decision. This deadline starts the next day after the date the minor is notified about her/his decision. In the majority of the cases children are informed about the decision when she/he goes to renew her/his "card of international protection applicant". According to the new law applicants have only 7 days to appeal the negative decision presenting at the same time analytically the legal reasoning. The appeal is examined by the Independent Appeals Authority. Under law 4375/2016 free legal aid is provided in proceedings before the Appeals Authority. However, 'The Appeals Committee usually examines appeals based on the evidence in applicant's file and does not conduct a hearing of the applicant.'<sup>13</sup>

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<sup>13</sup> Second Instance, Ministry of Citizen Protection, [http://asylo.gov.gr/en/?page\\_id=78](http://asylo.gov.gr/en/?page_id=78)

### *c. Judicial Proceedings – Third Remedy*

Children whose asylum application is rejected at second instance, according to Article 15(5) L 3068/2002 amended by Article 29(2) L 4540/2018, can apply for annulment of the decision before the Administrative Court of Appeals. However, the effectiveness of this remedy is undermined by several obstacles, such as the high legal fees and the fact that the application does not have an automatic suspensive effect.

### *2) Family Reunification through Dublin Regulation III*

Under Dublin Regulation III if an unaccompanied minor has a member of their family (parent, brother/sister, uncle/aunt, grandfather/grandmother) that is legally present in a “Dublin III” country, this country is responsible for the examination of their international protection application. In practice, family reunification procedure can be proved a very difficult procedure for a child, especially for the child that is not placed in a safe facility thus not having the help of a social worker. The child must gather all the necessary documents required for the application such as: identification documents, copies of their family member's current documents from the other Dublin country, like their asylum seeker card, residence permit, refugee passport or any other documents, documents that can prove their family relationship and the written consent of their family member. Finally, a Best Interest Assessment is required by the majority of the Member States conducted by a social worker. In case the child is not placed in a safe facility, Greek state cannot provide her/him with a social worker, thus the child is dependent to the availability of the NGOs.

There is a three-month deadline from the day of registration that an unaccompanied minor can proceed with family reunification. Worth to mention that in the entrance points of the islands and Evros unaccompanied refugee children are given a paper by the officials to declare their willingness to legally proceed in Greece for Protection upon arrival, or are getting only pre-registered and without proper information on their rights. As a result, some of them stay unregistered and uninformed about their right to family reunification and the 3-month deadline.

### **Guardianship**

In July 2018, Greece voted a new law concerning the legal custody of minors.<sup>14</sup> According to this law, the organs responsible for unaccompanied minors are the Prosecutor for minors/ Public Prosecutor, the legal custodian and the supervisory board within the National Centre for Social Solidarity (NCSS, EKKA). Article 16 of this law mentions that if there is an unaccompanied minor in the country, the Prosecutor and NCSS must be informed immediately. NCSS is an authority of the Ministry of Labor responsible inter-alia, for the provision of shelter to minors and most importantly for the nomination

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<sup>14</sup> Law 4554/2018 (Official Gazette A'130/18.07.2018)

through the Public Prosecutor of a legal guardian.<sup>15</sup>The Prosecutor acts as a temporary guardian for the child until a permanent guardian is appointed.

For children who are going through the registration procedures, Article 22 states that the Reception and Identification Service is responsible for unaccompanied children in the reception and identification centers and for this reason it facilitates through the Public Prosecutor the appointment of the child's guardianship to an adult member of his/her family. If this is not possible, then the authority responsible to provide shelter for the child is the National Centre for Social Solidarity (NCSS, in Greek EKKA).

The guardian must have a social or psychological background. He/she is responsible for covering the everyday life needs of the child, including the obligation to make a request for a shelter in one of the shelters administered by NCSS. The guardian represents the minor at a judicial as well as at an administrative level. He/she can submit an asylum application for the child and make sure there is free legal aid offered to him/her. The guardian guarantees access to good reception and hosting conditions. He/she meets the minor once per week to build trust and informs the minor about the procedures. In practice, the system of guardianship is still not operating. Secondary legislation such as Ministerial Decisions and standard operating procedures required by law in order to further regulate inter alia the functioning of the Registry of Guardians and the best interests of the child determination procedure, have been issued on March 2019, therefore it will take a lot of time until the state system will become fully operational.

Although, the above-mentioned law makes it mandatory for every child to be registered, to have a guardian and it also foresees the creation of a registry for professional guardians, up until now very few guardians have been appointed by the State. NCSS mentioned to DCI Greece in September of 2018 that they had only employed a couple of guardians in Crete. This was due to lack of adequate funds. The gap was attempted to be filled by guardians appointed by NGOs, who, in many cases have had temporary contracts, depending on projects and funding as well. As a result, there are not enough State guardians in Greece to push access to shelter and to launch the asylum procedures on the behalf of the unaccompanied minors.<sup>16</sup> The Prosecutors are charged with many tasks and tend to overlook the cases of minors. As a consequence, many children are left on their own.

However, even in the new law, there is not any reference to the new Guardianship law, thus is not clear when this law will be implemented. At the moment, the Juvenile Prosecutor acts as the guardian of all unaccompanied children.

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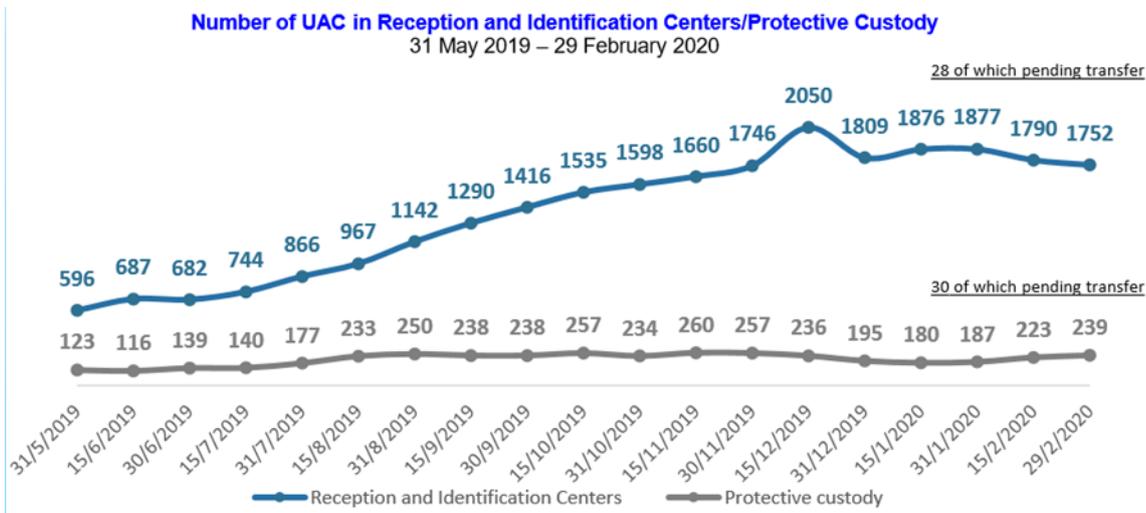
<sup>15</sup> The new Law 4554/2018 reforms the system of guardianship, thus creating a pool of legal guardians who will be persons remunerated by the State with a background in social work or psychology. They will represent the child and will be monitored by a council that belongs to the NCSS.

<sup>16</sup> The presence of a legal guardian is also mandatory during the examination of an asylum claim. According to article 45 of law 4375/2016, when an unaccompanied minor submits an application for asylum, the authorities have to nominate a legal guardian to represent them in during the asylum process and to guarantee the efficient legal support and legal representation of the child. The guardian is invited and can participate at the asylum interview. These provisions are in conformity with the provisions of article 25 of the EU Asylum Procedures Directive.

## Detention

In absence of appropriate shelters to accommodate the needs of the unaccompanied minors in need of international protection, the Greek State has introduced the norm of ‘protective custody’. In accordance with this norm, unaccompanied children on the move are placed either in detention centers or in safe zones within the Reception and Identification centers or within refugee camps.

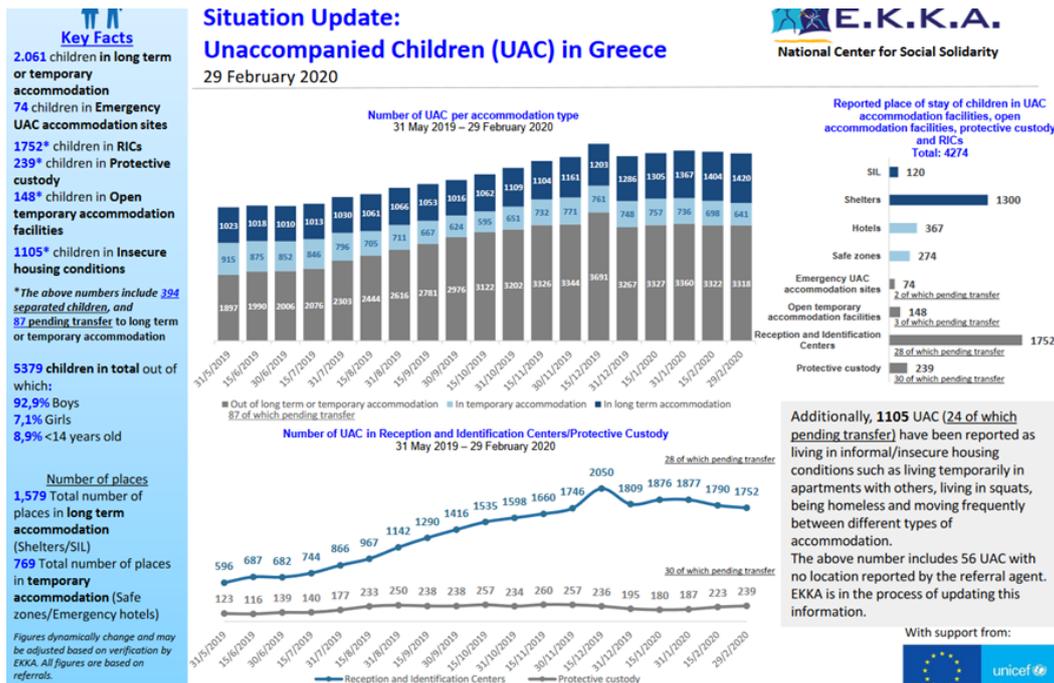
However, article 21 of law 4540/2018 stresses that the best interest of the child<sup>17</sup> should be the main focus of the authorities when they apply the new law on reception to minors. Particularly, Article 10 of law 4540/2018 stresses that minors can be detained only at a last resort, taking into account their best interest and if other alternative and less restrictive measures cannot apply. Their detention is for the purpose of their removal to a shelter and cannot exceed 45 days. However, there is no time limit for minors who are under protective custody in safe zones or elsewhere, since protective custody is not considered as detention.<sup>18</sup> The authorities tend to invoke the lack of adequate shelters in order to keep in detention or protective custody many children and for a considerable amount of time which sometimes can exceed the two months. In many instances the unaccompanied children on the move who are under protective custody run away from the so-called safe zones due to the humiliating living conditions and resort to the city of Athens in search of a better life. As a result, they end up homeless in Athens and exposed to great dangers.



## Homelessness

<sup>17</sup> Article 21 mentions that in order to assess the child’s best interest the authorities should focus on the possibility for family reunification, the quality of life and social development, security and protection issues, risk of smuggling and the views of the minor depending on his/her age and maturity.

<sup>18</sup> A presidential decree 141/1991 mentions that minors can be placed under protective guard but this is not considered to be an arrest.



In fact, the majority of children who arrive in Greece are out of shelter, homeless or in prison/protective custody. The number of available places in shelters all over Greece is 1579. At the same time 1105 children are living in insecure housing conditions. The exact number of homeless children or of children who live in insecure housing however is not known, since there are hundreds of children that are unregistered, thus invisible to the asylum authorities. According to UNHCR, children are exposed to on-going protection risks, including sexual exploitation and abuse, due to insufficient security, sub-standard and overcrowded reception sites, lack of specific services and non-sufficient access to formal or non-formal education, and lengthy asylum procedures for reuniting families, which also severely impacts their psychosocial wellbeing. As UNHCR has already pointed out, the national capacity for accommodating unaccompanied and separated children is still far from meeting the needs.

Some have also mentioned to DCI Greece that they either have been sexually abused in Athens and in the camps where they used to be, or that they are continuously harassed in order to accept to be prostituted or to sell drugs on the behalf of criminal gangs that operate at the borders or in the city. Many times, the lack of protection translated into a lack of housing, inability to cover basic needs and no money to survive, force these children to give in to the threats of the criminal networks or of specific individuals. All these cases go unreported because children are too vulnerable to file a complaint to the authorities, since there is no system to protect them as witnesses of these horrendous crimes.

The lack of adequate shelters all over Greece and the non-implementation of the new Law on guardianship that impedes the National Centre for Social Solidarity to hire a sufficient number of legal guardians have a negative effect not only on the well-being of the child but also to the possibility to apply for international protection and receive adequate legal representation. This representation is necessary for them to access the asylum service and exercise their basic rights such as health, education, family reunification. The difficult access to the registration and asylum procedures is not

only limited to children. The asylum service continues to receive an increasing number of asylum applications<sup>19</sup> while it lacks adequate staff to face this challenge.<sup>20</sup>

## ANALYSIS OF THE QUESTIONNAIRES AND INTERVIEWS

### *Voice of Professionals*

A wide range of professionals working with refugee children participated in our questionnaires and interviews. 11 key persons working in different areas of the asylum procedures answered our interview questions. They are case workers, lawyers, social workers, coordinators of camps and guardians.

In this section, we will try to examine whether or not child friendly justice principles are implemented during the whole asylum procedure from the point of view of administrative officers and authorities. According to the professionals it can be concluded that unfortunately, the principle of the best interest of the child is not always granted for unaccompanied minors. On the contrary, children's rights are being violated at every step of the asylum process.

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<sup>19</sup> According to the statistics of the Asylum Service, the number of asylum applications in Greece since 2013 has been continuously rising. In 2017, Greece received the 8.5% of the total number of applications submitted in the EU, while it was the country with the largest number of asylum seekers per capita among EU Member States. 58.661 persons applied for asylum and by the end of the year, 36.340 applications were still pending. About half of the applications were lodged in the mainland. There has also been a substantial increase in applications from Turkish nationals (1,827 in 2017 compared to 189 in 2016). Only in 2018, 54.968 persons applied for asylum (until October), which equals to an 11,9 % of increase since 2017. See: Asylum Service, Asylum Statistics, December 2017; Information provided on 15 February 2018. In 2018, 6699 new asylum applications were submitted in Athens, 1625 in Piraeus and 2137 in Alimos (all of them found in central Greece, Athens and nearby municipalities). See:

[http://asylo.gov.gr/wpcontent/uploads/2018/11/Greek\\_Asylum\\_Service\\_Statistical\\_Data\\_GR.pdf](http://asylo.gov.gr/wpcontent/uploads/2018/11/Greek_Asylum_Service_Statistical_Data_GR.pdf)

<sup>20</sup> The delays in the registration and asylum procedures are mainly due to the lack of staff of the Asylum Service and the precarious working conditions of many of the officials. More concretely, the number of employees of the Asylum Service at the end of 2017 decreased from 654 staff members in January 2017 (275 permanent staff and 379 on a fixed-term contract) to 515 active staff members in December 2017. This included 264 staff members with a permanent status and 251 staff members on fixed-term contracts. The short term working status of almost half of the total number of the employees of the Asylum Service staff, coupled with the precarious working environment for employees, can create problems in the operation of the Asylum Service. For example, on 1 and 2 November 2017, the Asylum Service fixed-term employees went on a 48-hour nationwide strike due to payment delays and the termination of about 100 fixed-term contracts at the end of 2017. In addition, between 5 and 21 March 2018, fixed term staff have stopped providing their services as they have remained unpaid for a period exceeding three months. Consequently, as a number of RAOs such as Lesbos and Samos are mainly staffed with fixed-term employees, they have temporarily halted their operation. See: Information provided by the Asylum Service, 15 February 2018; The Press Project, 'Ξεκίνησαν επίσκεψη εργασίας οι εργαζόμενοι της Υπηρεσίας Ασύλου', 7 March 2018, available in Greek at: <http://bit.ly/2ldZYzR>.

The common factor in their opinion is that there is no specific framework and guidelines, regarding how administrative officers, as well as individuals working in other child-related positions should deal with refugee children in a child-friendly way. As we can clearly ascertain by their answers, the 63,6 % involved with refugee children have a background in children's rights and the CRC Convention, even though it was not included in their initial training. It is worth mentioning that, this kind of expertise, was a result of their own personal will to expand their knowledge and it was not obligatory by law. However, a social worker mentioned that ***“the reality of work in Greece cannot be depicted by any kind of training”***, summarizing in one sentence all the difficulties of the refugee crisis.

An asylum case worker has something very important to add: The majority of her colleagues do not take into consideration the CRC convention, when deciding about an asylum application of a minor. In fact, only a few of them do. Asylum decisions are based on the Geneva Convention, without including or taking into consideration specific articles of the Convention on the Rights of the Child. CRC is not very popular among administrative officers and is not used broadly by the lawyers and the decision makers. As a lawyer with years of experience revealed ***“lawyers are, sometimes, unaware that CRC even exists. Even if they do, they do not know how to include it in the legal reports they write and submit before the asylum office, when representing refugee children. There is an urgent need for more trainings and seminars about CRC and CFJ principles.”***

The asylum procedure can be a very challenging task for minors. Upon arrival, not all of them have access to asylum authorities and remain homeless for uncertain time. Additionally, there is no transparent procedure of the age assessment of the children, which is doubtful that there are informed properly of their rights to challenge timely the decision. Additionally, in many cases there is no guardian present during the asylum procedures. There are delays in the asylum procedure and the children become adults in the meantime. As a result, there is no unanimity on how they should be treated in asylum procedure if, during, this procedure, become adults.

The whole administrative procedure, from registration to the asylum decision takes 6 months to a year in average. However, in some cases, it could take up to 3 years. The duration depends on many factors, such as the country of origin of the child and the level of their vulnerability. Refugees from Syria, for example, are usually part of the “fast track procedure”, which means their registration and asylum procedure is, most of the times, conducted immediately upon arrival. On the contrary, children from “low profile countries”, such as Algeria, Morocco, Pakistan and Bangladesh, can take years to even register and apply for international protection.

A lawyer says: ***“I dealt with a case of an unaccompanied minor from Pakistan. No matter how much we tried, we could not set him an appointment for registration. He was arrested by the police. They decided to put him under “protective custody” and he was transferred to a detention centre. The boy was hopeless, the conditions there were inhumane, to say the least. He started injuring himself, and tried to cut through his veins by pushing his hand in his prison cell steel bars. He was severely injured and was transferred to the hospital for medical treatment. After that, he went back to his cell. The boy was in despair. Only after the submission of several legal reports, a safe shelter was found. But what would have happened if the boy did not have the support of an NGO?”***

Things are even worse on the family reunification (Dublin) procedure. Children are not aware that there is a three-month deadline from the moment they register until they can apply for family

reunification. Most of the times, they miss this deadline, losing any opportunity of reuniting with family members residing in other EU countries. But, even if they manage to do everything correctly, it can take a lot of time until the decision is finalized. Moreover, a best interest assessment (BIA) written and submitted by a social worker is required for the examination of the family reunification application. Of course, not all minors live in a shelter so as to have access to a social worker. Most unaccompanied children are homeless. As a result, most of the applications are missing a key paper and they get denied immediately. A social worker highlights another serious problem: ***“The majority of my colleagues have never had any training on how to prepare a proper BIA report.”***

The lack of staff in administrative positions is a very serious issue in the asylum procedures in general. One employee is forced to deal with multiple cases at once. This factor makes it almost impossible to cover all the needs of the position. The situation is “chaotic” a case worker says. ***“There are children waiting outside for hours, trying to get into the buildings and exercise their rights. They get in line from 2 or 3am, trying to enter and ask for asylum. This can take months, if they have no help from an NGO”***

All the professionals that took part in our research, agreed that one of the main problems for unaccompanied minors and refugees in general, is that, there is no access to accommodation, after the registration of their asylum claim, due to lack of proper shelters. Children have the right to live in safe and child-friendly environment. Instead, they get trapped inside Camps or end up sleeping on the streets. As the coordinator of the safe zone of Camp points out, there is no quick transfer of the children from the Camps to the mainland. Young children are forced to live in horrible and humiliating conditions, with no food or running water. At the islands of eastern Aegean Sea, there are allegations of rape and sexual exploitation of children. The delays in the procedures that was mentioned before, due to lack of staff and bureaucracy, leads to thousands of children being unregistered, especially those whose country of origin is considered “low profile”. They are “invisible”. They have no identification papers. This leads to them being arrested by the police. After the arrest, they are placed in detention, which is called “protective custody”. The children are staying in prison to be “protected”, until a shelter for them is found.

Unaccompanied minors have very little information about the rights, mainly because they have been misinformed by those who want to exploit their vulnerability. “They think they know their rights, but, in reality, they do not”, a lawyer says. Smugglers and people who want to exploit them sexually, make sure refugee children know nothing about their rights, keeping them terrorized and insecure. They are afraid to seek any help. But, even when they do find the courage to do so, it is very hard for them to receive correct information and support. Another great problem is the inability for the children to have access to proper legal representation. There are very few public legal counsellors that can assist children and ensure their rights are being respected throughout the asylum procedure, but definitely not enough. Once again, NGOs are called to make up for the inadequacy of the State.

A lawyer also mentions the problems that occur due to the lack of interpreters during the asylum procedure. As he states ***“I dealt with a case of an unaccompanied minor who was denied international protection, due to interpretation mistakes during the asylum interview. The child was speaking Farsi and the interpreter Dari. This is a common problem in the asylum procedure, more common than we would like to admit”.***

The issue of the lack of interpretation was also mentioned by a social worker. As she says: ***“In hospitals or other public services dealing with refugees, there is no interpreter at all”***. That makes it almost impossible for refugee children to have access to healthcare or exercise their rights. ***“Medical exams are also required before transferring the child to a shelter. Once again, NGOs must cover this gap and support the child in absence of a guardian.”***

As aforementioned, the Minor’s Prosecutor is, according to the National legislation, the guardian of every unaccompanied minor. Practically, the prosecutor cannot support the assistance of unaccompanied minors efficiently.

***“The compartmentalization created by an increased amount of cases, inevitably will lead to a diminishment in the ability of the guardian to entirely focus on a solely case or a normal amount of cases, thus severely undermining children protection”*** a former guardian mentions.

From the analysis emerges that the principle of the best interest of the child, the right of children to be heard, as envisaged in Article 12 of the CRC or the right to information, are not implemented effectively during the asylum procedure. Unaccompanied minors are barred from assessing efficiently the asylum procedures due to the diverse deficiencies in the system of guardianship, of legal representation, interpretation and the lack of information.

In conclusion, all the professionals that participated in our research agreed that the situation in Greece is far from ideal for unaccompanied children on the move. The asylum process is problematic and the principle of the best interest of the child is hardly ever implemented, thus undermining the child friendly principles.

### ***Voice of the Children***

In this section, we will try to examine whether the asylum procedures in Greece were conducted in a child friendly way, from the point of view of the children themselves. Nine children in total participated in our questionnaires and individual interviews, seven of them are boys and two of them are girls. All of them went through their international protection request on their own, as unaccompanied minors. When they first arrived in Greece and started the asylum procedures, they were 14-17 years old.

### **Drawing**

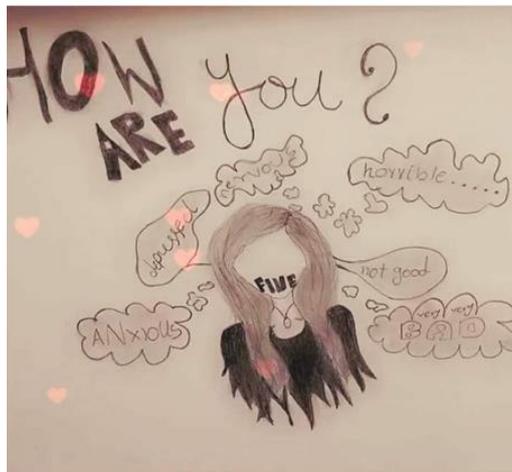
Painting, just like many of arts is therapeutic. It provides a conduit to emotional release. Using art as a therapeutic technique is rooted in the idea that creative expression can foster healing and mental well-being. Painting is used to help people explore their emotions, cope with stress and express their inner world. Art expression is a form of non-verbal communication. Especially for children who may not be able to articulate thoughts, emotions or perceptions, it is one way to convey what may be

difficult to express with words. For those who have experienced abuse or violence, it is one way to “tell without talking” when they are unable or afraid to speak about specific events or feelings.

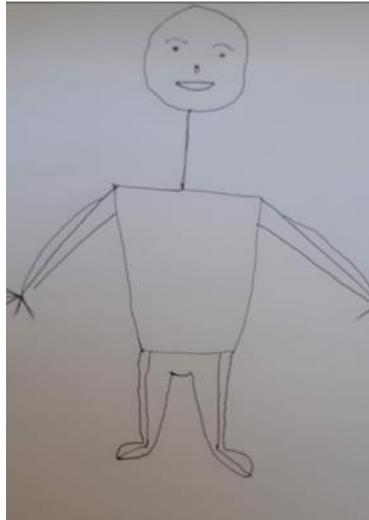
Our children, who are refugees, unaccompanied, have suffered outrageous experiences, torturing moments, violence, racism, war and they are often unable to express those difficult feelings in words. Before starting with the questionnaires, we firstly informed all children about the project and in order to break the ice we asked children to draw how they felt in the different stages of the asylum procedure.

- A. How they felt when they arrived in Greece and came in contact for the first time with authorities.
- B. how they felt when they visited the Asylum Office.

We used the method of painting as the way to approach them before starting with the questions. Some of the children were willing to participate in our activity. It is remarkable that the majority expressed themselves in dark colors when they had to draw about how they felt when they came in contact with authorities. They also used words such as afraid and scary. One girl shared with us one of her paintings she had drawn during the process.



On the other hand, one boy drew a happy face because as he told us he had the support of a lawyer and the positive decision he received from UK is what matters the most for him in the end. He continued by saying that he wants only happiness, joy and color in his life from now on.



### Theatre of the Oppressed Exercises

#### Methodology

The group of participants was split in two subgroups, each consisted of four children participants. Both groups were asked to present four 'frozen images' on stage presenting their experience with the Asylum Authorities. Each participant of the group had to create its frozen image by placing its 'sculptures' meaning the other members of the group, in the frozen image representing her/his experience. Then the other group of participants was asked to give their own interpretation on what they were seeing in front of them, could also touch the sculptures and give voice to them. In the end the creator of each frozen image was given 5 minutes to analyze and share her/his experience with the audience. The audience could ask questions and also reflect on their own personal experiences with the Asylum Authorities.

**All participants outlined the loneliness and invisibility they experienced along the process, as well as their urge to find proper guidance and support. Their frozen imaged were equally symbolic and realistic, radiating their difficulty in navigating through the complex asylum system in Greece and the neglect they experienced as a result of the great deficiencies.**

These exercises were used also as a warming up process before starting the conduct of interviews with them.

#### Questionnaires

All of the children that participated had been to the asylum office multiple times, seven of them had to go to a police station, six of them stayed in reception centers for days and all of them had received the help of a lawyer. However, that lawyer was not appointed from the state but it was provided to them by NGOs.

The children's experiences with the authorities vary. Most of them agree that the procedures could be conducted in a more child friendly way. First, and most important, all of them were not entirely sure about the reasons they had to go through these procedures. Some of them received some information at the asylum office, others from NGOs and some of them from friends or via internet.

A 15-year-old child at the time, says ***"The first time I had information about asylum was at the information session I attended from DCI. I was visiting a youth center that time so as to eat and wash my clothes and attend some activities. Nobody else informed me about anything. I was homeless and unregistered for months after I arrived in Greece. I did not even have access to the international protection procedure. I was an invisible person. I wish I had some information when I first arrived in Greece"***.

Only 1 child out of 9 was fully aware of the procedures and the meaning of them from the beginning, as he was lucky enough to be thoroughly informed at the reception center, a few days after he arrived in Greece. The majority of the children were not really happy with the way asylum office workers treated them. They wish they were friendlier and more patient with them, and also more willing to explain the procedures and the meaning behind them. Some of them were not even informed about their right to apply for family reunification, with a family member that resides in another EU state. But, even in the case they knew about that right already, there was no proper guidance for the exact procedure.

17-year-old girl says: ***"When I first went to the asylum office, they just gave me a paper with information in many languages. I was 15 years old back then and I did not really understand what I should do next. I told the interpreter to ask the asylum office gentleman some questions I had. He replied "It is all in the paper. I tried to ask the interpreter himself for help, but the employee told him not to help me because the line was very long."***

One boy says: ***"After months of being unregistered, I finally managed to get registered and apply for family reunification. When I went to see my lawyer, they told me I had a 3-month deadline to gather and submit all the necessary papers. I was shocked"***

On the other hand, a boy from Pakistan 17 years old told us: ***"The lady at the asylum office was so nice to me. When I arrived there, I did not have anything, no money for food, no phone to call my parents, not even a jacket. She asked me how I am doing and I explained my situation. She told me to come back the next day. She had bought me a phone and gave me some money to buy food. She was very nice"***. However, this was not treatment the rest of our participants received. In contrast, all of them wished the asylum office staff would have treated them better and provided them with more information.

All of them would also wish for a more welcoming place during their visits to the authorities, so they would not be so scared. The queues were very long, and they had to wait for hours, or sometimes days, before getting to speak to an Asylum Officer.

Regarding the asylum interviews, the children shared their opinion and complaints. Four of them had a scheduled interview at a specific date and place. When they went to give the interview, they were informed that it was cancelled and they would have to come back at another time. That was

devastating for them, since they were already in Greece for more than a year, and the new asylum interviews were scheduled 1-2 years later.

17 years old boy from Afghanistan, mentions ***'I don't know how to explain it, but to be honest nobody asked me from the authorities about what I need and prefer. Only the lawyer informed me precisely about my options and how I can proceed with. I was on the island before being transferred to mainland and there were people that were nice and helpful but refugee children, I believe they just are on the hands of other people. Authorities decide where to transfer you, authorities decide about the date of interview, they just change the date without informing you etc. For example, I travelled from the Camp to the asylum office (2 hours) and when I got there, they told me that due to problems they had to change my date. And rescheduled it for two years later! I was devastated! Only with the help of the lawyer they changed my date for this year. If I did not have one, like so many other children, I would have to wait'***.

A quite alarming conclusion that we reached through the discussion we had with the children is that, 4 of them, did not have the chance to communicate with the asylum office in their mother tongue, due to lack of interpreters.

17 years old boy mentions: ***"At the asylum office they only had an Urdu interpreter. I speak Pashto. When I mentioned I don't completely understand him, they told me he was the only one available and that Pashto and Urdu are almost the same. There are similarities, of course, but they are definitely not the same language"***.

100% of the children that had to visit a police station for some reason, faced the same problem. No interpreter at all was available. Also, the policemen did not explain to any of them what the procedures are, even in the case that a child was put on detention. A 16 years old boy from Bangladesh says: ***"I am from Bangladesh and I could not get an appointment for registration. One day, the police caught me with no papers and took me to the police station. They put me in a cell with other children. I did not know what was happening and I was so scared. I was trying to ask them why they put me in prison, but they did not understand me, or even cared to understand. After 2 weeks, they moved me to another police station. Then to another. I was so confused and no one was telling me what is going on or what my options are. A boy that came to the cell had DCI's number and we called them from a cardphone inside the police station. A lawyer came to see us and she explained to us that we were under "protective custody", because we are minors and homeless. The police never asked us if we want to apply for international protection. Now that I am registered and free, I wish I could go back to those policemen and tell them what they did was not good. Every police station should have an interpreter and the police officers should guide every minor that gets under protective custody in every step of the way."***

All of the children mentioned us the importance of information. They think that, if they had some guidance and help, their asylum journey in Greece would be much easier. Most of them would like the guidance of the asylum office, a social worker, a lawyer or a guardian. The guardianship issue seems to be a really important one. 5 out of 9 children did not have a guardian at all. 2 of them were happy with the help and support they received from their guardian, while 2 of them think their guardian could have helped them a little more.

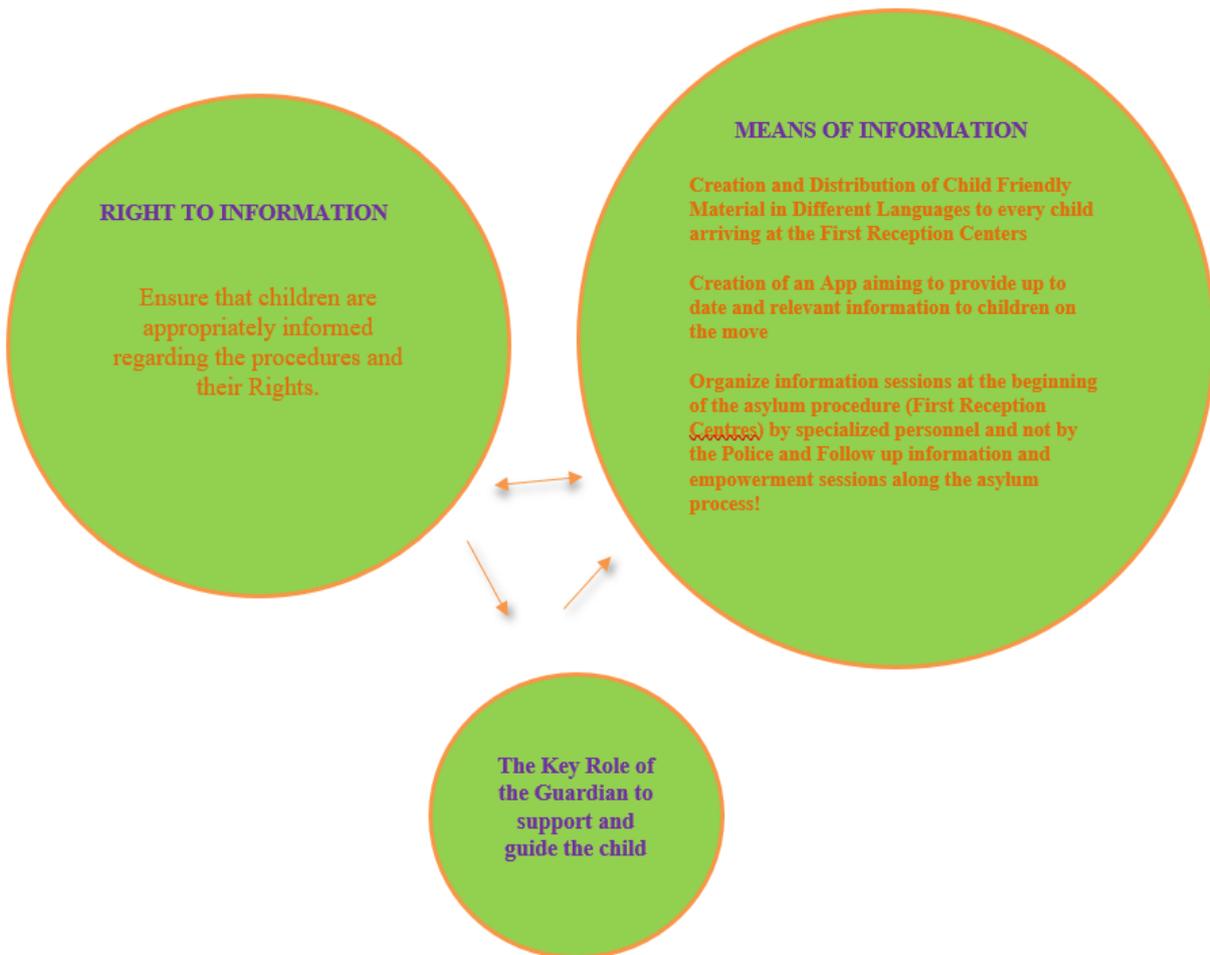
16 years old girl says ***“ I had a guardian, she was ok, but she also was responsible for many other children. She was not by my side and she did not have the time to explain to me what was going on and what I should do next.”***

Regarding the changes our children wish they could see in the whole asylum process is, of course, easier access to information, faster procedures, friendlier environments, having access to a safe shelter and also someone they can refer to and receive support from.

As 16 years old boy from Morocco says: ***“Some children are alone. I believe that it could be better for them if upon arrival to the country they had a social worker or lawyer or a person that could support them during the whole process. When you face such difficulties in your home country, during the journey etc your mind is not very well and is difficult to understand in one time what you must do. Sometimes I was feeling that nobody cares about me. There were people that supported me but others were treating me like a criminal. My application was so long. I also believe that they could have different more nice rooms when interviewing children. Registration process is like interrogation! I hope my words reach the government”.***

## RECOMMENDATIONS

### Right to Information



Respecting and ensuring children's right to be informed is the key factor for the effective participation of children to the asylum and administrative proceedings. As aforementioned, first- instance procedures are of great importance since they determine the future of the minor's stay in Greece, their access to accommodation and to services available for them. For this reason, information sessions should take place from the very beginning of the asylum procedure (during their stay at First Reception Centers and before the registration procedure) by specialized personnel. Children are not aware of their rights such as their right to apply for international protection, legal support, their right to education, their right to have a safe shelter and their right to family reunification. In order for children to be effectively protected we must first help them understand the asylum proceedings and

at the same time inform them about the key actors involved during the whole procedure (Asylum Office personnel, guardian, lawyer, social worker, Juvenile Prosecutor, Police).

Therefore, it is necessary children receive information in a child friendly way adapted to their needs and age by trained professionals. Information sessions should be accompanied by the distribution of child friendly material (leaflets) regarding the asylum procedures and the creation of a mobile application that will supply children on the move with information on: asylum proceedings, their rights, possible dangers, key facilities, and Greek culture.

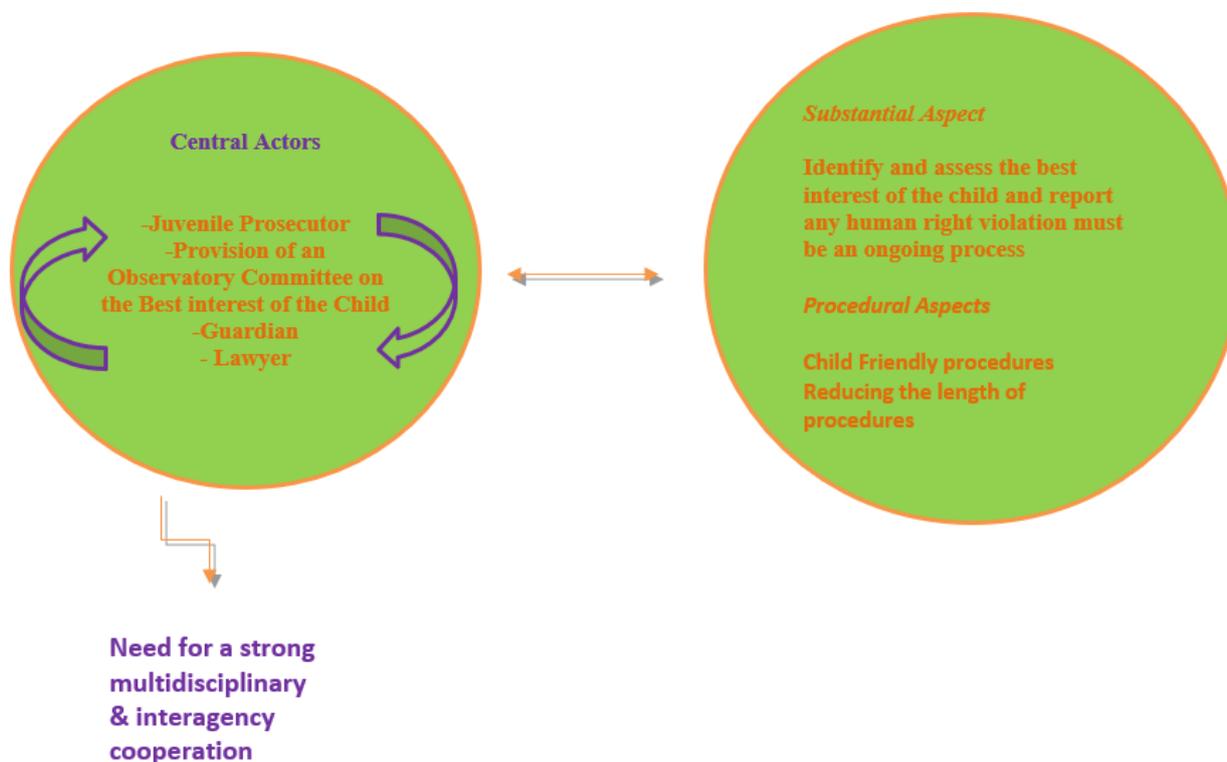
In order their right to information to be implemented effectively it is important follow up information and empowerment sessions are held along the process. Guardians should have a key role from the very beginning to support and guide the child so as to ensure children's access to information, the asylum proceedings and Justice.

### *Key Role of the Guardian*

Guardians should have a main role in ensuring children's protection, care and rehabilitation and they must **ensure their easy access to information, the Asylum Procedures and Justice**

Greece voted in 2018 a new law (L 4554/2018), where according to it, the guardian will be responsible to support and guide the child during the whole asylum process. For this reason, it is important to ensure a sufficient number of well-trained guardians at the Reception Centers that will be appointed for every child arriving to the Greek Territory.

## RESPECTING THE PRINCIPLE OF THE BEST INTEREST OF THE CHILD



### Implementing the substantial aspect of the best interest of the child principle.

The principle of the Best Interest of the child should be a key element in refugee child protection, thus states must guarantee its effective implementation in all matters involving or affecting children, by establishing multidisciplinary approaches. According to Article 3 of the CRC, the best interest of the child should be the primary consideration in all actions concerning children, irrespective of whether these are being taken by public or private entities for social welfare or by legal, executive or legislative bodies. In consonance with Child friendly Principles in assessing the best interests of the involved or affected children, all other rights of the child should be respected at all times.

For this reason, a comprehensive approach should be adopted by all relevant and involved authorities so as to take due account of all interests at stake, including the psychological and physical well-being and legal, social and economic interests of the child, with respect to his disabilities, religious beliefs and custody issues. The determination of the Best Interest of the Child

must be an ongoing procedure that will start inside the Reception Facilities along with the Pre - Registration procedure and will include every child. The appointed guardian with the cooperation of a psychologist should conduct a Best Interest Assessment aiming to bring up the best possible solution for the protection of each minor(*i.e* possible case - file separation from the parents if needed)

To ensure, determine and guarantee child's Best Interest there is an urgent need of establishing an Observatory Committee on the Best Interest of the Child which will be responsible for ensuring that the principle of the Best Interest of the minors is implemented. The Committee will act as a safety valve and will be in direct cooperation with the Guardian and Juvenile's Prosecutor reporting any violation if needed.

## Procedural Aspect

### Reducing the length of the procedures

Child friendly principles foresee that "in all proceedings involving children, the urgency principle should be applied to provide a speedy response and protect the best interests of the child, while respecting the rule of law."<sup>21</sup>Article 8 L 4375/2016 states that minors belong to the vulnerable groups of the refugee population thus they should receive special attention, that will respect their best interest. However, the way the Greek asylum system perceives children does not take into account their vulnerability and their best interest. As abovementioned, there are significant delays regarding the conduct of the asylum interviews. The new Law 4636/2019 abolish the priority of examining asylum claims of vulnerable asylum seekers (unaccompanied children, victims of torture, violence, etc.), risking their exclusion from the more favorable treatment provided by EU law for their protection.

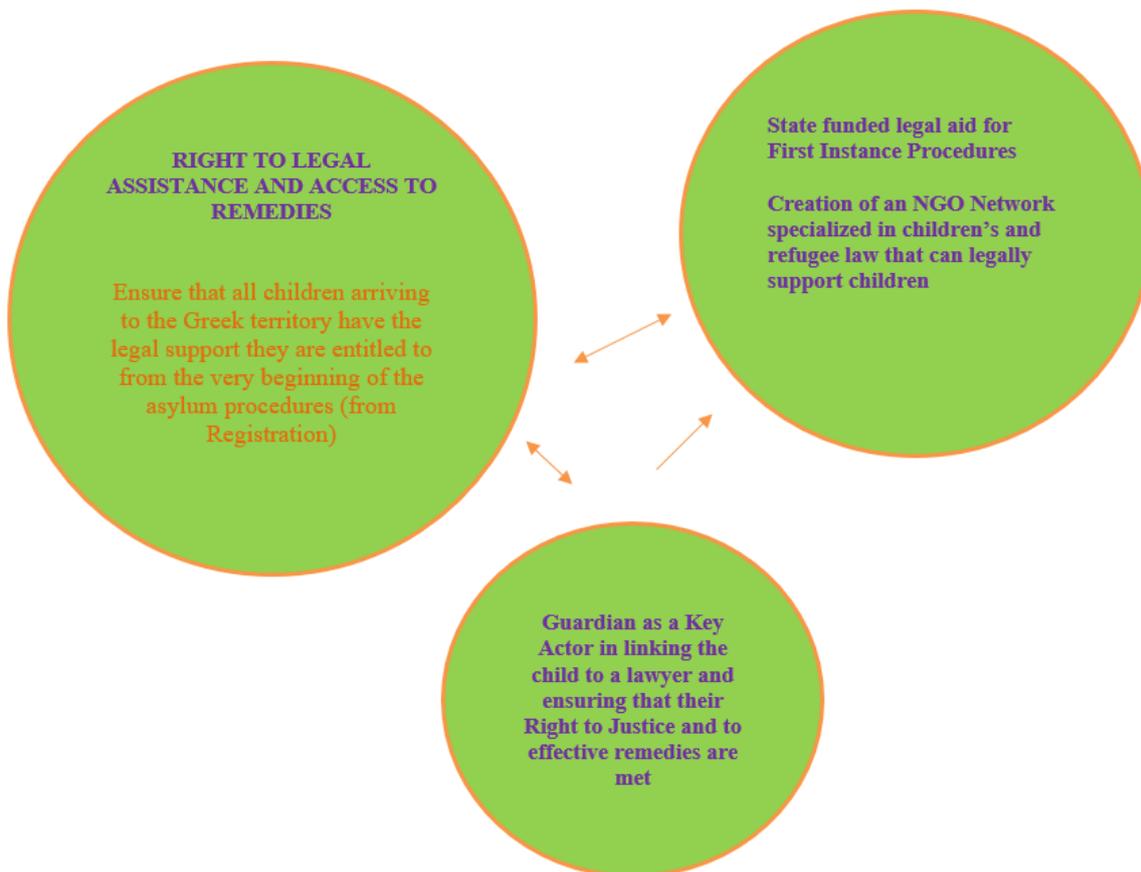
For instance, children that were registered and applied for international protection throughout 2019, have their interviews scheduled for 2021 or 2022. A practice that strongly violates the best interest principle, as it poses children on a standby mode for a long time impacting negatively their already poor mental state. It must be ensured that children on the move are being prioritized during the whole process.

*Implementation of children's Right to recover through a Restorative Asylum Justice System that will focus on the rehabilitation of asylum seeking children.*

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<sup>21</sup> in all proceedings involving children, the urgency principle should be applied to provide a speedy response and protect the best interests of the child, while respecting the rule of law., 29

Along the whole asylum process the right of recovery (art 39 CRC) and rehabilitation should be implemented in the context of the restorative justice. All procedures must be held aiming to recovery children’s existing trauma, which in reality deepens due to these structural human rights violations.



According to the Guidelines of the Council of Europe on Child Friendly Justice “ if children are to have access to justice which is genuinely child friendly, member states should facilitate access to a lawyer or other institution or entity which according to national law is responsible for defending children’s rights, and be represented in their own name where there is, or could be, a conflict of interest between the child and the parents or other involved parties”<sup>22</sup>

Adequate legal representation and support is a requirement in defending effectively children’s rights and ensuring that all asylum procedures (*i.e* age assessment, hearing, appeal, family reunification) are in line with the child friendly principles. Therefore, it must be secured that all children on the move have the legal support they are entitled to. As abovementioned, no state funded free legal aid is provided under law at first degree. That means that children that are not supported by an

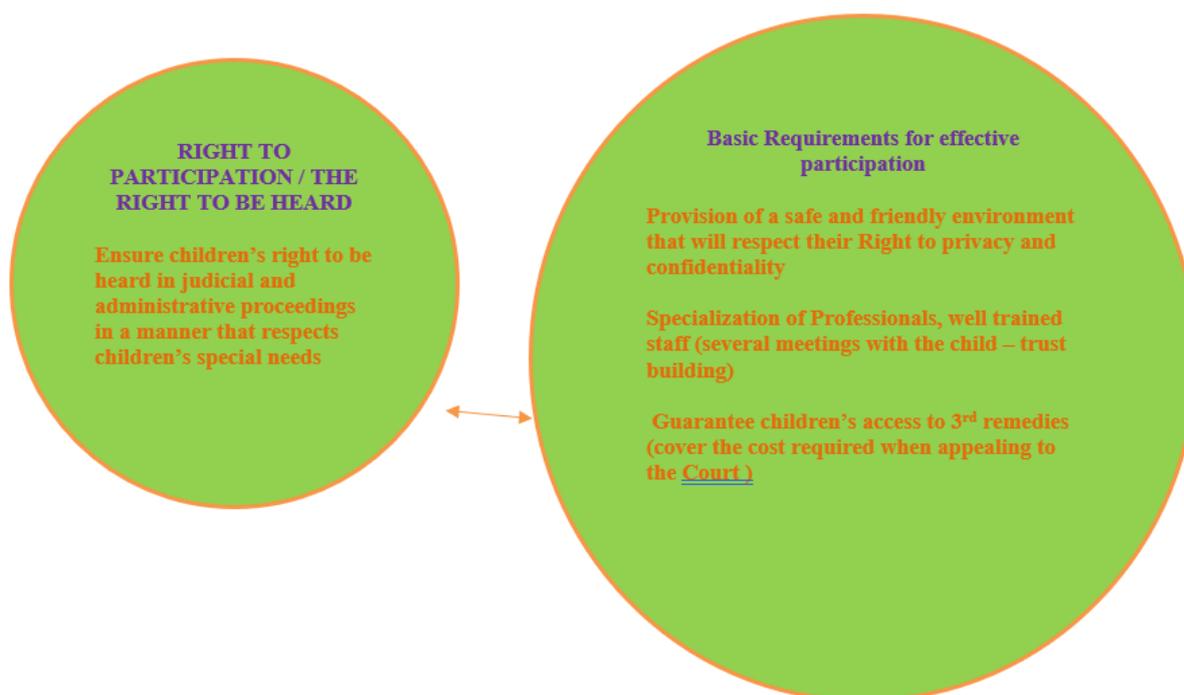
<sup>22</sup> Guidelines of the Committee of Ministers of the Council of European child friendly justice (Adopted by the Committee of Ministers on 17 November 2010 at the 1098th meeting of the Ministers' Deputies),77

NGO are not legally represented during their asylum hearing. The hearing that will actually determine their future. Asylum procedures are specifically complex for anyone especially children, given also their extreme vulnerability. Thus, it is necessary children to receive legal support from their very first contact with the asylum authorities regardless the presence of the Guardian. The guardian should be the central actor responsible in linking the child with a lawyer that will support them with their asylum claim.

In order to cover all the needs and ensure that every child has access to legal support the following measures are recommended.

- State funded legal aid for First Instance Procedures
- NGO Network specialized in children’s and refugee law that can legally support children

### Right to Participation



According to the Child Friendly Principles children have the Right to be Heard in all matters affecting them. Giving them the opportunity to express their own views and opinion guarantees their effective participation.

According to UN Committee on the rights of the Child, 'General Comment No. 12 on the right of the child to be heard', States parties must ensure conditions for expressing views that account for the child's individual and social situation and an environment in which the child feels respected and secure when freely expressing her or his opinions. A child cannot be heard effectively where the environment is intimidating, hostile or inappropriate for her or his age. For this reason, proceedings must be both accessible and child-appropriate.

### **Provision of a safe and friendly environment that will respect their right to Privacy and special needs**

- Separate hearing rooms for the children with a friendly decoration, toys, refreshments and comfortable seating
- Friendly attitude and manner of the professionals who conduct the interviews
- Sufficient and quality time before the interview between the case worker and the child (20-30 minutes), where the child would be informed with a friendly language about the procedure

### **Specialization of Professionals, well trained staff**

In defending and supporting effectively children's rights, professionals involved in the whole asylum procedure (Guardians, social workers, lawyers, police, asylum office personnel) should be required to undergo ongoing professional education mainly on the Convention of the Rights, Refugee Law, Child Friendly Principles and child psychology. It should be obligatory, for instance, professionals to complete every year some hours of education/ training.

Lawyers that will support children with their asylum claim should be experts in the field of refugee and children's law and should dedicate sufficient time for children's preparation. Children and especially refugee children that have experienced loss, violence and trauma back to their country or during their journey need more time to open up and trust, thus is important lawyers set up several meetings with them before the hearing. As well, guardians and social workers should undergo, for instance, specialized training on how to conduct the Best Interest Assessment.

### **Guarantee children's access to 3rd remedies (cover the cost required when appealing to the Court)**

Children whose asylum application is rejected at second instance, according to Article 15(5) L 3068/2002 amended by Article 29(2) L 4540/2018, can apply for annulment of the decision before

the Administrative Court of Appeals. However due to the high fees children cannot appeal to the Court. To ensure children's access to 3rd remedies it is important that State covers this cost.

### **Detention under Protective Custody**

As aforementioned, in Greece, in absence of appropriate shelters to accommodate the needs of the unaccompanied minors in need of international protection, the Greek State has introduced the norm of 'protective custody'. In accordance with this norm, unaccompanied children on the move are placed even in detention centers and police cells. Regardless the reason why a child ends up in detention, it must be ensured that the police also applies child friendly guidelines in all cases involving children and that there is a specific process the Police should follow (immediate contact of the Police with the Juvenile's Prosecutor, Guardian, asylum office).



**For the efficient communication and cooperation between the official authorities the existence of an electronic system is being proposed. This system could be accessible by all key actors (Juvenile's Prosecutor, Guardian, Asylum Authorities, Police) and will include children's case number, appointed guardian, lawyer, shelter information.**