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**The right to family reunification of
unaccompanied minors in Greece:
legal framework *v.* reality**

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**Πρόγραμμα Μεταπτυχιακών Σπουδών
«Μεσογειακές Σπουδές»**

**Το δικαίωμα των ασυνόδευτων ανηλίκων
στην οικογενειακή επανένωση στην Ελλάδα:
νομικό πλαίσιο και πραγματικότητα**

Χριστιάνα Κύρκου

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*Στη μητέρα μου,
γιατί μου μετέδωσε την αγάπη της για τη μάθηση και
γιατί είναι πάντα δίπλα μου στα ακαδημαϊκά και μη βήματά μου.*

*Σε όλους τους φίλους μου,
που δεν με ξέχασαν παρά την πλήρη εξαφάνισή μου την ακαδημαϊκή χρονιά.*

*Στον πατέρα μου και στον αδερφό μου,
για να μην γκρινιάζουν!*

Και στον Αλέξανδρο, για όλα.

The right to family reunification of unaccompanied minors in Greece: legal framework *v.* reality

Keywords: unaccompanied minors (UAMs), family reunification, Common European Asylum System (CEAS), Dublin III, guardianship of UAMs

Abstract

This dissertation examines the *de jure* and *de facto* compliance of Greece to the EU standards on family reunification of unaccompanied minors. The EU is faced with an unprecedented refugee crisis, with unaccompanied minors being one of the most vulnerable groups among the refugees. Greece has been all along at the forefront of the crisis, mostly as a transit country to Northern Europe. Thus, many unaccompanied minors who cross the country could benefit from the right to family reunification and avoid further traumatization by being reunited legally with family members already residing in another EU country. Both primary and secondary sources are reviewed to compare the Common European Asylum System and the national legal framework on the matter, as well as to examine the everyday practice in the country. Although the Greek legislation is found outdated in comparison to the EU *acquis*, it is practice that presents the most problematic shortcomings. Challenges are identified in the detection of the minors, their right to information and the available incentives for the minors not to abscond care. It is recommended to promptly revise the existing legislation, so that it complies with the EU provisions, to strengthen the First Reception Service of Greece, to redesign its guardianship system, to reinforce the role of the state in family tracing and to adopt best practices of other EU Member States on policies of reducing absconding incidents.

Το δικαίωμα των ασυνόδευτων ανηλίκων στην οικογενειακή επανένωση στην Ελλάδα: νομικό πλαίσιο και πραγματικότητα

Σημαντικοί Όροι: ασυνόδευτοι ανήλικοι, οικογενειακή επανένωση, Κοινό Ευρωπαϊκό Σύστημα Ασύλου (ΚΕΣΑ), Δουβλίνο III, επιτροπεία ανηλίκων

Περίληψη

Σκοπός της παρούσας διπλωματικής εργασίας είναι η εξακρίβωση της νομοθετικής και ουσιαστικής συμμόρφωσης της Ελλάδας στις προδιαγραφές της ΕΕ για την οικογενειακή επανένωση των ασυνόδευτων ανηλίκων. Η ΕΕ βρίσκεται σήμερα αντιμέτωπη με μια άνευ προηγουμένου προσφυγική κρίση, με τους ασυνόδευτους ανηλίκους να είναι μία από τις πιο ευάλωτες ομάδες προσφύγων. Η Ελλάδα βρίσκεται στην πρώτη γραμμή της κρίσης, κυρίως ως χώρα διέλευσης προς τη Βόρεια Ευρώπη. Ως εκ τούτου, πολλοί ασυνόδευτοι ανήλικοι που διασχίζουν τη χώρα θα μπορούσαν να επωφεληθούν από το δικαίωμα στην οικογενειακή επανένωση, αποφεύγοντας έτσι την περαιτέρω τραυματοποίησή τους, μέσα από τη νόμιμη και ασφαλή επανένωσή τους με μέλη της οικογένειάς τους που ήδη διαμένουν σε κάποια χώρα της ΕΕ. Εξετάζονται τόσο πρωτογενείς όσο και δευτερογενείς πηγές, προκειμένου να συγκριθεί το Κοινό Ευρωπαϊκό Σύστημα Ασύλου με το εθνικό νομικό πλαίσιο επί του θέματος, καθώς και να εξεταστεί η εφαρμογή του τελευταίου στην πράξη. Παρά το ελαφρώς παρωχημένο ελληνικό νομικό πλαίσιο σε σύγκριση με το Ευρωπαϊκό κεκτημένο, η πρακτική εφαρμογή είναι αυτή που παρουσιάζει τις μεγαλύτερες ελλείψεις. Προκλήσεις εντοπίζονται στην ορθή καταγραφή των ανηλίκων, στο δικαίωμά τους στην ενημέρωση και στα παρεχόμενα κίνητρα για την παραμονή τους στις δομές φιλοξενίας. Συστήνεται η άμεση αναθεώρηση της νομοθεσίας, ώστε να συμμορφώνεται με τις διατάξεις της ΕΕ, η ενίσχυση της Υπηρεσίας Πρώτης Υποδοχής, ο επανασχεδιασμός του συστήματος επιτροπείας, η ενδυνάμωση του κρατικού ρόλου στην αναζήτηση μελών της οικογένειας του ανηλίκου και η υιοθέτηση βέλτιστων πρακτικών άλλων κρατών μελών της ΕΕ για τη λήψη μέτρων που θα μειώσουν τα ποσοστά των παιδιών που διαφεύγουν από δομές φιλοξενίας.

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“There is no such thing as your children and my children. Children are children. They are the measure of our possibilities; how we treat them is the measure of our humanity. The moment we categorise them as foreign is the moment we lose both.”

Sivanandan

CHAPTER 1

Introduction

As the refugee crisis, which the European Union (EU) is called to cope with, has taken unprecedented dimensions over the last year, the EU human rights standards and the solidarity among Member States (MS) are put to the test. The symbolic threshold of one million entries in one year was crossed just before the end of 2015 and the deteriorating situation in Syria indicates that no halting of the refugees flow is to be expected anytime soon.¹ The overwhelming influx has caused tension among the MS, which has resulted to the contestation of some of the core principles of the European project. The Schengen Convention and the Dublin system are being reproached by politicians and citizens, while the homegrown terror adds the missing ingredient for panic. The once much celebrated ID-free travel zone is giving way to razor-wire fences and the praised achievements of the EU norms are shattered in the Mediterranean, every time another body comes to shore. The normative power of the EU stems from its respect to human rights, among other normative achievements. Yet, under political and economic pressures, the EU and its MS are failing to comply with their own normative and legal framework.

Amidst the chaos and the closed borders of Denmark, Sweden, Germany and so on, unaccompanied minors (UAMs) find themselves trapped in a EU much different from what they had expected. Though the term “UAMs” will be further examined from different aspects (legal and social), for the purposes of this essay, the term refers to third-country nationals under the age of 18 who find themselves unaccompanied by an adult guardian at any given time of their presence in the EU. As one of the most vulnerable groups undertaking the migration trip to the EU, a special net of protection has been asserted to them, composed of several complementary rights. Among the numerous guarantees and legal options provided to UAMs, the right to family

¹ BBC.

reunification holds a special position in their protection framework, since it is considered as *de facto* serving the best interest of any child. The essence of the right regards the reunification of the minor with any family member that is present in EU territory, in order to avoid prolonging the separation period.

The possibility of conducting family reunification is a decisive factor for the level of protection the minor will be able to enjoy. Therefore, securing access to this right should be a top priority for all MS. Since Greece is a country of first entry, due to its geographical location at the external borders of the EU, and a transit country, more so now than ever, due to its financial turmoil, it is a logical consequence that most candidates for family reunification pass through Greece. Not to mention that the 850.000 of the one million entries of 2015 were registered in Greece,² despite the low number of asylum applications filed in the same period. In light of the distress and the risks that UAMs go through, when continuing their migration route on their own, the present essay attempts to verify whether UAMs have indeed access to family reunification in Greece and, if not, why and how this can change.

The methodology entails literature review of both primary and secondary sources. Moreover, the professional experiences of the author, as a Capacity Development Officer of Faros³ (a Greek NGO that supports UAMs), are used in limited occasions to further substantiate findings. Overall, the European and the national legal framework are compared to deduct the compliance of Greece with the EU *acquis* and, subsequently, by comparing law and practice within Greece we are led to the concluding recommendations.

Chapter 2 sheds light onto the main terms of the essay, namely UAMs and family reunification. Statistical data are used to present the numbers of UAMs in the EU and in Greece, as well as to identify the main characteristics of the group. An overview of the psychological challenges that the migration experience poses to UAMs is provided, highlighting the necessity to use family reunification when the possibility occurs. The historical evolution of family reunification follows. Then, UAMs are

² BBC.

³ For details on the organization, see Faros.

categorised into those following their relatives and the ones who enter the EU first, in an effort to have their family follow them.

Those remarks set the ground for Chapter 3, which entails the legal analysis not only of the right to family reunification, but of all UAMs' rights relevant to the latter. First, we examine the EU legislation, from the Charter of Fundamental Rights of the European Union (CFR) and the European Convention on Human Rights (ECHR) to the Common European Asylum System (CEAS), with the jurisprudence of the European Court of Human Rights (ECtHR) as a guide to the interpretation of the provisions. Then, we turn to the relevant national legislation, analysing the relation between the two legal orders and pointing out the protection gap that the partial compliance of Greece to its EU obligations has led to.

Having identified the existing national legal framework, its implementation is explored in Chapter 4, by following the “chain” of rights that are required for an UAM to attain family reunification. First, we deal with the detection of the minor, which presents numerous challenges and often leads to “invisible children”. Second, the right to information with regard to the family reunification option is appraised, as there are factors that jeopardize it. Third, the issue of missing UAMs that abscond from reception facilities and the reasons behind this trend are presented, as the final impediment to family reunification in practice.

Overall, it appears that though it is the EU itself that has set the bar, it might have set it too high. As family reunification is a right and not a prerogative, we conclude with policy recommendations for aligning the Greek realities to the spirit and obligations of the EU legislation. It is in the best interest of the child to be reunited safely with a family member and, since this is an available option, it is a shame to have UAMs, who expose themselves to great danger and hardships, by continuing their long trip from Greece to Sweden, for example, without any support.

CHAPTER 2

UAMs and family reunification

Before examining the applicability or not of the family reunification regulations for UAMs in Greece, it is deemed necessary to better acquaint ourselves with the two main terms of this research, namely UAMs and family reunification. This Chapter focuses on various aspects of the two terms and their point of intersection, so as to further understand the importance of the family reunification option to UAMs and their development. Below, the definition of the term “UAMs” (not in strictly legal terms) is then followed by an overview of the statistics of UAMs in the EU and in Greece. An insight into the features of the group – such as nationality, age etc – is also provided, through statistical data. The psychological traits of this vulnerable group are lastly addressed, so as to emphasize the beneficial impact of the family reunification possibility. Subsequently, we turn our focus to family reunification as a concept and we further define the scope of this essay, by limiting the aspects of the term that concern us. Finally, UAMs are divided into two groups based on their interaction with family reunification and solely for the purposes of the present study.

2.1. UAMs: definition, numbers and basic features

“UAMs” is a term used in the wider field of migration policy to describe a person under 18, found in a foreign country without being accompanied by parents or any guardian, who might seek international protection from this country or not. The term is used interchangeably with the notion of separated children. Though a variety of terms and definitions, with minor differences among them, might be found, the bottom line is that the main components of the term are ‘refugee’, ‘minor’ and ‘unaccompanied’.⁴ These three components account for the triple vulnerability of this group: as children they present a specific set of needs, aggravated by their refugee status or claim and further highlighted by the fact that they are unaccompanied, which means they have been stripped of their caregiver, who could cover those needs.⁵ This

⁴ Derluyn & Broekaert, at 320.

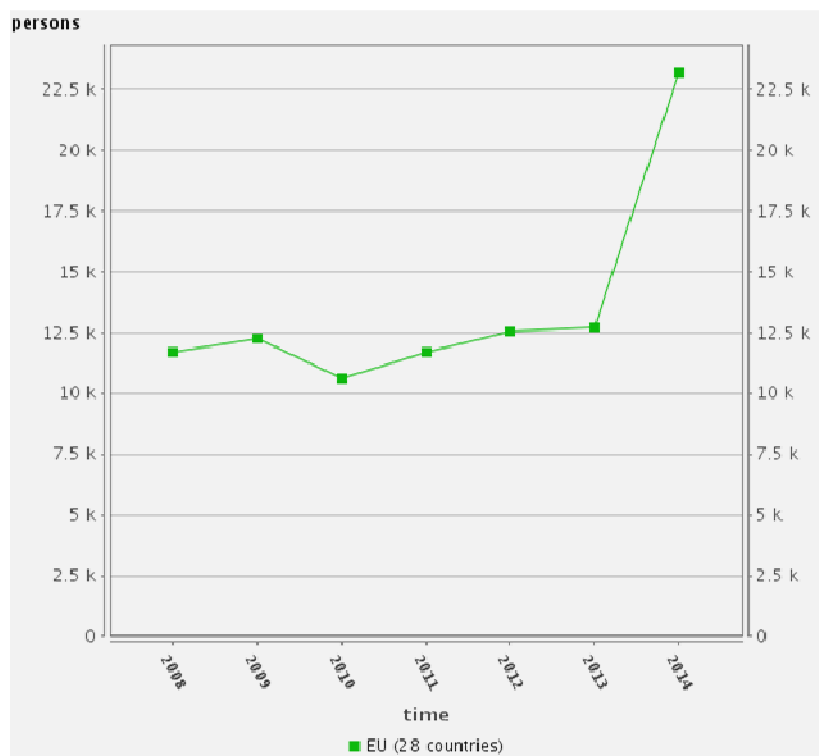
⁵ For the layers of vulnerability, see Dimitropoulou & Papageorgiou, at 4. The authors argue a dual vulnerability. However, it is the belief of the present author that the components explained above constitute three distinct Achillean heels.

triple vulnerability should lead at least to an enhanced, not to say triple, state obligation to protect them.

It is since the 1990s that the increase of UAMs entering the EU has been substantial enough to raise the question of their protection.⁶ Although this number seemed to have been settled at approximately 10.000 UAMs entering the EU per year, the recent refugee crisis resulted in an unprecedented increase of UAMs between 2013 and 2014, reaching the 23.000 UAMs that year, as seen in the table below.

Diagram 2.1

Asylum applicants considered to be unaccompanied minors – annual data



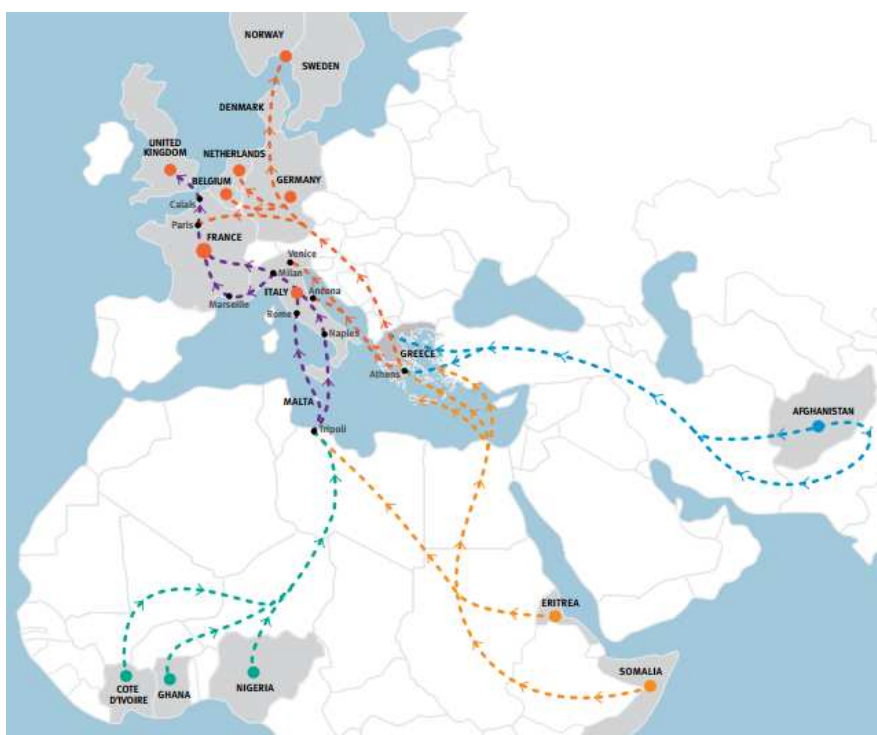
Source: Eurostat

This increase was also followed by a high increase of adult asylum seekers, during the same period. Hence, despite the doubling of UAMs in 2014, they represent 4% of the total asylum applications of that year. However, this percentage does not include the UAMs not seeking asylum, for whom the data cannot be accurate, due to the nature of this group that remains largely invisible. For 2013, there is an estimation of 8.500

⁶ Moore, at 8.

UAMs entering the EU without applying for international protection. The vast majority of the asylum seeking UAMs (for whom statistics are available), are boys, while the data indicate that their average age is between 16 and 17. The following map illustrates the journey these children undertake. Most of them start their journey from Afghanistan, Eritrea, Syria, Somalia, The Gambia or Morocco.⁷

Map 2.1
Sample routes taken by some UAMs⁸



Source: Human Rights Watch

The map also indicates that Greece is a transit country that many UAMs cross, in order to reach their destination. However, the only national primary data available regard the UAMs that lodged an asylum application and the UAMs that requested accommodation, which come from the Asylum Service and the National Centre of Social Solidarity (EKKA) respectively. These two sources are insufficient to reflect the actual number of UAMs present in the Greek territory at any given time for

⁷ European Migration Network, at 9-10.

⁸ The map dates from 2011 and this is why Syria and Morocco do not feature as main origin countries, as they are today.

several reasons. First, older studies have found errors in statistics over the last years.⁹ Second and most importantly, a significant drop in the number of UAMs asylum applications in 2007 coincides with an important EU decision for UAMs. Contrary to the rule of an application being examined by the country of entry, the applications of UAMs are examined where they are first lodged.¹⁰ This information has been well disseminated among minors and smugglers alike, increasing the number of “invisible children” in Greece. By now, it has become common knowledge that UAMs prefer to continue their journey illegally to reach a Northern European country than to apply for asylum in Greece. Hence, a low number of applications does not reflect a decrease of UAMs present in Greece. Alas, it actually reveals a growing number of UAMs living in the country without any assistance from the authorities, as they stay off the radar.¹¹ The most cited motives for seeking to reach a specific MS other than the country of entry are reunification with family, joining diaspora, and economic and aspirational reasons.¹²

Nevertheless, it is deemed useful to mention the most updated available statistics from the Asylum Service and EKKA. According to the Asylum Service, 447 UAMs applied for asylum in Greece in 2014, making up for 4,7% of the total applications during this period.¹³ The transit role of Greece becomes even more evident, when the number of applications lodged is compared to the housing requests filed by UAMs in the same period. The housing requests reached 2.390 over the year, revealing the presence of much more UAMs in the country than the 447 who have applied for asylum. EKKA statistics reflect the already mentioned European trend, as most UAMs are boys, above the age of 12 and come from Afghanistan.¹⁴

2.2. UAMs: psychological challenges

Behind all these numbers, there are children, deprived of their childhood, with a distinct psychological vulnerability. It has been recognized that experiencing

⁹ Regarding the problems with the Greek data, see Dimitropoulou & Papageorgiou, at 20-21.

¹⁰ First incorporated in Regulation 343/2003, art. 6.

¹¹ Dimitropoulou & Papageorgiou, at 22.

¹² European Migration Network, at 13.

¹³ Unfortunately, the available data by the Asylum Service for 2015 did not mention UAMs as a separate category. For a breakdown of the ones mentioned here, see Asylum Service (2014).

¹⁴ National Centre of Social Solidarity, at 11-15. The data for 2015 are expected to be released soon.

migration at a young age can be a risk factor for developing psychopathology.¹⁵ Moreover, studies have found that UAMs are five times more prone to symptoms of severe stress than accompanied refugee minors.¹⁶ A UK study revealed that 34% of the participating UAMs suffered from post traumatic stress disorder.¹⁷ Some of the documented problems that UAMs generally face are concentration disorders, anxiety, severe grief, sleeping disorders-nightmares, depression, withdrawal, aggression, low self-esteem, strong feelings of guilt, substance abuse, violence, suicidal tendencies etc. Their emotional well-being and future development is threatened by multiple factors: by the sum of the experiences of a refugee, adolescence itself and the separation from family.¹⁸

Being a refugee entails a variety of risks to one's mental and physical health. First, there is the "cultural bereavement", a term coined by Eisenbruch to describe all the losses of uprooting (ex. loss of home, family, friends, familiar environment, culture, even loss of self-identification and so on).¹⁹ Then, there is the repeated traumatization from exposure to difficult situations in the country of origin (usually war), exposure to poor conditions and fear during flight and, finally, to a hostile environment in the host country (ex. living in large refugee camps, racism etc). It should be noted that the most difficult cases dealt by Faros regard UAMs who had been used as child soldiers before fleeing.²⁰ Moreover, after the first euphoria of successfully arriving at the desired destination settles down, most children experience a clash between reality and expectations, as too many difficulties arise in their new daily life (ex. language barrier, school difficulties, confusing cultural environment with new rules and roles, dilemma between old social norms and integration into the new ones, acculturative stress, marginalization etc). These feelings can be aggravated by poor living conditions in refugee camps, especially closed ones, and uncertainty about the future, due to pending residence permits and other legal issues.²¹

¹⁵ Ying.

¹⁶ Derluyn, Broekaert & Schuyten.

¹⁷ Bronstein, Montgomery & Dobrowolski.

¹⁸ For a more detailed and a very interesting insight on the sequences of traumas accumulated by refugee minors, see Derluyn & Broekaert.

¹⁹ See Eisenbruch.

²⁰ Personal experience through the professional capacity of the author.

²¹ Derluyn & Broekaert, at 321-322.

An illustrative example of the difficulties that a child has to overcome in his/her host country is the case of a minor, supported by Faros, who had been quite successfully integrated in Greece, as he had stayed here for approximately six years (learned the language, attended school, made Greek friends etc). A perky, happy and very well-adjusted child here, dealt with frustration and a sense of loss of self-identification, when he had to move to Germany, where he was obliged to go through all this process once again.²²

As we have already seen, most UAMs are between 16 and 17 years old, at the pick of their adolescence, when they arrive in the EU and at its beginning, when they start their journey or experience war trauma in their country. Adolescence is a stressful and charged period in life, as the child struggles to form his/her own adult identity, even under normal circumstances. The lack of role models present in the life of an UAM and the new set of roles, which the minor is now called to occupy as an adult – although they were unknown to him/her so far – are rendering this process, at the very best, more difficult than when the transition is effectuated in normalcy. An uncertain adult identity development can lead to persisting problems in the minor's future adult life.²³

Finally, the separation from family is a decisive blow to the coping mechanisms that a child has at his/her disposal in order to reduce the aforementioned traumas. The last shred of sense of security and stability is lost along with the family, while there are also more practical downsides, such as lack of economic resources. In addition, migrating alone exposes the child to various risks, like sexual exploitation, due to the absence of parenting care.²⁴ It is also important to note that the reason and conditions of the separation have a direct effect on the subsequent psychological trauma, sometimes even more detrimental than the separation itself.²⁵ Hence, the psychological imprint of separation varies from child to child.

²² Personal experience through the professional capacity of the author.

²³ Derluyn & Broekaert, at 322-323.

²⁴ Derluyn & Broekaert, at 323.

²⁵ Jensen & Shaw.

2.3. Family reunification

All these stress factors can be moderated by reuniting the UAM with a family member, as soon as possible, so as to avoid further traumatization and to strengthen his/her coping capacity. Family reunification has widely been used in the EU as an integration tool for the European labour migration and dates back to the late 1950s. As a policy, it accounts for more than half of incoming immigration of third-country nationals. Promoting social justice and integration for labour migrants, it has been implemented at its most liberal form during the 1990s. However, from 2000 onwards, the policy has become the subject of debate and states have attempted to regain control over their national citizenship policies by adding cultural integration criteria and other restrictions on family reunification.²⁶ As in immigration law, it is the principle of unity of the family that family reunification vouches to protect in asylum law as well. Though yet not clearly defined as a process, an initial reference to it is included in the 1951 Refugee Convention.²⁷ Since then, the EU has further shaped the concept and turned it almost into a principle of the freedom of movement and the immigration and asylum EU *acquis*. Its current legal form in asylum law is further examined in Chapter 3.

Despite its applicability in cases of EU citizens married to third-country nationals, of migrants or of a father's reunification with his wife and children for example, our focus remains on the family reunification of refugees and more precisely on the cases that involve UAMs. Two categories of UAMs can be outlined for the purposes of this essay,²⁸ taking into consideration their motivations for entering the EU, pertinent to family reunification.

On the one hand, there are the minors that do not have any family member in the EU, as they are the first member of their family to undertake the migration journey. There is the possibility that those children are either originally intended to facilitate the entering of another family member after their settlement or that this might occur in the aftermath of the family's decision to send the minor to the EU, due to economic

²⁶ For the new EU approach on the family reunification of migrants, see Ruffer.

²⁷ 1951 Convention Relating to the Status of Refugees, at 146.

²⁸ Orphans are not included, since our focus is family reunification.

intensives for example. In either case, the financial responsibility (ex. to send remittances to the rest of the family back home) and/or the ‘magnetic’ attributes of the minor that can bring the rest of the family to safety constitute an additional psychological burden for the child, as he/she feels a tremendous psychological pressure to help or even save his/her family, which is added to the other stress factors already described. As those UAMs are not eligible for family reunification from Greece to another EU country and will either reach their final destination on their own or settle in Greece, where they will be reunited with the family that will follow them, they are not examined in detail here. In Greece, this category accounts for a low number of incoming Dublin requests, as called by the Asylum Service, since Greece is seldom a destination country. In the first 11 months of 2015, 108 such requests were made, though we cannot attribute them all to UAMs, while the Asylum Service does not provide further details on the matter.²⁹

On the other hand, another category are the UAMs who initiate the migration journey in order to be reunited with family members, who have already settled in another EU country; this possibility might also occur during the migration trip in case of separation, if the other members of the family reach the destination country first. The minors, who follow on their own another family member that has successfully been settled in an EU country (sometimes an older sibling), are the main focus of this study. They account for the outgoing Dublin requests, which reached 1.023, during the first 11 months of the past year, again not all attributable to UAMs.³⁰ Regardless of the main motivation of the journey being family reunification or not, it is important to verify whether they assert this right or not and why, as long as they are eligible for it. Out of the 118 cases that received social counselling from Faros, during the school year 2014-2015, as many as 60 of them had relatives in another EU country and, hence, were entitled to family reunification.³¹ However, a lot of them decided to continue their journey illegally. Why are these children opting-out of a safe and legal alternative? The answer to this question is here sought in the proper implementation of this alternative by the Greek authorities.

²⁹ Asylum Service (2015).

³⁰ *Ibid.*

³¹ As an employee of Faros, the author has authorized access to the case files.

It goes without saying that the motivations of UAMs for fleeing their country and entering the EU are more complex than this brief overview, while their research is not without caveats, as the minor might not grasp the reasons for migration himself/herself or he/she might be reluctant to reveal them.³² The above categorization merely serves as an explanatory note for the setting of parameters for this study and does not aspire to shed light into the motives of such a difficult decision by the family or the minor himself/herself.

2.4. Conclusion

Being a refugee, a minor and unaccompanied attaches a high degree of vulnerability to this group that has been rapidly increasing in numbers after 2013. It is mostly boys, in their adolescence, with the majority of them coming from Afghanistan, that cross Greece for a better future, which they hope to find in Northern Europe. The transit role of Greece results into many of them remaining ‘invisible’ to authorities, while they have to deal with consecutive traumatization and daily survival on their own. The presence of a family member could help them cope with fleeing their home country, adolescence and feelings of abandonment. Family life has been a cherished good, for which the EU has provided multiple guarantees since the 1950s, family reunification being among them. Whether they can be seen as ‘magnets’ or ‘followers’, the EU MS have the legal and moral obligation to guarantee them this right and assure their access to it. It remains to be seen if Greece has honoured this obligation, both *de jure* and *de facto*.

³² For more on the motives for this dangerous journey, see European Migration Network, at 12-14.

CHAPTER 3

Legislative framework

All EU MS have ratified the United Nations Convention on the Rights of the Child (UNCRC), while the EU as a whole has taken up the responsibility to comply with core human rights treaties.³³ However, UAMs and their protection were not a pressing issue, during the drafting of the UNCRC. As a result, there is only one direct reference to this vulnerable group in the entire Treaty. This sole reference can be found in Article 22, which includes the obligation of the signatory parties to provide UAMs with protection and humanitarian assistance.³⁴ Notwithstanding this specific, yet narrow reference, the UNCRC in its entirety is applicable to all children, including UAMs. Hence, the UNCRC is a starting point of protection for UAMs that provides the international framework, within which the European and Greek legislation is called to function. The most valuable contribution of the UNCRC in respect to all children, including UAMs, is the setting of the best interests of the child as the leading principle of all actions concerning children.³⁵

As the numbers of UAMs, arriving mostly in the EU, have been growing considerably the last decade, the need to create a specific legislative framework for their protection arose.³⁶ Consequently, it is more recent legal instruments that can shed light into the protective legal net of this vulnerable group and its right to family reunification. The relevant European framework that has recently been developed is examined thereafter, along with its transposition into Greek law. Overall, it is attempted to verify the compliance of national law to the EU framework.

³³ European Migration Network, at 41.

³⁴ Para. 1 of the article adheres the same rights to accompanied and unaccompanied children alike. Only para. 2 makes a distinction between the two groups, establishing an additional state obligation for UAMs, i.e. family tracing.

³⁵ 1989 Convention on the Rights of the Child, art. 3 (1).

³⁶ Other international treaties of some relevance are the 1951 Refugee Convention, the UN Covenant on Civil and Political Rights, the UN Covenant on Social, Cultural and Economic Rights etc. However, apart from some limited references to the need to protect children and safeguard family unity, they do not have more to offer to our discussion and so they have been omitted.

3.1. European law

It is mostly within the CEAS that one can find the legal acts, which compose the puzzle of the UAMs' protection. However, there are also two other important legal documents, from which the detailed protective framework stems. Article 24 of the CFR³⁷ reiterates, in almost identical wording, the best interest of the child principle, as first expressed in the UNCRC. Moreover, the ECHR establishes the right to family life in Article 8.³⁸ Although no other provision of the ECHR appears to have a direct impact on the protection framework of UAMs, since no special rights are adhered to children through this legal instrument, the ECtHR has provided us with a rich jurisprudence in that direction.

The ECtHR has attached a high degree of vulnerability to UAMs, summed up as follows: “En l'espèce, la Cour ne perd pas de vue que le requérant, en raison de son âge et de sa situation personnelle, se trouvait en une situation d'extrême vulnérabilité.”³⁹ (*Translation: In the present case, the Court does not lose sight of the fact that the applicant, because of his age and his personal circumstances, was in an extremely vulnerable situation.*). This determination accounts for the expansion of the family life provision to allow a minor third-country national to enter the Netherlands and reunite with her family.⁴⁰ In addition, in other rulings the Court has often relied on the UNCRC to uphold a higher standard of protection for children than their adult guardian.⁴¹ The ECtHR has not confined itself to mere references to specific provisions of the UNCRC, but has indeed been influenced in its decisions, clearly taking into consideration the higher vulnerability it has itself attached to children.⁴²

Thanks to the aforementioned jurisprudence of the ECtHR as well, the revision of the CEAS has expanded the protection awarded to UAMs. It is in the four instruments composing the CEAS, where we have a clearly stated definition of UAMs:

³⁷ 2012 Charter of Fundamental Rights of the European Union.

³⁸ 1950 European Convention for the Protection of Human Rights and Fundamental Freedoms.

³⁹ ECtHR, *Rahimi v. Greece*, para. 86.

⁴⁰ ECtHR, *Sen v. the Netherlands*. For the expansion of this right, see also ECtHR, *Tuquabo-Tekle and Others v. the Netherlands*.

⁴¹ Ex. ECtHR, *Muskhadzhiyeva and Others v. Belgium*; ECtHR, *Popov v. France*.

⁴² Ippolito & Sánchez, at 252.

“‘unaccompanied minor’ means a minor who arrives on the territory of the Member States unaccompanied by an adult responsible for him or her, whether by law or by the practice of the Member State concerned, and for as long as he or she is not effectively taken into the care of such an adult; it includes a minor who is left unaccompanied after he or she has entered the territory of Member States”⁴³

All four documents, namely the Dublin III-Regulation,⁴⁴ the revised Qualification Directive,⁴⁵ the revised Asylum Procedures Directive⁴⁶ and the revised Reception Conditions Directive,⁴⁷ provide enhanced guarantees to the UAMs. The following focus regards the provisions that have a direct or indirect impact on the family reunification procedure.

Table 3.1
Overview of the CEAS provisions that affect the implementation of family reunification

Dublin III-Regulation	revised Asylum Procedures Directive	revised Reception Conditions Directive
Art. 4: right to information	Art. 7: age limit to apply without a representative	Art. 11: limitations on detention
Art. 6: best interest of the child, appointment of representative and family tracing	Art. 25: role and background of the representative	Art. 14: access to education
Art. 8: FAMILY REUNIFICATION	Art. 25: age assessment by medical means	Art. 24: appointment of representative, family tracing and provision of temporary accommodation
Art. 29: maximum timetable for the transfer of the applicant set at 6 months		
Art. 30: costs of transfer assigned to the transferring state		

We shall start with the Dublin III-Regulation, which articulates the criteria of determining the responsible MS to examine an asylum application and, therefore, constitutes the core instrument of the applying for asylum UAMs’ right to be reunited

⁴³ Regulation 604/2013, art. 2 (j).

⁴⁴ Regulation 604/2013.

⁴⁵ Directive 2011/95/EU.

⁴⁶ Directive 2013/32/EU.

⁴⁷ Directive 2013/33/EU.

with their family. The right to information, as incorporated in Article 4 of the Dublin III-Regulation, includes a specific reference to UAMs. Despite the low minimum of information set by the Article to be conveyed to the applicant, para. 1(b) and (c) of the same Article (which are included in this minimum) draws a straight line to the family reunification option and, hence, the right of the UAMs to be informed about it.⁴⁸ The most relevant provisions to UAMs and family reunification are found in Article 6 and 8. Article 6 includes the best interest of the child with the family reunification possibilities being among the top factors of this assessment (para. 1 and 3.a), the appointment of a representative to represent and assist the minor to all relevant procedures of the Regulation, including family reunification, (para. 2) and the family tracing obligation of the MS where the application has been lodged (para. 4).

On the other hand, Article 8 provides the very essence of the family reunification procedure for UAMs. Under the provisions of this Article, the MS responsible for examining the application of an UAM is the one where a family member, sibling or relative is legally present. For the last group, namely the possible reunification with a relative, an individual assessment of his/her ability to care for the child is foreseen. Moreover, the same applies for married minors, in case their spouse is not legally present in the EU. In all cases, the best interest of the child is set as the decisive factor to point to the responsible state for the examination of the minor's asylum request.

The precise definitions of "family members" and "relatives" can be found in Article 2, para. (g) and (h) of the Directive, which widen considerably the pool of relatives that can be candidates for family reunification. Beyond the usual family members (father, mother, spouse/stable partner, minor children), in the case of UAMs, siblings and a wider group of relatives are also mentioned. Hence, though the family members include a vague category of "adult responsible for him or her whether by law or by the practice of the Member State where the beneficiary is present", the category of the relatives clearly states as viable candidates the adult aunt or uncle or grandparent. This goes a long way from the narrower provisions of Dublin-II and provides minors with alternatives, actually rendering family reunification a first priority. Plainly put, it

⁴⁸ The author would like to direct attention to the references found in para. 1, regarding the criteria for determining the MS responsible and the possibility of submitting information on the whereabouts of family members. Family reunification is a crucial element of the first reference, especially for UAMs, and the second one is in itself an element of the family reunification procedure.

is foreseen that an UAM, who applies for asylum, for example in Greece, has the right to legally and safely go to another EU country, as long as he/she has relatives that legally live there, so that his/her application is examined there, while he/she is under their care.

Moreover, Article 29 sets a concise maximum time-framework for the transfer of the applicant to the responsible MS. The transfer needs to be completed at the latest after six months from the acceptance of the transfer request. Finally, an indirect to the family reunification procedure, but nevertheless important, obligation is assigned to the transferring MS, i.e. the bearing of the costs necessary for the transfer of the applicant to the MS responsible for examining his/her application.⁴⁹

The remaining three revised Directives of the CEAS also include rights of UAMs. The revised Asylum Procedures Directive lays down the procedural rules for examining an international protection request. In Article 25 of the Directive, the function, obligations and necessary background of the representative appointed to UAMs, as mentioned in the Dublin III-Regulation, is further explained *vis-à-vis* the application process. Reference is also made to the possibility of age assessment through medical examinations to determine minority, in cases of doubts on the matter, prior to delivering a judgment on the request. Finally, the determination of the appropriate age to lodge an application on your own is left to each MS, rendering the role of a representative essential to the access of the UAMs to status determination proceedings.⁵⁰

The revised Qualification Directive foresees in Article 31 special rights for UAMs already granted with international protection. However, as we examine the family reunification process prior to the examination of a status proceeding, this matter is not dealt with here. Therefore, the revised Reception Conditions Directive is of more relevance to this study, as it sets the reception standards for applicants and not grantees of international protection. Para. 3 of Article 11 deals with the administrative detention of UAMs separately, underlining the need to present exceptional circumstances for this measure and the specific conditions to be respected if such

⁴⁹ Regulation 604/2013, art. 30.

⁵⁰ Directive 2013/32/EU, art. 7.

measure is undertaken (short period, not in prison facilities and separately from adults). Furthermore, the MS is under the obligation to provide access to education to minors within three months from the lodging of their application, including the provision of preparatory classes to facilitate this access (ex. language courses).⁵¹ Article 24 is also of great importance, as it cites the steps to be taken by the authorities in respect to an UAM applicant. Again we meet the appointment of a representative and its role, along with the tracing of family members. The new element is the obligation of the state to provide for a suitable temporary accommodation from the moment of the minor's admission to its territory until and if forcible removal follows.

Similar guarantees with more specialized features, depending on the respective field, are also foreseen in other documents, such as the Anti-Trafficking Directive⁵² and the Directive on combating the sexual abuse and exploitation⁵³. A final note must also be made to the Directive on Family Reunification⁵⁴ that seems *a priori* relevant, at least by name. However, pursuant to the limitations provided by Article 3 para. 2, which exclude pending refugee applications, since they are covered by the CEAS, it is not the entirety of these provisions that applies to the scope of the present study. Alas, it is only Chapter V that slightly concerns us and more precisely Article 10, para. 3. Pursuant to this provision, a free entry pass is given to first-degree relatives in the direct ascending line or other legal guardians in the absence of the former, when the refugee is an UAM. This is the provision, which the aforementioned category of "magnets" UAMs and their relatives can rely on, yet with psychological side-effects for the child, as mentioned *supra*. In spite of our focus on the other category of UAMs that follow their relatives through Greece to another EU country, our legal analysis of the relevant EU framework would have been incomplete without this reference.

⁵¹ Directive 2013/33/EU, art. 14.

⁵² Directive 2011/36/EU.

⁵³ Directive 2011/92/EU.

⁵⁴ Directive 2003/86/EC.

3.2. National law

As already mentioned all EU Members have ratified the UNCRC. To be more precise, Greece is bound by it since 1993.⁵⁵ As an EU Member, Greece is also bound by EU primary law and, hence, both by the ECHR and the CFR. Greece ratified the ECHR in 1974,⁵⁶ whereas the CFR is binding upon national authorities, when they apply EU law.⁵⁷ One such example, relevant to our analysis, is the application of national law by national authorities, when this law implements an EU Directive. Besides, it is the sources of secondary European law (regulations, directives and decisions) that provide for the detailed framework of implementation of principles, which are derived from the EU primary law.⁵⁸ Hence, the right to family reunification of UAMs, which stems from the principles incorporated in the aforementioned three international instruments, is to be applied through the implementation of the CEAS. As it is not possible to adhere to principles without specific obligations, it is considered necessary to scrutinize the transposition of the CEAS into the Greek legislation.

As Regulations have a direct effect in the legal system of MS, the Dublin III-Regulation does not require its transposition into the Greek law for its implementation.⁵⁹ The self-executing character of the Regulation does not preclude the State from its obligations of *de facto* compliance with the Regulation's provisions, which will be addressed in the following Chapter, but merely implies *de jure* compliance. Directives, on the other hand, provide MS with a wider discretion to adjust the relevant national law as they see fit, in order to achieve the aims set by them. Literature has demonstrated that the consequent prolongation of the Directive's life cycle opens the door to various forms of non-compliance.⁶⁰

⁵⁵ United Nations.

⁵⁶ Council of Europe.

⁵⁷ European Commission (2015), "EU Charter of Fundamental Rights".

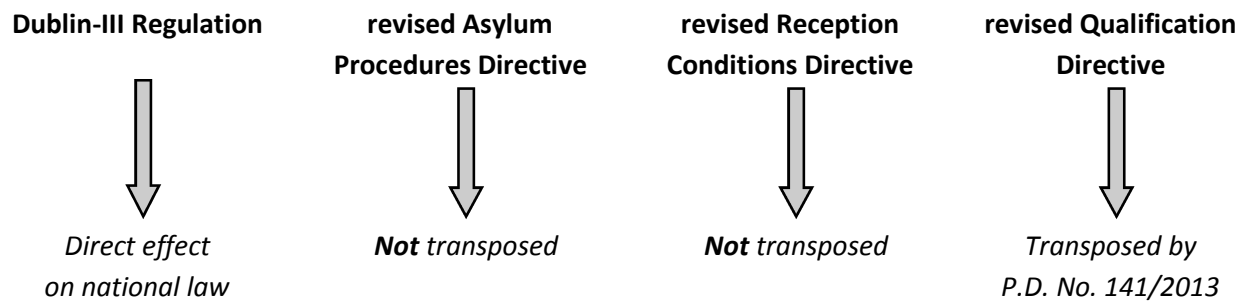
⁵⁸ For more on the division of Union law between primary and secondary, see European Commission (2015), "Applying EU law".

⁵⁹ Foster, at 124.

⁶⁰ Falkner *et al*, at 11-14.

3.1 Diagram

Relation between EU and Greek law in the CEAS



Greece has so far failed to comply with the revised Reception Conditions Directive and the revised Asylum Procedures Directive, by delaying their transposition into national law. The European Commission has already launched infringement proceedings against Greece for not communicating the national measures taken to fully transpose these two Directives into its national legal system. Following the Letters of Formal Notice sent on 23 September 2015, which made clear reference to the inefficient guardianship system and legal representation of UAMs in Greece,⁶¹ the Commission addressed Reasoned Opinions to the country on the same matter, further escalating the proceedings on 10 December 2015.⁶² In the meantime, the Hellenic Ministry of Interior issued a call of public consultation on a draft Presidential Decree (P.D.) that would provide the necessary adjustments to transpose the revised Asylum Procedures Directive.⁶³ The public consultations closed on 04 December 2015 and yet no further measure has been taken by the state to the submission day of this thesis, i.e. 23 January 2016.

Nonetheless, this does not mean that there is a complete legal *vacuum*, since the transposition of the same Directives, *prior* to the completion of their revision, had been fulfilled.⁶⁴ However, it does indicate that the current national provisions are outdated in comparison to the EU standards. As for the Qualification Directive, it has

⁶¹ European Commission (2015), "More Responsibility in managing the refugee crisis: European Commission adopts 40 infringement decisions to make European Asylum System work".

⁶² European Commission (2015), "Implementing the Common European Asylum System: Commission escalates 8 infringement proceedings".

⁶³ Hellenic Ministry of Interior: Consultations website.

⁶⁴ For the Reception Directive, see P.D. No. 220/2007 on the transposition into the Greek legislation of Council Directive 2003/9/EC; for the Asylum Procedures Directive, see P.D. No. 113/2013 on the establishment of a single procedure for granting the status of refugee or of subsidiary protection beneficiary to aliens or to stateless individuals in conformity with Council Directive 2005/85/EC.

been transposed into national law with the P.D. No. 141/2013,⁶⁵ but, as already explained *supra*, due to the limitations of the Directive, there is no reason for further examining the matching national law. For this study, it suffices to state the transposition itself. Along the same lines, it must also be mentioned that the Directive on Family Reunification has been transposed into the national law by the P.D. 167/2008.⁶⁶ It is worth noting that Greece chose to include the optional para. 3(b) of Article 10 of the Directive (“*may authorize...*”). The provision allows the family reunification of UAMs with their guardian or another family member, in case there are no relatives in the direct ascending line, which makes the Greek transposition more liberal than the limitations imposed by most MS on the matter.⁶⁷

It remains to examine whether the new Asylum system of Greece, inaugurated by Law 3907/2011,⁶⁸ has managed to maintain at least some of the UAMs’ rights *de jure*, with only these tools at its disposal. Both P.D. 113/2013 and P.D. 220/2007 include the definition of UAMs, in accordance to the CEAS definition. However, there is a slight differentiation between the two Decrees. P.D. 113/2013 defines the responsible adult according to the Greek legislation or practice,⁶⁹ while P.D. 220/2007 pursuant to law or custom of the country of origin.⁷⁰ This creates additional confusion to the public authorities called to detect UAMs and double-standards in practice, as the applicable definition depends on the local authority’s discretion. It must be noted that the EU definition clearly sets the legal framework of the MS as the appropriate background to define the responsible adult.⁷¹

Article 4 of P.D. 113/2013 sets 14 as the minimum age that a minor can lodge an application on his/her own; below this age, a representative is required. Moreover, Article 11 refers to the appointment of a representative, the possibility of using

⁶⁵ P.D. No. 141/2013 on the transposition into the Greek legislation of Directive 2011/95/EU.

⁶⁶ P.D. No. 167/2008 on complementing P.D. 131/2006 «harmonization of the Greek legislation to Council Directive 2003/86/EC on the right to family reunification».

⁶⁷ For a comparison with the other MS and their transposition of the Directive, see Groenendijk *et al*, at 42-43.

⁶⁸ Law 3907/2011 on the establishment of an Asylum Service and a First Reception Service, transposition into Greek legislation of the provisions of Directive 2008/115/EC “on common standards and procedures in Member States for returning illegally staying third country nationals” and other provisions.

⁶⁹ P.D. No. 113/2013, art. 2 (j).

⁷⁰ P.D. No. 220/2007, art. 1 (f).

⁷¹ Regulation 604/2013, art. 2 (j).

medical tests to determine minority and, last but not least, the best interest of the child is also upheld as a general principle. Finally, Article 18, para. 8 (b) requires more scrutiny, as it allows the detention of an UAM until his/her referral to a more suitable accommodation is possible. This vague exception, as it is not followed by time limitations for example, stretches the strict relevant provisions found in the CEAS.

As for P.D. 220/2007, though the right to information is mentioned in Article 3, it is quite vague, while no specific reference is made to UAMs, as in the EU framework. Nevertheless, the right to information is presumed to apply in line with the higher EU standards, as it is also found in the Dublin III-Regulation. The medical screening for age assessment is noted once again.⁷² The access to education is also guaranteed by Article 9. However, preparatory classes, in parallel to official education, are not a prerequisite, whereas, in case they are provided, the access to education can be postponed for up to one year, instead of the three month period prescribed by the CEAS. Finally, Article 19 incorporates the family tracing obligation and the provision of a suitable accommodation for the minor. It is also important to note that the much discussed Greek system of representation is here clarified. The Public Prosecutor for Minors or, in his absence, the First Instance Public Prosecutor of the region is appointed as a provisional guardian to UAMs and, according to the provision, he shall act to appoint a specific guardian. How this has been interpreted in practice over the last years is examined *infra*, as it has formed a much contested guardianship system. Of course, the identified shortcomings of the Greek legislation reflect the fact that the transposed Directives are not the revised ones. In any case, it is within this legal framework that the UAMs arriving in Greece are called to survive and attain family reunification, if so entitled.

3.3. Conclusion

To sum up, the European provisions have been considerably improved regarding the available safeguards of the rights of UAMs with the revision of the CEAS. Nevertheless, one can identify fields, not necessarily in connection to family reunification, which could be further developed. The family reunification process

⁷² P.D. No. 220/2007, art. 8.

itself has been quite strengthened and requires first the alignment of all MS to these standards and then time for any weak points of the scheme to surface. Outside the scope of the present study, potential gaps might involve more guarantees for UAMs not requesting protection or the drafting of special rules for minors in border control, as the Schengen Borders Code refers to such rules, but fails to provide them. Finally, the ECtHR and its jurisprudence, which constantly highlight the vulnerability of UAMs and call on states to consider it, have proved useful for filling in any gaps in the EU *acquis*.⁷³

Regarding the Greek legal setting, only the revised Qualification Directive has been transposed into national law, while the Dublin III-Regulation is presumed applicable without transposition. The remaining two transpositions of Directives are outdated, with a small controversy on the definition of UAMs, a shrunken access to education and a looser detention possibility. Moreover, the guardianship system is not adequately established, but rather vaguely mentioned.

Having laid down both the European and the Greek legal framework, the comparison has found the Greek standards slightly wanting and outdated. Be that as it may, the implementation of these provisions, along with their shortcomings, could still provide the UAMs with an acceptable environment that would have the possibility, with some adjustments, to catch up with the further developed European standards. Hence, in the following Chapter, we address the question of proper implementation of the explained *de jure* net of protection of UAMs in Greece, by tracing all the steps of the family reunification procedure.

⁷³ European Migration Network, at 44.

CHAPTER 4

Access to family reunification in practice

The remaining question to be addressed is how the analyzed Greek legal framework is translated into everyday practice. To address the *de facto* situation, we will retrace the steps to attain family reunification, as those would be followed by authorities and by minors upon their entry, highlighting any problematic aspects that our research has uncovered. First, for UAMs to benefit from family reunification, they need to be registered as UAMs. Greece, as a first entry country, holds a great responsibility of accurate registration of third-country nationals who enter the EU soil. Who is responsible for this registration and are there any additional impediments to the work of this authority when it comes to UAMs?

Assuming that the registration process is successfully fulfilled, the next step is to safeguard the UAMs' right to information. The EU holistic standards dictate that simply conveying the possibility of family reunification does not meet this requirement when dealing with children. Does Greece properly implement the guardianship system and the family tracing, so that the minor can reach an informed decision? Finally, when and if this decision is made, is there an appropriate setting in place for the waiting period until the family reunification procedure is completed? All these issues are unfolded in this Chapter, focusing on UAMs' registration procedure, their right to information and their staying period at a short-term accommodation, when attempting to ascertain their right to family reunification in Greece.

4.1. Detecting the minor

Registering UAMs correctly is the first step to provide them access to family reunification. In the event that this step is not fulfilled, the chances of the minor being able to assert his/her right to family reunification are significantly limited. The fact that most UAMs do not possess the necessary documentation, which could determine age, makes their registration process complicated. This is a quite problematic aspect for certain nationalities, as the coverage of live birth reporting was 6% in 2003 in

Afghanistan.⁷⁴ As already mentioned, Afghans constitute the majority of the UAMs entering the EU and, hence, the burden of proof of age is an enormous challenge for this group. For this reason, the First Reception Service is entrusted with the task of identifying such vulnerable groups, but faces being understaffed and having to overcome the fear of detention that UAMs have developed. Age assessment is the only available tool to settle any resultant uncertainties, yet it is not being used.

4.1.1. First Reception Service: a diminished capacity

The First Reception Service has, among other duties, the mandate⁷⁵ to register all third-country nationals, who are apprehended entering Greece without proper documentation. Moreover, it is entrusted with the identification of those belonging to vulnerable groups, as the latter are identified in Article 11, para. 2 of Law 3907/2011. UAMs are included in this list. The jurisdiction of the First Reception Service is a national one, rendering the authority competent throughout the entire country.⁷⁶ For the efficiency of the Service, Law 3907/2011 foresees its composition of the Central Service situated in Athens, the First Reception Centres and the temporary or mobile First Reception Units.⁷⁷ Third-country nationals arrested for illegal entrance are to be transferred by the arresting authority (usually the Police or the Coast Guard) to the First Reception Centre or Unit, competent within the territorial jurisdiction of their arrest.⁷⁸ Hence, one of the first steps of UAMs in Greece is this transfer.

However, one must wonder, especially given the present refugee crisis, how many such Centres or Units are available for the arresting authorities to turn to. The answer surpasses the worst imaginable scenario. At the moment, in addition to the First Reception Central Service in Athens, which conducts mostly other tasks, as Athens is not an entry point, there are only two First Reception Centres and two Mobile Units. One Centre is situated in Evros and the other one, which became functional as recently as October 2015, in Lesbos.⁷⁹ As for the Mobile Units, one is operating in Samos, while the other one was initially deployed in Chios, but was soon transferred

⁷⁴ European Council on Refugees and Exiles, at 1.

⁷⁵ Law 3907/2011, art. 7.

⁷⁶ *Ibid*, art. 6.

⁷⁷ *Ibid*, art. 8, para. 1.

⁷⁸ *Ibid*, art. 13, para. 1.

⁷⁹ First Reception Service (2015), "First Reception Centers".

to Lesbos as a response to the massive refugee flows the island has recently been experiencing.⁸⁰ It must also be noted that the three Centres and Units located in islands cover only the specific island of their location and no transfers are being made from other entry points, as this would not be cost-effective. As a result, it is only in Chios and Lesbos that trained personnel can conduct the registration of UAMs and even there the Units and Centres are substantially understaffed.

The burden is picked up by the local police authorities and the Coast Guard that are simply not adequately equipped to identify vulnerable groups, such as UAMs. They are not trained for this purpose and they lack the necessary resources and manpower. Besides, the numbers are overwhelming. From January to November 2015, 797.370 persons were arrested by the Police and the Coast Guard, in comparison to merely 72.632 during the same period of 2014.⁸¹ According to UNCHR, Lesbos and Samos, the only islands with a First Reception presence, received 45% of the newcomers in the first eight months of 2014. The rest of the islands account for 50% of the illegal entries, which do not have access to a First Reception facility. Overall, from January to September 2014, the First Reception Service registered 6.228 persons, merely the 20% of the arrivals of the time.⁸² There is no doubt that the capacity of the First Reception Service is hampered by the lack of resources and the limitations in hiring new personnel, due to the economic crisis and the precarious financial situation of the country. This diminished capacity results to a large number of UAMs not being detected and being falsely registered as adults or accompanied minors. After all, UAMs have a strong intensive for concealing their vulnerability from the authorities, namely the fear of being detained, while the authorities themselves do not use any age assessment method to verify the lack of minority.

4.1.2. Detention: a well-founded fear

Trained or untrained public officers, instead of being overwhelmed by young third-country nationals that declare themselves as minors to get better treatment, as one would expect, the registration authorities are also faced with the opposite

⁸⁰ First Reception Service (2015), "Mobile Units".

⁸¹ Hellenic Police.

⁸² UNHCR (2014), at 9-10.

phenomenon. UAMs, coached by smugglers or driven by their own initiative, tend to falsely assert their adulthood or present a random co-patriot as family. Cases of apparent minority as low as 12 years old have been registered as off as 20 years old, pursuant to the claiming of the child himself/herself and due to the authorities indifference, incompetence, inability to cope with the high workload or lack of experience in identifying said cases of misrepresentation. Another frequent “mis-registration” is family links that are being “magically” formed on the boat, during the crossing of the Aegean, among co-patriots, with the sole purpose of not being registered and so treated as an UAM. Even after being registered as an UAM, leaders of Afghan or Syrian local communities in Greece have been contacted by the UAM’s parents, who are still in the country of origin, pleading for them to go to the authorities as the uncle or the father of the minor, so that the minor is released.⁸³

The reason behind this uniform trend of avoiding the label “UAM” can be found in the looser restrictions on the detention of UAMs that are foreseen by the Greek legislation and the alternative of adults being released with a notice to leave the country. As already mentioned in Chapter 3, the last resort measure of detaining UAMs is allowed until their referral to a more suitable accommodation is possible.⁸⁴ Given the mismatch between the available accommodation for minors and the increase of such requests, the detention period can be substantial. As for the detention conditions, they have been described in many studies as worse than poor, even for adults,⁸⁵ let alone for minors.⁸⁶ According to EKKA, the average waiting period for UAMs to be transferred to a suitable accommodation was 37 days in 2014.⁸⁷ In 2006, it is this practice that led the Deputy Ombudsman for Children’s Rights, Giorgos Moschos, to denounce Greece for treating UAMs like common criminals.⁸⁸ Not much has changed since this statement, as in 2015 a suicide was reported within the

⁸³ Testimonies retrieved with the professional capacity of the author.

⁸⁴ P.D. No. 113/2013, art. 18, para. 8 (b).

⁸⁵ Greece has indeed been condemned by the ECtHR for violating Article 3 of the ECHR, due to the conditions of an asylum applicant’s detention. See ECtHR, *M.S.S. v. Belgium and Greece*.

⁸⁶ *Ex. Fekete*.

⁸⁷ National Centre of Social Solidarity, at 2.

⁸⁸ *Fekete*, at 97.

Amygdaleza Centre,⁸⁹ where UAMs are also held, while national news have often criticized the undignified conditions within the facility.⁹⁰

This unsuitable for a child care system is not only known to newspapers, authorities or NGOs, but it is a piece of information that has been well disseminated among smugglers and asylum seekers themselves. Hence, UAMs will go to extreme lengths to avoid being classified as such, in order to avoid this bad experience that has a detrimental effect on both their physical and psychological health.⁹¹ Most importantly to them, this detention period represents an obstacle to reaching their final destination, and, for all they know, it might result in their deportation. As a result, many UAMs, on their own initiative, mislead the understaffed authorities to register them as adults or accompanied minors, in which case they are released into the care of their supposed guardian. Of course, this deprives them of the special safeguards afforded to UAMs, among others the favourable framework of family reunification that is more restricted for adults.

4.1.3. Age assessment: an unexploited tool

In asylum regulations, age assessment regards the procedure of establishing one's age, in order to apply the appropriate set of rules in examining his/her asylum application.⁹² The possibility of recourse to medical examination for this purpose is foreseen in Article 25 (5) of the revised Asylum Procedures Directive and has been transposed into the Greek legislation with Article 11 of P.D. 113/2013, while the Ministerial Decision of 29 October 2013 further clarified the procedure to be followed in the cases of UAMs. Pursuant to the Ministerial Decision, in the event of doubt, a medical assessment based on macroscopic features is conducted by a paediatrician. This is followed by the examination of the cognitive, behavioural and psychological development of the person, when the medical assessment is inconclusive. The last foreseen option is the determination of bone age by the left wrist and hand x-rays, dental examination and panoramic dental x-ray.⁹³ These options are available in a

⁸⁹ In.gr.

⁹⁰ To Vima.

⁹¹ For an overview of the impact of detention on a child's health, see Fekete.

⁹² European Council on Refugees and Exiles, at 1.

⁹³ Ministerial Decision of Ministry of Health, art. 6.

First Reception Centre and, even there, they are not guaranteed, due to the extreme workload.

In spite of the legal guarantees, in practice, it is usually the arresting authority (Police or Coast Guard) that conducts the age determination, based solely on the minor's declaration or the personal assessment of the officer.⁹⁴ In this case, the criterion of appearance is dominating the assessment, while we have already seen that the minor's declaration is not always reliable. It does not come as a surprise that extensive studies on the field of UAMs in Greece have failed to meet cases, where the authorities used medical criteria to confirm minority.⁹⁵ Thus, while there is a tool available to surpass the aforementioned impediments in the registration of UAMs, age assessment is seldom used. Even when it is used, it is in the spirit of proving adulthood and not minority, despite the fact that the examination can be inconclusive and, in that case, P.D. 113/2013⁹⁶ and the EU standards⁹⁷ foresee that the alleged minor must be treated as such, if the examination does not prove his/her adulthood with certainty. Overall, the absence of a uniform age assessment procedure of possible UAMs undermines the best interest of the child and fails to guarantee the detection of this vulnerable group.

4.2. Right to information

The registration of UAMs is the first and most basic step towards family reunification, yet even this crucial first step faces challenges. Assuming that the registration is successfully completed, the next step is information. This entails both informing the minor about the available option of family reunification and providing the necessary information to the authorities for the successful completion of the procedure. Hence, the right to information of UAMs upon their arrival and the family tracing obligation of the MS are the components of the second step towards family reunification.

We have already established the legal basis for the right of UAMs to be informed about family reunification, as well as its more narrow transposition into Greek law,

⁹⁴ Greek Council for Refugees (2015), "Durable Solutions for Separated Children in Europe: National Report Greece", at 14-15.

⁹⁵ *Ex. Dimitropoulou & Papageorgiou*, at 6.

⁹⁶ P.D. 113/2013, art. 11, para. 4.

⁹⁷ Directive 2013/32/EU, art. 25, para. 5.

though the Dublin-III Regulation is also directly applicable. Although Article 3 of P.D. 220/2007 refers to an information material published by the Greek Police Headquarters, no such material is made available to newcomers at entry points. The only available leaflet,⁹⁸ created by the Greek authorities for this purpose, is now slightly outdated and contains only a minor reference to family reunification, while nothing points to it actually being distributed upon arrest of a third-country national. Despite the reference to a specific flyer for UAMs, found in Article 4, para. 3 of the Dublin-III Regulation, no child-friendly flyer has been drafted for Greece. In practice, it is mostly the Office of the United Nations High Commissioner for Refugees (UNHCR) that informs newly arriving applicants at entry points.⁹⁹

Regardless of more accurate information being available within the Asylum Service, it is essential to present to the minor his/her options upon entrance in the country, as most UAMs, who want to be reunited with a family member in another EU country, will most likely never make it to the Asylum Service, as they will head directly for the borders. Simply mentioning the Dublin Regulation and the possibility of an application transfer to another MS is not enough for a minor to grasp that an asylum application could have him/her safely transferred to his/her family. The wording is important to ensure the understanding of the minor, while it must also be taken into account that some of the minors are illiterate and, hence, an information flyer might not be the most suitable solution. Therefore, the role of the minor's representative is deemed crucial for the minor to reach an informed decision on how to continue his/her migration journey.

4.2.1. Guardians: a patchwork system

While EU Members do not present a uniform approach on the matter,¹⁰⁰ studies have shown that the guardianship system poses a challenge for most MS.¹⁰¹ Effective guardianship addresses all aspects of the well-being of the minor and stems from the promotion of his/her best interest. In addition to the common for a child's guardian tasks of ensuring access to appropriate accommodation, education and healthcare,

⁹⁸ Ministry Of Citizen Protection.

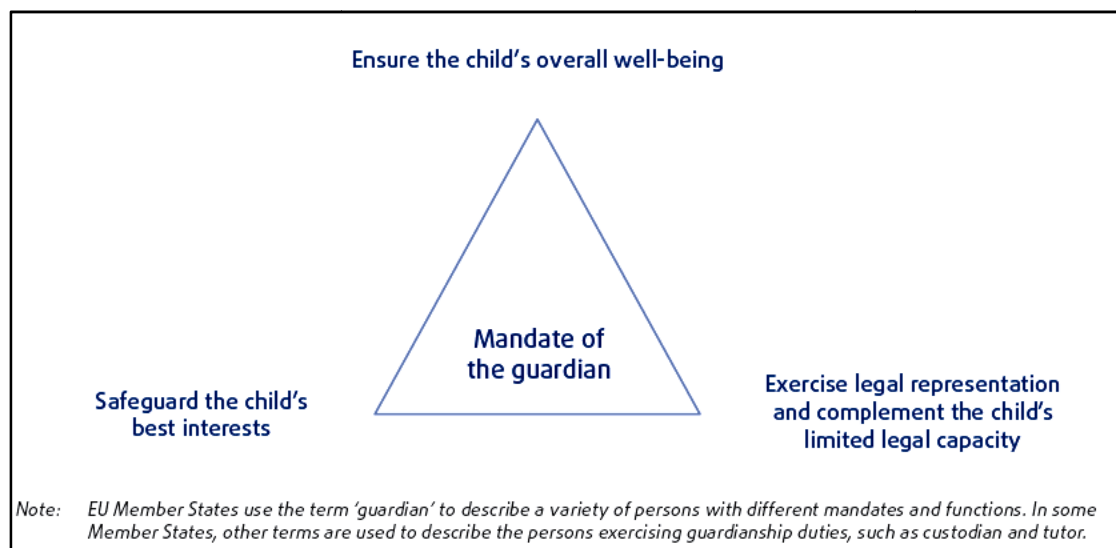
⁹⁹ Greek Council for Refugees (2015), "Country Report Greece", at 83.

¹⁰⁰ European Union Agency for Fundamental Rights, at 21-23.

¹⁰¹ Moore, at 4.

guardians of UAMs are also entrusted with the provision of guidance to the child for reaching a durable solution to his/her temporary situation. It is the guardian that will present the available options to the child, clarify the effects of each and, ultimately, prepare the child for his/her chosen option, i.e. repatriation, family reunification or integration into the local society.¹⁰² Though there is no commonly agreed list of tasks of a guardian at a European level, the diagram below provides three of the main roles that a guardian is called to fill in.

4.1 Diagram Guardian's tasks



Source: European Union Agency for Fundamental Rights, at 22.

Once again, though this guarantee is legally foreseen by Article 19 of P.D. 220/2007, the guardianship system of Greece, in practice, fails to meet the aforementioned guidelines. A positive step was taken with P.D. 220/2007, as the guardianship was extended *prior* to the filing of an asylum application by UAMs, a fact that permits the guardian to play an active role in the planning of a durable solution with the child.¹⁰³ Nevertheless, UNHCR has criticised the available guarantees and has called for proposals to strengthen the Greek guardianship system, including the development of a monitoring mechanism.¹⁰⁴ After all, regular assessments for the availability of the

¹⁰² European Union Agency for Fundamental Rights, at 56.

¹⁰³ Dimitropoulou & Papageorgiou, at 7.

¹⁰⁴ UNHCR (2013), at 7.

necessary means to represent the minor are foreseen by Article 24(1) of the revised Reception Conditions Directive, which Greece has so far failed to transpose.

In practice, the Public Prosecutor for Minors or the First Instance Public Prosecutor (depending on availability), are very little to not at all involved in the decision-making process the minor is going through or in any everyday activity pertinent to the minor's well-being. From the above pyramid diagram, it is only the legal representation that they fulfil, usually by transferring the power-of-attorney to the lawyer of the UAM.¹⁰⁵ The law permits this narrow interpretation of their role as it appoints them as "provisional guardians", while the only specific task¹⁰⁶ of the Prosecutor, which is included in the legislation, is the appointment of a guardian of the minor, implying a more permanent one than the Prosecutor. Moreover, the ineffective involvement of the Prosecutors can also be attributed to the overwhelming workload of their position, due to the disproportionate number of Prosecutors and UAMs. It is clear that the vagueness of the law has established an inadequate guardianship system.¹⁰⁷

The state has so far remained blind to the detrimental effect that the absence of a guardian has on the UAMs' life. No efforts have been initiated by the state to cover this *de jure* and *de facto vacuum*. As a result, it is usually a network of compatriots, the social worker of the accommodation centre, where the child is appointed, or an NGO that functions as a *de facto* guardian of most UAMs. This informal guardianship system, though better than nothing, fails to provide cohesion and an overall oversight of the care received by the child.¹⁰⁸ The main impediments are the multiplicity of the actors involved, the limited resources and the limitations posed by the lack of legal ratification of the role of the *de facto* guardian. A recent project launched by the NGO METAdrasi has proved promising in providing an effective alternative to the failed guardianship system of the state,¹⁰⁹ though this cannot exempt the state from its own obligations.

¹⁰⁵ Moore, at 51.

¹⁰⁶ Another reference to the tasks of the guardians can be found in Article 25(1) of Law 3907/2011 and concerns their consultation when a return decision is to be issued against the minor.

¹⁰⁷ Dimitropoulou & Papageorgiou, at 7.

¹⁰⁸ Moore, at 60.

¹⁰⁹ Guardianship Network for UAMs.

The lack of a parental-like figure undermines the ability of UAMs to process the information that they receive from the competent authorities. Their ability to choose the option that would best serve their interests is diminished, creating problems in all aspects of their development. The absence of guidance accounts for the common phenomenon of absconding from their short-term accommodation, as it is exhibited in Section 4.3. Adolescence and patience are not usually a matching pair, while UAMs are easily manipulated by smugglers. Without proper guidance, most UAMs end up believing that they have better chances reaching their families on their own than through the Dublin procedure. They underestimate the dangers of such a trip, whereas the several months, which the official procedure requires, seem a life time to them. An effective guardianship system could have a major impact on the minors' life, simply by demonstrating to them the benefits of the family reunification option. At the very least, an active guardian would guarantee the processing of all information and the assessment of all available options.

4.2.2. Family tracing: another unexploited tool

As demonstrated in Section 3.1, the tracing obligations of MS are included in the CEAS documents. Greece foresees this obligation in Article 19, para. 2(c) of P.D. 220/2007 and in Article 32 (5) of P.D. 141/2013.¹¹⁰ In the first case, the family tracing duty is triggered upon the launch of an asylum application by the minor, while, in the other one, upon the granting of international protection status to the minor. The competent authorities are the Asylum Service and the Department of Refugee and Asylum Seekers' Protection respectively. Nevertheless, no specific family tracing mechanism has been established to implement this legal guarantee. Indeed, the Asylum Service inquires about the whereabouts of relatives, during the asylum application process, but a simple interview of the UAM falls short of family tracing *per se*.¹¹¹ As for the Department of Refugee and Asylum Seekers' Protection, if an UAM gets there, then his/her right to family reunification pursuant to the Dublin Regulation has become moot, since his/her application would have already been examined by Greece.

¹¹⁰ Family tracing is also foreseen for cases of return, but this is not pertinent to our study.

¹¹¹ Greek Council for Refugees (2015), "Durable Solutions for Separated Children in Europe: National Report Greece", at 20-21.

On the contrary, it is again NGOs that have undertaken this state obligation. The International Committee of the Red Cross, along with all the National Red Cross societies in Europe (including the Greek Red Cross), have formed a comprehensive on-line tool for the restoration of family links of migrants and refugees.¹¹² Even in cases of return to the country of origin, something that falls outside the scope of the present essay, it is the International Organization for Migration that conducts family tracing. Hence, Greece has failed to mobilize state means to thoroughly conduct family tracing. The failure to establish a specific unit for actively pursuing this state's obligation violates the best interest of the child principle and hinders the family reunification procedure.

4.3. Missing or absconding care

Assuming that UAMs are registered as such, receive proper information on family reunification and chose to move forward with this procedure (with or without the advice of a guardian), while the authorities manage to track their relatives, then, they have to spend several months in a temporary accommodation facility in Greece, before being able to be reunited with their family. EKKA refers UAMs to one of the 16 facilities in the country, with an average waiting period of 37 days, as seen in Section 4.1.2, a period that might be spent in detention or homelessness.¹¹³ Pursuant to the findings of family tracing or, in their absence, pursuant to the information provided to the authorities by the UAMs themselves, a request to take charge is being filed by Greece to the MS of residence of the relatives of the UAMs.

Notwithstanding cases that present complications, an average time of response to the take charge request is one month.¹¹⁴ However, a positive reply is not enough. An escort is required for UAMs under 14 to be allowed on the flight. If the Prosecutor is unable to allocate an escort, usually from NGOs, then the minor must await the availability of a police officer. Again the availability of an efficient guardian could

¹¹² Trace the Face – Migrants in Europe.

¹¹³ Moore's study found that 22% of UAMs have been homeless at some point during their stay in Greece, see Moore, at 62.

¹¹⁴ Greek Council for Refugees (2015), "Durable Solutions for Separated Children in Europe: National Report Greece", at 24.

help diminish this waiting period, as he/she could escort the child. Moreover, though the financial burden of the tickets is the responsibility of the transferring state,¹¹⁵ Greece has been struggling with this and the Dublin Unit of the Asylum Service has often turned to NGOs for help, further delaying the completion of the family reunification. The total period of the procedure can take up to 7-8 months.¹¹⁶ It is the experience of EKKA, NGOs and other relevant stakeholders that many UAMs despair during this long waiting period and attempt to reach their family irregularly, either before their referral to accommodation, i.e. during the waiting period of their request to EKKA, or after their transfer to the accommodation facility.¹¹⁷

Indeed, UAMs have been recognised as a special category of missing children in the EU,¹¹⁸ with the wish to transit to another MS being one of the top reasons for absconding care.¹¹⁹ According to EKKA, 42% of UAMs abscond from the accommodation facility within 10 days of their arrival,¹²⁰ while the average stay is only 51 days,¹²¹ much shorter than the lengthy stay required to attain family reunification. In addition to the great length of the procedure that jeopardises its completion, as it increases the risk of runaways, the environment in the short-term accommodation is also of great importance for assuring the stay of the child. Moore's study found that 25% of the fleeing UAMs did it, due to some complaint with regard to the conditions in the centre. To this regard, an effective guardian could function as a buffer zone and mediate between the child and the staff of the centre, for example in the case of bullying from other kids or any other complaint that might lead him/her to fleeing.¹²² Moreover, as UAMs usually do not notify of their intention to continue their journey irregularly, the presence of a guardian that would have formed a bond with the minor could result in a continuing contact. This can be a useful mechanism to eliminate the possibility of foul play (ex. kidnapping, trafficking etc), which is a

¹¹⁵ Regulation 604/2013, art. 30.

¹¹⁶ Greek Council for Refugees (2015), "Durable Solutions for Separated Children in Europe: National Report Greece", at 24.

¹¹⁷ On multiple occasions, the Smile of the Child has mobilized the European Hot Line for Missing Children (116 000) and its network of organizations to locate the increasing number of missing children on the move. For an example, see Smile of the Child.

¹¹⁸ Cancedda *et al.*

¹¹⁹ European Migration Network, at 29.

¹²⁰ National Centre of Social Solidarity, at 19.

¹²¹ *Ibid*, at 2.

¹²² Moore, at 61-62.

concern at the moment, as the authorities make a distinction between “voluntary leavers” and “worrying disappearances”.¹²³

Setting aside the adequate guardianship and better accommodation conditions that are also prerequisites to prevent a minor from absconding, it is also of paramount importance for the safety of the minor to reduce the length of the family reunification procedures, as the minors often get frustrated from the long wait and abscond care putting themselves in great risks. The focus of the authorities should be to provide clarity and a specific and fast prospect to the child.¹²⁴ The Court of Justice of the European Union (CJEU) has held the same view and has set the legal ground for a fast-track examination of the children’s requests.¹²⁵ The Court held that the ruling principle, the best interest of the child, dictates that determination of procedures must be given at the shortest possible time.¹²⁶ Moreover, Article 31, para. 7(b) of the revised Asylum Procedures Directive also gives priority to cases of UAMs in the examination process, recognizing in this way the importance for a child to have access to a timely settlement of an unstable situation. Both the spirit of the judgment of the CJEU and the revised Asylum Procedures Directive could and should be extended to apply to the family reunification process, as they serve the best interest of the child. Impediments, such as financial constraints of the state to cover the tickets and availability of escort, should be dealt in advance and not on an ad hoc basis.

The last challenge that UAMs are called to overcome requires patience. To enforce family reunification, the state must equip UAMs with the necessary tools to overcome this last obstacle before being reunited with their family. The realities formed in the field show that it is not only in the best interest of the child, but it is of paramount importance for his/her safety to prevent him/her from disappearing. Reducing the length of the family reunification procedures, providing an attractive accommodation environment and pursuing a close relation between the guardian and the minor are steps in that direction. UAMs who abscond care put themselves in great risks. Often

¹²³ European Migration Network, at 29.

¹²⁴ European Migration Network, at 30.

¹²⁵ CJEU, *MA, BT and DA v. Secretary of State for the Home Department (United Kingdom)*.

¹²⁶ Following this judgment, the European Commission proposed the amendment of the Dublin-III Regulation to specify that the MS where the minor is present should also be the responsible state for his/her application, in order to avoid delays caused by transfer (with the exception of family reunification). See European Migration Network, at 43.

they are apprehended anew in Greece and go through the entire process again, which leads to their re-traumatisation, and other much worse scenarios, such as becoming a victim of trafficking, are also possible. The state has an obligation to protect them from such threats.

4.4. Conclusion

Compared to the legal gap between the EU and the national standards, the *de facto* gap is considerably larger, as many national legal guarantees are nothing more than a superficial compliance with the EU guidelines and fail to produce the desirable results. Furthermore, our findings reveal that the state outsources much of its own obligations, such as family tracing and guardianship, to NGOs. However, this outsourcing is not accompanied by adequate state support of these initiatives or monitoring. Finally, the dysfunctional guardianship system permeates multiple aspects of the child's well-being, as it impairs the process of information by the minor, delays the transfer to the take charge MS, due to lack of escort, and increases the chances of the minor absconding the accommodation facility.

Being misidentified, as an adult or an accompanied minor rather than an UAM, has a significantly negative impact on the level of rights and the protection one is entitled to by the receiving state, such as receiving legal representation. In addition to the internal deficiencies of the First Reception Service, UAMs are also driven to conceal their vulnerable situation, due to constraining protective measures and their desire to move onto a third country. The detention of UAMs in violation of Article 11 of the revised Reception Conditions Directive and their subsequent reluctance to come forward as UAMs are the underlying reasons why trained personnel is required to identify this vulnerable group. The recognition of age minority is further hindered by the reluctance of the authorities to use age assessment methods for that purpose.

Moreover, no concrete efforts are depicted to guarantee the right to information, which is further weakened by the absence of an active guardian. To make things worse, there is no state mechanism for family tracing on behalf of UAMs. As a result, many UAMs continue their journey on their own device without giving as much as a second thought to the option of family reunification. Last but not least, there is a

compelling need to contain the increasing missing UAMs who run away from shelters. Policies are required to encourage them to stay rather than joining the “invisible” group of undetected minors living in the streets. Poor accommodation conditions, a non-existent guardianship system and an extremely lengthy family reunification procedure, all constitute serious impediments to ensuring their stay.

To overlook one of the aforementioned factors is to deny the right to family reunification. Being classified as an UAM, being informed of your options and being provided with incentives to stay in shelters are all prerequisites to enjoying the right to family reunification in practice.

CHAPTER 5

Concluding remarks

The refugee crisis does not show signs of recession, while the dangerous sea route from Turkey to Greece keeps claiming lives. At the dawn of the 22nd January 2016, as these lines are being written, two more shipwrecks near Farmakonisi took away 17 children and more are still missing.¹²⁷ The “lucky” ones who have survived the sea trip are now facing one of the coldest winter of the last decade. As temperatures plummet to -20°C, crossing on foot the borders of Greece to FYROM and further north to Serbia is like walking through a minefield, especially for children. Organisations, such as Save the Children and UNICEF, are alarming the authorities for incidents of hypothermia, pneumonia etc. Winterization plans have been promptly implemented by UNHCR to prepare the refugee centres for the extreme climate conditions.¹²⁸ However, the procedure of family reunification presents a viable and a lot safer alternative. It is now more than ever a pressing duty of MS to secure access to family reunification for UAMs entitled to it, in order to reduce the number of those faced with these harsh conditions. More research is also required on the implementation of the newly established relocation scheme, which constitutes another plausible alternative to minors travelling on their own, while the rights of UAMs who do not request international protection is another subject that should be further analyzed.

Based on the findings of the present essay, some recommendations on how the Greek state can enhance the access to family reunification follow:

- Promptly bring into force the necessary laws to comply with the Reception Conditions and the Asylum Procedures Directives and communicate these measures to the European Commission, so as to stop the infringement proceedings against Greece;
- Strengthen the First Reception Service: enhance its presence at all entry points of the country and increase its human resources capacity, even by asking an

¹²⁷ Papastathopoulou.

¹²⁸ Giannikos.

exception to the austerity rules of the Memorandum on hiring public servants, due to *force majeure*, or by cooperating more closely with relevant EU agencies that can help;

- Take appropriate measures to minimize the detention period of minors prior to their appointment to accommodation, so as to reduce false adulthood claims. For example, increase the capacity of such accommodation facilities and reinforce the capacity of EKKA to make the referral period shorter;
- Provide incentives to the registration authorities to recourse to age assessment methods when in doubt about the claimed age of a young third-country national. In general, both the personnel of the First Reception Service and the police officers, who on multiple occasions conduct the registration, require specialised training to recognise vulnerable groups;
- Request the assistance of the EU in drafting a child-friendly flyer about family reunification, as foreseen by Article 4 of the Dublin III-Regulation;
- The established guardianship system is failing to provide UAMs with a reliable adult advocate. Greece must face this shortcoming and redraft the system. This can be done in cooperation with NGOs that have been filling in the gap so far. Sharing responsibility with NGOs might be the appropriate mix for Greece, just like the successful systems in Belgium and Germany;¹²⁹
- Create a special department within the Asylum Service that will be in charge of family tracing and will cooperate closely with the Red Cross and its relevant initiative;
- According to Article 19, para. 2(a) of P.D. 220/2007, the suitable accommodation, where the minors are referred to, must protect them from the risk of trafficking. To provide a truly safe home, it is required to reduce the absconding rate, usually instigated by traffickers. Best practices of other MS on policies of preventing disappearances exist and should be studied and transposed into the needs of UAMs in Greece. Some successful examples are the Minor-Ndako reception centre in Belgium, the fast-track procedure of assessing children's claims in Norway, EU techniques for early identification of victims of trafficking and so

¹²⁹ Papamichail, at 13.

on.¹³⁰ Greece should make the best of the experiences of other MS, as it is a country with a high absconding rate.

The juxtaposition between the European and the Greek legal framework on the rights of UAMs and most importantly Greece's normatively passable, but functionally inadequate, selective transposition of rights have manufactured a *de facto* inadequate surrounding system for the family reunification process. Being accurately registered, properly informed and provided with an appropriate temporary accommodation are all prerequisites for ensuring effective access to family reunification. After all, we enjoy only the rights we can assert. For the well-being of the child, Greece has an obligation to reconcile the relevant law with the EU framework and then practice with the revised law. Every child who ends up crossing the borders alone, risking his life and well-being, instead of following the legal safe alternative, shows our failure...

¹³⁰ European Migration Network, at 30-32.

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