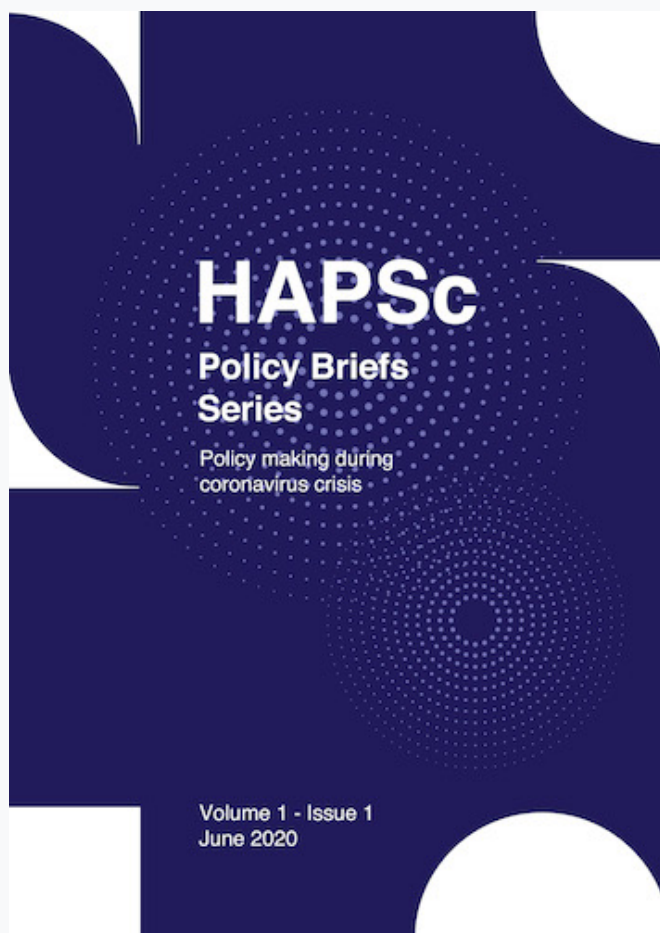


## HAPSc Policy Briefs Series

Vol 1, No 1 (2020)

HAPSc Policy Briefs Series



### “Fallen Angels” under European Union’s migration gesture

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doi: [10.12681/hapscpbs.24969](https://doi.org/10.12681/hapscpbs.24969)

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#### To cite this article:

Plessia, V. (2020). “Fallen Angels” under European Union’s migration gesture. *HAPSc Policy Briefs Series*, 1(1), 219-225. <https://doi.org/10.12681/hapscpbs.24969>

## “Fallen Angels” under European Union’s migration gesture<sup>1</sup>

Vasiliki Plessia<sup>2</sup>

### Abstract

According to the European Commission, from January 2020 till now, there have been new 8636 asylum requests to Greece. In the meanwhile, the living conditions of refugees and migrants in the overcrowded camps and hotspots, have attracted the attention of the press once again, amid the COVID-19 pandemic.

After her visit at the Greek, and thus European, borders, the President of the European Commission, Ursula von der Leyen was alarmed by the current situation of thousands unaccompanied minors and asked Commissioner Ylva Johansson to ensure their protection. (European Commission, 2020).

This policy brief outlines the parameters of all International and European judiciary background, which protects children under refugee or migrant status. Moreover, referring to recent quantitative data, it analyses the current state of affairs, as well as the problems children face as residents in current camps and hotspots in Greece. Thus, taking all these into account it suggests briefly the following possible measures:

- The creation of a minors’ allocation platform for all EU countries.
- Public awareness-raising, through media campaigning at a European level.
- The adoption of the Proposal for a new Asylum Procedures Regulation 2013/32/EU.
- The facilitation of mutual trust and cooperation between national authorities, in order to proceed quickly with the relocation of unaccompanied minors and the raising of funds for that purpose.
- The increase of juvenile prosecutors per child.
- The application of safety measures in camps and hotspots, in order to tackle the COVID-19 pandemic.
- The establishment of external consultancy methods for NGOs in order to monitor the use of EU funds in accordance with childrens’ needs.

### Introduction

There is no denying the fact that since the height of migration crisis, in 2015, the European Union has made courageous efforts, by means of expanding its jurisdiction, enforcing law, financially supporting states, creating networks and institutions in order to manage the migratory flows. Today, we are reaching the tipping point of migration gesture, as the long delayed new Pact on Migration and Asylum is expected to be announced.

However, so far, *the* retardation of asylum procedures, even for children, is due to bureaucratic and governmental political disagreements within the EU. As a result, unaccompanied migrant minors are residing under bad living conditions for long. *Within the support of the European Commission,*

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<sup>1</sup> To cite this paper in APA style: Plessia, V. (2020). “Fallen Angels” under European Union’s migration gesture. *HAPSc Policy Briefs Series*, 1(1): 219 – 225. DOI: 10.12681/hapscpbs.24969

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*Greece has recently launched an unaccompanied minor's relocation program in a volunteer basis. Yet, the situation of “Fallen Angels” inside the hotspot fences demands a rapid response and comprehensive solution, as it reflects a rather defamatory image for a prosperous continent, which has always respected, and fought for, human rights.*

## **Legislative Framework**

Although, the International and European legal framework is rich and creates a satisfactory protection regime for children, it is not fully implemented.

The United Nations Convention on the Rights of the Child, the EU Charter of Fundamental Rights, the relevant guidelines such as 2003/86/EU, 2004/83/EU, 2005/85/EU, 2011/95/EU and its amendment (Action Plan on Unaccompanied Minors), are the legal instruments for the protection of minors. More precisely, refugee status, quicker access to education, as well as the obligation of states to protect children from economic exploitation, the provision of rehabilitation services, and the prohibition of child detention are ensured. Furthermore, it should be mentioned that according to United Nations Sustainable Development Goals and more precisely to the fourth goal, which optimizes the quality in education, targets 4.1 and 4.A “ensure that all girls and boys complete free, equitable and quality primary and secondary education” and “provide safe, non-violent, inclusive and effective learning environments for all”. (SDGs 4.1, 4.A). (United Nations- SDGs Knowledge Platform).

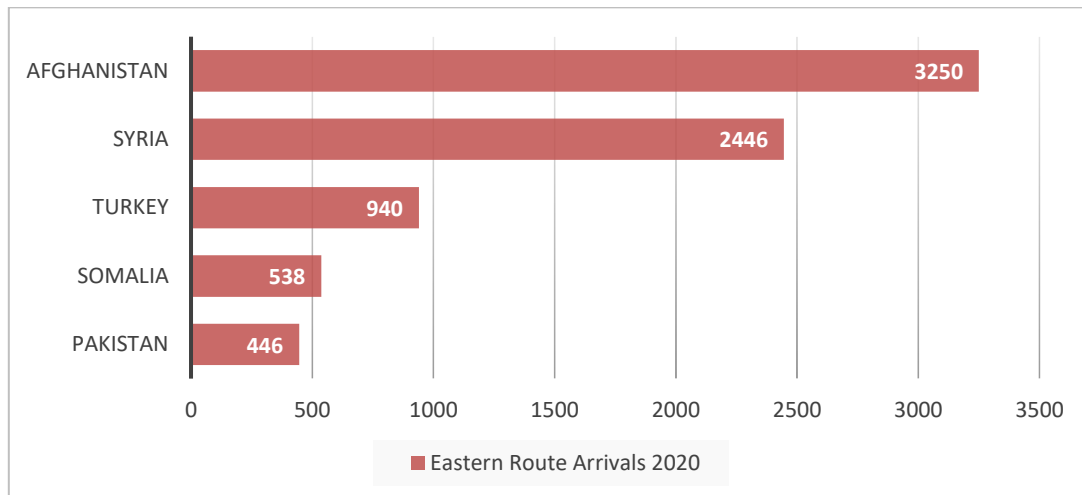
As far the asylum procedure is concerned, according the Dublin III Regulation, applications should be examined by the first European state the refugee enters (avoidance of “asylum shopping”). Article 8 of the Regulation states the right to family reunification. The state in which a family member of the unaccompanied minor’s family resides, is deemed legally responsible. In the case of children who have lost their families, the Public Prosecutor is responsible for defending their interests.

The Proposal for a new Asylum Procedures Regulation 2013/32/EU, as part of the package reform of the Common European Asylum System, emphasizes unaccompanied minors’ needs, and addresses the need for the proper time management of asylum applications. Furthermore, “the protection of citizens and freedoms”, is the first goal of the EU’s Strategic Agenda 2019-2024. This goal calls for a comprehensive migration policy and consensus between member states on burden sharing. (europa.eu).

In the meanwhile, the management of migrant people and children is a more complicated issue, as they follow the registration procedures, but it takes time to examine whether their repatriation is possible. Currently, most of asylum seekers originate from Afghanistan, Syria, Turkey, Somalia and

Pakistan. As a result, apart from Syrian citizens, it is more complicated for the others to obtain a refugee status. It is obvious that this procedure, is more bureaucratic for children, leaving them staying in hotspots for more than a year.

**Figure 1: Eastern Route Arrivals 2020**



Source: European Council, Council of the European Union, 2020.

### **The current situation**

According to the European Commission, over the last five years 1/3 (30.3%) of asylum applicants were minors aged under 18. As of June 2019 in Greece they were present 32.000 children. More than 5500 unaccompanied children were living in overcrowded refugee camps and hotspots. For example, the Moria refugee camp in Lesbos can accommodate only 160 children and not 520, which are actually residing. (DW, 2019). According to UNICEF in Greece 58% of minors are boys and 42% are girls. It is important to realize, that most of the children cannot proceed with asylum procedures as they do not hold a refugee status. However, for successful applicants, Germany (39%) remains the first destination of asylum seekers, followed by France (12%), Spain (11%) and Greece (10%). (Unicef, 2019).

As mentioned, children face poor living conditions in the reception centers which have a small number of suitable accommodation places. Sometimes, minors are kept in hospitals or in prisons due to the lack of facilities. Human Rights Watch (HRW) has called Greek authorities to release 276 from detention and to transfer them in a safe place in order to be protected from COVID-19 pandemic. (HRW, 2020). Also, integration in the Greek educational system poses difficulties due to the language barrier and a denial to participate. To further complicate matters, the identification of children is a lengthy procedure. As a matter of fact, in most cases, due to the workload of juvenile prosecutors, other experts (sociologists, social workers and lawyers) are authorized to carry out the necessary

procedures on their behalf to represent the unaccompanied minor refugee. Some NGOs, such as “Metadrasis”, are active and receive considerable EU funding in order to assist children (guardianship, interpretation, access to education etc.).

However, there are many cases where minors are exploited. More specifically, teenagers, either to assist their families, who are still in their country, financially, or to find money to pay the illegal traffickers in order to achieve what they cannot legally do - leave Greece to go to another EU country - are subject to labor or sexual exploitation, so that they can ensure a small amount of money. It is also worth pointing out the issue of thousands of disappearances of accompanied and unaccompanied minors in the country. In 2018, 1.110 unaccompanied minors went missing and only 421 were found (less than 50%). (Hellenic Police, 2019). Many of those who are never found become victims of trafficking. Also, tensions occasionally rise within the hotspots, mainly because of the improper conditions of living and the different cultural backgrounds (for instance, the death of an Afghan teen). (DW, 2019).

On the one hand, generally speaking, Greek citizens do not consider migrants as a threat; however 88.2% believe that EU should be more helpful in order to tackle the issue. (Dianeosis, 2019). On the other hand, migrants gesture has created a European solidarity crisis, with the Visegrád group member states (the Czech Republic, Hungary, Poland, and Slovakia) refusing to participate actively in a burden sharing mechanism.

*In March 2020, the Commission presented its Action Plan for immediate measures to support Greece. In parallel, with regard to unaccompanied minors, Luxembourg became the first country who has participated in Greece relocation program and accepted in a volunteer basis on April 2020, 12 children, aged between 11 and 15, from Greek camps. Following that, a second group of 50 children flew to Germany and 20, 50 more children flew to Switzerland and to UK accordingly, in accordance with the COVID-19 prevention rules. In July, 49 children relocated from Greece to Portugal and Finland. (European Commission, 2020).*

Also, Greece signed with Netherlands an agreement of three-year cooperation in the field of Asylum and Immigration, which includes the construction of safe accommodation structures in Greece, for the special reception of unaccompanied minors. However, the Netherlands are not participating in the volunteer relocation program, as it is considered a temporary solution. (Government of the Netherlands, 2020).

## Recommendations

It seems that the issue of unaccompanied minors has not been a priority and agenda for most European countries. As a result, more political pressure is needed in order for governments to effectively respond to the situation and contribute to the acceptance of minors, not exclusively on a voluntary basis. EU countries are urged to create a specific quota platform of allocation for unaccompanied minors, according to the GDP of each EU country. In conjunction with the above, the relocation of children should be according their interests, provided they are appropriately informed for the relocation process and are culturally aware. Countries should also give priority to vulnerable children, such as those who face any form of trauma, harassment and/or sickness. Public sensitization through media campaigning is essential, as it may encourage states to assume their responsibilities. Migrants, refugees, NGO representatives on a volunteer basis are encouraged to speak up in order to achieve that goal.

Also, actors are called to fully implement the international and community's acquis and more precisely to set the agenda in Parliament in the next few weeks in order to adopt immediately the Proposal for a new Asylum Procedures Regulation 2013/32/EU. The identification, and tracing of, family members, and consequently, family reunification, may be achieved through better coordination, trust and cooperation on data collection among national authorities. For instance, the minor's age assessment provided by the Greek authorities should be considered valid from partner countries and it can easily be tested in the arrival countries via DNA samples. Also, asylum processes would take less time if the eligibility criteria for children identification were not that strict (e.g. limiting strictness to specific nationalities and date of arrival).

As for the guardianship system, Greece is called to appoint juvenile prosecutors, who will be assisted by their European colleagues. Thus, establishing a smaller number of children per guardian may avoid trafficking and exploitation of children, as juvenile prosecutors will have a tighter relationship with children. Moreover, the promotion of other European countries' good practices is essential. For instance, Belgium's national action plan 2015-2019 against trafficking in human beings, adopted measures in order to improve detection of minor trafficking victims. Also, the recruitment of female police officers in Ghent, has generated better communication between women and girls under prostitution and trafficking. (European Commission).

The enforcement of safety measures, as a means of ensuring proper hygiene and social distancing is important in order to prevent the spread of the SARS-CoV-2 virus. Smaller camps or separate areas for unaccompanied children may enhance closer monitoring, thus preventing the need to restrict the

movement of illegal minors. Furthermore, childrens' daily needs and training can be complemented through augmenting volunteering positions in refugee camps and hotspots. More precisely, volunteers from different cultural backgrounds, through European Solidarity Corps and European Volunteer Service programs will strengthen the work of NGOs, and at the same time they will function as channels for raising awareness for the immigration crisis back to their home countries.

Finally, external consultancy, organized by experts from the European Migration Network, is recommended for NGOs in order to monitor the use of EU funds and ensure that they respond to children needs. Additional EU funding for unaccompanied minors in Greece may be provided by Asylum, Migration and Integration Fund (AMIF). The financial support to states of relocation and Greece should also be increased (EUR 6,000 to the Member State to which the child was relocated and EUR 500 to the Member State of departure), in order to ensure minors' protection needs and social adjustment.

Considering these circumstances, managing and supporting unaccompanied minors is not only a legal-based responsibility of each-member state, but a clear demonstration of European solidarity.

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