

National Migration Policies and the Treatment of Children on the Move in Southeast Europe

This summary will inform the reader of migration trends, national policies, and the treatment of children on the move in Greece, Serbia, Italy, Hungary, and Bosnia.

Greece

Greece experiences many arrivals from Turkey by sea and land - many of these migrants originate from Syria and Iraq. In 2016, 38.6% (19720) of asylum applicants were under 18 (Samek Lodovici, M. et al., 2017).

Greek laws regulating irregular child migrants and detention:

Law 3386/2005

- Non-citizens may be detained if they: (1) display a risk of absconding; (2) avoid or hamper the preparation of the return or removal process; or (3) present a threat to public order or national security.
- Amendment in Law 4075/2012 added that non-citizens may be detained if they constitute a danger to public health because of an infectious disease, belong to a group vulnerable to infectious diseases, or live in conditions that do not meet minimum standards of hygiene.

Law 3907/2011

- Unaccompanied minors and families with minors are only to be detained as a measure of last resort—when no other adequate and less coercive measure can be used for the same purpose—and for the shortest period of time possible.
- UASC are to be accommodated in institutions that have specialist personnel and facilities whilst families must be provided with separate accommodation guaranteeing adequate privacy.
- Detained minors must have the opportunity to engage in leisure activities, including games and recreational activities appropriate for their age, and have access to education if they are confined for long periods of time.

Law 4375/2016

- Detention of UASC is exclusively limited to the necessary time to safely refer the minor to appropriate accommodation facilities and cannot exceed a period of twenty-five days, extendable for twenty days.
- UASC in asylum detention must be detained separately from adult detainees.
- Non-citizens must not be detained purely because they submitted an application for international protection, entered the country or stayed without documentation.

EU-Turkey Deal 2016

- This stems the flow of refugees from Turkey into the EU through Greece. Under those terms, all subsequent migrant or asylum-seeker arrivals on Greek islands would be liable to return to Turkey. For each returnee to Turkey, the EU would resettle one Syrian in Turkey.

Practice and Ground Conditions

Reception centres on five Aegean Islands were converted into closed facilities, and migrants and asylum seekers are no longer transferred to the Greek mainland. People wait for months for the feasibility of their return to Turkey to be determined. Reports describe appalling conditions in the centres, including overcrowding, insufficient food supply and medical care, and a lack of protection from violence (Global Detention Project, 2018a).

UASC are detained in unsuitable and inadequate conditions including pre-removal detention centres, police stations, and Reception and Identification Centres (RICs). Unaccompanied minors were locked in police station cells 24/7 without access to the outdoors for over two weeks and without any recreational or educational activity. Detained children lacked access to interpreters, legal assistance, and information presented in a child-friendly manner. Unaccompanied children are systematically detained because of a constant lack of space in reception centres and open shelters. Asylum-seeking children are frequently detained for more than 45 days (Special Rapporteur). Unaccompanied children also end up in detention due to inaccurate age assessment procedures. A recent Human Rights Watch Report (2018) found that many of Greece's irregular child migrants lacked access to formal education.

Italy

Italy is a popular hop-off destination for migrants departing from North Africa via the Central Mediterranean Route by boat. The recently elected government coalition between the Five Star Movement and Northern League is not migrant friendly - it turned away the rescue ship Aquarius in June 2018. Public negative sentiment towards immigration from Third Countries is 69%, and in 2016, 9.1% (11170) of asylum applicants are under 18 (Samek Lodovici, M. et al., 2017), which is a low proportion compared to other EU countries.

Italian Laws regulating refugees and reception:

LD 142/2015 regulates the entire Italian reception system, comprising of two stages:

1. Asylum seekers are placed in first aid and reception centres (CPSA), first accommodation centres (CPA) or temporary centres for emergency reception (CAS)
2. They are subsequently placed in protection centres for asylum seekers and refugees (SPRAR)
 - Does not specify time limit keeping asylum seekers in first-stage centres, and only provides that applicants stay 'as long as necessary' to complete procedures related to their identification, or for the time necessary to be transferred to SPRAR.
 - Unaccompanied asylum-seeking children and children of asylum seekers have access to the same public schools as Italian citizens and are entitled to the same assistance and arrangements if they have special needs.

The 2017 Zampa Law (LD 47/ 2017) increases protection for UASCs in Italy:

- Unaccompanied and separated foreign children will not be subjected to "refoulement" or returns that may cause them harm;
- Time spent in first-line reception centres will be reduced from a maximum of 60 days to 30 days;
- The use of guardianship for children by using trained volunteers, as well as foster care and host families will be promoted;
- Harmonize and improve procedures for age assessment in a child-sensitive manner;
- Establish a streamlined national reception system with minimum standards in all facilities;
- Extensively use qualified cultural mediators to communicate and interpret needs of vulnerable adolescents;

Practice and Ground Conditions

Asylum-seeking children are also admitted to the Italian language courses. Available data show that in 2016 nearly 3,000 minors attended an Italian language course and 92.8 % of the SPRAR projects addressed to minors supported a total of 1,310 enrolled students. 90% of minors were involved in extra schooling and educational activities (Global Detention Project, 2018a).

There are reports of poor conditions in reception centres around Italy, instances of child sexual abuse, and lack of freedom¹, although the extent of this could not currently be verified.

Hungary

In 2015 Hungary began building a border barrier on its southern border with Serbia and Croatia to stem the inflow of irregular migrants. This effectively shut the Western Balkan Route. In 2018 Viktor Orban's Fidesz party won a two-thirds majority in Parliament; the new government adopts an anti-immigration stance. Parliament is currently trying to pass the 'Stop Soros' Law, which criminalises activity which aids immigrants. Public negative sentiment towards immigration from third countries is 81%, and in 2016, 29% (8550) of asylum applicants are under 18 (Samek Lodovici, M. et al., 2017). Note that although the share of children is high, the absolute number is low compared to other countries - this is because Hungary has created barriers to entry (policy and border wall).

Hungarian Laws regulating irregular migration:

Third-Country Nationals Act of 2007 and Government Decree 114/2007 regulates migration

- Minors must be provided with leisure activities, including play and recreation that is appropriate to their age.
- They must have access to education either in the detention centre or at an outside institution.

Act LXXX of 2007 on Asylum (Asylum Act) and Government Decree 301/2007 regulates asylum proceedings

¹ See Sigona N. and Allsopp, J. (2016).

- Families with children can be detained as a last measure for a period of no more than 30 days and shall be provided with separate accommodation that guarantees adequate privacy.
- Both Acts prohibit the detention of UASC.

Bill T/13976 of 2017

- This law allows Hungary to detain unaccompanied 14-18 year olds during a 'crisis situation caused by migration'

Practice and Ground Conditions:

In practice, concern has been raised at the lack of individual assessment of necessity and proportionality of detention. The European Commission against Racism and Intolerance has pointed out the arbitrariness in certain detention orders (ECRI, 2015). In October 2015, Human Rights Watch documented cases in which pregnant women, accompanied and unaccompanied children, and people with disabilities were detained for prolonged periods. In addition, reportedly, women and families with young children who were detained in Bekescsaba centre had to share common facilities, such as laundry room, dining hall, and courtyard with unrelated men (Human Rights Watch, 2015). Both HHC and UNHCR have reported that detention of unaccompanied children sometimes occurs because of inaccurate age assessments - simplified examinations based on the physical appearance - which is prohibited by law (HHC, 2013).

Furthermore, the Hungarian child protection system is still not prepared to receive these minors due to the lack of financial resources and capacity allocated in this regard (Global Detention Project, 2018b). On a related topic, there had been a growing number of UAMs absconding from Hungary within approximately 10 days of arrival and the identification of UAM victims of trafficking (Samek Lodovici et al., 2017).

As of March 2017, asylum applications may only be submitted at transit zones while applicants are required to stay in these zones over the duration of their application. Children under 14 are exempt from this rule, but as per Bill T/13976 mentioned above 14-18 year olds are subject to the same treatment as adults.

Bosnia and Herzegovina

A migration corridor (Eastern Balkan Route) has emerged in late 2017 spanning the Mediterranean coast of Southeast Europe - after the Western Balkan Route was shut due to the impassable borders in North Serbia. Countries such as Albania, Montenegro and Bosnia have experienced heavier migrant flows. Arrivals in BiH in 2018 have close to doubled every month (United Nations, 2018a), and by the end of June the number of illegal immigrants registered in Bosnia in 2018 was 7652 (UNHCR, 2018a). Bosnia is not the final destination for many of the migrants - many of them enter Bosnia en route to the EU; an IOM report suggests that many successfully enter the EU². Immigration has become a divisive political issue in Bosnia with upcoming elections, with the Republika Srpska blaming the central government in Sarajevo for the crisis.

Bosnia's Laws on Asylum:

Bosnia's laws regarding asylum seekers are in line with the 1951 Refugee Convention and Convention on the Rights of the Child. This is mentioned in the Constitution and Law on Asylum 11/2016.

Practice and Ground Conditions

Bosnia is one of the poorest states in the region, and does not yet have sufficient capacity to assist migrants. There are plans to launch five reception centres, four of which have already been completed. However, their capacity is limited and many migrants especially in Bihac and Velika Kledusha continue to seek refuge in abandoned

² See Sanderson (2018).

buildings³. NGOs such as the Red Cross have been stretched thin, and their provisions (e.g. food and tents) are unable to keep up with the demand.

The UNHCR in May 2018 had this to say about conditions in Bosnia (United Nations, 2018b):

- Due to onward movement and limited access to the asylum procedure, out of 70% of people who expressed intention to seek asylum in Bosnia, only 30% formally submitted an asylum application;
- The asylum procedure is complicated for those not accommodated at the Asylum Centre (operated by the Ministry of Security in Delijaš, this is the only official registration point for asylum-seekers);
- Access to free legal aid is limited.

See this article from The Guardian for a visual illustration of the conditions in Bosnia:

<https://www.theguardian.com/world/gallery/2018/aug/08/migrants-marooned-in-bosnia-in-pictures>.

As of 2017, Bosnia still contains upwards of 90000 internally displaced persons (IDPs) from the Bosnian War⁴. However, the data is not disaggregated by age which adds difficulty to drafting child-targeted responses. These IDPs are most in need of a clarification of their status after relocation and sustainable livelihood solutions⁵.

Serbia

Western Europe is the desired destination for many migrants, who view Serbia only as a transit country. Unlike the other neighbouring countries, a bulk of Serbia's population in migration comes from Iran due to its recently lax bilateral visa policy. In the first half of 2017, around 8000 refugees and migrants accommodated in Serbia, 40–50% of whom were children, and 25% of children were either unaccompanied or separated (Save the Children, 2017).

Serbian Laws on migration and refugees:

Law on Asylum 109/2007

- States that an asylum seeker and a person who has been granted asylum shall have the right to free primary and secondary education.

Law on Foreigners 97/2008

Law on Asylum and Temporary Protection 2018

- This new law harmonises Serbia's asylum procedure with the EU standards; this involves granting more time to process asylum applications, improving its definition of 'refugees' and enhancing provisions for UASC.

Practice and Ground Conditions

95% of school-age child migrants have access to education (Kilibarda and Kovačević, 2018; UNHCR, 2018b). Serbia's capacity was lacking in terms of UASC specialised centres - it could provide for 65 when the demand for it was more than 700 (Save the Children and International Rescue Committee, 2017), although conditions in these UASC facilities are "considerably better than" in asylum centres (Kilibarda and Kovačević, 2018). Of the recorded 3866 new migrants in as of April 2018, 3481 or 90% of were accommodated in government centres. It is also reported that minors are housed together with their parents or legal guardians. Unaccompanied minor asylum seekers in these facilities are kept separately from other groups, although there is a lack of interpreters for various languages spoken by migrants which hinders their development and integration. (Kilibarda and Kovačević, 2018).

IDPs and Intra-Regional Movement

There are internally displaced people within Serbia's borders, particularly of Roma descent. The majority of internally displaced Roma children live either in the collective centres or in illegally established settlements, which

³ See Mihailova (2018) and Boitiaux (2018).

⁴ See IDMC (2017).

⁵ See UNHCR (2017).

“makes them marginalised and exposed to violence and exploitation in several ways, that is, leads to absolute social exclusion” (Galonja Tijana Morača, Avramović and Diegoli, 2013).

If you would like to find out more, please visit childhub.org where you can find other material relating to children on the move. This includes summaries on the treatment of children at various borders or countries, as well as good practices for social workers.

The following sources were consulted and referred to in the writing of this summary. Readers may find these sources insightful.

Written by Ser Jay Tan in 2018.

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