



Rights of refugee children: Overview of developments in 2017

The following compilation provides a snapshot of developments related to the treatment of asylum-seeking and refugee children in 2017, mainly drawing upon information contained in the 2017 update of the Asylum Information Database (AIDA) country reports, covering 23 European countries.¹

The compilation sets out illustrative examples of national practice and offers far from an exhaustive account of the treatment of children in Europe.

Statistics

The following figures show a comparison of **in-merit decisions** for **unaccompanied children** in the first four months of 2018 (January-April):

*	Total (merits)	Refugee status		Subsidiary protection		Rejection	
		Dec.	Rate	Dec.	Rate	Dec.	Rate
GR	266	80	30.1%	20	7.5%	166	62.4%
IT	3,255	132	4.1%	63	1.9%	562	17.3%
SE	800	131	16.4%	373	46.6%	262	32.7%
NO	68	43	63.2%	8	11.8%	3	4.4%

Source: Greek Asylum Service; Italian National Asylum Commission; Swedish Migration Agency; Norwegian Directorate for Immigration.

Beyond international protection, countries such as Finland, Sweden, the UK and Norway also provide other forms of protection, some of which are peculiar to unaccompanied children. This explains why percentages may not add up to 100% in some cases.

The recognition rate in **Greece** was comparatively lower for unaccompanied children (27.5%) than for other asylum seekers (46%) in 2017. NGOs have observed that some decisions examining claims of unaccompanied children do not take into consideration the best interests of the child principle, while others are often affected by negative preconceptions regarding the well-foundedness of the claim linked to the child's country of origin.²

Length of asylum procedures

Austria: According to experience of NGOs, still a lot of asylum seekers in 2017 waited more than 10 months for an appointment for the first interview. The Austrian Ombudsman has received over 2,000 complaints concerning the duration of the asylum procedure in 2017, in addition to about 1,500 complaints in 2016. These delays also affect children.³

¹ The reports are available at: <http://www.asylumineurope.org>.

² AIDA, Country Report Greece, 2017 Update, March 2018, 88-89.

³ AIDA, Country Report Austria, 2017 Update, March 2018, 20.

Sweden: Applications from unaccompanied children have been processed more slowly than previously: the average processing time was 578 days or 19.3 months as of December 2017, compared to 353 days as of December 2016. For other categories of asylum seekers, it takes on average 343 days for a first decision. For appeal cases, it was 5.6 months or 169 days in 2016.⁴

Slovenia: Due to a relative increase in 2016 (1,308 applications) and 2017 (1,476 applications) the length of procedures became a major problem. In the second half of 2016, more than one third of asylum applicants in Slovenia had been waiting for a first on-merit decision for more than six months and this trend continued in 2017. Asylum applicants can wait for the first in-merit decision for up to 18 months. These delays also affect children.⁵

Age assessment

The majority of European countries continue to over-rely on medical assessments and do not ensure compliance with the benefit of the doubt principle.⁶

Sweden: Assessments are conducted based on medical examination of wisdom teeth and knee joints. The methods of age assessment have been heavily criticised by the medical community and even by those obliged to carry out the tests. The criticism of the reliability of the methods vis-à-vis female asylum seekers has led to a suspension of age assessments in November 2017 pending the outcome of a more in-depth investigation by the National Board of Forensic Medicine (RMV). The investigation has resulted in new guidelines for testing female asylum seekers and the tests have now been resumed.⁷

Slovenia: The age assessment procedure is not used in practice. According to the Migration Office, they are currently in the process of negotiating an agreement with an institution that will conduct the examinations. The lack of age assessment procedures means that adults claiming to be children may be accommodated together with children. On the other hand, members of civil society are also concerned that once age assessment procedures will start, they might include unethical and unsafe medical procedures such as X-ray scans.⁸

The following table refers to the number of age assessments conducted in 2017:

Age assessments conducted in 2017	
Country	Number
Sweden	9,617
Austria	867
UK (Home Office only)	712
Belgium	675
Hungary	38
Malta	20
Romania	2
Croatia	0
Slovenia	0

⁴ AIDA, Country Report Sweden, 2017 Update, March 2018, 19-20.

⁵ AIDA, Country Report Slovenia, March 2018, 18.

⁶ AIDA, *The concept of vulnerability in European asylum procedures*, September 2017, available at: <http://bit.ly/2f9gOmN>, 32 et seq.

⁷ AIDA, Country Report Sweden, 2017 Update, March 2018, 36-37.

⁸ AIDA, Country Report Slovenia, March 2018, 32.

In some countries, statistics are available on the outcome of such assessments. In **Sweden**, 8,126 (84%) assessments found the person to be an adult, in **Belgium** 479 (71%), in **Austria** 39%, in **Malta** 5 (25%) and in **Romania** 1 (50%). In **Cyprus**, 32 assessments found the person to be an adult.

Legal representation

Bulgaria: Status determination of unaccompanied children remains illegal. In 100% of procedures monitored by the Bulgarian Helsinki Committee in 2017, unaccompanied asylum-seeking children were not appointed a legal guardian.⁹

Turkey: Despite the unequivocal legislative requirements, unaccompanied children international protection applicants under state care are not still appointed guardians, as the Ministry for Family and Social Services chooses not to initiate the procedure for the appointment of guardians for asylum seeker children. Nevertheless, successful litigation in one case led to the appointment of a guardian for an unaccompanied child in Niğde. Also, the Ankara Bar Association has provided legal aid in protection orders from courts in order to have unaccompanied children over the age of 16 placed in Ministry of Family and Social Policies care.¹⁰

Greece: A tremendous lack of any effective system of guardianship persists. This has led to the annulment of decisions on the basis of procedural irregularities. In a case of September 2017 concerning an unaccompanied child from Bangladesh supported by the Greek Council for Refugees, the 1st Independent Appeals Committee annulled the first instance decision due to non-observance of the procedural guarantees provided by law, particularly the obligation of the Public Prosecutor for minors to be notified in order to act as temporary guardian for the unaccompanied child.¹¹

Italy: Following the adoption of Law 47/2017, the Juvenile Court is the sole authority responsible for the appointment of guardians. Currently, the most common practice is the appointment of the Mayor of the municipality where the child is residing as guardian. In practice, the Mayor delegates this duty to individuals who provide social assistance or other services for the municipality. These persons have to deal with a high number of other vulnerable persons such as elderly, handicapped persons and so forth, and have no capacity to properly discharge their mandate.¹²

Romania: The timing of appointment of legal representatives by DGASPC varies from one Regional Centre to another. While no delays were observed in Şomcuta Mare and Timișoara, legal representatives were even appointed after 1.5 to 2 months in some cases in Bucharest. In relation to their qualifications and duties, with the exceptions of the legal representative in Galați and Şomcuta Mare, representatives consider that their mandate is only to assist the child in administrative and judicial procedures related to the asylum claim, i.e. to attend interviews and court hearings, and as a consequence this mandate ends when the asylum procedure is completed. Legal representatives consider that is not their mandate to ensure the well-being of the unaccompanied child.¹³

Dublin system

Family unity

The use of the family provisions of the Dublin Regulation remained marginal in 2017. Family-related outgoing requests made up only 0.4% of the total number of requests sent by **Portugal** and **Slovenia**,

⁹ AIDA, Country Report Bulgaria, 2017 Update, February 2018, 36.

¹⁰ AIDA, Country Report Turkey, 2017 Update, March 2018, 51.

¹¹ AIDA, Country Report Greece, 2017 Update, March 2018, 91.

¹² AIDA, Country Report Italy, 2017 Update, March 2018, 57.

¹³ AIDA, Country Report Romania, February 2018, 55-56.

1.5% by **Switzerland**, 3.4% by **Romania** and 4.1% and by the **United Kingdom**.¹⁴ In addition, restrictive interpretations of the criteria continued to be witnessed in different countries.

Switzerland: In relation to the best interests of the child, the Federal Administrative Court ruled in Decision F-905/2017 of 12 July 2017 as follows: According to a doctor's report and information from the centre's management, a woman was not capable of providing adequate care such as nourishment for the children. The family (2 siblings and the father, all resident in Switzerland) have taken care of the applicant and especially the children since their first day in Switzerland. Centre management stated that the loss of the family environment could endanger the welfare of the child. Nevertheless, the Federal Administrative Court confirmed the decision of the SEM to transfer the woman and her children to Italy.

On the other hand, in Decision E-2246/2016 of 4 October 2017, the Federal Administrative Court ruled as follows: Five adult siblings left Syria together and entered Switzerland via Greece and Croatia. Switzerland considered itself responsible for three siblings, and initiated a Dublin procedure for one man and one woman, despite their identical starting position. The Federal Administrative Court considered equality in terms of law in the sense of Article 8 of the Federal Constitution as violated.¹⁵

Non-refoulement

A number of countries refrain from ordering Dublin transfers to Hungary, Bulgaria and Greece concerning vulnerable persons, including children. These include: **Poland** and **Sweden**. Several others have not revisited the suspension of transfers to Greece, while others have suspended transfers to Hungary.¹⁶

Relocation

Greece: As of the end of 2017, a total of 596 unaccompanied children had been registered in the relocation scheme and 260 had been accepted for relocation. 52 of those concerned the Netherlands, 47 Ireland, 44 Germany and 40 Finland.¹⁷

Italy: At the end of the year, a total of 102 unaccompanied children had been relocated and another 109 were awaiting relocation. 91 of those concerned the Netherlands, 32 Spain, 29 Germany and 28 Belgium. On average, the average duration of the procedure between the request of the Italian Dublin Unit and its acceptance by the destination country was 26.5 days, while it was on average 29 days between the acceptance of the request and the actual transfer of unaccompanied children.¹⁸

Detention of children

Hungary: As of the end of March 2018, all children above the age of 14 are detained in the transit zones.

France: The detention of families has increased considerably in 2017. Most administrative detention centres (CRA) do not detain families in mainland France. On the contrary, the detention of families is concentrated in a few CRA such as Mesnil-Amelot, Metz and recently Rennes.¹⁹ Overall, the expansion

¹⁴ ECRE, *The Dublin system in 2017: Overview of developments from selected European countries*, March 2018, available at: <http://bit.ly/2uW0M9Q>, 3.

¹⁵ AIDA, Country Report Switzerland, 2017 Update, February 2018, 28.

¹⁶ ECRE, *The Dublin system in 2017: Overview of developments from selected European countries*, March 2018, 7-8.

¹⁷ AIDA, Country Report Greece, 2017 Update, March 2018, 111.

¹⁸ AIDA, Country Report Italy, 2017 Update, March 2018, 63.

¹⁹ On Rennes, see La Cimade, 'Des familles enfermées au centre de rétention de Rennes', 26 April 2018, available in French at: <http://bit.ly/2r9txuJ>.

of detention of families has been palpable: 105 children were detained in CRA on the mainland in 2015, 182 in 2016, and 305 in 2017.²⁰

Italy: Unaccompanied children may be held in hotspots in practice, in a state of deprivation of liberty. During a visit to Taranto in July 2017, ASGI found 80 unaccompanied children detained in the hotspot, some held there since May 2017 and others held for a few days. These children were de facto detained together with adults in a single tent surrounded by high metal grids and guarded by army soldiers, without any written detention order or information on the possibility to seek asylum. They were also deprived of the possibility to communicate with the outside world. Appeals were lodged before the ECtHR for 14 children, which the Court has deemed admissible and has requested responses from the Italian government by 14 May 2018.²¹

Greece: Detention of families is systematically carried out following the EU-Turkey statement to return families violating geographical restrictions to their assigned island.²² Unaccompanied children, for their part, continue to be detained in police stations and pre-removal detention facilities on the mainland under “protective custody” or in Reception and Identification Centres on the islands.²³ The provisions on asylum detention of children have been amended by the 15 May 2018 legislative reform.

Turkey: In 2017, practice improved in relation to unaccompanied children facing deportation proceedings. Such children are no longer detained in Removal Centres but are transferred to facilities of the Ministry for Family and Social Services. However, concerns remain regarding the number of children – usually beggars or street vendors – arbitrarily detained in police stations. Families with children are generally detained, on the other hand. In 2017, “YTS89” codes, corresponding to “foreign terrorist fighters”, have been issued to infants detained with their families in Izmir (Harmandalı), thereby illustrating a lack of individualised assessment prior to ordering detention. The Izmir Bar Association and members of the Grand National Assembly have expressed concerns about this practice, all the more so since the coding system applied by the authorities has no legal basis. This practice has stopped at the time of writing.²⁴

Portugal: A very significant percentage of vulnerable applicants such as unaccompanied children, families with children and pregnant women were detained and subject to the border procedure in 2017. The Portuguese Refugee Council continued to observe long waiting periods between asylum applications filed by unaccompanied children – on average 14 days – and families with children – on average 28 days – at border points, and their entry into the national territory and referral to reception centres.²⁵

Romania: Whereas previously families with children were not detained in practice, they are now held in detention centres. A mother and her 2-year-old daughter, who arrived in Romania on 6 September 2017 by boat, were detained in the Arad detention centre as they did not make an asylum claim from the outset.²⁶

²⁰ La Cimade, ‘Enfants en rétention : le degré zéro de l’humanité’, 6 March 2018, available in French at: <http://bit.ly/2FdQ8v1>.

²¹ AIDA, Country Report Italy, 2017 Update, March 2018, 106. See also ECtHR, *Trawalli v. Italy*, Application No 47287/17, Communicated on 11 January 2018.

²² AIDA, Country Report Greece, 2017 Update, March 2018, 157.

²³ *Ibid*, 156.

²⁴ AIDA, Country Report Turkey, 2017 Update, March 2018, 85.

²⁵ AIDA, Country Report Portugal, 2017 Update, March 2018, 90-91.

²⁶ AIDA, Country Report Romania, February 2018, 92.

Croatia: Detention practice has changed insofar as vulnerable persons, including unaccompanied children and victims of trafficking, have been placed in detention in 2017. Seven children were detained that year.²⁷

Belgium: In his policy note of late 2017 the Secretary of State announced the opening of closed centres for families close to the 127bis repatriation centre near the Brussels National Airport at the beginning of 2018, with a view to carrying out returns. These are set to open in spring 2018. In a letter addressed to the Secretary of State, Council of Europe Commissioner for Human Rights Muižnieks warns against resuming the practice of detaining migrant families with children. The Commissioner for Human Rights states that Immigration detention, even as a measure of last resort and for a short period of time, should never apply to children because it is a disproportionate measure which may have serious detrimental effects on them.²⁸

Accommodation

Dedicated facilities

Germany: Unaccompanied children are now sent to all 16 Federal States, with numbers only roughly corresponding to the distribution system of the *Königsteiner Schlüssel*. Only the city state of Bremen shows a significant deviation from this quota system, with the actual number of children and young adults staying in Bremen in December 2017 amounting to 330.9% of the Federal State's quota. Two other Federal States (Hamburg: 132% and Hessen: 129.9%) were also considerably over their quota, while all East German States (Mecklenburg-Vorpommern, Brandenburg, Berlin, Saxony, Saxony-Anhalt, Thuringia) did not fully meet the quota allocated to them under the distribution key. The Federal Association for Unaccompanied Refugee Minors observed that reception conditions for unaccompanied children have generally improved in recent years due to a significant decrease in the number of newly arriving asylum seekers. Nevertheless, it also concluded that a good quality of accommodation and of other supportive measures for unaccompanied children is still not ensured in all parts of Germany.²⁹

Italy: According to the law, the accommodation of unaccompanied children should primarily take place in SPRAR facilities. However, the places financed for unaccompanied children in SPRAR structures were only 3,110 as of the end of 2017. An approximate 60 first reception facilities provide a total capacity of 950 places for unaccompanied children, 839 of which were occupied at the end of 2017. These facilities mostly accommodate children aged 16 or 17. As of the end of August 2017, there were also 77 temporary centres (CAS) for unaccompanied children active across the Italian territory. In practice, worrying living conditions have been reported in the centres for unaccompanied children located *inter alia* in the region of Calabria. LasciateCIEntrare has collected evidence from the centres in the province of Vibo Valentia, specifically Brognaturo, Mongiana, Joppolo and Filadelfia. Testimonies refer to: a lack of hot water and heating; delays or non-payment of pocket money; abuse by social operators; inadequate clothes for the period and cases of children who still wore the clothes they had at the time of disembarkation; poor quality food; and failure to appoint the guardian.³⁰

Greece: In January 2018, the National Centre for Social Solidarity (EKKA) network included a total of 1,101 places, including 783 places in 33 long-term shelters and 318 places in 16 short-term ("transit") shelters for unaccompanied children. This represents a decrease compared to 813 places in 28 long-term shelters and 499 places in 22 short-term shelters as of January 2017. As of 31 January 2018, the

²⁷ AIDA, Country Report Croatia, 2017 Update, March 2018, 82.

²⁸ AIDA, Country Report Belgium, 2017 Update, March 2018, 88.

²⁹ AIDA, Country Report Germany, 2017 Update, March 2018, 76-77.

³⁰ AIDA, Country Report Italy, 2017 Update, March 2018, 98-99.

estimated number of unaccompanied children in Greece was 3,270. Of those, 2,312 were on a waiting list for a shelter.³¹

Austria: There are 3 reception centres for unaccompanied children managed by the Ministry of Interior. In addition to a separate facility for unaccompanied children in the Federal Reception East in Traiskirchen. As of 29 December 2017, there were 126 unaccompanied children accommodated in special federal reception centres, while another 3,066 were accommodated in specialised facilities in the different federal provinces.³²

Slovenia: The government instituted a pilot project which took place between August 2016 and August 2017, in the framework of which unaccompanied children were accommodated in Student Dormitories Postojna and Nova Gorica. This solution provided better results, including in terms of separation from adult asylum applicants, more available assistance by specialised staff and better integration in the local environment. After the conclusion of the pilot project, accommodation in Nova Gorica was terminated and unaccompanied children were moved to Student Dormitory Postojna, which currently serves as the sole accommodation facility for unaccompanied children. In November 2017 the government established an interdepartmental working group to develop a systemic solution of accommodation and care of unaccompanied children, based on the outcome of the pilot project and other experience. The group also includes a representative of NGOs and is set to conclude its work by the end of 2018.³³

Accommodation with adults

Germany: The latest study of the Federal Association for Unaccompanied Refugee Minors, published in December 2017, shows significant disparities between regions as far as reception conditions for unaccompanied children are concerned. More than 1,300 persons working in youth welfare institutions and NGOs had participated in an online survey for this study. 8% of participants reported that unaccompanied children had to stay in accommodation facilities for adults during the period of “provisional care”.³⁴

Romania: Unaccompanied children who have reached the age of 16 and who do not have the necessary material resources to ensure their subsistence are accommodated in the Regional Centres. They are accommodated separately from adults in Bucharest and Şomcuta Mare, although if there is a relative in the centre they will be accommodated with him or her. On the other hand, they are not separated from adults in Timișoara, Rădăuți, Galați and Giurgiu. A total of 17 children were placed in centres with adults in 2017.³⁵

Italy: Throughout 2017, both due to the problems related to age assessment and to the unavailability of places in dedicated shelters, there have been reported cases of children accommodated in adults' reception centres, or not accommodated at all. Examples include the CAS of Cona, Veneto, which led to interim measures by the Strasbourg Court, as well as makeshift accommodation in Trentino-Alto Adige and Ventimiglia, Liguria. In 2017, more appeals were presented to the European Court of Human Rights to protect unaccompanied children placed in adult reception centres in Italy, including Rome, Lazio, and Como, Lombardia.³⁶

³¹ AIDA, Country Report Greece, 2017 Update, March 2018, 141-142.

³² AIDA, Country Report Austria, 2017 Update, March 2018, 79.

³³ AIDA, Country Report Slovenia, March 2018, 53.

³⁴ AIDA, Country Report Germany, 2017 Update, March 2018, 77.

³⁵ AIDA, Country Report Romania, February 2018, 85.

³⁶ AIDA, Country Report Italy, 2017 Update, March 2018, 99-100.

Education

Greece: A significant gap in education persists for children remaining on the islands. While 37.5% of the 29,718 people arriving on the islands in 2017 were children, 585 only 300 children on the islands were reported to have been enrolled at public schools at the end of October 2017.³⁷ By February 2018, there were no afternoon preparatory classes (DYEP) operating in the Northern Aegean.³⁷

Turkey: By September 2017, a total 404 Temporary Education Centres had been set up across 20 provinces in Turkey, offering courses in Arabic and intensive Turkish language courses to 291,039 children. Despite a phase-out plan by the Ministry of Education, Temporary Education Centres were still operational in the main urban areas, including Istanbul, Ankara and Adana. Despite these measures, there is still a substantial number of children out of education. According to DGMM, about 18,000 children in pre-school age have no access to education. In Şanlıurfa alone, approximately 140 schools would be needed to meet the demand.³⁸

Poland: At the end of 2017 one of the NGOs stated that as a result of the lack of financing due to the suspension of AMIF it cannot continue to provide pre-school care in Linin and Dębak. The organisation has been providing this assistance every day for 8 hours for two years, and also equipped the rooms for kindergarten in the two centres.³⁹

³⁷ AIDA, Country Report Greece, 2017 Update, March 2018, 138.

³⁸ AIDA, Country Report Turkey, 2017 Update, March 2018, 139-140.

³⁹ AIDA, Country Report Poland, 2017 Update, February 2018, 51.