Applicants with special needs - Cyprus

Overview

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Relevant EU legislation

Cyprus is bound by the recast Asylum Procedures Directive has transposed its provisions through the amendments no. 105(I)/2016 and no. 106(I)/2016 to the Refugees Law 2000 (6(I)/2000) | Ο περί Προσφύγων Νόμος του 2000 (6(I)/2000) , (12 December 2020).

National legislation

Cyprus transposed the Recast Asylum Procedures Directive by The Refugees (Amendment) Law of 2016 N. 105(I)/2016 and N. 106(I)/2016 | Ο περί Προσφύγων (Τροποποιητικός) Νόμος του 2016

Competent authority and other stakeholders

The Asylum Service is the competent authority for asylum application examination and referrals of applicants with special needs to the relevant competent authorities (SWS, hospital, mental health services).

Article 9KE (1) of the Refugee Law indicates that the Social Welfare Services (SWS) have competence and responsibility regarding minor applicants. The SWS is the legal guardian of unaccompanied minors.

Training initiatives

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Case officers who are tasked to examine applications of vulnerable persons, have to complete the relevant EUAA training courses. Internal trainings also take place on specific thematics (e.g. LGBTQ+ cases, trafficking in Human Beings cases). Trainings for asylum case workers and vulnerability officers are ongoing and scheduled according to a yearly Plan by EUAA, UNHCR, POLICE, CAS experts. Some of the trainings are specialized on vulnerabilities in general and more specific in other cases.

Reception officers working in reception centers do not have to complete any trainings prior to assuming their responsibilities, however in practice they complete the relevant trainings to their tasks in the first months or work. Also, people with social work studies and/or background are preferred for such positions.

Special needs in reception

Identification of special needs

There is a screening system in place to ensure early identification and referral, assistance, and support for vulnerable asylum seekers.

Applicants at the First Reception Centre “Pournara” undergo vulnerability assessment. The vulnerability assessor in Pournara will identify potential vulnerabilities and/or special reception needs and proceed with referrals of the applicant according to the psychiatric/psychological and/or medical needs to the relevant authorities.

Further, during the examination procedure or during the interview an applicant may show indicators of vulnerability. Referrals to competent authorities are carried out by the case officers who will also follow up with the referral before issuing a decision.

Social Welfare Services (SWS) are responsible for taking care of the unaccompanied minor.

Referral of applicants with special needs

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There is a screening system in place to ensure early identification and referral of, assistance and support for vulnerable asylum seekers.

Regarding unaccompanied minors, the Asylum Service has a limited role as the Social Welfare Services (SWS) are in charge of referring the minor (e.g. doctor appointments, mental health, education).

Reception and care of applicants with special needs and vulnerabilities

Article 9ΚΓ Refugee Law: Persons with special needs: "*When applying the provisions of paragraph (b) of subsection (1) and subsection (2) of article 8, articles 9A to 9ΚΘ and subsections (1B), (2), (2A), (2B), (2C), (2D) and (2E) of article 10, the competent authorities take into account the special situation of vulnerable persons, such as minors, unaccompanied minors, persons with special needs, the elderly, pregnant women, single-parent families with minor children, victims of human trafficking, persons with serious illnesses, persons with mental disorders and persons who have suffered torture, rape or other serious forms psychological, physical or sexual violence, such as female victims of genital mutilation.*"

Article 9KD: Assessment of the special reception and procedural needs of vulnerable persons.

"*(1) For the effective implementation of article 9KG, an individual assessment is required to establish whether a specific person is an applicant with special reception needs and, if so, to determine these special reception needs. When carrying out the aforementioned assessment, individual consideration is required to establish whether the same person is an applicant in need of special procedural guarantees and, if so, to determine his procedural needs and to receive the necessary support and special procedural guarantees. These assessments are carried out without affecting the assessment of international protection needs in accordance with the provisions of this Law.*

(2) The individual assessments referred to in subsection (1) are carried out within a reasonable period during the initial stages of submitting the application, without the scope of this assessment being necessarily limited to what is stated in the special form provided for in paragraph (a) of of subsection (3).

(3) For the effective implementation of this article -

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(a) The person in charge at the place of submission of the application fills in a special form, the type of which is decided by the Head, in which he mentions any special reception needs and/or procedural needs of the applicant as well as the nature of these needs, where this is possible;

(b) in the context of the initial medical examinations to which the applicant is submitted pursuant to article 9G, the examining physician, psychologist or other specialist prepares a report on the existence of any special reception needs and/or procedural needs of the applicant as well as the nature of these needs •

(c) in case the applicant is accommodated in a hospitality center, the social workers and psychologists who work there establish, after conducting personal interviews with each resident, within a reasonable period of time from the applicant's admission to the hospitality center, whether the residents of the reception center face any special reception needs and/or procedural needs and prepare a relevant report in which they state the nature of such possible needs;

(d) the officers of the Social Welfare Services, in case the applicant appears before them, identify where possible any special reception needs and/or procedural needs of the applicant and inform the Asylum Service in writing of the existence and nature of such possible needs •

(e) in the event that any competent authority of the Republic, when fulfilling its responsibilities pursuant to this Law, establishes the existence of any special reception needs and/or procedural needs of the applicant, it is obliged to immediately inform the Asylum Service.

(4)(a) The forms and reports referred to in subsection (3) are immediately notified to the Asylum Service in a sealed envelope. (b) The Asylum Service-

(i) Decides, within a reasonable period of time, on the need to provide special reception needs and/or procedural needs, indicating in said decision the nature of such potential needs, after taking into account the information and data contained in the forms and reports referred to in subsection (3), and

(ii) refers the applicant with special reception needs and/or procedural needs to the competent authorities for the purposes of implementing subsection (6).

(c) The Asylum Service, if deemed necessary, conducts a personal interview with the applicant regarding his special reception needs and/or procedural needs and/or requests expert advice on specific issues.

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(5) The provisions of this article are also applied in the event that special reception needs and/or procedural needs appear at a later stage of the international protection process. In the event that a competent authority of the Republic, when fulfilling its powers under this Law, establishes at a later stage of the international protection procedure the existence of special needs of the applicant, it is obliged to immediately inform the Asylum Service, which decides on the need to provide special reception needs and/or procedural needs in accordance with the provisions of subsection (4).

(6) For an applicant who is found to be an applicant with special reception needs and/or procedural needs in accordance with this article, the competent authorities –

(a) Provide support, which takes into account the specific reception and/or procedural needs of the applicant throughout the international protection process; and

(b) ensure appropriate monitoring of his condition.

(7) Only vulnerable persons in accordance with the provisions of article 9KG are considered to have special reception needs and benefit from the special support provided in accordance with the provisions of this article."

Article 9KA Refugee Law: Different reception conditions: "*(1) In duly justified cases, the Head of the Asylum Service with his decision may exceptionally make applicable material reception conditions which are different from those provided for in subsections (1), (6), (8) and (9) of article 9ID, in paragraphs (a) and (b) of subsection (7) of article 9ID, in paragraphs (b) and (c) of subsection (1) of article 9IΣT, in subsection (2) of article 9IZ and article 9K, for a reasonable period of time which is as short as possible, in case –*

(a) An assessment of the applicant's special needs is required, in accordance with article 9KD; or

(b) the usual available housing possibilities have been temporarily exhausted.

(2) The differentiated reception conditions cover in any case the basic needs and, in case differentiated reception conditions are decided for the reason stated-

(a) In paragraph (a) of subsection (1), such conditions shall be notified in writing to the affected applicant, explaining the reasons for such differentiated reception conditions, as well as the period for which they apply;

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(b) in paragraph (b) of subsection (1), these conditions are published in the Official Gazette of the Republic with the notification of the Head, which also determines the period of time for which they apply]."

Reception facilities and other housing arrangements

The reception facilities for applicants with vulnerabilities or special needs in the national context also include unaccompanied minors.

- Safe zone at Pournara First Reception Centre for single women, women with minor children, and unaccompanied minors.
- Limnes Accommodation Center zone only for the vulnerable
- Kofinou reception center (families and singles with mild vulnerabilities)
- State homes for unaccompanied minors operated by the Social Welfare Services
- Shelters for children managed by the Social Welfares Services in cooperation with Civil Society Organisations
- Foster care programme
- Semi-independent housing programme operated by IOM in cooperation with Social Welfare Services for facilitation of transition to adulthood and inclusion of unaccompanied children over 16 years old.
- Shelters for abused women (including applicants for international protection)
- Shelter for victims of trafficking managed by the Police

Unaccompanied minors are accommodated in Pournara or Kofinou until their transfer to shelters run by the Social Welfare Services. Applicants with a higher level of vulnerability might be accommodated in specific facility by the Social Welfare Services.

Detention of vulnerable persons and applicants with special reception needs

Detention for vulnerable persons such as victims of torture or trafficked persons is not prohibited by law. Support and/or special treatment in detention depends on the needs and vulnerability of the individual.

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Pregnant women and elderly persons are not detained in case their medical needs cannot be accommodated in the available detention facility, however there is no legal provision that prohibits the detention of a pregnant woman.

Vulnerable persons and applicants with special needs are detained when they are considered to pose a threat to national security or have been convicted for a serious crime/criminal offence.

Reception of unaccompanied minors

Reception of unaccompanied minors is regulated by Article 10 and 10A of the Refugees Law.

Article 10 (2B) of the Refugee Law foresees that the Director of the Social Welfare Services shall ensure that unaccompanied minor applicants, from the date of submission of their application until the moment they are required to leave the areas controlled by the Republic, are accommodated either (1) with adult relatives, (2) with a foster family, (3) in accommodation centres with special arrangements for minors, which do not accommodate adults, (4) in accommodation centres for adult applicants provided that the unaccompanied minors are sixteen years of age or older, (5) or in other types of accommodation suitable for minors.

Furthermore, Article 10 (2C) (a) envisages that to the extent possible, siblings remain together, considering the best interest of each child and in particular his or her age and degree of maturity. Considering Article 10 (2C) (b) changes of residence of unaccompanied minors should be limited.

Reception facilities and other housing arrangements

Lakatamia: SWS Office in Nicosia (Material Reception Conditions)

Safe Zone Pournara: New area A and B that is supported by EUAA operated since 11 August 2022 for unaccompanied minor girls and existent safe zone area C for unaccompanied boys.

Types of applicants accommodated in the New Safe Zone A and B: Vulnerable single ladies, single mothers with children under 12 years old and unaccompanied girls.

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Capacity for new Safe Zone A and B: 80 persons

Capacity for Safe Zone C (unaccompanied minor boys): 80

Capacity for Safe Zone D (families): 100 persons

Age assessments

In case of doubt, the Asylum Service may use medical examinations to determine the age of an unaccompanied minor. UAMs are informed prior to the examination of the application in their language, about the possibility of age determination through medical examinations, including information on the method of examination, the potential impact of the results of medical examinations in the examination of the application and the impact of any refusal to undergo medical examinations. Unaccompanied minors and / or his representative should consent to carry out an examination to determine the age of unaccompanied minor. Refusal to undergo a medical examination to determine his/her age does not prevent the competent authority from taking a decision on the application of an unaccompanied minor. In the event of the applicant's refusal to consent to an examination, the person in question shall be presumed to be an adult and, at any subsequent stage, the applicant shall have the right to submit additional evidence as to his or her minority and/or to request a medical examination to determine the age, which the Asylum Service must examine. [Article 10(1H)(c)] If, after conducting the medical examination, there are still doubts about the age of the applicant, then the applicant is considered a minor

Access to education

The Social Welfare Services (SWS) legal guardian of the unaccompanied minor is responsible for enrolling the minor to school. Personal circumstances are considered but usually the enrolment happens as soon as possible. The minor takes Greek language lessons.

Access to healthcare

Same provisions as for every applicant apply. Access to healthcare is immediate. The Social Welfare Services legal guardian is responsible for ensuring access to healthcare.

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Transition to adulthood

There is no procedure in place regulating transition to adulthood for unaccompanied minors in the asylum procedure. Any help on transitioning would be provided by the Social Welfare Services (SWS) (e.g. help finding housing).

Detention of unaccompanied minors

As per Article 9ΣΤ (1) Refugee Laws, detention of minor applicants is prohibited. During the age assessment, a third country national is considered and treated as a minor.

According to Article 18ΠΓ (1) (transposing the Returns Directive) children can be detained as a last resort and for the least possible time.

Special procedural guarantees

First instance determination for applicants with special needs

Article 9ΚΔ (5) envisages that in the event that a competent authority establishes at a later stage of the international protection procedure the existence of special needs of the applicant, it shall be obliged to immediately inform the Asylum Service, which shall decide on the need to provide special reception needs and/or procedural needs.

Access to information

Information provision to applicants with specials needs does not differ than the info provision to regular applicants as described in the “first instance determination document”. Information provision tailored to special needs (e.g. information in Braille, availability of sign language interpreters) is not available. In practice applicants with special needs are accompanied and assisted either by a family member or a Social Welfare Services (SWS) officer or by an NGO representative.

Personal interview

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Interviews of vulnerable persons are carried out by case workers specially trained to interview vulnerable applicants (CAS Case workers and EUAA case experts).

There is always flexibility on the specific time and space of the interview, according to the special needs of the applicant (e.g. pregnant women, persons with serious illness as end stage renal disease). Decision making is prolonged until the Cypriot Asylum Service (CAS) acquires all necessary medical (or other) documents (after the signed approval of the applicant) related to the specific case of the applicant, often with the cooperation of National Hospitals, local NGOs, private doctors and SWS (e.g. Victims of trafficking, victims of FGM, victims of rape, applicants with psychiatric diseases) . The gender of the case worker is selected according to the specific case and special needs of the applicant (e.g. LGBTIQ+ applicants, victims of rape and domestic violence) , as well as the language.

There is specific training followed to carry out interviews with vulnerable applicants, concretely the EUAA training on interviewing vulnerable persons consisting of 20-30 hours of online and face to face training.

An interview might be omitted for an applicant in need for special procedural guarantees, for instance when an applicant who has hearing completely impaired or applicants requiring specific sign language from their own country. The possibility to omit the interview is envisaged in Article 16B(2)(b) of the Refugee Law where it is ensured that the lack of personal interview in the substance of the application cannot negatively affect the decision to be taken by the Head of the Asylum Service.

Legal assistance

Legal assistance does not differ for applicants with special needs.

Guarantees for unaccompanied minors

Articles 9ΚΓ, Article 9 ΚΔ, and Article 10 of Refugee Law.

Making, registering and lodging an asylum application

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There is an early identification mechanism for the identification of vulnerable applicants in place. Family tracing takes places with the Dublin procedure as well as during the examination of the case.

If the applicant is an unaccompanied minor, the authorities immediately notify the case to the Director of Social Welfare Services Department, who acts as the guardian and representative of the minor and if necessary, takes all necessary measures and/or ensures his/her adequate representation in judicial proceedings (informing the Commissioner for Children's Rights). The Director of Social Welfare Services may also apply on behalf of an unaccompanied minor if, based on an individual assessment of the personal circumstances, the Director considers that the child may be in need of international protection.

Unaccompanied minors must be present to lodge an application along with the appointed guardian.

Family tracing takes places with the Dublin procedure as well as during the examination of the case. The law foresees that the Director of Social Welfare Services, as soon as possible after the submission of the application, begins to search for the family members of the unaccompanied minor, if necessary, with the help of international or other relevant organizations, while protecting the best interests of the unaccompanied minor. In case there is a risk to threaten the life or integrity of the unaccompanied minor or his close relatives, especially if they reside in the country of origin, the Director of Social Welfare Services shall ensure that the collection, processing and transmission of information concerning the said persons is confidential, so that their safety is not compromised. [Refugee Laws, Article 10(2D)].

Information provision

Information provision to unaccompanied minors is carried out by the Social Welfare Services (SWS) legal guardian. The minor is informed about the asylum procedure, their rights and obligations as an applicant of international protection in a child-friendly, age-appropriate and culturally-sensitive manner.

Best interests of the child in the Dublin procedure

Unaccompanied minors age 10 and younger are physically accompanied on a Dublin transfer to the receiving member state by a Social Welfare Services (SWS)

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officer. Prior to the transfer, SWS write a best interest of the child report following an interview both with the minor and the relative who will assume the legal guardianship in the other member state.

Personal interview

Unaccompanied minors are interviewed regardless of age, but definitely at an age where it can be considered that the minor is capable of understating what the procedure is and always with the assistance and presence of Social Welfare Services (SWS) legal guardian. Usually in practice, unaccompanied minors are interviewed from the age of 10 and older. Specific procedures for interviewing unaccompanied minors are followed in compliance with EUAA's guides and always upholding the child's best interest. The interviewer has completed the relevant trainings by EUAA. Unaccompanied minors are interviewed only when absolutely necessary.

Legal representation during the asylum procedure

The law provides that the Director of the Social Welfare Services shall act as soon as possible, in person or through an employee of said services, as a representative of the unaccompanied minor. In case there is a specific person designed to act as the unaccompanied minor's representative, the child shall be notified by the Director of the Social Welfare Services immediately. [Refugee Laws, Article 10 (2)]

The representative of the child should be someone that has the necessary expertise and shall perform his/her duties in accordance with the principle of the best interest of the child. To ensure the well-being and social development of the child, the representative of the child should only be changed when necessary. A person whose interests' conflict or could potentially conflict with those of the unaccompanied child should not be designated as representative. [Refugee Laws, Article 10 (2)]

The law foresees that Asylum Service shall ensure that the representative is given the opportunity to inform the unaccompanied minor of the meaning and possible consequences of the personal interview and, if appropriate, of the manner in which the unaccompanied minor should prepare for the personal interview. [Refugee Laws, Article 10(1C)] Furthermore, it is also envisaged that the unaccompanied minor and his representative are provided free of charge

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with the legal and procedural information. Specifically, information about the process to consider the applicant's application considering the specific elements of his/her case. [Refugee Laws, Article 10 (1STbis) and Article 18 (7C) (b)].

As per the Refugee Laws, any professional employed to work with children receives appropriate training regarding the needs of children in a continued manner [Refugee Laws, Article 10 (2E)]. Legal guardians and representatives are bound by the principle of confidentiality regarding the information they learn through their work.

Legal assistance and counselling

General national provisions and procedures on legal assistance apply, with the exception that the Social Welfare Services (SWS) are always present.

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