



HELLENIC REPUBLIC  
MINISTRY OF CITIZEN PROTECTION  
GENERAL SECRETARIAT FOR MIGRATION  
POLICY, RECEPTION AND ASYLUM  
ASYLUM SERVICE

National Dublin Unit

# EVALUATING THE IMPLEMENTATION OF THE GREEK DUBLIN UNIT'S BIA FORM FOR UNACCOMPANIED CHILDREN

CRITICISM

QUALITATIVE AND QUANTITATIVE ASSESSMENT

FUTURE CHALLENGES



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# PART A

## INCOMING CRITICISM FOR OUTGOING REQUESTS



## General Remarks

- In some quarters, almost overnight, the Dublin Unit's BIA Form was transformed from a positive and promising initiative to an arbitrary imposition by the Greek Asylum Service
- In our everyday communication with legal representatives/advisors or social workers we sometimes hear complaints or reservations about the need for submitting a BIA Report
- We have only received written feedback from one NGO. All other reactions take the form of insinuations, questioning or plain disregard



## General Remarks – cont'd

- The usual criticism is that the BIA:
  - 1) is too big/long
  - 2) is arbitrary/unlawful
  - 3) should be implicit and not presented in a Form
  - 4) is unnecessary for a successful request
  - 5) should be conducted by GAS
  - 6) is too frank and detailed (endangering the acceptance of the request)
  - 7) should be submitted only after a request has been rejected
  - 8) should be replaced by shorter social reports
  - 9) should be omitted when the child wishes to be reunited with parents
  - 10) should be omitted when the request is directed towards certain Member States



## 1. Too Big/Too Many Questions

- Perceptions of «too» big or «too» many always reveal more about the subject of the enunciation than about the spoken object (e.g. «there are too many immigrants in the country/in the neighborhood/in the classroom»)
- We often hear or read that our BIA Form is 40 pages long (followed by a variable number of exclamation marks).
- The initial Form itself is indeed 39 pages long. But how long is the actual submitted Form?



## 1. Too Big/Too Many Questions – cont'd

- Structure of the BIA (page-wise):
  - A) Informed consent/signatures (2 pages)
  - B) Basic Personal Data (2 pages – to be completed from the file of the child)
  - C) Section 1 – Info on family and household composition (4 pages + one page per sibling)
  - D) Section 2 – History of separation (2 pages – 7 questions in total)
  - E) Section 3 – Info on family members/relatives in other Member States
    - section 3a – article 8.1 DR (parents/siblings) (2 pages)
    - section 3b – article 8.2 DR (uncle/ aunt/ grandparents) (4 pages)
    - Section 3c – article 8.3 (more than one family members in other MS (4 pages multiplied by family member)
    - Section 3d – article 17.2 (other familial relations) (4 pages)
  - F) Assessing the BIC (2 pages)
  - G) Concluding Remarks (2 pages)
  - H) Three Annexes (family tree, drawing, pictures) (one page each)



## 1. Too Big/Too Many Questions – cont'd

- If we subtract the informed consent and the optional annexes then the submitted BIA will be:
  - 14 pages long for article 8.1
  - 16 pages long for article 8.2
  - 16 pages long plus 4 pages for every family member in other MS for article 8.3
  - 16 pages long for article 17.2
  
- Also note that the above pages include large blank sections in which the assessor may optionally make comments.
  
- For example section 5 (2 pages) consists of two large boxes where the assessor and the reviewer (if there is one) can write down their conclusions.



## 2. No Legal Basis/Need for a BIA in the Dublin Procedure

- It has been suggested that since the BIA for Dublin is not included in national legislation it is arbitrary and should not be asked for or submitted
- The Dublin Regulation is directly applicable to Member States (it does not need to be transposed to national legislation)
- The Dublin Regulation makes repeated references to the principle of the Best Interests of the Child in all articles dealing with children.
- It also makes explicit reference to the Charter of Fundamental Rights and the UN Convention for the Rights of the Child.



## 2. No Legal Basis/Need for a BIA in the Dublin Procedure – cont'd

- «In all actions relating to children, whether taken by public authorities or private institutions, the child's best interests must be a primary consideration (CFR Article 24)
- «In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration» (CRC Article 3.1)
- «The best interests of the child shall be a primary consideration in the adoption of all measures of implementation. The words "shall be" place a strong legal obligation on States and mean that States may not exercise discretion as to whether children's best interests are to be assessed and ascribed the proper weight as a primary consideration in any action undertaken» (Committee on the Rights of the Child, General Comment 14)
- «In accordance with the 1989 United Nations Convention on the Rights of the Child and with the Charter of Fundamental Rights of the European Union, the best interests of the child should be a primary consideration of Member States when applying this Regulation. In assessing the best interests of the child, Member States should, in particular, take due account of the minor's well-being and social development, safety and security considerations and the views of the minor in accordance with his or her age and maturity, including his or her background. In addition, specific procedural guarantees for unaccompanied minors should be laid down on account of their particular vulnerability» (Dublin III Regulation, recital 13)



## 2. No Legal Basis/Need for a BIA in the Dublin Procedure – cont'd

- In UNHCR's Guidelines on Assessing and Determining the BIC (2018) we read that family reunification should generally be regarded as being in the best interests of the child. This is why in cases of family reunification there is no need for a full BID procedure: «Normally, a BIA is sufficient for this assessment»
- This does not mean however that a BIA could be omitted: «Prior to supporting family reunification, an assessment needs to be made by UNHCR as to whether it exposes or is likely to expose the child to abuse or neglect» (UNHCR's Guidelines)
- Furthermore, this assessment must be documented: «A vital element of the process of identifying the best interests of the child involves facilitating the meaningful participation of the child, allowing the child to express his/her views, and clearly documenting the child's views» (UNHCR's Guidelines)
- «UNHCR is of the view that a BIA must be carried out for all actions affecting children in the asylum procedure as part of a continuous process, **including during the Dublin Procedure**» (UNHCR – Left in Limbo)



### 3. No Need for a BIA Form in the Dublin Procedure

- Even if we admit that a BIA for Dublin must be conducted, why should it be presented in a Form? Is it not implicitly suggested in the referral of the child to the Dublin Procedure?
- This was actually the position of the Greek Asylum Service a few years ago following the logic of «let the other Member States do the work».
- «One Member State is of the view that the requested State is best placed to examine living conditions and the ability of family to look after a child and, according to the view of some officials, that State should conduct the BIA. However, this is only one element to a BIA and that approach may be on account of that Member State not having a BIA procedure in place» (UNHCR – Left in Limbo)



### 3. No Need for a BIA Form in the Dublin Procedure – cont'd

- The lack of an explicit process for assessing the BIC has been criticized by the European Commission, UNHCR, The Committee on the Rights of the Child, EASO, ENOC and ECRE among others
- The Committee on the Rights of the Child, when discussing short and long term solutions for UASC, writes: «A best interests determination must be documented in preparation of **any decision** fundamentally impacting on the unaccompanied or separated child's life» (General Comment 6, 2005)
- ENOC while acknowledging that the CEAS has made significant improvements from a child's rights perspective highlights that «the lack of best-interests assessments» is still a major concern (Safety and Fundamental Rights at Stake for Children on the Move, 2016)



### 3. No Need for a BIA Form in the Dublin Procedure – cont'd

- «A child's best interests must be assessed and taken into account as a primary consideration **in all actions or decisions that concern him or her**. However, at present, most EU+ States do not have an established process for implementing **this legal obligation** within asylum systems» (EASO Practical Guide on the BIC in Asylum Procedures, 2019)
- «most Member States do not have any special procedures or guidelines for determining the best interest of the child» (European Commission – Evaluation of the Implementation of the Dublin III Regulation, 2016)
- «Written, reasoned decisions: The written decision on what is deemed in the child's best interest should recount the way in which the best interests assessment/determination was reached, including which factors were given which weight. **It will not be sufficient to state that the best interests were assessed and determined. Each factor and how it was considered and the weight that was given to each of them must be accounted for as the basis of the decision**» (UNHCR & UNICEF, Safe and Sound, 2014)



### 3. No Need for a BIA Form in the Dublin Procedure – cont'd

- «BIAs are often implicitly conducted and reference is made in the decision to certain factors “being in the best interests of the child” with little or no clarity as to how that decision is reached, for example, reuniting with a family member or relative in another Member State» (UNHCR Left in Limbo – Study on the Implementation of the Dublin III Regulation, 2017 )
- «ECRE recommends that a best interests assessment is systematically conducted prior to any family tracing activities by the administrative authorities of the host Member State **as well as a further best interests assessment being conducted once family members are located**» (ECRE Comments on Dublin III Regulation, 2015)
- EASO’s Guidance on the Dublin Procedure (2019 draft) considers that it is good practice to use **«standardized templates for the best interests assessment»**
- UNCHR notes not only that the assessment and recommendations must be documented but **«it is recommended to tailor the sample BIA form to the operational context»** (UNHCR Guidelines)



### 3. No Need for a BIA Form in the Dublin Procedure – cont'd

- Some years ago, commenting on the Proposal for Dublin III, UNHCR welcomes the obligation to respect the BIC and suggests that its Guidelines on BID «can also assist States to establish an effective procedure and methods to carry out such determinations, including where relevant to fulfill their obligations deriving from Article 3 CRC» (UNHCR comments on the Commission's Proposal for Dublin III, 2008)
- This is the underlying logic behind the creation of a BIA Form for Dublin. There must be a written assessment documenting among other things the views of the child. This assessment is tailored to the operational context of the Dublin Regulation and a Form is created in order to have a standardized template.



## 4. A BIA Form is not important for the outcome of the TCR

- The submission of a BIA is not important, the argument goes, since it is not requested by the other Member State, which should make the necessary checks itself without any input from Greece.
- This is opposite to the experience not only of the Greek Dublin Unit but NGO's as well: «In Greece it has been reported that in some cases the requested Member State has refused the take charge request submitted by Greece under article 8 of the Dublin III Regulation because a BIA had not been carried out by the Greek Authorities» (UNHCR – Left in Limbo, 2017)
- Let us see what other Member States have to say about this:



## 4. A BIA Form is not important for the outcome of the TCR – cont'd

### Germany

- «To enable us to consider it is in the best interest of the minor, you are kindly asked to provide us a statement of the guardian regarding the child's wish and the opinion of the guardian»
- «Along with your Take Charge Request you didn't submit a Best Interests Assessment and a statement of the guardian of the applicant»
- «The examination of requests according to Art. 8 II Dublin III-Regulation requires the consideration of the best interests of the minor. This also includes the wish of the child. To enable us to consider what is in the best interest of the minor, you are kindly asked to provide us a statement of the legal guardian regarding the child's wish and the opinion of the legal guardian (Best Interest Assessment)»
- «Furthermore, you did not deliver us with the Eurodac-protocoll or a b.i.a.»



## 4. A BIA Form is not important for the outcome of the TCR – cont'd

### Sweden

- «In what way, other than mere presumptions, is it in the best interests of the child to be reunited with his alleged brother?»
- «Please provide a professional assessment regarding the best interests of the child to be reunited with his alleged brother in Sweden»
- «You must give an account for why a transfer to Sweden would be in the aforementioned person's best interests»
- «In order to process the case we would like an assessment regarding the best interests of the child from Hellenic authorities. Please send us the assessment of the best interest of the child as soon as possible so we can continue to process the case»
- «the assessment of the best interests of the child to be reunited with his claimed uncle in Sweden is missing»
- «On 01.07.2019 Greek authorities were asked to complete the request since the request is not complete. The request do not contain an assessment regarding the best interest of the child, the brother's written consent, etc»



## 4. A BIA Form is not important for the outcome of the TCR – cont'd

### Austria

- «Furthermore, since your request presumes that it is already in the best interest of the minor to be reunited with his brother in Austria, we would kindly ask you to provide us with the result of your assessment»
- «your elaboration on the significance of family is acknowledged but unnecessary. Our initial statement that it would appear already determined by the Greek Dublin Unit that it is in the best interest of the minor to be re-united, since a request based on Article 8 was already sent to Austria was countered by: *“The criteria pursuant Article 8 reflect the idea that, although always subject to an individual case-by-case overall assessment, it is generally in the child’s best interest to have his/her application examined in a Member State where he/she has family present”*.
- We may refer to your enclosed Psycho-Social Report dated 05.07.2018, where the applicant states that a family member is the cause for his flight from his country of origin. Our pre-evaluation was justified and correct and fits precisely the present case.
- **It appears eventually obvious that a family re-unification would serve the best interest of a minor but we do not consider it as a self-evidencing fact»**



## 4. A BIA Form is not important for the outcome of the TCR – cont'd

### Italy

- «In order to proceed to the analysis of the case and be sure that the transfer to Italy is in his best interests we kindly ask you to provide us... the report of social services or of an NGO which shows that the reunification with his uncle is in his best interests»

### Malta

- «Dear Colleagues, in view of the Dublin examination for family reunification, is it possible to send us the best interests report of the child?»
- «Malta is of the opinion that only if you provide us with a best interests report, and if possible substantiate such report with evidence/ documents with regard to the applicant's age, Malta will be able to reconsider this request»
- «On 11/01/2019 the Dublin Unit requested Greece to provide us with a best interest report however Greece failed to do so»



## 5. GAS should conduct the assessment

- Even if we admit that a BIA must be submitted to the other Member State why should «we» write it? Is it not the responsibility of GAS or of the Greek Dublin Unit?
- «The institutions or representatives determining the best interests of the child when identifying a durable solution would ideally be independent and impartial, staffed by people with necessary experience in child protection and not potential conflicts of interest with the protection of the child's rights» (UNCHR and UNICEF, Safe and Sound, 2014)
- «The best interests of the child should be always assessed and determined by **independent competent authorities**» (PRUMA Project – Promoting Family Reunification and transfer of Unaccompanied Minor Asylum Seekers under the Dublin Regulation)
- «Involving the guardian in the BIC process of including an assessment carried out by the guardian is part of the safeguards that ensure that BIC are given primary consideration» (EASO – Practical Guide on the BIC in Asylum Procedures, 2019)



## 5. GAS should conduct the assessment – cont'd

- Being responsible for assessing the BIC is a privilege and not a burden.
- The independence of the assessor of the BIC is one of the most important procedural safeguards.
- When Asylum, Immigration or Police Authorities conduct BIAs the assessment usually downplays the views of the child and the BIA Report often becomes an excuse for the implementation of national immigration policy and an ideological tool for the legitimation of forced returns
- As the Committee on the Rights of the Child warns: «The flexibility of the concept of the child's best interests... may also leave room for manipulation; **the concept of the child's best interests has been abused by Governments and other State authorities** to justify racist policies, for example; by parents to defend their own interests in custody disputes; by professionals who could not be bothered, and who dismiss the assessment of the child's best interests as irrelevant or unimportant» (General Comment 14)



## 6. Is it wise to provide so much information to other Member States?

- Why should we be so frank in the information we provide since we know that other Member States may use this kind of information in order to reject the request?
- According to this perspective it is better for example to hide the existence of a family member/relative in Greece or in a Member State other than the requested since the disclosure of information will probably result in the request being rejected
- When UNHCR conducted its major study on the implementation of the Dublin III Regulation (of which Greece was a part) it noted that: «No audited case files fell within the scope of Article 8(3) of the Dublin III Regulation as part of this study»
- UNHCR was puzzled: «It appears that most Member States surveyed have limited or no experience of applying Article 8(3) but no conclusion can be reached as to why this is from the information gathered as part of the study»
- Most of the times the reason for this is the deliberate concealment of family members/relatives by the child or the child's representative



## 6. Is it wise to provide so much information to other Member States? – cont'd

- Greece has been occasionally accused by other Member States of withholding vital information
- Italy: «Following your request... this is to inform you that the Italian Authorities cannot proceed with the reunification procedure for the a/m applicant because from our further investigations we have discovered that the a/m applicant has also a brother in Germany and another brother in Greece»
- Malta informs us that the UAM that supposedly had no family members elsewhere in Europe is actually in the company of «three adult siblings living in Greece». In another case we also learn from Malta that the UAM has two siblings in Greece
- The Netherlands received a TCR in order to reunite a UAM with his sister. In the TCR however Greece did not mention the existence of an adult brother in Greece, even though a separate request was also submitted to the Dutch Authorities under art. 17.2! This is their reaction:
- «In conclusion, the older brother of the subject is currently in Greece. So, at this moment, she is not an unaccompanied minor. More importantly, you did not mention the existence of this brother. You failed to provide me with all the relevant and available information. You are obliged to provide me with **all** relevant and available information»



## 6. Is it wise to provide so much information to other Member States? – cont'd

- Lack of credibility has a direct effect on the prospect of a request being accepted since the other Member State may question the information we provide and raise the threshold of evidence to a really high standard
- Lack of credibility does not only have an impact on the case at hand but on future cases as well
- **Enhancing the credibility of the provided information was one of the main reasons for creating a BIA Form for Dublin**
- The Greek BIA Form for Dublin is the only available Form that allows for a clear presentation of an article 8.3 Request
- From the examination of submitted BIAs to the Greek Dublin Unit it became evident that assessors have a difficulty understanding and presenting article 8.3 requests.



## 6. Is it wise to provide so much information to other Member States? – cont'd

- In most art. 8.3 requests submitted by Greece there is family member/relative present in Greece.
- These requests can not be submitted without a BIA since the family member/relative in the other Member State starts with a serious «handicap»
- Netherlands: «The minor already has a brother in his presence in Greece... this brother has known him and lived together with him his whole life and they travelled together to Greece and have stayed in Greece for 1.5 years. Contrary to the brother in the Netherlands, who he has not seen since he was 2 years old»
- Austria: «In light of the circumstance that a/m persons stayed in Greece together with their adult sister and due to the fact that a/m persons and their adult sister in Austria have not seen each other since 2.5 years, we assume that a/m persons are in well care of their adult sister in Greece and we cannot establish that the reunification with theirs sister in Austria (who have not seen each other for such a long time) is in the best interests of the minor»
- Finland: «Greece has not managed to provide us enough proof that it is a greater interest of the unaccompanied minor to be reunited with the adult sister living in Finland than to continue living together with the adult brother in Greece. The Finnish Immigration Service thinks it causes unnecessary discomfort to the minor to transfer him from one country to another considering he is already living in the first country accompanied by an adult family member»



## 6. Is it wise to provide so much information to other Member States? – cont'd

- Germany: «In your request you informed us, that two of her sisters are in Greece. To enable us to consider what is in the best interests of the minor, you are kindly asked to provide us a statement of the guardian regarding the child's wish and the opinion of the guardian. **This shall include a statement, why it is not in the best interests of the minor to stay together with her sisters in Greece**»
- Denmark: «From your request it is clear that said person has an adult brother, who is residing in Greece at the same accommodation center as the applicant... The determination of the Member State responsible then solely depends on the assessment of the best interests of the child and in that context an assessment of what would be better for the applicant: living with his adult brother in Greece or living with his adult brother in Denmark. When assessing the best interests of the child we believe that social and emotional considerations should be the main concerns instead of economical...
- When assessing the applicant's relationship to his brother we also believe that it is relevant to take into consideration that he has not seen his brother, who lives in Denmark, for approximately 5 years... Transferring the applicant to Denmark will lead to the separation of the applicant from the brother that he has had a continuously relationship with in trade for a brother that he has not seen since he was 11 years old»



## 6. Is it wise to provide so much information to other Member States? – cont'd

- When the child has a family member/relative in another Member State than the one that he/she wishes to be transferred to then lack of reference to that other person can be the sole reason of refusing to accept responsibility
- Austria: «You inform us that X has an adult brother in Germany. Is it known to the Greek Dublin Unit why the applicant dismissed the possibility of being unified with his elder brother?»
- Netherlands: «Since you mention in your request that the person concerned also has one brother, who is currently living in Germany, I would like more information about his age and status and why the person concerned wants to be reunified specifically with his alleged brother in the Netherlands and not with his alleged brother in Germany»
- Switzerland: «1) What are the names of X's siblings? Could you list them in chronological order stating approximate age or age difference between the siblings? 2) Which sister is living in Germany? 3) Did you ask Germany as well to take charge of the above-named? 4) If not, what is the reason the above-named should come to Switzerland and not to Germany?»



## 6. Is it wise to provide so much information to other Member States? – cont'd

- Finland: «In your Take Charge Request you have mentioned that X has siblings also in Sweden. You mentioned that he has a brother and a sister living in Sweden. We kindly ask you to send us more information about these siblings. We need to know about their relationship with X. Please inform us if you have sent a Take Charge Request also to Sweden. If you haven't, then inform us about the reasoning behind that. On what basis have you evaluated that it would be in X's best interest to reunite with his adult brother in Finland instead of his two siblings in Sweden?»
- **Also, you haven't sent us the Greek BIA- Form.** We kindly request you to do so since X doesn't have any identity documents proving his family relation with Y»
- Norway: «Even if we were to consider the family relation as probable, we can not disregard the fact you mention that his mother is living in Finland. There is no considerable information or documented assessment in your request to explain why Greek authorities have considered that it is in the best interest of the unaccompanied minor's interest to send a request to Norway where his alleged aunt lives instead of Finland where, according to your information, his mother is living»
- **The last two TCRs were accepted after submitting the «Greek BIA-Form»**



## 7. BIAs should be submitted only AFTER a request has been refuted

- This was actually normal practice before the introduction of the Greek Dublin Unit's BIA Form
- «BIA forms, social reports or submissions by the legal representative including information and recommendations regarding the best interests of the child were submitted **in the overriding majority of cases and predominantly at the reconsideration stage**» (Safe Passage – PRAKSIS, Caught in the Middle. Unaccompanied children in Greece in the Dublin family reunification procedure)
- The above study concludes that regrettably these assessments were mostly ignored by other Member States
- But how credible is an assessment conducted AFTER a request is rejected and which in effect attempts to answer the stated reasons of the refusal?
- In practice these BIA – reexamination requests remained rhetorical exercises with minimum impact on the assignment of responsibility



## 7. BIAs should be submitted only AFTER a request has been refuted – cont'd

- The information provided in the BIA is necessary for the Take Charge Request to be considered complete:
- «The requested Member State should transmit to the requesting one any available documentation to support its decisions (e.g. social services or competent authorities' reports on visits and interviews with family members or relatives of the child, etc)» (PRUMA Project, Promoting Family Reunification and transfer of Unaccompanied Minor Asylum Seekers under the Dublin Regulation, 2016)
- «In order to ensure that the identification of family members of the unaccompanied minor asylum seeker is aimed at upholding child's best interests, further clarification and guidance should be provided on the following aspects:
- When filing the taking charge request, EU MS should already have gathered some key information on family members of the UMAS, especially when the applicant is able to provide detailed information and is still in contact with the family members present in the other EU MS. As an example, the following documents could be gathered and provided to help speed up the family reunification process:
- Technical Report, prepared by the Social Services or by the competent authorities, based on the interviews with the child and his/her family , monitored by Social Services or by the competent authorities as applicable with the help of a cultural mediator» (PRUMA Project)



## 7. BIAs should be submitted only AFTER a request has been refuted – cont'd

- The submission of incomplete Take Charge Requests results in the further prolongation of the Dublin procedure
- «UNHCR's audit of case files also showed that sometimes requests to take charge are submitted prior to gathering all the necessary documentation to motivate the request. This may be due to national authorities trying to meet the time limits for submitting a request; however, frequently additional information is required for the receiving Member State to accept the request resulting in further administrative delays» (UNHCR, Left in Limbo, 2017)
- Other Member States justify the high rejection rate referring to incomplete requests: «The high influx of asylum applicants in certain Member States has also led to an increase in incomplete requests, which may explain the increase in the number of rejections and disputes» (European Commission, Evaluation of the Dublin III Regulation, December 2015)
- «Some States also explained that the quality of the transfer requests has reduced following the refugee crisis and highlighted the strain this has put on their asylum systems. Consequently, transfer requests increasingly lack information, which has led to a higher rejection rate» (European Commission, Evaluation of the Dublin III Regulation, December 2015)



## 7. BIAs should be submitted only AFTER a request has been refuted – cont'd

- Spain presents the above position in a clear manner:
- «Dear Friends, we study the cases according to III DR: one request and one re-examination request. In order to cooperate with you we studied so many cases 2 times. However, due to most cases that you sent us were incomplete, now the general rule is to study 3 and four times a case because you do not send us request completely.
- As I told you, we are not able to open a case 3-4 times, because we are overloaded. I am sure that in the future you will send us better the requests, and we will only study one time the case, and only some cases twice»
- Despite the fact that the claim of «incomplete requests» might be used by some Member States as an excuse for a passive approach it must be understood that lack of information both in the submitted TCR and in the negative replies is perhaps the most important delaying factor in the determination of the responsible Member State



## 7. BIAs should be submitted only AFTER a request has been refuted – cont'd

-Delays in the Dublin procedure increases the risk of absconding resulting in heightened safety and protection risks for children.

-«One striking aspect of the practice surrounding Article 8(1) and (2) is the significant delays in reuniting unaccompanied children with relatives and family members under this provision. These cases, which in principle may take up to eleven months to process before the unaccompanied child is reunited with family members or relatives, are the reason why many children abscond and make their own journey to unite with family outside of the Dublin system. In practice, however, the study found that family reunion for children can last even longer than the maximum time frames provided in principle under the Dublin Regulation. This is particularly concerning in view of the inherent vulnerability of these children and the exploitation risks associated with such irregular means of travel» (UNHCR, Left in Limbo, 2017)

- «For asylum applicants, transfers based on the family unity provisions in the Dublin Regulation are under-utilised, and sometimes take many months to be implemented. Concerted efforts should be made to speed up family reunification procedures, prioritising unaccompanied and separated children. Where children are transferred across borders within the European Union, whether pursuant to the Dublin Regulation or otherwise, close cooperation between the authorities responsible for the child's wellbeing in each Member State is essential» (European Commission, Communication on the protection of children in migration, 2017)



## 7. BIAs should be submitted only AFTER a request has been refuted – cont'd

**-The principal reason for creating the Greek BIA Form for Dublin was precisely the shortening of the time necessary for the proper determination of the responsible Member State.**

-This means in practice that all information should be gathered before the sending of the Take Charge Request in order for the request to be processed immediately and rejected or accepted as soon as possible

-A lot of Member States were refusing to examine a request before a BIA or certain information was provided.

-Each and every question of the Greek BIA Form for Dublin addresses questions that were actually asked by other Member States

**-The whole of the Dublin BIA Form is a monument of failed requests**



## 7. BIAs should be submitted only AFTER a request has been refuted – cont'd

- Reference must be made to CJEU Decision in Joined Cases C-47/17 and C-48/17 of 13/11/2018 on the interpretation of article 5(2) of Regulation No 1560/2003
- The mentioned judgment basically means that the requested MS is not obliged to answer to any reexamination request, responsibility being automatically transferred to the requested MS in the absence of a response
- This practically means that information provided AFTER the first rejection may well not be considered at all!
- This is not a theoretical possibility. It is actually already used by most Member States.
- Germany has explicitly refused to even consider BIAs or DNA test results after the initial rejection:
  - «Dear Colleagues, the case is closed in Germany. No DNA-procedure is necessary. As already stated in our letter from 18.07.2019, “further re-examinations of the request will, especially with reference to the case-law of the ECJ in the related case C-47/17 and C48/17, not be carried out in this case”» (this particular case involved the reunification of a child to his father)



## 8. The BIA Form could be replaced by shorter Social Reports

- The Greek Dublin Unit is well aware of the form and content of the proposed social reports
- Most of the time they are a couple of pages long (we have also seen social reports consisting of a single paragraph)
- They mainly focus on the current situation of the child in Greece
- Their main source of information is the file of the child
- Usually no contact is made with the family member/relative in the other Member State
- As a result the information as to the legal status, living conditions and household composition of the family member/relative in the other Member State is rudimentary if not totally lacking



## 8. The BIA Form could be replaced by shorter Social Reports – cont'd

-The reason for including specific questions in the BIA Form for Dublin was precisely because other Member States were asking for it.

-The requested information was lacking even if social reports or BIAs were submitted.

-Switzerland: «To accept your request we need further information regarding the familial constellation of the above-named: 1) When were his parents born or what are their approximate current ages? 2) Where were his parents born? 3) How many siblings does the applicant have and what are their names? Please list them in chronological order, if possible with the respective ages»

-Switzerland: «We are currently assessing the child's best interest. However, we would like you to contact the minor again regarding the following questions: 1) Did he ever meet his uncle in person? 2) How does he describe the relationship with his uncle? 3) How do they stay in contact?»



## 8. The BIA Form could be replaced by shorter Social Reports – cont'd

-The Netherlands: «Further, it is not clear what the special relationship is between uncle and the person involved. What is the best interest of the child if the uncle has been in the Netherlands since (at least) 1990 and the person concerned was born in 1999?»

-Denmark: «Finally, we need to know if, it is in the best interest of the minor to be reunited with his aunt in Denmark, who has been in Denmark for almost twenty years. We need to know if the said person and his aunt have ever met each other, if yes, when and where did they meet last time»

-Denmark: «The Danish Immigration Service emphasizes that you have provided us with very little information about their relationship. Would you kindly provide us with information about their relationship while they were living in Iran and their relationship after they left Iran. And also inform us about how often and how they are in contact with each other, and whether or not they have meet since leaving Iran. With this information we can come to a decision concerning the best interest of the minor, Article 8»



## 8. The BIA Form could be replaced by shorter Social Reports – cont'd

-Austria: «However, foremost please provide us with more data to enable us to evaluate this case and inform us about the following: Is the applicant in possession of any documents to verify his identity? When and how has the a/m minor entered Greece? What was his travel route from his country of origin to Greece? Was he accompanied during his travel and if so, by whom and where are they now? How was he able as a now 9 year-old to finance, organise and execute a travel from Pakistan to Greece? Where are his parents currently? Has he contact with them? Has he contact with his older brother? If so, since when and how often? When has he seen him the last time? (His older brother was living continuously for the past 6 years in Austria)»

-Sweden: «The alleged aunt has been residing in Sweden since 2006, hence years before the applicant was born. We would like to have more information about the actual relationship between the applicant and the alleged aunt. Are they familiar with one another? When did they last meet and so on? In addition, the Swedish Migration Agency lacks information regarding how the applicant was brought to Greece. Did an adult accompany the applicant? Is there any other possible family members with the applicant at present? It seems unlikely that the applicant travelled by herself to Greece, applied for asylum and handed in the relevant documents to your authorities» (the child was 8 years old)

-Sweden: «Please provide more information about the applicant's family tree»



## 8. The BIA Form could be replaced by shorter Social Reports – cont'd

-The information requested by other Member States was rarely covered by the submitted social reports.

-In a case where both a BIA and a social report was submitted Sweden still asks for more information: «our Agency would like to know if the above mentioned person has met the person in Sweden. If yes, please explain to us what kind of relationship they have had and if they have been living together. This information is important for us to make a best interest assessment of the child»

-In another case, after having submitted a two-page social report Sweden politely asks: «Could Hellenic authorities please provide us with **more detailed information** regarding the family and relatives of the boy in order for us to determine whether or not Sweden shall be considered as the responsible Member State? We would like for Hellenic authorities to provide us with as much information as possible regarding parents, siblings, grandparents and uncles and aunts»

-**After submitting the Greek BIA Form Sweden replies:** «In your request for re-examination you provided the Swedish Migration Agency with more relevant information concerning the minor child's family situation»

-France, after receiving a one-page report entitled «Best Interest Assessment», states: «Nothing in your request indicates that it would be in the best interests of the child to be reunited with his big brother in France»



## 8. The BIA Form could be replaced by shorter Social Reports – cont'd

- Naming a social report «Best Interests Assessment» does not suffice:
- «This is also demonstrated by the case files audited for the purpose of this study, which show that BIAs are often implicitly conducted and reference is made in the decision to certain factors “being in the best interests of the child” with little or no clarity as to how that decision is reached, for example, reuniting with a family member or relative in another Member State. The failure to motivate such decisions makes it difficult to ascertain why certain conclusions are reached in the best interests of the child... Given the deficiencies in these assessments, they cannot always be considered as a fully-fledged BIA» (UNHCR, Left in Limbo, 2017)
- «Although most Member States qualify such assessments as BIA’s, in certain Member States surveyed the assessments conducted do not take into consideration all the factors enumerated under Article 6(3) of the Dublin III Regulation, and cannot therefore be qualified as fully fledged BIAs in practice» (UNHCR, Left in Limbo, 2017)
- «The written decision on what is deemed in the child’s best interest should recount the way in which the best interests assessment/determination was reached, including which factors were given which weight. **It will not be sufficient to state that the best interests were assessed and determined.** Each factor and how it was considered and the weight that was given to each of them must be accounted for as the basis of the decision» (UNHCR & UNICEF, Safe and Sound, 2014)
- **The BIA Form is not a formality!**



## 9. BIAs are not required for reunification with parents

- As noted in the UNHCR study of Dublin: «From the audited case files, it is clear that BIAs are not always conducted for the application of Article 8(1), or only limited assessments are conducted, which do not take into account all the elements of the BIA provided under Article 6(3)» (Left in Limbo, 2017)
- When a child wishes to be reunited with parents it could be considered that a BIA is not needed since the minimum of information is required by the other Member State in order to accept the request
- This is not however the case. Especially regarding reunification with parents questions are asked and information is needed about the manner and the reasons of their separation
- Germany routinely asks for «a statement of the guardian regarding the child's wish and the opinion of the guardian» **for all article 8 requests**
- France also notes that «nothing in your request indicates that it would be in the best interest of the child to be reunited **with his mother** in France»
- The Netherlands «would like more information about why and when the person concerned lost sight with her alleged **mother**, what has been the reason why they did lost sight of each other and I would like more information on how did they again traced each other»



## 9. BIAs are not required for reunification with parents – cont'd

- Further complications arise in the case of conflicting information
- Austria: «There are no records in Austria about a relationship between the mother and a/m subjects. The mother did not mention X and Y as her children who have already been living in Syria during the conducted interviews in Austria. We would like to underline that there is no proof that Z is indeed their mother since the submitted documents are not verified. Moreover we may refer to the fact that Z left her country of origin in March 2014 and arrived in Austria in December 2015 already. Since the persons concerned have been separated for such a long period it can be concluded a lack of close relationship»
- The possibility of domestic abuse can also not be ruled out *apriori*:
- Germany: «The alleged father is accused of inner familiar violence and can not be considered to be in the best interest of the minor to be reunited with his alleged father»



## 9. BIAs are not required for reunification with parents – cont'd

- In 2018 out of 184 requests for reunification with a parent only 71 were accepted from the start
- 71 requests were accepted after a reexamination request, while 32 were rejected
- In 2019 until now out of 89 requests for reunification with a parent only 33 were accepted from the start
- 11 were accepted after a reexamination request, while 11 have already been rejected
- The acceptance rate for reunification with a parent is not much higher than for reunification with a sibling
- In 2018 there is a 77.17% acceptance rate for reunification with a parent compared to 67.64% for reunification with a sibling
- In 2019 there is a 49.44% acceptance rate for reunification with a parent compared to 48.24% for reunification with a sibling



## 10. BIAs are not needed for certain Member States

- When the child wishes to be transferred to a Member State that is known to be more «liberal» in accepting requests then why bother submitting a BIA?
- The BIA is not only submitted for the «others». There must always be a written report documenting the child's views and the opinion of the assessor submitted to the Greek Authorities that **motivates the sending of the request**.
- The most «liberal» Member States, precisely because they do not ask for official documents proving the family link or DNA tests in the absence of the latter, **place great emphasis on the provided information!**
- Even Switzerland, a Member State that fully cooperates, asks for «the» BIA, indicating that the Greek BIA for Dublin has established itself not only in Greece but among other Member States as well:
- «You do not submit any documents, information and whatsoever, which would proof the family ties between the alleged uncle in Switzerland and the minor. Moreover, **the “Best Interest Assessment” is also missing**»



## 10. BIAs are not needed for certain Member States – cont'd

- Most Member States actually request a BIA and take all available information into consideration
- There are certain Member States that do not seem to take into consideration the information we provide in the Take Charge Request (including our BIA Reports) and do not ask for further information because they rely solely on official documentation as means of proof
- There are also Member States that do use the information provided only in order to disprove the family link and never use this information in order to prove it
- Are we then not justified in not sending BIA Reports to these States since they do not use them or they only use them in order to disprove and question the family link?



## 10. BIAs are not needed for certain Member States – cont'd

- The implementation of the provisions of the Dublin III Regulation is an open process subject to the interpretation of the CJEU, national Courts but also national Dublin Units
- The daily administrative communication and practices of participating Member States effectively structure how the Regulation works in real life
- If we do not promote the adoption of a proactive attitude and the use of provided information for the establishment of the family link then we contribute to the further medicalization of Dublin and the use of DNA testing before the initial rejection of a request.
- As Germany argues: «You could not provide any proofs of the family bonds between X in Greece and Y in Germany and admit yourselves that such documentation does not exist. It was thus evident from the procedure's very beginning that DNA testing would be the only means to successfully establish the family link. X applied for asylum in Greece on 11.01.2019 and your Take Charge Request was transmitted on 10.04.2019, whilst the DNA test was only initiated in May 2019. Three months can be presumed sufficient to prepare all relevant evidence for a Dublin request, as also states art. 21 para. 1 Dublin III Regulation, especially if only one possible piece of evidence is to be foreseen»



## 10. BIAs are not needed for certain Member States – cont'd

- The alternative is to insist that the determination of the best interests of the child is not the sole responsibility of Greece and that according to art. 6(3) of the Dublin III Regulation «in assessing the best interests of the child, Member States shall closely cooperate with each other»
- In practice this means that Greece must provide as much information/documentation as possible with the initial Request and the other Member State use this information in order, among other things, to establish the family link
- This is the practice followed, for example, in Sweden (a Member State that demands a BIA from the requested Member State):
  - «We have assessed the case at hand by comparing the information provided to us in your request with the documented information from the declared beneficiary's asylum procedure in Sweden. Additionally we have contacted the beneficiary, whom have provided complementary information»
  - «Unfortunately, the information gathered from X's file and the meeting with the social services are insufficient in order to establish the family link. We need more information from the applicant for comparison, such as an extended family tree with names and dates of birth, what information she received from her mother about the uncle in Sweden and more details about the living situation in his home country (including the relationship with her uncle)»



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# PART B

## QUALITATIVE AND QUANTITATIVE ASSESSMENT



## General Remarks

- The BIA Form for children under Dublin and the BIA Checklist were introduced in mid-August 2018 following discussions and consultations with UNHCR, UNICEF, EASO, IOM and others
- At nearly the same period the Dublin Unit established a «quality check» control for Dublin cases, i.e. the proactive search for all the documents/information that was missing in order for a Take Charge Request to be submitted as complete as possible.
- The BIA Form for Dublin is one of the elements that is requested by the quality check in order for the Dublin file of unaccompanied minors to be considered complete
- The Dublin Unit's BIA Form has eventually replaced other BIA Forms and has become established and recognizable in the other Member States



## Qualitative Assessment

- In March 2019 we initiated a first qualitative assessment of the submitted BIAs that have used the new Form for Dublin in order to check its proper completion and detect any difficulties
- We studied the totality of the submitted Forms and Checklists from September 2018 until February 2019, in total 335 BIA Forms and 76 Checklists
- From this study we detected some sections/boxes that were not properly filled by a number of assessors
- In this respect we intend to rephrase some of the questions providing clarifications without however changing the substance or logic of the Form
- The most common problem was to be found in the proper submission of article 8.3 requests, with assessors usually using other sections



## Quantitative Assessment – General Considerations

- In 2018 the Greek Asylum Service registered 2639 asylum requests from unaccompanied minors (official Asylum Service statistics, 03.10.2019)
- In 2018 the Greek Dublin Unit submitted 1116 Take Charge Requests under articles 8 and 17.2 of the Dublin III Regulation
- This means that in 2018 at least 42.29% of all unaccompanied minor asylum seekers fell under the Dublin procedure
- In 2019 the GAS registered 2127 children seeking asylum, while the Dublin Unit has until now sent 736 TCRs
- This amounts to 34.60%. This percentage for 2019 is expected to be rise until the end of the year since there are a lot of pending cases for submission
- The actual percentage is even higher since we are counting only the actually submitted TCRs, excluding requests that were eventually not sent either because the Dublin requirements were not met (distant relatives – no special humanitarian reasons based on family considerations or article 8.3 requests with family members in Greece) or because the child absconded



## Quantitative Assessment – Methodology

- The Greek Dublin Unit asked from the IT Department of the Asylum Service a list of all Take Charge Requests submitted under articles 8 and 17.2 from January 2018 until September 2019
- We identified the requests submitted under 17.2 for unaccompanied minors (main reasons for the use of article 17.2: time limits could not be respected or proposed reunification with distant relatives – cousins, brothers/sisters in law)
- We also distinguished article 8 requests according to the relevant sub-section in the Dublin III Regulation, i.e. art. 8.1, 8.2 and 8.3
- We further differentiated article 8.1 TCRs to reunification requests with parents (art. 8.1a) and reunification requests with siblings (art. 8.1b)



## Quantitative Assessment – Methodology cont'd

- We created a database (excel file) with all UAMs requests in chronological order, in which the following elements are included:
  - 1) Asylum case number
  - 2) sex
  - 3) date of birth
  - 4) nationality
  - 5) date of lodging of asylum request
  - 6) requested Member State
  - 7) relevant TCR article
  - 8) submission of BIA report (distinguishing between the Form of the Dublin Unit and other Forms)
  - 9) procedural stage of submitting the BIA Form – during registration, before the TCR, complementarily, after a rejection
  - 10) submission of BIA checklist
  - 11) Outcome of the request – distinguishing an acceptance without the need for reexamination and an acceptance after a rejection



## Quantitative Assessment – Take Charge Requests per Year

- As you can see in the table below nearly half of the TCRs for UAMs are accepted
- This also means that nearly half of the TCRs for UAMs are rejected

UAMs Take Charge Requests per Year					
	Number of Requests	Acceptances	Rejections	Acceptances (%)	Rejections (%)
Jan – Dec 2018	1116	618	373	55,38%	33,42%
Jan – Sep 2019	736	297	157	40,35%	21,33%
Total	1852	915	530	49,41%	28,62%



## Quantitative Assessment – Take Charge Requests per Year and Article

- TCRs sent under art. 8 have a much greater chance of success than those sent under art. 17.2 (53.10% compared to 26.46%)
- There is a significant drop in the acceptance rate even for art. 8 requests (58.89% in 2018, 43.50% in 2019)

UAMs Take Charge Requests per Year and Article					
	Number of Requests	Acceptances	Rejections	Acceptances (%)	Rejections (%)
Jan – Dec 2018 (art. 8)	995	586	296	58,89%	29,75%
Jan – Sep 2019 (art. 8)	600	261	121	43,50%	20,17%
Total (art. 8)	1595	847	417	53,10%	26,14%
Jan – Dec 2018 (art. 17.2)	121	32	77	26,45%	63,64%
Jan – Sep 2019 (art. 17.2)	136	36	36	26,47%	26,47%
Total (art. 17.2)	257	68	113	26,46%	43,97%



## Quantitative Assessment – Take Charge Requests per Year and subsection of Article 8

- Article 8.1 has bigger chances of success, even though there is a significant drop in the acceptance rate (70.59% in 2018, 48.55% in 2019)

UAMs Take Charge Requests per Year and subsection of article 8					
	Number of Requests	Acceptances	Rejections	Acceptances (%)	Rejections (%)
Jan – Dec 2018 (art. 8.1)	595	420	128	70,59%	21,51%
Jan – Sep 2019 (art. 8.1)	344	167	61	48,55%	17,73%
Total (art. 8.1)	939	587	189	62,51%	20,13%
Jan – Dec 2018 (art. 8.2)	318	140	129	44,03%	40,57%
Jan – Sep 2019 (art. 8.2)	215	76	47	35,35%	21,86%
Total (art. 8.2)	533	216	176	40,53%	33,02%
Jan – Dec 2018 (art. 8.3)	61	19	38	31,15%	62,30%
Jan – Sep 2019 (art. 8.3)	28	10	10	35,71%	35,71%
Total (art. 8.3)	89	29	48	32,58%	53,93%



## Quantitative Assessment – Take Charge Requests per Year and subsection of Article 8.1

- The acceptance rate for reunification with a parent has dropped considerable (from 77.17% in 2018 to 49.44% in 2019)
- The acceptance rate for reunification with a sibling has also dropped (67.64% in 2018, 48.24% in 2019)

UAMs Take Charge Requests per Year and subsection of article 8.1							
	Number of Requests	Acceptances (no Rejection)	Acceptances After Rejection	Total Acceptances	Rejections	Acceptances (%)	Rejections (%)
Jan – Dec 2018 (with parent)	184	71	71	142	32	77,17 %	17,39 %
Jan – Sep 2019 (with parent)	89	33	11	44	20	49,44 %	22,47 %
Total (with parent)	273	104	82	186	52	68,13 %	19,05 %
Jan – Dec 2018 (with sibling)	411	116	162	278	96	67,64 %	23,36 %
Jan – Sep 2019 (with sibling)	255	90	33	123	41	48,24 %	16,08 %
Total (with sibling)	666	206	195	401	137	60,21 %	20,57 %



## Quantitative Assessment – Spreading GRDUB1A

- The BIA Form for Dublin has become established as a reference point and has virtually eliminated all other BIA Forms that were used in the past
- Of a total of 1127 TCRs, 701 were submitted with the BIA Form for Dublin (62,20 %)
- A further 73 TCRs were submitted using another BIA Form
- In total 68,68 % of Greece's Take Charge requests were supported by a BIA Form



## Quantitative Assessment – Spreading GRDUB1A – cont'd

UAMs Take Charge Requests and Best Interest Assessment Forms (August 2018 – September 2019)							
	Art. 8 TCR without BIA	Art. 8 TCR with GRDUB1A	Art. 8 TCR with another BIA Form	Art. 17.2 TCR without BIA	Art. 17.2 TCR with GRDUB1A	Art. 17.2 TCR with another BIA Form	Total of Requests
Aug 2018	36	12	32	4	1	2	87
Sep 2018	29	19	7	3	1	1	60
Oct 2018	25	28	7	4	4	0	68
Nov 2018	36	46	3	5	12	3	105
Dec 2018	18	44	2	5	7	1	77
Jan 2019	14	75	6	4	13	2	114
Feb 2019	25	79	3	3	7	0	117
Mar 2019	15	59	0	2	3	0	79
Apr 2019	19	66	1	3	11	0	100
May 2019	11	31	1	2	9	0	54
Jun 2019	23	31	0	10	8	0	72
Jul 2019	7	34	0	7	4	0	52
Aug 2019	10	34	2	4	15	0	65
Sep 2019	16	37	0	13	11	0	77
Total	284	595	64	69	106	9	1127



## Quantitative Assessment – Spreading GRDUB1A – cont'd

- Contrary to past practice where BIAs were submitted only after the initial rejection of the requests, GRDUB1A is as a rule submitted before the sending of the TCR
- 598 BIAs for Dublin were submitted before the other Member State's reply
- This amounts to 85,43 % of the totality of submitted BIA Forms for Dublin
- BIA Checklists as a rule are not submitted to our Authorities



## Quantitative Assessment – Spreading GRDUB1A – cont'd

Procedural stage of submitting GRDUB1A						
	In the lodging of asylum application	Before the submission of the TCR	After the submission of the TCR (complementary)	After the rejection of the TCR (reexamination stage)	Total	Submitted BIA Checklists
Aug 2018	0	1	2	9	12	4
Sep 2018	0	13	0	7	20	9
Oct 2018	0	24	2	6	32	8
Nov 2018	0	35	10	13	58	15
Dec 2018	2	41	1	7	51	11
Jan 2019	1	62	13	12	88	13
Feb 2019	2	74	4	6	86	20
Mar 2019	0	45	7	10	62	9
Apr 2019	3	50	10	14	77	17
May 2019	0	34	1	5	40	12
Jun 2019	0	31	3	5	39	6
Jul 2019	0	32	3	3	38	7
Aug 2019	0	45	3	1	49	12
Sep 2019	0	42	2	4	48	11
Total	8	529	61	102	700	154



## Quantitative Assessment – TCRs with and without BIAs

- Take Charge Requests accompanied by a BIA report have nearly 10% more chances of acceptance
- The following table includes 65 requests that did not use GRDUB1A

<b>UAMs Take Charge Requests after the introduction of GRDUB1A (August 2018 – September 2019)</b>					
	<b>Number of Requests</b>	<b>Acceptances</b>	<b>Rejections</b>	<b>Acceptances (%)</b>	<b>Rejections (%)</b>
<b>With a BIA</b>	774	377	158	48,71%	20,41%
<b>Without a BIA</b>	353	140	105	39,66%	29,75%
<b>Total</b>	1127	517	263	45,87%	23,34%



## Quantitative Assessment – TCRs with and without BIAs – cont'd

- The chances of acceptance are more when the BIA is submitted BEFORE the request is rejected (50.30% compared to 36.29%)

UAMs Take Charge Requests after the introduction of GRDUB1A (August 2018 – September 2019)					
	Number of Requests	Acceptances	Rejections	Acceptances (%)	Rejections (%)
With a BIA before rejection	660	332	132	50,30%	20,00%
With a BIA after rejection	124	45	26	36,29%	20,97%



## Quantitative Assessment – TCRs with and without BIAs – cont'd

- For art. 8 TCR the percentage is even higher (54.20% compared to 38.24%)
- The following table includes 65 requests that did not use GRDUB1A

UAMs Article 8 Take Charge Requests after the introduction of GRDUB1A (August 2018 – September 2019)					
	Number of Requests	Acceptances	Rejections	Acceptances (%)	Rejections (%)
With a BIA before rejection	559	303	94	54,20 %	16,82 %
With a BIA after rejection	102	39	23	38,24 %	22,55 %



## Quantitative Assessment – Some tentative conclusions

- Take Charge Requests for unaccompanied minors must be sent within the prescribed time limits under article 8
- Take Charge Requests with a BIA Report have significantly higher chances of acceptance
- Take Charge Requests with a BIA Report submitted BEFORE the request is rejected have even more chances of acceptance



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# PART C

## FUTURE CHALLENGES



## General Remarks

- The BIA Form for Dublin is being used for over a year now
- It has become established in Greece
- It has become recognizable in other Member States that even ask for it by name
- It has been described as a «major development» by EASO (EASO Annual Report 2018 , published in June 2019)
- It has been selected for inclusion by the Council of Europe in its imminent publication «*Handbook on legal standards and good practices on family reunification*»



## Future Goals

- The Greek Dublin Unit wishes to further enhance the credibility of the assessment perhaps by officially reviewing and signing the submitted BIA Forms
- We urge other Member States to use the information provided in the BIA report as a means of proving the family link in the absence of documents
- We would like to see the establishment of a common European template for assessing the BIA of the child, using a common Form and defined criteria, giving primary consideration to the views of the child according to his/her age and maturity



## Concluding Notes

- The BIA Form for Dublin is an important additional procedural safeguard for the child
- Its evaluation should not depend on numbers or statistics. A request is rejected or accepted for a variety of reasons and each case is individual
- For the first time in the Dublin procedure the views of the child are documented in a file that the authorities of European Member States must read and take into account



## Concluding Notes – cont'd

- In Greece there are certain procedural safeguards that are meant to respect and protect the views and the will of the child under the Dublin procedure
- The Dublin Unit is not informed if the child does not sign a written consent asking to be transferred to another Member State in order to reunite with family members/relatives
- The child may at any time resign from the Dublin Procedure. In this occasion the Dublin Unit is not even consulted, we are simply informed by the Regional Asylum Offices



## More Concluding Notes

- A few months ago a 16 year old child resigned the Dublin procedure shortly after the request was sent
- When we inquired into the case the legal representative informed us that the reunification was planned by the child's father and uncle. In her own words:
- «while preparing the BIA the psychologist of our team as well as myself found out that the child submitted the reunification request with the uncle because of a deal his parents and uncle had made, but this is not his own wish. Note that he informed us of this fact in the third and final session, as well as of the fact that he had only seen his uncle twice in his entire life»
- In the above case both the parents and the relative of the child in the other Member State wished for the child to be transferred
- In our BIA Form however the views of the child are the first to be considered



## More Concluding Notes – cont'd

- In the informed consent section of our BIA we relied heavily on ANNEX XI of the Implementing Regulation
- We added however the following sentence:
- **«During this procedure, we will always act in your best interests and we will always take your views into account – for example, as to whether you would like to be reunited with a relative or would prefer not to do so. We will never send you to a country where you do not wish to go»**
- Let us simply hope that the Greek Authorities will continue to regard the best interest of the child as a primary consideration



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# The End!

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