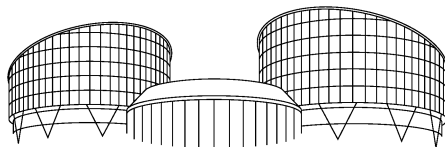


## La Corte EDU sulla “custodia protettiva” di minori immigrati non accompagnati (CEDU sez. V, sent. 19 giugno 2025, ric. nn. 11588/20)

Il caso deciso dalla Corte EDU ha ad oggetto diversi ricorsi con i quali è stata lamentata la violazione dell'art. 3 della Convenzione, per via del trattamento riservato a un gruppo di minori non accompagnati, senza fissa dimora, senza tutore legale e senza accesso all'assistenza medica da parte delle autorità greche, che non hanno riconosciuto loro lo *status* di vittima.

I Giudici di Strasburgo dopo aver ricordato la giurisprudenza in materia di accoglienza di minori non accompagnati o accompagnati e sottolineato l'importanza di tenere presente che l'estrema vulnerabilità del minore è fattore decisivo e prevalente sulle considerazioni relative alla definizione dello *status* di immigrato illegale, ha ritenuto che il trattamento cui sono stati sottoposti i ricorrenti ha superato la soglia di gravità prevista dall'articolo 3 della Convenzione con conseguente violazione della stessa disposizione.

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EUROPEAN COURT OF HUMAN RIGHTS  
COUR EUROPÉENNE DES DROITS DE L'HOMME

FIFTH SECTION

**CASE OF OMISSIS AND OTHERS v. GREECE**  
(Applications nos. 11588/20 and 2 others –see appended table)

JUDGMENT

STRASBOURG  
19 June 2025

*This judgment is final but it may be subject to editorial revision.*

**In the case of Omissis and Others v. Greece,**

The European Court of Human Rights (Fifth Section), sitting as a Committee composed of:

Stéphanie Mourou-Vikström, *President*,  
Gilberto Felici,  
Kateřina Šimáčková, *judges*,  
and Sophie Piquet, *Acting Deputy Section Registrar*,

Having regard to:

the applications against the Hellenic Republic lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by the applicants listed in the appended table, (“the applicants”), on the various dates indicated therein;  
the decision not to have the applicants’ names disclosed;

the decision to give notice of the complaints under Articles 3, 5, and 8 to the Greek Government (“the Government”) represented by their Agent’s delegates Ms O. Patsopoulou, Ms S. Charitaki, Ms E. Tsaousi and their Legal Representative Ms E. Veloni, who was subsequently replaced by Ms N. Marioli, and to declare inadmissible the remainder of the applications nos. 11588/20 and 13865/20;

the decision to give priority (Rule 41 of the Rules of Court) to the applications and the decision to indicate interim measures to the respondent Government under Rule 39 of the Rules of Court in applications nos. 11588/20 and 13865/20;

the parties’ observations;

Having deliberated in private on 28 May 2025,

Delivers the following judgment, which was adopted on that date:

#### SUBJECT MATTER OF THE CASE

1. The applications concern the living conditions of the applicants, unaccompanied minors at the time they lodged their applications with the Court, and the placement in protective custody of the applicant in application no. 11588/20.

#### THE COURT’S ASSESSMENT

##### I. JOINDER OF THE APPLICATIONS

2. Having regard to the similar subject matter of the applications, the Court finds it appropriate to examine them jointly in a single judgment.

##### II. ALLEGED VIOLATION OF ARTICLE 3 OF THE CONVENTION

3. The applicants complained that their living conditions had not been compatible with Article 3 of the Convention because they had been homeless unaccompanied minors without a legal guardian and with no access to medical assistance.

4. The Government argued that the applicants had lost their victim status because the authorities had taken the necessary protective measures and rectified the situations complained of and that they also had failed to raise the relevant complaints with the domestic authorities. The applicants disagreed with the Government’s objections as to admissibility of their complaint.

5. The Court observes that no evidence has been submitted to show that the authorities had acknowledged, either expressly or in substance, and had then afforded redress for the alleged breaches of the Convention. Therefore, the Government’s objection as to the loss of victim status must be dismissed. The Court further reiterates that the Government claiming non-exhaustion must demonstrate that the remedy was an effective one available in theory and in practice at the relevant

time, that is to say, that it was accessible and capable of providing redress in respect of the applicant's complaints, and offered reasonable prospects of success (see *Selmouni v. France* [GC], no. 25803/94, §§ 76-77, ECHR 1999-V). Having regard to the facts that no relevant national case-law examples has been provided by the Government to demonstrate effectiveness of any remedy, the Government's objection must be dismissed.

6. The Court notes that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention or inadmissible on any other grounds. It must therefore be declared admissible.

7. In so far as the merits of the applicants' complaint are concerned, the general principles concerning the living conditions of asylum-seekers have been summarised in *M.S.S. v. Belgium and Greece* ([GC], no. 30696/09, §§ 249-64, ECHR 2011). The Court further refers to its case-law regarding the reception of unaccompanied or accompanied minors, noting the importance of bearing in mind that a child's extreme vulnerability is the decisive factor and takes precedence over considerations relating to the status of illegal immigrant (see *R.R. and Others v. Hungary*, no. 36037/17, § 49, 2 March 2021; *Khan v. France*, no. 12267/16, § 74, 28 February 2019; *N.T.P. and Others v. France*, no. 68862/13, § 44, 24 May 2018; *Popov v. France*, nos. 39472/07 and 39474/07, § 91, 19 January 2012; *Rahimi v. Greece*, no. 8687/08, § 87, 5 April 2011; and *Muskhadzhiyeva and Others v. Belgium*, no. 41442/07, §§ 55 and 63, 19 January 2010).

8. The applicants in the present case lived either in "protective custody" in appalling conditions, on the streets, or in substandard housing for periods of between three and a half and five months. In two cases they were placed in living conditions appropriate for their age only after the application of interim measures by the Court (applications nos. 11588/20 and 13865/20). The Court considers that the delays in placing these applicants in shelters were caused by shortcomings in the procedures for the registration and age assessment of asylum-seekers, which prevented the applicants from appropriately communicating information about their age and personal situations and which cannot be attributed to them (see Appendix for specific details). In application no. 17152/20 even though the applicant had promptly been registered as an unaccompanied minor, his placement in a shelter took place four and a half months later. The applicants were therefore left to look after themselves for extended periods of time in a foreign country in living conditions inappropriate for their age and human dignity, having to seek help from strangers, NGOs and, eventually, from the Court, despite their young age and the particular state of insecurity and vulnerability in which, as has been established by the Court, asylum-seekers have been known to live in Greece (see *M.S.S. v. Belgium and Greece*, cited above, § 259, and see, for similar reasoning, *Rahimi v. Greece*, cited above, §§ 87-94, 5 April 2011; and *O.R. v. Greece*, no. 24650/19, §§ 66-69, 23 January 2024).

9. Having regard to the parties' submissions, all the material in its possession and its case-law, the Court finds that the treatment to which the applicants were subjected, as homeless unaccompanied immigrant minors, exceeded the threshold of severity required to engage Article 3 of the Convention and there has accordingly been a violation of that provision.

### III. OTHER ALLEGED VIOLATIONS OF THE CONVENTION UNDER THE WELL-ESTABLISHED CASE-LAW

10. The applicant in application no. 11588/20, also complained that his placement in protective custody at a police station was in breach of Article 5 § 1. The Government objected having stated that the applicant had not been under arrest and that his placement in protective custody had not been particularly long. This complaint is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention, nor is it inadmissible on any other grounds. Accordingly, it must be declared admissible. Having examined all the material before it, the Court considers that this

complaint is covered by the well-established case-law of the Court and concludes that it discloses a violation of Article 5 § 1 of the Convention in the light of its findings in the following judgments (see *Sh.D. and Others v. Greece, Austria, Croatia, Hungary, North Macedonia, Serbia and Slovenia*, no. 14165/16, §§ 63-69, 13 June 2019; *H.A. and Others v. Greece*, no. 19951/16, §§ 198-208, 28 February 2019).

#### IV. OTHER COMPLAINTS

11. The applicants also complained that their living conditions had been in breach of Article 8 of the Convention. Having regard to the facts of the case, the submissions of the parties, and its findings above, the Court considers that it has dealt with the main legal questions raised by the case and that there is no need to examine the remaining complaints (see *Centre for Legal Resources on behalf of Valentin Câmpeanu v. Romania* [GC], no. 47848/08, § 156, ECHR 2014).

#### V. RULE 39 OF THE RULES OF COURT

12. The measures indicated to the Government under Rule 39, as set out in the appended table, cease to have any basis.

#### APPLICATION OF ARTICLE 41 OF THE CONVENTION

13. The applicants claimed between 8,000 and 19,000 euros (EUR) in respect of non-pecuniary damage. The applicant in application no. 17152/20 also claimed EUR 500 euros in respect of costs and expenses.

14. The Government submitted that the potential finding of a violation would constitute sufficient just satisfaction. In so far as H.H.'s claim for costs and expenses is concerned, the Government submitted that no costs and expenses should be awarded to the applicant as they had not been substantiated.

15. The Court awards the applicants in applications nos. 13865/20 and 17152/20 EUR 3,000, each, and to the applicant in application no. 11588/20 EUR 3,900, in respect of non-pecuniary damage, plus any tax that may be chargeable to the applicants. Regard being had to the documents in its possession and to the above criteria, the Court rejects the claim of H.H. (application no. 17152/20) for legal costs and expenses.

#### FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Decides* to join the applications;
2. *Declares* the complaints concerning living conditions of the applicants in Greece and placement of the applicant in application no. 11588/20 in protective custody admissible;
3. *Holds* that there has been a violation of Article 3 of the Convention in respect of all applicants on account of their living conditions after they had arrived in Greece;
4. *Holds* that there has been a violation of Article 5 § 1 of the Convention as in respect of A.I. (application no. 11588/20);
5. *Holds* that there is no need to examine the admissibility and merits of the complaint under Article 8 of the Convention;

6. *Holds*

- (a) that the respondent State is to pay EUR 3,000 (three thousand euros) to S.H. and H.H. (applications nos. 13865/20 and 17152/20), each, and EUR 3,900 (three thousand nine hundred euros) to A.I. (application no. 11588/20), plus any tax that may be chargeable, within three months, in respect of non-pecuniary damage;
- (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amounts at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;

7. *Dismisses* the remainder of the applicants' claim for just satisfaction.

Done in English, and notified in writing on 19 June 2025, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Sophie Piquet  
Acting Deputy Registrar

Stéphanie Mourou-Vikström  
President

APPENDIX

List of cases:

No.	Application no. Date of introduction Applicant Year of Birth Nationality Represented by	Details of arrival in Greece, attempts to register as an unaccompanied minor and living conditions	Additional information
1.	<u>11588/20</u> 02/03/2020 A.I. 2003 Syrian Iliana BOMPOU	<p><u>The Government's submissions:</u></p> <p>(i) On 16/12/19 the applicant had requested asylum at Greek Asylum Office ("GAO") who referred a request for housing to EKKA and informed the Prosecutor for Minors about the applicant's situation.</p> <p>(ii) On 05/03/20 the court in Athens requested EKKA to find an accommodation for the applicant; on 10/03/20 the order for placing the applicant in a shelter for unaccompanied minors in Kalavryta had been issued.</p> <p>(iii) On 16/03/20 the applicant had come to the police department of Exarcheia and the</p>	<p><b>17 years old</b> at the time of the application</p> <p><b>Homeless between: Nov. 2019 and end of March 2020 (almost five months)</b></p> <p><b>03/03/20</b> - Rule 39 applied by the Court</p> <p><b>10/03/20</b> – document issued by the National Centre of Social Solidarity ("the EKKA") in respect of</p>

No.	Application no. Date of introduction Applicant Year of Birth Nationality Represented by	Details of arrival in Greece, attempts to register as an unaccompanied minor and living conditions	Additional information
		<p>applicant had been placed in protective custody in Pagrati police station.</p> <p>(iv) On 26/03/20 the applicant had been transferred to the shelter for unaccompanied minors.</p> <p>(v) The applicant's submissions about his living conditions had been vague and unsubstantiated, and he had been placed in housing appropriate for his needs within the reasonable time.</p> <p><u>The applicant's submissions:</u></p> <p>(i) Upon arrival in Greece in November 2019, he had looked for ways to approach the authorities but the Skype-based asylum registration system had been unavailable or busy; requested the help of Equal Rights Beyond Borders NGO who on 27/11/19 requested a registration appointment with the Greek Asylum Office ("GAO"), indicating and providing documents that the applicant was a minor.</p> <p>(ii) The request for accommodation was made on 16/12/19 during a registration interview at GAO; and on 21/01/20 he was informed by the National Centre of Social Solidarity ("the EKKA") that his request for housing had still been pending;</p> <p>(iii) After the order for placement in a shelter was issued on 10/03/20, no further steps had been taken by the authorities to enforce that order.</p>	<p>A.I. ordering his placement in a shelter <b>26/03/20</b> – actual placement of A.I. in a shelter.</p>

No.	Application no. Date of introduction Applicant Year of Birth Nationality Represented by	Details of arrival in Greece, attempts to register as an unaccompanied minor and living conditions	Additional information
		<p>(iv) The applicant had come to the police station on 11/03/2020 but had been refused protective custody, a decision which had been sent to the Prosecutor for Minors in Athens and Piraeus, the regional asylum office of Athens, the NGO Metadrasi and the shelter for unaccompanied minors in Kalavrita region.</p> <p>(v) On 16/03/20 the applicant had been transferred to the police station in Pagrati where he had remained until 26/03/20 in “protective custody” (11 days), with no permission to exit and a cell phone having been taken away; no explanation had been provided to him why he had to be detained; there had been no daylight; he had shared the cell with 4-5 persons, some of them adults; had been subjected to bullying; there had been running water but no items of personal hygiene; cement beds with no blankets or pillows; he had been handcuffed twice, upon arrival and when he had been taken for medical check-ups.</p> <p>(vi) No legal guardian had been appointed.</p> <p>(vii) Before he had been placed in the shelter, he had lived in humane conditions; sleeping in the park in Thessaloniki for the first two days then in Athens close to Kato Patisia, it had been very cold in the parks; he had no winter clothes, had been changing places every day walking hours in the city, trying to find a place to stay after he had been invited to stay by a family of seven persons (two adults and five children) in a two-room flat with no heating; not wishing to be a burden to them he had left for another shared flat with co-tenants where he had slept</p>	

No.	Application no. Date of introduction Applicant Year of Birth Nationality Represented by	Details of arrival in Greece, attempts to register as an unaccompanied minor and living conditions	Additional information
		<p>on a dirty foam mattress and had nowhere to wash his clothes but he could not afford it and he had returned the family who had hosted him before. He had not had the access to medical assistance for pain in his arm and shoulder which had been broken in an accident in Syria four years ago.</p>	
2.	<p><b><u>13865/20</u></b> 05/11/2020 <b>S.H.</b> 2004, Afghan Niki GEORGIU</p>	<p><u>The Government's submissions:</u></p> <p>(i) On 20/03/20 as soon as the Public Prosecutor for Minors had been informed of the applicant's situation, they had requested the Greek Police to locate the applicant and to take the necessary actions for his placement in state-run accommodation, and a request to EKKA had been sent at the same time; on 23/03/20 the order for placing the applicant in an accommodation appropriate for his needs had been issued;</p> <p>(ii) On 24/04/20 the applicant had been transferred to the shelter for unaccompanied minors.</p> <p>(iii) As to the living conditions of the applicant, the Government's submissions are similar to their submissions which are summarised in application no. <a href="#">11588/20</a> above.</p> <p><u>The applicant's submissions:</u></p> <p>(i) Upon arrival to Greece on 03/01/20 the applicant who had been earlier separated from his parents at the Afghanistan-Iran border, had looked for ways to approach the authorities but the Skype-based asylum registration system for Farsi speaker had been unavailable; he had stayed in Thessaloniki for several days during</p>	<p><b>15 years old</b> at the time of the application</p> <p><b>Homeless between: 03/01/20 and 24/04/20 (3,5 months)</b></p> <p><b>16/03/20</b> - Rule 39 applied by the Court <b>24/04/20</b> – actual placement of S.H. in a shelter.</p>

No.	Application no. Date of introduction Applicant Year of Birth Nationality Represented by	Details of arrival in Greece, attempts to register as an unaccompanied minor and living conditions	Additional information
		<p>which he had been sleeping together with some of his friends on the benches of the old harbour of the city, he then had travelled to Athens, further away from the border.</p> <p>(ii) On 31/01/20 he had he had requested the help of Forge for Humanity NGO who immediately requested a registration appointment with the Greek Asylum Office (“GAO”), indicating and providing documents that the applicant was a minor.</p> <p>(iii) No legal guardian had been appointed.</p> <p>(iv) Between <b>27/03/20 and 24/04/20 (29 days)</b> he stayed in Pagrati police station in “protective custody”; his name was registered incorrectly due to the absence of an interpreter at the police station; he had to use hand gestures to communicate with police officers; had been provided with food once a day; he had been kept in the same place with two adults who had been smoking cannabis; he had contracted scabies from the dirty blanket that had been given to him by the police; he had been allowed to walk through three different cells at the station, he had stayed indoors without having an opportunity to exercise outdoors. He had attempted suicide by drinking a bottle of shampoo.</p> <p>between <b>28/03/20 and 01/04/20</b> he had been handcuffed and attached to other children when they had been taken for medical check-ups.</p> <p>(v) On 20/03/20 EKKA informed the Prosecutor for Minor’s Office that the place had become available but there had been communication problems between EKKA and the Greek Police;</p>	

No.	Application no. Date of introduction Applicant Year of Birth Nationality Represented by	Details of arrival in Greece, attempts to register as an unaccompanied minor and living conditions	Additional information
		(vi) In Athens, he had been sleeping on pallets in Viktoriya and Alexanrda parks in harsh winter conditions; he had been attacked and beaten by strangers after that he had been sleeping at an open place at Irini, near the Athens Olympic stadium; he had stayed at a hostel for three days (5 euros per night) but could no longer afford it.	
3.	<p><u>17152/20</u> 23/04/2020 <b>H. H.</b> 2003, Afghan Ioanna TZEFERAKOU</p>	<p><u>The Government's submissions:</u></p> <p>(i) In 2020 the applicant had entered Greece having not informed the authorities of his arrival.</p> <p>(ii) On 28/01/20 the applicant had requested asylum at Greek Asylum Office ("GAO") who referred a request for housing to EKKA and informed the Prosecutor for Minors about the applicant's situation. On 30/01/20 and 28/04/20 Praxis NGO and RSA had requested the applicant to be accommodated.</p> <p>(iii) On 22/05/20 a place was found for the applicant in a shelter for unaccompanied minors.</p> <p>(iv) On 01/06/20 the applicant had been transferred to the shelter for unaccompanied minors.</p>	<p><b>16 years old</b> at the time of the application</p> <p><b>Homeless between: 28/01/20 and 01/06/20 (4,5 months)</b></p> <p><b>01/06/20</b> – actual placement of H.H. in a shelter.</p>

No.	Application no. Date of introduction Applicant Year of Birth Nationality Represented by	Details of arrival in Greece, attempts to register as an unaccompanied minor and living conditions	Additional information
		<p>(v) As to the living conditions of the applicant, the Government's submissions are similar to their submissions which are summarised in application no. <u>11588/20</u> above.</p> <p><u>The applicant's submissions:</u></p> <p>(i) On 28/01/20 the applicant had submitted his asylum request and he had been registered as an unaccompanied homeless minor. On the same day GAS had requested the Prosecutor for Minor to appoint him a guardian and a request to EKKA had been sent to find accommodation for the applicant. No accommodation had been provided on that day.</p> <p>(ii) On 31/01/20 Praxis NGO submitted another housing request for the applicant to EKKA.</p> <p>(iii) On 06/04/20 the applicant had requested legal help from Aegean NGO. On 14/04/20 Public Prosecutor for Minors had been reminded of the applicant's situation of homelessness.</p> <p>(iv) On 17/04/20 Praxis sent another request for housing for the applicant.</p> <p>(v) On 25/05/20 EKKA issued an order for placing the applicant in accommodation for unaccompanied minors.</p> <p>(vi) On 01/06/20 the applicant had been placed in the shelter.</p>	

No.	Application no. Date of introduction Applicant Year of Birth Nationality Represented by	Details of arrival in Greece, attempts to register as an unaccompanied minor and living conditions	Additional information
		(vii) The applicant had been living and sleeping in the streets of Patras or in abandoned buildings; he had been threatened by strangers; his situation had worsened with pandemic as non-essential movements in the city had not been permitted and it had been very difficult to access food; he had had no access to healthcare or medical facilities during that time.	