THEMIDA LEGAL INTERVENTION PROGRAM

June - August 2020

BETTER DAYS





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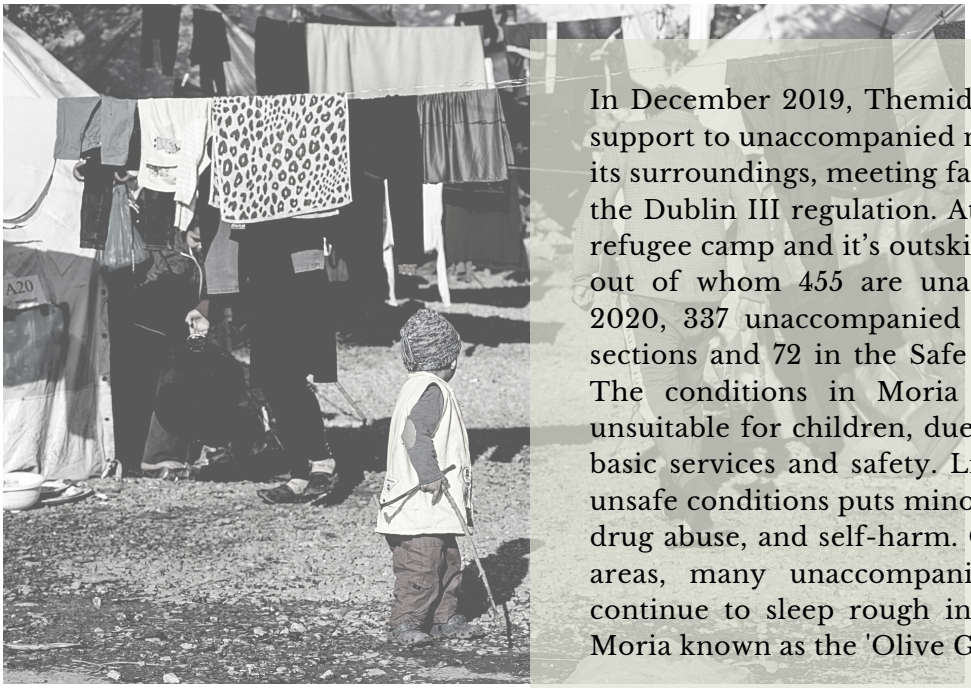
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ACRONYMS & DEFINITIONS

- **UASC:** Unaccompanied Asylum-Seeking Children
- **DCI:** Defence for Children International
- **Dublin Office:** Offices that are in charge of applying the Dublin III Regulation regarding asylum seekers in Europe.
- Family Reunification: Procedure governed by the Dublin III regulation allowing members from the same family to be reunited in one host country, despite their country of entrance in the EU.
- BIA: The 'Best Interest Assessment' is an assessment of an individual child, designed to ensure that the child's best interests are the foremost consideration. A BIA must be conducted by the staff with adequate training and with the participation of the child in the process.

CONTEXT

SITUATION OF UASC IN MORIA

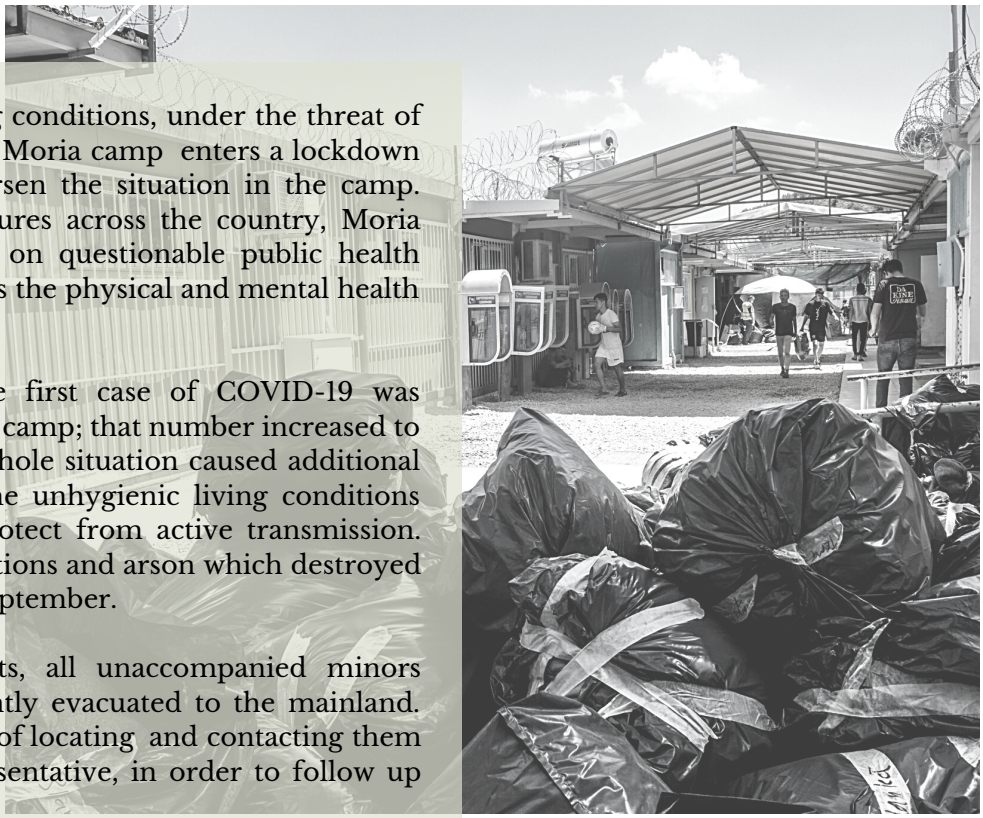


In December 2019, Themida was launched to provide legal support to unaccompanied minors living in Moria camp and its surroundings, meeting family reunification criteria under the Dublin III regulation. At the end of August 2020, Moria refugee camp and it's outskirts were hosting 12 963 residents out of whom 455 are unaccompanied minors. In August 2020, 337 unaccompanied minors are living in protected sections and 72 in the Safe area, mainly from Afghanistan. The conditions in Moria refugee camp are completely unsuitable for children, due to a crucial lack of access to all basic services and safety. Living in squalid, unsanitary and unsafe conditions puts minors at risk of sexual, physical, and drug abuse, and self-harm. Outside the protected sheltering areas, many unaccompanied minors are homeless and continue to sleep rough in un-official camps surrounding Moria known as the 'Olive Groves of Moria'.

In addition to these disastrous living conditions, under the threat of the COVID-19 pandemic on Lesvos, Moria camp enters a lockdown in March 2020 which further worsen the situation in the camp. Despite the lift of restriction measures across the country, Moria camp remains on lockdown based on questionable public health concerns and this severely aggravates the physical and mental health conditions of the camp's residents.

On the 2nd September 2020, the first case of COVID-19 was officially identified in Moria refugee camp; that number increased to 17 official cases a week later. This whole situation caused additional frustration which was fuelled by the unhygienic living conditions and lack of privacy and PPE to protect from active transmission. This led to a sequence of demonstrations and arson which destroyed Moria refugee camp on the 9th of September.

Following these catastrophic events, all unaccompanied minors residing in Moria camp were urgently evacuated to the mainland. Our team is currently in the process of locating and contacting them or their new accommodation representative, in order to follow up their cases.



THEMIDA

PARTNERSHIP OF BETTER DAYS & DEFENCE FOR CHILDREN INTERNATIONAL



BETTER DAYS GREECE (BD)

Better Days Greece (Better Days) is a greek non-profit organization based on the island of Lesvos since 2015. This organization is providing critical support to unaccompanied minors living in the Moria refugee camp and its outskirts. In the past two years, Better Days worked with over 1200 unaccompanied minors, offering several services from non-formal education to legal aid support.

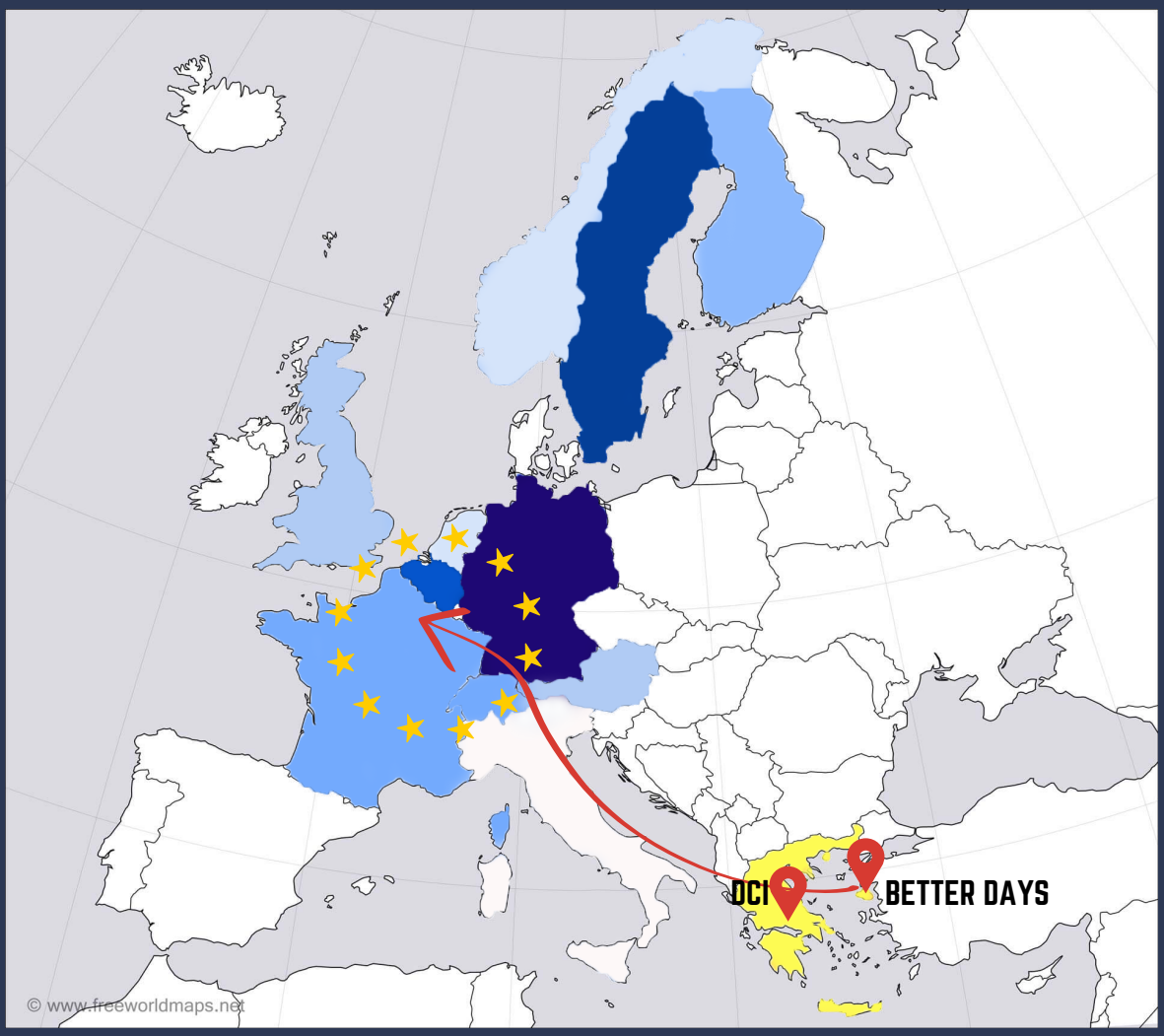
https://www.betterdays.ngo

DEFENCE FOR CHILDREN

Defence for Children International (DCI) is a non-profit international organization which the greek unit is based in Athens. This organization mandated to promote and protect children's rights in accordance with international law by documenting violation of children's rights, advocating for greater protection, and offer free legal aid to children.

https://defenceforchildren.org

MAPPING OF THE PROGRAM



Number of THEMIDA cases per destination countries

28 13 6 5 4 2 1

Country of THEMIDA 's operations

THEMIDA Partners' locations

PROGRAM STRUCTURE

Donors

Help Refugees
&
Le Rosey
Three Peas
Private Donations

Better Days Greece

Themida Program Director :
Elena Moustaka

Themida Legal Officer:
Romane Bernet

PSS Director:
Myriam Correa

Farsi, Arabic and Somali
interpreters

DCI Greece

DCI Greece Director :
Nantina Tsekeri

Head Lawyer :
Iris Pappa

Lawyer:
Iren Kontou

Additional Support

Moria reception and identification center
representative (RIC):
Alexandra Tzanedaki

EASO's Legal and protection officer:
Natassa Savvidou



EXTERNAL CHALLENGES

The Better Days team, which was evacuated to Athens at the end of February 2020, gradually returned on the ground from May onwards. Working primarily from home, under quarantine measures at first, then fully operational.

The wearing of PPE and the implementation of strict safety measures are mandatory to any operations from our team in Moria camp. The local acts of violence from extremist political groups decreased, but sporadic outbreaks are still occurring, leading our team to be particularly vigilant while operating.

Moria camp remained under lockdown despite the lift of other public health measures within Greece, which created further tensions and more potential hazards for the NGOs working on the island. Most non-essential operations remain closed and all other services continue on decreased capacity.

By mid August, the camp management announced that within the camp only “essential services” will be provided by NGO which included site management support services, medical and legal aid. Better Days' work in medical, mental health and legal aid continued but meetings with POCs were strictly regulated.

Themida operation's on the ground were assessed daily regarding potential occurring riots or other safety and health hazards.

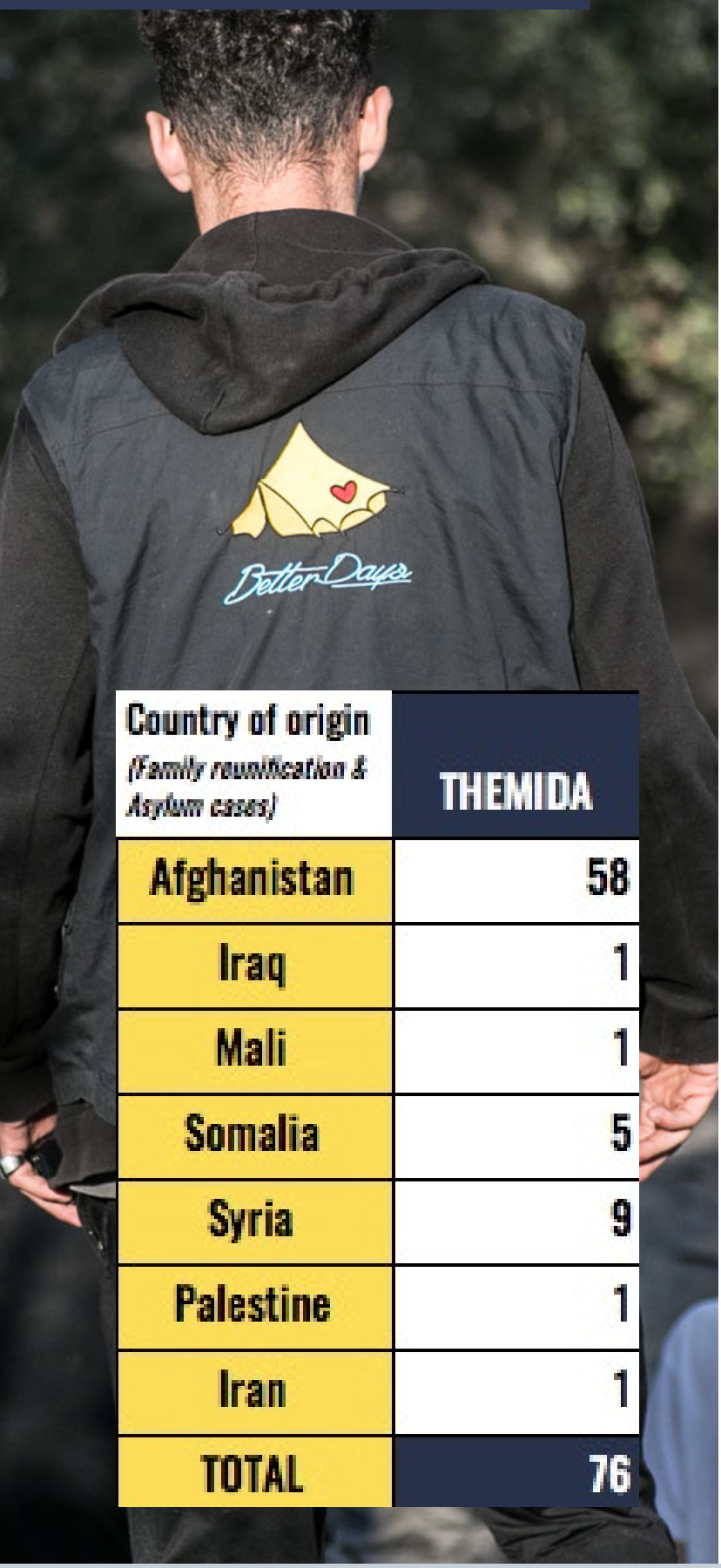
The number of cases of COVID-19 on Lesvos island increased and eventually hit Moria camp, causing further tensions across the host community and asylum seekers. Mass testing of Moria camp residents was organized by EODY.

POCs tested positive to COVID-19 were forced to isolate in adhoc isolation areas run by non-medical actors. The refugee community of Moria was frighten and was asking for transfers to a safer location. The situation intensified.

On the 9th September 2020, a sequence of arson destroyed Moria camp. Over 12.000 residents were found homeless, sleeping rough in the streets surrounding Moria camp. All UAMs previously residing in Moria camp were urgently evacuated to the mainland. Themida team is currently in the process of remapping program operations and re-establish communication flow with new stakeholders.

DEMOGRAPHICS

FROM THEMIDA



Country of origin *(Family reunification & Asylum cases)*	THEMIDA
Afghanistan	58
Iraq	1
Mali	1
Somalia	5
Syria	9
Palestine	1
Iran	1
TOTAL	76

76

CASES

Total number of family reunification and asylum protection cases of Themida I & Themida II

Currently, Themida is legally representing 69 family reunification cases and 7 asylum cases. Following the European relocation program, 4 cases decided to revert their claim to asylum protection in Greece in order to meet the criteria of the relocation program. If they are not selected to be relocated, Themida will support them in preparing for their asylum interview if they wish us to do so.

Since June 2020, 7 new family reunification cases were referred to Themida. These new cases are referred by the RIC Minor's Office as new arrivals or critical cases.

Our team offers legal support and has funded the DNA procedures of UAMs represented by other legal actors such as the European Lawyer of Lesvos (ELIL) and HIAS.

Country of destination (Family reunification & Asylum in Greece)	THEMIDA
Austria	5
Belgium	6
England	3
Finland	4
France	5
Germany	28
Holland	1
Norway	2
Sweden	13
Switzerland	2
Greece	7
TOTAL	76

DNA PROCEDURE



27
CASES WITH DNA TEST

23 from Themida and 3 case supported by Themida for other legal actors.

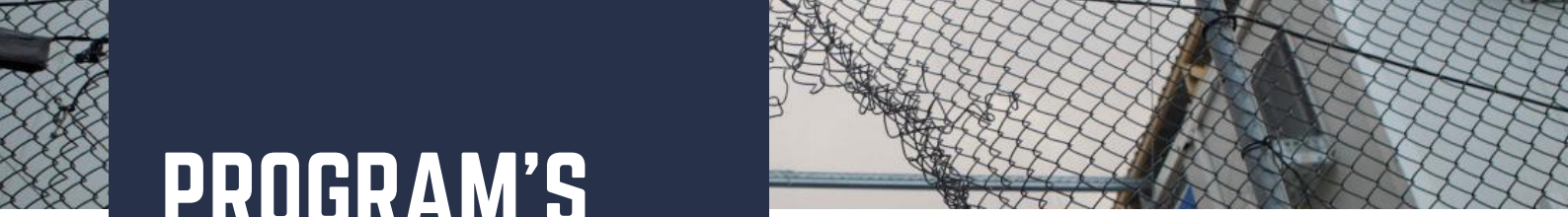
During the reporting period, Themida supported the completion of 16 additional DNA tests which brings the total number of DNA tests implemented to 27.

Due to the efficiency of the program, 4 critical cases in need of DNA tests have been referred to Themida by external actors such as the Minor's Office of Moria RIC or other legal non-profits.

Among the 16 new DNA cases, 14 positive results were released and sent to the destination countries and 2 are still ongoing. Proceeding with DNA sampling in Moria refugee camp is still very challenging for our team and stressful for the UAMs as rigorous sanitary and safety measures must be implemented. Following arrangements, the DNA procedure took place in the Minors Clinic which became available for Better Days after working hours (after 16:00) in order to proceed with DNA sampling.

Our team is always conscious of the time-sensitivity of each family reunification case and does it's best to proceed with sampling as soon as possible. However, it is unrealistic to expect the full process to be completed in less than a month, especially when UAMs and their relatives do not live in the same country.





PROGRAM'S IMPACT

30

POSITIVE DECISIONS

From December 2019 to August 2020

STEP 0: The UASC is still unregistered as a family reunification case.

STEP 1: The child submitted his family reunification claim.

STEP2: The file and the BIA have been sent to the Dublin Office - Greek Unit.

STEP3: The file was submitted to the destination country and we are waiting for an answer.

STEP4: We received a temporary rejection or a request for additional proof or a DNA test.

STEP 5: Final decision was received. If the decision is positive we are waiting for the plane ticket to be issued.

31/08/2020	THEMIDA
STEP 0	0
STEP1	0
STEP2	2
STEP3	5
STEP4	32
STEP5	30

Figure 3: Number of cases per progress' STEPS

Out of the 30 total positive decisions obtained by Themida, 21 were released between June and August 2020. To this stage of the program, most of the cases have received at least a first answer to their case that is either a temporary rejection or the acceptance of their cases. Once their case is accepted the UAMs are waiting for the Greek Transportation Office to arrange for their transfer to the destination country.

To this day, only 3 out of the 30 cases with positive decisions have been transferred to their destination country.

Zabiulle (mentioned in the Dec 2019 -May 2020 report) is still waiting for his transfer to Holland. After more than a year spent in Moria camp, this child suffers from depression and is losing hope of ever being transferred to his brother. Once the positive decision is issued, Greece has 6 months to deliver the plane ticket. Despite this already unreasonably long timeframe, Greece is failing to respect the deadlines, mostly blaming COVID-19.

Cases are still suffering from unreasonable delays in the destination countries' answers. Some cases did not receive any response at all for more than 6 months. Our team has sent several reminders, highlighting the inhuman conditions the applicants are living in, but to this day they remain unanswered. We continue with advocacy and building awareness regarding 'family reunification' through the right EU forums.

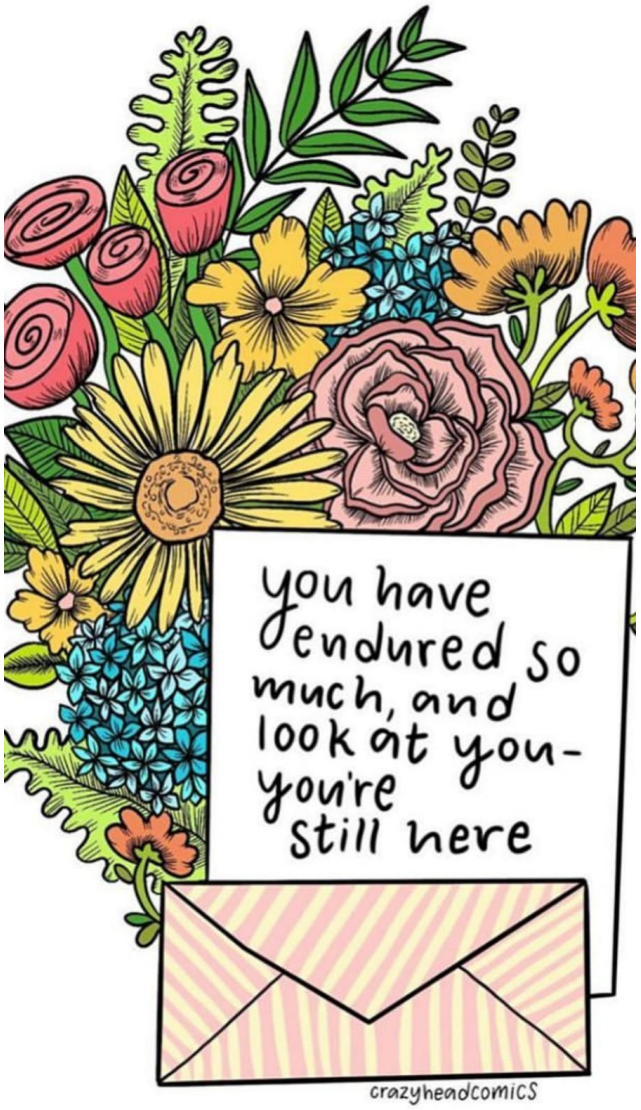
Some Themida cases have also received rejections despite the strong evidence submitted in their cases, fulfilling family reunification criteria. In these cases, Themida is collaborating with lawyers from the destination countries in order to assess the different legal options, or eventually challenge the Dublin Offices unlawful decisions, in-front of the national Court of Law responsible.



PSYCHO-SOCIAL SUPPORT

During the reporting period, Psycho-social services were provided in Moria or remotely. Many Themida participants have lived through traumatic events in their home countries, during their journey to Greece, or during their stay in Moria camp. While working with the participants we have identified numerous signs of depression, self-harming, or high anxiety that we could not ignore. A referral pathway was developed in order to identify vulnerabilities and support the children in need. Individual psycho-social sessions were offered to children who presented signs of trauma or behavioural issues. In August, BD launched its Psychoeducational Program in "Section A", where many of the Themida participants and other unaccompanied children lived.

The most vulnerable Themida participants attended the program, which consisted of 4 hours a week of psychoeducational activities which focused on: psychomotor therapy, visual arts, social emotional learning, and assemblies.







KEY FIGURES

APPLICATION'S TEMPORARY REJECTIONS

DATA ANALYSIS

- Germany holds 41% of our cases, but also 33% of the rejection rate.
- 21 out of the 28 cases to Germany were requested to submit DNA evidence.

Cases that received at least 1 Rejection before 31/08* (excludes final answer)	THEMIDA
Austria	1
Belgium	0
England	2
Finland	0
France	2
Germany	23
Holland	0
Norway	2
Sweden	2
Switzerland	0

Figure 5: Number of rejections per country

After analyzing the number of temporary rejections received by the program so far, Germany holds 41% of our cases but also 76% of the rejections. One of the criteria observed by German precedents for valid application to family reunification is that there must be sufficient evidence of the family relationship. These rejections have occurred despite the submission of identification documents. DNA evidence is almost systematically requested by the German Dublin Office and to this day 75% of the UAMs with a family reunification case to Germany had to submit to a DNA test.

Since the end of May 2020, the German Dublin Office seems to function within new regulations leading to the almost constant rejections of cases even with DNA evidence based on the motive that the DNA results must be submitted, at last, 21 days after the rejection was issued. This requirement is highly unrealistic since it is impossible to submit DNA evidence in less than one month's time when relatives live in different countries and one of them is in Moria refugee camp. This practice has caused great harm to the mental and physical health of the unaccompanied minors.

Themida had also identified unlawful rejection motives practiced by Sweden, Norway and Austria, who challenged the age of the unaccompanied minor, despite this status being recognized by the Greek authorities. All these practices are completely contradictory to the best interests of the child, protected by the International Law.

THEMIDA ADVOCACY WORK



Following the numerous malpractices of European Dublin Offices, Better Days and DCI continued to invest in advocacy through governmental and non governmental forums in order to raise public and institutional awareness. The first practice brought to light was the systematic rejections of family reunification cases who provided positive and strong DNA evidences of their family bond. Thanks to Themida, we were able to gather key data and testimonies which shed additional light to the almost automatic German request for DNA sampling, despite of all the other documents provided to prove kinship. Further on it documented the tendency to reject cases with a positive DNA result. We were also able to provide evidence of the negative consequences these practises have had on the mental and physical health of unaccompanied minors.

Our findings support that an immediate reform of the Dublin assessment protocols is required, which emphasizes on individual assessment and takes into outmost consideration the Best Interest of the Child. International law must be respected and UAMs must be reunificated with their relatives in other EU states. Prolong stays of children in the camp have devastating consequences to their health and exposes them to additional trauma and dangers.

Our postfire assessment has enabled us to identify new serious gaps in provisional aid for UAMs who have reached 18 years of age and were removed from the list of UAM who were transferred to the mainland following the fire. It is important to note that UAMs who have applied for or have been accepted for family reunification have a right to reunification regardless of whether they turn 18. The categories of UAM and youth affected by age are:
UAMs who have turned 18 following their relocation interview
UAMs who have turned 18 and have open Dublin cases pending
UAMs who have turned 18 and have open Dublin cases pending with minor siblings in the mainland
UAMs who have turned 18 and have positive answers for reunification with their families in other EU member states
Alleged Minors



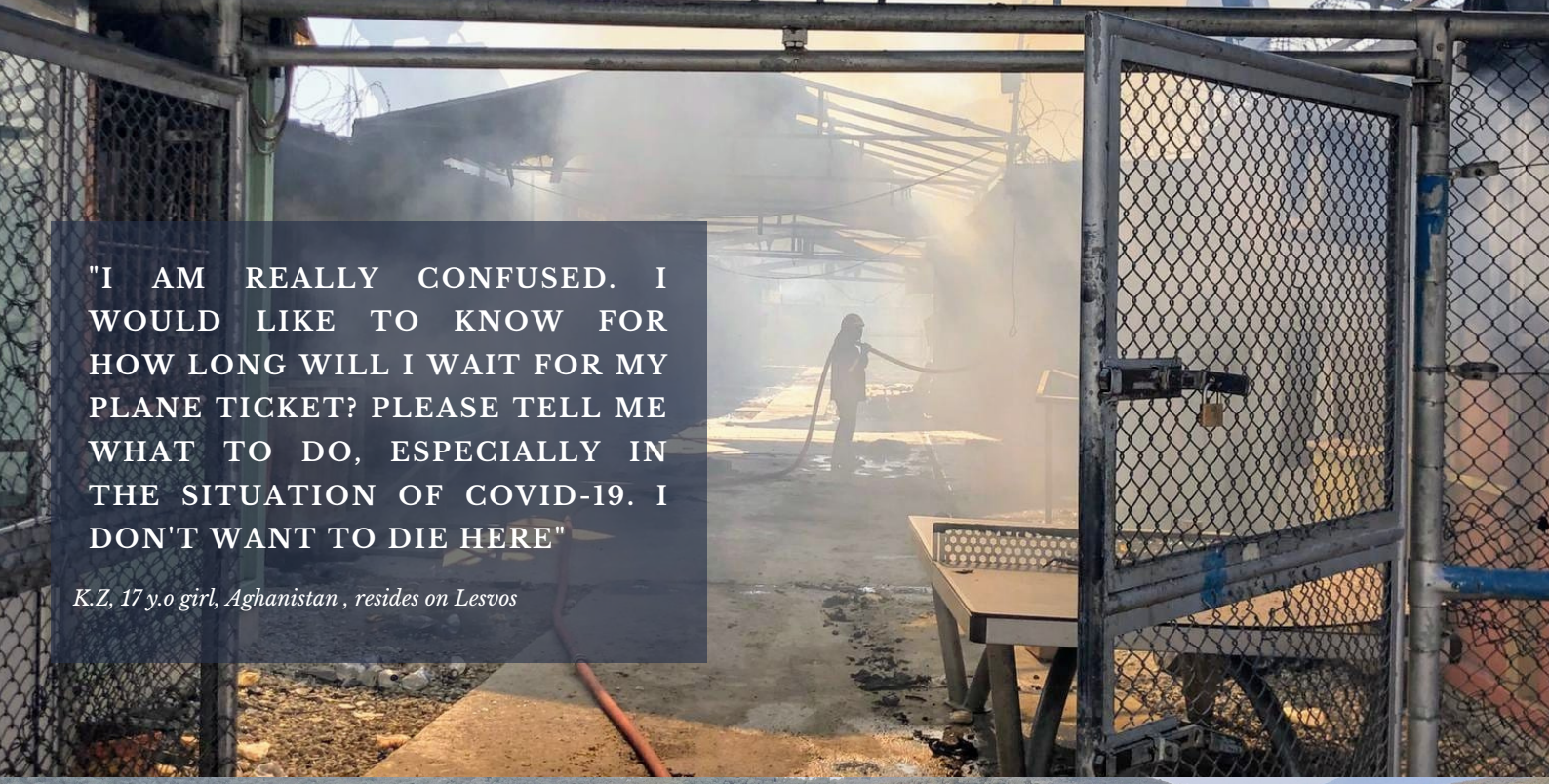
THE END OF MORIA CAMP

We anticipated that this moment would arrive if no measures were put in place to dignify the inhumane conditions that asylum seekers were exposed to in Moria camp, for prolong periods of time.

On the 9th of September 2020, the first of multiple fires engulfed Moria refugee camp, displacing the majority of its residents.
The day after this disastrous event, over 12.000 were found themselves homeless, sleeping rough on the side of the street. Approximately 40% of them were children.

394 unaccompanied minors were urgently evacuated to facilities in the mainland. Better Days worked tirelessly to support identify and transfer over 300 UAMs who were displaced following the fire. Our Themida & PSS teams remain committed to cater to the legal and PSS needs of UAMs. Our outreach team continue to monitor the whereabouts of +18s who could not be transferred to the mainland -- some are forced to stay in the new camp -- many of whom have received their positive decision, but have still not received their tickets.

Today, we stand in front of the remains of a camp which has witnessed the pain and suffering of hundreds of thousands of people over half a decade. We feel dumbstruck by the reality of another camp being built on this island while European countries struggle to respond with solidarity and political will towards humanity.



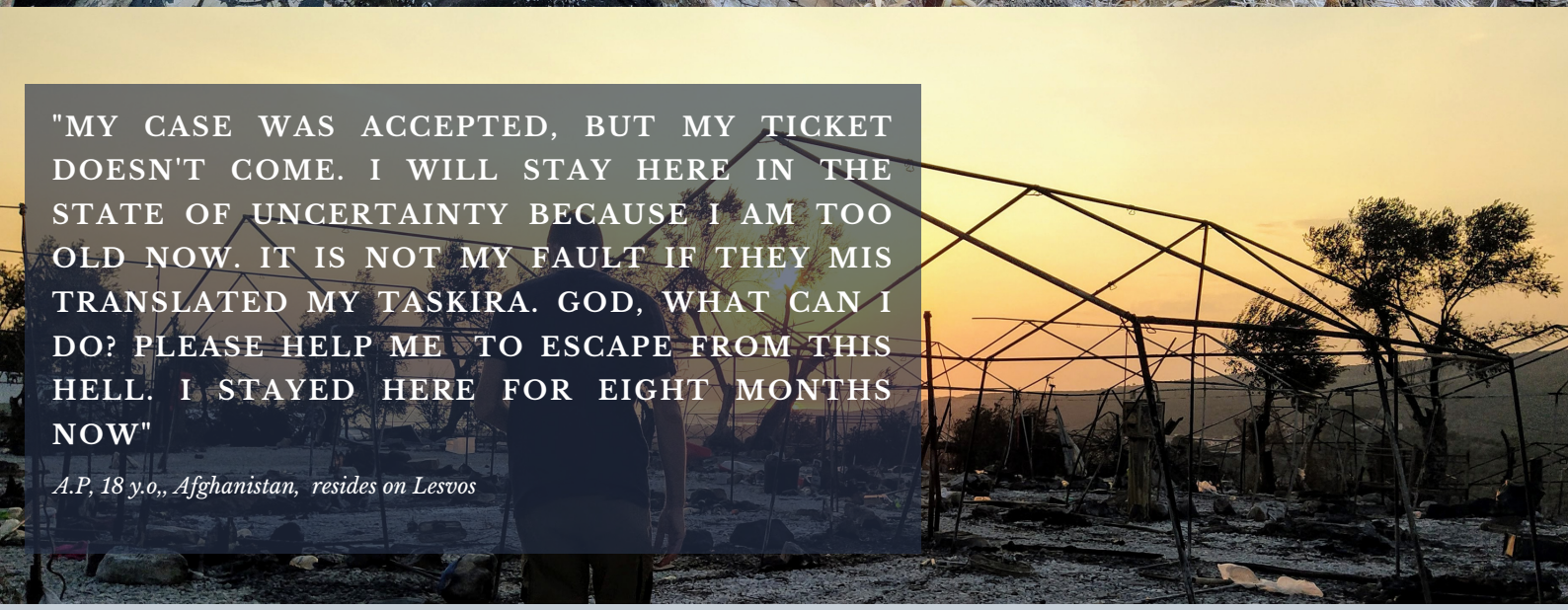
"I AM REALLY CONFUSED. I WOULD LIKE TO KNOW FOR HOW LONG WILL I WAIT FOR MY PLANE TICKET? PLEASE TELL ME WHAT TO DO, ESPECIALLY IN THE SITUATION OF COVID-19. I DON'T WANT TO DIE HERE"

K.Z, 17 y.o girl, Aghanistan , resides on Lesvos



"I HEARD MORIA IS ON FIRE SINCE LAST NIGHT AND MY BROTHER SAID IS OUTSIDE NOW, HE HAS NO PLACE TO LIVE. I AM REALLY WORRIED ABOUT HIM AND I CAN'T DO ANYTHING TO HELP HIM. IS THERE ANY NEWS ABOUT HIS PLANE TICKET TO GERMANY? CAN YOU ASK THEM HOW LONG IT WILL TAKE BEFORE IT IS READY? SAID IS TOO YOUNG AND I AM SO WORRIED ABOUT HIM"

W.R, S.R's older brothe , resides in Germany



"MY CASE WAS ACCEPTED, BUT MY TICKET DOESN'T COME. I WILL STAY HERE IN THE STATE OF UNCERTAINTY BECAUSE I AM TOO OLD NOW. IT IS NOT MY FAULT IF THEY MIS TRANSLATED MY TASKIRA. GOD, WHAT CAN I DO? PLEASE HELP ME TO ESCAPE FROM THIS HELL. I STAYED HERE FOR EIGHT MONTHS NOW"

A.P, 18 y.o,, Afghanistan, resides on Lesvos

WHAT'S NEXT?



Following the fire outbreak, partner organizations decided to support the Ministry and build what we call today Moria 2.0. There is a general consensus of those who have supported the construction and implementation of the camp, that their response enables them to improve camp conditions and infrastructure. In reality though, the videos, photos and real time reports coming from the residents, volunteers and staff in the camp, have documented the creation of a place which meets no standards in shelter or WASH nor takes into consideration COVID-19, hygiene, protection, privacy or any other elements of human dignity which should guide aid provision. Better Days has taken a stance which we hope our partners will respect and support. We will not work in the new camp nor will we contribute to the viability or implementation of the three-phase plan outlined by the government, leading to a closed/detention centre.

In 2019-2020 we put time and effort into building partnerships and a reputation which granted us a seat at the table to discuss and advise governmental and non governmental actors. Our SoP recommendation has advocated for individual assessment and the movement of ALL UAMs with no consideration of gender or age, to a safer place. We remain committed to the hundreds of UAMS and +18s we have represented so far, to bring them to a place they can call home via a relocation or a reunification pathway. Moreover we are in a position to utilize our expertise to support UAMs in the mainland who remain in critical condition and in a state of homelessness in partnership with our implementing partner in legal aid, DCI. Last but not least we remain committed to re-examining our options in education for displaced and moving populations in Greece and abroad, wherever unaccompanied children and refugee children on the move are excluded by public educational systems, discriminated against until they reach adulthood and then forgotten by the system which is meant to protect and educate them.

We are scaling-up our Legal & PSS intervention program with DCI, in Athens, Thessaloniki and Lesvos and continue to invest in strategic litigation, critical legal aid and advocacy for the hundreds of UAMs still stranded in Greece.