



HOUSE OF LORDS

European Union Committee

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2nd Report of Session 2016–17

# **Children in crisis: unaccompanied migrant children in the EU**

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## SUMMARY

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The current refugee crisis is the greatest humanitarian challenge to have faced the European Union since its foundation. Although the outcome of the referendum on 23 June 2016 was that the UK should leave the EU, the UK remains a full member of the EU, with all the responsibilities that entails, until the final withdrawal agreement is ratified. It is vital, both on moral grounds and in order to help maintain good relations with the other 27 Member States, that the UK Government should participate fully in EU action to resolve this humanitarian crisis.

It has become increasingly clear that children, many of them unaccompanied by a parent, relative or guardian, are in the forefront of the crisis. In 2015 88,245 unaccompanied children applied for asylum in the EU, including 3,045 in the UK. In May 2016 alone, 3,133 unaccompanied migrant children arrived in Italy. Many children do not even reach the EU's shores: at least 137 children have drowned in the Mediterranean since the start of 2016.

The implementation of existing EU measures to protect unaccompanied migrant children has been poor, and the European Commission has not renewed its 2010–2014 Action Plan on unaccompanied minors. We are concerned that the EU and its Member States—including the UK—may have lost sight of the plight of unaccompanied migrant children. We have therefore sought to assess the nature and scale of the challenges they face across the EU. We have asked whether existing EU provisions are sufficiently clear and enforceable, and what further measures are needed to address the needs of unaccompanied migrant children.

We received a wealth of evidence suggesting that a number of underlying, cross-cutting problems affect unaccompanied migrant children. They face a culture of disbelief and suspicion. Authorities try to avoid taking responsibility for their care and protection. Existing EU and national measures are poorly implemented. Unsurprisingly, many children have lost trust in the institutions and measures intended to guarantee their rights, safety and well-being.

These underlying problems have contributed to deplorable reception conditions, particularly in refugee camps, while prolonged uncertainty about children's legal status has left them 'living in limbo'. Such outcomes have in turn exposed

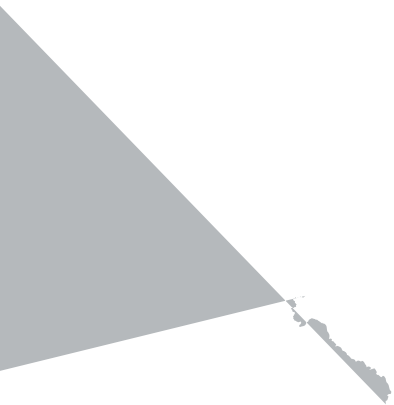
In order to achieve better outcomes, EU institutions and Member States must cooperate not only with one another and with EU Agencies, but also with regional and local authorities, NGOs and individual professionals. A harmonised system of guardianship will be crucial, while professionals at all levels must receive training and resources to ensure that existing measures are implemented fully and in the best interests of children.

None of the specific recommendations made in this report will, in isolation, overcome the many long-term challenges faced by unaccompanied migrant children in the EU. But a proper debate on the refugee crisis generally, and on the predicament facing unaccompanied migrant children specifically, is a vital first step towards finding solutions. We hope that this report will help trigger such debate.

# Children in crisis: unaccompanied migrant children in the EU

## CHAPTER 1: INTRODUCTION

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Government should play an active and supportive role in addressing the present humanitarian crisis affecting unaccompanied migrant children.

6. Hitherto the EU has sought to protect unaccompanied migrant children through specific provisions in a wide range of legislative measures, including Directives in the field of asylum, human trafficking and the return of irregular migrants. However, Member State implementation of EU measures has been poor, and in September 2013 the European Parliament condemned “the existing lacunae in the protection of unaccompanied minors in the European Union ... and the numerous breaches of their fundamental rights in certain Member States.”<sup>2</sup>
7. In May 2010, the European Commission published an Action Plan on Unaccompanied Minors. In its midterm review of the Action Plan, the

## CHAPTER 2: SETTING THE SCENE

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### The scale of the problem

12. It is not possible to say with certainty how many unaccompanied migrant children are in the EU as a whole, including the UK. Eurostat, the EU Agency responsible for collating statistics, publishes data on asylum applicants considered to be unaccompanied minors, disaggregated by age, sex and nationality.<sup>4</sup> These show that the numbers have risen steeply in the last three years (see Table 1), to a total in 2015 of just under 90,000. They also indicate that an increasing proportion of children applying for asylum are unaccompanied (rising from around 14% in 2014 to 22% in 2015).

**Table 1: Unaccompanied migrant children applying for asylum in EU28, 2013–2015**

Year	2013	2014	2015
Total asylum applications, EU28	431,090	626,960	1,321,600
Unaccompanied minor applicants	12,725	23,150	88,245
Percentage of asylum applicants who were unaccompanied minors	3.0%	3.7%	6.7%

Source: Eurostat, 'Asylum and managed migration': <http://ec.europa.eu/eurostat/web/asylum-and-managed-migration/data/database> [accessed 21 June 2016]

13. As for the UK, The Rt Hon James Brokenshire MP, Minister of State for Immigration, told us that “there were 3,043<sup>5</sup> [asylum applications by unaccompanied minors in 2015], which is an increase of 56% [on 2014]”.<sup>6</sup>
14. Yet these figures do not reflect the true number of unaccompanied migrant children present in the EU. The European Council on Refugees and Exiles (ECRE) noted that, in 2013, 12,770 unaccompanied migrant children

**The impact of the refugee crisis on unaccompanied migrant children**

17. In our recent report on *The EU Action Plan against migrant smuggling* we described the current refugee crisis as the greatest humanitarian problem to have faced the EU since its foundation.<sup>8</sup> That crisis has accentuated the problem of the lack of provision of adequate reception conditions for unaccompanied migrant children.<sup>9</sup> Witnesses representing Save the Children and ECRE stressed that national asylum systems had been “overwhelmed”,<sup>10</sup>

advice. With particular reference to age assessments, they concluded: “the EU response to the ‘migration crisis’ has perpetuated the vulnerabilities of the most vulnerable.”<sup>17</sup>

21. A particular concern, within the context of the EU response to the refugee crisis, is the recent EU-Turkey Agreement, under which all new irregular arrivals in the Greek islands from Turkey will be returned to Turkey.<sup>18</sup> Margaret Tuite, Co-ordinator for the Rights of the Child at the European Commission, told us that this arrangement would not apply to children,<sup>19</sup> but Ms Bouteillet-Paquet noted that children were not explicitly mentioned in the Agreement, and accordingly there were no explicit safeguards to prevent their return.<sup>20</sup>
22. Nevertheless, a better response to the wider crisis would, on balance, also help to address the particular problems facing unaccompanied migrant children. In a previous report, we argued that by participating selectively in EU measures intended to address the refugee crisis, the UK Government risked undermining “the EU’s ability to develop a coherent or adequate approach to this humanitarian crisis”.<sup>21</sup> Ms McNeill told us that there was a persistent “unwillingness of European governments, including unfortunately our own, to treat the humanitarian crisis that is happening inside the European Union with the seriousness that it deserves.”<sup>22</sup> She noted that “until the political consensus is reached that actually this is a humanitarian crisis”, policy would not change to improve the situation for unaccompanied migrant children.<sup>23</sup>

### ? YnWU`Yb[ YggdYW]UWrc i bUW@a dUb]YX'a ][ fUbhW]`XfYb

23. A selection of the most common problems facing refugees and migrants in the EU, including some that are specific to unaccompanied migrant children, was provided by Ms Tuite, and appears in Box 1.

#### **Box 1: Selected list of problems facing unaccompanied migrant children**

- Dangers faced while entering the EU irregularly
- Lack of protection while following EU migration routes undetected
- Lack of safe reception, reception capacity, proper reception conditions, inspection and monitoring
- Measures to prevent movement to their preferred country of destination
- Procedural and other obstacles to family reunification
- The risk of administrative detention, including in inappropriate conditions (such as a lack of separation from adults)

17 Written evidence from Dr Vicki Squire and Ms Nina Perkins ([UME0027](#))

18 European Council press release, ‘EU-Turkey statement, 18 March 2016’ (March 2016): <http://www.consilium.europa.eu/en/press/press-releases/2016/03/18-eu-turkey-statement/> [accessed 21 June 2016]

19 [Q 114](#)

20 [Q 116](#)

21 European Union Committee, *The United Kingdom opt-in to the proposed Council Decision on the relocation of migrants within the EU* (2nd Report, Session 2015–16, HL Paper 22)

22 [Q 37](#) (Kirsty McNeill was specifically talking in the context of Hotspots).

23 [Q 39](#)

- Vulnerability to sexual violence, sexual exploitation and trafficking
- Lack of reliable information and advice, including information about trafficking
- Lack of legal advice and support
- Use of invasive methods to assess age, with variable results and reliability.

*Source: Supplementary written evidence from Margaret Tuite (UME0038)*

24. Unaccompanied migrant children are, of course, particularly vulnerable to all these problems. Many of them face poverty, war or persecution in their countries of origin. During their journey to, or through, the EU, they are particularly vulnerable to smugglers or traffickers, as well as to sexual abuse. According to Ms McNeill, doctors in Save the Children's Italy programme "found that 50% of the children they are dealing with have an STI [sexually transmitted infection]. That is evidence of them being sexually exploited in transit."<sup>24</sup> These traumatic experiences have long-term effects: according to the NGO Community Action for Refugees and Asylum Seekers (CARAS), "Depression, anxiety and PTSD [Post Traumatic Stress Disorder] are all common, as well as living with extreme grief and loss."<sup>25</sup>
25. Julie Ward MEP hi.8 (c67 (h)-13.6 (OTw 6.996 00-23.8.1 (a)11.7 (t)-2[(OTw 6.996 1

**The feasibility of an effective, common European approach**

28. Dr Hanne Beirens, Associate Director of the Migration Policy Institute (MPI), described the variation in the numbers of unaccompanied migrant children in EU Member States. At one extreme, Estonia did not receive a single asylum application from an unaccompanied migrant child in 2015, while others “such as Belgium, Greece, Hungary, Malta and Sweden, were overwhelmed.”<sup>29</sup> Sweden in fact recorded 35,250 applications in 2015, 40% of the total number across the EU28. Anna Maria Corraza Bildt, a Swedish Member of the European Parliament (MEP), told us: “40 per cent of Sweden’s migration budget goes to children ... The police say that in Malmo, which is the big ameain b3-2.2 (e013 Tc 0.059 Tw T\*59 T12 199.7821 85.039 Tm



principle. What we have discovered is a huge gap between theory and practice. In the following chapters we explore the widespread failure, across the Member States, to apply the universally agreed best interests principle to the many tens of thousands of unaccompanied migrant children who are in the EU today.



### CHAPTER 3: FOUR UNDERLYING PROBLEMS

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37. This chapter explores four underlying problems, of which many of the practical difficulties that face unaccompanied migrant children are symptomatic. Each of these problems has been brought into sharp focus by the huge numbers of refugees who have entered the EU since we and show solidarity<sup>7</sup>;

- the poor implementation of existing law and policy; and
- the loss of trust experienced by unaccompanied migrant children.

#### **'A culture of disbelief'**

38. Several witnesses speak of a pervasive 'culture of disbelief' shown towards unaccompanied migrant children by Member State authorities, we

<sup>43</sup> We received a wealth of evidence on these two symptoms of the prevailing culture of disbelief, most of it relating to the UK. We also heard more general evidence on this suspicion shown towards children, and its effects on per 2-51.3 (e)-2.1 (p) 8.5 (t)-21 (i) 8.8 (o) 6 (n7n)-2

#### *Age disputes*

*Age assessment in the EU*



The case law has been supplemented by statutory guidance, published in 2014, which states that “age assessments should only be carried out where there is significant reason to doubt that the claimant is a child. Age assessments should not be a routine part of a local authority’s assessment of unaccompanied or trafficked children.”

someone is a minor. The social worker's own observations appear to be given the most weight, with other opinions and the evidence of the young person given less credibility."<sup>58</sup> A number of the former unaccompanied migrant children that we met confirmed that their evidence had not been listened to.

49. The organisation End Child Prostitution in Asian Tourism (ECPAT UK, which now deals primarily with child trafficking in the UK) was concerned that "there is inconsistency in how assessments are carried out, with many local authorities facing legal challenges to carry out unlawful age assessments. In one local authority, it was reported that more than £1.2m had been paid out over wrong decisions about age-disputed children".<sup>59</sup> The Refugee Council raised similar concerns: "local authority practices vary considerably and we regularly encounter children whose assessments have been conducted unfairly, unprofessionally and with little thought to the impact on the child."<sup>60</sup>
50. Children may challenge an age assessment, but Ms Wilding cautioned that:
- "the court procedure for challenging age assessment is fiercely adversarial in practice and involves children being subjected to cross examination about multiple aspects of their identity ... lawyers told me it was often not in the child's best interest to put them through the process of challenging a disputed age assessment, despite the disadvantages of being assigned an older age."<sup>61</sup>

*Consequences of age disputes*

51. The consequences of age disputes, discussed further in Chapter 4, are far-reaching. In practical terms, The United Nations High Commissioner for Refugees (UNHCR UK), the UN Refugee Agency, noted that in the UK:

"The outcomes of age assessment have great impor0.6 (a)-18.88 (e)-4.4 (s o)12.cs otermini  
o-19 w s o (c)Hsn86 (d)-16.7 ( )0.8 vt .5 (d114.8 (u)50.7 (a)-16.

**Box 3: Case study: A**

One of the unaccompanied migrant children who gave evidence to us, A, was 16 at the time of his arrival. He described his experience of being age assessed.

Upon his arrival, A was initially given social services accommodation with other young people. He was age assessed after 20 days in the UK. He was given a half-hour test, after which it was determined that he was 25, nine years older than he claimed. A practitioner from the Children's Society, who was accompanying A, explained that this age assessment was unlawful, as it was based solely on his

57. Some witnesses believed that this argument underpinned the Government's decision not to opt into the Family Reunification Directive, which allows legally residing non-EU nationals to bring immediate family members to the EU Member State they are residing in.<sup>66</sup> The Directive is discussed in further detail below. On 3 February 2016, Lord Bates, then Minister of State in the Home Office, confirmed that "[UK] policy prevents children with refugee status in the UK sponsoring their parents to join them. This is a considered position designed to avoid perverse incentives for children to be encouraged or even forced to leave their country and undertake a hazardous journey to the UK."<sup>67</sup>
58. The International Organisation for Migration (IOM) was "concerned that unlike other EU Member States, unaccompanied children granted asylum or humanitarian protection in the UK are often denied the right to reunite with family members."<sup>68</sup> ILPA explained that "the rules on refugee family reunion in the UK do not make provision for ... children to be reunited with their parents or grandparents, for adults to be reunited with their parents or grandparents."<sup>69</sup>

say over the last 10 years or more there has been a spike in children's numbers or an inappropriate sending of anchor children."<sup>73</sup>

61. We received no evidence of families sending children as 'anchors' following the implementation of the Family Reunification Directive by other Member States; we were also told that in some cases unaccompanied children in the UK declined to take advantage of tracing and reunification procedures, even when these were offered. Kent County Council wrote that "the Red Cross is used to trace family who are still living abroad although our experience is that there is limited take up of this service from young people."<sup>74</sup> This is not surprising: as Box 4 shows, many unaccompanied migrant children fear that attempts to trace family members living in their countries of origin could put those family members in danger.

**Box 4: Case study: unaccompanied migrant children declining family tracing and reunification**

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through potential ties to terrorism, or are “criminal” and “illegal” migrants.<sup>75</sup> In the Belgian context, Bruno Vanobbergen, Flemish Children’s Rights Commissioner, told us that “The [Belgian] Government’s discourse on refugee children is that they are dangerous children, when in fact they are children in danger.”<sup>76</sup>

**Box 5: Case study: Perceptions of Syrian children in Belgium**

“A lot of people look at these children and refugees in general as dangerous people ... A couple of weeks ago, a father called us and said that the next week a Syrian 11 year-old girl would be joining his daughter’s class. He said that he was thinking of removing his daughter from the school because Syrians are dangerous, and they will probably be dangerous in our schools, too. There is a perception that influences how we translate the best interests of the child. Schools, youth care centres, and so on are influenced by that discourse and that perception, too.”

Source: [Q 125](#) (Bruno Vanobbergen)

64. Professor Ravi Kohli, Professor of child welfare at the University of Bedfordshire, disputed these negative assumptions:

“There is no connection between terrorism and the presence of unaccompanied asylum-seeking children. Indeed, I can think of only one case in the last 15 years where a child who came here as an unaccompanied child was associated with an act of terrorism—that is one case out of the thousands and thousands of cases that we accepted. So there is suspicion; it is specific in relation to age, and more general in relation to other worriek 4.5 (n)anth3 (f)-42 (n) (u5 (, a)-21.2 (n)8.1 (s9.8 ()5.7 (r)-33.2 6

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demonstrated in many ways, including by passively allowing unaccompanied children to transit a Member State's territory, actively waving them through at borders to neighbouring Member States, not allowing them to enter a



there is a lack of clear responsibility around the place. We all talk in warm terms about how important it is for children to be looked after, but all this is no use whatever.”<sup>92</sup>

77. At EU level, the Commission is pursuing “integrated child protection systems” as a model for future work on unaccompanied migrant children, in an attempt to foster understanding among Member States that child protection is not just the responsibility of children services’ departments.<sup>93</sup> We discuss this further in Chapter 5.
78. At Member State level, however, our evidence suggests that there are three key obstacles to establishing such systems: a focus on immigration control rather than child protection and integration; a multiplicity of bodies and individuals responsible for various stages of an unaccompanied child’s journey through the system; and a disproportionate burden placed upon civil society in ensuring that standards are adhered to.
79. Notable exceptions were Germany and Sweden, which Ms Corazza Bildt praised for their proactive and integrated efforts to receive and protect unaccompanied minors, despite severe strains on resources.<sup>94</sup> Ms Ward was also impressed upon a visit to Germany to find that:

“In respect of minors, responsibility beyond the initial registration process lies with the federal youth service. This means that children and young people are promptly linked into a well-funded core public service that is already enjoyed by German youth and, indeed, is accountable to its users who can sue if the service is not up to scratch ... The youth service works closely with the police and the other services and is linked nationally which can help keep track when refugees move on to other areas and also assist with family reunification.”<sup>95</sup>

80. In other Member States, however, witnesses identified a lack of coordination between the various bodies and individuals dealing with unaccompanied migrant children:

“Throughout the European Union there are unaccompanied children to whom no adult has been appointed to represent their interests. It is all very well to make reference to the State as a ‘corporate parent’ but all too often this does not translate into an individual with responsibility for the child and indeed, in cases where States are trying to deter others from arriving or to husband resources, there may be a conflict of interest”.<sup>96</sup>

81. The MinAs Project found that, in Austria, France, Slovenia and the UK, formal support systems are in place but they are often fragmented and do not always work as intended. In Austria, the system is based on a network of NGOs and public authorities, but there is a lack of coordination between them. In France, the system is based on a network of NGOs and public authorities, but there is a lack of coordination between them. In Slovenia, the system is based on a network of NGOs and public authorities, but there is a lack of coordination between them. In the UK, the system is based on a network of NGOs and public authorities, but there is a lack of coordination between them.

82.



responsibility for protection, asylum processing, accommodation, and

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That places enormous pressure on our ability to provide suitable accommodation and placements for those young people, certainly to provide them locally within the bounds of the county, and we have not been able to do that ... That creates significant problems and impacts on our ability to monitor and supervise those placements effectively.”<sup>116</sup>

97. In response, overburdened counties have requested other local authorities to assume responsibility for some children. Regrettably, we were told “that there were few positive responses” to such calls, and that assistance was only forthcoming from “a small number of local authorities”.<sup>117</sup> Kent County Council has consequently called for a national dispersal mechanism to better redistribute the burden.<sup>118</sup> We look at this proposal in further detail in Chapter 5.
98. **We regret that those local authorities that are receiving the highest numbers of unaccompanied migrant children have had so little voluntary support from others. This lack of solidarity within the UK replicates a pattern that is all too common across the EU.**

### Poor implementation

99. Ms Cronin, as a legal practitioner, told us that there was no lack of formal legal protections for unaccompanied migrant children in the EU: “The principles are there, and some require being translated into real benefit, but nonetheless the principles themselves are an important starting point. ... We would be very sad to lose the component of European law.”<sup>119</sup>
100. Instead, witnesses pointed to a lack of robust enforcement of existing standards, leading to ineffective, inconsistent and fragmented implementation by Member States.<sup>120</sup> This in turn had resulted in a ‘protection lottery’ for unaccompanied migrant children, who faced “fluctuating national policies and measures, tending, on one extreme, to very restrictive systems in some countries and, on the other extreme, to overloaded systems in countries” at (a7)0.6 878(n)0.5 (

They added that “proper transposition and implementation are now key to ensuring the best interests of children are guaranteed in practice”.<sup>122</sup>

103. Other witnesses thought that “there is too little standardisation of what [the principle] means in practice”, and argued that more needed to be done in order to ensure that the often vague references to the best interests of the child in EU law and policy were more than “a mantra that has little value in decision-making”.<sup>123</sup>
104. Ms Bouteillet-Paquet highlighted a particular difficulty in the cross-border context:

“There is no real co-operation in relation to best-interests assessments and best-interests determinations. If national authorities complete a

a Best Interests Determination process but has still not done so". CCLC continued: "recent reports have highlighted gaps in how children's best interests are currently being considered both as children go through the asylum process and in relation to substantive decision-making."<sup>129</sup>

109. MinAs had similar concerns:

"In practice the 'consideration' which appears in Home Office refusal letters is formulaic and fails to consider the child's individual circumstances, instead relying on a presumption that it is in the child's best interests." 1.3 (e)-4.4 (s Tm



### **Box 10: Child-specific provisions in the Common European Asylum System**

‘Member States shall take into account the specific situation of vulnerable persons such as minors, unaccompanied minors, ... and persons who have been subjected to torture, rape or other serious forms of psychological, physical or sexual violence, in the national legislation implementing the provisions of Chapter II relating to material reception conditions and health care.’

‘When implementing this Chapter, Member States shall take into account the specific situation of vulnerable persons such as minors, unaccompanied minors, ... and persons who have been subjected to torture, rape or other serious forms of psychological, physical or sexual violence.’

‘Member States shall as soon as possible take measures to ensure the necessary representation of unaccompanied minors by legal guardianship or, where necessary, representation by an organisation which is responsible for the care and well-being of minors, or by any other appropriate representation. Regular assessments shall be made by the appropriate authorities.’

*Source: Council Directive 2013/33/EU of 26 June 2013 laying down standards for the reception of applicants for international protection (recast) (OJ L180/96 29 June 2013) and Council Directive 2011/95/EU of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (recast) (OJ L337/9 20 December 2011)*

115. Despite these provisions, Ms Bouteillet-Paquet told us that “adoption of the asylum package has coincided with the economic crisis and the refugee crisis, and so a lot of what should be being implemented remains a dead letter. We see space, of course, for better implementation. It is important for the Commission to develop its qualitative monitoring of the transposition of the *acquis*. It is important for the European Asylum Support Office (EASO) to strengthen assistance to states that need it.”<sup>142</sup>

116. UNHCR agreed:

“irrespective of progression in the development or comprehensiveness of higher standards for child protection within the CEAS, there remains a gap when it comes to implementation. In reality, whilst the provisions may be there in law, some Member States are struggling to meet those obligations in practice and some are only now beginning to think about how they may be introduced.”<sup>143</sup>

117. IOM believed that “the current crisis raises serious questions about the effectiveness of Europe’s migration and asylum framework, its alignment with international obligations and the necessary boundaries between security, migration and asylum policies.”<sup>144</sup> Dr Chadwick agreed: “it raises questions for us about how other EU Member States are fulfilling their child protection obligations when they allow the free movement of these children where there are clearly concerns about their identity.”<sup>145</sup>

118. At EU level, the Commission is tasked with monitoring Member States’ implementation of EU law. Under Article 258 TFEU, if the Commission



that State.

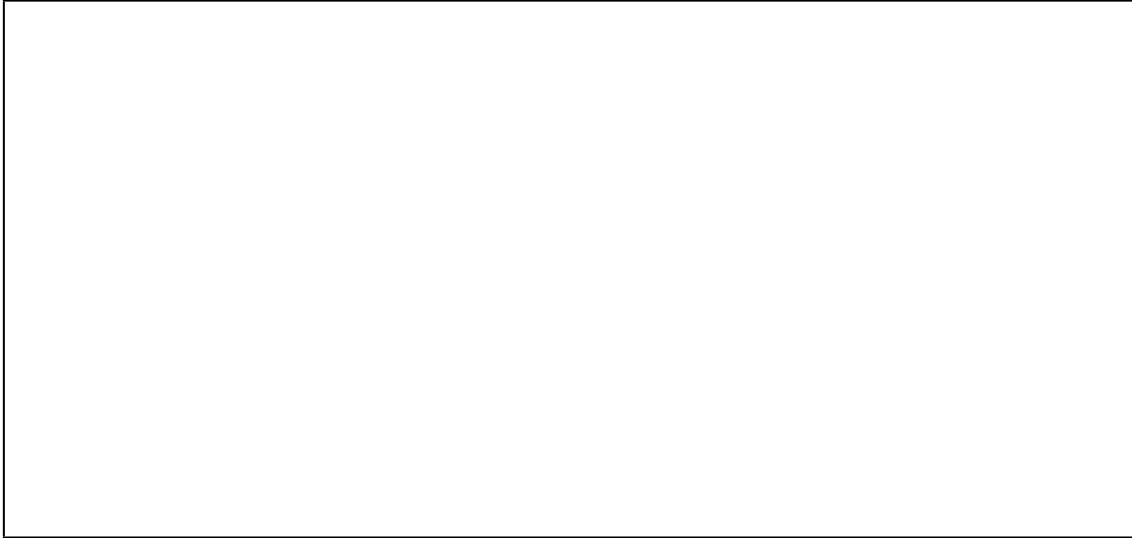




“be subsumed under the European Agenda on Migration,” and that without an Action Plan, policy-makers would “lose the focus that we need”.<sup>165</sup>

133. Regardless of their views on whether or not the Action Plan should be

**Box 11: Case study: Distrust in French authorities**



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## CHAPTER 4: CONSEQUENCES

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141. The evidence we have received suggests that, across the EU, the high-level issues discussed in the previous chapter intersect to create a complex set of very tangible, practical challenges for unaccompanied migrant children. These fall into four broad categories: the deplorable reception conditions they face; the phenomenon of 'living in limbo'; vulnerability to smugglers and traffickers; and large numbers of missing children.
142. From the perspective of the authorities, there is a fifth key challenge: the inability to capture, record and analyse good quality data. This undermines the ability of the authorities, whether at national or EU level, effectively to address the ongoing crisis.

### 'Deplorable conditions'

143. As we have noted, EU law sets out minimum common standards for the reception of asylum-seekers, including unaccompanied migrant children.

#### **Box 12: The Asylum Procedures and Reception Conditions Directives<sup>174</sup>**

The revised Asylum Procedures Directive extends the protection of unaccompanied minors. It contains procedural guarantees, such as rules on the conduct of the personal interview and also information obligations for States. Article 25 also provides for legal representation of unaccompanied minors.

The revised Reception Conditions Directive ensures that a standard level of

ports and had seen the challenges faced by children first-hand; they spoke of “dreadful”, “squalid”, “deplorable”, “totally inadequate” and “wholly unsuitable” conditions.<sup>176</sup>

146. Particular shortcomings relate to material reception conditions, which can often include detention; registration and identification; the provision of legal advice, interpretation and age-appropriate information; and access to adequate healthcare and education. We were given examples derived from Bulgaria, Cyprus, France, Germany, Greece, Hungary, The Netherlands, Slovenia, Sweden and the UK.
147. It is impossible within this report to do justice to the wealth of information we received, or to the passionate accounts we heard. The aim of this section is therefore to outline the points reiterated most frequently, and to place them within the larger context described in this report.

*Material conditions and detention*

148. Across the EU, unaccompanied migrant children are living in “overcrowded and inadequate conditions”.<sup>177</sup> They are often found in emergency accommodation such as hotels or schools, without “reliable access to food, water, sanitation, official information or any form of legal advice”.<sup>178</sup> Others are “sleeping in car parks, metro stations, hospital waiting rooms or on the street”.<sup>179</sup> At borders, in Hotspots and in camps, children regularly witness violence or are subjected to violence themselves.<sup>180</sup>
149. An increase in numbers has meant child-specific facilities, where they exist, have become over-stretched.<sup>181</sup> Ms McNeill said that conditions were particularly inadequate at Hotspots in Italy and Greece, which she described as “completely overwhelmed”.<sup>182</sup>
- 150.



155. These practices led ECRE to conclude: “The legal obligations relating to the treatment of unaccompanied children under EU and international law have clearly not been met by several Member States to the point that children regularly figure at the epicentre of ever-increasing sites of squalor, destitution and detention.”<sup>194</sup>

156. **Witnesses’ accounts paint a harrowing picture of the squalor, destitution and desperation unaccompanied migrant children face across the EU. Reception conditions in several Member States appear to amount to systematic detention.**

157. **While material reception conditions vary, the conditions faced by unaccompanied migrant children in some Member States lead us to conclude that, collectively, Member States are fundamentally failing to comply with their obligations under EU and international law to receive and protect children in a manner that recognises their specific vulner-**

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as 40 referrals at once, not realising that each young person represents a new client, requiring a first interview, legal and objective research and case preparation, plus an attendance at an asylum interview, which, especially if unhelpfully held in Croydon, will take a day's work: and so cannot be 'taken on' in bulk in that way."<sup>204</sup>

166. The Refugee Council was "aware of many children (hundreds) with no named social worker and similar numbers who have not been able to access legal advice ... This needs to be addressed as a matter of urgency. The asylum process should not begin until a child has had sufficient time to discuss and prepare their case with a legal representativei 106.3 ciaeeegal 6 64(16)-4.3 (4)10.2 (n)05 Tw  
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“Croydon is commissioning a specialist child and adolescent health service for our looked-after children, which will be inclusive of our unaccompanied asylum-seeking children. In that team, there is clinical

177. ECRE recommended that “Financial support to Member States should be a top priority of the European Commission to ensure that asylum-seeking children are enrolled into the educational system as soon as possible”, and also that the Commission should “foster exchange of best practices in particular for countries like Sweden which has developed pedagogical expertise in the integration of children who do not speak the native language of the host country.”<sup>217</sup>
178. **Access to legal advice, mental healthcare and education is inconsistent across Member States. Many Member States appear to be in breach of obligations, under the Reception Conditions Directive, to provide such services in a timely manner.**

**‘Living in limbo’**

179. Protracted asylum proceedings and variances in the implementation of EU law across Member States mean that the lives of many unaccompanied migrant children are effectively put on hold pending the initiation of proceedings, as well as while awaiting their outcome. Many witnesses described this situation, which can include long periods of detention, appeal processes, return proceedings, or time during which the age of an unaccompanied migrant child is disputed, as “living in limbo”.<sup>218</sup>

solutions (described in Box 15) as one of its four priorities. EU legislation has also identified finding a durable solution, underpinned by an assessment of the child's best interests, as a key objective for EU action on unaccompanied migrant children.<sup>220</sup>

182. This is in line with UNHCR guidance, which states that any decisions relating to return, resettlement or local integration must be informed by a best interests determination to ascertain (i) the most appropriate durable solution; and (ii) the right time for it to be implemented: "If it is not possible

185. The BASW was equally concerned about the uncertainty arising from such provisional immigration status: while temporary leave to remain provided initial protection for children,

“It also leaves the young person facing major uncertainties about his or her future. Often this is emotionally demanding as well as having significant consequences for matters such as their education. Lack of secure status is also a clear obstacle to access basic rights and entitlements. Feelings of being in limbo and experiencing inability to plan for their futures have severe implications on unaccompanied minors’ emotional well-being and physical health.”<sup>225</sup>

186. This exemplifies the general failure to implement fully the best interests principle (described in paragraph 32). Child Circle wrote that “Although EU law requires their best interests to be taken into account, it does not prescribe a single process for doing so, and there are not yet widespread tools and means to ensure current procedures take account of relevant information. In the absence of an effective process, children are sometimes simply provided with subsidiary protection or discretionary leave to stay until they are 18.”<sup>226</sup>

187. This conclusion was supported by the MinAs project, which gave the following summary of the position in the UK:

“Although there is a legal requirement to consider the best interests of unaccompanied children, in practice the ‘consideration’ which appears in Home Office refusal letters is formulaic (t i)-348 (h)-19 6.6 (t)-21 (i)0.7

190. ILPA noted that, in some cases, return to the country of origin could be in accordance with the wishes of the child. However, a grant of indefinite leave to remain was still preferable in such cases, as it “provides security to a child and enables them to make their own decision in due course as to whether, and if so when, to return to their country of origin”.<sup>230</sup>

*Return from the UK*

191. With regard to the UK, the BASW wrote that: “as [unaccompanied children and young people] approach the age of 17 and a half, the vast majority are informed that they have to make a re-application for asylum to the Home Office. Their application will, in all probability, fail and they will be removed and returned to their country of origin ... thousands have been forcibly returned to highly dangerous conflict zones, including Afghanistan.”<sup>231</sup>
192. According to Ms McClenaghan, in the past nine years 2,748 young people



**Box 17: Case study: uncertainty upon leaving care**

Z arrived in the UK as an unaccompanied minor at the age of 12 and was placed with a foster family. He told us about the upheaval that he faced when he reached 18.

Z was given a call that he would be moved from his foster home to shared accommodation within three days. This upset him as he did not know how to live with others, cook or shop. After three days, no one came to collect him. Payments to his foster family were stopped, but he stayed with them, as he had nowhere else to go. After two or three weeks, he was moved to a new home,

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*Family reunification*

201. Witnesses noted that failures in family reunification across the EU could lead to an increased vulnerability to smugglers. Two MEPs gave the concrete example of events at the port in Malmö, Sweden, where traffickers await the arrival of minors, telling them that “‘Well, we can get you to your family much quicker than if you go through the system here’ and that ‘Getting a guardian will take ages, and then they do the age assessment, which is intrusive. Don’t do that. Just go there, call this guy, take this mobile and they’ll take care of you’”.<sup>238</sup> Ms Corazza Bildt stressed that this was a “very tragic story that affects hundreds of thousands of children in different Member States.”<sup>239</sup>
202. Dr Smyth underlined that the failure by Member States to implement family reunification provisions fully and consistently meant that there were no “speedy procedures for allowing an unaccompanied minor to access a family member, so unaccompanied children in the EU end up having to pay a trafficker or a smuggler ... Having been smuggled into the EU in the first place, they have to be re-smuggled to get to their country of destination, because there is no legal mechanism to facilitate this and the procedures as they exist are too cumbersome.”<sup>240</sup>
203. Dr Beirens spoke of similar cases encountered in her research:
- “It is key that unaccompanied minors trust that the legal system in a Member State will succeed in reuniting them with their family members in a swift manner. There have been cases of missing children who are deliberately separated by smugglers. We had a case where the mother went to the UK and the children were in Belgium. The minor said that they would rather trust the smuggler to get them there quickly than go through the whole Dublin procedure. That in itself is very problematic. You need to have a system in place that children can trust.”<sup>241</sup>
204. Prof Crawley confirmed that the lack of dependable safe and legal routes for children to reach family members across Europe had far-reaching consequences: “In most cases, the onward journey through that illicit route will have to be paid for: you will have to either work for that or sell something, perhaps yourself, to be able to pay for that journey. Therefore, there is not just the fact of the re-smuggling or using those alternative routes, but the consequences for the individual.”<sup>242</sup>

**Box 18: Case study: Masud**

Masud was a 15-year-old unaccompanied minor, who had travelled from Afghanistan to Europe, then on to Sweden, before reaching Calais in the hope



205. **The actions and omissions of EU Member States, in particular their failure to implement the existing provisions on family reunification,**



to Chief Constable Mike Veale as National Policing Lead for Missing Persons at Wiltshire Police, stated that:

“going missing is not the problem; it is a symptom or an indicator of an underlying problem ... We need to prevent those reasons for children going missing. The police response is a response to something going wrong somewhere else. We need to spend far more time and spread the risk and the response to reports of children and migrant children going missing.”<sup>250</sup>

213. Ms McNeill also focused on the underlying reasons for disappearances:

“One reason why children disappear across Europe is that they have





**State authorities outlined in this report. We deplore the failure by EU Member States, including the United Kingdom, to take urgent action following the announcement of Europol's latest figures, which showed a further rise in disappearances.**

**A lack of reliable and comparable data**

223. Many witnesses were concerned by the lack of reliable, disaggregated and comparable data on unaccompanied migrant children in the EU, which is compounded by and contributes to widespread double-counting. Without a detailed understanding of the numbers and characteristics of the children involved, it is difficult, if not impossible, either to develop policies tailored to their needs, or to evaluate the impact of existing measures.
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missing children.<sup>270</sup> Dr Smyth told us: “We have no data on the number of unaccompanied minors who go missing. This is a critical point ... they are simply not being counted in most EU Member States, or at least they are not being systematically counted.”<sup>271</sup>

235. In the UK context, Inspector Bull added:

“There have been too many cases where we do not even have a photograph, because those who are responsible for that child cannot provide us with a photograph. Looking for a missing child is, at the best of times, rather like looking for a needle in a haystack. At least generally we know what thkr ln11.8 (oo)11.7 (k)-28.812s wlike rlnoo fr49 (e)-1.6 ()0.8 (a6 4.8 (e) ps3-3.3 (e)]TJ7 7-4.1 (a)12.76def



## CHAPTER 5: THE WAY FORWARD

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*A new Action Plan on unaccompanied minors?*

243. As described in Chapter 3, witnesses' opinions differed as to whether the 2010–2014 Action Plan on unaccompanied minors should be renewed. Witnesses agreed, however, that the 2010–2014 Action Plan had not been fully implemented, and that key priorities including improved data collection and progress on developing durable solutions were yet to be achieved. They therefore argued that any future Action Plan should focus on implementing existing priorities, while taking into account the specific challenges arising from the refugee crisis and rising numbers of unaccompanied migrant children.<sup>277</sup> For example, Mr Kirkhope told us that the priority for EU action should be the implementation of the previous Action Plan: “Otherwise, I am afraid, new things and new action plans will arrive and they might well find themselves losing their attention, shall I say, to what is still to be completed.”<sup>278</sup>
244. As for the content of any new Action Plan, Ms Cronin suggested that the Council of Europe Convention on Action against Trafficking in Human Beings could be a useful model:
- “First, it identifies the priorities that the entire package is directed to. It sets up a monitoring agency, GRETA [Group of Experts on Action against Trafficking in Human Beings], but it also puts the onus on state parties to identify trafficking victims ... That would mean that once you have identified the child, as with the trafficking convention, you then have an obligation of protection and perhaps an assessment of their standing and status in the country. You would have a similar obligation with respect to unaccompanied children.”<sup>279</sup>
245. ILPA, which was particularly scathing in its summary of the effectiveness of the previous Action Plan, recommended that any new Action Plan should be in line with General Comment No. 6 of the UN Committee on the Rights of the Child (CRC),<sup>280</sup> key provisions of which are set out in Box 24.

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277 [Q 26](#) (Dr Ciara Smyth)

278 [Q 97](#)

279 [Q 14](#)

280 Supplementary written evidence from ILPA ([UME0035](#))

### **Box 24: General Comment No. 6 of the UN Committee on the Rights of the Child**

General Comment No 6 is intended “to provide guidance on the protection, care and proper treatment of unaccompanied and separated children based on the entire legal framework provided by the Convention on the Rights of the Child.”

ILPA highlighted a number of requirements set out in General Comment No.6:

- “The identification of unaccompanied children;
- Immediate protective responses to unaccompanied children identified whether or not they have claimed asylum;
- Provision of guardians and legal advisors for unaccompanied children;
- Family reunion for children with parents or, where reunion with parents is not possible, with other relatives;
- Protection of persons whose age is disputed as children until a dispute is resolved against them.”<sup>281</sup>

Source: UN Committee on the Rights of the Child (CRC), ‘General comment No. 6 (2005): Treatment of Unaccompanied and Separated Children Outside their Country of Origin’ (1 September 2005): <http://www.refworld.org/docid/42dd174b4.html> [accessed 13 July 2016]

**246. Further EU action on unaccompanied migrant children should focus on the implementation of those priorities of the 2010–2014 Action Plan which have not yet been achieved. We urge the Commission to ensure that appropriate resources, including any necessary training, are made available to Member States in order to achieve the full implementation of these objectives.**

#### *An integrated approach*

247. We also considered the broader legislative and policy context of the Action Plan. In particular, we asked whether any new Action Plan should focus specifically on unaccompanied migrant children or whether it should form part of a broader response to all children in migration.

248. The risk of an ‘integrated’ or ‘holistic approach’ is that, as Ms Metsola suggested, child protection issues could be “bundled up with a raft of other immediate and pressing problems”<sup>282</sup>. Nevertheless, Dr Smyth was the only witness explicitly to favour the introduction of a legislative measure dealing specifically with the needs of unaccompanied migrant children.<sup>283</sup>

249. Several witnesses, in contrast, argued for a holistic approach to child protection. Such an approach would embrace all categories of migrant children, and close the gap between immigration systems and child protection systems.<sup>284</sup>

250. Ms Tuite described how differences in structures and internal governance could significantly inhibit effective responses to unaccompanied children’s needs: “We would like to see more links between the child protection system

281 Supplementary written evidence from ILPA ([UME0035](#))

282 [Q 101](#) (Roberta Metsola MEP)

283 [Q 27](#) (Dr Ciara Smyth)

284 [Q 101](#) (Roberta Metsola MEP)



guaranteed. We also know that children fall between categories. They move from one category to the next.”<sup>289</sup>

**Box 26: Good practice: unaccompanied migrant children in national care systems**

“There are promising examples in bigger countries such as Germany, where they have recently changed the law whereby unaccompanied children are treated in exactly the same way as national children temporarily deprived of parental care. This is reducing some of the parallelism that we often have and, from our perspective, this is the way forward. We would like to see national protection systems open up to all children in the country’s territories, regardless of their

we presented ‘Safe and Sound’, a report in 2000. We tried to provide some of the guidance and experiences that already exist at member state level in some of the countries on how to assess and determine the best interests of unaccompanied and separated children.”<sup>292</sup> She added: “Good examples are already in place on ensuring and fostering peer-to-peer learning.” Some of these examples are summarised in Box 27.

**Box 27: Good practice: Best interests determinations**

The Belgian Migration Authority has a very advanced system of trying to institutionalise internally some of the best-interests determination processes and techniques that are required ... There are many different examples. In Sweden, checklists are in place. There is training in Finland. In Belgium there are practices of providing best-interests guidance. Like Safe and Sound there is step-by-step support on what that entails.

Source: [Q 126](#) (Verena Knaus)

259. Ms Tuite explained that work was currently being undertakeT\*[(a)-M

Particular elements that should be taken into account when assessing the best interests of the child include the child's views, religious or cultural identity; preservation of the family environment; any particular vulnerability, including refugee or asylum-seeker status; and the child's right to health and education. (paras 52–79).

Source: UN Committee on the Rights of the Child (CRC), General comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration (29 May 2013) <http://www.refworld.org/docid/51a84b5e4.html> [accessed 11 July 2016]

261. **It is a fundamental principle of international law that children's best interests must be taken into account, as a primary consideration, in any decision that concerns them. As we have noted, that principle is embodied in both European and domestic law, but is largely ignored in practice.**
262. **To give real effect to the best interests principle, we urge the Commission to adopt minimum standards for best interests assessments. To this end, the Commission should propose amendments to the EU asylum and trafficking *acquis* to require relevant authorities to undertake and provide evidence of rigorous best interests assessments. Such assessments should be consistent with General Comment 14 of the UN Committee on the Rights of the Child.**
263. **We further recommend that the UK Government should develop, apply and routinely monitor national guidance on how to conduct best interests assessments with regard to unaccompanied minors. We call on the Government to revisit its response to the JCHR's 2013 report, and in particular to review the extent to which it has fulfilled its promise to consider the case for establishing a Best Interests Determination process.**

*Taking children's views into account*

264.

**Box 29: Good practice: Hearing children's voices in asylum procedures**

Ms Wilding wrote that she had acted as “the case file reviewer for the recent Quality of Asylum Legal Services report commissioned by the Solicitors Regulation Authority and Legal Ombudsman. That report was not focused on unaccompanied children but the problems identified are common to children as well as adult asylum seekers ... Examples of best practice ... include praise for representatives who ask the young persons about every aspect of their experiences, thus allowing them to tell their stories; clearly explain the process and their cases to them; show determination in fighting their cases, for example, putting in an out-of-time appeal to the First-tier Tribunal or continuing the appeal through the Upper Tribunal when necessary.”

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270. Despite these efforts at EU level, our evidence suggests that serious deficiencies in the quality and comparability of data persist. Improved collation and sharing of data would enable policy makers to develop a clearer understanding of the scale of the problem of unaccompanied minors to inform their policy better and to allocate resources where they are needed. As will be clear from the analysis in Chapter 4, collection of better data, including more systematic registration and harmonised use of biometrics, would reduce the vulnerability of migrant children and enable better responses to those who go missing.

271. As Ms Knaus told us:

“We know that data protect children, and the lack of data on the broader number of children who are on the move across Europe—where they are, in what conditions they are, what category they have, what happens to them after entering a system after seeking asylum or dropping out of the system again—is cause for concern ... The lack of data is a huge protection gap where common European action can help redress.”<sup>301</sup>

272. Witnesses suggested a number of distinct, specific amendments to existing EU law and instruments designed to collect and share data. Priorities for improvement concerned data on unaccompanied migrant children who disappear from care, who do not claim asylum or who are victims of trafficking, as well as on children who are not identified as unaccompanied at registration centres.<sup>302</sup> Many witnesses emphasised the importance of early identification and registration in this respect, and some suggested that the early appointment of guardians could contribute to better data collection and sharing.<sup>303</sup>

273. **All Member States should urgently implement processes to ensure that unaccompanied migrant children are correctly identified and registered as soon as they come into contact with relevant authorities.**

274. **We welcome the Commission’s proposal, in recasting the Eurodac Regulation, that Member States should be required to take fingerprints from all unaccompanied migrant children, including those under the age of 14. In scrutinising this proposal, we shall be vigilant in assessing its impact on child welfare and the data protection safeguards: the personal data of children should be stored and shared only where it is in their best interests.**

275. **We call on the Commission to propose amendments to the Statistics Regulation to require Member States to submit disaggregated figures on the numbers of unaccompanied minors, who are detected entering, or residing in, Member States irf chiz whervt(t i)-18.1 (n a (te)-3.9 (n)-2.**





Article 8 states that the first criterion for determining the Member State responsible for processing an asylum claim made by an unaccompanied minor is the presence of a family member, as long as reunification is in the best interests of the child. Article 17, moreover, gives Member States the discretion to request that another Member State to take charge of an applicant in order to bring “any family relations” together.

289. UK MEPs told us that they had advocated better “guidance to caseworkers ... with an emphasis on a generous ‘humanitarian’ interpretation of the provisions laid down in article 17 of the Regulation.”<sup>311</sup> We note that the latest proposed revision of the Dublin Regulation, while strengthening the specific family reunification criterion, by requiring that family reunification should take place “unless it is demonstrated that it is not in the best interests of the minor”, would reduce the discretion allowed under Article 17.<sup>312</sup>
290. **We urge the Commission to prioritise the facilitation of family reunification in the reform of the Common European Asylum System, including for unaccompanied migrant children in receipt of subsidiary protection. We hope that the Commission will also encourage Member States offering a higher standard of protection than that proscribed in the Directive to maintain this higher standard.**
291. **We recommend that the UK Government reconsider its restrictive position on family reunification. Legal aid should be available to unaccompanied migrant children for the purposes of proceedings for family reunification.**

### *Return*

292. We accept that, in some circumstances, it may be in the best interests of an unaccompanied migrant child to be returned to their country of origin upon turning 18. However, our evidence shows that current practice in some Member States, including the UK, increases the uncertainty experienced by unaccompanied migrant children and constitutes a major disruption to their lives.
293. UK MEPs were clear that unaccompanied migrant children being returned to their country of origin be closely monitored:
- “Any return should be seen in terms of the individual’s life-course, surviving family or other effective support networks and continued connection to their country-of-origin. Citizenship opportunities to such individuals in their country of protection should be available. In cases where minors or 18 year olds are returned we call for systematic monitoring of returned children to understand the impact of standing return policies. Some work has been done on this at the EU level but more is needed to make monitoring a systematic part of the return process.”<sup>313</sup>

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311 Written evidence from Jean Lambert MEP, Molly Scott Cato MEP and Keith Taylor MEP ([UME0020](#))

312 Proposal for a Regulation of the European Parliament and of The Council establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (recast), [COM\(2016\) 270 final](#)

313 Written evidence from Jean Lambert MEP, Molly Scott Cato MEP and Keith Taylor MEP ([UME0020](#))

294. **We urge the Commission systematically to monitor and gather data on returned unaccompanied migrant children and young adults. It could do this through monitoring compliance with the Returns Directive.**
295. **The Government should aim to establish communication with welfare and law enforcement officials in countries to which it returns former unaccompanied migrant children. It should systematically monitor and gather data on those that it returns. It should also make greater effort to trace family members.**

### **Guardianship**

#### *Guardianship as a means to restore trust and ensure continuity of care*

296. The concept of guardianship for unaccompanied migrant children was a recurring theme in the evidence we received.
297. Currently, individuals providing support across EU Member States include foster parents, social workers and civil society volunteers. While witnesses were unequivocal in praising the efforts made by many of these individuals, many also advocated the appointment of independent legal guardians for unaccompanied migrant children. We were told that the implementation of an effective guardianship system would address a number of problems facing unaccompanied migrant children. Guardians5.4 (a)in5eneg tn.8 (n)8 (d) 9 (o)-0.8 (t)-30 (

299. EU measures do not clearly define the terms ‘guardian’ or ‘legal representative’, though the FRA has published guidance to assist Member States to implement the obligations arising from them (see Box 31).

**Box 31: Good practice: the FRA Handbook**

In 2014 the FRA published a Handbook on Guardianship for Children Deprived of Parental Care, to guide Member States in developing guardianship systems.

The Handbook states: “the guardian is considered to be an independent person who safeguards the child’s best interests and general well-being, and to this effect complements the limited legal capacity of the child.”

It distinguishes the role of guardian from that of a lawyer or a social worker, and notes that: “Staff of social welfare services, being responsible for delivering care services, may also find themselves in a situation of conflict of interest.”

The Handbook also refers to the need for a central guardianship authority at national level.

Source: European Commission, ‘Guardianship for children deprived of parental care’ (2015) [http://fra.europa.eu/sites/default/files/fra\\_uploads/fra-2014-guardianship-children\\_en.pdf](http://fra.europa.eu/sites/default/files/fra_uploads/fra-2014-guardianship-children_en.pdf) [accessed 4 July 2016] et( )-4.4o v/CS0 cs 0 0-29.6 (h)3.2

Member States on standards relating to legal guardianship”, and called for further work to identify and share “identify best practices across the EU”.<sup>321</sup>

304. In practice, there is a lack of harmonisation even within the UK. The Scottish Government has part funded the establishment of the Scottish Guardianship Service for unaccompanied asylum seeking children and child victims of trafficking.<sup>322</sup> Northern Ireland has also now passed legislation requiring the appointment for a guardian for all trafficked and separated children.<sup>323</sup> In England and Wales, in contrast, there is no formal scheme, and any obligation to provide a guardian or special representative is met by appointing a social worker. Mr Timpson explained:

“Once an unaccompanied asylum-seeking child comes into care, they will have an allocated social worker, they will have an independent reviewing officer—whose role is to independently review the care plan and the care that that child is receiving—they will have access to an independent advocate, and they will have an independent visitor, who can ensure that the environment in which they have been placed is sufficient for their needs.”<sup>324</sup>

305. In 2014 and 2015 the Government conducted a pilot, in partnership with Barnh210ih

“Does the UK need independent guardianship? The answer is yes. Does it need to be financed from a central government budget rather than cut into the budgets of children’s services, for example? The answer is yes. Does it provide something that children themselves value over time? The answer is yes. There is much evidence, both in Europe and in the different countries of the UK, to support the notion of independent guardianship.”<sup>329</sup>

*Benefits of an effective guardianship system*

307.





interests and help the child negotiate the complex asylum and migration procedures while at the same time looking after the child's well-being."<sup>336</sup>

315. Early appointment is also essential in the context of preventing disappearances. Nagalro, which represents children's guardians, told us: "Many unaccompanied children disappear after arrival so the promptness of appointment of an independent legal guardian is essential."<sup>337</sup>
316. Even in those Member States which do have a statutory guardianship system in place, guardians may not be appointed in timely manner, and timing may vary between Member States. Dr Beirens told us: "You have Member States that appoint a guardian only after the person has lodged the claim, which is problematic. Another issue is that some Member States have legislation that if the person does not apply for asylum they can be sent back at the border. So it is key to have [a guardian] there."<sup>338</sup>

#### *Independence*

317. The FRA's guidance underlines that guardians should be independent. Prof Kohli explained: "The fact that they are independent of other public authorities is a core part of an effective guardianship service. [This service] is behoven to nobody else; it exists on behalf of the child to provide a sense of companionship for that child from the beginning of a claim to its resolution."<sup>339</sup>
318. Ms Dennis considered that such independence was lacking in the UK, criticising in particular the involvement of social woro-1.3 (9363 (i))0.8 (a)1.8 ( OSKa)-20.2

particular attention to the importance of continued and adequate training ... and regular and independent monitoring of legal guardians.”<sup>343</sup>

320. **We call upon the Commission to bring forward legislative proposals to set binding minimum standards that would give effect to the concept of guardianship. Such minimum standards should include appointing a guardian as soon as possible where a child is identified as unaccompanied; requiring the guardian to be independent of the immigration system; and requiring the guardian to act in the child's best interests.**

“In the absence of adequate support—and, importantly, not intended to replace the responsibility and obligation of Member States to unaccompanied children—UNICEF, UNHCR and the International

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337. At EU level, witnesses were largely positive about the engagement by EU institutions with NGOs (one example of which is described in Box 34), although MEPs told us that there should be increased capacity within the European Parliament to hear directly from children themselves. Ms Knaus also pointed out the limits to such engagement: “Oftentimes, in this context, decisions are of course taken at Member State level. A lot of the times, there may have been good consultation and exchange with European Union institutions, but the final decision at the Council may not reflect adequately what had been consulted on and discussed.”<sup>356</sup>

**Box 34: Good practice: Enabling children to be heard**

“In terms of bringing that voice into EU institutions, we have been doing that for some years and trying to enable our members to support children coming to Brussels and we have had events in the European Parliament. This year is the first year that we have a conference<sup>357</sup> organised in partnership with children and it is also focused on children on the move. We are really involving children who have experienced migration and we have an advisory group—one young lady is from Sweden who was an Afghan unaccompanied child. We are trying to enable them to contribute, from their experience, to our reflections on how we advocate for their rights.”

Source: [Q 130](#) (Jana Hainsworth)

338. In the UK, the Office of the Children’s Commissioner plays an important role in providing a link between NGOs and policy-makers. The current Commissioner, Anne Longfield OBE, told us [see \(iIT\)-31.1md ienorye3.2 \(y i\) 21808.2 \(e \) 1](#)







best interests of the child.<sup>369</sup> At the time of writing it is too early to comment on the impact of this Scheme, although we welcome the emphasis that the Government has placed on the best interests principle in its design.

352. **We agree with our witnesses that the phenomenon of unaccompanied migrant children in the UK is a national, not merely a local, problem, and acknowledge the disproportionate burden that is currently falling on a few local authorities. It is therefore regrettable that those local authorities receiving the highest numbers of unaccompanied migrant children have to date received so little support from other councils.**
353. **We welcome the Government's adoption of a National Transfer Scheme for unaccompanied asylum-seeking children on 1 July 2016, and the emphasis that this scheme places on the best interests of the child. We urge the Government to ensure that, in practice, decisions to disperse unaccompanied migrant children are made only in the best interests of the child, and take into account the facilities available in the destination local authority, as well as family or cultural links. Where necessary, the Government should make additional funding available to authorities that are not well-equipped to receive and provide specialised care for migrant children.**

*Solidarity among Member States*

354. Member States have a duty of solidarity and burden sharing to one another in respect of migration.<sup>370</sup> This can include the allocation of resources to Member States which are facing high migratory pressures, and in particular the relocation of asylum seekers. This would help to alleviate the overwhelming scale of the problem. It would also counteract the failure of many Member States to take responsibility for unaccompanied migrant children, which leaves them vulnerable. Member States on the 'frontline' of the refugee crisis would be more likely to take responsibility if other States took a reasonable share. As we saw in Chapter 3, however, the relocation of asylum seeking children has so far been negligible.
355. We note that the Government has significantly increased its contributions







10. Some key objectives of the 2010–2014 EU Action Plan on unaccompanied minors, including improved data collection and the development of durable solutions, have not yet been achieved. Regardless of its expiry in 2014, we consider the priorities set out within the existing Plan to be the right ones, and urge the EU institutions and Member States to take stock of outstanding measures and prioritise their implementation. (Paragraph 134)
11. Further EU action on unaccompanied migrant children should focus on the implementation of those priorities of the 2010–2014 Action Plan which have not yet been achieved. We urge the Commission to ensure te o-3.6tich.

particularly in the UK, indicates a widespread reluctance to believe unaccompanied migrant children's narratives. (Paragraph 54)

19. Any future EU action on unaccompanied minors, regardless of its format, must be based explicitly on the best interests of the child principle. To help achieve this, we urge the Commission, European Parliament and other EU Institutions and Agencies to develop formal mechanisms to ensure that unaccompanied migrant children are heard from directly in the development of policies affecting them. (Paragraph 268)

20. In the UK, there is evidence to suggest that, despite the existence of guidance on the application of the best interests principle, it is not respected and is regarded as an impediment to the effective operation of immigration controls. (Paragraph 112)

21. We further recommend that the UK Government should develop, apply and routinely monitor nation.7 (u(i)8.8Tc 0.191 Tw 62 (u)-15.12)0.7 (t)-30 (hs8719.1)-1

to take responsibility for a child. We therefore support the Commission's intention to develop a comprehensive and holistic approach for all migrant children. (Paragraph 254)

29. Any new Action Plan should be embedded in such an integrated approach. It should take forward the priority actions of the previous Action Plan, review the implementation of existing laws and policies, and seek to implement them fully. (Paragraph 255)
30. The distrust felt by unaccompanied migrant children is both a symptom and a cause of many challenges described in this report. Rebuilding trust should therefore be a core cross-cutting objective in any proposals to address these challenges, and an essential measure of their success. (Paragraph 140)

### **Solidarity and burden-sharing among Member States**

31. We regret the fact that Member States have made so little progress in relocating unaccompanied migrant children within the EU; in particular, we deplore the continuing reluctance of the UK Government to show solidarity with its European partners in helping to relocate such children. (Paragraph 92)
32. The Commission should encourage Member States to revisit their relocation pledges with a renewed focus on unaccompanied migrant children. Member States should consider extending existing national resettlement schemes to include relocation of children already within the EU. (Paragraph 93)
33. Member States, the Commission and the relevant EU Agencies should ensure that the cases of unaccompanied children are prioritised within EU relocation schemes operated from Hotspots. (Paragraph 356)
- 34.

38. We also take this opportunity to reiterate our recommendation in our report on the EU Action Plan against migrant smuggling, that the Commission must allocate resources to EU Agencies transparently and according to clear criteria. (Paragraph 366)

**Allocation of responsibility, solidarity and burden-sharing at national level**

39. The Commission should encourage Member States to designate a single lead authority with responsibility for the welfare of all unaccompanied migrant children, regardless of their immigration status. Whod bua2.7 (f a)-16.2 (l)nis oi/8n7 (r)is o9



from others. This lack of solidarity within the UK replicates a pattern that is all too common across the EU. (Paragraph 98)

48. We welcome the Government's adoption of a National Transfer Scheme for unaccompanied asylum-seeking children on 1 July 2016, and the emphasis that this scheme places on the best interests of the child. We urge the Government to ensure that, in practice, decisions to disperse unaccompanied migrant children are made only in the best interests of the child, and take into account the facilities available in the destination local authority, as well as family or cultural links. Where necessary, the Government should make additional funding available to authorities that are not well-equipped to receive and provide specialised care for migrant children. (Paragraph 353)

### **Data collection and sharing**

49. There is a lack of reliable and disaggregated data on the situation of unaccompanied migrant children across the EU. Double-counting is widespread, and the multitude of data that are available are often not comparable and are not effectively shared among Member States or between Member States and the EU institutions. (Paragraph 237)
50. The lack of data exacerbates many of the specific difficulties faced by unaccompanied migrant children in the EU. Uncertainty about the number and profile of unaccompanied migrant children obscures the nature and scale of the problems they face, and hinders effective policy making to address their needs. In particular, a lack of reliable data hinders the ability of Member State authorities to trace and protect missing unaccompanied migrant children, and thereby increases their vulnerability to smugglers and human traffickers. (Paragraph 238)
51. All Member States should urgently implement processes to ensure that unaccompanied migrant children are correctly identified and registered as soon as they come into contact with relevant authorities. (Paragraph 273)
52. We welcome the Commission's proposal, in recasting the Eurodac Regulation, that Member States should be required to take fingerprints from all unaccompanied migrant children, including those under the age of 14. In scrutinising this proposal, we shall be vigilant in assessing its impact on child welfare and the data protection safeguards: the personal data of children should be stored and shared only where it is in their best interests. (Paragraph 274)
53. We call on the Commission to propose amendments to the Statistics Regulation to require Member States to submit disaggregated figures on the numbers of unaccompanied minors, who are detected entering, or residing in, Member States irregularly; who are subject to return; and, who are subject

56. The Government should aim to establish communication with welfare and law enforcement officials in countries to which it returns former unaccompanied migrant children. It should systematically monitor and gather data on those that it returns. It should also make greater effort to trace family members. (Paragraph 295)

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- 57.











	ECPAT UK	<a href="#"><u>UME0032</u></a>
*	Jana Hainsworth, Secretary General, Eurochild ( <a href="#"><u>QQ 121-130</u></a> )	
	European Commission	<a href="#"><u>UME0022</u></a>
**	European Council on Refugees and Exiles ( <a href="#"><u>QQ 110-120</u></a> )	<a href="#"><u>UME0040</u></a>
	European Parliament	<a href="#"><u>UME0006</u></a>
	Europol	<a href="#"><u>UME0014</u></a>
	Nadine Finch	<a href="#"><u>UME0009</u></a>
	Greater Manchester Immigration Aid Unit	<a href="#"><u>UME0004</u></a>
**	Alison Harvey, Legal Director, Immigration Law Practitioners Association ( <a href="#"><u>QQ 1-17</u></a> )	<a href="#"><u>UME0035</u></a>
	Immigration Law Practitioners Association	<a href="#"><u>UME0023</u></a>
	International Organisation for Migration	<a href="#"><u>UME0033</u></a>
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- \* Baljeet Sandhu, Director of the Migrant & Refugee Children's Legal Unit, Islington Law Centre ([QQ 1-17](#))
- \*\* Save the Children ([QQ 32-46](#)) [UME0031](#)
- Separated Children in Europe Programme [UME0007](#)
- \* Dr Ciara Smyth, Lecturer Above The Bar, National University of Ireland Galway ([QQ 18-31](#))
- Dr Vicki Squire and Ms Nina Perkowski [UME0027](#)
- \* Edward Timpson MP, Minister of State for Children and Families, Department of Education ([QQ 69-80](#))
- \*\* Margaret Tuite, Co-ordinator for the Rights of the Child, European Commission ([QQ 131-143](#)) [UME0038](#)
- UNHCR [UME0041](#)
- \*\* UNICEF ([QQ 121-130](#)) [UME0024](#)
- \* Bruno Vanobbergen, Flemish Children's Rights Commissioner ([QQ 121-130](#))
- \* Jean Pierre Verhaeghe, Policy Adviser to the Flemish Children's Rights Commissioner ([QQ 121-130](#))
- \*\* Julie Ward MEP, S&D ([QQ 87-97](#)) [UME0006](#)
- \* Councillor Paul Watkins, Leader of Dover District Council and Member of LGA asylum and migration task force ([QQ 47-58](#))
- Jo Wilding [UME0013](#)
- \* Inspector Roger Bull, Staff Officer to Chief Constable Mike Veale as National Policing Lead for Missing Persons, Wiltshire Police ([QQ 59-68](#))

## APPENDI

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6. Is there a need for further EU action to support Member States in implementing these measures in a sustainable way? What role do EU Agencies play in this regard? Are they adequately equipped for these tasks? Do their activities have any proven impact?
7. Should there be another EU Action Plan on Unaccompanied Minors? If so, what should the content, focus and purpose of the next Action Plan be, with reference to the 2010–2014 Action Plan and evaluations thereof?
8. There are growing concerns about unaccompanied minors going missing from reception centres and care facilities across the EU. What steps should the EU and its Member States take to address this problem?
- 9.





<b>Authority</b>	<b>Looked-after children</b>	<b>Care-leavers</b>
London Borough of Waltham Forest	24	45
London Borough of Ealing	24	31
London Borough of Richmond upon Thames	23	<5
London Borough of Havering	20	8
London Borough of Bexley	19	20
London Borough of Lambeth	18	67
Royal Borough of Kingston upon Thames	18	45
London Borough of Redbridge	17	32
London Borough of Bromley	17	30
London Borough of Wandsworth	16	15
London Borough of Sutton	13	19
London Borough of Camden	10	69
London Borough of Hackney	Not yet responded	
<b>SOUTH EAST (18 Authorities)</b>		
Kent	376	c. 400
Surrey	119	446
Oxfordshire	39	50
West Sussex	34	61
Buckinghamshire	17	20
Hampshire	16	66
East Sussex	16	10
West Berks	10	25
Slough	9	51
Portsmouth	9	17
Brighton and Hove	8	35





<b>Authority</b>	<b>Looked-after children</b>	<b>Care-leavers</b>
Shropshire	3	1
Dudley	2	2
Stoke-on-Trent	1	12
Telford and Wrekin	0	<5
Walsall	0	0
<b>EAST MIDLANDS (9 Authorities)</b>		
Northamptonshire	104	24
Nottinghamshire	33	20
Lincolnshire	29	34
Leicestershire	9	50
Leicester	7	8
Nottingham	4	25
Derby	4	2
Derbyshire	<5	6
Rutland	0	8
<b>EAST ANGLIA (11 Authorities)</b>		
Essex	78	98
Hertfordshire	46	51
Suffolk	41	21
Thurrock	30	23
Central Bedfordshire	25	26
Bedford	22	16
Peterborough	16	8
Cambridgeshire	13	35
Norfolk	13	12
Luton	12	24
Southend-on-Sea	3	2
<b>NORTH (15 Authorities)</b>		
Leeds	30 UAM (15 are UASC)	70 UAM (46 UASC)
Wakefield	11	15
Sheffield	11	13
Bradford	10	28
Kingston upon Hull	5	7
North Y--19.ni.7 (hs)-7.824-44.1 (io)-6.37(e)-3.7.592		-1.6423



