

# Separated and unaccompanied children in the EU

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**A growing body of EU law, policy and practical measures address the situation of separated and unaccompanied children who arrive in the EU. However, in the current sensitive political climate, there is a risk of attention and resources being diverted from building on progress.**

An increasing number of children are migrating to Europe on their own in order to escape persecution, conflict, violence and poverty or seeking family reunification, educational or economic opportunities. Many are making very dangerous voyages, across land and sea, and once in Europe they may then move, or be moved by traffickers or smugglers, from one country to another. Many have claims for international protection,<sup>1</sup> and many are at risk of discrimination and exploitation.

According to Eurostat, the number of separated and unaccompanied children<sup>2</sup> seeking asylum in the European Union

(EU) has been on the increase since 2010. Between January and October 2015, the number of unaccompanied child asylum seekers in Sweden alone (23,349) exceeds the total EU figure in 2014. There are no complete statistics regarding unaccompanied children who do not apply for asylum but the figure is likely to be significant.

In recent years, the EU established some specific obligations for Member States as regards unaccompanied children, including in the revision of the Common European Asylum System, the EU Directive on trafficking in human beings<sup>3</sup> and the EU Return Directive.<sup>4</sup> Although there are still



Unaccompanied minors from Afghanistan in Malmö, Sweden, November 2015, on their way to a temporary arrival hall (set up by the municipality to provide toilets, showers, wifi and electricity) before going to the immigration office where they can apply for asylum.

differences in treatment of unaccompanied children depending on the different instruments which apply to them, the EU also made serious efforts to emphasise their common rights first and foremost as children through the implementation of an EU Action Plan on Unaccompanied Minors 2010-2014<sup>5</sup> which also sought to address some of the more difficult issues concerning all unaccompanied children, such as guardianship, age assessment, family tracing and durable solutions.

Currently, the Member States are at an early stage of implementing and applying EU common obligations into national law and practice and there are both good practices and enduring challenges for Member States in identifying, receiving and caring for separated and unaccompanied children in Europe.<sup>6</sup> In the current situation, it is vital to respect the new EU safeguards and involve child protection actors alongside immigration and law enforcement actors to identify risks to children in transit and to work to restore them to safe situations. Particular difficulties also arise for children who are not seeking asylum, or children who are approaching the age of eighteen, when migration and crime control concerns still appear to take precedence over child protection and humanitarian imperatives in some Member States.

A fundamental challenge – common to all separated and unaccompanied children – is how to find a ‘durable solution’ for them, defined as a sustainable solution that ensures that the unaccompanied or separated child is able to develop into adulthood in an environment which will meet his or her needs and fulfil his or her rights as defined by the Convention on the Rights of the Child and will not put the child at risk of persecution or serious harm.<sup>7</sup> It is an approach which may require Member States to contemplate and implement outcomes

that may not be obvious in the context of migration control but which aim to fulfil the best interests of the child.

For instance, a durable solution may include local integration on humanitarian grounds, even in the absence of a claim for international protection. Ultimately, it may require Member States to cooperate more fully with each other in order to identify the most appropriate care arrangement and location for the child to develop, for example by allowing transfers of children to another Member State through relocation schemes and more generous family reunification provisions. Moreover, putting in place proper measures to find durable solutions is the only appropriate route to achieving an objective which many Member States emphasise, that is, the return of unaccompanied children to their country of origin, when this is determined to be in their best interests.

### Best interests of the child

Several Member States report having Best Interests Determination procedures in place to support their competent authority’s decision making on durable solutions for separated children. There are also ongoing EU-funded projects concerned with the better definition, identification and implementation of durable solutions in line with the child’s

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best interests. Equally, the task of ensuring that decision making is well informed about the circumstances which affect children's lives in their countries of origin is crucial. Finally, EU-funded projects have also addressed the return process, including monitoring and evaluating the outcomes for children and families after return.

With the current large numbers of people and the difficult political climate, there is a risk of attention and resources being diverted from building on the progress that has been made in several respects to concentrating resources on emergency frontline measures and activities in third countries to deter migration and fight traffickers. However, the situation also urgently requires the EU and its Member States systematically to build on recent progress, not only in the asylum system and special measures for trafficked children but also in emerging procedures that consider the best interests of other migrant children. A comprehensive EU strategy on children migrating alone or accompanied may be the most effective route forward. Although policymakers may currently be cautious when adopting new policy frameworks, Member States will ultimately gain where the EU plays a prudent and proactive role in supporting

them to protect all children from neglect, violence and exploitation within the region.

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1. See UNHCR (2009) *Guidelines on International Protection No. 8: Child Asylum Claims under Articles 1(A)2 and 1(F) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees* [www.refworld.org/docid/4b2f4f6d2.html](http://www.refworld.org/docid/4b2f4f6d2.html)
2. For definitions and authoritative guidance, see Committee on the Rights of the Child (2005) *General Comment No 6 on separated and unaccompanied children outside their country of origin* [www.refworld.org/docid/42dd174b4.html](http://www.refworld.org/docid/42dd174b4.html)
3. Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:101:0001:0011:EN:PDF>
4. <http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32008L0115&from=EN>
5. <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=URISERV:j10037>
6. See for example, European Migration Network (2015) <http://tinyurl.com/EMN-UnaccompaniedMinors> and EU Fundamental Rights Agency (2012) <http://tinyurl.com/FRA-separated-children>
7. UNHCR and UNICEF (2014) *Safe and Sound: what States can do to ensure respect for the best interests of unaccompanied and separated children in Europe* [www.refworld.org/docid/5423da264.html](http://www.refworld.org/docid/5423da264.html)