



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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Evidence is published online at [www.parliament.uk/unaccompanied-minors-eu](http://www.parliament.uk/unaccompanied-minors-eu) and available for inspection at the Parliamentary Archives (020 7219 3074).

Q in footnotes refers to a question in oral evidence.

## SUMMARY

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 vulnerable children to smugglers and human traffickers, and it is conservatively estimated that at least 10,000 unaccompanied migrant children are currently missing in the EU. At the same time, a lack of comparable, reliable data makes evidence-based and tailored policy-making difficult.

The EU and its Member States, including the UK, must act urgently to address these complex problems. In this report we suggest a number of potential solutions, many of them as cross-cutting as the problems they are intended to address. Integrated child protection systems, focused on the best interests of the child, should be adopted across the EU, ensuring that children are, first and foremost, treated as children, whatever their immigration status. The EU institutions and Member States must improve data collection and sharing, particularly when identifying and registering unaccompanied children, and should work to achieve durable solutions once those children are in care.

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

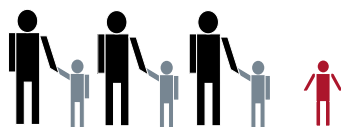
1,321,600

asylum  
applicants  
in the EU in 2015

29 %  
of applicants  
were children



23 %  
of those child  
applicants were  
unaccompanied  
by an adult



88,245  
unaccompanied  
children applied for  
asylum in 2015



91 %  
unaccompanied child  
applicants were male



51 %  
unaccompanied child  
applicants were Afghan



3,113  
unaccompanied  
children arrived  
in Italy in  
May 2016



>10,000

Estimated missing  
unaccompanied children in  
the EU



23  
unaccompanied  
children relocated  
from hotspots  
in Italy and Greece,  
up to 2 June 2016

Of the migrants  
arriving by sea  
in 2015



31 %  
were children

2,452  
migrants have died in  
the Mediterranean  
in 2016

137  
children have died in  
the Mediterranean  
in 2016

1. The data illustrated on the previous page give a flavour of the refugee crisis that has gripped the European Union over the past 18 months. They also show that children, many of them unaccompanied by a parent, relative or guardian, are in the forefront of that crisis. To grasp the reality of the crisis fully, the suffering that it has inflicted upon many thousands of children, people need to talk to those children and hear their stories. We have sought to do just that in this inquiry, by talking in private to a group of young people who arrived in the EU as unaccompanied migrant children. We are profoundly grateful to these young people, and to the organisations that facilitated the meeting, the Children's Society and the Refugee Council.
2. The numbers of migrant children entering the EU, and the risks they face either *en route* or after their arrival, are all too apparent. We discuss many of these risks in later chapters. But perhaps equally telling is the fact that when unaccompanied migrant children arrive in the EU, they face suspicion and disbelief. They are subjected to repeated interviews questioning their motivation, family relations and age. They may be subjected to invasive age assessments to test that they truly are under 18. Often, the authorities simply decline to accept responsibility for them as children, and allow them to continue their journeys across borders alone.
3. Even when they have been correctly identified, unaccompanied migrant children may be accommodated in inappropriate, squalid facilities, amounting in effect to detention. They must navigate a series of complex legal processes, conducted in a foreign language, without adequate advice. They face uncertainty about their future, particularly as they approach the age of 18, when they lose rights to protection that they enjoyed as a child. Even if they do not face return to their country of origin, they may lose their accommodation and other support services. Against this backdrop, Europol estimates that at least 10,000 unaccompanied migrant children in the EU are now missing, and are potentially victims of sexual exploitation, trafficking or other criminal activity.<sup>1</sup>

### The Committee's inquiry

4. The challenges facing unaccompanied migrant children have enormous long-term implications for the children themselves, the EU and its Member States—including the United Kingdom. In this inquiry we have therefore sought to assess the nature and scale of these challenges; consider whether existing EU provisions translate into clear obligations for professionals throughout national administrations; and evaluate which further measures could alleviate some of the challenges faced. Our Call for Evidence, setting out the scope of our inquiry, is reproduced in Annex 3.
5. Our inquiry was undertaken, and this report in large part drafted, before the result of the referendum on the UK's membership of the EU was known. Although the outcome of the referendum was that the UK should withdraw from 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 therefore vital, both on moral grounds and in order to help maintain amicable relations with the other 27 Member States, that the UK

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<sup>1</sup> European Parliament, 'MEPs discuss fate of 10,000 refugee children that have gone missing' (April 2016): [http://www.europarl.europa.eu/pdfs/news/public\\_story/20160419STO23927/20160419STO23927\\_en.pdf](http://www.europarl.europa.eu/pdfs/news/public_story/20160419STO23927/20160419STO23927_en.pdf) [accessed 4 July 2016]



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 Commission recognised that “the arrival of unaccompanied children on EU territory is not a temporary development, but a long term feature of migration into the EU.” Nevertheless, the Commission did not renew the Action Plan following its expiry in 2014, choosing instead to focus on the development of a strategy to address all children in migration. At the time of writing this strategy was not yet forthcoming.
8. Particularly in the context of the refugee crisis currently facing the EU, we were therefore concerned that the Commission and Member States had lost sight of the plight of unaccompanied migrant children. This is the background against which our inquiry took place, and which forms the context for the recommendations in this report.
9. The term ‘unaccompanied minors’, widely used in the context of EU migration law, describes all foreign nationals or stateless persons below the age of 18, who either arrive in the EU unaccompanied by a responsible adult or who are left unaccompanied after their arrival. According to the United Nations Convention on the Rights of the Child (the UNCRC), “a child means every human being below the age of eighteen years”. The term ‘unaccompanied migrant children’ thus has the same meaning as ‘unaccompanied minors’, and for this reason we have used both terms interchangeably in this report. Even though the evidence suggests that most unaccompanied minors in the EU are 16 or 17 year-old boys, all individuals under the age of 18 are children, and are entitled to the same rights and protections.<sup>3</sup>
10. We heard evidence from a large number of experts and practitioners, and a full list is given in Annex 2. We are grateful to all who contributed to our inquiry. We are particularly grateful to Professor Helen Stalford, Professor of Law and Director of the European Children’s Rights Unit at the University of Liverpool, who has acted as specialist adviser to this inquiry.
11. **We make this report for debate.**

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2 European Parliament resolution of 12 September 2013 on the situation of unaccompanied minors in the EU 2012/2263(INI) ([OJ C93/165](#), 9 March 2016)

3 See Chapter 3 for further discussion on the issue of perceptions of vulnerability.

## 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 entered the EU without seeking international protection, compared with 12,725 seeking asylum.<sup>7</sup> It thus appears that as many unaccompanied children do not make asylum applications as do.
15. We will consider data collection more fully in Chapter 3. For now we note the near unanimity among our witnesses that the data on unaccompanied migrant children in the EU were fragmented and poorly disaggregated. There are no data for the many unaccompanied migrant children who either avoid detection by Member State authorities, or who are asked to move on by those authorities without being registered. Such data as we have are compromised by double counting, since unaccompanied children, like other migrants, move between Member States. Data are often also not comparable across Member States.
16. All that we can say with certainty is that the number of unaccompanied migrant children in the EU runs to many tens of thousands and has grown significantly in recent years.

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

5 The total given by Eurostat is in fact 3,045. This is the highest total since 2008, when 4,285 unaccompanied minors sought asylum in the UK.

6 [Q 71](#) (James Brokenshire MP)

7 Written evidence from European Commission ([UME0022](#))

### 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> even in areas that had otherwise adopted good practices in respect of unaccompanied migrant children.<sup>11</sup>
18. Kirsty McNeill, Director of Policy, Advocacy and Campaigns at Save the Children, noted that the overstressing of resources had created incentives for national authorities not to treat minors as children. Judith Dennis, Policy Manager at the Refugee Council, explained: “when you are struggling to cope with numbers, identifying people with special needs that you are then going to have to meet is a particular challenge, so some of the weaker responses have been to wave people through.”<sup>12</sup>
19. In the face of the refugee crisis, EU measures and policies concerning unaccompanied migrant children have proved to be inadequate. Dr Ciara Smyth, Lecturer Above the Bar at the National University of Ireland, Galway, said that the crisis should have created an impetus for the Commission to implement a new action plan for unaccompanied minors<sup>13</sup>, but no action plan has been forthcoming. Daphne Bouteillet-Paquet, Senior Legal Officer at ECRE, agreed that children’s issues had not been given the prominence that they deserved in EU’s response to the refugee crisis, given that “54% of people arriving in Europe at the moment are women and children,” and that the numbers of unaccompanied migrant children were rising. She concluded: “One could wish that the College [of Commissioners] would not see it as an echo of a problem but as one of the core issues in the current crisis.”<sup>14</sup>
20. In fact, some of the measures intended to address the wider refugee crisis may present problems for unaccompanied children. For example, the Commission has developed the concept of the ‘Hotspot’, a designated location where resources are concentrated because of high migratory pressures. These are intended to be places where migrants can be registered as they enter the EU, pending possible relocation to another Member State.<sup>15</sup> In practice, however, Hotspots in Greece, at least, have come to resemble detention centres.<sup>16</sup> According to Dr Vicki Squire and Ms Nina Perkins of the University of Warwick, the segregation of those eligible under the relocation schemes has led to discontent. They also found that at a Hotspot in Sicily not all unaccompanied migrant children had been given free legal

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8 European Union Committee, *EU Action Plan against migrant smuggling* (4th Report, Session 2015–16, HL Paper 46)

9 [Q 87](#) (Julie Ward MEP), [Q 100](#) (Roberta Metsola MEP) and supplementary written evidence from ECRE ([UME0040](#))

10 [Q 34](#), [Q 44](#) (Kirsty McNeill)

11 [Q 94](#) (Daphne Bouteillet-Paquet)

12 [Q 36](#)

13 [Q 26](#)

14 [Q 112](#)

15 Under Council Decisions [\(EU\) 2015/1523](#) and [\(EU\) 2015/1601](#), asylum applicants “in clear need of international protection” are relocated from Italy and Greece to another Member State to have their applications assessed. Asylum applicants are eligible for these schemes if they come from a country from which more than 75% of asylum applicants are awarded some form of international protection.

16 [Q 116](#) (Daphne Bouteillet-Paquet)

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>

### Key challenges specific to unaccompanied migrant children

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 highlighted the particular difficulties facing those who become separated from their parents along the migration route, as “they are naive and particularly vulnerable because they fall into that situation not having started out in it.”<sup>26</sup>
26. Baljeet Sandhu, Director of the Migrant and Refugee Children’s Legal Unit, Islington Law Centre, told us that the vulnerability of unaccompanied migrant children presented corresponding challenges for those responsible for caring for them or representing their interests within the host state:
- “This group of children is the most vulnerable group that I and my team have ever worked with. In most cases, by the time they have got to us they have suffered some form of psychological or physical injury or harm. Their development has often been impaired and their needs neglected. This has serious implications for professionals seeking to support and represent them.”<sup>27</sup>
27. The evidence suggests, however, that once unaccompanied migrant children are detected within the Member States, they face new problems at the hands of national authorities, including a culture of suspicion, a failure to take responsibility, and inadequate reception conditions. Ms Tuite noted that:
- “Some unaccompanied children have pointed out that on their journey they have been focused entirely on survival, the journey and arrival, and when they get to their destination country they are entirely depleted, but then of course they have to face a whole new set of challenges, so we have to be mindful of all they have gone through.”<sup>28</sup>

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24 [Q 34](#)

25 Written evidence from CARAS ([UME0015](#))

26 [Q 87](#)

27 [Q 1](#)

28 [Q 132](#)



### 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 entry point, 80 children arrive every night.”<sup>30</sup>
29. Despite the variation in numbers, the evidence we received from pan-European networks and cross-border research projects underlined that Member States were facing similar problems.<sup>31</sup> For example, a key finding of the MinAs Project was that “although the asylum procedures vary across [France, Austria, Slovenia and the UK], nevertheless the problems of [unaccompanied migrant children] stemming from the procedures are quite similar.”<sup>32</sup> Ms Tuite agreed:
- “The challenges differ depending, as we see, on geographical location and the numbers of unaccompanied children. In the EU last year, there was a range of asylum applications: from zero to 35,000. That is a huge difference. Then we have to factor in Member States’ responses in terms of the range of services and resources, which vary enormously and have an impact. However, several challenges are common to many Member States.”<sup>33</sup>
30. We heard strong evidence that these common problems require a common response. Verena Knaus, Senior Policy Adviser at UNICEF, saw:
- “A lot of added value in a common European response. These are transnational challenges. These are challenges that relate to data-sharing and closer co-operation among child protection authorities, migration authorities and other services in different countries. This is best done in a common, co-ordinated way because if we try to do it piecemeal, as we see at the moment, we leave a lot of protection gaps open.”<sup>34</sup>
31. More fundamentally, the problems facing unaccompanied migrant children are all symptoms of the same over-arching crisis. A common EU response is therefore not only possible, but, as part of the wider response to the refugee crisis, necessary. This requires the EU institutions and the Member States all

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29 [Q 115](#)

30 [Q 114](#)

31 These include the SUMMIT Report, *Best practices and key challenges on interagency cooperation to safeguard unaccompanied children from going missing* (February 2016) [http://missingchildreneurope.eu/Portals/0/Docs/report\\_SUMMIT%20-%20Safeguarding%20Unaccompanied%20Migrant%20Minors\\_1mrt.pdf](http://missingchildreneurope.eu/Portals/0/Docs/report_SUMMIT%20-%20Safeguarding%20Unaccompanied%20Migrant%20Minors_1mrt.pdf) [accessed 5 July 2016], MinAS Project, *Whose best interest? Exploring Unaccompanied Minors Rights through the Lens of Migration and Asylum Processes* (October 2015): <https://www.brighton.ac.uk/pdf/research/crome/14-oct-15-final-minas-full-report.pdf> [accessed 5 July 2016] and ENOC Report *Safety and fundamental rights at stake for children on the move* (January 2016): <http://enoc.eu/wp-content/uploads/2016/01/ENOC-Task-Force-Children-on-the-Move-1st-report-25Jan2016.pdf> [accessed 5 July 2016]

32 Written evidence from MinAS ([UME0011](#))

33 [Q 134](#)

34 [Q 123](#)

to act in a joined-up way, something that has been lacking hitherto. As Alison Harvey, Legal Director of the Immigration Law Practitioners Association (ILPA), noted: “To be fair to the Commission, it has done its best. The Commission proposes and Member States dispose.”<sup>35</sup> Despite its focus on the prospect of EU withdrawal, the urgency of the crisis is such that the UK Government should play its part, and through the Council encourage other Member States to do the same.

### The ‘best interests principle’

32. The fundamental legal principle underlying any common European response is that of the ‘best interests’ of the child. All EU Member States have ratified the UNCRC, which contains 54 Articles setting out universal civil, political, economic, social and cultural rights for children. In all actions concerning children (whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies) “the best interests of the child shall be a primary consideration”.<sup>36</sup>
33. The so-called ‘best interests principle’ features particularly prominently in law and policy relating to unaccompanied migrant children. Article 22 of the UNCRC provides that whether unaccompanied or accompanied by their parents or by any other person, children “shall ... receive appropriate protection and humanitarian assistance in the enjoyment of applicable rights set forth in the present Convention”. States undertake to ensure that children enjoy such protection and care as is necessary for their well-being, while taking into account the rights and duties of the child’s parents, legal guardians, or other individuals legally responsible for him or her. To this end, States shall take all appropriate legislative and administrative measures.<sup>37</sup>
34. Within the context of EU law and policy, the principle of the best interests of the child supposedly underpins all EU activity.<sup>38</sup> We were told that the provisions of the Convention safeguarding the best interests principle were enshrined in all the relevant EU legislation such as the EU Returns Directive and the Return Handbook, and the EU’s Anti-Trafficking Directive.<sup>39</sup>
35. So far as domestic law is concerned, the UK ratified the UNCRC in 1991, and the rights of unaccompanied migrant children are now enshrined in national legislation. Specifically, the Immigration Act 2009 imposes a statutory duty on the Secretary of State, and those acting on his or her behalf, to ensure that all decisions relating to the “immigration, asylum or nationality” of children are discharged having regard to their welfare.<sup>40</sup> This is accompanied by detailed guidance on how to conduct a best interests assessment—effectively a welfare checklist for immigration.<sup>41</sup>
36. Throughout this report, therefore, we have examined the real-life experiences of unaccompanied migrant children through the prism of the best interests

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35 [Q 14](#)

36 UNCRC, Article 3(1)

37 Article 3(2). Under Article 3 the States must also ensure that the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision.

38 Article 24 of the Charter of Fundamental Rights of the European Union

39 Written evidence from UNHCR UK ([UME0041](#))

40 Borders, Citizenship and Immigration Act 2009, [section 55](#)

41 UK Visas & Immigration, *Section 55 guidance*, 12 October 2011: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/431346/Section\\_55\\_v12.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/431346/Section_55_v12.pdf) [accessed 11 July 2016]

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 early 2015:
- the culture of disbelief and suspicion towards unaccompanied migrant children;
  - the reluctance of Member States to accept responsibility, share burdens and show solidarity;
  - 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 spoke of a pervasive ‘culture of disbelief’ shown towards unaccompanied migrant children by Member State authorities, including border force and immigration officials, law enforcement and social services.<sup>42</sup>
39. Ms Corazza Bildt highlighted age disputes and challenges to family reunification as two specific symptoms of this culture: “Many Member States are truly concerned about cheating; you say that you are 17 but you are 19, you say that you are unaccompanied but your parents sent you because they hope for family reunification and benefits.”<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 the suspicion shown towards children, and its effects on perceptions of vulnerability.

#### *Age disputes*

##### *Age assessment in the EU*

40. In order to receive the full protection afforded by child-specific provisions in EU and international law, children must be identified as unaccompanied minors by Member State authorities upon their arrival. However, many children arrive in the EU without official documentation. In some cases this has been lost or destroyed in the course of their journey; in others such documentation is not common in the child’s country of origin. When no documentation is available, and authorities have reason to doubt a child’s stated age, EU Member States use a variety of methods to assess age. The frequency with which such assessments are carried out across the EU suggests that little weight is attached to children’s statements in this regard.
41. Dr Paul Chadwick, Head of Looked After Children and Resources at Croydon Borough Council, told us that “technical tests on age are undertaken in Europe using dental assessments and bone density assessments”, which can include radiographs and other invasive medical examinations. Other witnesses described such tests as “flawed and inaccurate”, “extremely

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42 Written evidence from Jean Lambert MEP, Molly Scott Cato MEP and Keith Taylor MEP ([UME0020](#)), Maeve McClenaghan ([UME0012](#)) and BASW ([UME0021](#)). [Q 2](#) (Kathryn Cronin), [Q 7](#) (Baljeet Sandhu) and [Q 25](#) (Dr Ciara Smyth)

43 [Q 148](#) (Anna Maria Corazza Bildt MEP)

humiliating” and “hazardous to health”.<sup>44</sup> Nadine Finch, Honorary Research Fellow, School of Policy at the University of Bristol, and the NGO Separated Children in Europe Programme (SCEP) further noted that expert medical evidence indicated that x-rays and other physical indicators were not reliable evidence of chronological age, and that the data being used to underpin assessments were often outdated and not drawn from the countries from which most migrant children were arriving.<sup>45</sup>

42. The MinAs research project found that “there is no consistent practice in how age assessment is carried out ... Experts from all countries involved in the project [Austria, France, Slovenia and the UK] emphasised the methods used in age assessment (either medical or based on social evaluation) are unreliable ... yet young people are frequently deemed to be one or two years older than they state.”<sup>46</sup> A lack of harmonisation of age assessment methods also means that children’s accounts of their age may be questioned repeatedly whenever they cross an internal border.<sup>47</sup>

*Age assessment in the UK*

43. In the UK, age is initially assessed by Border Force or immigration officials.<sup>48</sup> In principle, Home Office immigration staff should only dispute age themselves if they believe the individual claiming to be a child to be “significantly over 18”, which in the case of Dover, for example, is currently deemed to mean 25 or older.<sup>49</sup> In all other cases where immigration officials have reason to doubt the child’s age, the child should be referred to social workers, “for thorough interviews which can last up to three hours and cover a child’s upbringing, educational history and other issues”.<sup>50</sup>
44. These assessments “are largely social work assessments and are based on social care evidence—the presentation of the young person, their maturity levels, their understanding of the world and their country of origin ... It is, in essence, a social care assessment, and it is a judgment call by the professionals involved, because we do not use, for example, dental assessments.”<sup>51</sup>

**Box 2: Guidelines for age assessment in the UK**

In the UK the rules governing age assessment have been shaped by case law. The leading case in this regard is *R(B) v Merton* [2003] EWHC 1689 (Admin), which established that, except in obvious cases, an age assessment cannot be determined “solely on the basis of appearance”. In general, an assessment should have regard to the appearance, behaviour, background and credibility of the individual being assessed.

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- 44 Supplementary written evidence from Dr Paul Chadwick ([UME0036](#)), written evidence from CCLC ([UME0017](#)) and MinAs ([UME0011](#))
- 45 Written evidence from Nadine Finch ([UME0009](#)) and SCEP ([UME0007](#)). Expert advice informally given to the committee suggests, however, that the fusion of the long bone at the top of the arm is a reliable indicator, even taking into account regional variations, that the individual is aged 21 or over; moreover, evidence of fusion at the top of the arm could be obtained from a standard chest x-ray.
- 46 Written evidence from MinAs ([UME0011](#))
- 47 [Q 113](#) (Daphne Bouteillet-Paquet), Supplementary written evidence from ECRE ([UME0040](#)), written evidence from SCEP ([UME0007](#)), and CARAS ([UME0015](#))
- 48 [Q 76](#) (James Brokenshire MP)
- 49 Supplementary written evidence from Dr Paul Chadwick ([UME0036](#))
- 50 Written evidence from Maeve McClenaghan ([UME0012](#))
- 51 [Q 57](#) (Dr Paul Chadwick)

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.”<sup>52</sup>

In October 2015, the Association of Directors of Children’s Services published further guidance, stating that “age assessments should not be carried out on every child or young person approaching a local authority seeking support, but should be used to ensure that appropriate services (including education) are offered”, and that “where definitive evidence is not available, the benefit of the doubt should be granted to children and young people presenting as such.”<sup>53</sup>

Source: *B (R on the application of) v Mayor and Burgesses of the London Borough of Merton* [2003] EWHC 1689

45. The guidance outlined in Box 2 is relatively recent, and evidence suggests that at present it is not uniformly followed. The Greater Manchester Immigration Aid Unit told us that “age assessments being completed as a matter of course rather than applying the benefit of the doubt” constituted a key challenge for unaccompanied migrant children in the UK.<sup>54</sup>

46. Coram Children’s Legal Centre (CCLC) told us that, according to general immigration statistics for 2015, age disputes were raised in 766 cases, an increase of 448 from the previous year, and accounting for 25% of all cases of children claiming asylum in the UK.<sup>55</sup> Jo Wilding, Research Fellow at University of Brighton and Barrister at Garden Court Chambers, wrote that her research, however, indicated that it was impossible to ascertain fully the extent of this phenomenon:

“The majority of local authorities were unable to clearly state how many young people have their ages disputed, let alone the eventual outcome. The Chief Inspector of Borders and Immigration had already highlighted a similar lack of accurate and comprehensive information held by the Home Office.”<sup>56</sup>

47. Regarding the substantive assessment, Ms Wilding told us:

“Although the UK has a ‘holistic’ age assessment procedure which does not permit the use of non-therapeutic x-rays or bone density scans, I was told by social workers, NGO workers, lawyers and children about pervasive disbelief and reasoning for disbelieving children about their age which did not stand up to scrutiny (for example, the child chose the most expensive brand of hair gel).”<sup>57</sup>

48. CARAS agreed that “the assessment itself is also often very arbitrary: we have worked with young people who have been disbelieved because they have social media profiles that show friendships with over 18s, and highly subjective judgements made about the sorts of behaviours that indicate

52 Department for Education, *Care of Unaccompanied and Trafficked Children*, (July 2014): [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/330787/Care\\_of\\_unaccompanied\\_and\\_trafficked\\_children.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/330787/Care_of_unaccompanied_and_trafficked_children.pdf) [accessed 21 June 2016]

53 Association of Directors of Children’s Services, *Age Assessment Guidance* (October 2015): [http://adcs.org.uk/assets/documentation/Age\\_Assessment\\_Guidance\\_2015\\_Final.pdf](http://adcs.org.uk/assets/documentation/Age_Assessment_Guidance_2015_Final.pdf) [accessed 21 June 2016]

54 Written evidence from Greater Manchester Immigration Aid Unit (UME0004)

55 Written evidence from CCLC (UME0017)

56 Written evidence from Jo Wilding (UME0013)

57 Written evidence from Jo Wilding (UME0013)

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 importance in determining how an individual will be treated both in the immigration and asylum process and also in relation to the care and support they receive. If a child is wrongly considered to be an adult, they may miss being supported by children's services; miss access to education or college; they may be dispersed to a different part of the country and might be accommodated or detained with adults."<sup>62</sup>
52. Maeve McClenaghan, an investigative journalist, confirmed that children were being placed in unsuitable conditions on the basis of flawed age assessments: "At least 127 minors have been found classified as adults in UK detention since the start of 2010 up to June 2015 ... children as young as 14 have been assessed as adults, with immigration officers making incorrect decisions based on the person's appearance. Some children were held in detention centres for months, in conditions they described as 'distressing' and 'scary'.<sup>63</sup>

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58 Written evidence from CARAS ([UME0015](#))

59 Written evidence from ECPAT UK ([UME0032](#))

60 Written evidence from the Refugee Council ([UME0030](#))

61 Written evidence from Jo Wilding ([UME0013](#))

62 Written evidence from UNHCR UK ([UME0041](#))

63 Written evidence from Maeve McClenaghan ([UME0012](#))

**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 appearance.

As a result, A was told that he would have to go to other accommodation. He was offered a taxi, provided that he left immediately; otherwise, he would have to find his own way. He was moved to Home Office initial asylum accommodation for adults. He stayed there for a month and found it very difficult. One man slept in his bed and then threatened him. A was so scared that he slept in the park for the night.

A community care solicitor supported him in challenging his age assessment, just before A was due to be dispersed from London. As a result, he avoided being dispersed and was instead moved back to social services accommodation.

By the time we met him on 4 May, A had had two meetings with social services to determine his age. He was due to have a final interview, which would be followed by a conclusion meeting, where he would be told the outcome.

*Source: Private evidence session, 4 May 2016*

53. More generally, Ms Harvey added that these potentially lengthy proceedings “cast a cloud from the beginning. If you are believed to be lying about the very fact of being a child, that colours people’s approach to you across the board.”<sup>64</sup>
54. **In the absence of a generally accepted, reliable and non-invasive means of assessing age medically, the frequency of non-medical age assessments, particularly in the UK, indicates a widespread reluctance to believe unaccompanied migrant children’s narratives.**
55. **Age disputes have significant consequences for children’s lives, and there is clear evidence that children have been placed in unsuitable conditions on the basis of a mistaken age assessment. Where doubt exists, authorities should observe their legal obligation to give young people claiming to be children the benefit of that doubt.**

*Family reunification*

56. The culture of disbelief in the EU extends beyond the initial identification of unaccompanied migrant children. Professor Heaven Crawley, Professor of International Migration at Coventry University, explained that “the story ... which has become more apparent in the last five years, is the idea that somehow the increase in unaccompanied children entering the EU looking for protection is a conscientious strategy on the part of families to use their children as a hook to bring themselves in.”<sup>65</sup>

64 [Q 2](#) (Alison Harvey)

65 [Q 29](#) (Prof Heaven Crawley)



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 with their siblings”, and told us that the reason for this stance “is often stated to be to ensure that children are not sent on ahead alone to secure leave for the family.”<sup>69</sup>
59. Witnesses categorically dismissed the notion that there was significant abuse of family reunification rights. Prof Crawley argued that it “fundamentally misrepresents and misunderstands the reasons why children are often the ones who are sent out first. In many cases, parents are simply desperate and worried about the future of their children”<sup>70</sup>. Roberta Metsola MEP told us:
- “We are dealing with push factors rather than pull factors—of war, terrorism, extreme poverty, and others. When we have identified and interviewed the parents of such children, they have told us, ‘If your house is on fire you leave and, if you cannot leave, at least you try to save one of your children’. That will happen irrespective of any system that you put in place to protect any family reunification legislation.”<sup>71</sup>
60. ILPA added that this line of argument was “based on a misunderstanding of the position of the children who could apply for refugee family reunion”.<sup>72</sup> Kathryn Cronin, Barrister and Joint Head of Chambers, Garden Court Chambers, agreed that this approach was “without any real factual substance” and “misconceived” for the same reason:
- “These are refugee children and not children on discretionary leave, so they have been found not to be anchor children; they are here with a genuine fear of persecution. The other point is that of course every country in the EU, apart from the UK and Denmark, has a legislative arrangement, either through the Directive or, in the case of Ireland, which has opted out, the Refugee Act 1996, which gives a right to child refugees to sponsor their parents. We are alone with Denmark in not having that provision. There is nothing in any of those countries to

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66 Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification ([OJL251/12](#), 3 October 2003, pp 12–18) and [Q 8](#) (Kathryn Cronin and Alison Harvey)

67 HL Deb 3 February 2016 [c1882](#)

68 Written evidence from IOM ([UME0033](#))

69 Written evidence from ILPA ([UME0023](#))

70 [Q 29](#) (Prof Heaven Crawley)

71 [Q 107](#) (Roberta Metsola MEP)

72 Written evidence from ILPA ([UME0023](#))

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**

Z, from Afghanistan, arrived in the UK in 2010 aged 12. Since then, he has had no contact with his family. When he first arrived, social workers asked if he had any numbers to call, but his family had no telephones. He had an address but waited until five years after his arrival before trying to find his family. The Red Cross put him in contact with his cousin, but he could not contact his mother as she had left the place where they had lived.

The foster family of MH (also from Afghanistan) arranged for him to seek help from the Red Cross. The Red Cross came to explain how the tracing would work, which would involve going to his village in branded vehicles asking about him. He was afraid that if his neighbours found that he had gone to the UK, it would put his family and himself at risk, so he decided in the end not to try.

M, from Eritrea, said that the Red Cross had told him on an orientation programme what they could do to help, but also that there were places where the Red Cross could not go. A practitioner from The Children's Society explained that many Eritreans would like to trace their families, but did not want the Red Cross to go to their homes as it could put family members in danger.

*Source: Private evidence session, 4 May 2016*

62. **We found no evidence to support the Government's argument that the prospect of family reunification could encourage families to send children into Europe unaccompanied in order to act as an 'anchor' for other family members. If this were so, we would expect to see evidence of this happening in Member States that participate in the Family Reunification Directive. Instead, the evidence shows that some children are reluctant to seek family reunification, for fear that it may place family members in danger.**

*A culture of suspicion*

63. Beyond these specific issues, which appear to be particularly prevalent in the UK, there is also evidence of a more generalised suspicion directed at unaccompanied migrant children throughout the EU. Some witnesses highlighted notions that these children pose a threat to national security

73 [Q 8](#) (Kathryn Cronin) and written evidence from the Refugee Council ([UME0030](#))

74 Supplementary written evidence from Kent County Council ([UME0039](#))

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 worries about safety and standards.”<sup>77</sup>

65. The Minister, Mr Brokenshire, assured us that Member State authorities were “vigilant” from the moment of first contact with unaccompanied migrant children, and took “rightful care before someone is moved through into the asylum process” to ascertain that individuals had not previously been identified as having links to terrorist organisations. In so doing, UK authorities built “on the broader work that we do with 100% checks on scheduled flights and crossings coming into the UK, the work of the juxtaposed controls in northern France, the continuing work that we undertake with the French Government and the screening that takes place of vehicles that cross through the juxtaposed controls.” The Government was also “having further discussions with the Dutch and the Belgians on issues in other parts of Europe”, and the Minister was therefore satisfied that “There is real vigilance around the challenges and risks of having a strong, robust and vigorous border control.”<sup>78</sup>

#### *Perceptions of degrees of vulnerability*

66. The culture of disbelief and suspicion described above appears particularly pronounced with regard to unaccompanied migrant children who are male, aged 16 or 17, and from Afghanistan. Jean Lambert MEP told us that, in her experience, “there is a growing prejudice about particular nationalities in a number of countries ... Afghan boys are viewed with quite a lot of suspicion

75 [Q 149](#) (Anna Maria Corazza Bildt MEP), [Q 23](#) (Prof Kohli) , [Q 126](#) (Bruno Vanobbergen)

76 [Q 125](#) (Bruno Vanobbergen)

77 [Q 23](#) (Prof Kohli)

78 [Q 77](#) (James Brokenshire MP)



about why they are here and whether they really are asylum cases. Also, in some countries we are well aware that children and young people coming from Africa are also seen as somehow much more suspect”.<sup>79</sup>

67. Ms Cronin agreed, adding that “more sympathy is accorded to young girls than to young boys. There is a presumption certainly that 16 or 17 yearold boys, provided that they appear to be in good health, are more than capable of being selfsufficient and selfprotective.”<sup>80</sup> This group constitutes the majority of unaccompanied children currently arriving in the EU, and Prof Crawley was therefore “concerned about how that statistic is represented, as if it somehow means that there is no vulnerability, or indeed rights.”<sup>81</sup>
68. Several witnesses shared her concern, pointing out the flaws in the underlying assumption. Ms McNeill stressed that “whether a child is 16, 18, 11 or 12, their vulnerability to exploitation does not change a huge amount. None of us would want a 16 or 17 year-old of ours to be sleeping rough in a park, train station, church hall or petrol station forecourt, which we have evidence of across Europe.”<sup>82</sup>

### Box 6: Case study: M, a 17-year-old from Eritrea

M, a 17-year-old boy from Eritrea, was extremely traumatised and became visibly distraught after recalling the horrific events which had occurred prior to his arrival in the UK only a few months earlier.

M came to the UK in 2015. He had left Eritrea in 2014 and travelled through Sudan. He was sent on from there through the Sahara to Libya. He lost two of his brothers in the desert. He stayed in Libya for three days before being sent onwards in a lorry. He was closed in a small area without air conditioning. One of his friends died in the lorry, and he fainted as well.

*Source: Private evidence session, 4 May 2016*

69. The evidence demonstrates that, at present, unaccompanied migrant children are treated with suspicion and faced with hostility across the EU. These attitudes have far-reaching effects, which are described in Chapter 4. This is particularly the case where a culture of disbelief results in invasive age assessments and protracted age disputes, or limits the ability of unaccompanied children to reunite with family members. We therefore agree with Ms Ward that it is vital for Member States to “change the narrative and understanding of the situation of refugees and refugee children, and unaccompanied minors in particular.”<sup>83</sup>
70. **All children needing protection have the legal right to receive it, regardless of immigration status, citizenship or background. That right should be recognised, and all those under 18 should be treated as children, first and foremost.**

#### ‘Someone else’s problem’

71. Many witnesses criticised Member States’ apparent lack of willingness to accept responsibility for unaccompanied migrant children. This reluctance is

79 [Q 87](#) (Jean Lambert MEP)

80 [Q 2](#) (Kathryn Cronin), [Q 87](#) (Jean Lambert MEP)

81 [Q 21](#) (Prof Heaven Crawley)

82 [Q 36](#) (Kirsty McNeill)

83 [Q 96](#)

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 Member State at all, or allowing them to enter only to fail to respond to their needs.

72. There has also been a lack of solidarity between Member States. Timothy Kirkhope MEP noted that “Different countries have different priorities and interests, particularly in relation to children. Some countries in Europe are particularly interested in protecting children and giving them extra assistance, whereas other countries are less interested”.<sup>84</sup> Ms Corazza Bildt was also of the opinion that there was “an effective European response on paper. The reality is fragmentation.”<sup>85</sup>

*Accepting responsibility*

73. Witnesses spoke of unaccompanied migrant children being “batted from pillar to post” and being dismissed as “someone else’s problem”.<sup>86</sup> Ms Wilding told us that:

“Each state is too willing to leave unaccompanied children to pass through its territory without providing care or support ... Unaccompanied children I have met have told me about being beaten in Greece and told to leave the country. They have moved across Europe without anyone taking responsibility for them. A number have spent time in camps in Calais before making it to the UK and have continued travelling because of the hostile treatment they receive in every country they passed through.”<sup>87</sup>

74. A particularly worrying demonstration of this failure to accept responsibility is the practice in Belgium, described in Box 7, of delaying initial registration while providing children with letters encouraging them to seek asylum in neighbouring Member States. Ms Knaus reported that such practices were, in Unicef’s experience, prevalent across the EU: “in many of the transit countries, there were deliberate efforts by authorities to discourage the provision of information—for example, that this is maybe a good place to apply for asylum and how to do it, hoping that they would move on to another country.”<sup>88</sup>

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84 [Q 95](#) (Timothy Kirkhope MEP)

85 [Q 145](#) (Anna Maria Corazza Bildt MEP)

86 [Q 23](#) (Prof Kohli), written evidence from Jo Wilding ([UME0013](#))

87 Written evidence from Jo Wilding ([UME0013](#))

88 [Q 126](#) (Verena Knaus)

### Box 7: Case study: Unaccompanied migrant children being discouraged from staying in Belgium

Mr Vanobbergen, the Flemish Children’s Rights Commissioner, described a recent practice in Belgium, whereby unaccompanied children were actively discouraged from registering for asylum:

“For a couple of months, there was the problem of delayed registration: children went to the migration office and then received two letters, one stating that they had to come back within a week or two, for example. It was not clear what would happen during those two weeks: where they have to go, where they have to wait and what they have to do—and at the same time, they received a letter discouraging them from registering.”

Mr Vanobbergen’s colleague, Jean-Pierre Verhaege, Policy Adviser to the Flemish Children’s Rights Commissioner, provided more detail:

“Under the law, if a person presents himself to an immigration office, he should be registered immediately. What actually happens is the two letters: one saying that they have to come back in a few days and the other telling them, ‘Well, applying for asylum in Belgium may be is not the best thing for you’. They are not directly told they had better go to the Netherlands or to Germany, but at least they are given the opportunity to do so... These refugees get the opportunity to think it over twice: ‘Do you really want to be here? Maybe this neighbouring country, which is only 50 or 80 kilometres away, might be better for you. So we take your fingerprints, but just to find out whether you are a criminal or not. We do not put them in the European database, so you are not registered yet’.”

Source: [Q 127](#) (Bruno Vanobbergen and Jean Pierre Verhaeghe)

75. IOM noted that this reluctance to accept responsibility had been brought into sharp relief by the refugee crisis, with rising numbers of unaccompanied children arriving in the EU and often remaining in chaotic conditions in frontline Member States: “The current situation in the EU and at its borders shows a lack of solidarity and sharing of responsibilities between Member States, as well as the need for enhanced cooperation with expert civil society organisations and international organisations.”<sup>89</sup> Ms Knaus agreed: “at the heart of it is the sense of responsibility for those children’s well-being. At the heart of a lot of this ping-pong—passing children on and letting them pass through—is that many countries do not feel responsible for protecting the rights of every child who is in their territory.”<sup>90</sup>

#### *A ‘diffusion of responsibility’ within Member States*

76. The reluctance to accept responsibility for migrant children is not limited to decisions on which Member State should register a child. As the British Association of Social Workers (BASW) told us, in cases involving unaccompanied migrant children, “the state becomes the corporate parent and therefore takes responsibility for all aspects of these children’s lives”.<sup>91</sup> Within many Member States, however, there appears to be a lack of clear allocation of responsibilities and structures for cooperation between government departments, local authorities and civil society. Mr Kirkhope spoke of a lack of “co-ordination between agencies as to what happens with a child once the child is identified and is to be looked after in some way ...

89 Written evidence from IOM ([UME0033](#))

90 [Q 126](#) (Verena Knaus)

91 Written evidence from BASW ([UME0021](#))

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 were “too fragmented and often ineffective”, as “the contemporary care system for unaccompanied minors may involve multiple agencies and individuals (police, special case guardians, interpreters, social workers, legal representatives etc.)” The researchers concluded that “such organisation often results in (1) diffusion of responsibility and (2) an inefficient information flow among agencies and individuals supporting the child.”<sup>97</sup>

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92 [Q 88](#)

93 Written evidence from Nadine Finch ([UME0009](#))

94 [Q 145](#) (Anna Maria Corazza Bildt MEP)

95 Written evidence from Julie Ward MEP ([UME0029](#))

96 Written evidence from ILPA ([UME0023](#))

97 Written evidence from MinAs ([UME0011](#))

82. In contrast, some witnesses felt that multi-agency working in the UK was on the whole well-developed, with the creation of multi-agency safeguarding children boards and Multi-Agency Safeguarding Hubs in some local authorities being cited as positive examples of joined-up working.<sup>98</sup>
83. Nonetheless, CARAS was concerned that, in practice, several foster carers in contact with the organisation “struggle with knowing who to turn to for support, particularly in cases where they are accommodating someone out of borough ... foster carers have not known who to take advice from, nor where to put pressure—the child’s social worker, who in some cases has been based 80 miles away, or the local authority, with both putting responsibility on the other.”<sup>99</sup>

*Demonstrating solidarity*

84. We asked Ms Metsola for her top priority for future EU action concerning unaccompanied migrant children:

“As a Maltese, I would say solidarity. There is far too little of it. Not only co-ordination. We need political will ... it was quite apt that the word solidarity in the Treaty of Lisbon is mentioned in the chapter on justice and home affairs. You would think that the legislators’ intention in putting ‘solidarity’ there was that that would be where it was ultimately shown. I have seen nothing further from that over the last year and I would like to see more.”<sup>100</sup>

*Solidarity and burden sharing among Member States: relocation*

85. At EU level, the reluctance to demonstrate solidarity is perhaps best illustrated by the failure to relocate children from overcrowded reception centres in Italy and Greece.

**Box 8: The relocation of asylum-seekers within the EU**

The Commission set out its response to the refugee crisis in the Mediterranean in a Communication on a European Agenda on Migration on 13 May 2015. On 27 May 2015, as one of the immediate measures forming part of the Agenda’s first implementation package, the Commission proposed a temporary scheme for relocating asylum-seekers from Italy and Greece (so-called frontline Member States) to other EU Member States. This was followed on 9 September 2015 by a proposal for a second temporary scheme.

The measures were intended to demonstrate solidarity and ease the burden on the frontline Member States that, under the Dublin system, are largely responsible for dealing with the sudden increase in asylum applications from migrants arriving by sea. The measures were also intended to alleviate the humanitarian aspects of the crisis by prioritising the relocation of those in need of international protection, including unaccompanied minors, from overwhelmed reception centres.

98 [QQ 59, 62, 64](#) (Inspector Roger Bull), [Q 54](#) (Councillor Paul Watkins) and Written evidence from Nadine Finch ([UME0009](#))

99 Written evidence from CARAS ([UME0015](#))

100 [Q 109](#) (Roberta Metsola MEP)



The measures quickly caused controversy. The UK declined to participate in any EU relocation schemes, and on 22 September 2015 four Member States (Czech Republic, Hungary, Romania and Slovakia) voted against adoption of the second temporary scheme. Commission statistics show that, as of 1 July 2016, just 789 asylum-seekers had been relocated from Italy, and 1,994 from Greece—a total of 2,783 out of the projected 160,000.

Source: European Commission press release, 'Member States Support to Emergency Relocation Mechanism' in 'State of Play: Measures to Address the Refugee Crisis', on 29 January 2016, available at: [http://europa.eu/rapid/press-release\\_IP-15-6134\\_en.htm](http://europa.eu/rapid/press-release_IP-15-6134_en.htm)

86. On 10 February 2016 the Commission adopted a Communication on the state of play of the implementation of the European Agenda on Migration.<sup>101</sup> This made multiple references to the treatment of unaccompanied migrant children in implementing the Agenda, and included as a “key next step” the recommendation that “Member States should devote particular attention to the needs of unaccompanied minors when carrying out relocation.”
87. A number of witnesses welcomed the relocation of children, at least insofar as it sought to remove them from the dire conditions in camps and was conducted in line with a best interests assessment.<sup>102</sup> Many witnesses were clear, however, that in practice relocation had simply “not worked in relation to children”.<sup>103</sup> We received varying accounts of the numbers of children relocated, but the most up-to-date figure was provided by Ms Tuite: on 18 April 2016, seven months after Member States agreed the second relocation scheme in September 2015, just 12 unaccompanied children had been relocated to Finland, and one separated child to the Netherlands.<sup>104</sup>
88. We agree with Ms Knaus that these tiny numbers demonstrate the “lack of deliberate and focused attention that in practice has so far been dedicated to trace, identify, promote and support higher numbers of unaccompanied children benefiting from the relocation procedure.”<sup>105</sup>
89. When asked about the reasons for this lack of progress, witnesses spoke of “a combination of factors”, including a lack of formal relocation pledges by Member States, as “they know that it is more complex to receive an unaccompanied child” and some “have said that they do not have capacity for unaccompanied children right now”.<sup>106</sup> Ms Tuite said that “You would imagine that in many instances it would be easier to relocate a child, who can quickly integrate in school and learn the language ... It is unclear why this is persisting. Perhaps, as is sometimes the case, Member States are waiting for others to do it.”<sup>107</sup>
90. IOM told us that “a more durable approach to the phenomenon of the increased arrival of unaccompanied minors would be one wherein the

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101 Communication on the State of Play of Implementation of the Priority Actions under the European Agenda on Migration, [COM\(2016\) 85 final](#)

102 Written evidence from ECRE ([UME0040](#)), Unicef UK ([UME0024](#)) and IOM ([UME0033](#))

103 [Q 114](#) (Daphne Bouteillet-Paquet), [Q 128](#) (Verena Knaus), [QQ 139, 141](#) (Margaret Tuite), supplementary written evidence from Margaret Tuite ([UME0038](#)), written evidence from ILPA ([UME0023](#)) and IOM ([UME0033](#)).

104 Written evidence from Margaret Tuite ([UME0038](#))

105 [Q 128](#) (Verena Knaus)

106 [Q 128](#) (Verena Knaus) and [QQ 139, 141](#) (Margaret Tuite)

107 [QQ 139, 141](#) (Margaret Tuite)

responsibility for protection, asylum processing, accommodation, and integration was distributed more equally between Member States.”<sup>108</sup>

*Relocation of unaccompanied migrant children to the UK*

91. The UK has opted not to participate in intra-EU relocation, a decision which was the subject of our 2015 report, *The United Kingdom opt-in to the proposed Council Decision on the relocation of migrants within the EU*.<sup>109</sup> The Government has, however, recently indicated, in response to amendments tabled to the Immigration Act 2016,<sup>110</sup> a change in its stance towards relocation regarding unaccompanied children specifically.

**Box 9: Relocation of children to the UK**

During the course of our inquiry an amendment was tabled to the Immigration Bill to require the Government to take steps to relocate unaccompanied refugee children to the UK. ILPA described the background of this amendment:

“Discussion of the potential for EU cooperation has followed the call made by the charity Save the Children for the UK to relocate 3,000 unaccompanied children from other parts of the European Union ... The Government responded to the calls on 28 January 2016. It said that the UK will work with UNHCR on a new initiative to resettle unaccompanied refugee children from conflict regions such as Syria to the UK and that the Department for International Development will create a new fund of up to £10 million to support the needs of vulnerable refugee and migrant children in Europe ... The Minister made explicit that the programme would not be limited to children fleeing Syria. The proposals are a step change from the UK’s previous insistence on targeting its aid outside the European Union and the first indication that the UK should show solidarity with other European States to whom refugees are turning for protection.”

Initially, the amendment required the Government to take 3,000 child refugees in line with the Save the Children recommendation. The number was removed, and on that basis the Government ceased to oppose the amendment. As the Prime Minister told the House of Commons: “The amendment does not now mention a number of people. We are going to go around the local authorities and see what more we can do, but let us stick to the principle that we should not be taking new arrivals to Europe.”<sup>111</sup> The amendment is now incorporated as section 67 of the Act.

Source: Written evidence from ILPA ([UME0023](#))

92. **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.**
93. **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**

108 Written evidence from IOM ([UME0033](#))

109 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)

110 [Immigration Act 2016](#)

111 HC Deb, 4 May 2016, [Col 166](#)

### resettlement schemes to include relocation of children already within the EU.

#### *Solidarity and burden sharing*

94. Ms Bouteillet-Paquet told us that “In almost all European countries, there is a system where local authorities are in charge of reception services for unaccompanied minors, but budgets are not necessarily resourced to meet the needs of the local authorities. Sadly enough, in France you see a game of pass the parcel between *départements* because they want to avoid the costs.”<sup>112</sup> A similar pattern was highlighted within the UK. Witnesses cited the uneven distribution of unaccompanied migrant children within the UK, with “some counties having to accommodate and provide services to high numbers of unaccompanied migrant children whilst other local authority areas accommodate far fewer numbers”<sup>113</sup>.
95. Ms Wilding’s research also “revealed a very uneven distribution, with very high numbers in Kent and Croydon, high numbers in Surrey, Northampton and Essex and low to medium numbers in most other authorities. One fifth of local authorities had no unaccompanied children in their care.”<sup>114</sup> Figures for England are given in Table 2. We did not receive any equivalent data for Scotland, Wales and Northern Ireland.

**Table 2: Distribution of unaccompanied migrant children in England**

Authority Area	Looked After Children	Care Leavers
London (32 authorities)	1,304	1,681
South East (18 authorities)	673	1,206
South West (16 authorities)	50	99
West Midlands (14 authorities)	223	329
East Midlands (9 authorities)	195	177
East Anglia (11 authorities)	299	316
North (15 authorities)	78	185
North East (12 authorities)	19	58
North West (23 authorities)	96	209

Source: From a total of 147 responses from different authorities. Full breakdown available in Appendix 5. Some figures are based on estimates. Written evidence from Jo Wilding ([UME0013](#))

96. These discrepancies have led to the overburdening of already stretched local authorities, which “cannot provide appropriate levels of support to meet the needs of these young people due to the demand pressures”<sup>115</sup> Andrew Ireland, Corporate Director of Social Care, Health and Wellbeing at Kent County Council, described the situation in Kent, which had seen a net increase of over 500 under-18s in its care in the last year:

“The issue for the gateway authorities in particular becomes one of sufficiency, because it is the receiving authority’s responsibility ...

112 [Q 113](#) (Daphné Bouteillet-Paquet)

113 Written evidence from Kent County Council ([UME0034](#))

114 Written evidence from Jo Wilding ([UME0013](#))

115 [Q 48](#) (Andrew Ireland), written evidence from Kent County Council ([UME0034](#)) and Jo Wilding ([UME0013](#))



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 which have traditionally had a more generous approach than their neighbours.”<sup>121</sup>
101. Failures of implementation were most often cited in three specific areas: assessing the best interests of the child; the Common European Asylum System (CEAS); and the EU Action Plan on Unaccompanied Minors.

### *The Best Interests of the Child Principle*

#### *The best interests principle in EU legislation*

102. In Chapter 2 we outlined the ‘best interests principle’, which should underlie all EU and Member State policies towards unaccompanied migrant children. UNHCR UK confirmed that “the provisions safeguarding the child’s best interests are enshrined in the relevant EU asylum *acquis* instruments”.

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116 [Q 48](#) (Andrew Ireland)

117 [Q 49](#) (Andrew Ireland) and written evidence from Jo Wilding ([UME0013](#))

118 [Q 48](#) (Andrew Ireland) and written evidence from Kent County Council ([UME0034](#)) and Jo Wilding ([UME0013](#))

119 [Q 11](#) (Kathryn Cronin)

120 [Q 146](#) (Anna Maria Corazza Bildt), [Q 122](#) (Verena Knaus), written evidence from SCEP ([UME0007](#)) and Jean Lambert MEP, Molly Scott Cato MEP and Keith Taylor MEP ([UME0020](#))

121 Written evidence from Child Circle ([UME0025](#)) and supplementary written evidence from ECRE ([UME0040](#))

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 best-interests assessment, they do not necessarily have information from countries where the child has stayed previously. All the information collected by national authorities is lost.”<sup>124</sup>
105. Ms Tuite agreed: “as is the case in other areas beyond asylum migration—it is a common problem—there is always room for improvement in the procedural safeguards on respect for the best interests of the child ... More can be done to ensure that they are promoted and respected, and to ensure that decisions are individual for each child and are interagency and multidisciplinary.”<sup>125</sup>
106. Dr Smyth added that in some instances, EU provisions themselves might need to be revisited to ensure their compliance with the best interests principle. She was concerned that some EU Directives were too narrow in scope, as they “restrict the scope of the best interests obligation to the provisions that involve minors”. Provisions of general application, such as those relating to the inadmissibility of asylum claims based on the applicant having previously travelled through a “safe third country”, were “themselves not in the best interests of the child”, and could not therefore be interpreted in a child-friendly way by Member States.<sup>126</sup>

*The best interests principle in the UK*

107. We noted in Chapter 2 that the best interests principle was reflected in UK national law by means of the Immigration Act 2009. We were told, however, that the principle was often not observed in practice.<sup>127</sup> In 2013, the Joint Committee on Human Rights (JCHR) conducted an inquiry specifically into the human rights of unaccompanied migrant children in the UK.<sup>128</sup> The Joint Committee found that immigration concerns were too often given priority over children’s rights, and called for a change in emphasis to put the best interests of such children at the heart of the often complex and stressful asylum and immigration processes affecting them.
108. According to CCLC, the Government, in its response to the JCHR’s comments, in February 2014, “agreed to consider the case for establishing

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122 Written evidence from UNHCR ([UME0041](#))

123 [Q 1](#) (Kathryn Cronin), [Q 117](#) (Dr Hanne Beirens), [Q 125](#) (Verena Knaus) and written evidence from CCLC ([UME0017](#))

124 [Q 113](#) (Daphne Bouteillet-Paquet) and written evidence from IOM ([UME0033](#))

125 [Q 136](#) (Margaret Tuite)

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

127 Written evidence from CCLC ([UME0017](#))

128 Joint Committee on Human Rights, *Human Rights of unaccompanied migrant children and young people in the UK* (First Report, Session 2013–14, HC 196, HL Paper 9)

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 to return to their family and country of origin but granting temporary leave until the age of 17.5 ... Indeed the asylum process fails to even seek the relevant information on which a best interests decision could be based.”<sup>130</sup>

110. Ms Sandhu pointed out that decision-makers in the Home Office “are often prohibited in the way the mechanisms around them and the structures work from the top”<sup>131</sup>. Dr Smyth told us that, in her experience, despite there being good soft-law guidance on how to conduct best interests assessments,

“Immigration officials feel that the best interests idea is a bad one, because it involves a lowering or a softening of standards and that the child might not have a right to what is in his or her best interests ... What ‘the best interests of the child’ means and requires of the actors involved with children is not really understood ... Many immigration officials see the best interests as hampering them or tying their wrists.”<sup>132</sup>

111. **The evidence shows that, while the best interests principle is formally acknowledged in the EU *acquis*, the room for interpretation allowed to Member States is such that it is not being fully implemented in practice.**

112. **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.**

### *The Common European Asylum System (CEAS)*

113. The EU has adopted a range of legislative and policy instruments that seek to harmonise standards and procedures across the EU in relation to:

- reception conditions;<sup>133</sup>
- determining which Member State should be responsible for examining an asylum application;<sup>134</sup>

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129 Written evidence from CCLC ([UME0017](#))

130 Written evidence from MinAs ([UME0011](#))

131 [Q 16](#) (Baljeet Sandhu)

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

133 Council Directive 2003/9/EC of 27 January 2003 laying down minimum standards for the reception of asylum seekers ([OJ L031](#), 6 February 2003, pp 18–25). The UK has not opted into the revised (recast) version of this instrument, Directive 2013/33.

134 Regulation (EU) No 604/2013 (commonly referred to as the Dublin III Regulation, recast) of 26 June 2013 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) ([OJ L180/13](#), 29 June 2013)

- the procedure for granting refugee status;<sup>135</sup>
- family reunification,<sup>136</sup>
- international protection;<sup>137</sup>
- returning illegally staying third country nationals;<sup>138</sup> and
- granting temporary protection in times of mass influx.<sup>139</sup>

Other instruments have been adopted to co-ordinate Member States' responses to cross border criminal activity, including in the field of human trafficking.<sup>140</sup>

114. All of these instruments contain specific provisions on unaccompanied children that are consistent with international human rights standards, particularly in respect of their rights to appropriate legal advice and representation, protection, medical attention, education, accommodation and family reunification.<sup>141</sup>

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135 Council Directive 2005/85/EC of 1 December 2005 on minimum standards on procedures in Member States for granting and withdrawing refugee status ([OJ L326/13](#), 13 December 2005). The UK has not opted into the revised (recast) version of this instrument, Directive 2013/32.

136 Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification ([OJ L251](#), 3 October 2003, pp 12–18). The UK has not opted into this Directive.

137 Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted ([OJ L304/12](#), 30 September 2004). The UK has not opted into the revised (recast) version of this instrument, Directive 2011/95.

138 Council Directive 2008/115/EC of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals ([OJ L348/98](#), 24 December 2008)

139 Council Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof ([OJ L212](#) 7 August 2001 pp 12–23). The UK has not opted into this Directive.

140 Council Directive 2011/36/EU of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA ([OJ L101/1](#), 15 April 2011). The Commission has recently published Report from the Commission to the European Parliament and The Council on the progress made in the fight against trafficking in human beings (2016) as required under Article 20 of Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims, [COM\(2016\) 267 final](#), on the implementation of this Directive.

141 On 13 July 2016, the day that the Sub-Committee agreed this report, the European Commission brought forward a range of legislative proposals to reform the CEAS. These proposals contain a number of references to unaccompanied minors. European Commission, 'Completing the reform of the Common European Asylum System: towards an efficient, fair and humane asylum policy', IP/162433, 13 July 2016: [http://europa.eu/rapid/press-release\\_IP-16-2433\\_en.htm](http://europa.eu/rapid/press-release_IP-16-2433_en.htm) [accessed 14 July 2016]

### 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

142 Q 144 (Daphne Bouteillet-Paquet)

143 Written evidence from UNHCR (UME0041)

144 Written evidence from Save the Children (UME0031)

145 Q 55 (Dr Paul Chadwick)



identifies deficiencies in implementation, it can (following certain preliminary steps) initiate formal infringement proceedings against a Member State.<sup>146</sup>

119. In this context, we received written evidence from the Commission agreeing with IOM that “the migration crisis has brought to the spotlight the importance of a full and correct implementation of the EU *acquis* on asylum”. The Commission also informed us that “Since 23 September 2015, the Commission has adopted a total of 58 decisions (letters of formal notice and reasoned opinions) related to the transposition of, and compliance with, the EU asylum *acquis*.”<sup>147</sup>

120. We welcome these steps, but note Dr Smyth’s suggestion that, specifically with regard to child protection, full implementation of EU law alone might not suffice:

“I would debate whether the problem is one of lack of implementation ... There is also a rot at the heart of CEAS itself, which is that it is motivated by two competing and mutually incompatible objectives. One is protection, and that is usually what animates the Commission and the European Parliament. The other is immigration control: control over migrants and the retention of sovereignty over the issue of immigration. If you look at the different instruments, you will see that they kind of bite each other in the tail.”<sup>148</sup>

121. Dr Beirens stressed that “standards would have been particularly low in some Member States if the EU asylum *acquis* had not been transposed into national legislation”<sup>149</sup>, yet conceded that “it is quite important to identify the fact that the EU asylum *acquis* is quite fragmented, incoherent and incomplete. ... For the moment, there is incoherence, in the sense that depending on which legal status the child has, their rights are very different.”<sup>150</sup>

122. **We endorse the Commission’s monitoring of Member States’ compliance with the existing asylum *acquis*, and urge it to strengthen EASO’s role in this process. Additional steps should be taken to monitor compliance specifically with those provisions relating to vulnerable groups, including unaccompanied children.**

123. **We urge the Commission to make additional support available to Member States struggling to fulfil their obligations under the *acquis*, including through increasing EASO’s mandate and resources in this area.**

### *Family Reunification*

124. The Family Reunification Directive<sup>151</sup> allows unaccompanied migrant children who are refugees to ‘sponsor’ family members to join them. In this way an unaccompanied migrant child may be reunited by being sponsored to enter a Member State by a parent who has been determined to be a refugee in

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146 Individual Member States enjoy a similar power under Article 259 TFEU.

147 Written evidence from the European Commission ([UME0022](#))

148 [Q 28](#) (Dr Ciara Smyth)

149 [Q 118](#) (Dr Hanne Beirens)

150 [Q 113](#) (Dr Hanne Beirens) and [Q 18](#) (Dr Ciara Smyth)

151 Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification ([OJL251/12](#), 3 October 2003, pp 12–18). The UK does not participate in this Directive.

that State.<sup>152</sup> Alternatively, the child may sponsor a parent to enter a Member state provided that the child has been determined to be a refugee in that state.<sup>153</sup>

125. The Family Reunification Directive has not, however, been consistently implemented across the EU, while the UK does not participate in it at all. Of the Member States that do take part, Ms Bouteillet-Paquet told us:

“What we see with family reunification is that in many countries there has been a restrictive trend. Recent legislative changes made in Sweden, Denmark and Austria are going down the road towards restriction. In our view reunification remains a tool for the integration of people, as well as it being the legal route within the EU. The instrument is under threat, I would say. There has also been a tendency to add other layers of requirements such as integration tests. That has been done in The Netherlands.”<sup>154</sup>

126. The Dublin Regulation<sup>155</sup> also allows for family reunification where an unaccompanied minor is applying for international protection. However, as Dr Smyth told us:

“The Dublin Regulation is not being used by Member States to facilitate the reunification of unaccompanied minors. We do have hard data on that. Around 70,000 unaccompanied minors in the EU this year have applied for asylum, and last year there were 228 transfers of unaccompanied minors to join family members in another EU Member State. That speaks for itself. So apart from the fact that as a mechanism the Dublin regulation does not work very speedily, it is simply not being used by Member States for the purpose for which it was designed: reunification.”<sup>156</sup>

127. **Opportunities for unaccompanied migrant children to exercise their right to family reunification are inconsistently implemented across the EU, and are particularly limited in the UK. We are concerned by the recent trend in some Member States to ‘level down’ opportunities for family reunification, by falling back on the minimum requirements set out in the Family Reunification Directive.**

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152 Under Article 6 of the Directive, the participating Member States can reject an application for entry and residence on the grounds of public policy, public security or public health. Applications can be withdrawn, or renewal refused, on the same grounds. Furthermore, under Article 7 of the Directive, when the application is submitted, the relevant Member State authorities can request evidence that the sponsor has adequate accommodation, sickness insurance, and access to stable and regular resources. These requirements do not apply to refugees provided the application for family reunification is submitted within three months of the granting of refugee status.

153 In case C-540/03, *European Parliament v the Council*, the Court of Justice held that when the Member States apply the Directive they must pay due regard to the individual’s right to a family life under Article 8 of the European Convention on Human Rights, and the best interests of the child. (See paragraphs 56–63)

154 [Q 119](#)

155 Council Directive 604/2013 of 26 June 2013 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) ([OJ L180/31](#), 29 June 2013)

156 [Q 23](#)

*The EU Action Plan on Unaccompanied Minors (2010–2014)*

128. In May 2010 the Commission published an Action Plan on Unaccompanied Minors (2010–2014).<sup>157</sup> The Action Plan identified insufficient data as a core problem across the EU. Beyond actions to improve the quality and quantity of data collection and exchange, it set out the following strands for action:
- Prevention of unsafe migration and trafficking by increasing protection capacities in third countries;
  - Reception and procedural guarantees in the EU;
  - Finding durable solutions.
129. In September 2012, in its mid-term review of the Action Plan, the Commission concluded that the Plan had to date been “an important step in shaping a common, rights-based EU approach to this group of migrant children”, but that the “EU must do more to protect unaccompanied children”.<sup>158</sup> The Commission’s 2015 European Agenda on Migration stated that “the Commission will develop a comprehensive strategy to follow up on the Action Plan on Unaccompanied Minors (2011–2014) to cover missing and unaccompanied children.”<sup>159</sup>
130. Despite these developments, the Action Plan has not yet been renewed. When asked for the reasons behind this delay, Ms Tuite told us that, instead of renewing the Action Plan, the Commission was in the process of constructing a “holistic approach” to all children in migration.<sup>160</sup> We understand this ‘holistic approach’ to be essentially the same as the ‘integrated child protection system’ discussed in Box 8.
131. Witnesses differed in their comments on the Commission’s approach. Some, though, told us of clear benefits of the Action Plan. It had “funded and actioned a lot of research and projects”;<sup>161</sup> it had “made it easier to systematically pool knowledge and share best practices” and had “combined and connected the tools at the disposal of the concerned authorities.”<sup>162</sup> It had also “aided and provided somewhat more reliable data on the numbers of unaccompanied minors entering Europe”, and had thus “contributed towards making asylum-seeking unaccompanied children more visible”.<sup>163</sup>
132. Ms Corazza Bildt also told us that the Action Plan was an important political tool, as “it was voted for, with a large majority in the European Parliament”. This meant that it could be used “as an instrument of constant pressure on the Member States as well as in terms of recommendations, exchange of good practice and ‘carrots’ to the Member States.”<sup>164</sup> Prof Kohli was concerned that further action on unaccompanied migrant children would

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157 Communication from the Commission to the European Parliament and the Council on Action Plan on Unaccompanied Minors (2010 – 2014), Brussels 6.5.2010, [COM\(2010\) 213 final](#)

158 Report from the Commission to the Council and the European Parliament, *Mid-term report on the implementation of the Action Plan on Unaccompanied Minors*, Brussels 28 September 2012, [COM\(2012\) 554 final](#)

159 Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on A European Agenda on Migration [COM\(2010\) 240 final](#), footnote 28.

160 [QQ 136–137](#) (Margaret Tuite)

161 [Q 40](#) (Judith Dennis)

162 [Q 108](#) (Roberta Metsola MEP)

163 Written evidence from IOM ([UME0033](#))

164 [Q 149](#) (Anna Maria Corazza Bildt MEP)



“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 renewed, many witnesses recognised that work on the previous Action Plan was not yet complete, and that its objectives had not been fully achieved.<sup>166</sup> Some witnesses spoke of the need for better monitoring and evaluation of the Action Plan or its replacement,<sup>167</sup> and Prof Kohli thought that “systematic stock” should be taken of the Action Plan’s impact on improving outcomes for children before considering new measures.
134. **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.**

#### **Loss of trust**

135. It is perhaps unsurprising that, given the climate we have described, unaccompanied migrant children should be wary of Member State authorities, and that they should have lost trust in protection processes even where these are well-established and functioning. Such distrust manifests itself in a variety of ways. We were particularly troubled to hear of children in Italy and Greece burning or otherwise damaging their fingertips in order to avoid registration, in many cases because they were afraid of being detained or forcibly returned to transit countries having reached their final destination.<sup>168</sup> This underlines that trust is, in the words of the IOM, “crucial to gain useful information for identification and family tracing, ensuring that unaccompanied minors do not disappear from care”.<sup>169</sup>

#### *Loss of trust in officialdom*

136. Some witnesses were concerned that, due to experiences in their home countries or along the migration route, unaccompanied migrant children were less likely to trust authorities and might therefore not access protection systems once in the EU. Ms Ward described this as “a huge cultural challenge, which is that young people do not have any trust in authorities and carers because of the situations that they fled and the things that have happened to them on the way.”<sup>170</sup>

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165 [Q 26](#)

166 [Q 26](#) (Dr Ciara Smyth), [Q 40](#) (Judith Dennis), [Q 96](#) (Timothy Kirkhope MEP) and [Q 123](#) (Jana Hainsworth), and Alison Harvey

167 [Q 116](#) (Dr Hanne Beirens, Daphne Bouteillet-Paquet)

168 [Q 122](#) (Bruno Vanobbergen), [Q 148](#) (Anna Maria Corazza Bildt MEP) and written evidence from MinAs ([UME0011](#)).

169 Written evidence from IOM ([UME0033](#))

170 [Q 87](#) (Julie Ward MEP)

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

ILPA described a recent case in which four unaccompanied minors successfully applied to be reunited with family members in the UK:

“Another of the central themes of the evidence is that of the fears and apprehensions of the first four Applicants. These are linked in no small measure to the treatment they claim to have suffered in their country of origin, their age, the absence of parental or other adult support in their lives, the circumstances in which they have been surviving since departing their home country and their respective psychological conditions. The lawyers’ witness statements make clear that by reason of this constellation of factors communications with and taking instructions from the first four Applicants have been consistently difficult exercises. The lawyers describe in persuasive and measured terms these Applicants’ fears and mistrust of the French authorities. From these sources of evidence one also learns of the first four Applicants’ desperation to be reunited with their refugee siblings in the United Kingdom.”

Sources: *R (ZAT and others) v SSHD [2016] UKUT 1JR 00016 (LAT)*. Written evidence from ILPA ([UME0023](#)) and Unicef UK ([UME0024](#))

*Dysfunction: delays and frustration with processes*

137. Children’s lack of trust may also be influenced by, for example, information received from smugglers, or other minors, regarding lengthy and cumbersome procedures. They may consequently decide that it is not in their interest to seek protection through these official channels.<sup>171</sup> This appears to be particularly the case with regard to family reunification: Ms Knaus confirmed that “There is a lot of distrust in existing systems and instruments that are actually designed to protect and facilitate family reunification and family tracing. But children perceive it as not working and as a result this fear of delay and distrust causes them not to turn to protection institutions or authorities.”<sup>172</sup>
138. Invasive age assessments and the culture of disbelief surrounding them can also foster distrust: CARAS wrote that “none of the young people we work with have understood why their age is being assessed, why they are being asked to live as an adult, and why they suddenly have no support. This causes significant harm, resulting in young people distrusting adults.”<sup>173</sup>
139. Given Member States’ apparent hostility towards migrants and refugees, their failure to fully implement EU law, and their unwillingness to accept responsibility for unaccompanied migrant children, it is understandable that children are sceptical of official protection processes. Such distrust both directly contributes to and flows from the more specific challenges outlined in Chapter 4.
140. **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.**

171 [Q 126](#) (Jana Hainsworth)

172 [Q 122](#) (Verena Knaus) and written evidence from Save the Children ([UME0031](#))

173 Written evidence from CARAS ([UME0015](#))

## 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 reception conditions is guaranteed to all applicants for international protection. The Directive allows detention for unaccompanied minors only as a measure of last resort (Art. 10), it limits the use of detention by providing an exhaustive list of possible detention grounds (Art. 8) and regulates the detention conditions for unaccompanied minors as well. In general the Directive establishes detailed rules for the reception and treatment of children and unaccompanied minors (see especially Art. 24). Article 21 defines special categories of vulnerable applicants (including unaccompanied minors) and obliges States to take responsibility for the specific situation of these vulnerable persons.

Source: Written evidence from the European Parliament ([UME0006](#))

144. The EU Agency for Fundamental Rights (FRA) collects data on the fundamental rights situation of migrants and persons in need of international protection. Data collection is focused on Member States at the Eastern external borders and those particularly affected by a large influx of arrivals (Austria, Bulgaria, Croatia, Germany, Greece, Hungary, Italy, Slovenia and Sweden). With regard to unaccompanied children, FRA has identified the following four key challenges: inadequate reception conditions; lack of child protection safeguards; limitations to accessing education and adequate health services; and challenges in the identification and registration.<sup>175</sup>
145. Our witnesses unanimously concurred with FRA’s conclusions. Many had travelled to Hotspots in Italy and Greece as well as camps at French Channel

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174 The UK has not opted into either Council Directive 2013/32/EU of 26 June 2013 on common procedures for granting and withdrawing international protection (recast) ([OJ L180/60](#) 29 June 2013) or Council Directive 2013/33/EU of 26 June 2013 laying down standards for the reception of applicants for international protective (recast) ([OJ L180/96](#) 29 June 2013), but it remains bound by antecedent versions which contain similar provisions.

175 Written evidence from the European Commission ([UME0022](#))

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. Many witnesses cited camps in France as particularly stark examples of the wholly inadequate living conditions facing unaccompanied migrant children.<sup>183</sup> Describing her visits to camps at Calais and Dunkirk, Ms Ward said:
- “The conditions in these unofficial camps are much worse than in official camps and, contrary to popular opinion, there are many children and young people living in squalid conditions. Whilst the British and French authorities fail to address the humanitarian crisis through proper collective agreement, the inhabitants in these camps continue to suffer and the children suffer disproportionately.”<sup>184</sup>
151. The European Commission monitors the conditions at Hotspots, in cooperation with staff from EU Agencies including the FRA. While we

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176 [Q 122](#) (Jana Hainsworth), written evidence from the British Red Cross ([UME0002](#)), Julie Ward MEP ([UME0029](#)), Save the Children ([UME0031](#)), ECRE ([UME0040](#)) and MinAs ([UME0011](#))

177 Written evidence from Unicef UK ([UME0024](#))

178 Written evidence from Dr Vicki Squire and Ms Nina Perkowski ([UME0027](#)), UNHCR ([UME0041](#)), ECRE ([UME0040](#)) and MinAs ([UME0011](#))

179 Written evidence from MinAs ([UME0011](#))

180 Written evidence from ILPA ([UME0023](#)) and Unicef UK ([UME0024](#))

181 [Q 100](#) (Roberta Metsola MEP), written evidence from ECRE regarding the situation in Sweden and Cyprus ([UME0040](#)) and Save the Children regarding Italy ([UME0031](#))

182 [Q 37](#) (Kirsty McNeill)

183 [Q 50](#) (Andrew Ireland), [Q 90](#) (Julie Ward MEP) and Written evidence from Refugee Rights Data Project ([UME0028](#))

184 Written evidence from Julie Ward MEP ([UME0029](#))

welcome these activities, we were surprised to learn that the Commission's Child Rights Coordinator was not involved in such visits until late May 2016.<sup>185</sup>

### Box 13: Case study: conditions in La Lande, Calais

On 2 November 2015 the Tribunal Administratif de Lille reached the following findings in respect of La Lande in Calais, where large numbers of separated children are living:

“As a result of manifestly inadequate access to water and toilets and the lack of refuse collection operations, the population at the camp are living in conditions which do not meet their basic needs in terms of hygiene and access to drinking water and which expose them to health risks; as a result, there is a serious and manifestly unlawful breach of their right not to be subjected to inhuman and degrading treatment.”

Source: *Written evidence from ILPA* ([UME0023](#))

152. In some Member States, unaccompanied migrant children are held in detention pending a final determination of their age and status. This practice, which has been of concern to the European Parliament,<sup>186</sup> has been justified as a form of child protection, used to prevent disappearances.<sup>187</sup> The Commission told us that:

“In practice some EU Member States currently prohibit the detention of separated and/or unaccompanied children, whereas others allow it only in very exceptional circumstances. At the same time, however, detention of children, unaccompanied or not, to prevent unauthorised entry or to facilitate their removal is not uncommon in Europe, including in facilities that are not equipped to cater for their needs.”<sup>188</sup>

153. Other witnesses confirmed that the systematic detention of children had increased “massively” since the refugee crisis, and that Hotspots in Greece in particular had in practice become closed detention centres.<sup>189</sup> Detention conditions in some Member States were described as “unhygienic and overcrowded”, and “distressing and scary”, and Ms Tuite and UNHCR noted that a lack of separation from adults was a key concern.<sup>190</sup>

154. These practices also appear common in Member States less directly affected by the refugee crisis, including the UK.<sup>191</sup> Furthermore, in some Member States, children are held in detention for a disproportionately long time.<sup>192</sup> Mr Vanobbergen said that “in Poland and Estonia, children have been locked up for quite a long time, for many months”; Ms McClenaghan told us that, in the UK, “some children were held in [adult] detention centres for months”.<sup>193</sup>

185 [Q 141](#) (Margaret Tuite)

186 [Q 145](#) (Anna Maria Corazza Bildt MEP), Written evidence from the European Parliament ([UME0006](#)) and Jean Lambert MEP, Molly Scott Cato MEP and Keith Taylor MEP ([UME0020](#))

187 [Q 144](#) (Anna Maria Corazza Bildt MEP)

188 Written evidence from the European Commission ([UME0022](#))

189 [Q 113](#) (Daphne Bouteillet-Paquet) and [Q 26](#) (Prof Heaven Crawley)

190 [Q 133](#) (Margaret Tuite), written evidence from UNHCR ([UME0041](#)), Maeve McClenaghan regarding the detention of children in adult immigration facilities in the UK ([UME0012](#))

191 Written evidence from ECRE ([UME0040](#)), BASW ([UME0021](#)), Maeve McClenaghan ([UME0012](#)) and MinAs regarding detention in Slovenia ([UME0011](#))

192 Written evidence from ECRE with regard to Italy and Greece ([UME0040](#))

193 [Q 123](#) (Bruno Vanobbergen)



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 vulnerability.**
158. **The evidence suggests that conditions in some Hotspots are inadequate to meet the needs of migrants who enter them. As a result, children in particular are suffering. The Commission and the European Asylum Support Office should step up efforts to monitor conditions for children at hotspots. The role of the Commission’s Child Rights Coordinator in this respect should also be strengthened.**
159. **Conditions at the camps in the French Channel ports are also wholly unsuitable for children. The Government should increase its efforts to work with the French government in improving the situation of children in these camps.**

*Registration and identification*

160. Among the key concerns regarding reception conditions was the lack of systematic, prompt and child-appropriate mechanisms for the identification and registration of unaccompanied migrant children.<sup>195</sup> Ms Sandhu told us: “as EU Member States, we just do not have the basics of registration or identification”.<sup>196</sup> Ms Knaus confirmed that, in many Member States, “there is no immediate registration; there are very different practices as to how registration officials begins; and there is not adequate provision of information to children, even about their right to register or what it implies or means”.<sup>197</sup>
161. As with many other challenges discussed in this report, witnesses were concerned that the refugee crisis had further exacerbated existing shortcomings. Save the Children told us:

“One of the biggest gaps in the child protection system in Greece is the lack of standardised procedures for the identification and the registration of unaccompanied children. Longer-standing services in Italy are at

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194 [Q 26](#) (Dr Ciara Smyth) and written evidence from ECRE ([UME0040](#))

195 This is required under Article 6 of Council Directive 2005/85/EC of 1 December 2005 on minimum standards on procedures in Member States for granting and withdrawing refugee status ([OJ L326/13](#), 13 December 2005)

196 [Q 14](#) (Baljeet Sandhu)

197 [Q 126](#) (Verena Knaus)



breaking point while services in France, Greece, Serbia, and Hungary are inadequate to meet the needs of children.”<sup>198</sup>

162. The lack of adequate identification and registration is a direct reflection of the reluctance of national authorities to take responsibility for unaccompanied migrant children, which we outlined in the previous chapter. It has far-reaching consequences, including an inability to initiate promptly child protection procedures, a lack of data and the inability to trace missing children.

*Provision of legal advice and information*

163. EU asylum legislation imposes specific obligations on Member States to provide unaccompanied minors with legal information and assistance within a reasonable time.<sup>199</sup> Another concern, however, was the shortage of age-appropriate information and legal advice provided to unaccompanied migrant children.<sup>200</sup> Elona Bokshi, Senior Project Manager at ECRE, highlighted this issue:

“There are some other components that mean that legal advice is poor quality. It is also the lack of information that they get from the very beginning. For example, in the reception centres they would not have had proper information on how they go through the asylum procedures. You have the problem of interpretation. Sometimes the interpreter takes their own position and gives their own idea, so you have to train them. There is the child-friendly issue: although the lawyers might know the asylum procedure very well, they do not know how to communicate to children who do not know the language. So there are huge challenges to provide a good quality—and lack of funds remains crucial in many countries.”<sup>201</sup>

*Legal advice in the UK*

164. Access to good quality legal advice appears to be a particular problem for unaccompanied migrant children in the UK.<sup>202</sup> Ms Cronin said: “increasingly, because of legal aid cuts, more and more inexperienced lawyers are taking on these more and more complex cases. Consequently, there is a very variable quality in the standard of lawyering.”<sup>203</sup>
165. The Kent Law Clinic agreed:

“There are logistical problems facing those firms in providing legal representation to all the young asylum-seekers. Social Services do not refer the children as soon as they arrive, but attempt to make as many

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198 Written evidence from Save the Children ([UME0031](#))

199 Article 5 of both the original and recast Reception Conditions Directive; Article 24 of the recast Reception conditions Directive; Article 22 of the original and recast qualification Directive and Article 31 of recast qualification Directive; Article 17 of the original asylum procedures Directive and Article 25 of the recast asylum procedures Directive. See also the responsibilities imposed on Member States by Article 16 of the anti-trafficking Directive.

200 [Q 132](#) (Margaret Tuite) and written evidence from Dr Vicki Squire and Ms Nina Perkowski ([UME0027](#))

201 [Q 120](#) (Elona Bokshi)

202 Written evidence from Jo Wilding ([UME0013](#)). This is an issue which has been considered at length in other reports, including recently Law Centre Network, *Put Yourself in Our Shoes* (9 November 2015) <http://www.lawcentres.org.uk/policy/news/news/keep-children-s-best-interests-at-heart-of-asylum-system-new-report> [accessed 4 July 2016]

203 [Q 2](#) (Kathryn Cronin)

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 representative."<sup>205</sup>
167. Shortcomings in the provision of legal advice and information may influence children's decisions on whether or not to claim asylum; the outcome of asylum claims; and may also influence them to cross EU borders irregularly, in some cases with the assistance of smugglers.
168. **The provision of legal advice and information of an adequate quality is essential to ensure that the rights of unaccompanied migrant children are properly safeguarded. We are particularly concerned that in the UK the provision of free legal advice has been drastically curtailed.**

*Access to healthcare and education*

169. Witnesses also spoke of widespread delays and shortcomings in providing access to adequate healthcare and education across the EU.

*Mental health and psychological support*

170. Articles 11 and 17 of the recast Reception Conditions Directive require Member States to provide asylum seekers with access to mental health care.<sup>206</sup> However, access to suitable mental healthcare and psychosocial support was flagged as a particular concern.<sup>207</sup> Such services were of the utmost importance to unaccompanied migrant children, who were, as a group, "children who have witnessed atrocities, been in fear for their lives, and are without their parents".<sup>208</sup>
171. Nevertheless, the MinAs project found that in Austria, France, Slovenia and the UK, "while legally in all four countries children have access to health care, in practice this is not always the case. While they usually have access to physical health care, access to psychological health care is more limited and psychotherapy proves to be an underfunded area. There is a lack of systematic psychological care/support."<sup>209</sup>

*Psychological support in the UK*

172. In the UK, access to specialist services appears piecemeal. Dr Chadwick told us:

204 Written evidence from Kent Law Clinic ([UME0016](#))

205 Written evidence from the Refugee Council ([UME0030](#))

206 Article 18(2) of Council Directive 2013/33/EU of 26 June 2013 on laying down standards for the reception of applicants for international protection (recast) ([OJ L180/96](#), 29 June 2013) makes similar provision for minors who have suffered trauma.

207 [Q 13](#) (Baljeet Sandhu), [Q 50](#) (Andrew Ireland), written evidence from the Irish Refugee Council ([UME0005](#)) and CARAS ([UME0015](#))

208 [Q 13](#) (Baljeet Sandhu), [Q 50](#) (Andrew Ireland) and written evidence from CARAS ([UME0015](#))

209 Written evidence from MinAs ([UME0011](#))

“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 expertise in working with post-traumatic stress disorder and experience in the clinical team of working with unaccompanied asylum-seeking children.”<sup>210</sup>

173. Other witnesses wrote of difficulties in accessing services, particularly in Kent. Ms Sandhu told us that “there is no access to services, despite massive research, carried out by some very influential academics in the UK, showing that if a young person has come from a conflict zone they are likely to have suffered some form of trauma ... There is no access to services for mental health support. It is lacking hugely.”<sup>211</sup>

*Access to education*

174. Article 14 of the recast Reception Conditions Directive requires Member States to provide access to education services to asylum-seeking children within three months.<sup>212</sup> Nonetheless, timely access to education was another key challenge identified by witnesses. ECRE gave examples from across the EU: “In Bulgaria, asylum-seeking children continue to be outside the education system, and in many destination countries such as The Netherlands, Germany, or Sweden, children wait for up to several months before accessing compulsory education. The educational systems of these Member States are facing a very challenging situation and, given the high recognition rates of Syrian families, will have to absorb large numbers of children in relatively short time.”<sup>213</sup>
175. Edward Timpson MP, Minister of State for Children and Families, told us that “a child in care receives, through the pupil premium, which is provided by the Department for Education, what is called a pupil premium plus, which is an additional £1,900 to support their education. A whole host of other bursaries, for further and higher education, are also provided.”<sup>214</sup> Nonetheless, some witnesses were concerned about difficulties and delays in accessing college places and English as a second language (ESOL) courses, with shortcomings particularly evident in high influx areas such as Kent.<sup>215</sup>
176. CARAS highlighted the consequences of delays in accessing education:

“The delays in securing a place have severe knock-on impacts; young people’s mental health deteriorates, and relationships with support workers are often negatively affected. When young people are offered a college place, they often lose it relatively quickly through non-attendance, something that appears to be exacerbated through lack of routine, support and progress in their first weeks and months here ... Those who are offered education places soon after arrival generally work hard, settle into a routine and achieve good progress.”<sup>216</sup>

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210 [Q 52](#) (Dr Paul Chadwick)

211 [Q 13](#) (Baljeet Sandhu)

212 Article 10 of the original Council Directive 2003/9/EC of 27 January 2003 laying down minimum standards for the reception of asylum seekers ([OJ L031](#), 6 February 2003, p 18–25) makes similar provision.

213 Written evidence from ECRE ([UME0040](#))

214 [Q 73](#) (Edward Timpson MP)

215 Written evidence from the British Red Cross ([UME0002](#)) and CARAS ([UME0015](#))

216 Written evidence from CARAS ([UME0015](#))

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> The unaccompanied migrant children that we met underlined that this was a key cause of stress and anxiety, which in many cases led to them losing motivation to pursue educational goals or social activities (see Box 14 below).

**Box 14: Case study: inability to plan for the future**

Z, a former unaccompanied migrant child from Afghanistan, waited 9 months to get into school, as it was hard to get a place in the first area where he lived. He eventually went to school in the local area, where social services paid for a teaching assistant to help in every lesson. He was moved to Croydon when he was 12 or 13 years old, where he also received a lot of help at school.

Z said that in spite of this help at school, he did not feel like he had a ‘green light’ for making decisions on his future. He felt that he should try to do well at school, but when he looked ahead, he felt that the problems with his immigration status would stop him doing what he wanted. It was something he could not get off his mind. He felt that he could not explain his problems to his teachers. Z observed that, while some unaccompanied migrant children were able to do well in spite of these problems, he could not think of anything else.

*Source: Private evidence session, 4 May 2016*

180. In many instances uncertainty continues even once an unaccompanied child has been determined to have a valid protection need, especially for those not granted full refugee status but a temporary form of leave to remain.<sup>219</sup>
181. In an effort to overcome such uncertainty, the Commission’s 2010–2014 Action Plan on Unaccompanied Minors identified the creation of durable

217 Written evidence from ECRE ([UME0040](#))

218 Written evidence from Child Circle ([UME0025](#)), BASW ([UME0021](#)), Maeve McClenaghan ([UME0012](#)), Jean Lambert MEP, Molly Scott Cato MEP and Keith Taylor MEP ([UME0020](#)), ILPA ([UME0023](#)) and CCLC ([UME0017](#))

219 In the UK, for example, leave may be granted on humanitarian grounds. The Immigration Rules also now make provision for limited leave for unaccompanied asylum seeking children. This incorporated into the Rules the Home Office practice of granting discretionary leave to such children.

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 to determine which durable solution is in the best interests of the child, and the child has been integrated into his or her community, the temporary care arrangements should be maintained and the case reviewed as soon as possible, and within one year at the latest."<sup>221</sup>

### **Box 15: Durable solutions in EU and international law**

Guidance on what constitutes a durable solution is drawn not from one single source, but from a range of international human and children's rights instruments, including the 1951 Refugee Convention, UNHCR guidance, EU law, and the laws and practices of individual states. A durable solution is a long-term, sustainable solution, which ensures that the unaccompanied child is able to develop into adulthood in an environment that will meet his or her needs and rights.

Finding durable solutions means addressing all of the protection needs of unaccompanied children, so that they can fulfil their potential as adults. First and foremost, this involves tracing family members with a view to family reunification, if it is in the child's best interests; achieving secure legal status and the child's integration into education and the local community; and, if it is appropriate and in their best interests, securing their safe return or resettlement (General Comment No 6. of the Committee on the Rights of the Child).<sup>222</sup>

183. However, Ms Dennis highlighted the creation of durable solutions as an element of the Action Plan that had not yet been implemented. This finding was confirmed by the evidence set out in the following sections.<sup>223</sup>

#### *Subsidiary protection and temporary leave to remain*

184. The Irish Refugee Council said that "most national reports [of the Pan-European Durable Solutions for Separated Children in Europe project] noted that very few separated children were granted a durable or long-term form of permission to stay in the host country. This was identified as the number one barrier to realising a durable solution and accessing wider UNCRC-based rights such as education."<sup>224</sup>

220 Council Directive 2011/36/EU of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/269/JHA, Article 16(2) ([OJ L101/1](#), 15 April 2011)

221 UNHCR, Guidelines on Determining the Best Interests of the Child (May 2008) p 30: <http://www.unhcr.org/4566b16b2.pdf> [accessed 12 July 2016]

222 United Nations Committee on the Rights of the Child, Treatment of unaccompanied and separated children outside their country of origin (General Comment No 6, thirty-ninth session, 2005) (1 September 2005) <http://www.refworld.org/docid/42dd174b4.html> [accessed 11 July 2016]

223 [Q 40](#) (Judith Dennis)

224 Written evidence from the Irish Refugee Council ([UME0005](#)) and CCLC ([UME0017](#))



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 and fails to consider the child’s individual circumstances, instead relying on a presumption that it is in the child’s best interests to return to their family and country of origin but granting temporary leave until the age of 17.5. There is rarely, if ever, any consideration of the impact of the uncertainty or of the years spent in the UK on whether that temporary leave could be in the child’s best interests.”<sup>227</sup>

188. Unicef UK accordingly recommended that, “In the UK and across all EU Member States, local and national authorities should work with each unaccompanied child towards a durable solution as soon as possible, to avoid the child remaining in a situation of legal and psychological insecurity, which can be particularly damaging for children and prevent them from developing to their full potential.”<sup>228</sup>

*Transition to adulthood: the prospect of return*

189. The widespread use of subsidiary protection or temporary forms of leave to remain means that the transition to adulthood is a period of particular uncertainty for unaccompanied migrant children, when many will face the prospect of return to their countries of origin, despite having spent several years in the EU. This was confirmed by a group of Green Party MEPs, who noted that “many [unaccompanied minors] are entered into return procedures upon turning 18”.<sup>229</sup>

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225 Written evidence from BASW ([UME0021](#))

226 Written evidence from Child Circle ([UME0025](#))

227 Written evidence from MinAs ([UME0011](#))

228 Written evidence from Unicef UK ([UME0024](#))

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



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 had been returned to Afghanistan, Iraq, Iran, Libya and Syria from the UK. She added:

“657 former child refugees have been returned to Iraq since 2007, including 22 last year and 38 in 2014 when so-called Islamic State began to take a grip on the region ... Some young men returned to Afghanistan told me that they have been left homeless, chased by the Taliban, kidnapped, ransomed and beaten ... after living for years in the UK, young people returned to Afghanistan can be put at serious risk purely due to the fact they have become ‘westernised’”.<sup>232</sup>

193. The BASW was concerned that “The fear of removal upon turning 18 is so overwhelming for many young people that they run away from care and live in an underworld of street life, so essentially the system itself is putting these young people at risk of exploitation and abuse.”<sup>233</sup>
194. **We are concerned that large numbers of young adults, who left their countries of origin as children, are being returned to those countries without adequate support.**

*Transition to adulthood: leaving care provisions*

195. Given the uncertainty facing many unaccompanied migrant children as they approach 18, witnesses stressed that they should be able to rely on stable, family-like structures in this time of transition. This issue featured heavily in the evidence submitted by UK-based witnesses, as our inquiry coincided with debates in both Houses of Parliament on amendments to the Immigration Bill, which would remove financial support from unaccompanied migrant children turning 18.<sup>234</sup> The Bill subsequently passed into law as the Immigration Act 2016 (see Box 16).

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

231 Written evidence from BASW ([UME0021](#))

232 Written evidence from Maeve McClenaghan ([UME0012](#))

233 Written evidence from BASW ([UME0021](#))

234 [Q 86](#) (Anne Longfield OBE), written evidence from ECPAT UK ([UME0032](#)) and written evidence from the BASW ([UME0021](#))

**Box 16: Leaving care provisions in the UK**

The Immigration Act 2016 restricts the support previously given to people whose claims for asylum have been rejected. Specifically, s.68 and Schedule 12 withdraws leaving care support from unaccompanied young people when they reach 18 years old and do not have leave to remain, are not asylum seekers, or do not have a pending immigration application that is their first application for leave to enter or remain (this amendment is now reflected in a new para 2A of Schedule 3 of the Nationality, Immigration and Asylum Act 2002). Schedule 12 removes entitlement (otherwise available to children in care under section 23CZA of the Children Act 1989) to remain in their existing foster placement while they make the transition to adulthood.

Similarly, paragraph 9 of Schedule 12 excludes these young people from the principal leaving care provisions of the Children Act 1989 (sections 23C, 23CA, 24A and 24B) that require local authorities to continue to provide support and assistance to young people leaving their care and to continue to act as their ‘corporate parent’ by keeping in touch with the young person, appointing a personal adviser, keeping their pathway plan under review and making specific provision to meet their educational and training needs. Instead, young people may only qualify for limited support under paragraph 13, if they meet various conditions, which may include being moved to adult support and accommodation provided by the Home Office under section 95A of the Immigration and Asylum Act 1999 in any part of the country away from their established support structures.

Source: [Immigration Act 2016](#)

196. Even before the introduction of these changes, Mr Ireland told us that: “The greater difficulty is in respect of those over 18 for whom the local authority has responsibility under the care-leaving legislation. It has been more difficult over the years to persuade central government that that is legitimate expenditure and that it requires the same level of support ... There have been issues in respect of the apparently competing demands of the immigration legislation and the childcare legislation in respect of over-18s. Those discussions have been going on for as long as I have been involved, and probably before.”<sup>235</sup>
197. At the time he gave evidence, on 13 April 2016, Mr Ireland stated that Kent County Council was yet to receive the grant position in respect of care-leaving unaccompanied migrant children for 2016 from the Government, and that he was therefore unsure “what financial regime we are operating under right now.”

**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, which was just an empty room, with no food. The social worker told him that, if he wanted to go shopping, he would have to pay for it himself and Social Services would reimburse him. As he had no money he had to go back to his foster mother, who gave him £500 for a carpet, furniture and food.

Z, who had continuing mental health problems, told us that he “did not know how to live alone”, was not used to living alone, so he often stayed with friends. The day before Z talked to the Committee, his home had been broken into. He could not get through to his social worker on the phone despite repeated calls (which had been a general problem when he turned 18), so he had to go to her office. Z observed that in that one day between 17 and 18, you are expected to do everything for yourself, but “You still have that mind and experience of childhood”.

*Source: Private evidence session, 4 May 2016*

198. Ms Dennis summarised the problem facing unaccompanied migrant children approaching 18 as follows:

“Those children who are given temporary leave on the basis that they are children are suffering terribly in their protection needs and, as has been identified for many years, their leaving care provisions. We recognise how much children need help in that transition to adulthood. For most of us in this country, we do not suddenly feel and behave like adults when we turn 18. That has been recognised by this Parliament and in very good guidance. Of course, if you have been given only temporary protection, you are just not benefiting from that at all. The moves in the current Immigration Bill are very concerning indeed.”<sup>236</sup>

199. **The creation of durable solutions, like adherence to the best interests principle, appears to be a mantra rather than an effective guiding principle for EU and Member State action.**

### **Increased vulnerability**

200. The third set of practical challenges facing unaccompanied migrant children can be summarised as their increased vulnerability to exploitation by criminals. The severe delays experienced by some unaccompanied migrant children in their asylum claims and in accessing services may compound their lack of trust of state authorities. In such circumstances, smugglers and traffickers may come to be regarded by children in some cases as a preferable source of support—“by choice, through desperation, or through exploitation and abuse”.<sup>237</sup>

<sup>236</sup> Q 46 (Judith Dennis)

<sup>237</sup> Written evidence from Unicef UK (UME0024) and Save the Children (UME0031)

*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 of getting to the UK to join his sister under the family reunification provisions in the Dublin Regulation. Masud died in the back of a lorry while trying to reach the UK just before the New Year, having lost hope that his claim to join his sister would ever be heard.

Source: *Written evidence from Jean Lambert MEP, Molly Scott Cato MEP & Keith Taylor MEP* ([UME0020](#))

238 [Q 88](#) (Jean Lambert MEP) and [Q 144](#) (Anna Maria Corazza Bildt MEP)

239 [Q 144](#) (Anna Maria Corazza Bildt MEP)

240 [Q 23](#) (Dr Ciara Smyth) [Q 113](#) (Daphne Bouteillet-Paquet) and written evidence from Jean Lambert MEP, Molly Scott Cato MEP and Keith Taylor MEP ([UME0020](#))

241 [Q 118](#) (Dr Hanne Beirens)

242 [Q 23](#) (Prof Heaven Crawley)

205. **The actions and omissions of EU Member States, in particular their failure to implement the existing provisions on family reunification, are contributing to an increased vulnerability of unaccompanied migrant children to smugglers, traffickers and organised crime.**

### 10,000 missing children

#### *Missing children in the EU*

206. As early as 2013, Missing Children Europe reported that 50% of unaccompanied children went missing within 48 hours of being placed in certain reception centres after their arrival in the EU.<sup>243</sup> The number of migrant children going missing across Europe continues to grow. At the time of our inquiry Europol reported that at least 10,000 migrant children were missing in the EU. Ms McNeil described the problem as follows:

“Children who had been registered by authorities across Europe simply fell out of the system. Sometimes that is because they are actively evading being pulled into systems, because they have an ideal country of destination and are desperate to get to family and protection elsewhere in Europe. We have evidence of children actively absconding from reception centres, even if space has been found there for them. Children who are outside the system are, to our mind, the most vulnerable.”<sup>244</sup>

207. ECPAT UK and Missing Children Europe told us that across the EU, unaccompanied migrant children were particularly vulnerable to going missing immediately after arriving in a Member State.<sup>245</sup>

#### *Missing children in the UK*

208. Concerns have also surfaced about increasing numbers of child asylum-seekers going missing from care in the UK, and about links between such disappearances and human trafficking, sexual exploitation and organised crime.<sup>246</sup> This is not a new phenomenon. A 2012 joint report by the All Party Parliamentary Group (APPG) for Runaway and Missing Children and Adults and the APPG for Looked After Children and Care Leavers described the numbers of children going missing from care in the UK as a “scandal”.<sup>247</sup>
209. The problem appears still to be increasing at a dramatic rate. An investigation published in *The Observer* in December 2015 found that more than 340 unaccompanied asylum-seeking children went missing between January

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243 Missing Children Europe, ‘Up to 50% of unaccompanied migrant children go missing within 48 hours of being placed in certain reception centres in Europe’ (2016): <http://missingchildreneurope.eu/news/Post/575/Up-to-50-of-unaccompanied-migrant-children-go-missing-within-48-hours-of-being-placed-in-certain-reception-centres-in-Europe> [accessed 21 June 2016]

244 Q 34 (Kirsty McNeill)

245 Q 144 (Anna Maria Corazza Bildt MEP)

246 Maeve McClenaghan and Tracy McVeigh, ‘Fears over increase in asylum-seeking children who go missing after arrival in UK’ *The Guardian* (5 December 2015): <http://www.theguardian.com/world/2015/dec/05/asylum-seeker-children-refugees-missing> [accessed 21 June 2016]

247 All Party Parliamentary Group, *Report from the Joint Inquiry into children who go missing from care* (June 2012): [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/175563/Report\\_-\\_children\\_who\\_go\\_missing\\_from\\_care.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/175563/Report_-_children_who_go_missing_from_care.pdf) [accessed 21 June 2016]



and September of that year, twice as many as in 2014. 132 such children remained missing at the end of 2015.<sup>248</sup>

*Preventing disappearances: understanding the reasons for children going missing*

210. Ms Tuite gave the following explanation for the high numbers of children disappearing across the EU:

“The issue of missing unaccompanied children is a serious one that is linked to many other aspects, starting with identification and registration ... Another aspect is the provision to children of reliable and accessible information, including to counter whatever they might have been told by traffickers. The quality of reception and care is not new. It is provided for in EU legislation, and in the European Migration Network study of 2015 it was already raised as a factor in children absconding. The better the quality of care, the less the risk of them going missing; we are aware of that.”<sup>249</sup>

211. The reasons advanced by Ms Tuite closely reflect the many problems affecting unaccompanied migrant children that we have outlined in this Chapter. But this broad consensus contrasts with the reasons advanced by Member State authorities, which are summarised in Box 19.

**Box 19: Report: reasons for disappearances according to Member States**

Member States reported that “it is difficult to identify the reasons for the disappearances of unaccompanied migrant children”. One of the most commonly reported possible reasons is children wishing to transit to another Member State (reported by Austria, Bulgaria, Belgium, Cyprus, Czech Republic, Greece, Finland, France, Italy, Latvia, Lithuania, Luxembourg, the Netherlands, Poland, Portugal, Slovenia, Sweden) or to another part of the same state (reported by Spain) where:

- they may have family/ friends/ diaspora,
- it is more likely that they can access the labour market due to better economic conditions in the country (reported by Bulgaria, Slovenia, Spain), or
- they have pre-arranged a job opportunity (Czech Republic).

Other possible reasons for disappearances reported by Member States include fear of negative asylum application outcomes and fear of removal; children being trafficking victims; or to avoid age assessment.

Source: *European Migration Network, Policies, practices and data on unaccompanied minors in the EU Member States and Norway (May 2015)*: [http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european\\_migration\\_network/reports/docs/emn-studies/emn\\_study\\_policies\\_practices\\_and\\_data\\_on\\_unaccompanied\\_minors\\_in\\_the\\_eu\\_member\\_states\\_and\\_norway\\_synthesis\\_report\\_final\\_eu\\_2015.pdf](http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/docs/emn-studies/emn_study_policies_practices_and_data_on_unaccompanied_minors_in_the_eu_member_states_and_norway_synthesis_report_final_eu_2015.pdf) [accessed 11 July 2016]

212. Several witnesses urged that more attention should be given to preventing disappearances, and in particular to addressing the often multiple and complex reasons for such disappearances. Inspector Roger Bull, Staff Officer

248 Maeve Mcclenaghan ‘Hundreds of children are disappearing from local authority care’, *Open Democracy UK* (8 December 2015): <https://www.opendemocracy.net/uk/shinealight/maeve-mcclenaghan/hundreds-of-children-are-disappearing-from-local-authority-care> [accessed 21 June 2016]

249 Q 142 (Margaret Tuite)



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 completely lost faith that a system will deal with them in a way that is remotely appropriate or timely. They know that even if they were allowed to access family reunification rights, a status that can be accessed only once you already have refugee status, it could take them 10 to 12 months.”<sup>251</sup>

214. The BASW connected disappearances to the prospect of being forcibly returned upon turning 18:

“The fear of removal upon turning 18 is so overwhelming for many young people that they run away from care and live in an underworld of street life, so essentially the system itself is putting these young people at risk of exploitation and abuse ... BASW is opposed to all such measures as our members have told us we should not put young people at greater risk.”<sup>252</sup>

*Discriminatory responses to missing unaccompanied migrant children*

215. The mere fact that a child is in care, whether or not they are an unaccompanied migrant, already indicates a greater risk of disappearance.<sup>253</sup> Inspector Bull told us that the high prevalence of such cases sometimes elicited a sense of “compassion fatigue” on the part of the authorities. But in his view, “That attitude is not particularly specific to missing migrant children; it is a culture that surrounds looked-after children because of the frequency with which they go missing.”<sup>254</sup> Nonetheless, we have considered how far poor responses to unaccompanied migrant children are part of a general complacency towards children in care, and how far they are a sign of discriminatory treatment.

216. Witnesses from local authorities in the UK assured us that there “there is certainly no distinction in the way young people who go missing are treated”. We heard that authorities “use the same sets of processes for unaccompanied asylum-seeker children who go missing as we do for all looked-after children who go missing. Obviously, we notify the police, follow up any particular leads, carry out return interviews when young people return, and follow all those key processes.”<sup>255</sup>

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250 [Q 68](#) (Inspector Roger Bull), [Q 19](#) (Prof Heaven Crawley) and [Q 41](#) (Judith Dennis)

251 [Q 41](#) (Kirsty McNeill) and written evidence from SCEP ([UME0007](#))

252 [Q 68](#) (Inspector Roger Bull) and written evidence from BASW ([UME0021](#))

253 For example, the 2012 joint All Party Parliamentary Group report, mentioned above, estimated that 10,000 children go missing from care in the UK each year.

254 [Q 63](#)

255 [Q 58](#) (Andrew Ireland, Dr Paul Chadwick)

217. Other witnesses took a different view. In discussing the phenomenon of missing children across the EU, ECRE wrote: “research shows that disappearances of unaccompanied children are not prioritised and are not given the same urgency and care that would be provided for citizens”.<sup>256</sup> Missing Children Europe told us that, according to a 2013 Commission study, “Only a minority of countries report to have legal or procedural regulations on missing migrant children. Those are Austria, Finland, Ireland and Romania.”
218. Missing Children Europe was also particularly concerned about discriminatory practices in Belgium, Denmark, Finland, Hungary and Slovenia. These included different criteria or timeframes applied to reports of missing migrant children as opposed to missing nationals, differences in the follow-up to investigations, and distinctions drawn between missing migrant children who are asylum-seeking and those who are not.<sup>257</sup>

**Box 20: Report: discriminatory treatment of missing unaccompanied migrant children**

From 2012 to 2013, a study was conducted on behalf of the Commission to collect all available data, and look at responses to, the phenomenon of missing children in the EU. The study highlighted some differentiated treatment for missing children who were unaccompanied minors.

The study found that “only a handful of countries report to have legal or procedural regulations on missing unaccompanied migrant children. Those are Austria, Finland, Ireland and Romania ... In Belgium, disappearance of an unaccompanied migrant child from the ‘observation and research centre’ is only reported to the police when it is considered ‘alarming’ (for example, where the child is under 13). In Denmark, missing unaccompanied migrant children have to be reported within 24 hours if they are younger than 15, while for those aged above 15 there is a 24-hour intervention threshold set. Finland also sets a 24-hour waiting period before declaring a migrant child missing, while Hungary makes a distinction between children that do and do not seek asylum, noting that it is a usual practice for children from the latter category to disappear within 24–48 hours.”

Source: European Commission study *Missing children in the European Union Mapping, Data Collection and Statistics (2013)*: [http://ec.europa.eu/justice/fundamental-rights/files/missing\\_children\\_study\\_2013\\_en.pdf](http://ec.europa.eu/justice/fundamental-rights/files/missing_children_study_2013_en.pdf) [accessed 11 July 2016]

219. UNHCR told us that discrimination had also been documented in the Commission-funded CONNECT project, led by Save the Children, which “contains country sections as well as a summary on the issue of disappearances of unaccompanied migrant children in select EU Member States (the UK, Italy, Sweden and The Netherlands) and lays bare the lack of cooperation between actors to prevent and respond to disappearance of unaccompanied asylum-seeking children as opposed to national children.”<sup>258</sup>

*Cross-border cooperation*

220. Finally, there appears to be an acute lack of cross-border cooperation in reporting, tracing and identifying missing unaccompanied migrant children.

256 Written evidence from ECRE (UME0040)

257 Written evidence from Missing Children Europe (UME0018)

258 Written evidence from UNHCR (UME0041) and CONNECT, *Identification, Reception and Protection of unaccompanied children* (2014) [http://www.connectproject.eu/PDF/CONNECT-Project\\_Report.pdf](http://www.connectproject.eu/PDF/CONNECT-Project_Report.pdf) [accessed 13 July 2016]

ECRE and Missing Children Europe described cross-border cooperation between care institutions, law enforcement agencies and networks for missing children as “almost non-existent”.<sup>259</sup> Ms Corazza Bildt reached a similar conclusion:

“There is an obvious lack of procedures between the Member States. There are a lot of procedures and policies to deal with missing children nationally, but the phenomenon of crossborder missing children has been so big ... We have to share information, and there is a big problem of trust between the Member States in doing that.”<sup>260</sup>

221. Cooperation is further impeded by the differences in procedures and data collection outlined above, as well as by uncertainties surrounding the responsibility for reporting disappearances.<sup>261</sup>

**Box 21: Report: cross-border cooperation in responding to missing unaccompanied migrant children**

“Cross border cooperation between care institutions, law enforcement agencies and networks for missing children seems to be almost non-existent when it comes to responding to disappearances of unaccompanied minors. Reportedly, investigations are put on hold when the child is believed to have crossed a national border. If the child is believed to be in a certain country in Europe, reception centres operators and guardians often follow up on the disappearance independently from the police, because of concern for the safety of the child. They often use social media like Facebook, or they seek information from friends and acquaintances of the child.”

“There can often be frustrating delays around cross-border cooperation. Sometimes countries hide behind the bureaucracy and need formal notification before they do anything and this takes time to make sure everything is completed correctly, and it means you’re losing information and the opportunity to potentially locate the child. I’m certainly aware of frustration about the speed with which some countries respond.” (Law enforcement officer, UK)

“Communication can be improved with political will, as well as procedures. We heard at a conference in December someone from Interpol say that if they were told of a disappearance they can share this with other countries in the database and if he’s found it will go on the database. The problem is no one uses it so there are some tools but people aren’t aware of them, or they take too long and people aren’t motivated. Sometimes a child who disappears is seen as one less problem to be taken care of. Everyone in every country tells me the same, there is a lack of communication.” (Guardian, Belgium)

Source: SUMMIT, *Best practices and key challenges on interagency cooperation to safeguard unaccompanied children from going missing* (February 2016): <http://missingchildreneurope.eu/Portals/0/Docs/Best%20practices%20and%20key%20challenges%20for%20interagency%20cooperation%20to%20safeguard%20unaccompanied%20migrant%20children%20from%20going%20missing.pdf> [accessed 11 July 2016]

**222. The disappearance of an unaccompanied migrant child is in many cases the final consequence of the failures and omissions by Member**

259 Written evidence from ECRE ([UME0040](#)) and Missing Children Europe ([UME0018](#)) and Communication from the Commission to the European Parliament and the Council on Stronger and Smarter Information Systems for Borders and Security, [COM\(2016\) 205 final](#)

260 [Q 114](#) (Anna Maria Corazza Bildt MEP)

261 [Q 104](#) (Roberta Metsola MEP), [Q 142](#) (Margaret Tuite) and written evidence from Missing Children Europe ([UME0018](#))

**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.
224. The evidence suggests that it is not necessarily the amount of data collection that is the problem, but rather their fragmentation, insufficient disaggregation, and the unwillingness or inability of authorities and Member States to share data effectively.

### *Data on the movements of unaccompanied migrant children*

225. Prof Crawley noted that, while a number of different organisations, such as IOM or UNHCR, collected data on unaccompanied migrant children, the results were highly fragmented. This was in part because the data related not to a static population but to people on the move: Prof Crawley noted the work of Dr Nando Sigona of the University of Birmingham, which showed that mobility often resulted in double or triple counting. Prof Kohli agreed: “There is too much variability, too much double counting and miscounting, and a lot of confusion, at least around the edges.”<sup>262</sup>

### **Box 22: Case study: Unreliable data collection**

In 2015 Save the Children “calculated that about 26,000 children were on their own in Europe. That calculation was based on the number of children who had registered in Greece and Italy as an unaccompanied minor. It turns out that that was a wild underestimate, partly because not all the children coming through Greece and Italy were registered, and then there were many more. The latest figures are for over 80,000 applications across Europe and Norway from lone child refugees. We had underestimated 26,000 versus 80,000.”

Source: [Q 40](#) (Kirsty McNeill)

226. These difficulties in collecting reliable data on children on the move make it difficult either to determine an individual’s age, or to tell whether one child among a large number on a migratory route is unaccompanied by a parent or guardian.

### *Systematic collection, storage and sharing of data*

227. To solve these problems, many witnesses emphasised the need for correct and uniform identification and registration of unaccompanied migrant children at the earliest possible point of contact with Member State authorities.<sup>263</sup> Several stressed in particular that biometric information, including photographs and fingerprints, should be collected.<sup>264</sup>

262 [Q 19](#)

263 [Q 126](#) (Verena Knaus)

264 [Q 104](#) (Roberta Metsola MEP) and [Q 144](#) (Anna Maria Corazza Bildt MEP)

228. Ms Bouteillet-Paquet was concerned that “Registration is carried out but only children over 14 years old are fingerprinted. Discussions on that are currently taking place. The FRA is preparing a report ... about the need to change that by collecting [biometric data] for the sake of their protection, provided of course that all the procedural safeguards are in place.” She urged in particular “that the existing regulations should be amended to allow for the fingerprinting of those under 14”.<sup>265</sup>
229. Mr Kirkhope agreed: “We need information about those children; there are people who say that they should never be fingerprinted, but we need to have some kind of identification if we are going to deal with their issues”.<sup>266</sup> The Commission’s recent proposal to recast the Eurodac Regulation, published on 4 May 2016, would reduce the minimum age for taking fingerprints from 14 to six.<sup>267</sup>

*Lack of appropriate disaggregation of existing data*

230. Some EU tools for data collection already exist: networks such as the European Migration Network, the Eurostat Regulation and databases such as the Schengen Information System (SIS II) and Eurodac all enable the collection of information on unaccompanied migrant children. However, several witnesses questioned whether these tools were being used to their full advantage by the EU institutions and Member States.

231. Regarding Eurostat, Dr Smyth explained that its statistics were:

“Disaggregated for unaccompanied minors under only three different headings ... we do not know, for example, how many unaccompanied minors are detected crossing an international border, how many unaccompanied minors are detected in-country who are illegally present, how many unaccompanied minors are subject to a return decision, or how many unaccompanied minors are actually returned. That is key data that is not sought under the relevant regulations. So Eurostat is limited in what it can tell us about unaccompanied minors because of the legislative constraints.”<sup>268</sup>

232. Ms Bouteillet-Paquet agreed: “there is space to look at the Eurostat regulation and, probably, to encourage Member States to provide more information about the profiles of those children, such as gender and age.”<sup>269</sup>

*Data on missing children*

233. The problems outlined above have particular implications for the ability of Member State authorities to trace and protect unaccompanied migrant children who go missing.
234. Missing Children Europe and ECPAT UK were particularly concerned about the varying practices for identification and registration, data collection and sharing, and about the frequent under-reporting in respect of

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265 [Q 115](#)

266 [Q 87](#)

267 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](#)

268 [Q 19](#) (Dr Ciara Smyth)

269 [Q 111](#)



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 the needle looks like, but too often we do not. There is a reluctance on the part of some of our partners to take basic biometric information and to provide us with it.”<sup>272</sup>

236. Ms Tuite told us that the Commission was concerned about the inconsistent use made of existing EU tools, such as missing children hotlines and missing child alerts in the Schengen Information System (SIS II): “The hotlines, active in all EU Member States except Finland, are expected to deal with all cases of missing children. However, only 2% of their cases currently concern missing unaccompanied children.”<sup>273</sup> Regarding SIS II, the Commission noted: “There is currently no distinction in SIS between missing unaccompanied children and other types of child disappearances. Therefore it is not possible to provide data on the number of unaccompanied children for whom an alert has been issued in SIS.”<sup>274</sup>

237. **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.**

238. **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.**

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270 [Q 104](#) (Roberta Metsola MEP), written evidence from Missing Children Europe ([UME0018](#)) and ECPAT UK([UME0032](#))

271 [Q 19](#) (Dr Ciara Smyth)

272 [Q 63](#) (Inspector Roger Bull)

273 Supplementary written evidence from Margaret Tuite ([UME0038](#)), written evidence from Missing Children Europe ([UME0018](#)) and ECRE ([UME0040](#))

274 Written evidence from the European Commission ([UME0022](#)). It should be noted that an evaluation of the Schengen Information System is underway, and a legislative proposal is expected to be presented by the end of 2016. The proposal is likely to include sub-categories on missing children, including one for missing unaccompanied children.



## CHAPTER 5: THE WAY FORWARD

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239. In this report we have considered the challenges that face unaccompanied migrant children in the EU, and the practical consequences of those challenges. The current situation was aptly summarised by Ms Tuite, as “bad, but not ‘desperate’”<sup>275</sup>. In this final Chapter, we consider how the situation could be improved, what an appropriate EU response should look like, and specific measures that should be implemented either at national or EU level.<sup>276</sup>
240. While describing widespread failures to protect unaccompanied migrant children, witnesses also highlighted elements of good practice across EU Member States. In considering possible solutions we have taken account of many such examples. Looking ahead, the Commission and EU Agencies must ensure that such good practice is shared more effectively.
241. Just as the challenges facing unaccompanied migrant children are cross-cutting and overlapping, so are the solutions. None is likely to be successful on its own. Furthermore, for them to be effective, these solutions require a clear commitment to the best interests principle by policy-makers, as well as a renewed focus on implementation of existing standards by Member State authorities. Examples such as Sweden show that, particularly where Member State systems are overwhelmed by high numbers of unaccompanied migrant children, a clear commitment to the best interests principle is fundamental to ensuring existing standards are adhered to.

### Box 23: Good practice: Sweden

Sweden recorded 35,250 asylum applications in 2015, 40% of the total number across the EU28. Its resources have thus been severely stretched. Nonetheless, Ms Corazza Bildt told us of Sweden’s continued efforts to put policy into practice:

“I can talk about Sweden with a certain pride, because I have seen an enormous focus on living up to these standards. That is why it is so difficult for Sweden and why Sweden is under so much pressure: because it is taking enormous resources. Sweden also gives extra benefits to children and is one of the few countries in Europe that gives benefits even after the age of 18 to 21. Now there are enormous problems when it comes to basic problems such as space for accommodation, teachers in schools, classrooms ... However, what I see in Sweden is very much a temporary problem of capacity; it is not a lack of will to welcome children or to diminish the standards for children.”

Source: [Q 145](#) (Anna Maria Corazza Bildt MEP)

### Integrated child protection systems

242. In this section, we consider the form that an EU-level response to this crisis should take, and some of the general principles that should underpin further action.

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<sup>275</sup> [Q 136](#)

<sup>276</sup> As we have previously noted, on 13 July 2016 the European Commission brought forward a range of legislative proposals to reform the CEAS. European Commission, ‘Completing the reform of the Common European Asylum System: towards an efficient, fair and humane asylum policy’, IP/162433, 13 July 2016: [http://europa.eu/rapid/press-release\\_IP-16-2433\\_en.htm](http://europa.eu/rapid/press-release_IP-16-2433_en.htm) [accessed 14 July 2016]

*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)

and asylum migration, so that child protection actors are very naturally part of the response. Implementation differs because of organisation at national level, where things might be centralised or decentralised at regional or local level.”<sup>285</sup>

251. The Irish Refugee Council agreed that “as the plight of separated children has emerged as one of the most pressing issues in the current humanitarian crisis, more than ever, there is a need for a holistic, multi-disciplinary approach considering all rights and needs including protection, a merging of the traditionally siloed care and immigration procedures.” Unicef UK further suggested that a renewed EU Action Plan should address all migrant children, rather than limiting itself to unaccompanied minors.<sup>286</sup>
252. Developments at EU level seem to be favouring ‘integrated child protection systems’ (see Box 25). Ms Tuite told us that, rather than renewing the 2010–2014 Action Plan, the Commission was planning:

“A comprehensive approach for all children in migration. After all, some children may have been with their families and become separated at some stage, so it is also relevant to look at the protection needs of children within families. Our aim was to take a broader approach but also obviously to include unaccompanied children. The Commission communication on 10 February<sup>287</sup> announced the employment of a comprehensive approach, so that is what we are working on now.”<sup>288</sup>

### Box 25: Integrated child protection system

The term ‘integrated child protection system’ defines an approach in which all duty-bearers (state authorities, represented by law enforcement, judicial authorities, immigration authorities, social services, child protection agencies, etc.) and system components (e.g. laws, policies, resources, procedures, processes, sub-systems) work together, sharing responsibilities so as to form a protective and empowering environment for all children. In an integrated child protection system, components and services are multi-disciplinary, cross-sectorial and inter-agency, and they work together in a coherent manner. This is particularly important for unaccompanied children who are exposed to and move between numerous, often competing systems and processes.

Source: European Commission, *9th European Forum on the rights of the child, ‘Coordination and cooperation in integrated child protection systems’* (30 April 2015): [http://ec.europa.eu/justice/fundamental-rights/files/2015\\_forum\\_roc\\_background\\_en.pdf](http://ec.europa.eu/justice/fundamental-rights/files/2015_forum_roc_background_en.pdf) [accessed 13 July 2016]

253. Ms Knaus welcomed progress towards an integrated child protection system:

“We would like to see the child rights framework that exists ... become part of the migration and asylum system. We need to narrow the gaps that we still have between a common EU migration and asylum response and policy framework and a separate, stand-alone child rights framework ... We need inclusive child protection and integrated responses. We need a framework that works for all children so that trafficked children, unaccompanied children and children in families have their rights

285 [Q 138](#) (Margaret Tuite)

286 Written evidence from Unicef UK ([UME0024](#))

287 Communication on the State of Play of Implementation of the Priority Actions under the European Agenda on Migration, [COM\(2016\) 85 final](#)

288 [Q 137](#)

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 status, as the most effective way—and, in the long run, the most cost-effective way—to provide adequate protection. In the UK, in practice, it is also the case: at the local level, children fall under the local child protection system. That is a promising practice. There are a number of countries where it would be important for this to become the standard on which Europe converges.”

Source: [Q 129](#) (Verena Knaus)

254. **An integrated child protection system enables children within the immigration system to be treated as ‘children first’, encourages sharing of best practice in child welfare and reduces the risk that public bodies will fail to take responsibility for a child. We therefore support the Commission’s intention to develop a comprehensive and holistic approach for all migrant children.**
255. **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.**

*Best interests of the child*

256. As we found in Chapter 3, while lip service is already paid to the best interests principle, it is not currently being implemented effectively. Witnesses told us that any further action at Member State or EU level must respect and build upon Article 3 UNCRC and General Comment 14 of the UN Committee of the Rights of the Child (CRC). For instance, Ms Metsola was adamant that “we have an ultimate duty to keep the best interests of the child as the main priority at all costs. When it comes to unaccompanied minors, this has to be the crux of our argument, and it is important that we send the message that when it comes to children we expect the highest standards of care, irrespective of their status.”<sup>290</sup>
257. CCLC agreed: “There must be greater emphasis placed on ensuring that the best interests principle is not just referred to, but dealt with substantively in all decisions, with clear reference to an assessment being carried out as to a child’s best interests, and what, if anything, justified the departure from that position.”<sup>291</sup>
258. Considerable guidance on the application of the best interests principle already exists. According to Ms Knaus: “UNICEF and UNHCR joined forces and

289 [Q 124](#)

290 [Q 101](#)

291 Written evidence from CCLC ([UME0017](#))

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 undertaken by EASO to develop “tailored guidance to specific situations, the first set being on the best interests of the child in the context of relocation procedures and decisions.”<sup>293</sup> She cautioned, though, that “It is fair that we do not overdefine in legal texts how it should be done, because there should be an individual assessment.”<sup>294</sup>
260. Ms Knaus, on the other hand, highlighted General Comment 14 of the Committee on the Rights of the Child, which clarifies what the best-interests principle means in practice: “We know that we have to have procedures. It is a legal right. Policies need to be in place.” She concluded that UNICEF “would like to see the general comment 14 find its way into an EU legal guiding document with standards that can be monitored and rolled out.”<sup>295</sup>

### **Box 28: General Comment 14**

General Comment No. 14, provides a framework for assessing and determining the child’s best interests. Best interests considerations should underpin all actions and decisions relating to the child and should be adapted to the individual circumstances and characteristics of the child.

The concept of the child’s best interests is complex and its content must be determined on a case-by-case basis. It should be adjusted and defined on an individual basis, according to the specific situation of the child or children concerned, taking into consideration their personal context, situation and needs. (para 32).

With regard to implementation measures, ensuring that the best interests of the child are a primary consideration in legislation and policy development and delivery at all levels of Government demands a continuous process of child rights impact assessment (CRIA) to predict the impact of any proposed law, policy or budgetary allocation on children and the enjoyment of their rights, and child rights impact evaluation to evaluate the actual impact of implementation. (para 35)

292 [Q 126](#)

293 [Q 136](#)

294 [Q 136](#)

295 [Q 125](#)



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. General Comment 14 requires that any assessment of a child's best interests must respect the child's right to express his or her views clearly; it should give appropriate weight to those views in the light of the child's capacity. This principle has been incorporated into the EU's *acquis* through Article 24 of the EU Charter of Fundamental Rights, as well as the Directives establishing the CEAS.<sup>296</sup> Jana Hainsworth, Secretary General at Eurochild, emphasised that the failure to respect this principle impeded a proper best interests determination: "The biggest trump against the children's best interests is that the adult who is supposed to be protecting thinks they know best."<sup>297</sup>

296 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, Article 23(2)) 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, Article 31(3))

297 Q 126

**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.”

Source: Written evidence from Jo Wilding ([UME0013](#))

265. The case for taking children’s views into account extends beyond individual cases to policy-making. We drew enormous benefit from our meetings with unaccompanied migrant children and with young adults who had previously arrived as unaccompanied children, on 4 May 2016. Many MEPs also stressed the need to hear from children in the context of policy development.<sup>298</sup>
266. But though such engagement with children is broadly recognised as a desirable goal, it is not clear to what extent the views of children are given due weight in the development of policy at both national and EU level. MEPs in particular criticised the lack of formal mechanisms to hear unaccompanied migrant children in the European Parliament and the Commission.<sup>299</sup>
267. **It is essential that individual best interests assessments should take full account of the views of the children concerned and should include evidence of having done so. Member State authorities conducting age assessments should listen to the accounts of children and give them proper weight.**
268. **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.**

**Better data**

269. The 2010–2014 Action Plan on Unaccompanied Minors identified the collection of data as vital: “The situation cannot be properly assessed, nor appropriate solutions found, without a clear evaluation based on comprehensive, reliable and comparable data.” It further noted that the Statistics Regulation,<sup>300</sup> which requires Member States to submit details on unaccompanied migrant children to Eurostat, the EU’s statistics agency, was limited, in that it only required them to submit disaggregated figures in respect of those claiming international protection. The Action Plan urged that statistics should be collected on all unaccompanied migrant children.

298 [Q 97](#) (Julie Ward MEP)

299 [Q 136](#) (Margaret Tuite) and [Q 103](#) (Roberta Metsola MEP)

300 Regulation (EC) No 862/2007 of 11 July 2007 on Community statistics on migration and international protection and repealing Council Regulation (EEC) No 311/76 on the compilation of statistics on foreign workers ([OJ L/199/23](#), 31 July 2007)

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 irregularly; who are subject to return; and, who are subject to family reunification decisions.**
276. **We support the Commission’s stated intention to propose improvements to the categories of data entered into the Schengen Information System, to ensure the availability of disaggregated data on missing unaccompanied migrant children.**

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301 [Q 123](#)

302 [Q 6](#) (Alison Harvey and Baljeet Sandhu), [Q 20](#) (Dr Ciara Smyth), [Q 63](#) (Inspector Roger Bull), [Q 134](#) (Margaret Tuite)

303 [Q 126](#) (Verena Knaus), [Q 144](#) (Anna Maria Corazza Bildt MEP)

### Durable Solutions

277. The identification and implementation of durable solutions is key to reducing the uncertainty facing unaccompanied minors. Such solutions therefore have the potential to address some of the problems that unaccompanied migrant children face in their transition to adulthood, and in turn their increased vulnerability to disappearance.
278. Even though durable solutions were identified as a priority in the Commission’s 2010–2014 Action Plan, evidence suggests that significant obstacles to achieving such solutions remain. Many witnesses cited the difficulties faced by unaccompanied migrant children in reuniting with family members (whether or not they are present in EU Member States). Others were concerned that the practice in some Member States of limiting or withdrawing support from unaccompanied children upon turning 18 posed a threat to the achievement of durable solutions.

#### Box 30: Good practice: transition to adulthood

“There are countries such as Belgium that are quite good in that they have projects where they prepare the child. The support that the children have—accommodation, budgets and all these things—disappears suddenly, when they are 18, they are supposed to stand on their own two feet. If, in the worst cases, they have to be returned, Belgium also thinks about what that will mean and what they will do when they go back.”

Source: [Q 114](#) (Dr Hanne Beirens)

279. Ms Dennis underlined the importance of sharing existing research into durable solutions, including the identification of good practice (such as that outlined in Box 30), and of better coordinating future research.<sup>304</sup> Child Circle recommended that “guidance on durable solutions [should] continue as a priority area for further collective efforts.”<sup>305</sup> Dr Smyth endorsed previous EU efforts to fund such research and guidance on durable solutions. However, she cautioned that: “What is perhaps missing is the need to audit what is out there and to see its impact on policy. Very often, there is a disjunct between the production of these many interesting and important reports and their impact on policy at an EU and domestic level.”<sup>306</sup>
280. **We call upon the Commission to reiterate its recommendation, made in the 2010–2014 Action Plan on Unaccompanied Minors, that there should be a stronger focus in EU and national integration policies on developing durable solutions for unaccompanied migrant children. Resources should be allocated to ensure that this recommendation is now put into practice.**
281. **The Commission should also reiterate its recommendation that decisions on the future of each unaccompanied minor should be taken by the competent authorities within the shortest possible period.**
282. **Against this backdrop, the Commission should prioritise the issuing of guidance on achieving durable solutions for unaccompanied migrant children. In so doing, it should draw upon the experience of**

304 [Q 40](#)

305 Written evidence from Child Circle ([UME0025](#))

306 [Q 22](#)

## **EASO as well as on pre-existing guidance such as that established by UNHCR.**

### *Family Reunification*

283. As we noted in Chapter 3, the Family Reunification Directive has been poorly implemented, pushing unaccompanied migrant children into the arms of smugglers or traffickers in order to re-join their families. More effective mechanisms for family reunification will be a key element in any response to this crisis.
284. Academic and legal witnesses were unanimous in the view that unaccompanied migrant children in the UK were at a disadvantage, as the UK has not opted into the Family Reunification Directive. Prof Kohli told us:
- “What children lose as a consequence of the UK not being part of the Family Reunification Directive is a sense of continuity ... That is a profound burden for any child to carry. ... Family reunification means something tangible and continuous for children, so that they can have, in common with all of us, a sense of history and a future that bind together.”<sup>307</sup>
285. Ms Cronin also emphasised that:
- “it is absolutely essential for us to revisit our decision on the reunification directive ... up until about 2008 we at least had a policy that said that in compelling circumstances we could allow for refugee family reunion, but that has been removed. Now you ... have Immigration Rules that either by design or explicitly exclude children from being able to sponsor in a parent or a sibling.”<sup>308</sup>
286. The British Red Cross agreed: “If an unaccompanied minor receives refugee status in the UK, and parents are displaced elsewhere, they should have the right to both protection in the UK and the chance to see their parents again.”<sup>309</sup>
287. Dr Smyth noted, however, that regardless of its implementation, the Family Reunification Directive was in itself imperfect. In particular she highlighted its limited scope:
- “It relates only to refugee children, not to beneficiaries of subsidiary protection. The Commission has come out and said that it should, but has not proposed an amending instrument. It also relates only to parents and not siblings, which puts parents in an invidious position, because they would in effect have to make a choice between their children if they had more than one child, and one child was here and another was there.”<sup>310</sup>
288. Thus the Family Reunification Directive applies only to children who have been granted asylum. The provisions governing intra-EU family reunification for unaccompanied minors who have applied for, but not yet been granted, asylum, are found in the Dublin Regulation, which the UK has opted into.

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307 [Q 29](#) (Prof Kohli)

308 [Q 8](#) (Kathryn Cronin)

309 Written evidence from the British Red Cross ([UME0002](#))

310 [Q 31](#) (Dr Ciara Smyth)



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. Guardians would help defend the child's interests in the face of legal processes, and so counter both the prevailing culture of disbelief on the part of the authorities, and the distrust that children have in the system. They would provide emotional and practical support as children make the transition towards adulthood, and help reduce the numbers going missing.
298. The EU's Directive on preventing and combating trafficking in human beings requires Member States to take measures, where appropriate, to ensure that a guardian is appointed for unaccompanied migrant children who are victims of trafficking.<sup>314</sup> A number of other EU measures require the appointment of a legal guardian, or representative, for unaccompanied minors.<sup>315</sup> Dr Beirens explained the significance of these provisions: "The whole EU asylum *acquis* is built on the idea that all the safeguards and best interests are achieved through the guardian."<sup>316</sup>

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314 Council Directive 2011/36/EU of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA ([OJ L101/1](#), 15 April 2011, Article 16(3))

315. The appointment of a guardian or legal representative is also required by Council Directive 2013/33/EU of 26 June 2013 laying down standard for the reception of applicants for international protection (recast) ([OJ L180/96](#), 29 June 2013, Article 24 (1)), Council Directive 2001/55/EC of 20 July 2001 on minimum standard for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof ([OJ L212](#), 7 August 2001, Article 16 (1)) 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, Article 31 (1)). Council Directive 2012/29/EU of 25 October 2012 establishing minimum standard on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA ([OJ L315/57](#), 14 November 2012, Article 24 (1)) and Council Directive 2011/92/EU of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography, and replacing Council Framework Decision 2004/68/JHA ([OJ L335/1](#), 17 December 2011, Article 20(1)) require the appointment of a 'special representative'.

316 [Q 119](#)

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]

300. Despite the helpful FRA guidance, the lack of any legal definition of the terms ‘guardian’ and ‘legal representative’ has led to variation in practice across the EU. Ms Dennis told us that some guardianship systems were “better than others”:

“The best systems are those where the guardian is representing the child’s best interests as well as instructing a legal representative on their behalf. The best systems are those where the guardian knows the child and is sufficiently resourced to be able to have a manageable case load ... The knowledge and skills vary across different European Member States.”<sup>317</sup>

301. Ms Lambert agreed, noting that Italy, in comparison to some other Member States, had “a stronger guardianship system”. She emphasised, however, that despite the strengths of the Italian framework, the refugee crisis was putting even this well-developed system under “enormous pressure ... We heard from one of our Italian Members last week that people assigned to children may have a case load of 70.”<sup>318</sup>

302. Ms Bouteillet-Paquet agreed: “The system of guardianship is largely under resourced. It is completely dysfunctional in front-line states such as Greece and is very problematic in Italy”. She said that in Italy and Greece the appointment of guardian was taking three years; this delay was one of the main reasons that so few unaccompanied migrant children had been relocated to other Member States.<sup>319</sup>

303. Ms Bouteillet-Paquet also explained that a lack of harmonisation meant that transferring guardianship between Member States was “a key problem.”<sup>320</sup> UK MEPs recommended that “The EU should issue clear guidelines to

317 [Q 35](#)

318 [Q 94](#)

319 [Q 116](#)

320 [Q 114](#)

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 Barnardo’s, to assess the effectiveness of Independent Child Trafficking Advocates<sup>325</sup> in England and Wales. Reflecting on the results, the Minister said:

“There are some very positive elements to the pilot that we undertook that we want to learn from and reflect upon, but we also know that that pilot was inconclusive in determining whether the outcomes for those particular children had improved as a consequence of having that additional person involved in their lives. We also know that the prospect of them going missing from care did not reduce as a consequence of that guardian supporting them. So we are not convinced that this is the right way to go.”<sup>326</sup>

306. Ms Cronin, who conducted a study of unaccompanied migrant children in Scotland, strongly disagreed with the Minister’s interpretation: “In Scotland, where these children had guardians, their cases were better prepared, their experiences of the process were significantly better and they had a better outcome. From our analysis of the data, that was incontrovertible”.<sup>327</sup> Prof Kohli, who carried out an evaluation of the Government’s pilot,<sup>328</sup> came to a similar conclusion:

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

322 The Scottish Government, ‘The Scottish Guardianship Service’ (May 2014): <http://www.gov.scot/Topics/People/Young-People/protecting/lac/guardianship> [accessed 21 June 2016]

323 Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland), [section 21](#) 2015 and written evidence from Law Centre (NI) ([UME0019](#))

324 [Q 77](#) (Edward Timpson MP)

325 Independent Child Trafficking Advocates have a similar function to guardians in respect of child victims of trafficking, see [Q 4](#) (Alison Harvey)

326 [Q 77](#)

327 [Q 2](#)

328 Home Office, *Evaluation of Independent Child Trafficking Advocates trial: Final Report* (December 2015): [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/486138/icta-horr86.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/486138/icta-horr86.pdf) [accessed 12 July 2016]. A separate evaluation of the pilot phase of the Scottish Guardianship Service was carried out by Prof Kohli and Prof Crawley, *First Annual evaluation report of the work of the Scottish Guardianship Service Pilot* (December 2011): [http://www.aberlour.org.uk/assets/0000/9607/First\\_Annual\\_Evaluation\\_report.pdf](http://www.aberlour.org.uk/assets/0000/9607/First_Annual_Evaluation_report.pdf) [accessed 12 July 2016]

“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. Although views differed as to its nature and scope, most witnesses endorsed Prof Kohli’s case for a stronger, more uniform guardianship system across the EU. Several key benefits were identified.

*A single point of continuity*

308. Prof Kohli told us: “Guardians provide clarity and coherence both for children and for other public authorities. They are the glue that binds things together in a child’s life.”<sup>330</sup> MinAs also saw guardians as key to overcoming “fragmented and often ineffective” support arrangements:

“A more responsive support system for unaccompanied minors should be enacted in all countries whereby one dedicated expert takes care of a small number of unaccompanied minors the entire way through the process. In this manner, the expert in question could monitor the efficiency of all procedures and at the same time be fully responsible for the overall situation of the unaccompanied minors.”<sup>331</sup>

309. Ms Cronin agreed that it was essential to have a guardian to assist children to navigate the system:

“Children here are processed in a way that is strikingly different from adults. They interact with so many strange adults very quickly, such as social workers, lawyers and medical assessors. There is an extraordinary range of adults all asking similar sorts of questions. We found that in Scotland, where these children had guardians, their cases were better prepared, their experiences of the process were significantly better and they had a better outcome. From our analysis of the data, that was incontrovertible.”<sup>332</sup>

*Building and restoring trust*

310. In earlier Chapters, we explored the loss of trust on the part of unaccompanied migrant children, and their resulting vulnerability to criminal activity and disappearances. We were told that a guardian could be the one key person with whom a child could develop a relationship of trust. In the words of Ms Metsola: “With children it is important to work to restore their trust in our systems and to do so in ways that have proved to be effective, such as the early provision of trained guardians or proper foster care.”<sup>333</sup>
311. Ms Cronin emphasised the essential trust-building role guardians could play throughout lengthy and confusing asylum procedures:

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329 [Q 30](#)

330 [Q 30](#)

331 Written evidence from MinAS ([UME0011](#))

332 [Q 2](#)

333 [Q 105](#)

“The most effective thing you can do is to get competent people in there supporting them ... it is a process that tries to limit the capacity for you to feel disaffected, lost, alienated and misunderstood, and as if there is some social hostility to you. If you build into your system a capacity for people to have a mentor, you can identify those sorts of problems early and deal with them.”<sup>334</sup>

312. She further highlighted the benefits of vesting such responsibility in a single individual, rather than in multiple roles (as is currently the case in the UK):

“A lot of these children are teenagers and are quite reluctant to talk about emotional distress that they might be experiencing. When they have this person who is seen as their close friend, they relax rather more and become able to confide ... The problem of our system is that currently children are moved between vast numbers of wellmeaning people, none of whom get particularly close to the child, so there is that question of intimacy ... To that extent, a guardian type system is indispensable, because somehow you have to get the trust of the child so that you can elicit their stories and understand the protection needs that they might have.”<sup>335</sup>

*Elements of an effective guardianship system*

313. When asked to specify the characteristics of an effective guardianship system, some witnesses suggested close adherence to the standards set out in General Comment No 6 (see Box 32). Key features of such an approach are outlined in the following paragraphs.

**Box 32: Guardianship and General Comment No 6**

“States should appoint a guardian or adviser as soon as the unaccompanied or separated child is identified and maintain such guardianship arrangements until the child has either reached the age of majority or has permanently left the territory and/or jurisdiction of the State, in compliance with the Convention and other international obligations ... The guardian or adviser should have the necessary expertise in the field of childcare, so as to ensure that the interests of the child are safeguarded and that the child’s legal, social, health, psychological, material and educational needs are appropriately covered by, inter alia, the guardian acting as a link between the child and existing specialist agencies/ individuals who provide the continuum of care required by the child. Agencies or individuals whose interests could potentially be in conflict with those of the child’s should not be eligible for guardianship.”

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 11 July 2016]

*Early appointment*

314. Guardians need to be appointed as soon as possible after the identification of an unaccompanied migrant child, in order to defend the interests of the child from the outset and provide a single point of contact throughout legal proceedings. UNHCR wrote: “It is important that the child is appointed an independent representative, without delay, who can act in the child’s best

334 Q 12

335 QQ 3–4



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 workers to perform the role of ‘representative’: “Of course social workers do a magnificent job, but they are not independent of the state and of the services that are given.”<sup>340</sup> In contrast, Mr Verhaeghe told us that independence was a key characteristic of guardians in Belgium.

### **Box 33: Good practice: Independent guardians**

“What is stressed in Belgium by the people involved is that our legal guardians fall under the authority of the Minister of Justice, the justice department, and not the immigration department, which makes them independent of immigration policies.”

Source: [Q 129](#) (*Jean-Pierre Verhaeghe*)

### *Expertise*

319. Nagalro emphasised that guardians would need a minimum level of expertise: “The independent legal guardian should have knowledge and experience of child protection systems, child development, child psychology, child trafficking and international human and children’s rights.”<sup>341</sup> UK MEPs referred us to a recent report of the European Parliament,<sup>342</sup> which “drew

336 Written evidence from UNHCR ([UME0041](#))

337 Written evidence from Nagalro ([UME0010](#))

338 [Q 119](#)

339 [Q 30](#)

340 [Q 39](#)

341 Written evidence from Nagalro ([UME0010](#))

342 European Parliament, ‘The situation of unaccompanied minors in the EU’ (September 2013): <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P7-TA-2013-0387+0+DOC+XML+V0//EN> [accessed 21 June 2016]



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 until a durable solution is identified.**
321. **With regard to the UK, we are persuaded by evidence from England and Wales and from Scotland that the role of guardian should be independent, and should not be undertaken by social workers. We call on the Government to establish a guardianship service in England and Wales for all unaccompanied migrant children. In so doing, the Government should consider whether this service could be delivered by non-governmental organisations or civil society, with appropriate state support.**

### *Working together*

322. In the course of our inquiry we heard countless examples of private individuals, professionals, officials, NGOs and other civil society organisations striving to assist and protect unaccompanied migrant children across the EU.
323. Nevertheless, it appears that many of the challenges facing unaccompanied migrant children are compounded by the lack of clear structures allocating responsibility both within and among Member States. Without such structures, there is a risk that well-meaning interventions may counteract the best interests of the child by introducing delays or providing conflicting information to children. Mr Kirkhope spoke of a lack of “co-ordination between agencies as to what happens with a child once the child is identified and is to be looked after in some way ... 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.” In this section we outline the work that needs to be done, by EU institutions and by and within Member States, to ensure that all relevant bodies and individuals share information and work together in the best interests of unaccompanied migrant children.

### *Civil society*

324. Many witnesses referred to the important role currently played by civil society across the EU in alleviating the strain on national systems, by ensuring that unaccompanied migrant children are adequately received, protected and integrated.<sup>344</sup> It is clear from our evidence that these bodies and individuals have helped enormously to mitigate the failure of Member States to accept responsibility for the care of unaccompanied migrant children.
325. So-called ‘Blue Dot’ centres are one example of how non-state entities have attempted to close protection gaps:

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

344 Written evidence from ILPA ([UME0023](#))

“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 Committee of the Red Cross have designed Child and Family Support Hubs in order to improve the quality, accessibility and predictability of services provided to vulnerable refugee and migrant children and families on the move across Europe.”<sup>345</sup>

These hubs are also an excellent example of multi-agency working, intended to provide a standardised and consistent basic package of services in a single location provided by different organisations.

326. Witnesses told us that civil society could help to restore trust on the part of children by working with them directly and helping their voices to be heard. At a private evidence session with current and former unaccompanied migrant children, one of the young witnesses spoke warmly of the support provided at the Refugee Council, describing one volunteer as being like the “spiritual mum” to the unaccompanied migrant children in her care.
327. The importance of this role is particularly evident in the context of the lengthy and complex legal proceedings many unaccompanied migrant children face. Ms Cronin was “an enormous fan” of the role played by civil society in legal proceedings: “In so many of our cases, we have the NSPCC [National Society for the Prevention of Cruelty to Children], Barnardo’s, the Children’s Society and a number of organisations that have supported children through litigation processes. They come to every hearing and call up the solicitors; they do amazing work.”<sup>346</sup>
328. Ms Dennis told us: “We help children to find legal representatives if they do not have them, we accompany them to appointments, and we try to help them until they get a decision.”<sup>347</sup> The British Red Cross told us that its affiliates across the EU “deliver, or have involvement in, a system of guardianship for unaccompanied minors—in Denmark this system is volunteer-led, but backed by government policy.”<sup>348</sup>
329. Mr Kirkhope, though, warned that the actions of volunteers, while admirable, were “not a substitute” for Member State action:
- “It is almost worse, because they are putting this effort in, but it is not part of a structured approach. If you do not have that, sometimes it becomes even more difficult to handle what is going on ... It is a huge and depressing matter that needs a proper structural approach. That is missing in France, in Calais and Dunkirk, and it is missing elsewhere. We do not agree necessarily on some of the ways in which we deal with these things, but we must get the formalised structure right.”<sup>349</sup>
330. Ms Dennis also criticised systems of guardianship in some Member States that “rely on volunteers, who may be very well meaning but who are trying to do this in addition to their job.”<sup>350</sup> We heard of particular resource problems in frontline Member States, where civil society and volunteers play

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345 Written evidence from Unicef UK ([UME0024](#))

346 [Q 13](#)

347 [Q 33](#)

348 Written evidence from the British Red Cross ([UME0002](#))

349 [Q 89](#)

350 [Q 35](#)

an enormous role in and around Hotspots. The UNHCR observed: “The expertise, knowledge and trust built up by NGOs and citizen initiatives in ad hoc camps must be recognised and built on. When the state fails to take care of unaccompanied minors grassroots organisations have stepped in and led the way but they could do so much more with proper support.”<sup>351</sup>

331. In the UK, Ms Harvey told us of significant variations, which have been accentuated by budgetary constraints: “Cooperation with NGOs varies from local authority to local authority, and the best have very strong partnerships. One difficulty is that when local authority resources are very squeezed, the opportunity to record and share good practice decreases, and we are constantly in danger of losing expertise or failing to transfer it.”<sup>352</sup> A practitioner from the Children’s Society, speaking in our private session, agreed: the refugee crisis, along with funding cuts to statutory services, had forced her to undertake tasks that would once have been routinely performed by social workers, such as setting up bank accounts for minors.<sup>353</sup>
332. To address these concerns, IOM and the MinAs project have both concluded that Member States should be encouraged to identify a single national authority or body with responsibility for all unaccompanied minors regardless of their status, and that “a more responsive support system for unaccompanied minors should be enacted in all countries whereby one dedicated expert takes care of a small number of unaccompanied minors the entire way through the process”.<sup>354</sup>
333. Save the Children said that Member States and the Commission should support frontline and transit Member States to ensure there is a central authority in place with the overall responsibility for measures and policies related to the protection of unaccompanied children; and to ensure this entity has expertise in child protection matters, or reaches out to those that do, such as NGOs, and is able continuously to monitor the situation.<sup>355</sup>
334. **We share our witnesses’ concern that a lack of clear structures for involvement by civil society and international organisations at EU and national level risks further diffusing Member States’ responsibility for unaccompanied migrant children.**
335. **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. Where necessary, additional assistance should be made available to frontline Member States by the Commission and other Member States to ensure that such authorities are well-equipped to fulfil this responsibility.**

*Helping children to be heard*

336. Another key role of civil society is to help ensure that unaccompanied migrant children’s voices are heard in policy-making at national and EU level, thereby helping to articulate the best interests principle more effectively.

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351 Written evidence from UNHCR ([UME0041](#))

352 [Q 13](#)

353 This was said during the private evidence session with unaccompanied minors, 4 May 2016.

354 Written evidence from IOM ([UME0033](#)) and MinAs ([UME0011](#))

355 Written evidence from Save the Children ([UME0031](#))

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:

“I meet regularly with the Home Office, with the DfE and indeed with local authorities and others, including NGOs. We have been very involved ... in myriad different aspect of the process. We were very involved in helping to construct what kind of questions to ask children when they first arrived. We were very involved in looking at what the best interests of the child were in terms of the accommodation that was being offered when they first arrived and were being assessed. That has been improved as a result in Dover. We were also very involved in the age assessment discussions and debates as well.”<sup>358</sup>

339. At the level of individual decision-making, though, Ms Dennis was concerned that the current legal framework in the UK did not give NGOs a sufficiently powerful voice: “For instance, if we are trying to represent the views of a child and their best interests to a local authority, they are not bound to listen to us and sometimes they do not want to because the views and needs of the child may be different from their interests. There is a gap in how much influence civil society can have.”<sup>359</sup>

340. **The admirable work of non-governmental organisations is not a substitute for effective Member State action. The individual Member States should remain ultimately responsible for meeting the needs of unaccompanied migrant children.**

356 [Q 130](#)

357 Eurochild’s Conference “Children’s Rights Matter: Why Europe needs to invest in children” is scheduled to take place from 5-7 July 2016 in Brussels. <http://www.eurochild.org/events/eurochild-conference-2016/>

358 [Q 82](#)

359 [Q 33](#) (Judith Dennis)

341. **We urge the Commission to continue to provide financial and other support to non-governmental organisations representing unaccompanied migrant children, and to encourage local authorities to work in partnership with them.**
342. **In the UK, we urge the Government also to provide such support. We further recommend that the Government consider granting non-governmental organisations that work with unaccompanied minors the right to be consulted by local authorities in individual cases, for example, through guardianship.**

*Coordination between Government departments*

343. As we noted in Chapter 3, in cases involving unaccompanied migrant children in the UK, “the state becomes the corporate parent and therefore takes responsibility for all aspects of these children’s lives”.<sup>360</sup> In the UK, the Home Office and the Department for Education (DfE) share responsibility for unaccompanied migrant children. Thus the corporate parental responsibility, at the level of central government, is split.
344. Ms Harvey told the Committee that “We should all like to see better working between the Department for Education more generally and the Home Office. We do not want to see these children left to the Home Office ... There are crossgovernmental things that could be better.”<sup>361</sup> Ms Dennis was slightly more positive:

“To their credit, they have tried to take a cohesive approach. In England, my perception is that the Department for Education has become more involved. Central government has been trying to assist particularly with the numbers of children who are not getting the services that they need in Kent, for instance. It is possibly a little late in the day, but it is still to their credit.”<sup>362</sup>

345. **The impediments to joint working in the United Kingdom start at the highest level of central government, where responsibility for unaccompanied migrant children is divided between the Home Office and the Department for Education. We recommend that the Government review the allocation of responsibility for such children within central government, with a view to identifying ways to ensure better cross-departmental working.**

*Local authorities*

*Funding*

346. The inadequate resourcing of local authorities was a recurring theme in this inquiry. We received particularly worrying evidence about the situation in Kent, where the only mental health support centre for unaccompanied migrant children was recently closed, as a result of funding cuts. Mr Ireland, of Kent County Council, told us that he had been unable to develop a financial plan for unaccompanied migrant children leaving care, due to delays and uncertainties surrounding Government funding.<sup>363</sup> BASW suggested that

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360 Written evidence from BASW ([UME0021](#))

361 [Q 13](#) (Alison Harvey)

362 [Q 38](#) (Judith Dennis)

363 [Q 51](#) (Andrew Ireland)



“central Government should meet the full cost of refugee and asylum seeking children rather than impose costs on local authorities.”<sup>364</sup>

347. **We urge the Government to ensure that adequate funds are allocated to local authority services for unaccompanied migrant children in a timely and transparent manner.**

*National dispersal*

348. It is clear that some local authorities in the UK are struggling to cope with the numbers of unaccompanied migrant children. The EU-wide debate over relocation of refugees from frontline Member States is therefore also played out at domestic level, with Kent County Council calling for a national dispersal mechanism to redistribute the burden.<sup>365</sup> Mr Ireland, of Kent County Council, argued that “this is a national problem, not a problem that should disproportionately impact on a few local authorities.”

349. Save the Children, though, cautioned that any dispersal scheme would have to be framed with the best interests of the child at its heart:

“Locations for children should be chosen with the best interests of the children in mind. This needs to take into account which local authorities have the necessary services and expertise in supporting unaccompanied children—or whether they can get it through training or mentoring from more experienced local authorities. Small numbers of children should not be spread out across the country as doing so will make it much harder for local authorities or voluntary agencies to offer support; there need to be enough children in any given area that it is viable to put specialist services in place for them.”<sup>366</sup>

350. Ms Wilding echoed these concerns:

“It is essential that whatever the policy is for moving the children within the UK, it is infused with the spirit as well as the letter of the consideration of the child’s best interests. Movement must be effected with minimal delay and with adequate support—social, educational and legal—in the receiving area. The child’s views should be taken into account, particularly where there are established national communities, churches or mosques, extended family members in one part of the UK and not others.”<sup>367</sup>

351. We note that, on 1 July 2016, the Government launched a National Transfer Scheme for migrant children, intended to “encourage all local authorities to volunteer to support unaccompanied asylum-seeking children so there is a more even distribution of caring responsibilities across the country”.<sup>368</sup> In line with our witnesses’ comments, the Government has also published an Interim National Transfer Protocol, Annex 1 of which sets out the steps to be taken by local authorities to ensure that transfer decisions are taken in the

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364 Written evidence from BASW ([UME0021](#))

365 [Q 48](#) (Andrew Ireland) and written evidence from Kent County Council ([UME0034](#)) and Jo Wilding ([UME0013](#)). Immigration Act 2016, [section 69](#) now gives local authorities the power to transfer responsibility for a child to another local authority.

366 Written evidence from Save the Children ([UME0031](#))

367 Written evidence from Jo Wilding ([UME0013](#))

368 Home Office ‘Government launches National Transfer Scheme for migrant children’ (1 July 2016): <https://www.gov.uk/government/news/government-launches-national-transfer-scheme-for-migrant-children> [accessed 13 July 2016]



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 to support the work of volunteers and EU agencies in frontline Member States, including by deploying over 75 experts to assist at reception centres in Greece. These will include experts in supporting vulnerable groups, such as unaccompanied children, and those trained to tackle people trafficking.
356. **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.**
357. **Any decision taken by Member States to relocate an unaccompanied migrant child within the EU must, in line with international law, be based upon an assessment of the best interests of the child.**
358. **In keeping with the Prime Minister's statement on 4 May 2016, we urge the Government to act promptly and to work in partnership**

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369 Home Office, Department for Education and Department for Communities and Local Government, *Interim National Transfer Protocol for Unaccompanied Asylum Seeking Children 2016–17* (1 July 2016): [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/534258/Interim\\_National\\_UASC\\_transfer\\_protocol.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/534258/Interim_National_UASC_transfer_protocol.pdf) [accessed 13 July 2016]

370 Article 80 TFEU

**with frontline France, Greece, Italy and the UNHCR to relocate significant numbers of unaccompanied migrant children to the UK. Relocation to the UK must take place as soon as possible, and in full accordance with individual best interests assessments.**

359. **We welcome the Government’s recent deployment of 75 experts to help with processing and registration of migrants at reception centres in Greece. Member States must ensure the continuity of such support to frontline Member States. The Commission and relevant EU Agencies should monitor closely whether the personnel deployed continues to meet specific needs on the ground.**

### *EU Agencies*

360. EU Agencies will play a key role in any EU-level effort to address the problems identified in this report. They have a part to play in data collection; developing training for Member State officials coming into contact with unaccompanied minors; developing and sharing best practice; publishing guidance and reports, for example, on age assessment or guardianship standards; monitoring Member State compliance with existing EU legislation; and identifying unaccompanied migrant children in Hotspots.
361. EASO is intended to act as a centre of expertise on asylum, coordinating practical cooperation among Member States and promoting best practice. As we have noted, it is currently developing guidance on the best interests of the child. Ms Tuite told us that, in addition to issuing guidance, “EASO delivers training to member states on interviewing children, on the asylum procedures, on identifying vulnerable persons.”<sup>371</sup> Child Circle agreed that EASO had “the potential to contribute” to work on durable solutions.<sup>372</sup>
362. UK MEPs told us that EASO should also assist the Commission to “ensure that Member States are properly implementing relevant legislation.”<sup>373</sup> ECRE agreed, but emphasised that EASO would need more resources to undertake this role effectively: “the resources and role of EASO in assessing preparedness and resilience of Member States’ asylum systems and its capacity to deploy tailor-made assistance in Member States that do not comply with the *acquis* should be seriously boosted”.
363. Ms Bouteillet-Paquet told us that EASO and FRA could do more, again highlighting their lack of resources, compared with those of the EU’s external borders agency: “Frontex has a huge budget. If you compare the Frontex budget with those of EASO and [FRA], you have your answer. They are small, but they need more resources in order to be effective operationally.”
364. We note, in this regard, the recent Commission proposal to reform and expand the role of EASO, in the process renaming it as the ‘European Union Agency for Asylum’.<sup>374</sup> It remains to be seen whether this proposal, which at the time of writing we retain under scrutiny, will be agreed in such a form as to meet the aspirations of our witnesses.

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371 [Q 137](#)

372 Written evidence from Child Circle ([UME0025](#))

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

374 Proposal for a Regulation on the European Union Agency for Asylum and repealing Regulation (EU) No 439/2010, [COM\(2016\) 271 final](#)

365. **We note the concerns of our witnesses, that EU Agencies working in the field of unaccompanied migrant children are under-resourced. We therefore welcome in principle the Commission's proposal to replace the European Asylum Support Office with an expanded EU Agency for Asylum. We retain this proposal under scrutiny, and will pay particular attention to the powers of the reformed Agency, and the resources available to it to support unaccompanied migrant children in particular.**
366. **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.**
367. **We support the efforts made by the Commission, EASO and FRA to develop joint training and guidance. We urge the Member States, through the Council, to encourage relevant EU Agencies to continue developing models for training, as well as handbooks and guidelines for child protection professionals. This work should be extended to cover any training needs specific to those professionals dealing with unaccompanied migrant children.**
368. **The Commission should work with EASO and FRA, as a matter of urgency, to assess continuing training needs and develop further guidance in relevant areas, for example with regard to durable solutions.**
369. **EU Agencies are already working to disseminate guidance and share best practice, for example regarding age assessment and the best interests principle. The onus is on Member States in particular, including the United Kingdom, to support these efforts, and turn theory into reality, thereby achieving a better and more harmonised level of protection for unaccompanied migrant children across the EU.**

## SUMMARY OF CONCLUSIONS AND RECOMMENDATIONS

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### Reception conditions

1. 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. (Paragraph 156)
2. 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 vulnerability. (Paragraph 157)
3. The evidence suggests that conditions in some Hotspots are inadequate to meet the needs of migrants who enter them. As a result, children in particular are suffering. The Commission and the European Asylum Support Office should step up efforts to monitor conditions for children at hotspots. The role of the Commission's Child Rights Coordinator in this respect should also be strengthened. (Paragraph 158)
4. Conditions at the camps in the French Channel ports are also wholly unsuitable for children. The Government should increase its efforts to work with the French government in improving the situation of children in these camps. (Paragraph 159)
5. The provision of legal advice and information of an adequate quality is essential to ensure that the rights of unaccompanied migrant children are properly safeguarded. We are particularly concerned that in the UK the provision of free legal advice has been drastically curtailed. (Paragraph 168)
6. Age disputes have significant consequences for children's lives, and there is clear evidence that children have been placed in unsuitable conditions on the basis of a mistaken age assessment. Where doubt exists, authorities should observe their legal obligation to give young people claiming to be children the benefit of that doubt. (Paragraph 55)

### Implementation of existing standards

7. We endorse the Commission's monitoring of Member States' compliance with the existing asylum *acquis*, and urge it to strengthen EASO's role in this process. Additional steps should be taken to monitor compliance specifically with those provisions relating to vulnerable groups, including unaccompanied children. (Paragraph 122)
8. 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. (Paragraph 178)
9. We urge the Commission to make additional support available to Member States struggling to fulfil their obligations under the *acquis*, including through increasing EASO's mandate and resources in this area. (Paragraph 123)

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 that appropriate resources, including any necessary training, are made available to Member States in order to achieve the full implementation of these objectives. (Paragraph 246)
12. The actions and omissions of EU Member States, in particular their failure to implement the existing provisions on family reunification, are contributing to an increased vulnerability of unaccompanied migrant children to smugglers, traffickers and organised crime. (Paragraph 205)

### **Missing unaccompanied migrant children**

13. The disappearance of an unaccompanied migrant child is in many cases the final consequence of the failures and omissions by Member 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. (Paragraph 222)

### **The best interests of the child principle**

14. 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. (Paragraph 261)
15. The evidence shows that, while the best interests principle is formally acknowledged in the EU *acquis*, the room for interpretation allowed to Member States is such that it is not being fully implemented in practice. (Paragraph 111)
16. 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. (Paragraph 262)
17. It is essential that individual best interests assessments should take full account of the views of the children concerned and should include evidence of having done so. Member State authorities conducting age assessments should listen to the accounts of children and give them proper weight. (Paragraph 267)
18. In the absence of a generally accepted, reliable and non-invasive means of assessing age medically, the frequency of non-medical age assessments,

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 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. (Paragraph 263)

### **Durable solutions**

22. The creation of durable solutions, like adherence to the best interests principle, appears to be a mantra rather than an effective guiding principle for EU and Member State action. (Paragraph 199)
23. We call upon the Commission to reiterate its recommendation, made in the 2010–2014 Action Plan on Unaccompanied Minors, that there should be a stronger focus in EU and national integration policies on developing durable solutions for unaccompanied migrant children. Resources should be allocated to ensure that this recommendation is now put into practice. (Paragraph 280)
24. The Commission should also reiterate its recommendation that decisions on the future of each unaccompanied minor should be taken by the competent authorities within the shortest possible period. (Paragraph 281)
25. Against this backdrop, the Commission should prioritise the issuing of guidance on achieving durable solutions for unaccompanied migrant children. In so doing, it should draw upon the experience of EASO as well as on pre-existing guidance such as that established by UNHCR. (Paragraph 282)
26. We are concerned that large numbers of young adults, who left their countries of origin as children, are being returned to those countries without adequate support. (Paragraph 194)

### **Integrated child protection systems**

27. All children needing protection have the legal right to receive it, regardless of immigration status, citizenship or background. That right should be recognised, and all those under 18 should be treated as children, first and foremost. (Paragraph 70)
28. An integrated child protection system enables children within the immigration system to be treated as 'children first', encourages sharing of best practice in child welfare and reduces the risk that public bodies will fail



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. Any decision taken by Member States to relocate an unaccompanied migrant child within the EU must, in line with international law, be based upon an assessment of the best interests of the child. (Paragraph 357)
35. In keeping with the Prime Minister's statement on 4 May 2016, we urge the Government to act promptly and to work in partnership with frontline France, Greece, Italy and the UNHCR to relocate significant numbers of unaccompanied migrant children to the UK. Relocation to the UK must take place as soon as possible, and in full accordance with individual best interests assessments. (Paragraph 358)
36. We welcome the Government's recent deployment of 75 experts to help with processing and registration of migrants at reception centres in Greece. Member States must ensure the continuity of such support to frontline Member States. The Commission and relevant EU Agencies should monitor closely whether the personnel deployed continues to meet specific needs on the ground. (Paragraph 359)
37. We note the concerns of our witnesses, that EU Agencies working in the field of unaccompanied migrant children are under-resourced. We therefore welcome in principle the Commission's proposal to replace the European Asylum Support Office with an expanded EU Agency for Asylum. We retain this proposal under scrutiny, and will pay particular attention to the powers of the reformed Agency, and the resources available to it to support unaccompanied migrant children in particular. (Paragraph 365)

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. Where necessary, additional assistance should be made available to frontline Member States by the Commission and other Member States to ensure that such authorities are well-equipped to fulfil this responsibility. (Paragraph 335)
40. The impediments to joint working in the United Kingdom start at the highest level of central government, where responsibility for unaccompanied migrant children is divided between the Home Office and the Department for Education. We recommend that the Government review the allocation of responsibility for such children within central government, with a view to identifying ways to ensure better cross-departmental working. (Paragraph 345)
41. We share our witnesses' concern that a lack of clear structures for involvement by civil society and international organisations at EU and national level risks further diffusing Member States' responsibility for unaccompanied migrant children. (Paragraph 334)
42. The admirable work of non-governmental organisations is not a substitute for effective Member State action. The individual Member States should remain ultimately responsible for meeting the needs of unaccompanied migrant children. (Paragraph 340)
43. We urge the Commission to continue to provide financial and other support to non-governmental organisations representing unaccompanied migrant children, and to encourage local authorities to work in partnership with them. (Paragraph 341)
44. In the UK, we urge the Government also to provide such support. We further recommend that the Government consider granting non-governmental organisations that work with unaccompanied minors the right to be consulted by local authorities in individual cases, for example, through guardianship. (Paragraph 342)
45. We urge the Government to ensure that adequate funds are allocated to local authority services for unaccompanied migrant children in a timely and transparent manner. (Paragraph 347)
46. 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. (Paragraph 352)
47. 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. (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 to family reunification decisions. (Paragraph 275)
54. We support the Commission's stated intention to propose improvements to the categories of data entered into the Schengen Information System, to ensure the availability of disaggregated data on missing unaccompanied migrant children. (Paragraph 276)
55. 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. (Paragraph 294)

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)

### **Family Reunification**

57. Opportunities for unaccompanied migrant children to exercise their right to family reunification are inconsistently implemented across the EU, and are particularly limited in the UK. We are concerned by the recent trend in some Member States to ‘level down’ opportunities for family reunification, by falling back on the minimum requirements set out in the Family Reunification Directive. (Paragraph 127)
58. 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. (Paragraph 290)
59. We found no evidence to support the Government’s argument that the prospect of family reunification could encourage families to send children into Europe unaccompanied in order to act as an ‘anchor’ for other family members. If this were so, we would expect to see evidence of this happening in Member States that participate in the Family Reunification Directive. Instead, the evidence shows that some children are reluctant to seek family reunification, for fear that it may place family members in danger. (Paragraph 62)
60. 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. (Paragraph 291)

### **Guardianship**

61. 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 until a durable solution is identified. (Paragraph 320)
62. With regard to the UK, we are persuaded by evidence from England and Wales and from Scotland that the role of guardian should be independent, and should not be undertaken by social workers. We call on the Government to establish a guardianship service in England and Wales for all unaccompanied migrant children. In so doing, the Government should consider whether this service could be delivered by non-governmental organisations or civil society, with appropriate state support. (Paragraph 321)

### Training

63. We support the efforts made by the Commission, EASO and FRA to develop joint training and guidance. We urge the Member States, through the Council, to encourage relevant EU Agencies to continue developing models for training, as well as handbooks and guidelines for child protection professionals. This work should be extended to cover any training needs specific to those professionals dealing with unaccompanied migrant children. (Paragraph 367)
64. The Commission should work with EASO and FRA, as a matter of urgency, to assess continuing training needs and develop further guidance in relevant areas, for example with regard to durable solutions. (Paragraph 368)
65. EU Agencies are already working to disseminate guidance and share best practice, for example regarding age assessment and the best interests principle. The onus is on Member States in particular, including the United Kingdom, to support these efforts, and turn theory into reality, thereby achieving a better and more harmonised level of protection for unaccompanied migrant children across the EU. (Paragraph 369)

## APPENDIX 1: LIST OF MEMBERS AND DECLARATION OF INTEREST

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### Members

Baroness Browning (from 26 May 2016)  
 Lord Condon  
 Lord Cormack  
 Lord Faulkner of Worcester (until 26 May 2016)  
 Baroness Janke  
 Lord Jay of Ewelme  
 Baroness Massey of Darwen  
 Lord Morris of Handsworth (until 26 May 2016)  
 Lord O'Neill of Clackmannan (from 26 May 2016)  
 Baroness Pinnock  
 Baroness Prashar  
 Lord Ribeiro  
 Lord Soley  
 Lord Wasserman (until 26 May 2016)  
 Lord Watts (from 26 May 2016)

### Declaration of Interest

Baroness Browning  
*No relevant interests declared*

Lord Condon  
*No relevant interests declared*

Lord Cormack  
*No relevant interests declared*

Lord Faulkner of Worcester  
*No relevant interests declared*

Baroness Janke  
*No relevant interests declared*

Lord Jay of Ewelme  
*Trustee (non-executive director) Thomson Reuters Founders Share Company*  
*Vice Chairman Business for New Europe*  
*Member of Senior European Experts Group*  
*Patron, Fair Trials International*  
*Chairman, Positive Planet (UK)*

Baroness Massey of Darwen  
*Patron of Women and Children first*  
*Patron of Child trafficking unit, University of Bedfordshire*

Lord Morris of Handsworth  
*No relevant interests declared*

Lord O'Neill of Clackmannan  
*No relevant interests declared*

Baroness Pinnock  
*Councillor for the Borough of Kirklees*

Baroness Prashar  
*Deputy Chair of the British Council*

Lord Ribeiro  
*No relevant interests declared*



Lord Soley

*No relevant interests declared*

Lord Wasserman

*Strategic Adviser to Safety and Graphics Business Group, 3M United Kingdom plc (paid consultancy)*

Lord Watts

*No relevant interests declared*

The following Members of the European Union Select Committee attended the meeting at which the report was approved:

Baroness Armstrong of Hill Top

Lord Boswell of Aynho (Chairman)

Baroness Browning

Lord Green of Hurstpierpoint

Lord Jay of Ewelme

Baroness Kennedy of The Shaws

Earl of Kinnoull

Lord McFall of Alcluith

Baroness Morris of Bolton

Baroness Prashar

Lord Selkirk of Douglas

Baroness Suttie

Lord Trees

Lord Whitty

Baroness Wilcox

During consideration of the report the following Members declared an interest:

Lord Selkirk of Douglas

*Patron of the Charity Hope and Homes for Children*

Baroness Morris of Bolton

*Prime Minister's Trade Envoy to Jordan, Kuwait and the Palestinian Territories*

*Member HM Government's Business Task Force for Syria and the Region*

*President Medical Aid for Palestinians (charitable company limited by guarantee)*

*President Bolton Lads and Girls Club*

*Visit to the Calais camp on Friday, 22nd July 2016. Organised by UNICEF UK and hosted by Safe Passage*

A full list of Members' interests can be found in the Register of Lord Interests: <http://www.parliament.uk/mps-lords-and-offices/standards-and-financial-interests/house-of-lords-commissioner-for-standards-/register-of-lords-interests/>

## APPENDIX 2: LIST OF WITNESSES

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Evidence is published online at <http://www.parliament.uk/unaccompanied-minors-eu> and available for inspection at the Parliamentary archives (020 7219 3074)

Evidence received by the Committee is listed below in chronological order of oral evidence session and in alphabetical order. Those witnesses marked with \*\* gave both oral and written evidence. Those marked with \* gave oral evidence and did not submit and written evidence. All other witnesses submitted written evidence only.

### Oral evidence in chronological order

- |    |   |                                 |
|----|---|---------------------------------|
| *  | Kathryn Cronin, Barrister and Joint Head of Chambers, Garden Court Chambers   | <a href="#"><u>QQ 1–17</u></a>  |
| ** | Alison Harvey, Legal Director, Immigration Law Practitioners Association  |                                 |
| *  | Baljeet Sandhu, Director of the Migrant & Refugee Children’s Legal Unit, Islington Law Centre                                     |                                 |
| *  | Dr Ciara Smyth, Lecturer Above the Bar, National University of Ireland Galway   | <a href="#"><u>QQ 18–31</u></a> |
| *  | Professor Ravi KS Kohli, Professor of child welfare, University of Bedfordshire   |                                 |
| *  | Professor Heaven Crawley, Professor of International migration, Centre for Trust, Peace and Social Relations, Coventry University |                                 |
| ** | Kirsty McNeill, Director of Policy, Advocacy and Campaigns, Save the Children   | <a href="#"><u>QQ 32–46</u></a> |
| ** | Judith Dennis, Policy Manager, Refugee Council  |                                 |
| *  | Councillor Paul Watkins, Leader of Dover District Council and Member of LGA asylum and migration task force                       | <a href="#"><u>QQ 47–58</u></a> |
| ** | Dr Paul Chadwick, Head of Looked After Children and Resources, Croydon Borough Council  |                                 |
| ** | Andrew Ireland, Corporate Director of Social Care, Health and Wellbeing, Kent County Council                                      |                                 |
| *  | Inspector Roger Bull, Staff Officer to Chief Constable Mike Veale as National Policing Lead for Missing Person, Wiltshire Police  | <a href="#"><u>QQ 59–68</u></a> |
| ** | Kenny Dron, Head of UK Liaison Bureau, Europol, National Crime Agency   |                                 |
| *  | The Rt Hon James Brokenshire MP, Minister of State for Immigration, Home Office   | <a href="#"><u>QQ 69–80</u></a> |
| *  | Edward Timpson MP, Minister of State for Children and Families, Department of Education   |                                 |

- \* Anne Longfield OBE, Children’s Commissioner for England [QQ 81–86](#)
- \*\* Jean Lambert MEP, Greens [QQ 87–97](#)
- \*\* Julie Ward MEP, S&D
- \* Timothy Kirkhope MEP, ECR
- \* Roberta Metsola MEP, EPP, MT [QQ 98–109](#)
- \*\* Daphne Bouteillet-Paquet, Senior Legal Officer, European Council on Refugees and Exiles [QQ 110–120](#)
- \*\* Elona Bokshi, Senior Project Manager, European Council on Refugees and Exiles
- \* Dr Hanne Beirens, Associate Director, Migration Policy Institute Europe
- \* Jana Hainsworth, Secretary General, Eurochild [QQ 121–130](#)
- \* Bruno Vanobbergen, Flemish Children’s Rights Commissioner
- \* Jean Pierre Verhaeghe, Policy Adviser to the Flemish Children’s Rights Commissioner
- \*\* Verena Knaus, Senior Policy Adviser, UNICEF
- \*\* Margaret Tuite, Co-ordinator for the Rights of the Child, European Commission [QQ 131–143](#)
- \* Anna Maria Corazza Bildt, MEP [QQ 144–150](#)

### **Alphabetical list of all witnesses**

- Dr Ana Beduschi [UME0008](#)
- The British Association of Social Workers [UME0021](#)
- British Red Cross [UME0002](#)
- \* The Rt Hon James Brokenshire MP, Minister of State for Immigration, Home Office ([QQ 69–80](#))
- \*\* Dr Paul Chadwick, Head of Looked After Children and Resources, Croydon Borough Council ([QQ 47–58](#)) [UME0036](#)
- Child Circle [UME0025](#)
- Community Action for Refugees and Asylum Seekers (CARAS) [UME0015](#)
- Coram Children’s Legal Centre [UME0017](#)
- \* Anna Maria Corazza Bildt MEP ([QQ 144–150](#))
- \* Professor Heaven Crawley, Professor of International migration, Centre for Trust, Peace and Social Relations, Coventry University ([QQ 18–31](#))
- \* Kathryn Cronin, Barrister and Joint Head of Chambers, Garden Court Chambers ([QQ 1–17](#))

	ECPAT UK	<a href="#">UME0032</a>
*	Jana Hainsworth, Secretary General, Eurochild ( <a href="#">QQ 121–130</a> )	
	European Commission	<a href="#">UME0022</a>
**	European Council on Refugees and Exiles ( <a href="#">QQ 110–120</a> )	<a href="#">UME0040</a>
	European Parliament	<a href="#">UME0006</a>
	Europol	<a href="#">UME0014</a>
	Nadine Finch	<a href="#">UME0009</a>
	Greater Manchester Immigration Aid Unit	<a href="#">UME0004</a>
**	Alison Harvey, Legal Director, Immigration Law Practitioners Association ( <a href="#">QQ 1–17</a> )	<a href="#">UME0035</a>
	Immigration Law Practitioners Association	<a href="#">UME0023</a>
	International Organisation for Migration	<a href="#">UME0033</a>
**	Andrew Ireland, Corporate Director of Social Care, Health and Wellbeing, Kent County Council ( <a href="#">QQ 47–58</a> )	
	Irish Refugee Council	<a href="#">UME0005</a>
*	Kent County Council	<a href="#">UME0034</a> <a href="#">UME0039</a>
	Kent Law Clinic	<a href="#">UME0016</a>
*	Timothy Kirkhope MEP, ECR ( <a href="#">QQ 87–97</a> )	
*	Professor Ravi KS Kohli, Professor of child welfare, University of Bedfordshire ( <a href="#">QQ 18–31</a> )	
*	Jean Lambert MEP, Greens ( <a href="#">QQ 87–97</a> )	
	Jean Lambert MEP, Molly Scott Cato MEP, Keith Taylor MEP	<a href="#">UME0020</a>
	Law Centre (NI)	<a href="#">UME0019</a>
*	Anne Longfield OBE, Children’s Commissioner for England ( <a href="#">QQ 81–86</a> )	
	Maeve McClenaghan, investigative journalist	<a href="#">UME0012</a>
*	Roberta Metsola MEP, EPP, MT ( <a href="#">QQ 98–109</a> )	
*	Migration Policy Institute ( <a href="#">QQ 110–120</a> )	
	MinAs	<a href="#">UME0011</a>
	Missing Children Europe	<a href="#">UME0018</a>
	Nagalro	<a href="#">UME0010</a>
**	National Crime Agency ( <a href="#">QQ 59–68</a> )	<a href="#">UME0037</a>
**	Refugee Council ( <a href="#">QQ 32–46</a> )	<a href="#">UME0030</a>
	Refugee Rights Data Project	<a href="#">UME0028</a>

- \* 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](#))

### APPENDIX 3: CALL FOR EVIDENCE

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The House of Lords EU Home Affairs Sub-Committee, chaired by Baroness Prashar, is launching an inquiry into unaccompanied minors in the EU. Written evidence is sought by Thursday 10 March 2016.

#### Background

In September 2015, the OECD found that:

“A particularly striking and worrying characteristic of the current refugee crisis is the large number of unaccompanied minors among asylum seekers.”<sup>375</sup>

Eurostat data indicate that the number of unaccompanied minors seeking asylum in the EU has increased continuously since 2010, reaching 24,075 children in 2014—nearly double the number in 2013 and accounting for 4% of total applications for international protection.

In the UK, concerns have surfaced about growing numbers of unaccompanied minors going missing from care and links between such disappearances and human trafficking, sexual exploitation and organised crime. Similar issues have arisen in other EU Member States, where there are fears that lengthy and bureaucratic asylum procedures are driving unaccompanied children into the hands of people smugglers.

While particularly pressing in the context of the refugee crisis, the phenomenon of unaccompanied minors also has long-term implications for the EU and its Member States reaching far beyond the asylum system. As the OECD noted in its report, these children “represent an enormous challenge in terms of providing housing, supervision, schooling and support measures for minors”.

The EU has sought to address the challenge of unaccompanied minors in a wide range of legislative measures, including Directives in the field of asylum, human trafficking and the return of irregular migrants. In May 2010, the European Commission published an *Action Plan on Unaccompanied Minors (2010–2014)*<sup>376</sup>. In its mid-term review of this Action Plan, the Commission recognised that “the arrival of unaccompanied children on EU territory is not a temporary development, but a long-term feature of migration into the EU. There is and will continue to be a need for a common EU approach.”<sup>377</sup> As yet, however, the Commission has not renewed the Action Plan.

Member State implementation of EU measures has been poor. In September 2013, the European Parliament adopted a resolution on unaccompanied minors in the EU, in which it strongly condemned “the existing lacunae in the protection of unaccompanied minors in the European Union”, and denounced “the often deplorable conditions in which such minors are received and the numerous breaches of their fundamental rights in certain Member States”.<sup>378</sup>

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375 OECD, ‘Is this humanitarian migration crisis different?’ (September 2015): <http://www.oecd.org/migration/Is-this-refugee-crisis-different.pdf> [accessed 21 June 2016]

376 Communication from the Commission to the European Parliament and The Council Action Plan on Unaccompanied Minors (2010–2014), [COM\(2010\) 213 final](#)

377 Report from the Commission to the Council and the European Parliament, Mid-term report on the implementation of the Action Plan on Unaccompanied Minors, [COM\(2012\) 554 final](#)

378 European Parliament resolution of 12 September 2013 on the situation of unaccompanied minors in the EU (2012/2263(INI)) ([OJ C93/165](#) 9 March 2016)



*Rationale for the inquiry*

The Committee seeks to explore further the situation of unaccompanied minors in the EU. The ongoing refugee crisis is likely to worsen the precarious situation in which these children find themselves, and the Committee is particularly interested in views submitted in this context.

Against this backdrop, the aims of the inquiry are:

- to shed light on the nature and scale of the problems faced by unaccompanied minors in EU Member States, including those issues which are by nature clandestine and hidden from view
- to consider whether EU provisions on unaccompanied minors translate into clear obligations for national bodies and professionals at all levels
- to assess the achievements of the 2010–2014 Action Plan on Unaccompanied Minors and to explore developments since its expiration
- to identify remaining gaps in law and policy and explore options for further cooperation among EU Member States.

Particular questions raised to which we invite you to respond are outlined below. There is no need for individual submissions to deal with all of the issues.

1. Are there reliable data on the number, age, gender, nationality and immigration routes of unaccompanied minors in the EU? What implications do these factors have for policy?
2. What are the key challenges faced by unaccompanied minors in the EU? Are there common issues across Member States? Please provide examples of problems and best practices experienced at each of the following three stages:
  - (a) Reception (this may include the accessibility and quality of legal representation, and age assessment procedures)
  - (b) Protection (this may include issues of accommodation, availability of foster care and accessibility of appropriate medical attention)
  - (c) Integration (this may include access to appropriate education and leisure facilities, longer term care, family tracing and reunification procedures).
3. How has the EU response to the refugee crisis, including emergency measures such as relocation schemes and the establishment of ‘hotspots’, affected unaccompanied minors?
4. EU law and policy include a number of provisions on unaccompanied minors in various fields including asylum, human trafficking, border security and returns. Are these measures effective? Is the European Commission doing enough to ensure that Member States comply with their obligations under this *acquis*?
5. Article 3 of the UN Convention on the Rights of the Child states that the best interests of children must be the primary concern in making decisions that may affect them. Do EU measures seeking to “mainstream” the best interest principle form a comprehensive and coherent whole? Do the obligations they set out translate into sufficiently clear requirements for all national actors dealing with unaccompanied minors?

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. The UK has not opted in to the second phase of the Common European Asylum System, and does not participate in the Family Reunification Directive. What, if any, are the implications of this for unaccompanied minors in the UK?

**APPENDIX 4: ACRONYMS AND ABBREVIATIONS**

BASW	The British Association of Social Workers
CARAS	Community Action for Refugees and Asylum Seekers
CCLC	Coram Children’s Legal Centre
CEAS	Common European Asylum System
CRC	United Nations Committee on the Rights of the Child
DfE	Department for Education
EASO	European Asylum Support Office
ECRE	European Council for Refugees and Exiles
ECPAT	End Child Prostitution in Asian Tourism (Originally ECPAT stood for, now they are an organisation dealing with child trafficking in the UK)
ENOC	European Network of Ombudsperson for Children
ESOL	English as a Second Language
Eurodac	The European Fingerprint Database
Europol	The EU’s Law Enforcement Agency
FRA	EU Agency for Fundamental Rights
FRONTEX	EU Border Agency
GRETA	Group of Experts on Action against Trafficking in Human Beings
ILPA	Immigration Law Practitioners Association
IOM	International Organisation for Migration
JCHR	Joint Committee on Human Rights
MEP	Member of European Parliament
NGO	Non-Government Organisation
NSPCC	National Society for the Prevention of Cruelty to Children
PTSD	Post-Traumatic Stress Disorder
SCEP	Separated Children in Europe Programme
SIS	Schengen Information System
STI	Sexually Transmitted Infection
UAMs	Unaccompanied Minors
UN	United Nations
UNCRC	The United Nations Convention on the Rights of the Child
UNHCR	United Nations High Commissioner for Refugees

## APPENDIX 5: DISTRIBUTION OF UNACCOMPANIED MIGRANT CHILDREN IN ENGLAND

Tables received from Jo Wilding ([UME0013](#)). All figures relate to unaccompanied migrant children.

Authority	Looked-after children	Care-leavers
<b>LONDON (32 Authorities)</b>		
London Borough of Croydon	412	545
London Borough of Hillingdon	106	218
London Borough of Islington	53	81
London Borough of Enfield	49	27
London Borough of Haringey	48	56
London Borough of Brent	48	44
London Borough of Hounslow	37	80
London Borough of Barnet	37	25
London Borough of Newham	36	40
London Borough of Merton	32	17
City of Westminster	31	20
Royal Borough of Kensington and Chelsea	31	20
London Borough of Harrow	29	unclear
London Borough of Hammersmith & Fulham	28	44
London Borough of Lewisham	28	26
Royal Borough of Greenwich	27	12
London Borough of Barking and Dagenham	27	3
London Borough of Southwark	26	37

<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>
Windsor and Maidenhead	8	10
Medway	3	0
Southampton	2	8
Wokingham	2	2
Bracknell Forest	<5	<5
Isle of Wight	0	0
Reading	refused	refused
<b>SOUTH WEST (18 Authorities)</b>		
City of Bristol	16	5
Gloucestershire	12	32
Wiltshire	5	21
Plymouth	3	9
Swindon	2	7
North Somerset	1-5	1-5
Devon	<5	<5
Poole	1	6
Somerset	1	0
Torbay	0	4
South Gloucestershire	0	3
Bournemouth	0	2
Bath and North East Somerset	0	0
Cornwall	0	0
Dorset	0	0
Isles of Scilly	0	0
<b>WEST MIDLANDS (14 Authorities)</b>		
Warwickshire	49	96
Staffordshire	46	10
Solihull	43	119
Birmingham	36	16
Coventry	14	20
Worcestershire	12	28
Sandwell	9	10
Wolverhampton	5	9
Herefordshire	3	1



<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 Yorkshire	<5	7
North East Lincolnshire	3	2
Kirklees	2	14

<b>Authority</b>	<b>Looked-after children</b>	<b>Care-leavers</b>
Rotherham	1	4
Doncaster	0	13
East Riding of Yorkshire	0	5
Barnsley	0	4
Calderdale	0	3
York	0	0
North Lincolnshire	No response	
<b>NORTH EAST (12 Authorities)</b>		
Newcastle upon Tyne	5	29
Stockton-on-Tees	5	<5
Durham	3	3
Middlesbrough	1	7
North Tyneside	<5	<5
Northumberland	0	3
Hartlepool	0	<5
Redcar and Cleveland	0	1
Darlington	0	0
Gateshead	0	0
Sunderland	0	0
South Tyneside	0	0
<b>NORTH WEST (23 Authorities)</b>		
Manchester	25	78
Cheshire East	16	16
Liverpool	9	27
Salford	4	13
Sefton	4	0
Lancashire	3	5
Warrington	3	3
Halton	3	3
Oldham	2	6
Blackburn with Darwen	1	3
Cheshire West	1	0
Stockport	<10	<10
Rochdale	<5	<5
Bolton	<5	<5
Bury	<5	9

<b>Authority</b>	<b>Looked-after children</b>	<b>Care-leavers</b>
Wirral	0	11
Trafford	0	8
St. Helens	0	2
Cumbria	0	<5
Tameside	0	0
Wigan	0	0
Blackpool	0	0
Knowsley	No response	

*Source: Written evidence from Jo Wilding ([UME0013](#)) [Note that Brighton and Kent gave information in interview, not in response to a FOI request]*

Total 150, Responses 147, 2 non responses and one refusal

10 March 2016