

Vulnerability of unaccompanied and separated child migrants

SUMMARY

The United Nations Children's Fund (Unicef) has estimated that in 2015, there were globally no fewer than 100 000 unaccompanied migrant and refugee children. Europol has stated that at least 10 000 unaccompanied child refugees have gone missing after arriving in Europe. There are various reasons why a child may be unaccompanied or separated, including persecution of the child or the parents; international conflict and civil war; human trafficking and smuggling, including sale by parents; accidental separation from the parents over the course of their journey; and searching for better economic opportunities.

The UN Committee on the Rights of the Child has identified a number of protection gaps in the treatment of such children, including that unaccompanied and separated children face greater risks of, inter alia, sexual exploitation and abuse, military recruitment, child labour (including for foster families) and detention. In many countries, unaccompanied and separated children are routinely denied entry to or detained by border or immigration officials. In other cases, they are admitted but are denied access to asylum procedures, or their asylum claims are not handled in an age and gender-sensitive manner. Some countries impede separated children who are recognised as refugees from applying for family reunification. Many such children are granted only temporary status, which ends when they turn 18, and there are few effective return programmes. The vulnerable situation of migrant unaccompanied and separated minors worldwide, and the threats they face need to be addressed, particularly with the significant increase in their number in the current 'refugee crisis'. The 2016 State of the Union speech called for a strong and immediate protection of unaccompanied and separated minors, in line with the EU's historical values.



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Glossary

A ‘child’ as defined in Article 1 of the [Convention on the Rights of the Child \(CRC\)](#), means ‘every human being below the age of 18 years unless under the law applicable to the child, majority is attained earlier’. This means that any instruments governing children in the territory of the state cannot define a child in any way that deviates from the norms determining the age of majority in that state.

‘**Unaccompanied children**’ (also called unaccompanied minors) are children, as defined in Article 1 of the CRC, who have been separated from both parents and other relatives and are not being cared for by an adult who, by law or custom, is responsible for doing so.

‘**Separated children**’ are children, as defined in Article 1 of the CRC, who have been separated from both parents, or from their previous legal or customary primary caregiver, but not necessarily from other relatives. These may, therefore, include children accompanied by other adult family members.

In the [context of migration](#) to the European Union, an unaccompanied minor, as defined by [Directive 2011/95/EU](#), refers to a minor who arrives on the territory of an EU Member State unaccompanied by an adult responsible or who is left unaccompanied after he or she has entered the territory of the Member States.

‘**Country of origin**’ is the country of nationality or, in the case of a stateless child, the country of habitual residence.

Issue

18 December is observed annually as ‘International Migrants Day’, so named by the United Nations General Assembly on 4 December 2000, to recognise the large and increasing number of migrants in the world. Child migrants are however, often relegated to the margins of the world’s debates about migration and displacement. One reason is perhaps the lack of hard numbers to support the case of children. Such lack of data clearly hampers policy-making. Global estimates are incomplete and it is difficult to determine where all the world’s child refugees and migrants were born, their age or whether their migration was forced or voluntary. The [New York Declaration on Refugees and Migrants](#) adopted on 19 September 2016 sought to remedy this gap, and addressed clearly the vulnerability of particularly unaccompanied and separated children and called for commitments from the member states of the UN for their needs.

This year too, 20 November – [Universal Children’s Day](#) – marked the 27th anniversary of the [UN Convention on the Rights of the Child \(CRC\)](#), the first international treaty to recognise children as human beings with innate rights. The CRC guiding principles represent the underlying requirements for all rights to be achieved under the Convention, and these include: **Non-discrimination; adherence to the best interests of the child; life survival and development; participation and the child’s right to be heard and respected.** Since 1989, conditions for children have improved significantly, but millions remain unprotected.

In 2015, Unicef [counted at least 100 000](#) unaccompanied migrant and refugee children. Europol has [stated](#) that at least 10 000 unaccompanied child refugees have disappeared after arriving in Europe. [Missing Children Europe](#) has been witness to the alarming numbers of migrant children who go missing shortly after arriving on EU shores. The numbers of children crossing into Europe in 2015 has doubled since the previous year. In addition, [many organisations](#) have reported that the chaotic situation at EU borders in the-Balkans has caused a high number of children to become separated from their families.

The vulnerable situation of migrant unaccompanied and separated minors worldwide, and the threats they face, needs to be addressed, particularly considering the significant increase in their number in the current 'refugee crisis'. Migrant children may be accompanied by their parents or guardians, by other adults (separated children) or alone (unaccompanied children), and children may migrate in regular or irregular ways. Irregular migration may involve irregular entry by children into a third country, but also includes those children who enter a country regularly but overstay their visa or end up in an irregular situation in other ways. Migrant children also include those children born in host countries to migrant parents. Children left behind by parents who migrate are likewise affected by migration, and may in turn end up as unaccompanied child migrants, seeking to reunite with their families.

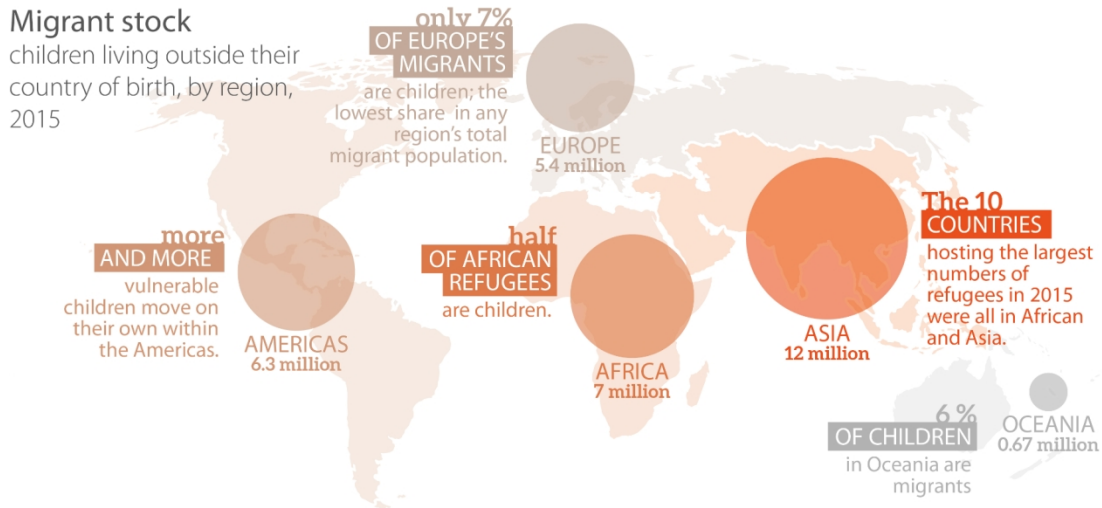
[Human Rights Watch](#) has found that the thousands of unaccompanied children arriving in foreign lands without parents or care-givers find themselves 'trapped in their status as migrants, with officials giving little consideration to their vulnerabilities and needs as children. They may be denied access to adequate medical services and education, abused and mistreated by police, guards, and other detainees, and unable to seek asylum. They may languish in jail-like detention facilities, in conditions that are often degrading and inhumane, and many children are held in cells with adults who are strangers. Children held in detention, particularly for long periods with no release in sight, suffer lasting consequences, physically and mentally.'

The UN [Committee on the Rights of the Child](#) – the body of 18 independent experts that monitors implementation of the UN Convention on the Rights of the Child (CRC) – has [identified a number of protection gaps](#) in the treatment of migrant children, particularly unaccompanied and separated children, as they face greater risks of, inter alia, sexual exploitation and abuse, military recruitment, child labour (including for their foster families) and detention. They are often discriminated against and denied access to food, shelter, housing, health services and education. Unaccompanied and separated girls are at particular risk of sexually based gender violence (SBGV), including domestic violence. In some situations, such children have no access to proper and appropriate identification, registration, age assessment, documentation, family tracing, guardianship systems or legal advice. The absence of opportunities for children to migrate safely and through regular channels leads them to embark on dangerous journeys, including through the use of smugglers, in order to reach their country of destination. Especially when unaccompanied, these children are highly vulnerable to becoming victims of violence and abuse during their migratory journeys.

Sustainable Development Goal (SDG) target [5.2](#) and [16.2](#) are particularly pertinent. SDG target 5.2 aims to 'Eliminate all forms of violence against all women and girls in the public and private spheres, including trafficking and sexual and other types of exploitation'. This is completed by SDG target 16.2, which aims to 'End abuse, exploitation, trafficking and all forms of violence against and torture of children'. According to [Global Migration Policy Associates](#) (GMPA) and the [United Nations Development Project](#) (UNDP), this [needs to be addressed by](#): 1) Reinforcing law, policy and practical measures, to a) prevent violence against children with a particular focus also on the specific violence directed at girls; b) to combat human trafficking (while protecting victims); and c) ensure explicit coverage of all migrant girls in such law and measures. 2) Strengthening programmes and practices preventing SBGV violence in public and private spheres, including sexual abuse, harassment and exploitation; 3) Establishing 'child sensitive' migration policies, refugee determination, migrant reception, treatment of unaccompanied minors, counter trafficking and smuggling operations; 4) Ending detention of migrant children(except in

bona fide situations of criminal acts/behaviour); 5) Receiving states need to comply with specific UN treaty body and the special rapporteur’s recommendations to end the immigration detention of children; and 6) Opening up more regular migration channels, particularly in relation to family reunification, would go a long way towards protecting these children.

Figure 1: Regional statistics (absolute numbers) for migrant children, 2015



Date Source: [Unicef \(2016\)](#).

Irregular migrant children face numerous obstacles and challenges during and after the migration process and, as both [Unicef](#) and [UNHCR](#) in their guidelines point out, they are in a situation for which they should not be held responsible, either morally or legally. As one of the most vulnerable groups in society, these children need respect, protection and fulfilment of their fundamental rights. Both UNHCR and Unicef, in line with the CRC, calls for all persons under the age of 18 to be recognised as children in the eyes of the state, regardless of their immigration status. States can begin to protect migrant children and uphold their fundamental human rights by bringing this perspective to the forefront in law and policy development. In the aforementioned guidelines, Unicef and UNHCR state that **immigration policies should never be forced at the expense of a child’s best interests and that assessment should always be done by a decision-maker specialising in child protection, not by immigration authorities**. In this respect, regularisation processes could be an important tool to enhance respect for the human rights of migrant children in irregular situations.

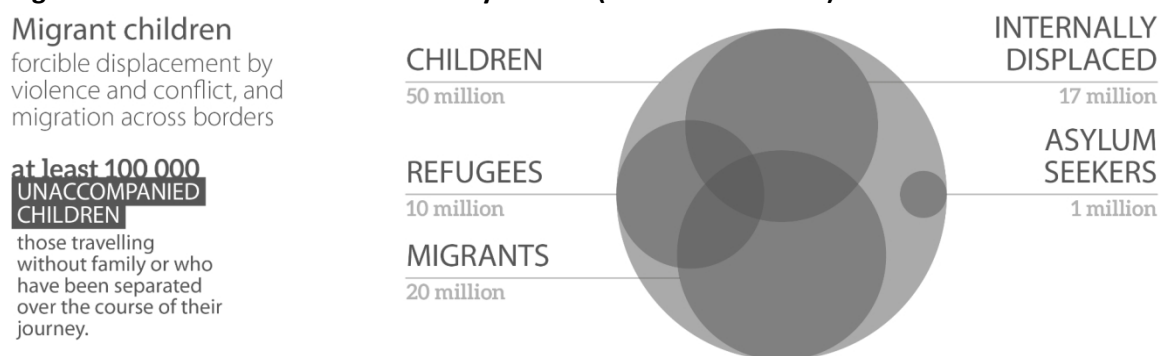
The vulnerability of migrant unaccompanied children

[Unicef](#) has estimated that, around the world, nearly 50 million children have migrated across borders or been forcibly displaced. No matter why they move or how they arrive, children are at the centre of the world’s population movements. **Whether they are migrants, refugees or internally displaced, they are always children: entitled to protection, support and all the rights enshrined in the CRC.**

In practice, however, children’s rights [are still, unfortunately, being violated](#), and there is a broad range of human rights challenges affecting unaccompanied and separated children in the context of migration. On the one hand, according to [Payoke](#),¹ these children may be confronted by [four typologies](#) of exploitation which are in themselves multi-faceted: sexual exploitation, economic exploitation, criminal exploitation, and, child trafficking. On the other hand, there is extensive **criminalisation** of irregular

migrants, including children. This can lead to serious restrictions on their human rights, including restricted access to services such as **education, housing and healthcare** in the receiving state. An example of this is where countries require registration with a government authority to access certain public services, thus inhibiting access for individuals not regularly residing within that state. Due to lack of information, interpretation and guidance, migrant children may experience restricted access to such services. In many countries, unaccompanied and separated children are routinely denied entry, or detained by border or immigration officials. In other cases, they are admitted but are denied access to asylum procedures or their asylum claims are not handled in an age and gender-sensitive manner. Applying for family reunification may also be deterred. Many such children are granted only temporary status, which ends when they turn 18, and there are few effective return programmes.

Figure 2: Children on the Move Globally in 2015 (absolute numbers)



Date Source: [Unicef \(2016\)](#).

Unicef has [calculated](#) that more than 100 countries worldwide are detaining children for migration-related reasons. The exact number of children who face detention solely because of their migration status is not known, but detention’s lasting consequences for children are clearly documented. In 2012, the Committee on the Rights of the Child [emphatically condemned](#) the practice of detention of a child because of their or their parent’s migration status, stating that it constitutes a child-rights violation and always contravenes the **principle of the best interests of the child**. The [lack](#) of a **best-interests determination procedure** may also lead to a number of human rights violations, including the detention of children and their deportation, as well as the separation of children from their parents, contrary to the principle of **family unity**, provided for in the Preamble and Articles 9 and 10 of the CRC. In its [General Comment No 6](#) (2005) on the treatment of unaccompanied and separated children outside their countries of origin, the Committee on the Rights of the Child stated that unaccompanied and separated children should not, as a general rule, be detained, and detention cannot be justified solely on the basis of their migratory or residence status, or lack thereof, nor should children be criminalised solely for reasons of irregular entry or presence in a country. States should instead appoint a guardian 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.

The international legal framework for children’s rights

The Convention on the Rights of the Child (CRC) and its optional protocols

Several international treaties afford children’s rights that are, or can be, affected during or after the migration process. At the foundation of the international framework for children’s rights is the **Convention on the Rights of the Child (CRC)**, which prescribes

minimum standards that states must adhere to regarding the treatment of children in their respective territories.

Children fleeing armed conflicts, mass killings, persecution and/or pervasive sexual and gender-based violence (SGBV), seek refugee protection under the [1951 UN Geneva Refugee Convention](#), its subsequent [Protocol](#) and other international instruments. In times of such instability, girls are particularly at risk of gender-based violence, including sexual violence. In addition to the protection offered by the Geneva Refugee Convention, the specific case of migrant children seeking asylum needs to be addressed within the framework provided by the Convention on the Rights of the Child (CRC).

The CRC is the first binding international legal instrument to address the rights of children. It has been ratified by 195 states, including all EU Member States, and has become the most rapidly, and widely, ratified international human rights treaty ever, demonstrating a global commitment to protecting children and treating them as [autonomous human beings](#) – equal to adults – with internationally recognised rights. The United States has signed the CRC, but is the only UN member state [that is not a party to it](#). The CRC provides the highest level of international standards and guidelines for national and regional implementation, and was the first comprehensive treaty, containing 42 detailed provisions, enshrining the rights of all persons

under the age of 18 in all areas of their lives, including economic, social and cultural rights, and civil and political rights. Due to the nature of childhood, the CRC also includes special protection measures that protect children from abuse and exploitation, and in conflict with the law.

The CRC has been supplemented with three optional protocols. As of 18 January 2002, the [Optional Protocol on the sale of children, child prostitution and child pornography](#) (OPSC); as of 12 February 2002, the [Optional Protocol on the involvement of children in armed conflict](#) (OPAC); and, as of 14 April 2014 the [Optional Protocol to the Convention on the Rights of the Child on a communications procedure](#), which allows children to submit complaints, appeals and petitions to the Committee on the Rights of the Child, which hears complaints that a child's rights have been violated. Children from countries that ratify the Protocol can use the treaty to seek justice if the national legal system has not been able to provide a remedy for the violation.

The CRC states that everyone under the age of 18, regardless of gender, origin, religion or possible disabilities, needs special care and protection, because children are often the most vulnerable people.

Five key CRC articles which ensure the respect for the human rights of all children in the context of migration

The [situation](#) of unaccompanied and separated children and the detention issue are covered, though not exclusively, by **Articles 2, 3, 12, 22 and 37 of the CRC**.

The CRC provides, in Article 2, that all the rights it contains apply to all children within the jurisdiction of the states parties, without **discrimination** of any kind. Article 3 provides that the **best interests of the child shall be a primary consideration** in all actions concerning children. Article 6 sets out the right to **life, survival and development** of migrant and refugee children.

Article 12 provides that children have the right to **express their views and the opportunity to be heard** in judicial and administrative proceedings affecting them. Of particular relevance to the case of unaccompanied and separated children is Article 22:

1. States Parties shall take appropriate measures to ensure that a child who is seeking refugee status or who is considered a refugee in accordance with applicable international or domestic law and procedures shall, whether unaccompanied or accompanied by his or her parents or by any other person, receive appropriate protection and humanitarian assistance in the enjoyment of applicable rights set forth in the present Convention and in other international human rights or humanitarian instruments to which the said States are Parties.

2. For this purpose, States Parties shall provide, as they consider appropriate, co-operation in any efforts by the United Nations and other competent intergovernmental organizations or non-governmental organizations co-operating with the United Nations to protect and assist such a child and to trace the parents or other members of the family of any refugee child in order to obtain information necessary for reunification with his or her family. In cases where no parents or other members of the family can be found, the child shall be accorded the same protection as any other child permanently or temporarily deprived of his or her family environment for any reason, as set forth in the present Convention

Article 37(b) says: 'No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time'. Article 37(c) states that 'every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age'. The CRC also states that children must be 'protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions or beliefs' of their parents, legal guardians, or family members'.

The International Labour Organization Conventions on child labour

The effective application of the general principles in the aforementioned five articles of the CRC will go a long way in ensuring respect for the human rights of all children in the context of migration. In addition to the CRC, there are two further conventions (adopted in the framework of the [International Labour Organization](#)), which are specific to children to prevent their exploitation: '[The Worst Forms of Child Labour Convention](#)' (ILO Convention No 182) was adopted on 17 June 1999. Further to the CRC, it was considered necessary to adopt new instruments for the prohibition and elimination of the worst forms of child labour. 'Worst forms of labour' include all forms of slavery or practices similar to slavery, such as the sale and trafficking of children; debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict; the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances; the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties; and, work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children. This Convention complements the earlier '[Convention and the Recommendation concerning Minimum Age for Admission to Employment](#)' of 1973 (ILO Convention No 138), which remains the fundamental instrument on child labour.

Legal obligations of states parties for all unaccompanied or separated children in their territory

State obligations under the CRC apply to each child within the state's territory and to all children subject to its jurisdiction (Article 2). These state obligations cannot be arbitrarily and unilaterally curtailed either by excluding zones or areas of a state's territory or by defining particular zones or areas as not, or only partly, under the jurisdiction of the state. Moreover, state obligations under the Convention apply within the borders of a state, including with respect to those children who come under the state's jurisdiction while attempting to enter the country's territory. Therefore, the enjoyment of rights stipulated in the CRC is not limited to children who are citizens of a state party and must therefore, if not explicitly stated otherwise in the CRC, also be available to all children – including asylum-seeking, refugee and migrant children – irrespective of their nationality, immigration status or statelessness.

Obligations deriving from the CRC vis-à-vis unaccompanied and separated children apply to all branches of government. They include the obligation to establish national legislation, administrative structures, and the necessary research, information, data compilation and comprehensive training activities to support such measures. Such responsibilities are not only limited to the provision of protection and assistance to children who are already unaccompanied or separated, but include measures to prevent separation (including the implementation of safeguards in case of evacuation). The positive aspect of these protection obligations also extends to requiring states to take all necessary measures to identify children as being unaccompanied or separated at the earliest possible stage, including at the border, to carry out tracing activities and, where possible and if in the child's best interest, to reunify separated and unaccompanied children with their families as soon as possible.

States parties have to ensure that the provisions and principles of the treaty are fully reflected and given legal effect in relevant domestic legislation. In case of any conflict in legislation, predominance should always be given to the CRC, in light of Article 27 of the [Vienna Convention](#) on the Law of Treaties. Furthermore, the fundamental principle enshrined in the [Universal Declaration of Human Rights](#) (UDHR) is that everybody (including all children), everywhere, at all times, is entitled to the full range of human rights, which are **universal and indivisible**. Human rights are guaranteed *prima facie* to all persons, including migrants present in a country, **irrespective of their legal status or length of stay**, and they are to be applied without discrimination.

Alternatives to detention for the reception of unaccompanied and separated minors

The UN Refugee Agency (UNHCR) has pointed out that, in recent years, detention facilities are increasingly being used to host migrants and asylum-seekers, including by countries with good human rights records.² If used, detention must be lawful and clearly shown to be necessary, reasonable and proportional. The vulnerable situation in which unaccompanied and separated children can find themselves, due to the serious challenges faced during their journey as well as due to [immigration-related detention](#), calls for greater awareness on behalf of authorities and also for more gender-sensitive policies as well as specialised care in the centres themselves.³ UNHCR and the UN Population Fund (UNFPA) have expressed concern that children subjected to immigration detention experience both physical and psychological trauma, shaping their immediate well-being as well as their lifelong prospects. The Special Rapporteur on torture and other cruel, inhuman or

degrading treatment or punishment came to [similar conclusions](#): Detention of children is particularly serious due to the devastating effect it may have on their physical, emotional and psychological development. Children held in detention are at risk of post-traumatic stress disorder, and may exhibit such symptoms as insomnia, nightmares and bed-wetting.⁴ Also, **vulnerability is not a static condition**. It can also **evolve and develop over time**. In a [European Parliament study](#) it was found that in addition to trauma experienced in the country of origin, two other factors need to be taken into account, as they can significantly contribute towards the aggravation of the vulnerability of migrant unaccompanied and separated children:

- **The impact of the journey and experiences of the migrants prior to their confinement** which are often physically and psychologically trying, and during which they could have been exposed to diverse forms of abuse and violence (human trafficking, psychological manipulation, physical violence, rape); and,
- **The pathogenic nature of confinement in detention centres**, which has been identified as having harmful consequences on the psychological state of foreign nationals.

Court rulings in multiple countries have made it clear that migration-related detention is not appropriate for children, including as a deterrence mechanism. [Human rights organisations](#), in accordance with [international law](#), emphasise that **children should, in principle, not be detained at all**.⁵ UNHCR calls for all [child-appropriate alternatives to detention](#) – such as release to other family, or to relatives with residence in the country of asylum, foster care, supervised independent living, or residential homes – to be considered.⁶ A joint report by the UN Child Agency (Unicef) and UNHCR Europe describes the **best interests assessment (BIA)** as a simple and ongoing procedure for making decisions about what immediate actions are in an individual child's best interests. According to Unicef and UNHCR, a [BIA must take place prior to a decision](#) to detain a child, and should identify the immediate actions to be taken in his or her best interest. The report points out that, should detention be deemed justified, a child should be placed in a unit which addresses their needs and takes into account their age, gender, as well as any physical and mental trauma or disability they may be suffering from. Solitary confinement of any duration, and for any purpose, should be prohibited. **The underlying approach should be 'care' and not 'detention'**. To ensure the best interest of children/minors, UNHCR makes the following recommendations:

- **Legal and policy frameworks ensure that children are not detained**, except in exceptional circumstances, as a measure of last resort, for a legitimate purpose and for the shortest possible period.
- **The best interest of the child** prevails: prioritisation of asylum processing and/or family tracing/reunification; access to age-appropriate information (e.g. picture books) on asylum procedures (including how to contact UNHCR); guardians and/or legal representatives for children are appointed, in particular when unaccompanied or separated.
- **Alternative reception/care arrangements (including for families) are available and appropriate**: for example foster care, community supervision/support/case-worker (or coach), age-appropriate open reception centres with proper supervision, etc.;
- **Child-sensitive screening and referral procedures are in place** in order to refer them to relevant child protection institutions or organisations without delay, and ensure they receive necessary services;

- **Immediate release of children from detention** and their placement in other forms of appropriate accommodation is coordinated amongst national agencies and, as appropriate, with the UNHCR.⁷

What is the European Parliament doing?

The **European Parliament (EP)** does not have a specific committee on children's rights, but has a cross-party [Child Rights Intergroup](#). Many MEPs have signed a [Child rights manifesto](#). The EP has called for action on [child poverty](#) and [online child sexual abuse](#) and an end to migration [detention](#) for children. Parliament has also stressed the need to [protect](#) all child migrants and refugees, and specifically [unaccompanied minors](#) and [girls](#) on issues that affect them.

The EP, in a 2008 resolution '[Towards an EU strategy on the rights of the child](#)', called for consideration to be given to EU accession to the CRC and its then two optional protocols. In its [resolution of 12 September 2013 on the situation of unaccompanied minors in the EU](#), the EP stressed that an unaccompanied minor is above all a child who is potentially in danger and that needs protection. On 12 March 2014, the EP adopted a [recommendation to the Council on humanitarian engagement of armed non-state actors in child protection](#), in which it recommended to 'include in political dialogues with third countries, the goal of preventing and stopping the recruitment and forced involvement of children under the age of 18 and ensuring their release and reintegration into society'.

The [EP resolution on the 25th anniversary of the UN Convention on the Rights of the Child](#) of 27 November 2014 states that many unaccompanied children disappear and abscond after their first arrival in the EU and are particularly vulnerable to abuse. It calls on the Member States to take action to end the detention of migrant children across the EU.

On 8 March 2016, in its [resolution on the Situation of women refugees and asylum seekers in the EU](#), the EP highlighted the plight of women and girls fleeing conflicts and war and the various forms of gender-based violence in their journey to a host country, as well as multiple forms of discrimination due to widespread prejudices.

The European Union framework

The European Union (EU) is committed to promoting the protection of the rights of the child, in line with the [Treaty on European Union](#) (Article 3). Children's rights are also enshrined in the [Charter of Fundamental Rights](#) (Article 24). The EU seeks to [complement the work](#) of Unicef and the UNHCR on this issue. Though the EU is not itself party to the CRC, the CRC plays a crucial role in [guiding EU law](#) on children's rights. The [Action Plan on Unaccompanied Minors](#), adopted on 6 May 2010, proposes an EU approach based on ten principles to help guide EU institutions and Member States in their future approach to unaccompanied children. The [Qualification Directive](#), adopted in December 2011, reinforces the provision on the tracing of family members of minors who have been granted international protection. If return is identified as the child's best solution, it should be done safely. Under the [Return Directive](#), before returning an unaccompanied minor, Member States are obliged to make sure that 'he or she will be returned to a member of his or her family, a nominated guardian or adequate reception facilities in the country of return'. The EU has [adopted legislation](#) to eradicate various forms of violence to which children are subjected, including [human trafficking](#) and [sexual abuse](#) and [exploitation](#). Member States have primary responsibility for child-protection systems, but the EU also supports national action. The EU is also [taking steps](#) to ensure that children are heard. The EU and its Member States must also ensure that their work in the framework of the UN SDG targets aligns with the CRC. The EU is also promoting values [throughout](#) the world, as outlined in its [Strategic Framework and Action Plan on Human Rights and Democracy](#). In the revised [EU action plan on human rights and democracy](#), Action 24(e) states the aim to: 'Support improved access to justice and health for migrants ...; promote improved conditions of detention for detained migrants and

alternatives ...; [and] pay particular attention in this regard to vulnerable migrants including unaccompanied minors.' To this end, priority 8, 'Towards a new policy on migration', in the 2016 [State of the Union speech](#) prioritises the protection of unaccompanied minors across all current and future EU actions addressing the current refugee crises: implementation of the EU–Turkey statement; stepping up relocation of refugees from Greece and Italy; the continuing resettlement from Turkey to the EU; implementation of the new migration partnership framework with third countries; the forthcoming implementation of all actions and measures in the follow-up to the [European agenda for migration](#); and the forthcoming adoption of a [new resettlement framework](#).

Protection of migrant unaccompanied and separated children comes within the scope of the broader framework of both EU internal and external actions in the field of migration policy and refugee protection. With regard to supporting EU **internal action** in this field, the [Asylum, Migration and Integration Fund](#) (AMIF) was set up for the 2014-2020 period, with a total of €3.137 billion for the seven years. It will promote the efficient management of migration flows and the implementation, strengthening and development of a common Union approach to asylum and immigration. As part of the EU's **external action**, two EU Trust Funds were created in 2014: the [Bêkou EU Trust Fund](#) (€108 million), focusing on the stabilisation and reconstruction of the Central African Republic; and the [Madad Fund](#), with more than €730 million committed, including from 22 EU Member States, it has already launched projects worth more than €628 million within its first 15 months of operations to deal with the response to the Syrian crisis. At the November 2015 [Valletta Summit](#), the Emergency Trust Fund made up of [€1.8 billion](#) from EU financing instruments; EU Member States' contributions; and, other donors was set up to help tackle the root causes of migration from Africa.⁸

Outlook

The world appears to be facing [an increasing number](#) of children in migratory situations. Receiving states need to mainstream the child's rights-based approach to migration into national legislation, plans, programmes, policies and practices. A comprehensive child's rights-based approach would utilise the 'best interests of the child' as the key evaluation tool in the decision-making process. Capacity-building is an important measure to enhance the protection of the human rights of migrant children, through a child- and gender-sensitive approach, particularly for those in irregular situations. Further inter-agency coordination should be made a priority. The New York Declaration on Refugees and Migrants [represents a first step](#) in addressing the unprecedented level of human mobility the world is facing. Its emphasis on the need for Member States to comply with their obligations under the CRC is a crucial step towards securing the rights of all children on the move. The declaration underscores the acute risks faced by refugee and migrant children, particularly those travelling on their own, and the need to provide them with specialised protection.

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Endnotes

¹ Payoke, as quoted by Frontex (2010), [Unaccompanied Minors in the Migration Process](#), Frontex report.

² Administrative detention means without a sanction in criminal law. An [increasing number of countries](#) have adopted laws which criminalise undocumented entry and presence on the territory; foreigners who are found in such positions are detained, charged, convicted and sentenced to further detention on the basis of criminal law.

³ UNHCR [Resolution 1991/42](#), as clarified by UNHCR [Resolution 1997/50](#)). International instruments accepted by the states concerned.

⁴ Juan E. Méndez (2015), Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, 28th session of the Human Rights Council, UNGA of 5 March 2015, p. 7.

⁵ The ECHR specifies in Article 5(1) that 'No one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law: ... (f) the lawful arrest or detention of a person ... Unless these conditions are met, the individual's detention will be unlawful under the ECHR. In addition, the ECtHR, in its interpretation of Article 5(1) states that: 'any deprivation of liberty should be in keeping with the purpose of protecting the individual from arbitrariness'.

⁶ Alice Edwards (2011), [Back to Basics: the Right to Liberty and Security of Person and 'Alternatives to Detention' of Refugees, Asylum-Seekers, Stateless Persons and Other Migrants, UNHCR, Division of International Protection](#), p. 24.

⁷ Joanna Apap (2016), [Arbitrary detention of women and children for immigration purposes](#), EPRS Briefing.

⁸ Alessandro D'Alfonso, Beatrix Immenkamp (2015), [EU Trust Funds for external action](#), EPRS Briefing.

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