

Vulnerability of unaccompanied and separated child migrants

SUMMARY

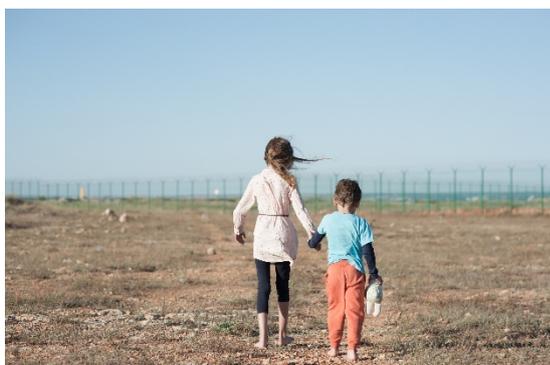
The United Nations Children's Fund (Unicef) has estimated that the number of migrant children increased from 24 million during the 1990–2000 period to 33 million in 2019. In 2019 alone, some 33 200 children arrived in southern European countries, of which some 9 000 (27 %) were unaccompanied or separated from family member(s) on the journey.

There are various reasons why a child may be unaccompanied or get 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. Despite the existence of a comprehensive international legal framework on children's rights and their protection, irregular migrant children, especially those who are unaccompanied or who have been separated from their parents over their journey, face numerous obstacles and challenges during and after the migration process.

Several international and European organisations have identified a number of protection gaps in the treatment of such children, including that they face greater risks of, inter alia, sexual exploitation and abuse, military recruitment, child labour (including for foster families) and detention. In many countries, they 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.

The vulnerable situation of unaccompanied and separated children worldwide, and the threats they face need to be addressed, particularly in view of the constant increase in their number. European Union asylum law offers special protection to such children, and the European Union has adopted numerous instruments and identified key actions for the protection of all children in migration, including those who are unaccompanied and separated.

This briefing is an update of a [2016](#) briefing by Joanna Apap.



IN THIS BRIEFING

- Introduction
- International framework
- The vulnerability of unaccompanied migrant children
- The European Union framework
- European Parliament's position
- Outlook

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 concerning children in the territory of a 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.

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

Introduction

Migrant children embark on journeys that are dangerous and often fatal. They may be accompanied by their parents, guardians or other adults (in this latter case they are considered separated children), or they may be alone (unaccompanied children). Furthermore, children may migrate in regular or irregular ways. Children's irregular migration may involve their irregular entry into a third country or their regular entry into a third country where they 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.

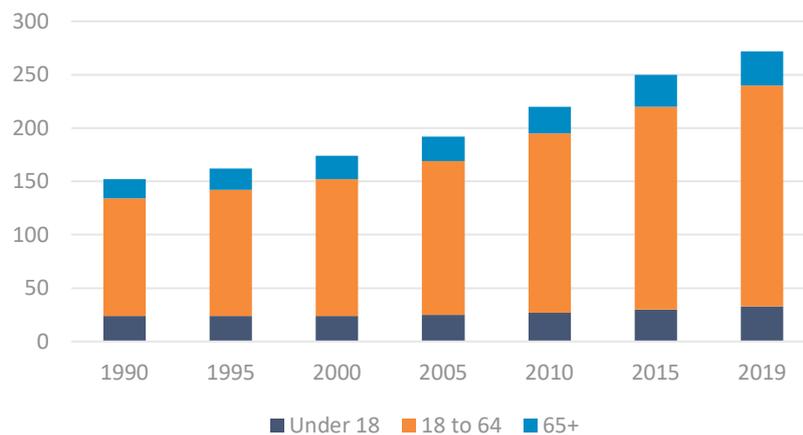
In 2019, Unicef estimated that there were [33 million migrant children](#) in the world. That same year, some [33 200](#) migrant children, of whom some 9 000 (27 %) were unaccompanied or separated, arrived in the southern European countries. Many of these migrant children go missing, but according to the International Organization for Migration, data on [their number](#) are quite limited and difficult to find. Nevertheless, [Missing Children Europe](#) – the European Federation for Missing and Sexually Exploited Children – holds evidence that each year tens of thousands of migrant children go missing after arriving in Europe.

Irregular migrant children face numerous obstacles and challenges during and after the migration process and, as pointed out by both [Unicef](#) and the United Nations High Commissioner for refugees ([UNHCR](#)) in their respective guidelines on children's rights and detention of asylum-seekers, 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.

[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 vulnerable situation of migrant children and specifically those who are unaccompanied and separated, and the threats they face, need to be addressed, particularly considering the increase in their number worldwide and their vulnerability, including due to the impact of the [coronavirus pandemic](#).

Figure 1: Number of international migrants in the world by age, 1990 to 2019 (in millions)



Source: [Unicef, April 2020](#).

International framework

Migrant children are 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 their case, a circumstance that clearly hampers policy-making. Global estimates are incomplete and it is difficult to determine the place of birth and age of the world's migrant children, and whether their migration was forced or voluntary. The [New York Declaration on Refugees and Migrants](#), adopted on 19 September 2016, sought to bridge this gap by calling on the UN member states to commit to protecting the human rights of all refugees and migrants, to ensure that all refugee and migrant children are receiving education within a few months of arrival, and to prevent and respond to sexual and gender-based violence, to name just a few.

Among the UN sustainable development goals (SDGs), SDG 5 and SDG 16 have targets, respectively [5.2](#) and [16.2](#), that are particularly pertinent in helping better track abuse against migrant children. 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 complemented by SDG target 16.2, which aims to 'End abuse, exploitation, trafficking and all forms of violence against and torture of children'.

World Children's Day, celebrated on 20 November, marks the anniversary of the UN [Declaration of the Rights of the Child](#) and the [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 rest on the requirement for achieving all of the children's rights enshrined in the CRC, namely: 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.

The Convention on the Rights of the Child and its optional protocols

Several international treaties afford children rights that are, or can be, affected during or after the migration process. 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.

The CRC is the first binding international legal instrument to address the rights of children. It has been [ratified](#) by 196 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

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).

protecting children and treating them as [autonomous human beings](#) – equal to adults – with internationally recognised rights. While the United States has signed the CRC, it 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. It is the first comprehensive international treaty to have been adopted, 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 measures protecting children from abuse and exploitation, from torture or any other form of cruel, inhuman or degrading treatment and during armed conflicts.

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

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

Key CRC articles that 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.

Article 2 provides 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, which stresses the need for their protection and humanitarian assistance. Article 37(b) says that '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'.

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

The states parties to the CRC have obligations towards each child within the state's territory and towards all children subject to its jurisdiction (Article 2). These obligations cannot be arbitrarily and unilaterally curtailed by excluding zones or areas of a state's territory or by defining particular zones or areas as not being, or only partly being, under the jurisdiction of the state. Moreover, these obligations of the states parties to the CRC apply within the borders of a state, including with respect to those children who come under the state's jurisdiction while attempting to enter its 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.

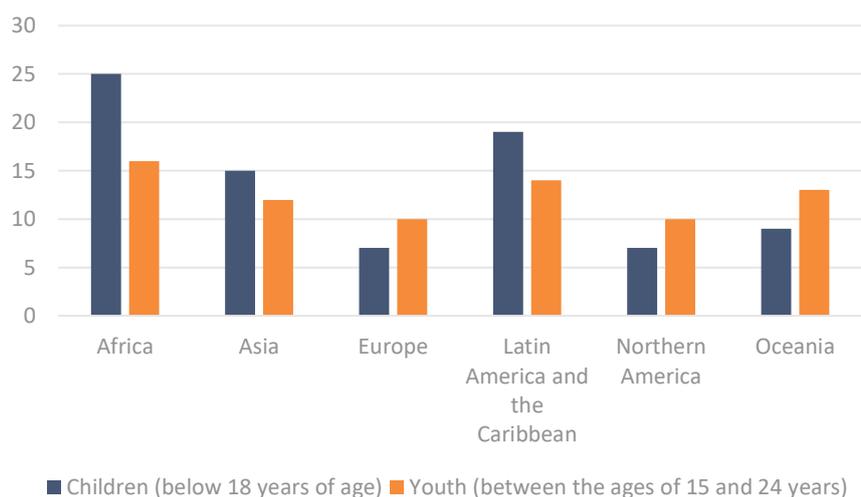
Obligations deriving from the CRC vis-à-vis unaccompanied and separated children apply to all branches of government. They include the government's obligation to establish national legislation and administrative structures, to carry out the necessary research and gather the necessary information, and to organise the relevant data compilation and comprehensive training activities to support such measures. Such obligations 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 CRC 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.

International Labour Organization conventions on child labour

The effective application of the general principles in the aforementioned five CRC articles goes a long way in ensuring respect for the human rights of all children in the context of migration. In addition to the CRC, another two conventions, adopted in the framework of the [International Labour Organization](#), specifically focus on children and seek to prevent their exploitation. One of them, [The Worst Forms of Child Labour Convention](#) (ILO Convention No 182), was adopted on 17 June 1999. '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.

Figure 2: Child migrants and young migrants as a share of the migrant population in host regions, 2019



Source: [Migration data portal](#).

The vulnerability of unaccompanied migrant children

There is a broad range of human rights challenges affecting unaccompanied and separated children in the context of migration. On the one hand, these children may be confronted with sexual, economic or criminal exploitation and child trafficking. On the other hand, there is extensive criminalisation of irregular migrants, including children. This can lead to serious restrictions of their human rights, including restricted access to services such as education, housing and healthcare in the receiving state. An example of this is the requirement placed by certain countries on migrants to register with a government authority before they can access certain public services, which inhibits 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. As [pointed out](#) by the UN Committee on the Rights of the Child,¹ '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'. As further stressed, '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'. 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.

The UN Committee on the Rights of the Child has also [identified a number of protection gaps](#) in the treatment of migrant children, particularly unaccompanied and separated ones, 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. 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 susceptible to becoming victims of violence and abuse during their migratory journeys.

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 the lasting consequences for children are clearly documented. In 2012, the

UN Committee on the Rights of the Child [emphatically condemned](#) the practice of detention of a child because of theirs or their parents' migration status, stating that it constitutes a child-rights violation and always contravenes the principle of the best interests of the child.

The special rapporteur on torture and other cruel, inhuman or degrading treatment or punishment came to the conclusion that the detention of children is a particularly serious issue 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 have bouts of insomnia, nightmares and bed-wetting.² In addition, vulnerability is not a static condition. It can also evolve and develop over time.

The coronavirus pandemic brought about additional vulnerabilities for migrant children. According to the [International Organization for Migration](#), the most relevant implications of the pandemic are: increase in the return of children to their countries of origin; deterioration of the situation in shelters and detention centres; school closure and exclusion; border closure and increased xenophobia; discrimination in the community of origin and effects on mental health.

The [Initiative for Children in Migration](#) provides a description of the developments regarding the detention of migrant children, including of children who are alone, and points to a widespread practice of detention in the EU Member States. The European Court of Human Rights has issued several [judgements](#) in this regard, confirming the unlawfulness of such practices in the EU countries. The EU Agency for Fundamental Rights (FRA) regularly collects [data](#) on children in migration and their vulnerability, particularly when they are unaccompanied, be it during their journey to the EU, upon their arrival and stay, or during their detention and return to their countries of origin.

A 2007 [European Parliament study](#) 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 to heightening the vulnerability of unaccompanied and separated migrant children:

The impact of the journey and experiences of the migrants prior to their confinement which are often physically and psychologically tiring, 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.

The [lack](#) of a procedure to determine the best interests of children (see below 'How to address vulnerability') 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.

How to address vulnerability

In their guidelines, [Unicef](#) and [UNHCR](#) state that immigration policies should never be enforced 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.

According to [Global Migration Policy Associates](#) (GMPA) and the [United Nations Development Programme](#) (UNDP), vulnerabilities [need to be addressed by](#):

- reinforcing law, policy and practical measures, to:
 - prevent violence against children with a particular focus also on the specific violence directed at girls;
 - combat human trafficking (while protecting victims);
 - ensure explicit coverage of all migrant girls in such law and measures.

- strengthening programmes and practices preventing SBGV violence in public and private spheres, including sexual abuse, harassment and exploitation;
- establishing 'child sensitive' migration policies, refugee determination, migrant reception, treatment of unaccompanied children, counter-trafficking and smuggling;
- ending detention of migrant children (except in *bona fide* situations of criminal acts/behaviour);
- receiving states, which need to comply with the specific UN treaty body (committee of independent experts that monitor implementation of core international human rights treaties) and the special rapporteur's recommendations to end the immigration detention of children; and by
- opening up more regular migration channels, particularly in relation to family reunification, which would go a long way towards protecting these children.

The vulnerable situation in which unaccompanied and separated children can find themselves due to the serious challenges they have faced during their journey and to [immigration-related detention](#), calls for greater awareness on behalf of authorities and for more gender-sensitive policies as well as specialised care in the centres themselves.³

Court rulings in multiple countries have made it clear that immigration-related detention is not appropriate for children, including as a deterrence mechanism. [Human rights organisations](#), in accordance with [international law](#), emphasise that children should not, in principle, be detained at all.⁴ The UNHCR calls for all [child-appropriate alternatives to detention](#) – such as release to other family or to relatives with a residence in the country of asylum, but also foster care, supervised independent living, or residential homes – to be considered.⁵ A joint report by 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 the UNHCR, a [BIA must take place prior to a decision](#) to detain a child, and it 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 that 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'. In 2012, the UNHCR issued guidelines on detention to ensure the best interest of children.

Situation in Europe and in the EU

In 2019, the Council of Europe issued a [recommendation](#) on effective guardianship for unaccompanied and separated children in the context of migration to ensure that unaccompanied and separated children are effectively provided with guardianship, promptly after being identified as unaccompanied, so that their rights and best interests are adequately safeguarded and duly considered in all processes and decisions concerning them.

Unicef also lists five promising [practices](#) in Europe, which should promote further promising practices across the continent and inform future EU policy-making and implementation in order to achieve tangible and lasting improvements to the lives of refugee and migrant children. It has also issued [recommendations](#) to strengthen policies and practices for unaccompanied and separated children in Europe and to ensure that they are protected.

[Eurochild](#), [Save the Children](#) and [Terre des Hommes International Federation](#) have co-produced a [position paper](#) on promoting and protecting the rights of children in migration through the 2021- 2027 [multiannual financial framework](#). They recommend, in part, that the rights of all children in migration be protected, regardless of their parents' or family members' migration or residency status, and at all stages of migration. Moreover, the best interests of the child need to be a primary consideration in all actions and decisions concerning children at all times, and the response to the specific vulnerabilities and needs of children in migration needs to be child-, age- and gender sensitive.

Figure 3: Asylum applicants considered to be unaccompanied children (EU-28 countries)



Source: [Eurostat](#).

The European Union framework

The European Union 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 of the EU](#) (Article 24). Though the EU is not itself party to the CRC, the CRC plays a crucial role in guiding [EU action on children's rights](#). Member States have primary responsibility for child-protection systems, but the EU also supports national action.

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 its values throughout the world, as outlined in its [action plan on human rights and democracy 2020-2024](#), which states that the EU's aim is to: 'Curb inequalities by promoting non-discriminatory access to social services, including quality and affordable healthcare and education (also online), and build practitioners' capacity to respond to the specific needs of women, men, LGBTI persons, children, persons with disabilities, migrants, refugees and people in vulnerable situations'.

The EU is also [taking steps](#) to ensure that children are heard, with a particular focus on the justice system, through child-friendly justice initiatives. These have included [Directive \(EU\) 2016/800 on special safeguards for children suspected or accused in criminal proceedings](#) and [EU-wide research](#) by the EU Fundamental Rights Agency (FRA) on how measures are working in practice.

Common EU asylum system

Existing EU policies and legal instruments provide the framework for the protection of children in migration, which includes aspects such as the conditions for their reception, the treatment of their applications and their integration. In that context, the action plan on unaccompanied minors ([2010-2014](#)) helped to build awareness of the specific needs of unaccompanied children in migration and promoted targeted action. The 2013 recast [Asylum Procedures Directive](#) provides for special procedural guarantees, including the obligation for Member States to take measures to ensure that a specially appointed person represents and assists the unaccompanied child in asylum proceedings, with a view to ensuring the best interests of the child and to exercising a legal capacity for him/her, where necessary.

The [Qualification Directive](#), adopted in December 2011, reinforces the provision on the tracing of family members of children 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 child, 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 [Reception Conditions Directive](#) provides for a dignified standard of living for all applicants, offering them access to basic healthcare and education and proper housing, and stipulates that unaccompanied children must be provided with accommodation suitable for their age, by taking into account gender and other specific reception needs. Unaccompanied children must furthermore 'be detained only in exceptional circumstances. All efforts shall be made to release the detained unaccompanied minor as soon as possible' (Article 11(3)).

In principle, the [Dublin Regulation](#) prioritises family reunification for unaccompanied children. The regulation, which establishes the criteria and mechanisms for determining the Member State responsible for examining an application for international protection, mandates that 'respect for family life' and unaccompanied child's "best interests" must be 'a primary consideration' when applying the regulation (Recitals 13 and 14). Accordingly, if an unaccompanied child applies for asylum in one Member State, his or her application must be examined in the Member State where a parent, responsible adult, sibling, or relative who can take care of the child is legally present, provided this is in his or her 'best interests' (Article 8(1) and (2)). For the Member State where the unaccompanied child lodged an application for international protection, this entails an obligation to take appropriate action without delay to identify the family members, siblings or relatives of the unaccompanied child on the territory of the remaining Member States, while protecting the best interests of the child.

The [European Agenda on migration](#), as well as the subsequent communications on progress with its implementation, have also touched upon the issue of the protection of children in migration. Nevertheless, the increase in the number of migrants and asylum-seekers arriving, including children, has put Member States under pressure and highlighted some of the shortcomings of the existing framework. For instance, in 2016 the Commission organised the [10th Annual Forum](#) on the protection of children in migration, which underlined the need for specific, targeted action. Against this background, in 2017 the Commission issued a [communication](#) on the protection of children in migration, in which it defined a set of [key actions](#), addressing issues such as protecting children along the migratory routes, identifying and protecting children, and providing adequate reception conditions in the EU. The communication furthermore acknowledged that 'there is a wealth of knowledge and good practice in the Member States on the protection of children in migration'. This inspired the creation of an [online database](#), which facilitates the collection and sharing of good practices among the Member States.

Unaccompanied migrant children in Greece

In response to increased migratory pressure in Greece along the EU's external border with Turkey and following the Greek government's request for support under the [emergency response mechanism](#), the European Commission proposed, based on Article 78(3) TFEU, a new voluntary [relocation initiative](#) under which [unaccompanied children from the Greek islands](#) would be relocated to other EU Member States.

The UNHCR issues [regular reports](#) on the situation of refugees and asylum-seekers on Greek islands. As at 3 March 2021, 2 968 refugees and vulnerable asylum-seekers, including 634 unaccompanied children, had been relocated from Greece.

A FRA [paper](#) provides guidelines for the relocation of unaccompanied children from Greece. These guidelines were followed by a [full report](#) on the topic, published in May 2020, which explored the challenges and good practices gathered in the implementation of relocation programmes, based on information the FRA had collected in 10 EU Member States.

The [pact on migration and asylum](#), announced as a priority in the Commission's 2020 [work programme](#), should further reinforce the protection of unaccompanied children and address the identified gaps in this regard. The [proposal on asylum and migration management, submitted in](#)

[September 2020](#), seeks, among other things, to introduce a solidarity mechanism for the redistribution of asylum-seekers among the EU Member States, reinforce the guarantees for unaccompanied children and expand the definition of 'family members'.

European Parliament's position

The **European Parliament (EP)** does not have a specific committee on children's rights, but it has a cross-party [Child Rights Intergroup](#). The EP has called for action against [child poverty in a resolution of November 2015](#), against [online child sexual abuse](#) (March 2015) and against migration [detention](#) for children. Parliament has also stressed the need to [protect](#) all child migrants and refugees (April 2016), and specifically [girls](#) (March 2016) on issues that affect them.

The EP, in a 2008 resolution on '[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 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's 27 November 2014 [resolution](#) on the 25th anniversary of the UN Convention on the Rights of the Child 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 the multiple forms of discrimination due to widespread prejudices, to which they are exposed. It also stressed the need to [protect](#) all child migrants and refugees. In May 2018, Parliament adopted a [resolution](#) on the protection of children in migration. It underlined that all children, irrespective of their migration or refugee status, are first and foremost entitled to all the rights enshrined in the UN Convention on the Rights of the Child. Members urged the Commission to assist Member States in adopting and properly implementing a holistic rights-based approach in all child-related policies. Parliament also stressed that the creation of new safe and legal routes would enable the EU and its Member States to better address protection needs, particularly for children, and to undermine the business model of smugglers. Moreover, Members underlined the importance of establishing a robust identification and registration system based on the best interests of the child, in order to ensure that children enter and stay in national protection systems, with a child-focused approach throughout the entire procedure.

Outlook

The world appears to be facing [an increasing number](#) of children in migratory situations. While the coronavirus pandemic initially [curtailed arrivals in 2020](#), refugees and migrants [continue to arrive](#) in Europe, and so do unaccompanied and separated children, who remain vulnerable to abuse, gender-based violence and exploitation in the countries of arrival, transit and destination. Receiving states need to mainstream the child's rights-based approach to migration into their 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 EU 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 The [UN Committee on the Rights of the Child](#) is a body of 18 independent experts that monitors the implementation of the UN Convention on the Rights of the Child.
- ² 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.
- ³ UNHCR [Resolution 1991/42](#), as clarified by UNHCR [Resolution 1997/50](#). International instruments accepted by the states concerned.
- ⁴ 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'.
- ⁵ 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.

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