

ENOC

European Network of Ombudspersons for Children

SAFETY AND FUNDAMENTAL RIGHTS AT STAKE FOR CHILDREN ON THE MOVE

*CALL FOR THE EU AND EUROPEAN COUNTRIES TO IMPLEMENT
A CHILD RIGHTS PERSPECTIVE IN THE RECEPTION OF
MIGRATING CHILDREN*

**ENOC Taskforce Children on the move
2016**

This research was commissioned by the ENOC Taskforce Children on the Move on behalf of the European Network of Ombudspersons for Children (ENOC).

Taskforce members: The Netherlands (chair), Sweden, Flanders, Wallonia, Croatia, England, Greece, Italy, Malta, Poland, Catalonia.

The study was conducted by

Marc Dullaert, The Netherlands' Ombudsman for Children, ENOC Chair.
Fredrik Malmberg, Ombudsman for Children in Sweden.

Authors:

Karin Fagerholm, Sweden.

Rhea Verheul, The Netherlands.

Amsterdam/Stockholm, 2016.



TABLE OF CONTENTS

SUMMARY	1
INTRODUCTION	4
1. ONE THIRD OF THE ASYLUM SEEKERS IN EUROPE ARE CHILDREN	7
1.1 REFUGEES IN THE WORLD	7
1.2 OFFICIAL DATA FROM EUROSTAT ON EU MEMBER STATES	7
1.3 INFORMATION FROM OTHER SOURCES	9
2. THE SITUATION FOR CHILDREN ON THE MOVE	11
2.1 SAFETY RISKS FOR CHILDREN TRAVELLING TO AND THROUGH EUROPE	12
2.2 SAFETY RISKS, CONCERNS AND ACCESS TO RIGHTS IN DESTINATION COUNTRIES	16
2.3 EUROPE'S FAILURE TO PROTECT AND ASSIST CHILDREN ON THE MOVE	25
3. THE EUROPEAN FRAMEWORK AND EUROPEAN RESPONSE	27
3.1 THE EU ASYLUM AND MIGRATION POLICIES	28
3.2. THE EUROPEAN RESPONSE TO THE INCREASED MIGRATION FLOWS	30
3.3 ACTIONS BY EUROPEAN GOVERNMENTS – A RACE TO THE BOTTOM	33
4. CONCLUSIONS AND RECOMMENDATIONS	36
4.1 CONCLUSIONS	36
4.2 A CALL FOR ACTION	37
4.3 RECOMMENDATIONS	38
REFERENCES	42
APPENDIX 1. REPORTING FORM TASKFORCE CHILDREN ON THE MOVE	46
APPENDIX 2. LEGAL FRAMEWORK: MIGRATION, INTERNATIONAL PROTECTION AND CHILDREN'S RIGHTS	51
APPENDIX 3. SUMMARY OF THE EUROPEAN RESPONSE TO THE REFUGEE SITUATION	62

SUMMARY

According to UNHCR, more than 60 million people worldwide are refugees. Half of them are children. These children are a particularly vulnerable group and at risk of violence, abuse, exploitation, trauma and even death. They are in need of specific protection measures, something all European countries have agreed to by ratifying the UN Convention on the Rights of the Child (UNCRC).

During 2015, the number of children coming to Europe to seek international protection increased massively – in 2014, 144,550 children applied for asylum in EU member states, while in 2015 – although there are still major gaps in the information provided by Eurostat – at least 337,000 children were registered as asylum seekers, which amounts to 29% of all asylum seekers. The most significant increase started in June 2015, when refugees changed their main irregular route to Europe from between Northern Africa and Italy to a route from Turkey to Greece. According to UNHCR, in June 16% of all migrants crossing the Mediterranean were children, while by December the number of children arriving by this route was 35%.

Children on the move face many safety risks and concerns and when Europe is not proving able to handle the influx of migrants from a child rights perspective, these risks become even more severe. The European Ombudspersons for Children (ENOC) therefore decided to develop this report, to establish an overview of the current safety risks for children on the move in Europe and of the degree to which they have access to their rights, both while travelling to and through Europe and upon arrival in their country of destination.

Due to the lack of legal opportunities to enter the EU to apply for asylum, almost all children use irregular routes, facilitated by smugglers, to reach Europe. Some arrive via different land routes from Eastern European states to neighbouring EU member states, but most cross the Mediterranean on small boats, mainly from Turkey to Greece, but also from Northern Africa to Italy.

The sea journey is dangerous for children – about 30% of migrants drowning are children. During the winter, children arrive wet and cold, and many are at risk of hypothermia, causing different illnesses, including pneumonia. Volunteers working at the shores in Greece are now reporting children dying of hypothermia upon arrival. Babies and small children are particularly vulnerable.

On the route through Europe children face several risks – some children are separated from their parents during the journey, mainly at chaotic border controls, some children are at risk of sexual abuse and violence at the different transit centres. The transit and reception centres on the Western Balkans route are of a poor standard, lacking basic sanitation facilities and are not properly winterized. Unaccompanied children are particularly vulnerable and face an increased risk of becoming victims of trafficking and sexual exploitation. Many unaccompanied children do not want to disclose to the authorities that they are children, due to fear of being put in locked child protection

facilities, unable to continue their journey to northern Europe. Many children, both unaccompanied children and children travelling with their families, are being extorted by smugglers, including threats against family members still in the country of origin or in refugee camps. Due to Western Balkans countries closing their borders for other nationalities than Syrians, Afghans and Iraqis, children are now being left stranded in Greece, trying to find alternative routes to get to northern Europe.

Unfortunately, the risks for children on the move do not stop when they reach the country of destination. Some states do not have a system for legal guardianship for unaccompanied children, leaving these children without secure adult protection. In other countries the appointment of a legal guardian takes too long. There are reports from various countries of violent actions by locals targeting refugee children, but also of violence between child refugees. The low proportion of girls arriving makes them a particularly vulnerable group. Many countries also report on children going missing from the reception centres, becoming at risk of being victims of trafficking or exploitation. Many countries allow children to be placed in detention, sometimes for several months, in facilities that are rarely designed to be child-friendly.

Another concern for children in destination countries is the housing situation, which has deteriorated in many states due to the increase of refugees in 2015. Upon arrival, children are placed in emergency shelters, designed to accommodate refugee children for just a few days. However, in most countries children stay in these facilities for weeks or even months, without the possibility of receiving education, having any form of privacy or taking part in leisure activities. Almost all states fulfil basic needs like proper food and clothing. While access to physical health care appears to be covered, children are less likely to receive psychological care should they need it.

The right to information and the right to be heard are not sufficiently protected. These rights are important for the fulfilment of practically every other right children on the move should enjoy. A child that is left in the dark about what will happen to him or her next will not be able to prosper or make informed choices. Of equal importance is for adults around the child to listen to what he/she says and wants, which helps to prevent children from going missing from the system. Securing these rights is therefore vital for the protection of and assistance to children on the move.

An analysis of the European response to the increased influx of migrants reveals that Europe is failing to address these issues. While border control and other measures to restrict immigration are at the top of the agenda for both the EU as well as individual countries, actions to protect children are not taken. The EU Agenda for Migration, guiding the EU institutions and Member States in handling the influx, mentions only a single action regarding children, which is placed in a footnote. Also, from a child rights perspective, the actions taken by individual states are worrying, in particular the restrictions possibilities for family reunification that many states have announced.

Although the main legal instruments within the European asylum and migration system include references to the UNCRC and child-specific regulations, child rights, in particular

the best interest of the child, are not being implemented. Some children are also almost invisible in EU policies, including children arriving with their family, children not applying for asylum and stateless children.

To ensure children on the move and the risks they face are put on the European agenda and that specific actions targeting these children are taken to ensure their rights are respected, ENOC urgently calls on the European Commission to develop a **comprehensive EU action plan for all migrant children**.

The EU and all its member states should also ensure the following:

1. Prioritize children in the EU relocation scheme

It was decided in September 2015 that 160.000 people will be relocated to the different member states. As children are among the most vulnerable groups, they should be prioritized in this relocation scheme.

2. Make better use of legal opportunities to enter the EU

This includes, for example, increasing the possibilities for family reunification, increasing the resettlement quotas and issuing humanitarian visas.

3. A child rights perspective in humanitarian aid

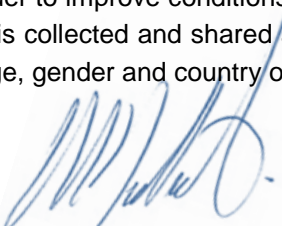
The conditions for financial assistance to third countries should include a child rights perspective, such as ensuring the right to education and having child protection systems in place. This applies in particular the aid provided by the EU to Turkey in accordance with the action plan agreed to on 15 October and 29 November 2015.

4. Set minimum standards for reception and transit centres

Reception and transit centres should be made winter-proof (winterized) without delay. Subsequently, the EU and the European Council should develop minimum standards for emergency reception and transit centres, and provide assistance to member states and non-EU countries to meet those standards. This includes provision of heating, warm water, warm clothing, food and practical and medical assistance by trained workers. Child-friendly spaces should be guaranteed as well as child safeguarding protocols. These standards should be a guiding principle for the Hotspots that will be set up in Italy and Greece.

5. Comprehensive data collection

In order to improve conditions for children on the move, it is essential that comprehensive data is collected and shared at the European level. Data should be disaggregated based on age, gender and country of origin, and unaccompanied children should be visualised.



Marc Dullaert,
ENOC Chair, the Netherlands'
Ombudsman for Children



Fredrik Malmberg,
Ombudsman for Children in Sweden

INTRODUCTION

Due to ongoing armed conflicts, civil war and repression in several countries in the Middle-East and Eastern Africa, the number of people seeking international protection in Europe has risen dramatically over the past years. Among them are many children. Refugee children, and children on the move in general, have always been at increased risk of violation of their rights. The increased number of refugees entering Europe has worsened their situation, as services in many countries are overstretched.

There is little doubt that the influx of asylum seekers into Europe will remain high over the coming year. Many Syrians realise that the war in Syria is not likely to end in the near future. Instability in Iraq and Afghanistan has only increased. Syrians who sought refuge in neighbouring countries are now travelling further, as they have too few opportunities to work, get education and build a new future for themselves. Afghani boys based in Iran are being sent to fight in Syria by the Iranian authorities.¹ The situation in many countries in East Africa and the Horn of Africa remains unstable as well.² Even though the majority of refugee children seek protection in other parts of their own country or third countries in the region, the number of immigrants in Europe will remain large compared to previous years.

As independent ombudspersons and commissioners for children, ENOC members aim to protect the fundamental rights of children in Europe. Children on the move are children first and foremost. Every European country has ratified the UN Convention on the Rights of the Child (UNCRC), and has thereby taken up the obligation to protect the rights of all children residing within its territory, independent of their nationality or legal status. The Convention sets out the basic rights for all children on a signatory state's territory, all of which are relevant to children on the move. The four general principles³ of the UNCRC should guide all actions and decisions regarding children. The UNCRC also has specific provisions related to this group of children: Article 22 ensures the rights of children seeking refugee status or that are considered to be a refugee; Article 10 sets out that State Parties shall consider requests for family reunification in a positive, humane and expeditious manner where a child is separated from his/her parent/s; Article 37 states that deprivation of a child's liberty shall only be used as a measure of last resort and for the shortest possible time.

With respect to unaccompanied and separated children, Articles 19 and 20 are also of particular relevance, ensuring that a child separated from his or her parents is given special assistance (Article 20) and, while in such care, is protected against violence and abuse (Article 19). Article 35, protecting children from trafficking, as well as Optional Protocol number 2 to the UNCRC on the sale of children, child prostitution and child pornography, are also highly relevant for children on the move. The Committee on the Rights of the Child published a General Comment on unaccompanied and separated

¹ Based on interviews with advisors from UNHCR.

² [UNHCR Subregional operations profile – East and Horn of Africa](#)

³ Article 2 – non-discrimination; Article 3 – best interest of the child; Article 6 – the child's right to survival and development; and Article 12 – the child's right to be heard

children⁴ describing how the rights of these children must be ensured by State Parties, including issues related to family reunification, age assessment and detention. Other General Comments of particular interest for children on the move are the General Comments on the right to be heard⁵ and the one on the assessment of the best interest of the child⁶.

As ENOC warned in 2013 in a public position statement, European countries fail to fulfil this obligation.⁷ Children on the move may experience violence, trafficking, trauma and death, and the vast majority do not have full access to their rights. The purposes of the statement included laying down recommendations for child-friendly reception, the training of personnel dealing with children, age assessment in the child's best interest, independent guardians for unaccompanied and separated children, and the need for alternatives for detention. Most importantly, it stressed that the best interests of children on the move should be treated as a primary consideration in all actions and decisions affecting them. In an accompanying statement, ENOC members appealed to the European and international community to help Syrian children in refugee camps in order to avoid a humanitarian catastrophe.⁸

Two years later, despite various efforts from governments and European and international institutions, the situation of these children remains critical. For that reason, ENOC formed the taskforce 'Children on the move' at its 19th General Assembly in The Hague in September 2015.⁹ This taskforce monitors the fulfilment of the rights of children on the move in Europe, acting on behalf of the 41 European ombudspersons and commissioners who are members of ENOC. It is comprised of ENOC members from the following countries or regions: The Netherlands (chair), Sweden, Flanders, Wallonia, Croatia, England, Greece, Italy, Malta, Poland and Catalonia. The taskforce commissioned research in order to identify the main safety risks and concerns about access to rights for children on the move. This report is the first product of this joint research. The focus of this report is on the situation for two groups of children who seek international protection in Europe: those who are still travelling to and through Europe and those who have recently arrived in their destination country. Many safety risks also apply to other groups of children on the move, such as poverty migrants and children who were granted or refused international protection. Incidentally, mention will be made of issues that apply specifically to these groups of children, although an in-depth analysis of their particular situation is beyond the scope of this report.

This report was prepared by the offices of the Ombudspersons of The Netherlands (chair) and Sweden. To identify the risks children are facing when travelling to and through Europe to seek international protection or escape poverty, we gathered information

4 General comment no. 6 – Treatment of Unaccompanied and Separated Children Outside Their Country of Origin (2005)

5 General comment no. 12 - The right of the child to be heard (2009).

6 General comment no. 14 - on the right of the child to have his or her best interests taken as a primary consideration (2013).

7 [ENOC position statement on "Children on the move"](#) 2013.

8 [ENOC Joint Statement on 'Urgent help required for Syrian children in refugee camps to avoid humanitarian catastrophe'](#), 2013.

9 [ENOC Statement on 'Children on the move'](#), 2015.

mainly by interviews with officials and advisors of institutions and organisations including the European Commission, other EU agencies, the Council of Europe, IOM, OHCHR, UNICEF, UNHCR, ICRC, Save the Children, SOS Children's Villages International and Terre des Hommes, as well as a member of the European Parliament. ENOC members have also visited transit centres in the Former Yugoslav Republic of Macedonia.

The members of the ENOC taskforce on children on the move and the ombudspersons of Latvia, Lithuania and Estonia conducted research on the situation of children in their countries or regions. The Netherlands' office provided a reporting form to facilitate uniform reporting. This form can be found in Appendix 1. The form contained questions on safety concerns and fulfilment of all essential children's rights, such as access to healthcare and education, the right to information and the right to be heard.

Outline of this report

The first chapter provides an overview of the main facts and figures concerning children on the move in Europe during 2014 and 2015. Chapter 2 lists the safety risks that children face while on the road and describes safety risks and the extent to which children have access to their rights in destination countries. In chapter 3, the response to the high influx of migrants by the European Union and European countries is described. Finally, chapter 4 lists the conclusions and recommendations for international and European institutions as well as countries within the Council of Europe.

1. ONE THIRD OF THE ASYLUM SEEKERS IN EUROPE ARE CHILDREN

Chapter Summary

- There is a lack of reliable data on the number of migrants entering the EU. A particular concern is the lack of reliable information on the number of unaccompanied children and disaggregated information on gender and age.
- In 2015, over 1 million refugees arrived in Europe across the Mediterranean, 25% of whom were children. 29% of registered asylum seekers are children, according to Eurostat.
- The number of children arriving by sea is growing – from one in ten in June 2015 to one in three by the end of the year. Organisations providing aid to refugees travelling through Europe reported an increased number of girls and children with disabilities.
- The number of unaccompanied children has increased dramatically – in 2014, 23,150 unaccompanied children applied for asylum in the EU. In 2015, in Sweden alone, more than 35,000 unaccompanied children applied for asylum.

1.1 Refugees in the world

According to UNHCR there were about 60 million refugees in the world at the end of 2014, 50% of whom were children. Most of the refugees, 38 million, are internally displaced people, seeking protection in another part of their home country. 20 million seek international protection, mostly in countries neighbouring their own. Developing countries are host to over 86% of the world's refugees. Turkey is the country hosting the greatest number of refugees, about 2 million, most of whom are Syrian refugees.¹⁰

In Syria, 13.5 million people are in need of humanitarian assistance and 6.5 million people are internally displaced. In November 2015, 4.3 million Syrians had been registered and were awaiting registration in neighbouring countries – Turkey (2.2 million), Lebanon (1 million), Jordan (630,000), Iraq (245,000) and Egypt & North Africa (128,000).¹¹

1.2 Official data from Eurostat on EU Member States

In Europe there is a huge lack of reliable data regarding the number of migrants (refugees and irregular migrants) entering Europe as a whole as well as the European Union. This is a particular concern regarding children, and specifically unaccompanied children¹². This was raised already in 2010 by the European Commission in its Action Plan on Unaccompanied Minors.¹³ Below is a compilation of the official data available.

Eurostat receives information from the Member States, but these are not always comprehensive and disaggregated on age, gender, country of origin etc. According to UNICEF and UNHCR, some countries do not register unaccompanied children as unaccompanied.¹⁴

¹⁰ Information from [UNHCR](#).

¹¹ [ECHO fact sheet Syria Crisis](#), November 2015 .

¹² [Acaps and Mapaction situation analysis – Transit Country Migrant Crisis](#) December 2015.

¹³ COM(2010)213 Final Action Plan on Unaccompanied Minors (2010 – 2014).

¹⁴ [IOM and UNICEF Data Brief: Migration of Children to Europe](#) 30 November 2015.

The number of children applying for asylum in the EU has increased very much in 2015 compared to 2014. In 2014 26% of the asylum seekers were below the age of 18, in 2015 this has increased to 29%¹⁵.

In 2015, 363,890 children applied for asylum in the EU, accounting for 29% of all asylum seekers.

According to Eurostat there were a total of 562,680 first time asylum applicants in 2014.¹⁶ Out of these, 144,550 were children¹⁷ (approx. 26% of all), 23,150 of whom were unaccompanied.¹⁸ In its third quarterly report for 2015, Eurostat states that the number of first time asylum applicants had increased with 150% compared with the third quarter of 2014 and almost doubled compared with the second quarter of 2015.¹⁹

In 2015, according to the data available in January 2016, 1,248,365 people had applied for asylum in the EU Member States, 363,890 of whom were children, i.e. 29% of all asylum seekers.²⁰

Table. 1 Asylum applicants July 2014 – December 2015²¹

	Jul.-Sep. 2014	Oct.-Dec. 2014	Jan.-Mar. 2015	Apr.-Jun. 2015	Jul.-Sep. 2015	Oct.-Dec. 2015
Total	181,360	203,235	208,975	233,410	440,125	365,855
Children	47,450	51,570	56,780	60,660	124,895	121,555

In the third quarter of 2015, asylum applicants to the EU Member States originated from 149 countries. The main countries of origin were Syria, Afghanistan and Iraq.²²

The main countries of destination in the third quarter were Germany, Hungary, Sweden, Italy and Austria – overall, these five countries received 75% of all first-time asylum applicants.²³ It is worth noting that according to Eurostat statistics for October and November, Hungary has decreased the number of first-time asylum applicants drastically – from 30,495 in September to 490 in October and 195 in November.²⁴ Sweden

¹⁵ On January 19, data was still lacking for several states for November and December, including for Sweden (December only) which receives the highest number of unaccompanied children in the EU.

¹⁶ [Table “Asylum and first time asylum applicants by citizenship, age and sex Annual aggregated data \(rounded\)”](#) (migr_asyappctza) “Asylum_ applicant”.

¹⁷ *Ibid.*

¹⁸ [Table “Asylum applicants considered to be unaccompanied minors by citizenship, age and sex Annual data \(rounded\)”](#) (migr_asyunaa).

¹⁹ [Eurostat Asylum Quarterly Report](#) 2015, viewed on 20 December 2015.

²⁰ [Table “Asylum and first time asylum applicants by citizenship, age and sex Monthly data \(rounded\)”](#) first time applicants, numbers checked on 19 January 2016- for December major countries of destination such as Austria, the Netherlands and Sweden are not included, as well as many other states. Several states are also missing in the information for November.

²¹ [Table “Asylum and first time asylum applicants by citizenship, age and sex Annual aggregated data \(rounded\)”](#) (migr_asyappctza) “Asylum_ applicant”.

²² [Eurostat Asylum Quarterly Report](#) 2015 viewed on 20 December 2015.

²³ *Ibid.*

²⁴ [Table “Asylum and new asylum applicants - monthly data \(tps00189\)”](#), viewed on 20 December 2015.

introduced mandatory ID checks on public transportation to Sweden on 4 January 2016²⁵, which has led to a decrease in the flow of asylum seekers: in the week before ID checks were introduced (28 December 2015 – 3 January 2016) 2,081 people applied for asylum.²⁶ Between 4 and 10 January 1,094 people applied²⁷, and 930 people applied between 11 and 17 January.²⁸

The information in Eurostat's official online database presents a number of problems:

- The data only includes children who have applied for asylum – other children are invisible in this system
- Eurostat only presents an annual figure for the number of unaccompanied children (even though several Member States have this information on at least a monthly basis) - some states do not register children as unaccompanied (see below) which leads to a concern that these data could be unreliable
- The number of children is divided into two groups – under 14 and between 14 and 17 years of age – making it difficult to easily assess how many children have applied for asylum in EU 28+.
- States are lagging behind in reporting on their data to Eurostat and/or Eurostat is lagging behind in adding the data into the tables. On 19 January 2016, there were data on the number of asylum applicants in December for no more than three EU states and one non-EU state, although the numbers in, for instance, Sweden were available there on 1 January 2016. For several states data was also missing for November.²⁹

1.3 Information from other sources

Organisations such as UNHCR, UNICEF and IOM collect data both from the governments and from their observations on the route through Europe.

According to estimates from UNHCR 1,014,836 people arrived in Europe by sea in 2015, 25% of whom were children. Of this number, 851,319 arrived in Greece, 153,600 in Italy, 3,592 in Spain and 105 in Malta. The numbers of children arriving in different countries vary considerably: in Greece, about 28% were children, while the ratio for Italy was 11%. The main countries of origin for people arriving by sea are Syria, Afghanistan, Iraq and Eritrea.³⁰

*UNHCR estimates that in 2015, 851,319 people arrived by sea in Greece.
28% were children.*

²⁵ Information from the [Swedish government](#).

²⁶ Information from [the Swedish Migration Agency](#).

²⁷ Information from [the Swedish Migration Agency](#).

²⁸ Information from [the Swedish Migration Agency](#).

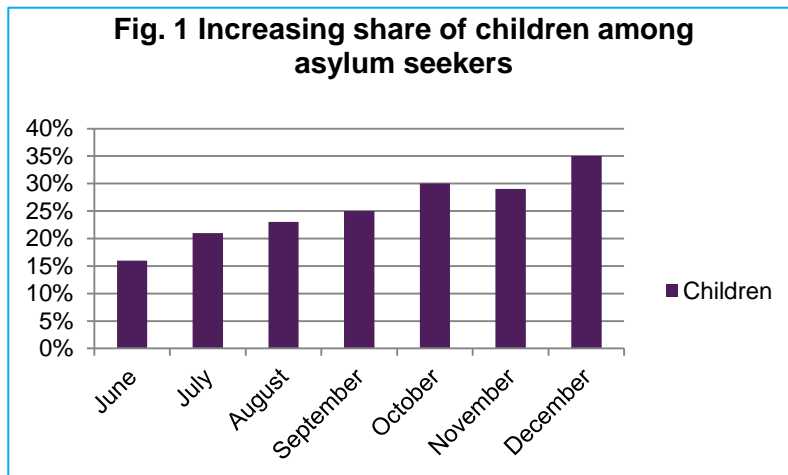
²⁹ [Table "Asylum and new asylum applicants - monthly data \(tps00189\)"](#), viewed on 19 January 2016.

³⁰ [UNHCR Dashboard Refugees/Migrants Emergency Response – Mediterranean](#) viewed on 7 January 2016.

According to IOM and UNICEF³¹ the following statistics are available regarding unaccompanied children for 2015:

- Sweden is the country receiving the highest number of unaccompanied children – according to the Swedish Migration Agency 35,369 unaccompanied children had applied for asylum by the end of 2015.³²
- In Norway, 3,800 unaccompanied children had applied for asylum up to and including October.
- Italy registered 10,820 unaccompanied children arriving by sea.
- The Former Yugoslav Republic of Macedonia registered 15,000 unaccompanied children crossing the border from Greece between mid-June and late November.
- It is difficult to get accurate numbers of unaccompanied children or children separated from their parents since the formal registration procedures in some countries do not allow for their identification.

According to UNICEF, more children are now entering Europe as migrants. In Serbia, 35% of the migrants passing through are children, compared to 27% in September. In the Former Yugoslav Republic of Macedonia, this ratio has increased from 23% in September to 37% in December.³³



Source: UNHCR³⁴

According to UNHCR and UNICEF³⁵ they can see, based on their observations on the routes, certain trends that the number of unaccompanied girls is rising. UNICEF also reports on more children with disabilities. The only trend that is certain is that the number of children has increased.³⁶

31 [IOM and UNICEF Data Brief: Migration of Children to Europe](#) 30 November 2015.

32 Information provided by [the Swedish Migration Agency](#).

33 UNICEF Regional Humanitarian Situation Report #7 11 January 2016: Refugee and migrant crisis in Europe.

34 Men Women and Children - trends of arrivals to Greece June - 16 Jan 2016, available on [UNHCR dashboard](#)

35 Information provided in interview for this study by advisers at UNICEF and UNHCR

36 Based on interviews in Geneva on 14-15 December 2015 with advisers from UNICEF, UNHCR; Save the Children, OHCHR, Terre des Homme, IOM and ICRC.

2. THE SITUATION FOR CHILDREN ON THE MOVE

Chapter summary

- Children on the move face major safety risks on their journey to and through Europe.
- These risks include illness and even death, trafficking, separation from parents, extortion by smugglers and exploitation and abuse.
- European countries and institutions are clearly failing to protect children on the move during their journey.
- Although living conditions are fair to good in regular asylum centres, there are concerns about conditions in reception and transit centres along the route and emergency centres in destination countries.
- In destination countries, the lack of legal guardianship and the fact that children go missing from the system are profound problems.
- The majority of children have access to healthcare and education, but in many countries, newly arrived children remain deprived of these rights.
- Some states put migrating children in detention for weeks or months in poor facilities, in clear violation of the UNCRC

This chapter explores the risks children on the move face when travelling to and through Europe, as well as in the country of destination.

The possibilities of entering the EU legally for migrants, including children, are limited due to the visa requirements³⁷ and the sanctions for carriers³⁸ established within the Schengen Agreement.³⁹

The main possibility for children from a third country to legally enter the EU is through family reunification. The EU directive on family reunification makes it possible for non-EU nationals, including refugees, to reunite with family members residing in EU Member States.⁴⁰ Until now, family reunification has been the main legal route to the EU for children – 208,515 children were given residency permits on this ground⁴¹. In an attempt to stem the influx of refugees many states have now declared that they will restrict the possibilities of family reunification (see chapter 3 on the EU's response for more information), something that will infringe the right of the child to be with his/her parents and most likely will force more children to take the dangerous irregular routes to enter the EU with the help of smugglers.

Another possibility for refugees to enter the EU legally is through resettlement, where displaced individuals in clear need of international protection, are transferred to a safe

37 Council Regulation (EC) No 539/2001 of 15 March 2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement.

38 Council Directive 2001/51/EC of 28 June 2001 supplementing the provisions of Article 26 of the Convention implementing the Schengen Agreement of 14 June 1985.

39 [Information from DG Migration and Home Affairs.](#)

40 Council Directive 2003/86/EC on the right to family reunification.

41 [Table First permits issued for family reasons by reason, length of validity and citizenship \(migr_resfam\)](#) viewed on 20 December 2015.

country on submission of UNHCR. In 2014, 3,030 children were given protection in one of 15 EU Member States through this possibility.⁴² The Council of European Union agreed on 20 July 2015 to a resettlement scheme, giving 20,000 refugees the possibility to protection in the EU Member States as well as Iceland, Norway and Liechtenstein.⁴³

Humanitarian visas are another legal entry channel, which has been used by 16 EU Member States and most often on an exceptional basis.⁴⁴

2.1 Safety risks for children travelling to and through Europe

Due to the limited possibilities to enter the EU, children seeking international protection make use of irregular routes, which subjects them to a number of safety risks. Most children enter Europe by boat from Turkey to Greece. They then continue their journey to the northern European states through the Western Balkans route⁴⁵, re-entering the EU in Croatia or Hungary, and via Austria to Germany⁴⁶. Most of those who continue take the boat to Sweden or travel by train or bus through Denmark to Sweden.⁴⁷

The main focus of this research is on safety issues within European territory, as covered by ENOC members. Many of these risks also concern children who are still in third countries. All children are vulnerable, but some groups are of particular concern. UNICEF has, through its operations in the field along the route through Europe, identified five groups of children at increased risk:⁴⁸

- Babies and small children.
- Children with disabilities and special needs.
- Lost children.
- Stranded children.
- Unaccompanied adolescents on the move.

Illness and death

The main risk for children travelling to Europe to seek international protection is the dangerous journey across the Mediterranean. UNHCR estimates that in 2015 3,771 people died or went missing during a sea crossing to Europe.⁴⁹ According to IOM, more than 30% of all deaths in the Aegean Sea were children.⁵⁰

There are reports of babies dying of hypothermia after landing.

The journey across the sea in ill-equipped boats is detrimental to children's health. Many migrants arriving are wet and cold, some children are suffering from hypothermia and are

42 [Resettled persons by age, sex and citizenship Annual data \(rounded\) \(migr_asyresa\)](#), viewed on 20 December 2015.

43 Council of the European Union 11130/15 Conclusions of the Representatives of the Governments of the Member States meeting within the Council on resettling through multilateral and national schemes 20 000 persons in clear need of international protection.

44 European Parliament Study for the LIBE Committee Humanitarian visas: option or obligation? 2014.

45 Greece-the Former Yugoslav Republic of Macedonia-Serbia-Croatia (Hungary)-Slovenia-Austria.

46 [UNHCR Dashboard Refugees/Migrants Emergency Response – Mediterranean](#).

47 Information from [the Swedish Migration Agency](#).

48 [IOM and UNICEF Data Brief: Migration of Children to Europe](#) 30 November 2015.

49 <http://data.unhcr.org/mediterranean/regional.php> viewed on 7 January 2016

50 IOM and UNICEF Data Brief: Migration of Children to Europe, 30 November 2015

at risk of developing pneumonia, and there are reports of babies dying of hypothermia after landing. Many organisations have reported on the lack of coordination and immediate support at the shores in Greece.⁵¹ Most reception centres are usually situated inland, at a considerable distance from the shore where migrants enter Greece. For example, in Lesbos migrants have to walk 70 km to the reception centre, although a number of NGOs provide transport for at least children and families⁵².

In Lesbos, migrants have to walk 70 km from the beach to the reception centre.

Another issue that has been highlighted by various organisations is the fact that conditions are even harsher now that it is winter. Many organisations⁵³ highlight the winter period as a major concern for children on the move. The cold seawater increases the risk of hypothermia. It is more difficult to get warm and dry once out of the water. Many refugees do not have adequate clothing for the weather conditions they are travelling in and routes are becoming muddy and wet. All of these factors increase the risk of serious disease among refugees, especially for babies and small children. The situation of children travelling through Europe is even more problematic because transit centres are not adequately equipped for the winter season. The UNCHR informed us in mid-December that, depending on the country, only 22% to 45% of available accommodation had been “winterized”⁵⁴.

In mid-December 2015, only 22% to 45% of the transit centres in Europe had been “winterized”.

Poor accommodation in reception and transit centres

In addition to the problems with winterization mentioned above, there are several other problems in reception and transit centres⁵⁵:

- Reception and transit centres are often of a poor standard, lacking basic sanitation facilities like hot water and proper toilets.
- Children do not receive sufficient healthcare.
- Children may have to stay in these centres for a long time, lacking basic protection (such as access to social services) and rights (such as access to education and access to a guardian for unaccompanied children).
- For children in families, the centres often lack a child-friendly space and/or play area.
- Some of the centres for unaccompanied children are locked facilities to prevent children from leaving.

⁵¹ Interviews with Save the Children, UNHCR, OHCHR, ICRC

⁵² Interviews with Save the Children.

⁵³ [Unicef Unicef Serbia Save the Children](#) and [Save the Children Acaps & MapAction](#), as well as information from interviews with advisors from Terre des Hommes, SOS Children’s Villages International and UNHCR.

⁵⁴ On December 18, 2015, 45% of available accommodation in Serbia had been winterized, while in FYRoM and Slovenia, respectively, 30% and 36% of available winter accommodation had been winterised. In Croatia, winterisation activities reached 22%.

⁵⁵ Information provided by Save the Children, UNHCR and OHCHR, Greece’s Ombudsman for Children, SOS Children’s Villages International.

Separation from family

Along the route, there have been numerous instances of children being separated from their parents, some as early on in their journey as Turkey, some on their journey through Europe. Many of the separations have occurred in chaotic situations at or just across borders:

- When people enter a boat to Greece, smugglers do not think about keeping families together but push as many people as possible into a boat and sail off the minute it is full, sometimes leaving a parent or a child behind⁵⁶.
- When people are crossing borders there have been several chaotic situations where children and parents have become separated. The fear that the border might close soon, as was the case with the Hungarian border in mid-September, may push families to travel at a pace that children cannot keep up with.⁵⁷ It has happened at such occasions that the parents made the choice to cross the border without the child, hoping that their child would be reunited with them when arriving at the border⁵⁸.
- At some borders, authorities or NGOs are providing transport to a registration centre or the next border, and in those instances there have been incidental cases of family separation⁵⁹:
 - There have been cases of families being split up as they were waiting in line to board buses.
 - In some cases, transportation was only provided for women, girls and younger boys, leaving fathers and older boys to walk to the next border.
 - Different buses have been provided for women and children (for boys up to a certain age) and for men and older boys, sometimes arriving at different border crossings.

The ICRC is working on restoring family links throughout Europe. They have set up a specific website called Trace the Face⁶⁰, where parents or children can, with the assistance of volunteers from the Red Cross, submit a notification of a missing person. This can be done right at the border crossings with the use of tablets. According to ICRC the number of separations has decreased in the later part of the autumn.

Trafficking

Many different actors have highlighted trafficking over the past years as a significant risk for children in general and unaccompanied children in particular while travelling through Europe. Trafficking can occur for various exploitative reasons, but sexual exploitation is the most common form of trafficking in Europe. Girls are also particularly vulnerable to falling victim to traffickers, which is one of the reasons why there are fewer girls than boys entering Europe unaccompanied.

According to several sources there has been an increase in trafficking following the mass influx of migrants into Europe over the summer and autumn of 2015.⁶¹ Some sources⁶²

⁵⁶ Information provided in interviews with advisors from UNHCR and ICRC.

⁵⁷ Information from UNHCR, SOS Children's Villages International.

⁵⁸ Information from interviews with advisors at UNHCR.

⁵⁹ Information provided by advisors at UNHCR and ICRC.

⁶⁰ [Trace the Face](#).

⁶¹ Interviews with advisors at the European Commission, Save the Children, IOM, UNHCR and UNICEF.

talk about a sharp increase, although it is very difficult to estimate the total number of trafficking victims. Most cases are not reported, meaning police records do not reflect reality. Children arriving in Europe accompanied by family also fall prey to traffickers – sometimes the adults claiming guardianship of the child do not have a family link, but are in fact the trafficker. Sometimes children are being trafficked by an extended family member they are travelling with. Children who are separated from their family en route are at a greater risk of falling victims to traffickers.⁶³

Extortion by smugglers

Some children and families (as well as other migrants) are allowed to travel to and through Europe for free by the smugglers, on the understanding that they have to pay for the assistance upon arrival in their country of destination. To ensure that the migrants actually pay, smugglers often threaten to harm family members in their home country or refugee camps retributions, such as marrying a sister off to someone in the smuggler's network. This makes the child fearful, and also forces the child to do whatever it takes to be able to pay the smuggler, including prostitution, stealing and begging.⁶⁴

Sexual exploitation and sexual abuse

Apart from the risk of trafficking, children travelling through Europe are also at risk of becoming victims of sexual exploitation and sexual abuse. Some children need money to continue their journey through Europe, and one way is to resort to prostitution. Children could also fall victim to other people exploiting them for sexual purposes. Some children are also sexually abused on the journey through Europe, for example in camps and transit facilities where children and adults are in the same facilities and even sleep in the same rooms.⁶⁵

Children stranded in Greece

Several organisations have highlighted the fact that children, as well as other migrants, have been stranded in Greece in the last months of 2015, living in parks in Athens. For some, this is due to a lack of funds to continue their journey, and they stay in Athens trying to find ways of earning money to continue. These children are at great risk of falling victim to trafficking, different forms of exploitation, not least sexual exploitation, begging, stealing, drug dealing, etc.⁶⁶

Other children are stranded due to their nationality – the Former Yugoslav Republic of Macedonia has closed its borders to anyone who is not from Syria, Afghanistan and Iraq, leaving all other nationalities who want to continue through Europe stranded in Greece.⁶⁷ This might lead to children seeking new, risky ways to continue their journey.

62 Information provided by an official within the European Commission anti-trafficking unit, receiving information from several organisations.

63 Information provided by an official within the European Commission anti-trafficking unit.

64 Information from interviews with advisors at IOM and UNHCR.

65 Information from interviews with advisors at UNHCR and UNICEF.

66 Information from interviews with advisors at UNHCR and UNICEF.

67 UNICEF Refugee and migrant crisis in Europe Regional Humanitarian Situation Report # 4, 24 November 2015.

Rejection or avoidance of protection

Child protection has become a challenge for the different organisations working in the area of migration, as well as for governments, due to the uncommon nature of the migrant flow. Migrants currently arriving in Europe do not want the kind of assistance the organisations are used to from their work in conflict-hit areas in other parts of the world. Migrants coming to Europe have a clear goal with regard to their country of destination.⁶⁸ They are very eager to keep on moving on their route to the country of destination and there are stories of women giving birth and continuing just an hour later and of individuals bleeding but refusing medical assistance.⁶⁹

There are reports of children burning or scratching their fingertips in order to make it difficult for the authorities to take their fingerprints and be registered in EURODAC.

As far as children, and in particular unaccompanied children, are concerned many do not want to disclose that they are children when entering Europe in Greece or Italy. If they do, many are taken by the national authorities, placed in child protection systems (sometimes in locked facilities) and could be forced to participate in family reunification schemes. They pretend to be adults to be able to travel on. Only after they reach their country of destination, they will reveal their real age.⁷⁰ There are also some anecdotal reports of children burning or scratching their fingertips in order to make it difficult for the authorities to take their fingerprints and be registered in EURODAC⁷¹.

This unprecedented behaviour from refugees poses new challenges for governments, authorities and organisations wishing to provide protection and assistance to children and families. The fact that children are not registered and go missing from the systems makes it difficult to protect them and keep track of their whereabouts. What is the best interest for a child who wishes to continue his/her journey instead of being enrolled in a child protection system, which might include being placed in a locked facility? Is it to force the child into the system, with the risk of detention and/or dangerous attempts to escape, or is it to let the child continue his/her journey with the risk of falling victim to smugglers, traffickers or exploitation? And how can local aid workers convince parents to take a break for a night or two on their journey in order to let their children rest and maybe receive much needed medical attention?

2.2 Safety risks, concerns and access to rights in destination countries

Once children have arrived in their country of destination, depending on their background, reasons for migration and the procedures in that particular country, a long journey may still await them. When residing in a destination country, whether children are granted international protection or not, it is crucial that they have full access to their rights. As a bare minimum, children need to have a roof over their heads, be safe, well-nourished and

⁶⁸ Information from interviews with advisors UNHCR, UNICEF, Save the Children.

⁶⁹ Information from interviews with advisors at UNHCR.

⁷⁰ Information from interviews with advisors at UNHCR, UNICEF, Save the Children.

⁷¹ Information provided by Anna Maria Corazza Bildt, member of the European Parliament, as well as by participants at a meeting at the Fundamental Rights Agency in December 2015.

receive appropriate clothing. Unaccompanied children must have a legal guardian appointed to them. It is also essential that children are not placed in migration detention and that dragged-out disputes in case of the slightest doubt about a child's age are avoided, as this is known to be detrimental to a child's wellbeing and development. Importantly, Europe cannot be satisfied with simply meeting these minimum standards. In order to prosper and develop, children need a child-friendly environment, opportunities for play and leisure, education, accessible and high-quality health services and the possibility to influence their own daily lives. A stable and welcoming environment is all the more important for children who have endured so much. The ombudspersons that participated in this research provided information on the extent to which the rights of children seeking international protection in their countries are secured.

Safety risks

Although most ombudspersons consider the overall safety of children in their destination countries to be fair or even good, there are some severe risks. Like unaccompanied children who are still travelling through Europe, these children are vulnerable to trafficking and exploitation. For instance, in Malta, children who received humanitarian protection up to the age of 18 sometimes go missing shortly before they reach that age. In the United Kingdom (UK), identifying at-risk individuals is not sufficiently developed and therefore measures that could protect these children, such as enhanced foster placement, are not always used. In Greece, many unaccompanied children that are placed in designated centres, stay there for only a few days, after which they disappear to travel further through Europe. Children in Greece who are waiting to be registered face a high risk of experiencing violence or falling victim to people with bad intentions. Greece's ombudsman for children therefore rated the safety of this group to be low. In Sweden, the problem of children going missing has been reported for years.

Several countries do not have a legal guardianship system for unaccompanied minors.

A severe risk for unaccompanied children is the lack of legal guardianship systems in some countries. In Belgium, Italy, Sweden, the Netherlands, Lithuania and Latvia there is a more or less effective system for assigning independent legal guardians who support, advice and protect the children under their care. Greece lacks such a system; in Poland, guardians are only responsible for administrative proceedings. In Malta, unaccompanied children are assigned a dedicated social worker who performs many of the tasks of a legal guardian. As the social workers are employed by the organisation responsible for asylum seekers in Malta, they do not qualify for independent legal guardianship. Apart from Northern Ireland, there is no legal guardianship system in the UK. In Estonia, the local government are required to act as a legal guardian for unaccompanied children, but so far no local governments has ever applied for guardianship of a child in court. Countries that do have a legal guardianship system are now dealing with – sometimes severe – delays in the appointment of guardians⁷².

⁷² This was reported by Sweden, Catalonia, Belgium and the Netherlands.

Several countries report more cases of violence towards asylum seekers, including attacks on asylum centres and arson attempts.

Tensions between young people from different origins form another potential risk, which can make children feel unsafe and sometimes leads to actual violent behaviour. In addition to that, there appear to be more cases of violence towards asylum seekers in several countries, including attacks on centres for asylum seekers and accompanied children, and arson attempts. The low proportion of girls in relation to boys among unaccompanied children makes them a particular vulnerable group at risk of several safety concerns.

Ombudspersons mention several safeguards that exist to protect children from violence. These include ensuring sufficient staffing, a mandatory background check for staff working with children and providing them with sufficient training, accommodating unaccompanied children in designated facilities and housing families with children apart from single men. Due to the high influx, these safeguards are no longer fully in place in many countries.

Age assessment

Following General Comment No. 6 from the Committee on the Rights of the Child, ENOC is of the opinion that age assessment “should primarily take place on the basis of documentary evidence. When documentary evidence is not sufficient, and in cases of serious doubt about the age of the child, further examination may be conducted as a measure of last resort.”⁷³ ENOC has further stated that age assessment should involve physical, social and psychological evaluation, that age assessment should be open to appeal and that every person claiming to be a child should be considered and treated as a child until the decision is final⁷⁴.

Over two thirds of the ombudspersons report that in the absence of sufficient documentary evidence a medical examination is carried out. This may consist of a skeletal age assessment only, on the basis of wrist, collar bone and/or dental X-ray imaging. Some countries use a combination of clinical and skeletal medical examination. In Malta, Sweden and Greece, interviews are often part of the assessment as well. In the United Kingdom, medical examination is hardly ever used; instead, the evaluation of a social worker is decisive. The extent to which a social worker is trained and capable to make such an assessment varies.

It is problematic that there is no multidisciplinary approach in most countries to determine the age of individuals claiming to be a child. Other concerns that have been reported include the lack of possibilities for legal remedy, the lack of information that is provided about the procedure and the observation of a number of ombudspersons that individuals whose minority is questioned are treated as adults during the assessment procedure.

⁷³ [ENOC Statement on children on the move, 2013.](#)

⁷⁴ *Ibid.*

Italy states that medical age assessment is sometimes conducted in cases where there can hardly be any doubt about the young person's claim to be a child, and that there have been instances of multiple age assessments for children who moved from Italy to other European countries.

In Poland, the maximum period that an unaccompanied minor has been detained is 194 days.

Detention

In the vast majority of countries there is the legal possibility to place children in migration detention. In some countries, this can only be done on the grounds of age dispute. In other countries, families with children and unaccompanied children may also be detained at the border upon irregular entry, although this can normally be avoided by applying for asylum, as is the case in Latvia. It is also quite common that children who are not granted international protection are placed in detention prior to departure. Children are usually detained for a few hours to a few days.

Some signals from ombudspersons are particularly disturbing. In Poland, unaccompanied children who do not apply for or are not granted asylum may be subject to detention when they reach the age of 15. They are detained for an average period of 60 days, with known extremes of as much as 194 days. Estonia also reports that children have been detained for several months at a time. In Catalonia, if a young person is deemed to be over 18 in an age assessment, this may lead to placement in migration detention. As the age assessment procedure is not sufficiently developed in most countries, there is a general risk that children are treated as adults, including placement in detention when this would not have been permitted if they were deemed to be a minor.

Provision of basic needs: Housing

Accommodation can be called adequate when it is safe and secure, well-serviced (water, sanitation, waste management, fuel) and conveniently located near hospitals, schools, etc. Privacy and room for study and leisure become more important when children and families stay in a facility for longer than a few days.

Asylum seeking families are housed in a variety of facilities. The types of accommodation differ to a great extent, both between countries and within the same country. Most countries that receive large numbers of refugees are now operating emergency shelters in addition to the regular centres. Asylum seekers may also be accommodated in small-scale facilities, which is the case in Belgium and the UK. Finally, migrants may for various reasons be placed in detention centres.

Unaccompanied children may be placed in regular and emergency centres for asylum seekers, detention centres, foster care, residential care, supported lodgings in a family house or semi-independent accommodations. Although placement in foster care and other small-scale lodgings would probably be the most desirable for many unaccompanied children, placement in residential care and regular shelters appears to happen more frequently.

Most countries rate the overall quality of housing to be fair, for both children in families and unaccompanied children. However, there are large differences between types of accommodation and even individual facilities. Regular centres generally offer shared cooking facilities, private rooms for families, and common areas for relaxation and study. Normally, regular asylum centres offer adequate opportunities for children to relax and play as well. Facilities in those shelters could be rated as good. A point of concern raised by some ombudspersons is that these centres are often situated outside the local community, far away from schools, hospitals and other facilities. Specialized facilities for unaccompanied children usually offer decent facilities and support for these children, although the quality may differ greatly. Reported concerns include the lack of small-scale and family-like facilities and insufficient monitoring of private fostering arrangements.

One of the emergency shelters in Belgium is located in an active military basis.

There are more serious concerns about the situation in emergency facilities. Often, many families sleep on camp beds in large rooms, deprived of any privacy. The majority of these centres do not offer facilities for children to relax and play and few activities for children to participate in. This type of accommodation can be adequate for very limited periods of time, but the reality is that it is common for families to stay there for weeks. In Sweden, which receives most unaccompanied children in both relative and absolute terms, many children are housed in emergency shelters that were designed for a maximum time period of 48 hours. As the country struggles to increase its housing capacity at the rate the influx is growing, unaccompanied children have to stay there for a few weeks to even months. One of the emergency shelters in Belgium is located in an active military basis. With military exercises being carried out daily, this is not exactly a place where children coming from war zones can recover from stress and trauma.

Next to 'regular' emergency shelters, some countries now operate provisional shelters, with even fewer facilities. In Belgium, families waiting to be registered can get a bed in a provisional shelter facility that offers 1000 beds. As – for several weeks - the demand for beds has been twice as big, NGOs and individual citizens have offered the remaining 1000 people a place to sleep. There have been cases of children sleeping outside. In the Netherlands, in the second half of 2015 newly arrived families have been hosted in provisional shelters set up by municipalities, mainly sports halls. These shelters are available for 72 hours, after which families are transferred to the next shelter. Many children have had to move seven to eight times within two months, some even eleven times. Occasionally, unaccompanied children have been placed in these provisional shelters as well. These moves are very detrimental for children who come from unstable situations. The government has expressed its desire to end this practice; however, as normal emergency shelters still lack capacity, provisional shelters are still in operation in 2016. In Greece, there are several provisional camps set up by NGOs and volunteers, which are often overcrowded and offer minimal facilities.

Poland, Lithuania, Catalonia and Latvia consider the quality of housing to be good. This may be partially explained by their relatively low influx of immigrants. However, Estonia,

which receives relatively few immigrants as well, considers the quality of housing in detention to be poor. The facilities are too narrow and not child-friendly and there is no staff member whose responsibility is to look after unaccompanied children.

Provision of basic needs: Nutrition and clothing

Most countries do not report major problems about clothing and nutrition. In Sweden, in November 2015 children were lacking winter clothing in several emergency shelters. Children receive regular meals with fair to good nutritional value. In regular centres for asylum seekers, residents can usually prepare their own meals in shared cooking facilities. Residents usually prefer this over receiving prepared meals. An essential requirement is that the daily allowance is adequate. In Latvia, asylum seekers receive only €2.15 a day for food and hygiene products and other living expenses, in addition to a food package. As the subsistence wage in Latvia is around €8 per day, this allowance is clearly insufficient. The Latvian office therefore considers nutrition to be poor. Children residing in reception centres upon registration in Greece are dependent on their families and NGOs for nutrition and are therefore at risk of receiving inadequate nutrition.

Clothing may be provided by NGOs, volunteers or government agencies. In many countries, local initiatives were set up by enthusiastic volunteers to collect clothes for refugees. In some cases, companies donate clothes as well.

Access to health services and services for children with disabilities

All participating countries have investigated access to physical and psychological health services and whether special services for children with disabilities are in place.

Nine ombudspersons rate access to physical health services as good or even very good. Children have legal and effective access to healthcare, usually including secondary care, independent of their or their parents' legal status. Countries that gave the rating 'good' do report a few concerns. As individuals above the age of 18 who do not have legal residence status generally do not have access to non-emergency healthcare, young people lose access to most health facilities when they turn 18. In Estonia, there is a lack of interpreting services in migrant detention centres. Often, use is made of Google Translate or other detainees or professionals working at the centre. This raises clear concerns about medically relevant misunderstandings and patient privacy.

Catalonia and the Netherlands judge access to physical health services to be fair; Greece judges it to be poor to fair and Sweden rates it as poor for unaccompanied children in emergency shelters⁷⁵. In Catalonia, there is a lack of knowledge about specific health issues for refugees and intercultural communication. In the Netherlands, there is a national system for primary care for asylum seekers, but provisional emergency shelters set up by municipalities are exempt from this system. It is doubtful whether residents of such shelters, including children, receive appropriate care. In Greece, children who do not have a residence permit or who have not applied for asylum, are required to pay for their treatment, but treatment is usually not denied. The complexity, bureaucracy and

⁷⁵ Children in regular shelters in Sweden have fair to good access to physical health services.

delays characterising immigration procedures, combined with the extent of informal employment, are the major obstacles to immigrants' access to healthcare, as a large share remains uninsured. In Sweden, healthcare for children in emergency shelters is problematic. Many children reported different health problems, both urgent issues, long term illnesses as well as a permanent need for medicines that they had run out of. Few had received care since coming to Sweden. The children were – wrongly – told that they are not entitled to healthcare until their final placement.

Problems with access to psychological health services appear to be more widespread. More than half of the ombudspersons mentioned significant problems. In Flanders, the demand for screening of psychological vulnerability and psychological help for children is much greater than the available capacity. It is also worrisome that instead of skilled psychologists, the management of an asylum centre has the final word in whether psychological counselling is indicated. In the UK, mental health services are underfunded and overstretched, resulting in long waiting lists. In Estonia, children in detention receive no psychological health services, while some children would like to receive help. In Catalonia, knowledge about the specific needs of children on the move is lacking.

Perhaps even more importantly, many newly arrived children find themselves in situations that are detrimental to their psychological health. Insecurity about the future, placement in centres that are not well adapted to their needs, a lack of activities during the day, a lack of privacy and interviews being carried out in ways that are not child-sensitive; all of these factors contribute to poor psychological health. While certainly not all children coming from war zones need extensive psychological treatment, they all benefit from a stable and structured environment. The ongoing stress that children may endure in their destination countries is therefore problematic.

The information about children with disabilities is alarmingly incomplete.

Most countries report that centres for asylum seekers are adapted to the requirements of people with movement disabilities. A number of countries further state that children with disabilities are legally entitled to special services. We cannot assess at this point whether in practice there are sufficient services available for disabled children on the move to participate in all aspects of daily life. Both the ombudspersons as well as other organisations have little information about the situation of these children, which is certainly alarming.⁷⁶

Access to and quality of education

In general, the majority of countries assess access to education for children on the move to be good. The legal right of children to receive education has been laid down in regulation. Most children go to school, independent of their legal status. However, the situation is different for children who have recently arrived in their country of destination. Especially in countries that received many children in the past year, immediate enrolment

⁷⁶ Information provided by ombudspersons in country reports and by advisors from Unicef.

in schools is far from guaranteed. In Belgium, the Federal Agency for the Reception of Asylum seekers appears to have issued an instruction not to enrol children in a school if they reside in a temporary location for a short period of time, which can still amount to two months or longer. In the meantime, in once case the Flemish Ministry of Education has organized school classes inside such a transit centre. However in another case about 50 children were still not enrolled in a school after 3 months despite the readiness of a nearby school to enrol them. In the French speaking part of Belgium the demand for education for newly arriving immigrant children exceeds the current capacity of reception classes for non-French speaking newcomers. In the Netherlands, children do not go to school in provisional shelters organised by municipalities. Children in emergency shelters have to wait for weeks or sometimes even a few months before they can go to school. Schools and municipalities that are not experienced with education for newly-entered children, face many practical and bureaucratic challenges to get education organized. Because asylum seekers have to move many times from shelter to shelter, continuity of education is a big problem in the Netherlands as well.

Sweden does not offer education for children in emergency shelters, besides a few hours a week for a language course in some shelters. In the last concluding observations to Sweden from the Committee on the Rights of the Child in 2015, the Committee advised Sweden to “amend its legislation to ensure that children considered as being “in transit” are provided with full access to education”.⁷⁷ Children on the move have the right to education within a month after arrival in the municipality they are to reside in during the asylum process. Many municipalities have difficulties in meeting this requirement. In the UK, local authorities with larger numbers of unaccompanied children in their care have difficulties finding enough school places as well.

In Estonia, the situation in detention facilities is alarming. Children in detention do not go to school, nor do they have access to other training or educational services. This used to be the case in Poland as well. The Ombudsman for Children has long advocated that child migrants in detention should have access to educational programmes. In 2014, a provision was included in the new Act on Foreigners which provided for the right to education for these children.

Children in migration detention in Estonia do not go to school.

Both Greece and Italy stress that access to education is problematic for children who are still on their way to their destination country. When children arrive in their country of destination, they have usually been deprived of education for at least the duration of their journey, often weeks to months. Due to armed conflict or a general lack of education facilities in their home country and countries that they have temporarily resided in, there is an education gap of years for many of these children.

⁷⁷ CRC/C/SWE/CO/4 Concluding observations on the fifth periodic report of Sweden adopted by the Committee at its 68th session (12 – 30 January 2015), Committee on the Rights of the Child, 4 February 2015 paragraph 51.

Ensuring good quality education for children on the move is quite challenging for a number of reasons. Children do not speak the language, come from different origins, and have different educational levels, even if they are of the same age. The high influx could further complicate the quality of education. Nevertheless, practically all countries rate the quality of education for children on the move as fair or good.

Granting all this, there is room for improvement. The high influx of immigrant children in a number of countries could compromise the quality of education, as it is difficult to find enough experienced teachers. Another concern that applies to several countries is that emergency shelters appear to not have rooms that are suitable for study, nor other facilities such as computers. Interestingly, while some countries state that language is a barrier for high-quality education, others do not agree. They state that, with proper educational methods, it has been demonstrated that it is not necessary for teachers to speak the same language as a child

Information on the rights of asylum seekers is aimed at adults, not at the children accompanying them.

The right to information and the right to be heard

In its 2013 statement on children on the move, ENOC emphasized that children on the move should, “from their arrival, be provided with specific and comprehensive information on their rights in a language they can understand”. Depending on their age, children on the move should also be consulted about matters that impact their lives and have easy access to professionals in case they have remarks or complaints. Finally, it is important that professionals working with these children receive adequate training in communicating with them.

Most countries report that information on the rights of asylum seekers is aimed at adults; written information is usually not child-friendly. Parents are expected to transfer the information to their children. Older children may sometimes be informed about their rights, but certainly not in all cases. For this reason, most countries consider the access to information to be just adequate or insufficient. There are some issues complicating communication with adult migrants as well. Interpreting services are available for official proceedings and may also be requested for other matters, but staff at centres usually make use of unofficial interpreters such as residents who speak some English or staff members who speak Arabic to communicate about everyday affairs. A very disturbing signal is reported by the office of Estonia. Most of the interviewed persons that lived in the detention centre, both children and adults, indicated that during their detention and afterwards the police did not inform them about their rights, including the right to apply for asylum, how to apply for legal aid and how to submit an appeal.

Unaccompanied children should be informed about their rights by their legal guardian or other professionals who are assigned to take them in their care. We cannot conclude from the country reports how often this is done and whether the information, if provided, is communicated in a way that the child can understand. There are some concerns that are worth mentioning. In Catalonia, none of the children who were under the protection of

the Administration in 2014 and very few in 2015 asked for international protection, while some of them came from countries that are known as source countries of refugees. This raises questions about how these children are informed. In England, Belgium, the Netherlands, Greece and Sweden, the ombudspersons state that the high influx of unaccompanied children on the move has a negative effect on the quality of the information provided. In Sweden, it became clear during field visits that most children had no information about how long they would stay in the emergency shelter, what would happen next and who would take care of them.

In most countries, children could go to an official with remarks and complaints. In Malta and Lithuania, children are assigned social workers that help and coach them, to whom they can also turn with complaints. This is also the case for children on the move in Belgium. However, if they would have a complaint about the social worker, it is unclear whom these children can go to. As unaccompanied children have a legal guardian in Belgium, they have better opportunities to file complaints compared to other children. In the UK, the complaints system also works better for unaccompanied children than for other children. There is a complaint system operated by UK Visas and Immigration but this is rarely ever used by children. In Sweden, there is a complaints system, but children are not aware of its existence. In a number of countries, children could also submit their complaints to the ombudspersons. However, both Greece's and the Netherlands' ombudspersons for children state that children on the move rarely make use of this possibility. The ombudsman for children in Greece therefore often visits shelters and centres to speak with children living there.

Four ombudspersons state that professionals working with children on the move have received adequate training in practically all cases. The majority of ombudspersons state that training is 'sometimes' adequate. In many countries, professionals working with children in centres for asylum seekers have a degree in social work or a similar degree and are therefore trained in working with children. This is practically always the case for professionals working in centres for unaccompanied children. However, they do not necessarily have training in dealing with children from different cultural backgrounds, children with trauma or unaccompanied and separated children. Professionals within the police, admissions organisation and courts do not always receive adequate training child friendly communication. A final concern is that the high influx of immigrant children in some countries undermines the quality of training of professionals.

2.3 Europe's failure to protect and assist children on the move

In this chapter, we have illustrated that children on the move are subject to many safety risks, including illness, death, trafficking, separation from parents, extortion by smugglers and (sexual) exploitation and abuse. The fact that children on the move are extremely vulnerable to so many and such severe risks proves that Europe is failing to protect children on the move within its territories. The safety situation for children in their destination countries is not as severe. However, trafficking and exploitation are real threats for these children. It is not uncommon that children who are in need of care and protection go missing from the system. Other serious concerns are the lack of a legal guardianship system in a number of countries, the inadequate methods for age

assessment and the fact that many children are still being placed in migration detentions, sometimes for several months. Newly arrived children are initially being housed in emergency shelters in several participating countries. In most cases, these shelters are not equipped to accommodate people and especially children for longer than a few days, but the reality is that many children stay there for weeks or months. While access to physical healthcare appears to be covered, children are less likely to receive psychological care should they need it. However, failure to remove harmful stressors from their environment, such as poor living conditions, are even more problematic. While access to and quality of education is secured for most children on the move in their destination countries, newly arrived children have to wait too long before they can go to school.

The right to information and the right to be heard are clearly not sufficiently protected. We emphasize that securing these rights is important for the fulfilment of practically every other right children on the move should enjoy. A child that is left in the dark about what will happen to him or her next, will not be able to prosper or make informed choices. As policy makers, it is equally important to be informed about what children wants. We know that children go missing from the system, but we do not always know why, where they want to go and what they want to achieve, which makes it difficult to protect them. Securing these rights is therefore vital for the protection of and assistance to children on the move.

3. THE EUROPEAN FRAMEWORK AND EUROPEAN RESPONSE

Chapter Summary

- From the perspective of child rights, the implementation of the EU asylum instruments is lacking. EU institutions and agencies, as well as the Member States, therefore need to intensify their efforts (including training of all personnel involved with children on the move) to ensure the full implementation of the protection rights guaranteed in both the EU instruments and international human rights law. A new EU Agenda on children on the move is needed.
- The EU and the Member States have had numerous discussions on how to handle the increase of migration flows to Europe in 2015. There is, however, a total lack of focus on children and a child rights perspective – children are only a footnote in the EU's actions to handle the situation.
- EU Member States have made many commitments, but the efforts to put them into effect remain few and far between.
- EU countries have fallen short especially in providing financial and practical assistance to struggling Member States and third countries and in setting up an effective relocation scheme.
- Many European countries have started a 'race to the bottom' in terms of stricter migration laws to keep migrants out of their territories. In the long run, this could interfere with the right to seek international protection and the application of human rights safeguards to the situation of all migrant children.

This chapter provides a brief analysis of the EU legal framework regarding asylum and migration, from a child rights perspective. More information about the international and European legislative framework and actions is available in Appendix 2.

This chapter also reviews the commitment, actions and initiatives taken by the EU institutions and the Member States to respond to the increase of refugees to Europe in 2015. It examines, where possible, to what extent the commitments have been implemented and analyses the responses and its implementation from a child rights perspective.

Member States have pledged only €575 million of €2,8 billion that was agreed upon to increase assistance to the Middle-East and the Horn of Africa

With regard to the refugee situation in the Middle East and Africa it should be mentioned that the Commission and EU Member States have agreed to offer increased assistance to countries in the Middle-East and the Horn of Africa, mainly through financial support.⁷⁸ At the informal meeting of the European Council on 23 September 2015, it was decided that the European Commission would increase its resources devoted to the refugee crisis by €1.7 billion. The Member States would fund another €2.8 billion for the UNHCR, World Food Programme and other relevant organisations (€500 million), the EU Regional Trust Fund for Syria (€500 million) and the Emergency Trust Fund for Africa (€1.8 billion). In

⁷⁸ [ECHO Fact Sheet Syria Crisis](#) and [European Commission fact sheet on EU SUPPORT to Lebanon and Jordan since the onset of Syria crisis](#).

mid-January 2016, Member States have pledged only €575 million, a mere fifth of what they were supposed to deliver.⁷⁹ Since this report focuses on the situation in Europe, we will not go into further detail on this. It can be concluded from these figures though that the EU is not meeting commitments designed to mitigate the refugee crisis.

3.1 The EU asylum and migration policies

Over the years, the European Union has developed a Common European Asylum System (CEAS), ensuring common minimum standards for people seeking international protection in EU Member States. The system includes legislation on who qualifies for protection, access to a fair and efficient asylum procedure, reception conditions and rules on which EU state is responsible for reviewing the asylum application and establishing an asylum fingerprint database (EURODAC).⁸⁰ Several other instruments from the EU are also of relevance for children on the move, in particular the Directive for family reunification.

The instruments within CEAS take into consideration international and European human rights standards such as the UN Convention on the Rights of the Child, the Universal Declaration of Human Rights, the Convention on the Status of Refugees, the European Convention on Human Rights and Fundamental Freedoms and the European Union Charter of Fundamental Rights.

There is still room for improvement from a child rights perspective in many of the legal instruments (e.g. regulations on detention and family reunification, exempting unaccompanied children from the Dublin regulation and increased cross border cooperation) and there are areas of concern that need to be addressed in EU legislation, for example the possibilities of legal avenues into the EU for people in need of international protection and revising the Dublin regulation for greater solidarity among Member States.

The European Court of Justice has incorporated a child rights perspective in its judgements. Most important for children on the move is the judgement from 2013 exempting unaccompanied children from the Dublin regulation, regarding the regulations on first asylum country, stipulating that the state where the child is physically present is responsible for reviewing the asylum claim if no family member can be traced in another EU Member State.⁸¹

The main concern is, however, that the provisions set up for the protection of children on the move are not implemented in practice by the Member States. Many of the interviewees for this study highlighted the lack of best-interest assessments as a major concern and raised the issue that professionals conducting these assessments need training.⁸² Initiatives have been taken by the European Commission and different EU

⁷⁹ [Compilation of Member States financial pledges](#), viewed on 22 January 2015.

⁸⁰ [Information from DG Migration and Home Affairs](#).

⁸¹ CJEU C-648/11 *The Queen, on the application of MA and Others v. Secretary of State for the Home Department*, 6 June 2013

⁸² Information from interviews with advisors at the European Commission, Frontex, Unicef, UNHCR, OHCHR, IOM, Save the Children.

agencies⁸³ on this, but these need to be intensified and all professionals coming into contact with children on the move must receive training on the best-interest assessment, identification of children at risk, in particular those at risk of falling victim to trafficking, and ensuring the child's right to receive information and be heard.

The Commission adopted an Action Plan on Unaccompanied Minors (2010-2014)⁸⁴ in 2010, which is based on ten principles to help guide EU institutions and Member States in their future approach towards unaccompanied children. To assist the Commission in implementing the action plan an expert group on unaccompanied children in the migration process was set up in 2011.⁸⁵ The action plan ceased to apply at the end of 2014 and has not yet been followed up by a new plan. An evaluation is due in early 2016.

Unaccompanied children have also been the focus in much of the work of the European Parliament. It adopted a resolution in 2013, identifying priority areas for action.⁸⁶ Currently the European Parliament is involved in revising the Dublin Regulation to bring it in line with the 2013 Court decision on exempting unaccompanied children from it.⁸⁷

“Invisible children” in the European actions

Children on the move in Europe who are accompanied by their parents/guardians are also protected by the legislative framework in the EU. However, in the discussions at EU level, as well as in different actions taken by the Commission and agencies, these children are forgotten⁸⁸ – as if, just because they have a guardian, they do not have a need for protection, assistance or attention. There is a risk that the special needs of a child arriving with his/her parents are not identified by the authorities since they leave it to the parents to ensure that the child gets the assistance needed. The parents have the main obligation to secure the child's right to protection and support. However, the parents might not know the child's rights to assistance in the country of destination, or could be traumatized and unable to identify that the child has special needs. It is necessary to have all decision makers and officials, at all levels, from the school up to EU level, focus more on these children, ensuring that their rights are fulfilled.

Children accompanying their parents, children not applying for asylum and stateless children receive very little attention in EU discussions and policies.

There is also a lack of focus on children entering the EU not applying for asylum. There are no available statistics on them; therefore we do not know how many there are. However, many states report on children, mainly from northern African countries, coming to the EU to find better education or job opportunities. Some of these children do not apply for asylum, even if they know they are eligible for it, but try to find different ways of

83 For example EASO and Frontex.

84 COM(2010)213 final Action Plan on Unaccompanied Minors (2010 – 2014)

85 [Register of Commission expert groups](#).

86 P7_TA(2013)0387 European Parliament resolution of 12 September 2013 on the situation of unaccompanied minors in the EU (2012/2263(INI)).

87 [Press release from the European Parliament](#).

88 Based on information from interviews with the European Commission, Save the Children, UNICEF.

making a living and caring for themselves. Many of these children are at risk of falling victim to various forms of exploitation and trafficking.⁸⁹

Another group of children that needs more attention from the EU and its Member States is the increasing number of stateless children entering the EU.⁹⁰ In some countries, including Syria, where most refugees come from, the citizenship of a new-born child is based on the father. Due to the war, a lot of children of Syrian mothers are born outside of Syria, in refugee camps, as well as on the journey to/through Europe. It is often difficult for the mothers to prove the fatherhood – maybe the father has already left to seek asylum in Europe, is living in another refugee camp or has been killed – and therefore the child is left without citizenship.⁹¹ According to the UNCRC, every child has the right to his/her nationality, and states shall ensure that this right is fulfilled.⁹² In December 2015, the Council of the EU adopted conclusions on statelessness, where it invited the Commission to launch exchanges of good practices between the Member States, and Member States to appoint contact points for such a platform.⁹³

3.2. The European response to the increased migration flows

During 2015 the European Union, its Member States, other countries in the region and different actors have had numerous discussions and taken some initiatives to handle the influx of migrants to and the flows of migrants through Europe. Many of these actions raise high concerns from a child rights perspective, something that will be examined below. More information about what the different initiatives and actions entail is available in Appendix 3.

European Agenda for Migration

The European Agenda for Migration⁹⁴ is the main response plan for the European Union. It was published by the European Commission in May 2015 and sets out short- and long-term actions to better manage migration. It includes actions to save lives at sea, set up a relocation system and increase the resettlement of refugees via UNHCR.

There is only one action specifically targeting children in the European Agenda on Migration. It is placed in a footnote.

Although at least one in four of all asylum applicants in the EU in 2014 were children⁹⁵, the European Agenda on Migration only mentions children twice.⁹⁶ The only action specifically targeting children is placed in a footnote⁹⁷ and focuses on a limited group of migrant children entering the EU – unaccompanied and missing children. The agenda is

89 *Policies, practices and data on unaccompanied minors in the EU Member States and Norway Synthesis Report: May 2015* European Migration Network.

90 Information from interviews with advisors at Terre des Hommes and OHCHR.

91 [Information from the European Network on Statelessness](#).

92 Article 8 UNCRC.

93 [Press release European Council](#).

94 COM(2015) 240 final A European agenda on migration.

95 Table "[Asylum and first time asylum applicants by citizenship, age and sex Annual aggregated data \(rounded\)](#)" (migr_asyappctza) First time applicant.

96 COM(2015) 240 final A European agenda on migration Pages 12 and 16.

97 COM(2015) 240 final A European agenda on migration Footnote 28.

not based on a human rights perspective and actions to reduce the risks children face on their journey to and through Europe are lacking. The lack of child focus is also concerning, bearing in mind that Frontex, in its risk analysis for 2015, highlighted children as a particularly vulnerable group and stressed the need for developing specific mechanisms and procedures to tackle the needs of children at all EU external borders.⁹⁸

To implement the Agenda several actions have been agreed upon, however a child rights perspective, or even the inclusion of the word child in the documents, is missing entirely. The relocation⁹⁹ and resettlement¹⁰⁰ schemes agreed to by the Member States are highly relevant for children and children should be prioritised in their implementation. It is worrying that the Member States are not living up to their commitments in these cases – of the 160,000 refugees that the Member States decided to relocate as per their agreement of September 2015, mainly from Italy and Greece, only 331 had actually been relocated on 19 January 2016.¹⁰¹

On 19 January 2016, of the 160,000 refugees that would be relocated, only 331 had actually been relocated.

The action plans agreed to with Turkey¹⁰² and the Western Balkans countries¹⁰³ are also lacking a child rights perspective, and do not include any specific actions with regard to children. When implementing the action plan in Turkey, it is highly relevant that attention is paid to child refugees, in particular to ensure that their right to education while in Turkey is fulfilled and that basic child protection needs are met. It could even be argued that the action plan is in violation of article 2 of the UNCRC, considering it only focuses on refugees from Syria, leaving all other refugees residing in Turkey without the support from the EU.

As for the agreement with the Western Balkans countries it is a concern that no specific actions for the protection of children are included, such as ensuring child-specific areas in transit centres, ensuring basic needs are provided at these shelters for children (somewhere warm to sleep, food, hot water for showering, dry clothes), child-friendly spaces, identifying children at risk, reducing the risks of family separation, etc. This is particularly worrying taking into consideration that, according to UNHCR, at least 28% of migrants passing through on the Western Balkans route are children.

Countries that are overwhelmed by a crisis may trigger the EU Civil Protection Mechanism to mobilise various types of practical assistance¹⁰⁴. Thus far, Serbia, Croatia, Greece and Slovenia are calling on this support. It is problematic that too few Member

98 Frontex Annual Risk Analysis 2015, 2015.

99 Council Decision (EU) 2015/1523 and Council Decision (EU) 2015/1601.

100 Council Conclusions 11130/15.

101 [State of play Member States' support to relocation mechanism](#) viewed on 19 January 2016.

102 [European Commission press release](#).

103 [Leaders' Meeting on refugee flows along the Western Balkans Route – Leaders' Statement](#).

104 [EU Civil Protection Mechanism](#).

States have responded to these calls, resulting in a severe lack of resources to assist migrants en route.¹⁰⁵

The EU has also begun to set up Hotspots in Italy and Greece, to improve the reception of incoming migrants and to facilitate the relocation scheme. Five hotspot areas have been identified by the Greek authorities and six by the authorities in Italy, but as of 15 December 2015, in both countries only one hotspot is up and running – yet another sign that the EU is struggling to fulfil its commitments.¹⁰⁶ According to officials within the European Commission, the Hotspots, when running properly, should have a child focus and ensure the rights of the child.¹⁰⁷ However, how child rights are fulfilled in the Hotspots is raised as a concern by many actors¹⁰⁸. The Hotspots have been set up and started their activities without ensuring that child-friendly spaces are in place, that staff is adequately trained in dealing with children and that the relocation system is working. Many actors have highlighted as a serious concern the potential risk that people may be stuck in the Hotspots for a very long time, or even indefinitely, in detention-like facilities.¹⁰⁹

The Hotspots have started their activities without ensuring that child-friendly spaces are in place, that staff has training in meeting children and that the relocation system is working.

The Commission is also earmarking funds specifically for child protection activities for organisations working with children on the move to and through Europe. In December 2015, a decision was taken to provide funding for emergency assistance within the framework of the Asylum, Migration and Integration Fund, which states: “*Child protection principles will inform all activities relating to children and UNHCR and activities will be carried out in accordance with child safeguarding policies.*”¹¹⁰

The Commission also plans to support the main international organisations and one child rights NGO to protect children in migration on EU territory.¹¹¹

Worth mentioning is also that during the winter of 2016, the Commission will hold an internal high level discussion on children on the move.¹¹²

¹⁰⁵ [Accepted Member States' Support to Civil Protection Mechanism for Serbia, Slovenia, Croatia and Greece](#), 21 January 2016.

¹⁰⁶ COM(2015) 678 final Communication from the Commission to the European Parliament and the Council Progress Report on the Implementation of the hotspots in Greece; COM(2015) 679 final Communication from the Commission to the European Parliament and the Council Progress Report on the Implementation of the hotspots in Italy.

¹⁰⁷ Based on an interview with an official within the European Commission, responsible for the Hotspots.

¹⁰⁸ Information from interviews with advisors at Save the Children, UNICEF and OHCHR in particular.

¹⁰⁹ Based on interviews with advisors from UNICEF, Save the Children, OHCHR and Terre des Hommes.

¹¹⁰ C(2015) 9534 final Annex 1 to the Commission Implementing Decision Amending the work programme for 2016 and the financing for the emergency assistance within the framework of the Asylum, Migration and Integration Fund page 2.

¹¹¹ Information provided by the Child Rights Coordinator within the European Commission during an interview on 19 January 2016.

¹¹² Information provided by an official within the European Commission on 7 January 2016.

The European Parliament has had discussions on the migration crisis during autumn 2015 (see more in Appendix 3). Some focus has been on securing the human rights perspective, but not as much on children’s rights in particular. The Inter-group on children’s rights also had a number of discussions about children on the move throughout the year and, together with UNICEF, organized a meeting on enhancing the respect for children’s rights in the EU Agenda on Migration, which took place on 15 January 2016. A “Palermo call for action” was adopted, including ten priorities for the protection of the rights of refugee and migrant children within hotspots, identification points and other measures introduced by the EU Agenda on migration.¹¹³

Table. 2 A failure to act: EU Member States' commitments and results

	Commitment (date)	Result (date)
Financial pledges ¹¹⁴	€2.8 billion to increase assistance to the Middle-East and the Horn of Africa (23 September 2015)	€575 million (22 January 2016)
Relocation ¹¹⁵	160,000 refugees (22 September 2015)	331 refugees (19 January 2016)
Hotspots ¹¹⁶	5 in Greece, six in Italy (29 September 2015)	1 in Greece, 1 in Italy (15 December 2015)

3.3 Actions by European governments – a race to the bottom

Many of the states in Europe are now changing their legislation and taking different actions in order to handle the increase of the migration flow and putting pressure on other states to take responsibility for the asylum seekers.

Among EU Member States, Hungary was the first to put up a fence at its border with Serbia¹¹⁷, and later on at the border with Croatia, making it almost impossible for refugees to enter the country.¹¹⁸ Hungary also made it a criminal offence to enter the country illegally. Slovenia has built a fence on its border to Croatia, in an attempt to stop the refugees¹¹⁹ and Austria has begun to put up a fence on its border to Slovenia, in an attempt to channel the refugees, not stop them.¹²⁰ Even if the fences in themselves do not deny the refugee the right to apply for asylum, they make it difficult to enter the state. Countries on the Western Balkans route have also started to restrict the flow by only

¹¹³ [Palermo call for action.](#)

¹¹⁴ [Financial pledges.](#)

¹¹⁵ [State of Play](#) Member States’ Support to Emergency Relocation Mechanism

¹¹⁶ COM(2015) 678 final Communication from the Commission to the European Parliament and the Council Progress Report on the Implementation of the hotspots in Greece; COM(2015) 679 final Communication from the Commission

¹¹⁷ [Article from Wall Street Journal](#) 15 October 2015.

¹¹⁸ [Article from Reuters](#) 4 September 2015.

¹¹⁹ [Article from the Telegraph about Slovenia](#) 11 November 2015.

¹²⁰ [Article from The Telegraph about Austria](#) 8 December 2015.

allowing Syrians, Afghans and Iraqis to continue on the route, returning all other nationalities to the last transit country.¹²¹

Hungary made it a criminal offence to enter the country irregularly.

Other countries take different measures to prevent asylum seekers from coming. Sweden, which has been accepting the highest number of refugees per capita in the EU several years, as well as the highest number of unaccompanied children in actual numbers of all EU Member States, announced in November 2015 that it is in need of respite in accepting refugees. The Swedish government will therefore introduce a temporary Aliens Act, which only complies with the minimum requirements of international and EU law.¹²² Of particular concern, from a child rights perspective, in this proposal is the restrictions in the possibilities for family reunification, including tougher maintenance requirements, as well as the introduction of mandatory medical age assessments. ID checks have also been introduced on all public transportation to Sweden as of 4 January 2016, including sanctions for those carriers not ensuring that all passengers have identity papers. Children travelling with their families are exempted from the ID requirement. However, unaccompanied children are not. And most unaccompanied children entering Sweden do not have ID papers with them. Most unaccompanied children coming to Sweden are from Afghanistan. Out of the 25,000 unaccompanied children from Afghanistan entering Sweden in 2015, only 18 could provide proof of identity.¹²³ Thus, the introduction of ID checks will be an effective way to decrease the number of unaccompanied children entering Sweden.

Following the announcement by the Swedish government, both Denmark and Norway announced tougher immigration laws. The Danish government has presented a bill to parliament which will allow the state to confiscate assets refugees bring with them to pay for their stay in Denmark. It provides the Danish authorities with the power to search clothing and luggage of asylum seekers.¹²⁴ It also presents several restrictions in the asylum regulations, including limited possibilities for family reunification.¹²⁵ Norway will also introduce stricter rules for asylum seekers, including lowering the financial support for people living in reception centres and limiting the possibilities for family reunification.¹²⁶

It seems as if European countries are in a contest to win the title of 'least willing to accept asylum seekers'.

Other countries are taking other actions, and several EU Member States are opposing the joint agreements on relocation and are highly unwilling to accept asylum seekers in their country. Most recently Austria made a decision to reduce number of refugees with

121 UNICEF Refugee and migrant crisis in Europe Regional Humanitarian Situation Report # 4, 24 November 2015.

122 Information from the [Swedish Government](#).

123 Information from [Swedish Radio](#) 23 December.

124 Information from the [Danish Government](#).

125 Information from the [Danish Government](#).

126 Information from the [Norwegian Government](#).

50%.¹²⁷ On 6 January 2016 EU Migration Commissioner Dimitris Avramopoulos hosted an emergency meeting with Sweden, Denmark and Germany, following the introduction of Swedish ID controls on the border to Denmark and the Danish spot checks at the border to Germany.¹²⁸

All in all, it seems as if European countries are in a contest to win the title of ‘least willing to accept asylum seekers’, introducing border controls and ID checks, pushing refugees down to southern Europe.

One concern with all the actions taken at the moment is that international obligations are forgotten. The restrictions on family reunification many states consider could be in violation with articles 9 and 10 of the UNCRC. The introduction of mandatory medical age assessments can also be questioned from a child rights perspective, bearing in mind General Comment no. 6 from the UN Committee on the Rights of the Child, stating that age assessment shall be *“conducted in a scientific, safe, child and gender-sensitive and fair manner, avoiding any risk of violation of the physical integrity of the child; giving due respect to human dignity”*.¹²⁹

The Danish proposal for a new, more restrictive asylum and immigration act have made the Council of Europe Commission for Human Rights raise strong concerns on how this is applicable with Denmark’s human rights obligations, in particular as far as the European Convention on Human Rights is concerned. The Commissioner is particularly concerned about the possibilities to increase the use of detention, the restrictions in family reunification and the possibility to seize assets from asylum seekers to cover their subsistence needs.¹³⁰

The strong rhetoric from different leaders in EU Member States¹³¹ also poses a risk in that it could fuel intolerance, racism and xenophobia in Europe, which is a threat to children, in particular children with a foreign background.¹³²

¹²⁷ Information on 20 January 2016 from [DW](#)

¹²⁸ Information from [EurActive.com](#).

¹²⁹ UN Committee on the Rights of the Child General Comment no 6 Treatment of unaccompanied and separated children outside their country of origin page 11.

¹³⁰ [Letter](#) from the Council of Europe Commissioner for Human Rights.

¹³¹ See eg the [ad campaign from the Hungarian government](#), linking refugees to terrorists and the [announcement of the Czech president](#) that the refugee influx is an “organised invasion” as well as the [statement from the president of the European Council](#), Donald Tusk, on detaining all refugees for 18 months.

¹³² See e.g. Committee on the Rights of the Child Concluding Observations on the combined third and fourth periodic reports of Poland, CRC/C/POL/CO/3-4 October 2015, paragraph 16.

4. CONCLUSIONS AND RECOMMENDATIONS

4.1 Conclusions

As an identifiable group, children need extra protection and support, something the international community has recognized by adopting, and subsequently ratifying, the UN Convention on the Rights of the Child.

Children on the move are a particularly vulnerable group, and are at risk of various severe fundamental rights violations. It is therefore of utmost importance that when faced with children on the move, signatory states make use of all tools and resources available to them to ensure that these children are protected and taken care of. Particular attention should go to unaccompanied children, who do not have the basic protection of travelling with an adult who can see to the child's protection needs.

Based on the information compiled for this report, we can conclude that children on the move in Europe are at risk of unacceptable safety risks, including trafficking, violence, illness, becoming stateless, separation from their parents and even death. Even after arriving in a destination country, children may still face various risks, including the risk of being placed in detention. Several countries report that unaccompanied children go missing from the centres they live in and face the risk of trafficking and exploitation. Some states do not have a comprehensive system to ensure that unaccompanied children are assigned a legal guardian.

While most destination countries fulfil basic needs such as proper nutrition and clothing and access to physical health care appears to be covered, other rights violations are a daily occurrence in Europe. The best interest of the child is not assessed nor considered a primary consideration in actions and decisions regarding children on the move, children are not being heard, children do not receive information about what is happening to them, children are deprived of their right to education for far too long, and children have problem in exercising their right to healthcare and rehabilitation, in particular psychological support.

Despite information provided by organisations working on the route through Europe, very few efforts have been made by the states concerned or the European Union to address these issues and implement effective measures to tackle them, and ensure that all children in Europe are protected from all forms of violence and abuse as well as having all their rights, as set out in the UNCRC, respected. Of particular concern is that the European Agenda for Migration, adopted by the Commission in May 2015, basically has no child or child rights perspective. The one action focusing on children concerns unaccompanied and missing children only and, strikingly, is in a footnote.

The actions taken by individual states to decrease the migration flows are also a concern from a child rights perspective. Of particular concern are the restrictions of the possibilities for family reunification that many states have announced. Up until now, since many migrants consider it too dangerous for children, many parents have chosen not to

cross the Mediterranean with their children. Instead, one of the parents (usually the father) leaves for Europe to try to get a residence permit and then apply for family reunification. Whilst 2015 showed an increase of children on the move in Europe already, the restrictions of family reunification possibilities will most likely lead to even more children accompanying with their parents. Many actors now warn the European community for more tragic deaths of children on the Mediterranean Sea.

So far the EU has been fairly quiet with regard to the introduction of restrictive laws by member states, except in the case of Hungary, which received a number of questions from the Commission about the introduction of tougher refugee laws.¹³³ It would be of interest if the Commission and/or the European Court of Justice would review the new legislative proposals from the member states from a human rights perspective, and in particular a child rights perspective, taking into consideration not only EU law, but also the UNCRC.

4.2 A call for action

Children on the move to and through Europe today face unacceptable safety risks and concerns, and European leaders must address them now. Children on the move are children first and foremost, and have the same rights to protection and security as all other children residing in European countries. To address the risks children face when travelling to and through Europe, we urge the different actors, including states, regional bodies, UN agencies and non-governmental organisations, to step up to the plate and take responsibility for its international commitments towards children. This needs to be done by all actors involved, including:

- The EU, by setting legal standards, developing policies and providing funding opportunities;
- The Council of Europe, by standing up for the human rights perspective and reminding its member states of its obligations;
- All countries in Europe, by ensuring a child rights perspective in all its actions, ensuring that a comprehensive protection system for these children is in place and increasing, rather than limiting, the possibilities for legal entry into its territory to apply for international protection;
- The member states of the EU, by showing solidarity and humanity, sharing the responsibility of hosting asylum seekers and ensuring that their applications are reviewed fairly;
- All professionals meeting children on the move, by ensuring children are seen and heard, are provided with age-appropriate information in a language and format they can understand, and that their own asylum claims are considered.

All states and the European Union should ensure that the rights set out in the UNCRC are fulfilled for all children on the move, and in particular that:

¹³³ [Ref. Ares\(2015\)4109816 - 06/10/2015](#) and article in [EU observer](#) on 13 October 2015.

- No child is discriminated against on the grounds of his/her race, colour, gender, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status;
- The best interest of the child is assessed and seen as a primary consideration in each and every action or decision regarding a child on the move;
- The child's right to survival and development is secured, in particular through rescue operations at sea and child protection systems along the route;
- The child's right to be heard and having his/her opinions be given due weight in accordance with the child's age and maturity in each and every action and decision regarding him/her.
- The child's right to his/her family is guaranteed and that family reunification for children is dealt with in a positive, humane and expeditious manner, as stipulated in article 10 of the UNCRC.

4.3 Recommendations

In order to secure children's rights as set out in the UNCRC, we appeal to the all actors involved to implement the following recommendations:

The European Commission, The European Council and the European Parliament should:

- Adopt a **comprehensive EU action plan** on children in migration covering all children on the move, including children who are accompanied by their guardians or other relatives, unaccompanied or separated children, children who do not apply for asylum, children with disabilities, stateless children, and child victims of trafficking. The Action Plan should include preventive measures, measures to protect children travelling to and through Europe and measures to protect children in the destination country and have a clear monitoring and evaluation plan.

Recommendations to prevent risks for children while travelling to Europe

- Ensure that the **legal opportunities for children entering the EU to seek international protection are used.**¹³⁴ This includes, for example, increasing resettlement quotas, issuing humanitarian visas and expanding possibilities for family reunification. It is particularly alarming that many EU states are taking steps to restrict possibilities for family reunification, thereby closing the main legal entry point for refugee children. In the long term, new ways for refugee children to legally enter the EU should be examined.
- Ensure a **child rights perspective and child-focused activities** are made an integral part of **humanitarian assistance to third countries facilitating aid to refugees**, in particular the aid provided by the EU to Turkey in accordance with the action plan agreed to on 15 October and 29 November 2015. This should include ensuring the right to education for all children, establish child-friendly spaces in refugee camps and having child protection systems in place. In all its foreign policy and development aid,

¹³⁴ See more information in the FRA Toolbox on legal entry channels to the EU for persons in need of international protection, published in 2015.

the EU and member states should ensure a child rights approach in addressing the root causes for child migration.

Recommendations to prevent risks for children when arriving at the shores in Europe:

- Develop **minimum standards for emergency reception** at its external borders and set up a flexible system for European humanitarian response at its borders.
- Assist Member States to ensure organized reception at landing sites, immediately at the shores.
- Ensure that the rights of the child, in particular **the right to protection** form a guiding principle when setting up the **Hotspots in Italy and Greece**. Although it is important that the Hotspots are set up swiftly and that their capacity is increased, they should not start operating before having child-friendly spaces in place, all personnel working at the Hotspot have received training in child protection, and ensuring that the relocation system is functioning.

Recommendations to prevent risks for children while travelling through Europe

- **Prioritize children in the implementation of the relocation scheme** agreed to on 14 and 22 September 2015. 160.000 individuals applying for international protection need to be relocated, mainly from Italy and Greece to other member states. Children should be prioritized in the relocation scheme set up by the European Commission in order to prevent the risks children face while en route through Europe. This should include both unaccompanied children and children with their families. A permanent relocation scheme should be set up, where children are a prioritized group.
- Develop **minimum standards for transit centres** and improve conditions in these centres on the route through Europe by means of support from to Member States as well as Western Balkan states who are not EU Member States (among other measures).

Recommendations to facilitate better regulation and policy making for children on the move:

- Adopt a **new EU strategy on the rights of the child**, to ensure that children's rights are taken into consideration in all actions by the European Union, covering both internal and external affairs.
- Collect **comprehensive data on children on the move** at the European level. The data shall be disaggregated based on age, gender, whether a child is unaccompanied or accompanied, and whether the child has applied for international protection or not. Data on children victims of trafficking and children who depart from the reception centres in destination countries, be it voluntary or forced, shall also be collected and shared between the countries and regions.
- Develop **collaboration between child protection systems** in the different countries on the route through Europe, so that information about children at risk can be shared safely and quickly.

National and regional governments should:

Adopt **comprehensive national action plans on children in migration** covering all children on the move, including children who are accompanied by their guardians or other relatives, unaccompanied or separated children, children who do not apply for asylum, children with disabilities, stateless children, children victims of trafficking. The Action Plan shall include measures for all stages of a child's stay in the country – the first reception, when the child is transiting through the country, and, for children seeking asylum, during the asylum process and what happens after a decision on the application has been made, be it positive or negative for the child, including the possibility to appeal against decisions.

- Without delay, **assign legal guardians to unaccompanied children**. The guardian 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 adequately met, as specified in General Comment number 6 from the UN Committee on the Rights of the Child. In case systems for legal guardians for unaccompanied children are not in place, develop a legal framework for this as soon as possible.
- **Put an end to detention for children based on legal status**. Detention is only acceptable as a measure of last resort, should be done as briefly as possible and only from a child protection perspective, for example when the child is at risk of falling victim to trafficking and/or exploitation and all other measures to protect the child have been exhausted. Adopt legislation on detention in line with General Comment number 6 from the UN Committee on the Rights of the Child. Ensure that the facilities where children are placed in detention are child-friendly and that their right to education and to leisure activities is fulfilled. Children should never be placed with adults other than their own family members.
- **Improve conditions in reception, transit and (emergency) asylum centres**. For reception and transit centres, this should include ensuring that centres are winterized, e.g. are heated, have warm water, and that blankets and warm clothing are provided. Basic sanitation must be in place, including separate toilets and showers for men and women. Child-friendly spaces should be set up and for those staying overnight, there should be separate sleeping areas for men and women and children. Personnel should receive training on identifying children at risk of trafficking or exploitation or who are otherwise vulnerable, and what steps to take to ensure their protection. In asylum centres that host children for longer times, privacy and room for relaxation and study should also be provided.
- Ensure that **procedures used for age assessments are in line with the requirements stipulated in General Comment number 6** from the UN Committee on the Rights of the Child: age assessments shall not only take into account the physical appearance of the individual, but also his or her psychological maturity. The assessment shall also be conducted in a multidisciplinary, scientific, safe, child and gender-sensitive and fair manner, avoiding any risk of violation of the physical or psychological integrity of the child; giving due respect to human dignity; and, in the event of remaining uncertainty, should accord the individual the benefit of the doubt

such that if there is a possibility that the individual is a child, she or he should be treated as such.

- Ensure that **basic rights are fulfilled for each child**, including the right to information, and the right to be heard about decisions concerning his/her life the right to education, the right to healthcare and the right to family life.

REFERENCES

International and regional conventions and instruments

- Universal Declaration of Human Rights, 1948
- Convention and protocol relating to the status of refugees, 1951 and 1967
- UN Convention on the Rights of the Child, 1989
- UN Convention against transnational organized crime, 2000
- Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, 2000
- General Comment no 6 Treatment of unaccompanied and separated children outside their country of origin, 2005, UN Committee on the Rights of the Child
- Committee on the Rights of the Child Concluding observations on the fifth periodic report of Sweden CRC/C/SWE/CO/4, 4 February 2015
- Committee on the Rights of the Child Concluding Observations on the combined third and fourth periodic reports of Poland, CRC/C/POL/CO/3-4 October 2015
- General comment no 12 - The right of the child to be heard, 2009, UN Committee on the Rights of the Child
- General comment no 14 - on the right of the child to have his or her best interests taken as a primary consideration, 2013, UN Committee on the Rights of the Child
- European Convention on Human Rights and Fundamental Freedoms, 1950
- Council of Europe Convention on Action against Trafficking in Human Beings, 2005

European Union instruments and documents

- Consolidated version of the Treaty on European Union, 2009
- European Union Charter of Fundamental Rights, 2000
- Council Regulation (EC) No 539/2001 of 15 March 2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement
- Council Directive 2001/51/EC of 28 June 2001 supplementing the provisions of Article 26 of the Convention implementing the Schengen Agreement of 14 June 1985
- 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
- Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification
- Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification Return Directive
- Council Regulation (EC) No 2007/2004 of 26 October 2004 establishing a European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union
- Regulation (EU) 439/2010 of 19 May 2010 establishing a European Asylum Support Office
- 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)

- 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
- Regulation (EU) No 603/2013 of 26 June 2013 on the establishment of 'Eurodac' for the comparison of fingerprints for the effective application of Regulation (EU) No 604/2013 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 and on requests for the comparison with Eurodac data by Member States' law enforcement authorities and Europol for law enforcement purposes, and amending Regulation (EU) No 1077/2011 establishing a European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice (recast)
- Regulation (EU) No 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)
- Directive 2013/33/EU of 26 June 2013 laying down standards for the reception of applicants for international protection (recast)
- Directive 2013/32/EU of 26 June 2013 on common procedures for granting and withdrawing international protection (recast)
- C(2015) 3765 final Annex 1 to the Commission Implementing Decision Annual Work Programme for 2015 for support to Union Actions under the Internal Security Fund – Police cooperation and crime prevention, 8 June 2015
- Conclusions of the Representatives of the Governments of the Member States meeting within the Council on resettling through multilateral and national schemes 20 000 persons in clear need of international protection, 22 July 2015
- C(2015) 5385 final Annex 1 to the Commission Implementing Decision concerning the adoption of the work programme for 2015 and the financing for Union actions within the framework of the Asylum, Migration and Integration Fund, 3 August 2015
- Council Decision (EU) 2015/1523 of 14 September 2015 establishing provisional measures in the area of international protection for the benefit of Italy and of Greece
- Council Decision (EU) 2015/1601 of 22 September 2015 establishing provisional measures in the area of international protection for the benefit of Italy and Greece
- C(2015) 9490 Commission Recommendation of 15.12.2015 for a voluntary humanitarian admission scheme with Turkey
- C(2015) 9534 final Annex 1 to the Commission Implementing Decision Amending the work programme for 2016 and the financing for the emergency assistance within the framework of the Asylum, Migration and Integration Fund, 15 December 2015
- P7_TA(2013)0387 European Parliament resolution of 12 September 2013 on the situation of unaccompanied minors in the EU (2012/2263(INI))
- P8_TA-PROV(2015)0176 European Parliament resolution of 29 April 2015 on the latest tragedies in the Mediterranean and EU migration and asylum policies (2015/2660(RSP))

- Humanitarian visas: option or obligation? Study for the LIBE Committee, European Parliament, 2014
- COM(2010)213 Final Action Plan on Unaccompanied Minors (2010 – 2014)
- COM(2011) 60 final An EU Agenda for the Rights of the Child
- COM(2012) 286 final The EU Strategy towards the Eradication of Trafficking in Human Beings 2012–2016
- COM(2015) 240 final A European agenda on migration
- COM(2015) 453 final EU Action Plan on return
- C(2015) 6250 final Commission Recommendation of 1.10.2015 establishing a common "Return Handbook" to be used by Member States' competent authorities when carrying out return related tasks
- COM(2015) 678 final Communication from the Commission to the European Parliament and the Council Progress Report on the Implementation of the hotspots in Greece
- COM(2015) 679 final Communication from the Commission to the European Parliament and the Council Progress Report on the Implementation of the hotspots in Italy
- 30 April 2015 9th European Forum on the rights of the child – Coordination and cooperation in integrated child protection systems – Reflection paper, European Commission, 2015
- Policies, practices and data on unaccompanied minors in the EU Member States and Norway Synthesis Report: May 2015 European Migration Network, 2015
- Annual Risk Analysis 2015, Frontex 2015
- VEGA Handbook: Children at airports, Frontex, 2015
- Age assessment practice in Europe, EASO, 2013
- [Asylum Quarterly Report](#) 2015 Eurostat, 2015
- Legal entry channels to the EU for persons in need of international protection: a toolbox, European Union Agency for Fundamental Rights 2015
- Intelligence Notification 16/2014 Child trafficking for exploitation in forced criminal activities and forced begging, Europol, 2014

Judgement from the European Union Court of Justice

- CJEU C-648/11 The Queen, on the application of MA and Others v. Secretary of State for the Home Department, 6 June 2013

Council of Europe

- Information Document SG/Inf(2015)33 14 September 2015 Migration challenges for Europe: need for collective action, Council of Europe, 2015

European Network of Ombudspersons for Children

- Position Statement on 'Children on the move', ENOC 2013
- [Joint Statement on 'Urgent help required for Syrian children in refugee camps to avoid humanitarian catastrophe'](#), ENOC 2013
- [Statement on 'Children on the move'](#), ENOC 2015

UN Agencies

- Safe and Sound – what states can do to ensure respect for the best interests of unaccompanied and separated children in Europe, Unicef and UNHCR, 2014
- Winterization Plan for the Refugee Crisis in Europe November 2015 – February 2016, UNHCR, 2015
- Regional Humanitarian Situation Report # 4, 24 November 2015 Refugee and migrant crisis in Europe, Unicef, 2015
- [Data Brief: Migration of Children to Europe](#) 30 November 2015, IOM and UNICEF, 2015
- Regional Humanitarian Situation Report #7 11 January 2016: Refugee and migrant crisis in Europe, Unicef, 2016

Interviews

Interviews were carried out with advisors/officers from the following institutions, agencies and organisations:

- European Commission
 - Child Rights Coordination Unit
 - Office of the EU Anti-Trafficking Coordinator
 - Unit C2 - Hotspots sector
 - Unit C1 – Irregular Migration and Return Policy
- Frontex
- Fundamental Rights Agency
- Member of the European Parliament
- Council of Europe
- IOM (Geneva office)
- OHCHR (Geneva office)
- UNHCR (Geneva and Brussels offices)
- Unicef (Geneva and Brussels offices)
- ICRC
- Save the Children (Geneva and Brussels offices)
- SOS Children’s Villages International
- Terre des Hommes (Geneva office)

APPENDIX 1. REPORTING FORM TASKFORCE CHILDREN ON THE MOVE

This reporting form was prepared by the Netherlands. As a minimum requirement, participating ombudspersons have visited a facility for asylum seeking children and have consulted with a local aid or advocacy organization. Most participating ombudspersons have largely exceeded this requirement.

GENERAL INFORMATION

<i>Country/region</i> Click here to enter text	<i>Contact person</i> Click here to enter text	<i>Telephone number</i> Click here to enter text	<i>E-mail address</i> Click here to enter text
---	---	---	---

ACTIVITIES CONDUCTED

1. Visit to asylum shelter

<i>Date of visit</i> Click here to select a date	<i>Short description of facility</i> e.g. number of refugees, number of children, type of accommodation (regular or emergency), services provided Click here to enter text
---	--

2. Consultation with advocacy/aid organisation

<i>Date of consultation</i> Click here to select a date	<i>Organisation</i> Click here to enter text	<i>Organisation's main activities/expertise</i> Click here to enter text
--	---	---

3. Other information sources

If applicable: insert a short descriptions of other information sources that your office has used to come to conclusions about the situation of children on the move in your country. For example, incoming signals at the ombuds hotline.

SITUATION FOR CHILDREN ON THE MOVE

1. Nutrition, clothing and housing

CRC Article 6 – Right to life and development, CRC Article 22 – Refugee children, CRC Article 27 – Right to an adequate standard of living

When parents lack the skills or resources to provide their children with adequate nutrition, clothing and housing, it is the responsibility of the State to step in. Adequate accommodation is safe, well-serviced (water, sanitation, waste management and fuel), secure, healthy and conveniently located near hospitals, schools etc.

<i>Nutrition: judgement</i> Choose...	<i>overall</i>	<i>Further explanation</i> Click here to enter text
<i>Clothing: judgement</i> Choose...	<i>overall</i>	<i>Further explanation</i> Click here to enter text

<i>Housing: overall judgement</i> Choose...	<i>Further explanation</i> Click here to enter text
--	--

2. Protection from violence

CRC Article 19 – Protection from all forms of violence, CRC Article 32 – Child labour, CRC Article 34 – Sexual exploitation, CRC Article 35 – Abduction, sale and trafficking, CRC Article 36 – Other forms of exploitation, CRC Article 37 - Detention and punishment

ENOC 2013 statement: 'Right to protection from physical and mental violence, abuse and neglect, as well as from all forms of sexual and all other forms of exploitation, must be carefully taken into account when protecting “children on the move”.'

<i>Safety of Children on the move: Overall judgement</i> Choose...	<i>Further explanation (please list most pressing safety concerns)</i> Click here to enter text
---	--

3. Access to appropriate information

CRC Article 17 – Access to appropriate information, CRC Article 42 - Knowledge of rights

ENOC 2013 statement: 'From their arrival, all children should be provided with specific and comprehensive information on their rights in language they can understand, as provided in international and national legislative provisions.'

<i>Overall judgement</i> Choose...	<i>Further explanation</i> Click here to enter text
---------------------------------------	--

4. Access to health services and social security

CRC Article 24: Right to health and health services, CRC Article 17 – Access to appropriate information, CRC Article 26 – Social security, CRC Article 23 – Children with disabilities

<i>Physical health services: Overall judgement</i> Choose...	<i>Further explanation</i> Click here to enter text
<i>Psychological health services: Overall judgement</i> Choose...	<i>Further explanation</i> Click here to enter text
<i>Information provided about health services: Overall judgement</i> Choose...	<i>Further explanation</i> Click here to enter text
<i>Access to social security: Overall judgement</i> Choose...	<i>Further explanation</i> Click here to enter text
<i>Special services for children with disabilities: Overall judgement</i> Choose...	<i>Further explanation</i> Click here to enter text

5. Access to education

CRC Article 28: Right to education, Article 29 – The aims of education

All children have the right to education, including children with an asylum status and children seeking asylum. Education services for these children should be tailored to their specific needs.

<i>Access to education:</i> <i>Overall judgement</i> Choose...	<i>Further explanation</i> Click here to enter text
<i>Quality of education for children on the move:</i> <i>Overall judgement</i> Choose...	<i>Further explanation</i> Click here to enter text

6. Detention

CRC Article 37: Detention and punishment

CRC Article 37(b): 'The arrest, detention and imprisonment of a child (...) shall be used only as a measure of last resort and for the shortest appropriate period of time.'

ENOC 2013 statement: 'As a principle, ENOC reaffirms its firm opposition to any form of detention of children, be they accompanied or not, and whatever procedure they are subject to (whether asylum or return to their home country on the first port of entry in Europe.)'

<i>Are families with children ever placed in detention (before, during or after the asylum procedure)?</i> <input type="checkbox"/> Yes <input type="checkbox"/> No
<i>Are unaccompanied minors ever placed in detention?</i> <input type="checkbox"/> Yes <input type="checkbox"/> No
<i>Can you give an estimation on how often children are being placed in detention? Does this occur regularly?</i> Click here to enter text
<i>What is the average period of time, and what is the maximum period of time (that you heard of) that a child was ever placed in detention?</i> Average: Click here to enter text Maximum: Click here to enter text
<i>Further explanation:</i> Click here to enter text

7. Right to leisure, play and culture

CRC Article 31 Right to leisure, play and culture

ENOC 2013 statement: ' "Children on the move" are children first.'

Children on the move, including those living in shelters and emergency shelters, should be able to relax, play and join in cultural activities.

<i>Possibilities for children in regular shelters to relax and play</i> Choose...	<i>Further explanation</i> Click here to enter text
<i>Possibilities for children in emergency shelters to relax and play</i> Choose...	<i>Further explanation</i> Click here to enter text
<i>Possibilities for children to join in cultural activities, inside or outside the shelter</i> Choose...	<i>Further explanation</i> Click here to enter text

8. Right to be heard

CRC Article 12: Right to be heard/right to participation

<p><i>Are children consulted about matters that impact their daily lives, such as moves to other shelters and the services provided at the shelter?</i></p> <p>Choose...</p>	<p><i>Further explanation</i></p> <p>Click here to enter text</p>
<p><i>Is there an official children can go to with remarks or complaints, and do children know about this?</i></p> <p>Choose...</p>	<p><i>Further explanation</i></p> <p>Click here to enter text</p>
<p><i>Do professionals who work with these children receive adequate training in communicating with them?</i></p> <p>Choose...</p>	<p><i>Further explanation</i></p> <p>Click here to enter text</p>

9. Age assessment

ENOC 2013 statement: 'Age assessment should be made in the child's best interest, with the primary aim to ensure that the child is granted the rights and protection he/she is entitled to. (...) When documentary evidence is not sufficient, **and in cases of serious doubt about** the age of the child, further examination may be conducted as a measure of last resort. (...) Until the age assessment is completed, each person claiming to be a child should be considered and treated as a child.'

Please describe the standard or most common procedure for age assessment in your country or region.

Click here to enter text

10. Unaccompanied children

CRC Article 20 – Children deprived of family environment, CRC Article 22 – Refugee children, CRC Article 10 – Family reunification

ENOC 2013 statement: 'Immediately after the arrival of any unaccompanied/separated child, a skilled independent guardian should be appointed to support, advise and protect him/her until he/she is reunited with his/her family or receives an appropriate care placement.'

ENOC 2013 statement: 'Unaccompanied and separated children should never be refused entry to a country in accordance with the non-refoulement obligations deriving from international human rights, humanitarian and refugee law.'

<p><i>Are unaccompanied minors ever refused entry to your country?</i></p> <p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p>	<p><i>Further explanation</i></p> <p>Click here to enter text</p>
<p><i>What is the housing situation of unaccompanied children seeking asylum? (multiple answers possible)</i></p> <p><input type="checkbox"/> Foster care</p> <p><input type="checkbox"/> Shelters designated for this group</p> <p><input type="checkbox"/> Youth care institutions</p>	<p><i>Further explanation</i></p> <p>Click here to enter text</p>

<input type="checkbox"/> Shelters designated for families <input type="checkbox"/> Regular shelters <input type="checkbox"/> Emergency shelters <input type="checkbox"/> Other	
<p><i>What is the housing situation of unaccompanied children with an asylum status? (multiple answers possible)</i></p> <input type="checkbox"/> Foster care <input type="checkbox"/> Shelters designated for this group <input type="checkbox"/> Youth care institutions <input type="checkbox"/> Shelters designated for families <input type="checkbox"/> Regular shelters <input type="checkbox"/> Emergency shelters <input type="checkbox"/> Other	<p><i>Further explanation</i> Click here to enter text</p>
<p><i>Do all unaccompanied children have a skilled independent guardian who supports, advises and protects them?</i> Choose...</p>	
<p><i>Do professionals who work with these children receive adequate training in communicating and working with them?</i> Choose...</p>	<p><i>Further explanation</i> Click here to enter text</p>

MOST PRESSING ISSUES

Please list a maximum of three issues that are currently the most critical for the situation of children on the move in your country or region.

1.	Click here to enter text
2.	Click here to enter text
3.	Click here to enter text

BEST PRACTICES

Please list a maximum of three best practices that positively influence the situation of children on the move in your country or region

1.	Click here to enter text
2.	Click here to enter text
3.	Click here to enter text

APPENDIX 2. LEGAL FRAMEWORK: MIGRATION, INTERNATIONAL PROTECTION AND CHILDREN'S RIGHTS

In this appendix we present the most relevant international and European instruments with regard to children on the move, as well as a number of initiatives of the Commission and relevant EU institutions.

Key international and European human rights instruments concerning children on the move

The guiding human rights instrument regarding children is the UN Convention on the Rights of the Child (UNCRC), adopted by the UN General Assembly on 20 November 1989 and ratified by all states in the world except for the USA. The Convention sets out the basic rights for all children on a signatory state's territory, all of which are relevant to children on the move. The four general principles¹³⁵ of the UNCRC is of particular importance to adhere to, including article 2 ensuring that the rights set out in the UNCRC apply to all children within the borders of a State Party without discrimination on *any* ground, including migration status or lack thereof. However, the UNCRC also makes specific provisions for this group of children – article 22 ensures the rights of children seeking refugee status or is considered a refugee; Article 10 sets out that State Parties shall consider requests for family reunification in a positive, humane and expeditious manner where a child is separated from his/her parent/s. Article 37 states that deprivation of a child's liberty shall only be used as a measure of last resort and for the shortest possible time. As regards unaccompanied and separated children, articles 19 and 20 are also particularly relevant, ensuring that they receive special protection and assistance from the State (article 20) and while in such care, protection from violence and abuse (article 19). Article 35, protecting children from trafficking, as well as Optional Protocol number 2 to the UNCRC on the sale of children, child prostitution and child pornography are also of high relevance for children on the move. The Committee on the Rights of the Child has published a General Comment on unaccompanied and separated children¹³⁶ describing how the rights of these children shall be ensured by the states, including issues related to family reunification, age assessment and detention. Other General Comments of particular interest for children on the move are the General Comment on the right to be heard¹³⁷ and the one on the assessment of the best interest of the child¹³⁸.

The right to seek asylum from persecution is established in article 14 of the Universal Declaration of Human Rights as well as in article 18 of the EU Charter of Fundamental Rights.

¹³⁵ Article 2 – non-discrimination, article 3 – best interest of the child, article 6 – the child's right to survival and development and article 12 – the child's right to be heard

¹³⁶ General comment no 6 – Treatment of Unaccompanied and Separated Children Outside Their Country of Origin (2005)

¹³⁷ General comment no 12 – The right of the child to be heard (2009)

¹³⁸ General comment no 14 – on the right of the child to have his or her best interests taken as a primary consideration (2013)

The guiding international instrument as regards refugees is the 1951 Convention on the Status of Refugees and the 1967 Protocol (hereafter referred to as the Refugee Convention). In Europe, this Convention has been ratified by all EU Member States, and by all but two¹³⁹ of the Council of Europe Member States and Belarus.

The Refugee Convention sets out a definition of a refugee as a person who is outside his or her country of nationality or habitual residence; has a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion and is unable or, owing to such fear, unwilling to avail himself/herself of the protection of that country.¹⁴⁰

To ensure that the people coming to Europe to seeking refuge have their core human rights protected, the Refugee Convention should be read together with the European Convention on Human Rights and Fundamental Freedoms (European Convention), as well as the UN Convention on the Rights of the Child (UNCRC)¹⁴¹. In the fight against organized crime, and trafficking in particular, consideration should also be taken to the UN Convention against transnational organized crime and its supplementary protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (the Palermo Protocol)¹⁴², as well as the Council of Europe Convention on Actions against Trafficking in Human Beings¹⁴³.

The EU institutions and Member States should also take into consideration other EU instruments establishing respect for human rights and fundamental freedoms in all its actions. Most importantly is the Treaty of the European Union, which entered into force on 1 December 2009. In article 3, establishing the objectives of the European Union, it is stated that the Union “[...] shall combat social exclusion and discrimination, and shall promote social justice and protection, equality between women and men, solidarity between generations and protection of the rights of the child.”¹⁴⁴ It also states that the Union, in its relations with the wider world, shall “[...] uphold and promote its values and interests [...] the protection of human rights, in particular the rights of the child, as well as to the strict observance and the development of international law, including respect for the principles of the United Nations Charter.”¹⁴⁵

The Lisbon Treaty also made the European Union Charter of Fundamental Rights binding for the Member States¹⁴⁶ and institutions, and should be applied when the Member States implement EU law.

139 Andorra and San Marino.

140 Article 1 Geneva Convention.

141 Both conventions are binding for all Council of Europe Member States, the UNCRC is also binding for Belarus.

142 Ratified by all Council of Europe Member States, the EU and Belarus, however the Palermo Protocol is not ratified by Andorra.

143 Ratified by all Council of Europe Member States but five (Liechtenstein and Turkey has signed the convention, but not ratified it, Czech Republic, Monaco and Russia has neither signed nor ratified) and Belarus.

144 Art 3.3 second paragraph Treaty of Lisbon.

145 Art 3.5 Treaty of Lisbon.

146 Except for the United Kingdom and Poland.

Of particular relevance is article 24, establishing the rights of children to be heard, to have their best interests taken as a primary consideration in all actions concerning them and to have contact with both parents.

It is also worth noting that the principle that the best interest of the child should be a primary consideration in all decisions and actions affecting them has been incorporated into the vast majority of EU legislation and policy in the field of migration and asylum, based on article 3 of the UNCRC.

The European Asylum and Migration Legislative Framework

Since 1999 the European Union has been working to create the Common European Asylum System (CEAS)¹⁴⁷, gradually improving the legislative framework. As of 2015 a recast of EU asylum legislation is in force, a package of relevant legislation in relation to persons seeking international protection in the EU. The package is based on three pillars: harmonising standards of protection by further aligning the EU States' asylum legislation; effective and well-supported practical cooperation; increased solidarity and a sense of responsibility among EU States, and between the EU and non-EU countries. All of the instruments include regulations guaranteeing that the best interests of the child shall be a primary consideration when applying the instrument, and also set up indicators on how the assessment of best interests shall be carried out¹⁴⁸, including ensuring that the views of the child are taken into consideration according to their age and maturity.

The CEAS legislative framework consists of:

- Qualification Directive (Directive 2011/95/EU) – this directive sets up common grounds for the Member States to grant international protection, and includes specific provisions for children;
 - The directive includes several child-specific regulations, including taking into account child-specific forms of persecution, access to education and health care (including treatment for mental disorders) with specific provisions in relation to unaccompanied children, including the right to be heard, the right to a guardian/representative, living conditions, requirements on persons working with them to have training, and family tracing. Procedures Directive (Directive 2013/32/EU) – this directive establishes common standards of safeguards and guarantees to access a fair and efficient asylum procedure throughout the EU Member States, including the right to apply for asylum at the border of a state;
 - The directive includes several child-related provisions, e.g. that the child shall be heard by a specially trained person and in a child-appropriate manner, several guarantees for unaccompanied children, including the right to a legal representative, right to information, circumstances in which medical examinations may be used to assess a child's age, and that it is possible to prioritise the examination of applications from children.
- Reception Conditions Directive (Directive 2013/33/EU) – this directive establishes common standards of living conditions for asylum applicants;

¹⁴⁷ Information from [DG Migration and Home Affairs](#) and [fact sheet](#).

¹⁴⁸ The indicators for assessment are not included in the Eurodac regulation.

- The directive includes regulations for children in detention (last resort, shortest period of time, separate from adults etc.), access to education, specific provisions for both minors (adequate standard of living, leisure activities, rehabilitation, etc.) and unaccompanied minors (guardian, placement, family tracing, trained staff, etc.) and right to health care.
- Dublin Regulation (Regulation (EU) No 604/2013) – establishes the Member State responsible for the examination of the asylum application
 - The regulation contains a few child-specific provisions, in particular the need for a representative for unaccompanied minors and training of staff.
 - It should be noted that according to a decision by the European Union Court of Justice in 2013, unaccompanied children are exempted from the Dublin regulation when no family member can be traced in any of the other Member States. In those cases the state in which the child is physically present is responsible for examining the claim for asylum.¹⁴⁹ Based on this decision, the Dublin regulation has been up for revision, and there discussions are currently ongoing between the European Parliament and the Council on how this should be formulated in a revised regulation.¹⁵⁰
- Eurodac Regulation (Regulation (EU) No 603/2013) – establishes an EU asylum fingerprint database
 - This regulation contains few child-specific regulations. However, it does set out that the safeguards established in the UNCRC shall be ensured in the procedures and that information shall be provided in an age-appropriate manner.

Apart from these directives there are several other legal instrument relevant to the asylum and migration process in the EU, notably:

- 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.¹⁵¹
 - This directive contains a few child-specific regulations, in particular as regards unaccompanied children (right to legal guardian, placement) and the right to education.
- Return Directive (Directive 2008/115/EC) – establishes clear, transparent and fair common rules for the return and removal of the irregularly staying migrant, the use of coercive measures, detention and re-entry, while fully respecting the human rights and fundamental freedoms of the persons concerned.
 - The return directive takes into account the special needs of children in the return process – it states that a child attending school can be a reason for extending the period of voluntary return, it sets up requirements for detention of children and their families, ensures the right to basic education in the period

149 CJEU C-648/11 *The Queen, on the application of MA and Others v. Secretary of State for the Home Department*, 6 June 2013.

150 Based on information from Cecilia Wikström, member of the European Parliament and rapporteur for the Dublin Regulation.

151 This directive needs to be [triggered](#) by the Council to be in force, something that has yet not happened.

before return is enforced, and have specific provisions for unaccompanied children.

- Family Reunification Directive (Directive 2003/86/EC) – establishes common rules for exercising the right to family reunification
 - The directive ensures the right for children to be reunited with parents who have been granted international protection in a member state. It also sets up the regulations for the possibilities for unaccompanied children to reunite with their parents.
- Trafficking Directive (Directive 2011/36/EU) – covers actions in different areas such as criminal law provisions, prosecution of offenders, victim support and victims' rights in criminal proceedings
 - The directive has a victim-centred approach and establishes specific safeguards and procedures in relation to child victims.

All of these instruments establish the best interest of the child as a primary consideration in decisions taken.

A complete compilation of EU legislation relevant to unaccompanied children, most of them also relevant to all children on the move, is available in the EU reference document on law and policy¹⁵² compiled in the context of the Connect Project, which was aimed at identifying and promoting good practices on reception and protection, focusing on the roles and responsibilities of actors engaging in the situation of these children, based on national mappings carried out in Italy, the Netherlands, Sweden and the UK.¹⁵³

Implementation – Actions of the European Commission

The European Commission, and in particular the Directorate General of Migration and Home Affairs, is developing the EU migration policy. The aim is to create an EU-wide set of rules for legal migration and to address irregular migration and trafficking in human beings. It also works to implement the Common European Asylum System.¹⁵⁴

Over the years, the Commission has taken many initiatives to strengthen the asylum and migration instruments and policies within the European Union, often ensuring a child rights perspective, with particular reference to the best interest of the child.

Of special interest with respect to children was the Action Plan on Unaccompanied Minors (2010-2014)¹⁵⁵, adopted by the Commission in 2010. It proposes an EU approach based on three main strands of action: prevention of unsafe migration and trafficking; reception and procedural guarantees in the EU; identification of durable solutions. It is based on ten principles to help guide EU institutions and Member States in their future approach towards unaccompanied children. To assist the Commission in implementing the action plan, an expert group on unaccompanied children in the migration process was set up in 2011.¹⁵⁶

¹⁵² [Reference document on EU law and policies](#)

¹⁵³ Information on [Connect Project](#)

¹⁵⁴ Information from [DG Migration and Home Affairs](#) 14 January 2016

¹⁵⁵ COM(2010)213 final Action Plan on Unaccompanied Minors (2010 – 2014)

¹⁵⁶ [Register of Commission expert groups.](#)

To ensure that the rights of the child are included in EU policies and actions, the Commission set up a coordination unit within DG Justice.¹⁵⁷ In 2011 the Commission adopted an EU Agenda for the Rights of the Child¹⁵⁸, setting out 11 actions the Commission would take up to the end of 2014, to ensure the rights of the child, including supporting the exchange of best practices and the improvement of training for guardians, public authorities and other actors who are in close contact with unaccompanied children.¹⁵⁹ The Commission also chairs the European Forum on the Rights of the Child¹⁶⁰, a multi-stakeholder forum that convenes annually to discuss different issues related to children's rights. The last three¹⁶¹ forums focused on child protection systems, which includes the protection of children on the move in Europe. For the 9th Forum, which took place in Brussels in June 2015, a reflection paper¹⁶² setting out ten principles for integrated child protection systems was published.

In September 2015, the Commission published a Communication setting up an Action Plan on Return¹⁶³, in order to enforce the Return Directive. In October, the Commission issued a recommendation¹⁶⁴ establishing a common "Return Handbook"¹⁶⁵ to be used by Member States' competent authorities when carrying out return-related tasks. The Return Handbook has a clear child rights focus. It has a specific section¹⁶⁶ dedicated to the return of unaccompanied children, focusing on ensuring a sustainable solution in the home country for the child, and establishing the best interest of the child as a key consideration. The handbook refers to General Comment no 14 on the right of the child to have his or her best interests taken as a primary consideration from the UN committee on the Rights of the Child, and to the joint UNHCR-UNICEF Guidelines on the determination of the best interests of the child¹⁶⁷. It also provides guidelines on the circumstances in which children with families and unaccompanied children can be placed in detention, and how detention centres accommodating children should be equipped.¹⁶⁸ It is now up to the Member States to ensure that the return directive is put into practice, using the handbook, and the Commission will follow up the implementation through consultations with Member States. The Commission is also working on developing readmission agreements with third countries, to facilitate return; however these agreements are of a general nature, without a child perspective.¹⁶⁹

157 Information from [DG Justice](#).

158 COM(2011) 60 final An EU Agenda for the Rights of the Child.

159 Information from [DG Justice](#).

160 Information from [DG Justice](#).

161 Information from [DG Justice](#) 2012, 2013 and 2015 .

162 30 April 2015 9th European Forum on the rights of the child – Coordination and cooperation in integrated child protection systems – Reflection paper.

163 COM(2015) 453 final EU Action Plan on return.

164 C(2015) 6250 final Commission Recommendation of 1.10.2015 establishing a common "Return Handbook" to be used by Member States' competent authorities when carrying out return related tasks.

165 [Return Handbook](#).

166 The EU Return Handbook Chapter 10.

167 Unicef and UNHCR "Safe and Sound – what states can do to ensure respect for the best interests of unaccompanied and separated children in Europe", October 2014.

168 The EU Return Handbook Chapter 16.

169 Information provided by a representative of the unit for irregular migration and return policy within DG Home, European Commission.

One of the main responsibilities of the Commission is to provide funding for Member States and organisations through different funds and initiatives.¹⁷⁰ Some of them are of particular interest for children on the move:

- The Asylum, Migration and Integration Fund (AMIF) is open to both state bodies, NGOs, research organisations and other relevant actors within the EU Member States¹⁷¹. AMIF is aimed at promoting the efficient management of migration flows and the implementation, strengthening and development of a common Union approach to asylum and immigration.¹⁷² The work programme for 2015, which the funds should contribute to, includes e.g. preventing and combating trafficking in human beings.¹⁷³ In the 2016 work programme for emergency assistance, it is stated that child protection principles will inform all activities related to children and that activities will be carried out with child safeguarding principles.¹⁷⁴
- The Internal Security Fund (ISF) – Police aims at combating cross-border, serious and organised crime and its work programme for 2015 included actions to prevent and combat trafficking in human beings, as well as protecting the victims thereof. A specific focus was on child protection systems for child victims of trafficking.¹⁷⁵
- The European Refugee Fund support EU Member States' efforts in receiving refugees and displaced persons and in guaranteeing access to consistent, fair and effective asylum procedures.¹⁷⁶

The Commission is also working to prevent and protect victims of human trafficking. In 2012 the EU Strategy towards the Eradication of Trafficking in Human Beings 2012-2016¹⁷⁷ was adopted, setting out five priorities for the EU to focus on:

- Identifying, protecting and assisting victims of trafficking
- Stepping up the prevention of trafficking in human beings
- Increased prosecution of traffickers
- Enhanced coordination and cooperation among key actors and policy coherence
- Increased knowledge of and effective response to emerging concerns related to all forms of trafficking in human beings.

The Strategy has a child-focused and a child rights perspective, setting several actions towards the protection of child victims, and identifying unaccompanied children as a particularly vulnerable group at risk of becoming victims of trafficking.

Several initiatives have also been taken, in particular by specialized agencies (see below), to provide training and capacity building for professionals working with refugees,

170 Information from [DG Migration and Home Affairs](#) 15 January 2016.

171 Except Denmark.

172 Information from [DG Migration and Home Affairs](#) 15 January 2016.

173 C(2015) 5385 final Annex 1 to the Commission Implementing Decision concerning the adoption of the work programme for 2015 and the financing for Union actions within the framework of the Asylum, Migration and Integration Fund.

174 C(2015) 9534 final Annex 1 to the Commission Implementing Decision Amending the work programme for 2016 and the financing for the emergency assistance within the framework of the Asylum, Migration and Integration Fund.

175 C(2015) 3765 final Annex 1 to the Commission Implementing Decision Annual Work Programme for 2015 for support to Union Actions under the Internal Security Fund – Police cooperation and crime prevention.

176 Information from [DG Migration and Home Affairs](#).

177 COM(2012) 286 final The EU Strategy towards the Eradication of Trafficking in Human Beings 2012–2016.

e.g. in border control, police, in the asylum process, related to aspects including identifying unaccompanied minors, preventing trafficking and determining the best interest of the child. The same applies to developing research and guidance on migration and asylum issues.

Role of the European Parliament in EU Asylum and Migration Legislation and Actions

The main role of the European Parliament is the co-decision power it has with the European Council on the community asylum and migration legislation as well as the budget for the European Union.¹⁷⁸

Over the years, the European Parliament has been very active in the field of migration and asylum, in issuing reports and organising discussions. These have often had a human rights perspective and include backing up funding proposals from the European Commission, discussing solidarity among EU Member States in relocating refugees, increasing resettlement of refugees and voicing concerns about detention and reception conditions for asylum seekers.¹⁷⁹

As regards unaccompanied children, the European Parliament adopted a resolution in 2013 on the situation of unaccompanied children in Europe. It identifies priority areas for action, including cooperation with third countries, and called on Member States and the European Commission to take a number of measures, including strategic guidelines on the best interests and common minimum standards as well as a handbook¹⁸⁰ of EU measures.¹⁸¹

The European Parliament is also involved in revising the Dublin regulation with regard to where unaccompanied minors should have their asylum application processed, following the above-mentioned judgement¹⁸² from the European Union Court of Justice in June 2013. The position of the European Parliament Civil Liberties Committee is that the member state hosting the minor should be responsible for processing the asylum application, so as to avoid unnecessary transfers of children and ensure a swift decision on the application, in line with the overriding principle of the child's best interest. The only possible exception to this principle should be if an individual assessment shows that it would be in the best interest of the child to go to another country.¹⁸³

In 2014 an intergroup on children's rights was established by the European Parliament, gathering members of the European Parliament from different countries, political groups and committees.¹⁸⁴ The Intergroup tries to ensure a child rights perspective in all the work of the Parliament. The inter-group has discussed several child rights issues during the

178 Information from [the European Parliament](#).

179 Information from [the European Parliament](#).

180 The result is the [Connect project](#) referred to above,

181 P7_TA(2013)0387 European Parliament resolution of 12 September 2013 on the situation of unaccompanied minors in the EU (2012/2263(INI)).

182 CJEU C-648/11 *The Queen, on the application of MA and Others v. Secretary of State for the Home Department*, 6 June 2013.

183 Information from [the European Parliament](#).

184 [List of members](#).

first year following its establishment, of relevance here in particular the situation of unaccompanied children and trafficking in children.¹⁸⁵

EU Agencies in the field of asylum and migration

The European Asylum Support Office (EASO)

In order to facilitate the management of the common European Asylum system, the European Asylum Support Office (EASO) was set up in 2010¹⁸⁶, being fully operational in 2011. EASO¹⁸⁷:

- Acts as a centre of expertise on asylum;
- Contributes to the development of the Common European Asylum System by facilitating, coordinating and strengthening practical cooperation among Member States on the many aspects of asylum;
- Helps Member States fulfil their European and international obligations to give protection to people in need;
- Provides practical and technical support to Member States and the European Commission;
- Provides operational support to Member States with specific needs and to Member States whose asylum and reception systems are under particular pressure;
- Provides evidence-based input for EU policy-making and legislation in all areas having a direct or indirect impact on asylum.

Since its start, EASO has focused on vulnerable groups, and in particular on children, including unaccompanied children. It provides support and develop practical co-operation on issues related to children. EASO has focused on thematic issues such as age assessment, family tracing, the best interest of the child and trafficking of children. It incorporates aspects related to children in all its activities.¹⁸⁸

In 2013, EASO published a handbook on age assessment practices in Europe¹⁸⁹, setting out guidelines on how to conduct the age assessment process, in particular focusing on medical age assessment. In its annual meeting on unaccompanied children, discussions were held on other methods, and the handbook will most likely be updated with psychosocial methods as well.¹⁹⁰

Frontex

To facilitate and improve the application of existing and future EU measures relating to the management of external borders, the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (FRONTEX¹⁹¹) was set up in 2004¹⁹². Frontex promotes, coordinates and develops

¹⁸⁵ Information provided by Anna Maria Corazza Bildt, member of the European Parliament for Sweden, co-chair of the intergroup on children's rights.

¹⁸⁶ Regulation (EU) 439/2010

¹⁸⁷ [Information about EASO](#).

¹⁸⁸ [EASO about vulnerable groups](#) 16 January 2016.

¹⁸⁹ EASO Age assessment practice in Europe, December 2013.

¹⁹⁰ Information provided by an official from the European Commission.

¹⁹¹ Information from [Frontex](#).

European border management in line with the EU fundamental rights charter applying the concept of Integrated Border Management. Its main activities are¹⁹³:

- Joint operations
- Training
- Risk analysis
- Research
- Providing a rapid response capability
- Assisting Member States in joint return operations
- Information systems and information sharing environment

Frontex has published a guide to border guards on how to identify children at risk at airports.¹⁹⁴

In its risk analysis for 2015 Frontex highlighted children as a particularly vulnerable group and highlighted the need to develop specific mechanisms and procedures to tackle the needs of children at all EU external borders.¹⁹⁵

The EU Agency for Fundamental Rights (FRA)

The EU Agency for Fundamental Rights (FRA) was established in 2007 and its main purpose is to provide independent, evidence-based assistance and expertise on fundamental rights to EU institutions and Member States. It has three main working methods:¹⁹⁶

- Large scale surveys
- Comparative legal or social research
- Handbooks for legal practitioners

The main tasks¹⁹⁷ of the FRA is:

- collecting and analysing information and data;
- providing assistance and expertise;
- communicating and raising rights awareness.

Since its start, migration and asylum, as well as the rights of the child have been priority areas within its multiannual work plans.¹⁹⁸

In relation to children on the move, the following FRA publications are of particular interest. All FRA publications in relation to migration and asylum can be found on its website¹⁹⁹:

- 2009 – Child Trafficking in the EU – Challenges, perspectives and good practices
- 2010 – Separated, asylum-seeking children in European Union Member States

192 Council Regulation (EC) No 2007/2004.

193 Information from [Frontex](#).

194 Frontex VEGA Handbook: Children at airports, 2015.

195 Frontex Annual Risk Analysis 2015, 2015.

196 Information from [FRA](#).

197 Information from [FRA](#).

198 Information from [FRA](#).

199 Information from [FRA](#).

- 2011 – The fundamental rights of migrants in an irregular situation in the European Union
- 2013 – EU solidarity and Frontex: fundamental rights challenges
- 2014 – Guardianship for children deprived of parental care
- 2014 – Fundamental Rights Conference 2014 “Fundamental rights and migration to the EU” : Conference conclusions
- 2014 – Handbook on European law relating to asylum, borders and immigration
- 2015 – Legal entry channels to the EU for persons in need of international protection: a toolbox
- 2015 – Guardianship systems for children deprived of parental care in the European Union
- 2015 – Alternatives to detention for asylum seekers and people in return procedures

In 2015, the FRA also concluded a mapping of child protection systems in the EU, based on a question from the European Commission.²⁰⁰

Europol

The European Union’s law enforcement agency (Europol) has as its main objective to help achieve a safer Europe for the benefit of all EU citizens.²⁰¹ It plays a crucial role in the EU actions to prevent and combat trafficking in human beings, through supporting high-level human trafficking investigations, providing on-the-spot operational support through mobile offices, and giving access to its criminal databases and analytical tools.²⁰² In 2014, Europol published a specific Intelligence Notification on Child trafficking for exploitation in forced criminal activities and forced begging.²⁰³

200 Information from [FRA](#).

201 Information from [Europol](#).

202 Information from [Europol](#).

203 Europol Intelligence Notification 16/2014 Child trafficking for exploitation in forced criminal activities and forced begging.

APPENDIX 3. SUMMARY OF THE EUROPEAN RESPONSE TO THE REFUGEE SITUATION

Search and Rescue

Even before the huge influx of refugees into the EU in 2015, the EU had already taken a number of actions with regard to the situation in the Mediterranean, in particular as regards search and rescue operations. Following a tragic drowning off Lampedusa in October 2013, in which 300 people died, the Italian government launched Operation Mare Nostrum (OMN) with the objective to prevent people smuggling, to rescue refugees at sea and manage the sea borders.²⁰⁴

Mare Nostrum was cancelled in November 2014 and replaced by Operation Triton, managed by Frontex.²⁰⁵ Triton was expanded in May 2015, following the increasing number of migrants crossing the Mediterranean, being one of the first EU actions put in place in the current refugee situation.²⁰⁶

European Agenda on Migration

As one of the first responses to the refugee situation in the Mediterranean, the European Commission published a European Agenda on Migration²⁰⁷ on 13 May 2015. It contains proposals for both immediate action as well as more long-term actions to manage migration better.

The immediate actions needed, as identified by the Commission, are:

- Saving lives at sea – this includes the expansion of Triton
- Targeting criminal smuggling networks
- Responding to high-volumes of arrivals within the EU: Relocation
- A common approach to granting protection to displaced people in need of protection: Resettlement – this included an appeal to the Member States for the comprehensive use of other legal avenues available to people in need of protection, including private/non-governmental sponsorships and humanitarian permits, and family reunification clauses
- Working in partnership with third countries to tackle migration upstream
- Using the EU's tools to help frontline Member States

To better manage the migration in the long term, the Commission proposes four pillars:

1. Reducing the incentives for irregular migration, which includes:
 - a. addressing the root causes of irregular and forced displacement in third countries
 - b. fight against smugglers and traffickers
 - c. return
2. Border management – saving lives and securing external borders
3. Europe's duty to protect: a strong common asylum policy, which includes:

²⁰⁴ Information from [the Italian Government](#) and Information from [the European Commission](#).

²⁰⁵ Information from [Frontex](#).

²⁰⁶ Information from [Frontex](#).

²⁰⁷ COM(2015) 240 final A European agenda on migration.

- a. a coherent implementation of the Common European Asylum System
- b. Dublin system – greater responsibility sharing across Member States
- 4. A new policy on legal migration, which includes:
 - a. Well managed regular migration and visa policy
 - b. Effective integration
 - c. Maximising the development benefits for countries of origin

Even though at least one in four of all asylum applicants in the EU in 2014 were children²⁰⁸, the European Agenda on Migration only mentions children twice.²⁰⁹ The only action specifically targeting children is placed in a footnote²¹⁰ and focuses on a limited group of migrant children entering the EU – unaccompanied and missing children.

Council decisions and actions after the European Agenda on Migration

Relocation

Following the proposals in the Agenda, the Council agreed, on 14 September, to relocate 40.000 people in clear need of international protection from Greece and Italy to other Member States.²¹¹ A new decision, taken on 22 September, increased this number by another 120.000 relocations.²¹² Up to 19 January 2016, only 331 persons had been relocated from Greece and Italy, out of the 160.000 agreed to.²¹³

The relocation agreement states that the best interest of the child must be a primary consideration when implementing the decision. However, there are no references that children, unaccompanied or accompanied, should be prioritized in the relocation, nor are there any other child-specific agreements. There is also no reference to the child's right to receive information about the relocation process, nor the child's right to be heard and have his/her views taken into consideration in the relocation decision, as stated in article 12 of the UNCRC and article 24 of the EU Charter of Fundamental Rights.

Resettlement

On 22 July, the Member States, in their council conclusions, agreed to resettle 20.000 people in clear need of international protection through multilateral and national schemes.²¹⁴ There is no information available on the implementation of this scheme.

There is no reference to children in these conclusions, and no reference to a best interest assessment or taking into consideration the child's views in the resettlement procedure, as should be the case in accordance with articles 3 and 12 of the UNCRC, as well as article 24 of the EU Charter of Fundamental Rights.

²⁰⁸ Table ["Asylum and first time asylum applicants by citizenship, age and sex Annual aggregated data \(rounded\)"](#) (migr_asyappctza) First time applicant.

²⁰⁹ COM(2015) 240 final A European agenda on migration pages 12 and 16.

²¹⁰ COM(2015) 240 final A European agenda on migration Footnote 28.

²¹¹ Council Decision (EU) 2015/1523 of 14 September 2015 establishing provisional measures in the area of international protection for the benefit of Italy and of Greece.

²¹² Council Decision (EU) 2015/1601 of 22 September 2015 establishing provisional measures in the area of international protection for the benefit of Italy and Greece.

²¹³ [State of Play](#) Member States' Support to Emergency Relocation Mechanism as of 19 January 2016.

²¹⁴ Council Conclusions 11130/15 on resettling through multilateral and national schemes 20 000 persons in clear need of international protection.

EU-Turkey joint action plan

On 15 October 2015, the Council, the European Commission and the government of Turkey agreed to an action plan²¹⁵ with the aim of increasing the cooperation between the EU and Turkey in migration management, with specific focus on supporting those in need from Syria. The action plan contains two parts:

1. Supporting Syrians under temporary protection and their Turkish hosting communities
2. Strengthening cooperation to prevent irregular migration

On 29 November 2015 a new meeting²¹⁶ was held, where, among other things, the following was agreed upon:²¹⁷

- The EU will support Turkey with 3 billion euros to support the Syrian refugees living in Turkey. The support will be facilitated through “the Refugee Facility for Turkey”, established by the Commission
- Turkey will step up its border control, in order to prevent migrants not in need of international protection entering the EU

On 15 December 2015, the Commission adopted a recommendation for a voluntary humanitarian admission scheme with Turkey²¹⁸, through which Member States can accept – on a voluntary basis – Syrian refugees residing in Turkey relocating to their respective territories. There is no child focus in this recommendation.

There is no information about the implementation of these decisions yet. However, the Commission is working with Turkey to ensure the agreements are carried out swiftly and effectively.²¹⁹

Meeting with the leaders of the Western Balkans Route

In order to manage the migration flows through the Western Balkans to northern Europe, the heads of state or heads of government of Albania, Austria, Bulgaria, Croatia, the Former Yugoslav Republic of Macedonia, Germany, Greece, Hungary, Romania, Serbia and Slovenia met on 25 October on the invitation of the President of the European Commission and in the presence of the President of the European Parliament, the President of the European Council, the current and incoming Presidencies of the Council of the EU as well as the United Nations High Commissioner for Refugees (UNHCR).

The leaders agreed to a statement²²⁰, including operational actions in the context of three main challenges:

- Providing shelter
- Managing migration flows together

215 Information on [the action plan](#).

216 See [summit statement](#).

217 <http://www.consilium.europa.eu/en/press/press-releases/2015/11/29-eu-turkey-meeting-statement/>.

218 C(2015) 9490 Commission Recommendation of 15.12.2015 for a voluntary humanitarian admission scheme with Turkey.

219 Information from [PubAffairs Bruxelles](#).

220 [Leaders statement](#).

- Border management

Some of the actions decided on have been implemented. However, much remains to be done to achieve, for example, improvement and expansion of longer-term reception capacities, the required number of reception places in Greece, reduction of bottlenecks leading to people being stranded at borders, dialogue improvement and co-operation between countries.²²¹

Valetta Summit on Migration 11-12 November 2014

On 11 and 12 November 2015, heads of state and heads of government from Europe and Africa met to discuss migration between the two continents. A political declaration²²² was agreed upon and an action plan²²³ was issued. The action plan covers four areas of joint concern:

1. Development benefits of migration and addressing root causes of irregular migration and forced displacement
2. Legal migration and mobility
3. Protection and asylum
4. Prevention of and fight against irregular migration, migrant smuggling and trafficking in human beings

The outcome documents of the Valetta Summit are somewhat better than the other instruments in that it contains provisions focusing on children and ensuring a child rights perspective. It highlights the need to support resilience, in particular to support the most vulnerable, in particular women and children, support regional initiatives on children at risk and pay special attention to unaccompanied minors taking into account the best interest of the child.

Actions to implement the European Agenda on Migration

Following the adoption of the European Agenda on Migration, as well as the following decisions by the Council, the Commission and different EU agencies have taken several actions to implement them. Actions of particular interest to children on the move are highlighted below. For a complete description of the actions taken to follow up the Agenda, visit the Commission website²²⁴ and its press release²²⁵ on updates.

Hotspots

One of the first initiatives of the Commission in order to implement the Agenda on Migration was to start setting up the Hotspots in Greece and Italy. The Hotspot approach is a collaboration between The European Asylum Support Office (EASO), EU Border Agency (Frontex), EU Police Cooperation Agency (Europol) and EU Judicial Cooperation Agency (Eurojust), together with the relevant authorities in the member state.²²⁶

²²¹ [State of Play Report](#).

²²² Information on [Valletta Summit](#).

²²³ Information on [Valletta Summit](#).

²²⁴ Information from [DG Migration and Home Affairs](#).

²²⁵ [Press Release](#) from the European Commission.

²²⁶ Information from [DG Migration and Home Affairs](#).

A Hotspot is a first-line reception centre where migrants are taken for registration, identification, fingerprinting and debriefing of asylum seekers. Those requesting asylum will immediately enter an asylum procedure where EASO support teams will help to process asylum applications as quickly as possible. For those who are not in need of protection, Frontex will help Member States by coordinating the return of irregular migrants. Europol and Eurojust will assist the host member state with investigations to dismantle smuggling and trafficking networks. The Hotspot approach will also contribute to the implementation of the temporary relocation schemes.²²⁷

In Greece, five hotspot areas have been identified by the Greek authorities, but as of 15 December 2015 only one is up and running (Moria, in Lesbos).²²⁸

In Italy six hotspots areas have been identified, but here also only one (Lampedusa) is operating as of 15 December 2015.²²⁹

European Parliament

In April 2015, the Parliament adopted a resolution in response to the latest tragedy on the Mediterranean, calling for more search and rescue capacity, guaranteeing fundamental rights and for the Commission to set up a European Agenda on Migration.²³⁰

During 2015, the European Parliament has discussed several of the actions taken by the Council and the Commission to handle the refugee situation in Europe.²³¹ It has also had discussions on the situation focusing on the human rights perspective and in particular on the use of detention.²³²

Since 2015, the European Parliament has started an intergroup on children's rights with members of the European Parliament from different countries, political groups and committees.²³³ Over the past year there have been a number of intergroup discussions about children on the move, specifically highlighting trafficking of children as a concern. Other issues highlighted were girls as a particularly vulnerable group among children arriving and the risk children face of falling victim to violence and sexual abuse. The intergroup also invited the rapporteur on children and migration from the European Parliament to a discussion.²³⁴

Actions by other actors:

The Council of Europe

227 Information from [DG Migration and Home Affairs](#).

228 COM(2015) 678 final Communication from the Commission to the European Parliament and the Council Progress Report on the Implementation of the hotspots in Greece.

229 COM(2015) 679 final Communication from the Commission to the European Parliament and the Council Progress Report on the Implementation of the hotspots in Italy.

230 P8_TA-PROV(2015)0176 European Parliament resolution of 29 April 2015 on the latest tragedies in the Mediterranean and EU migration and asylum policies (2015/2660(RSP)).

231 Information from [the European Parliament](#).

232 Information from [the European Parliament](#).

233 [List of members](#).

234 Information provided by Anna Maria Corazza Bildt, member of the European Parliament for Sweden, co-chair of the intergroup on children's rights.

The Council of Europe is the continent's leading human rights organization, with 47 Member States, including the 28 EU Member States. The main instrument guiding the Member States is the European Convention on Human rights, aiming to protect human rights, democracy and the rule of law, the guiding principles of all Council of Europe activities. The implementation of the Convention is monitored by the European Court of Human Rights.²³⁵

The Council of Europe has taken a number of actions in 2015 to reiterate the human rights approach in migration policies and actions, and urged its Member States not to lose sight of these basic values. The initiatives include:

- A guideline from Secretary General Thorbjorn Jagland on the treatment of migrants and asylum seekers, including their reception and temporary living conditions, to ensure respect for their human rights, was issued in September²³⁶
- The Council of Europe will examine how it can use its monitoring powers to find out how human rights are respected in the actions taken by Member States²³⁷
- The Council of Europe has had discussions with the European Union on human rights of refugees and migrants²³⁸
- The Council of Europe has decided to appoint a special representative on Migration and Refugees, who will collect and analyse information on the human rights situation of migrants and refugees in Europe²³⁹
- The next Council of Europe strategy on the rights of the child, to be adopted in early 2016, will partly focus on migrant children.²⁴⁰ At the last meeting of the Committee of Experts on the Council of Europe Strategy for the Rights of the Child 2016-2019 (DECS-ENF) an exchange on children's rights in the context of current migration challenges was held²⁴¹ based on an information document on migration challenges for Europe.²⁴²

The Secretary General has also issued concerns about, for example, the new migration laws in Hungary²⁴³, underlining the need for a human rights approach in the refugee crisis, and in particular the risk of discrimination and xenophobia²⁴⁴ and that migrants have the same human rights as everyone else.²⁴⁵

The Commissioner for Human Rights has on several occasions raised concerns about the way states handle the influx of migrants, including several opinion articles published in various newspapers in Europe and the United States.²⁴⁶ Most recently, he highlighted the new Danish asylum legislation from a human rights perspective²⁴⁷, that there is a risk

235 Information from [the Council of Europe](#) .

236 Information from [the Council of Europe](#) .

237 Information from [the Council of Europe](#) .

238 Information from [the Council of Europe](#) .

239 Information from [the Council of Europe](#) .

240 Information from [the Council of Europe](#) .

241 Information from [the Council of Europe](#) .

242 SG/Inf(2015)33 Information Document Migration challenges for Europe: need for collective action.

243 Information from [the Council of Europe](#) .

244 Information from [the Council of Europe](#) .

245 Information from [the Council of Europe](#) .

246 Information from [the Council of Europe](#) .

247 Information from [the Council of Europe](#) .

for human rights violations for asylum seekers returned to Hungary²⁴⁸ and that the migration and asylum policies of European countries have been disastrous²⁴⁹.

The Parliamentary Assembly of the Council of Europe has urged Member States to take a holistic and rights-based approach to migration through transit countries²⁵⁰ and called on the EU to reform the Dublin system²⁵¹. The European migration and refugee crisis will also be at the centre of its discussion during its first session for 2016, on 25-29 January.²⁵²

UNHCR

During 2015, UNHCR has taken a new role in Europe – being operational in the various places in Europe where migrants pass through, taking up the responsibilities European countries are supposed to be capable of fulfilling without international assistance. UNHCR has assisted Greece in the reception of refugees and set up transit camps along the Western Balkans route, providing refugees with basic needs like shelter.²⁵³

UNHCR has also been engaged by the European Commission to assist in setting up 20.000 of the 50.000 new reception places agreed to at the Western Balkans Leaders Meeting on 25 October 2015.²⁵⁴

One of the main tasks of UNHCR is to ensure centres along the route are suitable for winter. In an appeal in November 2015²⁵⁵, UNHCR declared how much funding was needed to ensure this. According to sources within UNHCR, the situation on 17 December 2015 was such that in Serbia 45% of available accommodation had been winterized, with the progress of winterization activities reaching 30% in the Former Yugoslav Republic of Macedonia, 36% in Slovenia, and only 22% in Croatia.²⁵⁶

248 Information from [the Council of Europe](#).

249 Information from [the Council of Europe](#).

250 Information from [the Council of Europe](#).

251 Information from [the Council of Europe](#).

252 Information from [the Council of Europe](#).

253 Information from interview with advisors at UNHCR

254 Information from [UNHCR](#)

255 UNHCR Winterization Plan for the Refugee Crisis in Europe November 2015 – February 2016.

256 Provided by e-mail to the Ombudsman for children in the Netherlands by a representative of UNHCR.