OVERVIEW

By now, the staggering figures involved in child migration globally are familiar to us all. However it is important to remind ourselves that 50 million children worldwide have been uprooted – including 28 million children forced to move due to conflict and violence.1 One in every 200 refugees is a child. In Europe, one in every four asylum applications is made by a minor. Yet, while child migration is recognized as one of the most pressing humanitarian challenges of our time, our analysis reveals a significant lack of understanding about children’s mobility. A strong focus is placed upon drafting new regulations and frameworks instead of addressing some of the underlying – and, to some extent, invisible – problems entrenched in the region- and country-specific policies and practices that contribute to implementation gaps in migration systems. Within migration pathways, there is a need to explicitly recognize the rights of children – not as migrants or as refugees, but as children first.2

Supporting migrant children is a shared responsibility, and governments have a legal obligation under the United Nations Convention on the Rights of the Child to protect and safeguard children. The ‘best interests principle’ set out in article 3.1 of the Convention stipulates “The best interests of the child shall be a primary consideration in all actions affecting children”. In addition, article 2 (on non-discrimination), article 6 (on the right to life and survival and development) and article 12 (on the right to be heard) are extremely important in the context of children on the move. Finally, general comments made by the Committee on the Rights of the Child – the authoritative guidance issued to States parties about how to interpret and implement the Convention – provide an important legal framework for responding to the needs of children in migration pathways. Migration is also broadly mentioned throughout the 2030 Agenda for Sustainable Development. The Sustainable Development Goals (SDGs) and targets codify strategies of engagement with migration3. Children’s migration is relevant to SDG targets, including, but not limited to, targets 1.2, 3.2, 4.1, 4.2, 4.5, 4.A, 5.2, 8.6, 8.7, 8.8, 10.7, 16.1 and 16.2.

In this brief, we summarize the risks, vulnerabilities and protection needs of children as refugees and migrants in Europe. We use the Convention on the Rights of the Child and the SDGs as the normative frameworks and draw on the insights of the UNICEF Uprooted study and its background documents (hereafter cited as country reports) as well as a range of primary and secondary data sources.4 Following a brief overview of the conceptual issues at stake, we highlight some of the key implementation gaps in migration systems.5


5 In the second brief, we analyse Europe’s migration practices and policies through the lens of inequality. D’Costa, Bina, and Emilia Toczydlowska, ‘Migration and Inequality: Making policies inclusive for every child’, Innocenti Research Brief, UNICEF Office of Research - Innocenti, Florence, 2017.
TERMINOLOGY AND LANGUAGE

A simple Internet search to explore the terminology used in the Italian media provides an interesting insight into media representations of migration. In 2014, the term ‘migration crisis’ appeared 6,990 times in the Italian media, rising to 26,990 occurrences in 2016. Similarly, ‘refugee crisis in Europe’ appeared 4,800 times in 2014, increasing to 44,900 instances in 2016. In September 2015, the tragic image of the lifeless body of three-year-old Aylan Kurdi, a migrant from the Syrian Arab Republic, washed up on a Turkish seashore sparked a public outcry and turned the world’s attention to Europe’s challenge with forced migration involving children. We argue, however, that it is critical that the pressing concerns of displaced children’s migration, within Europe or elsewhere, are not framed as a ‘crisis’.

Throughout history and across the world, children have been on the move – migrating both with families and communities and, at times, without them. Also, there are far more refugees and migrants in Africa and the Asia-Pacific region than in Europe: together, the two regions host approximately 60 per cent of the world’s displaced children. Though the intention behind the use of the language of crisis may be worthy, and while it evokes a certain urgency and emotion that stakeholders believe is appropriate to the situation in Europe, it also heightens anxiety and social unrest, which has a political impact on the rapidly evolving migration dynamics. A fearful political climate that focuses only on border security undermines the critical objective to develop a sustainable, systematic and child-friendly migration governance structure. There is also a risk that the ‘crisis’ label will result in the exceptional or differential treatment of the children involved, either to their own disadvantage or to the disadvantage of other migrant children. Using certain terms such as ‘flows’ and ‘influx’ when discussing migration also conjures up images of mass movements of people and associated risks for States parties.

The real crisis in forced displacement and irregular migration today is that border regimes worldwide make desperate people turn to desperate measures and dangerous journeys, which in turn generates a reception crisis. The ongoing large-scale movements of people and the growing number of children who are compelled to take risky and unsafe routes by sea, land and/or air are serious concerns. Data from the International Organization for Migration (IOM) tell us that 43,204 migrants and refugees had entered Europe by sea in 2017 as at 23 April 2017, with more than 80 per cent of this number arriving in Italy and the rest in Spain and Greece. The IOM Missing Migrants Project also reports that there had been 1,089 fatalities in 2017 along the Central Mediterranean migration route (again, as at 23 April 2017).

PREVAILING CHALLENGES

Migration scholarship distinguishes between refugees and migrants, arguing that international norms and regulations guarantee for refugees certain rights and protection that migrants do not have, although they also face innumerable risks in the countries they wish to enter. Recognizing this conceptual distinction, we argue in our second brief on inclusive migration policies that for refugee children and migrant children the legal, political and sociocultural production of illegality is often comparable, resulting in similar experiences of violence and exploitation. At times, children may fall into or be moved into different categories. Using the available data that recognize diversity, we have distilled some of the common experiences of children on the move in Europe. Thus, unless specified otherwise, this brief considers all children in migration pathways. This brief does not address the concerns of naturalized migrant citizens (i.e. migrants who subsequently obtained citizenship).

Our research indicates that Europe’s existing migration assistance systems, which include laws, policies and practices, are not always child-friendly. Family reunification is one of the most important challenges. In addition, the risk of statelessness experienced by children on the move in Europe has increased dramatically. Yet, no coordinated and systematic effort has been established to resolve such issues in Europe. Recent publications cover the plight of unaccompanied and separated children but overlook accompanied, undocumented and/or missing children. Making assumptions about accompanied children not needing special child protection is also a serious oversight. In addition, there remains an insufficient understanding of the situation of children who are returned to their country of origin or to a third country. Also, the Return

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6 The authors are grateful to Michelle Godwin for this background research.
9 Ibid.
12 For details, see the in-depth reviews for eight countries (Austria, the Czech Republic, Germany, Greece, Hungary, Italy, Serbia and Turkey). Also, recognized during the EU meeting in Brussels, discussion notes on file with B. D’Costa.
Directive breaches the principles of the Convention on the Rights of the Child. Consequently, we argue that Europe has reached a critical juncture, where a comprehensive, well-governed, child-sensitive and child-responsive rights-based approach to migration must be developed. This approach must be informed not only by sending and receiving country data, but also by relevant evidence from transit countries – both those within Europe and beyond.

### A MORE HUMAN APPROACH TO ASYLUM CLAIMS

The normative frameworks underpinning the protection of displaced children in Europe need to be more humane and compassionate throughout the entire migration process – from arrival to a durable solution. Most children perceive Austria, the Czech Republic and Serbia as transit countries and try to move to other countries in Europe, but altercations between border guards and migrants have been reported during such movements. Such interactions between migrants and authorities could work against asylum and protection needs. Different agencies may also interpret the compulsory accommodation of migrants in reception facilities differently, which could result in coercion and violence. In the European Agenda on Migration, hot spots are “characterized by specific and disproportionate migratory pressure, consisting of mixed migratory flows, which are largely linked to the smuggling of migrants, and where the Member State concerned might request support and assistance to better cope with the migratory pressure.”

The identification and registration process for minors entering reception facilities and detention centres in Europe’s migration ‘hot spots’ involves various steps. These include, for example: arrival at the centre, courtesy of coastguards; information sessions, led by IOM and the United Nations High Commissioner for Refugees (UNHCR); screening, identification and/or fingerprinting, by agencies such as Frontex; registration, by reception and identification centres and the police; medical examination, by Médecins du Monde (MdM); determination of vulnerability, via psychosocial sessions led by MdM; age assessment using dental X-rays; and psychosocial assessments to examine the relationship where a relative is involved (the public prosecutor is usually strict in awarding temporary guardianship to an adult relative. For example, guardianship only awarded if a relationship can be proved).

With so many different stakeholders involved throughout the process, a better integrated and coordinated child protection system is key to improving the processing of children’s asylum claims. Various actors carry out a range of services in different reception facilities, resulting in confusion about who has ultimate responsibility for a child. Inadequate standards in reception facilities are also a cause of serious concern.

Such concerns have led, for example, to the Italian Council of State annulling, on 15 May 2017, the transfer of an asylum seeker to Hungary as stipulated by the Dublin Regulation. Based on reports and requests by UNHCR and other international organizations to temporarily suspend all transfers to Hungary because of the inhumane and degrading conditions experienced there by asylum seekers, the Council of State found that there was a risk to the applicant if he was returned to Hungary. In contrast, however, a new legislative proposal on asylum policies in Austria, as well as recent asylum law reforms in Germany, signal a new era of even stricter obligations and restrictions being imposed on asylum seekers, including children. The new German legislation also introduces the option for federal states to oblige asylum seekers, including children, to remain in initial reception centres (Erstaufnahmeinrichtungen) until the execution of a removal order. UNICEF and German civil society...
organizations have warned that exercising this option would contravene the best interests of the child principle, as the conditions in initial reception centres are unsafe and inappropriate for children and access to education is insufficient. Although the harmonization of asylum procedures within and across European countries is crucial, this should never lead to the lowering of child protection standards.

FAMILY REUNIFICATION, RESETTLEMENT, AND REPATRIATION

Migration has always been and will remain an important strategy for families to improve their livelihoods. Lack of adequate information about access to rights, education and health services, and family reintegration are the most important challenges in Europe today. There is an urgent need to establish common European rules on the legal guardianship of unaccompanied and separated minors. Although European Union (EU) law recognizes the need for a guardian and legal representation, proper guidance on the notion of guardianship and the guardian’s functions is non-existent. As the European Union Agency for Fundamental Rights handbook on Guardianship for children deprived of parental care notes, use of the terms ‘guardian’, ‘representative’ and ‘legal representative’ is inconsistent, and national definitions also vary, and so the emphasis should be on the functions of the appointed person, rather than on the title or terminology used.

THE MOST VULNERABLE: UNDOCUMENTED, UNACCOMPANIED, SEPARATED, MISSING AND RETURNED CHILDREN

In 2016, 633,000 asylum applications made across the EU-28 countries were submitted by unaccompanied and separated minors, and 15.9 per cent of all children on the move were unaccompanied (see Figure 1). Among those minors who applied for asylum that year, the proportion who were unaccompanied was less than 50 per cent in most EU Member States (Italy and Slovenia were the exceptions). An important feature of the current migration situation and the emergency response in Europe is the significant number of child migrants and refugees among the sea arrivals, which has raised great concern in the EU. Over 100,000 refugee and migrant children arrived in Europe over the course of 2016, the majority of which arrived in Italy (Central route) or in Greece (Eastern route). In Italy, in 2016, 16% of total arrivals were children – a proportion that remained constant so far in 2017. One particularly worrying trend is the increase in the numbers of unaccompanied minors, 34% of the total arrivals of children in Europe. This issue is particularly noticeable in Italy, whereas 91% of children who arrived by sea in 2016 were unaccompanied and separated children (Graph 1).

The Committee on the Rights of the Child General Comment No. 6 on the Treatment of Unaccompanied and Separated Children Outside their Country of Origin explains in great detail about children's exposure to serious risks in hot spots, and also how hot spots have insufficient trained personnel to work with children who have suffered severe trauma and sexual abuse. Unaccompanied and separated children are sometimes housed in certain reception facilities with adults who are unrelated to them. Furthermore, in some reception facilities, and in some countries in Europe, unaccompanied children are not given de facto asylum. All children who go missing from reception facilities are at risk of exploitation, whatever the reason for their disappearance.

In addition, the decision to remove a child asylum seeker from the country where she or he has applied for asylum very often interferes with the child’s right to respect for private and family life under the European Convention on Human Rights (art. 8). Interference with the exercise of this right is justified if necessary in the interest of public safety, national security, the prevention of disorder and crime, and the economic well-being of the country. Recent removal orders to remove children from France, Germany and Sweden were justified on the basis of these interests. Also, the Council of Europe has repeatedly promoted the principle of voluntary return over forced removal. Related legal provisions and frameworks regarding ‘illegal’, ‘irregular’ and ‘unauthorized’ crossings are, however, open to interpretation by European countries. As the country reports note, children apprehended or intercepted by border security agencies are often refused entry.


ACCESS TO BASIC RIGHTS INCLUDING GENDER- AND AGE-APPROPRIATE SERVICES

The lack of age- and gender-disaggregated data for unaccompanied and separated children is one of the most pressing challenges currently facing European States parties. Between 1 January and 30 September 2016, unaccompanied children were responsible for 25 per cent of all asylum claims made in Europe. Data about their backgrounds, age and gender are inadequate, however, which makes it more difficult to develop appropriate responses. Basic services for children on the move are sometimes strictly limited. The right to education should be observed for all children as soon as possible following their arrival in country.

Figure 1. Key figures on Unaccompanied Children (UAC) in Greece

**Key Facts**

- **2,200** Estimated number of UAC currently in Greece based on analysis from referrals to EKKA (as of 2 June 2017)
- **1,282** Total number of places available in UAC shelters (filled, pending assigned cases as of 2 June, including 104 vacant places in the process to be filled)
- **1,118** Total number of UAC on waiting list for shelter (as of 2 June) including:
  - 197 in Reception and Identification Centers
  - 50 in protective custody

Waiting list does not include referrals of unknown location carried out during pre-registration exercise. Waiting list includes also separated children.

- **6,967** Total number of UAC referrals to EKKA from 1 Jan 2016 to 2 June 2017.
  - Out of the total:
    - 6,444 boys (93%)
    - 523 girls (8%)
    - 437 <14 years old (6%)

Figures dynamically change and may be adjusted based on verification by EKKA.

**Situation Update: Unaccompanied Children (UAC) in Greece 2 June 2017**

**Number of places available in UAC shelters (filled, pending assigned cases) vs. Numbers of additional requests for placement on waiting list 19 September 2016 – 2 June 2017**

**Number of UAC placed in Reception and Identification Centers/Protective custody 25 July 2016 – 2 June 2017 (based on requests by referral agents)**

**Graph 1. Unaccompanied and Separated Children (UASC) and accompanied children: Sea arrivals to Italy, 2016**

**UNHCR: Regional Representation Southern Europe**

Italy - Unaccompanied and Separated Children (UASC) Dashboard January – December 2016
CONCLUSION
Children in the migration pathway must be respected and stakeholders must ensure that their voices are heard. It is vital to address the implementation gaps in migration systems, which result from problems entrenched in region- and country-specific policies and practices. This is necessary to ensure that all children on the move are granted their basic rights, as guaranteed for every child under the Convention on the Rights of the Child. The protection of Europe’s borders and the protection of children are not mutually exclusive. The SDGs clearly articulate that migration is inevitable to global development. Children on the move bring with them innovative ideas and skills that may be seen as opportunities and which can be harnessed to help build Europe’s sustainable future.

BIBLIOGRAPHY