

European Council on Refugees and Exiles

Oral Submission to the House of Lords EU Home Affairs Sub-Committee's Inquiry on Unaccompanied Minors in the EU 27 April 2016

Introduction

The European Council on Refugees and Exiles (ECRE) is a pan-European alliance of [90 non-governmental organisations \(NGOs\)](#) working in 35 European countries to protect and advance the rights of refugees, asylum seekers and displaced persons. Through its Asylum Information Database ([AIDA](#)), ECRE disseminates detailed information on asylum procedures, reception conditions and detention across 20 countries. AIDA provides an overview of the asylum landscape in 17 Member States (Austria, Belgium, Bulgaria, Cyprus, Germany, Spain, France, Greece, Croatia, Hungary, Ireland, Italy, Malta, Netherlands, Poland, Sweden, United Kingdom) and 3 non-EU countries (Switzerland, Serbia, Turkey). Each country report includes a detailed section on the situation of unaccompanied minors and gives an overview *inter alia* on age assessment, detention, legal representation and access to education. ECRE also monitors States' practice through its network of lawyers ([ELENA](#)) and its European Database of Asylum Law ([EDAL](#)), an online database containing case-law from 19 EU Member States interpreting refugee and asylum law, as well as from the Court of Justice of the European Union (CJEU) and European Court of Human Rights (ECtHR).

ECRE welcomes the House of Lords EU Home Affairs Sub-Committee's Inquiry on Unaccompanied Minors in the EU. ECRE believes that this inquiry is very timely in light of the dramatic increase of arrivals in 2015-2016 in most EU countries, including in the UK. According to Eurostat, 96,445 asylum applications have been lodged by unaccompanied minors in 2015 in the 32 EU Member States and Schengen Associated States (hereafter "EU+ countries"), compared to 24,865 in 2014 and 14,150 in 2013.¹ According to the UNHCR, the proportion of women and children has reached 54% of the arrivals in Greece in December 2015.² According to IOM, 33% of the migrants who died or went missing in the Aegean Sea during 2015 were children (270 out of over 800 recorded deaths); how many of these children were unaccompanied and separated from their families remains unknown.³

ECRE is pleased to submit its views to this inquiry given the particular vulnerabilities and special protection needs of unaccompanied minors in the EU. Concerted action by EU Member States is essential in meeting the protection needs of these unaccompanied and separated children, and better coordination on registration, assistance and reception arrangements. The best interests of the child should be a guiding principle at all stages of the migration process. It is of great concern that the agreement reached at the extraordinary summit on 17-18 March 2016 and laying down on a set of principles providing the framework for EU-Turkey cooperation in managing the refugee and migrant flows to Europe and Turkey does not include any specific provision and safeguards for the treatment of children, although it is likely that many children will be returned under this agreement.⁴

¹ Eurostat, [migr_asyunaa](#).

² UNHCR, *Refugees/Migrants Emergency Response: Mediterranean*, available at: <http://goo.gl/XjpJ86>.

³ IOM Missing Migrants Project at <http://missingmigrants.iom.int>

⁴ European Council, EU-Turkey Statement, 18 March 2016, available at: <http://goo.gl/uPbHZS>; It is acknowledged

This inquiry on unaccompanied minors in the EU is vital to giving political visibility to a phenomenon that largely remains a silent tragedy. ECRE hopes that, through its findings, the House of Lords EU Home Affairs Sub-Committee will encourage debate and official action on EU policy in this particular area.

1. Are there reliable data on the number, age, gender, nationality and immigration routes of unaccompanied minors in the EU? Is there potential for enhanced cooperation among Member State authorities, EU institutions and other organisations in gathering and analysing such data?

Data and information about profiles of child migrants are fragmented and do not provide any details about the gender and age of the children. In particular, data on non-asylum seeking children is lacking. [Statistics](#) published by European Commission show that this category of ‘*underground children*’ represents a growing proportion of children on the move. In 2013, 12,770 children entered the EU without seeking international protection, against 12,685 children asylum seekers. The presence of ‘*underground children*’ is of particular concern as field research has revealed that those children are under strong pressure from traffickers and smugglers not to register for any kind of international protection, thus being more vulnerable to all forms of exploitation and servitude.⁵

Further, disaggregated information is for the most part not available. Statistics should also provide an accurate picture of gender profiles, as recent trends show an increase of the proportion of females in the population of unaccompanied and separated children (UASC⁶).

Furthermore, existing tools do not capture the high mobility of the population and it is likely that some UASC are being registered in more than one country, while others pretend to be adults and are never identified as UASC.

Last but not least, ECRE is concerned that the focus on Syrian children has had a detrimental impact on other refugee populations and that protection risks of other asylum-seeking children – such as Eritreans, Nigerians and Afghans - are overlooked. For instance, field reports have established that many Afghans entering into the EU belong to ethnic minorities such as Hazaras (39%)⁷ who had first fled Afghanistan and attempted to establish a life in Iran but continued to feel unsafe and lacked legal status. The profiles and protection needs of Afghan children, that form a large proportion of asylum-seeking and non asylum-seeking children entering the EU⁸, should be further monitored and analysed. Within that context, it should be stressed that both EASO and UNHCR have warned about the protection needs of children fleeing Afghanistan due to the deteriorating security situation and forced recruitment.⁹

that under Article 60.4 Greek Law 4375/2016, children are not subject to the exceptional fast-track procedure at the border but are nevertheless liable to be removed to Turkey under the ‘safe third country’ concept.

⁵ Save the Children, *Addressing the protection needs of unaccompanied minors within the context of Dublin procedures*, 27 January 2015. See Missing Children in Europe, *Summit Project Report – Best practices and key challenges on interagency cooperation to safeguard unaccompanied children from going missing*, April 2016, available at: <http://goo.gl/Mx7GQh>.

⁶ “Separated children are those separated from both parents, or from their previous legal or customary primary care-giver, but not necessarily from other relatives. These may, therefore, include children accompanied by other adult family members”. “Unaccompanied children (also called unaccompanied minors) are children who have been separated from both parents and other relatives and are not being cared for by an adult who, by law or custom, is responsible for doing so”, definitions provided by the UNHCR, UNICEF et al. [Interagency Guiding Principles](#) on Unaccompanied and Separated Children, 2004

⁷ UNHCR, *Refugees/Migrants Emergency Response: Mediterranean*, available at: <http://goo.gl/XjpJ86>.

⁸ According to EUROSTAT, around half (51%) of asylum applicants considered to be unaccompanied minors in the EU in 2015 were Afghans. [Press Release](#) 2 May 2016.

⁹ EASO, *Afghanistan – Security Situation*, January 2016, available at: <https://goo.gl/ixl8a1>; UNHCR, *Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Afghanistan*, April 2016, available at: <http://goo.gl/Q7TuCJ>.

The EU institutions and Member States need to develop new tools for strengthening data collection. In particular, Member States should use the full potential of current and additional disaggregation of the Statistics Regulation (Regulation EC/862/2007) with a focus on age, gender and profiles of both asylum and non-asylum-seeking children.

2. What are the key challenges faced by unaccompanied minors in the EU? Do these challenges differ depending on the age, gender and nationality of the minors concerned? Do they differ greatly depending on the Member State in which an unaccompanied minor arrives, seeks asylum or family reunification?

Albeit not comprehensive, this section offers an up-to-date snapshot of the most acute problems encountered by UASC in their migration trajectories in the EU. Overall, our research demonstrates that, despite the adoption of higher EU standards in June 2014, UASC are still facing a bleak reality in many EU countries and the present crisis has amplified the ever-prevailing protection gaps.

(a) Access to Protection (Dublin procedure)

Despite reforms introduced to the Dublin Regulation in 2013 to strengthen the principle of family unity and the best interests of the child, the hierarchy of criteria is quite systematically ignored and there is an overreliance on the criteria of irregular entry.¹⁰ The specific interests and preferences of individuals, including children are not taken into account and the mechanical implementation of the Regulation tends to fuel mistrust in the system and lack of cooperation from asylum seekers. The poor implementation of the principle of family unity has led to families being torn apart and moving onwards through irregular means, as the regular procedure under the current Dublin Regulation is very lengthy and involves heavy bureaucracy.

The makeshift camps in Calais and Grande Synthe have somehow become the symbol of Europe's failure to reunite family members as children living in deplorable conditions are stuck in a 'migratory dead-end' while attempting to enter the UK by dangerous irregular means.¹¹ In a recent ruling, a British Court ordered the competent authorities to immediately admit four vulnerable Syrians from Calais to the United Kingdom in order to be reunited with refugee family members during the examination their asylum applications. Although they had not applied for asylum in France or been subject to Dublin procedures, the particular circumstances meant that failing to do so would lead to a disproportionate interference with their right to respect for family life. The judgment confirms that the Dublin system of allocating responsibility is dysfunctional and attempts at making it more human rights compliant in its Recast have proven to be futile¹².

Given its particular importance for the long-term integration perspective of the refugees, it is essential that the **up-coming reform of the Dublin system aim at operationalising the principle of family unity and look at concrete measures to ensure speedy family reunification**; adequate protection of unaccompanied children involves further **harmonisation of guardianship standards and increased cross border cooperation of appropriate child protection actors through concrete measures of support such as help desks**¹³ (see below questions 3 and 5).

¹⁰ See ICF, *The Implementation of the Dublin III Regulation – Evaluation Report*, March 2016 available at: <http://goo.gl/HgWqoa>.

¹¹ See to that effect *R (ZAT & Others) v Secretary of State for the Home Department* [2016] UKUT 61 (IAC), 22 January 2016.

¹² EDAL, *Allocating responsibility for an asylum application through Convention rights: The potential impact of ZAT & Others*, 3rd March 2016.

¹³ See NIDOS, *Building Support for guardians*, 2015 available [here](#).

(b) Reception (including accommodation, access to protection, quality of legal representation and detention)¹⁴

The legal obligations relating to the treatment of unaccompanied children under EU and international law have clearly not been met by several Member States to the point that children regularly figure at the epicentre of ever-increasing sites of squalor, destitution and detention.

The flawed system of protection in **France** towards unaccompanied children has been heavily publicised by means of reporting on conditions in the Calais “jungle” and a recent UK Upper Tribunal judgment describing the makeshift camp as a “living hell”, “deplorable” and “desolate.”¹⁵ Before the gradual demolition of the site in March, over 400 out of approximately 5,000 residents of the camp were identified as being unaccompanied children.¹⁶ With conditions amounting to inhumane treatment, said to be worse in Grande-Synthe, the Calais jungle shed a harsh spotlight on France’s tenuous adherence to the Convention on the Rights of the Child as well as its obligations under the recast Reception Conditions Directive and Asylum Procedures Directive relating to the appointment of a representative, the channel through which children are to benefit from their rights laid out in both instruments.¹⁷ Indeed, the delays in appointing legal representatives linked to a serious shortage in their numbers, have prevented children from lodging an asylum application before the age of 18. Children are, therefore, deprived of their legal right to information and support and, as identified by the Upper Tribunal, which may have well contributed to their distancing from the asylum procedure and their entering into the poverty and legal limbo of Calais and Dunkirk.

With a fivefold increase in the numbers of unaccompanied children applying for asylum, **Sweden** has faced particular pressure on its accommodation capacity and services for children, which in turn has affected the quality of reception provided. Municipalities and social care services are often overstretched and the most suitable of accommodation for unaccompanied children, foster homes, lack in numbers. Nonetheless, in a move to support children and 16 to 20 year olds a form of “supported accommodation” has been implemented through the Social Services Act.¹⁸ Intended to supplement the existing forms of reception for unaccompanied children the new form of accommodation should provide flexibility of reception by municipalities as the focus is on shelter rather than care or treatment.

In **Germany**, following on from amended legislation on the distribution of unaccompanied children, concerns have been voiced by NGOs on whether the reception conditions for these children within receiving municipalities will be adequate.¹⁹ FRA also reports a lack of sufficient childcare facilities, leading unaccompanied children to be hosted in hostels or gyms as temporary shelters.²⁰ In the **Netherlands**, prolonged stay in large-scale emergency centres has been criticised as unsuitable for children.²¹ Moreover, in **Cyprus**, state-run centres specifically for unaccompanied children are overcrowded as is the sole reception centre in the country, which houses both adults and families. Here a lack of funding has led to an absence of basic sanitary products and health care with corollary risks of destitution.

The increased use of detention of unaccompanied minors at Dover Seaport, in the **UK**, seemingly imposed

¹⁴ The following paragraph is based on the latest AIDA comparative report: *Wrong Counts and Closing Doors: the Reception of Asylum Seekers and Refugees in Europe*, March 2016, available at: <http://goo.gl/3iQP2J>. ECRE; Right to Justice: Quality Legal Assistance for Unaccompanied minors, available [here](#).

¹⁵ See *R (ZAT & Others)*.

¹⁶ Help Refugees, Calais Camp, 22 February 2016, accessible at: <http://bit.ly/1TEDZoo>.

¹⁷ Article 2(j) and Article 24 recast Reception Conditions Directive and Article 2(n) and Article 25 recast Asylum Procedures Directive.

¹⁸ Government Offices of Sweden, ‘New measures of housing for unaccompanied children,’ 4 November 2015, accessible at: <http://bit.ly/1TH1tsV>.

¹⁹ AIDA Country Report Germany: Fourth Update, November 2015, 59.

²⁰ FRA, *Monthly data collection on the situation of persons in need of international protection: January 2016*, 30.

²¹ The critique was raised by the Dutch Ombudsman for Children following visits to six centres between December 2015 and February 2016.

due to delays in referral to child services in Kent raises serious questions on the legality of its use.²² Indeed, continuous failings in appropriate care for unaccompanied children have also been demonstrated in the lack of representatives and resources for children in the county. Such failings have been identified in the aftermath of highly disconcerting reports on the number of unaccompanied asylum seeking children who have gone missing, including those who have previously been trafficked.²³

Resort to detention of unaccompanied asylum seeking children has also been frequently documented in Member States for prolonged periods of time, in violation of Article 11(3) of the recast Reception Conditions Directive. In **Italy**,²⁴ worrying reports have surfaced that unaccompanied children were being detained in the CPSA in Lampedusa in insalubrious and overcrowded conditions for more than 14 days. Likewise, in **Greece**, due to a lack of first reception on the islands, children are systematically detained whilst waiting for available places in a reception centre.²⁵ In **Bulgaria**, new legislation in force since 1 January 2016 allows for the detention of unaccompanied children.²⁶ Prior to this, unaccompanied children were, nonetheless, being attached to unrelated adults and detained in pre-removal centres where conditions are consistently described as being unhygienic and overcrowded.²⁷

(c) Integration (Access to education)

In **Bulgaria**, asylum-seeking children continue to be outside the education system, and in many destination countries such as the **Netherlands**, **Germany**, or **Sweden**, children wait for up to several months before accessing compulsory education. The educational systems of these Member States are facing a very challenging situation and, given the high recognition rates of Syrian families, will have to absorb large numbers of children in relatively short time.

Financial support to Member States should be a top priority of the European Commission to ensure that asylum-seeking children are enrolled into the educational system as soon as possible. The upcoming Action Plan on children in a migration situation should foster exchange of best practices in particular for countries like Sweden which has developed pedagogical expertise in the integration of children who do not speak the native language of the host country.

Access to the secondary school is often not compulsory under national law and the rate of child migrants dropping out of the school system is very high, with negative consequences on their integration perspective²⁸. The future Action Plan should foresee actions to encourage Member States to enrol adolescents in their secondary education system.

Whilst it is acknowledged that the asylum *acquis* provides high level procedural safeguards, numerous reports have documented that there are still great disparities in the implementation of the *acquis* and children are confronted with a protection lottery. Ensuring adequate protection of children in a migration situation would require major strengthening of existing mechanisms for quality monitoring of national asylum systems

²² HM Chief Inspector of Prisons, Report on an unannounced inspection of the short-term holding facilities at Longport freight shed, Dover Seaport and Frontier House, 7 September, 1–2 and 5–6 October 2015, 2016, 15.

²³ Open Democracy 'Hundreds of children are disappearing from local authority care' 8 December 2015, accessible at: <http://bit.ly/1YW0Qv2>.

²⁴ AIDA Country Report Italy: Fourth Update, December 2015, 79.

²⁵ AIDA Country Report Greece: Fourth Update, November 2015, 82.

²⁶ Radostina Pavlova, *Law Allows Detention of Asylum Seekers in Bulgaria*, December 2015, available at: <http://bit.ly/1PP38JT>.

²⁷ FRA, *Weekly data collection on the situation of persons in need of international protection, Update 2, 5 October – 9 October*, 10 and *Update 3, 12 October – 18 October*, 13.

²⁸ P. BOURGONJE, Education for refugee and asylum seeking children in OECD countries, March 2010 available [here](#); O. POPV and E STURESSON, "Facing the Pedagogical Challenge of Teaching Unaccompanied Refugee

and enforcement of implementation of the EU asylum *acquis* in order to ensure a high level of protection throughout the EU. In this regard, within the current architecture of the CEAS, **the resources and role of EASO in assessing preparedness and resilience of Member States' asylum systems** and its capacity to deploy tailor made assistance in the Member States that do not comply with the *acquis* should be seriously boosted. At the same time, the Commission should further step up its efforts in launching infringement procedures for incorrect application of EU asylum law in addition to procedures launched on the basis of non-communication of national transposition measures.

Massive financial investment into national asylum procedures and reception systems is also urgently needed in order to provide adequate services and high level of protection for children throughout the EU. In particular, adequate resources should be made available for **legal assistance, guardianship and specialised reception facilities**. Most EU Member States have developed large scale residential care facilities which have proved to be inadequate and costly. EU funds should be used to develop and strengthen small scale reception centers and family based care (foster care) which are better suited for the needs of unaccompanied children and have proven to be efficient in practice.

Alongside the issue of structural funds, the **mid-term review of the AMIF** offers an opportunity to give a financial boost to the CEAS by imposing a significant increase of the resources dedicated to structural development and maintenance of specialised reception systems within the national AMIF programmes. Adequate resources should also be allocated to efficient contingency planning and emergency responses in case of massive arrivals of unaccompanied children.

3. Is the EU doing enough to address the challenges facing unaccompanied minors? What further measures, if any, would you like to see introduced at EU level?

(a) Strengthening Early Identification, Registration and Reception

Recent research has consistently documented that, in the countries that have been the most affected by the crisis, the procedures for UASC are overwhelmed and are not adapted to high numbers and high mobility. Many countries (and in particular **Greece** and **Italy**) are therefore not able to assess children's needs, make referrals, appoint guardians, conduct age assessments, or collect information for family reunification. Measures for adequate protection and early identification of UASC should be developed and harmonised at EU level as a matter of priority.

To address the current deficiencies, it is recommended that the EU provides further support to Member States in order to:

Establish the necessary processing capacities to ensure identification (including age assessment), nationality screening, registration, and channelling into respective follow-up procedures.

Develop Standard Operating Procedures (SOPs) and training for ensuring a 'chain of protection' guiding the work of all first- and second-line actors involved in the identification / registration / reception; Systems of referral to social, psychological and health services must be in place and legal advisors should be made aware of these services and utilise them to help to ensure that necessary assistance is provided to unaccompanied children.

Develop mechanisms for the detection of vulnerabilities and adequate implementation of legal and procedural safeguards included under EU legislation. Due to budget constraints, many Member States have not put mechanisms in place and these gaps should be addressed as a matter of priority.

(b) Ensure that the principle of family unity is at the forefront of the Dublin Reform

In ECRE's view, the upcoming reform of the Dublin III Regulation offers a major opportunity to re-invigorate the principle of family unity and best interests of the child. The principle of family unity should be based on a broad definition of the concept of family in line with the jurisprudence of the CJEU and ECtHR.²⁹ In order to overcome practical problems, **centralised operational tools and standard protocols** should be developed on the basis of instruments already developed by EASO for assisting Member States in ensuring consistent and assiduous efforts to trace family members of unaccompanied children living elsewhere in the European Union. The use of free of charge DNA testing, with the informed consent of all family members concerned and in full respect of the right to private and family life might be helpful in complex cases and in the absence of any documentation proving family links.

Building on the case-law of the CJEU, the new responsibility-sharing mechanism should acknowledge the extreme vulnerability of unaccompanied children and the need for swift access to asylum procedures. In the case where there are no family members, siblings or relatives present in another Member State, these children should have their application processed in the Member State where they are present, provided that this is in their best interests.³⁰

It is essential to establish clear rules and standard protocols for **transfer of guardianship and for transnational cooperation regarding the best interests of the child assessment**. We recommend that Member States and EU institutions draw inspiration from the [Safe & Sound Report](#) published by UNHCR/UNICEF and endorsed by the Separated Children in Europe Programme Statements of Good Practice.

Given frequent dispute around **the age assessment** and disparities in the national methods, age assessment should be harmonised in line with the key principles identified by EASO.³¹ Harmonised standards should be adopted as a matter of priority as the current disparities in national systems result in inadequate and inconsistent identification of the same person in different systems.

(c) Harmonisation of guardianship standards

As highlighted by a recent study of the FRA,³² the mandate, qualification and appointment of legal representatives vary greatly across the EU. The lack of harmonised standards for guardianship is a major impediment to the proper functioning of transnational cooperation and transfer of responsibility in relation to unaccompanied children in Europe today. Heavy bureaucratic procedures as well as unresolved issues in relation to transfer of guardianship are pushing many children to use the services of smugglers and abscond during the procedure.

²⁹ See for instance CJEU, Case C-245/11, *K v. Bundesasylamt*, 6 November 2012; ECtHR, *Maslov v. Austria*, Application No 1638/03, 23 June 2008.

³⁰ CJEU, Case-648/11, *MA and Others v Secretary of State for the Home Department*, 6 June 2013.

³¹ ECRE, *Detriment of the Doubt: Age Assessment of Unaccompanied Asylum-Seeking Children*, AIDA Legal Briefing No 5, December 2015, available at: <http://goo.gl/vcEBFw>.

³² FRA, *Guardianship systems for children deprived of parental care*, October 2015, available at: <http://goo.gl/xFEI6N>.

The harmonisation of standards should be initiated as a matter of priority. The European Commission should explore the feasibility of amending existing legislation governing parental responsibility such as the **Brussels II (a) Regulation**.³³

4. How has the refugee crisis affected unaccompanied children in the EU? Has the EU response, in your opinion, been effective in addressing their needs? In particular, how are the rights of unaccompanied minors affected by the establishment of Hotspots and relocation schemes?

(a) Family Separation at the Borders / Missing Children / Trafficking

A key feature of the on-going crisis is the issue of family separation and high numbers of children going missing. Coordinated and effective response to the issue of **family separation at borders** should be a key focus of the EU and in particular of the new European Commission Action Plan; ICRC and National Red Cross Societies are providing assistance as well as Restoring Family Links services for UASC and other refugees and migrants. Governments and civil society organisations are working hard to scale up existing capacities to accommodate UASC, including expanding existing reception centres and housing UASC in facilities for other children at risk such as children's homes. However, in so-called 'transit' countries, children move on from such facilities quickly, leaving little time to assess their protection needs and provide assistance.³⁴

The future actions should support the **family hubs set up by UNICEF and UNHCR**, as well as expand financial assistance to organisations aiming at restoring family links.

In relation to the child protection focus, while there is an emphasis on dismantling trafficking networks, more emphasis needs to be put on the **protection of victims of trafficking**. Transnational cooperation should be amplified both for dismantling trafficking rings and for ensuring adequate protection to the victims.

According to recent studies³⁵, cross border cooperation between care institutions, law enforcement agencies and networks for missing children seems to be almost non-existent when it comes to responding to disappearances of minors. This is of serious concern as the number of unaccompanied children going missing has reached unprecedented levels. On 31 January 2016, Europol reported that 10 000 unaccompanied children are unaccounted for after arriving in Europe, with many feared to be exploited and abused for sexual and labour purposes. Research shows that disappearances of unaccompanied child is not prioritised and is not given the same urgency and care that would be provided for citizens.

As recommended by organizations such as Missing Children in Europe³⁶, transnational cooperation should be considerably strengthened and EU institutions and agencies should assist national authorities in developing **standardized tools for quick cross border exchange of information on missing unaccompanied children** – such as a database available for child protection authorities. The network of hotlines for missing children should be involved in cross border cooperation given their practical experience in dealing with cases at national level.

³³ Council Regulation (EC) No 2201/2003 of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility, repealing Regulation (EC) No 1347/2000.

³⁴ UNHCR, UNFPA, Women's Refugee Commission, Initial Assessment Report: Protection Risks for Women and Girls in the European Refugee and Migrant Crisis, 2016.

³⁵ See in particular, Save the Children, CONNECT Project, 2014 available at: www.connectproject.eu; Missing Children in Europe, *Summit Project Report – Best practices and key challenges on interagency cooperation to safeguard unaccompanied children from going missing*, April 2016, available at: <http://goo.gl/Mx7GQh>

³⁶ Missing Children in Europe, *Summit Project Report*, Ibidem.

(b) Hotspots

Although the emergency relocation scheme³⁷ was initially designed, to prioritise the relocation of the most vulnerable asylum seekers “in clear need of international protection”, the very limited success of relocation in relation to unaccompanied children is to be deplored.³⁸ A first important obstacle are the serious gaps in the guardianship systems both in **Italy** and **Greece**.

Whilst it is acknowledged that efforts are being made in Greece to develop Standard Operating Procedures for unaccompanied minors, not least through the establishment of a new framework for age assessment,³⁹ it should be reminded that progress is difficult in a context where the child protection system presents serious structural deficiencies.⁴⁰ Little progress has been made so far in Italy, where the guardianship system is congested.⁴¹

A second impediment to the relocation of minors is the lack of harmonised standards in relation to guardianship, which makes the transfer of guardianship very difficult in a short timeframe. Destination States have been reluctant to pledge places for unaccompanied minors as their reception capacities are congested.

ECRE has raised concerns in relation to the recent evolution of the Greek legal framework and the use of closed reception centres, which do not meet decent reception standards.⁴² The current hotspot approach does not ensure effective access to quality legal assistance and information, and fails to ensure access to asylum procedure for those not eligible to relocation programmes.

In view of the existing shortcomings, ECRE would recommend the adoption of the following measures:

Sufficient and age appropriate reception conditions should be created in hotspots as a matter of urgency and children should be moved out of detention (closed facilities in Greece, first reception centres from where children can easily go missing in Italy without delay);

Information should be made available to children in an age appropriate manner to inform them of their options including for being reunited with family members under the Dublin Regulation, relocation and asylum in Greece/Italy as well on the conditions in destination countries and facilities there in terms of education accommodation, language classes etc.).

Multi-disciplinary teams should be deployed to conduct best interests’ assessment in order to facilitate the matching process and to detect ‘extra vulnerabilities’ (such as children with disabilities, mental trauma and abused). In that context, it is essential to allow access for child protection officers in the hotspots. These officers should be duly qualified professionals with a child protection mandate.

³⁷ As established by Council Decisions 2015/1523 of 14 September 2015 and 2015/1601 of 22 September 2015.

³⁸ See Communication from the Commission to the European Parliament and the Council, Second Report on Relocation and Resettlement, 12 April 2016, COM (2016) 222.

³⁹ See Greek Joint Ministerial Decision 1982/2016, Official Gazette 335/B/16-2-2016.

⁴⁰ AIDA Country Report Greece: Fourth Update, November 2015, p. 67. See also ECRE Comments on the European Commission Recommendation relating to the reinstatement of Dublin transfers to Greece, February 2016, pp. 13-14.

⁴¹ AIDA Country Report Italy: Fourth Update, December 2015, p. 53.

⁴² ECRE Comments on the European Commission Recommendations Relating to the Reinstatement of Dublin Transfers to Greece, COM (2016) 871; AIDA, Greece: Asylum Reform in the Wake of the EU Turkey Deal, here; ECRE, Greece urgently adopts controversial law to implement EU Turkey deal, 8th April 2016.

5. What were the achievements, if any, of the EU Action Plan on Unaccompanied Minors? Should it be renewed and, if yes, what should its focus and priorities be?

The EU Action Plan has been instrumental to giving visibility to the issue of UASC and to guiding the work of EU institutions and key stakeholders. Yet, much remains to be done as the number of children in a migration situation is growing.

The next Action Plan should not be strictly limited to unaccompanied and separated children seeking asylum but cover *all* children in a migration situation. The new action plan should provide concrete guidance and clarification about existing legal obligations for dealing with unaccompanied minors who arrive in Europe without applying for international protection.

Building on the existing priorities, the new Action Plan should be articulated with the up-coming EU Strategy on Trafficking in Human Beings as the current one (2011-2016) is coming to an end. The new Action Plan should have a strong focus on the **prevention of disappearances**. ECRE recommends consulting the recommendations for operational measures published by Missing Children in Europe within the context of the SUMMIT project.⁴³

Building on tools developed within the context of EU funded projects⁴⁴, ECRE believes that the next Action Plan should prioritise **capacity-building for child protection actors**, as well as measures aiming to enhance transnational cooperation with an aim to ease family tracing/reunification and transnational cooperation in the best interest's assessment. Concrete measures of support for guardians confronted with the Dublin Regulation (such as help desks) should be made sustainable and available in all State parties to the Dublin system. Existing European networks of guardians should be strengthened.

Finally, the new action plan should include concrete measures to design a **transitional protection regime** for adolescents 'ageing out' and reaching adulthood. In particular, the EU action plan should help identifying best practices and promote exchange between social workers and guardians across the European Union. It should also to disseminate and implement the recommendations for front-line professionals developed by the Council of Europe within the framework of the 'life project'.⁴⁵

⁴³ Missing Children in Europe, *Summit Project Report – Best practices and key challenges on interagency cooperation to safeguard unaccompanied children from going missing*, April 2016, available at: <http://goo.gl/Mx7GQh>.

⁴⁴ See in particular Save the Children, CONNECT Project, Idem.; NIDOS, 2015 Dublin Support for Guardians, available [here](#).; IOM, PRUMA project available [here](#) ; Irish Refugee Council, Durable solutions for separated children in Europe, available [here](#)

⁴⁵ <http://www.refworld.org/pdfid/545ca9e74.pdf>