



**UNIVERSITY OF MACEDONIA**  
**FACULTY OF ECONOMIC AND REGIONAL STUDIES**  
**DEPARTMENT OF BALKAN, SLAVIC AND ORIENTAL STUDIES**  
**MASTER'S DEGREE IN POLITICS AND ECONOMICS OF CONTEMPORARY**  
**EASTERN AND SOUTH-EASTERN EUROPE**

**DISSERTATION THESIS**

**“No Longer a Child, Not Quite an Adult:” A Critique of EU Human Rights Approaches  
to Unaccompanied Asylum Seeking and Migrant Minors in their Transition to  
Adulthood**

Natalia de Gravelles

Student Registration Number: mpe20011

**Supervisor: Nikolaos Zaikos, Associate Professor**

**Evaluation Committee Member: Konstantinos Tsitselikis, Department Head**

**Evaluation Committee Member: Foteini Tsibiridou, Dean**

**Thessaloniki, December 2020**

"The approval of Master's Thesis by the Department of Balkan, Slavic and Oriental Studies of the University of Macedonia does not necessarily imply that the Department shares the author's opinions."

I hereby declare, that all the data used in this work, have been obtained and processed according to the rules of the academic ethics as well as the laws that govern research and intellectual property. I also declare that, according to the above mentioned rules, I quote and refer to the sources of all the data used and not constituting the product of my own original work. **[Natalia de Gravelles]**

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke at the end, representing the author's name.

**To Mom:**

The weight of the entire world is not enough to knock you down.

**And to Grandma and Grandpa:**

I told you I'd do something with this degree.

## Acknowledgements

When I first set out to research my thesis topic, never did I imagine I would finish writing amidst a global pandemic. Under the most normal of circumstances, this thesis would have been impossible to complete without support from a number of people. Given the course of this year, to those mentioned below I am all the more grateful.

I would first like to thank the faculty of the MA in Politics and Economics of Contemporary Eastern and Southeastern Europe, along with the Department of Balkan, Slavic and Oriental Studies, at the University of Macedonia. I particularly wish to thank my thesis supervisor, Dr. Nikolaos Zaikos, for his invaluable guidance and expertise. Furthermore, I extend my gratitude to Dr. Jeffrey Herf, professor of History at the University of Maryland College Park, for providing me with the intellectual foundation that continues to inform my post-graduate studies.

In addition, I am forever grateful to Claudia, Ian and Autumn for their confidence in my research and writing abilities. Finally, and most of all, I wish to extend my utmost thanks to my Mom, Dad, and brother Vince, for their never-ending support, and never-ending patience. This thesis could not have been completed without their love and encouragement.

## Abstract

The majority of unaccompanied minors entering the EU are within less than two years of their eighteenth birthdays when they cross the border. Thousands more enter at younger ages, but reach adulthood on Member State territory. While still underage, unaccompanied minors are protected by EU and international human rights legislation, which explicitly acknowledge their vulnerability. Then, at the moment of their entry into adulthood, (former) unaccompanied minors experience a profound change in the legal protections and rights for which they are eligible. No longer children, and thus no longer indisputably vulnerable in the eyes of the law, these young people see their access to resources change, lessen or disappear altogether. Residence permits and protections granted on the basis of minority expire, and an unnerving sense of limbo ensues for those who have yet to receive an asylum decision, or who find themselves ineligible for protected status as adults. This instability is exacerbated by both EU and international law's relative silence on the needs of unaccompanied minors after their eighteenth birthdays. Furthermore, the EU lacks a unified approach to safeguard these young migrants. This thesis conducts an in-depth examination of where human rights law does, and does not, address unaccompanied minors transitioning to adulthood. With an EU-specific focus, it looks at the language of relevant binding and non-binding frameworks, as well Member State law and practice concerning unaccompanied minors as they turn, and pass, 18. This research employs a multi-disciplinary approach; while law is the center-point, it also examines the needs of adolescents and young adults, as well as the challenges and vulnerabilities former unaccompanied minors face due to the law's failure to comprehensively address their needs. This thesis will ultimately argue that former unaccompanied minors' absence in crucial, binding human rights legislation leaves their particular needs inadequately addressed.

**Key words:** *18, Adolescence, Asylum, Best Interests, Council of Europe, European Union, Former Unaccompanied Minors, Human Rights Law, International Law, Irregular Migration, Law, Migrant, Protection Gaps, Refugee, Transition to Adulthood, Teenagers, Unaccompanied Minor, Vulnerabilities, Young Adults, Young Men*

## Table of Contents

<b>Dedication</b> .....	iii
<b>Acknowledgements</b> .....	iv
<b>Abstract</b> .....	v
<b>List of:</b>	
Abbreviations/ Acronyms.....	1
Figures.....	2
<b>Introduction</b> .....	3
Layout of the Text.....	6
Note Concerning the UK.....	8
<b>Chapter One: Core Definitions and Human Rights Instruments</b> .....	9
1.1 International Context.....	9
1.1.1 Migration in the International Context.....	10
1.1.2 Childhood and Legal Minority in the International Context.....	13
1.2 EU Context.....	15
1.2.1 Migration in the EU Context.....	15
1.2.2 Childhood and Legal Minority in the EU Context.....	18
1.3 Conclusion.....	19
<b>Chapter Two: Demographic and Theoretical Justifications for Focusing on Unaccompanied Minors Transitioning to Adulthood</b> .....	21
2.1 Demography.....	22
2.1.1 Representation of Unaccompanied Minors Amongst Asylum Seekers....	23
2.1.2 Demographic Significance of Unaccompanied Minors Approaching Adulthood.....	24
2.2 Transition to Adulthood from a Human Development Perspective.....	27
2.2.1 Adolescence as a Crucial Stage.....	28
2.2.2 Self and Social Perceptions During Adolescence.....	29
2.2.3 Psychological Vulnerabilities Associated with Adolescence.....	30
2.3 Conclusion: “Emerging Adulthood” and Promises of Adolescence.....	32
<b>Chapter Three: Examining the Language of International and EU Law</b> .....	34
3.1 International Instruments.....	35
3.1.1 Language of the CRC.....	36
3.1.2 Committee on the Rights of the Child General Comments.....	38
3.1.3 UN Resolutions.....	40
3.1.4 Further Discussions.....	42
3.2 EU Instruments.....	43
3.2.1 Binding Instruments: The Common European Asylum System.....	44
3.2.1.1 Asylum Procedures Directive, Art. 25.....	44
3.2.1.2 Reception Standards Directive, Art. 24.....	45

3.2.1.3	Dublin III.....	47
3.2.1.4	The Qualifications Directive and Eurodac Regulation.....	47
3.2.2	Non-Binding Instruments: Communications and Recommendations.....	49
3.2.2.1	EU Action Plan on Unaccompanied Minors and Related 2017 Communications.....	49
3.2.2.2	Council of Europe 2014 Resolution and 2019 Recommendation.....	53
3.3	Conclusion: To What Extent Should the Law Acknowledge the Transition to Adulthood?.....	55
<b>Chapter Four: EU Policy and Member State Practice on Unaccompanied Minors’ Transition to Adulthood.....</b>		
4.1	An Overview of Member State Approaches.....	56
4.1.1	General Aftercare and Independence Support.....	59
4.1.2	Accommodation.....	60
4.1.3	Education and Employment.....	62
4.1.4	Status, Residency and Return.....	63
4.2	Country-Specific Law and Practice.....	64
4.2.1	Greece.....	64
4.2.2	Hungary.....	67
4.2.3	Germany.....	68
4.2.4	Sweden.....	71
4.3	Positive Legal Developments.....	72
4.4	Conclusion: Are Commitments to Unaccompanied Minors Upheld in Member State Approaches?.....	74
<b>Chapter Five: Challenges Facing Unaccompanied Minors in the Transition to Adulthood.....</b>		
5.1	Risks Associated with Homelessness and Material Insecurity.....	77
5.2	Childhood Trauma.....	80
5.3	Mental Health Implications: Depression, Suicidality and other Vulnerabilities.....	83
5.4	Consequences of Return.....	85
5.5	Conclusion: Barriers to Care.....	86
<b>Conclusion: How Should the EU Proceed?.....</b>		
<b>Appendix A.....</b>		
<b>Bibliography.....</b>		
	Primary Sources.....	95
	Secondary Sources.....	101

## **List of Abbreviations and Acronyms**

**BID** Best Interests Determination

**CEAS** Common European Asylum System

**CHR** UN Commission on Human Rights

**CJEU** Court of Justice of the European Union

**CoE** Council of Europe

**COM** Communication (EU)

**CRC** UN Convention on the Rights of the Child

**ECHR** European Convention on Human Rights

**ECtHR** European Court of Human Rights

**ECRE** European Council on Refugees and Exiles

**EFTA** European Free Trade Association

**ELENA** European Legal Network on Asylum

**EMN** European Migration Network

**EU** European Union

**GC** General Comment (UN)

**IOM** International Organization for Migration

**IDP** Internally Displaced Person

**RES** Resolution (UN)

**SMA** Swedish Migration Agency

**UDHR** Universal Declaration of Human Rights

**UK** United Kingdom

**UN** United Nations

**UNHCR** UN High Commissioner for Refugees

**UNICEF** United Nations International Children's Emergency Fund

**WHO** World Health Organization



## List of Figures

<i>Figure 1:</i> Asylum applications, including first time applicants, lodged in the EU28 2014-2019.....	22
<i>Figure 2:</i> Representation of unaccompanied minors among asylum applicants, including aged 16-7.....	25

## Introduction

It would not be unwarranted to claim that, in the European Union's collective memory, 2015 has become inextricably connected with the now-called "refugee crisis." That year, both the EU and the world watched as wave after wave of migrants and refugees crossed Europe's land and sea borders, in hopes of reaching a safe haven in its West. For months, EU and international media outlets were inundated with scenes of mass exodus directed toward Europe. Images of rubber dinghies near-submerged under the weight of far too many passengers, mothers clutching infants on rocky shores amidst cast-off life vests, and columns of men, women and children making cross-country treks, became quotidian material for news programs and papers.

By the end of 2015, more than 1.25 million first-time applicants had lodged claims for international protection in EU Member States, including the United Kingdom. It was Europe's "biggest spike in migration since World War II."<sup>1</sup> Of those 1.25 million, it became swiftly apparent, a significant number were children and adolescents.

In the context of Europe's refugee and migrant crisis, the "child refugee" has come to occupy a poignant position. In times of crisis, it is not uncommon for humanitarian response to focus particularly on the suffering of children. To this trend, 2015 proved no exception. From the first moments, many Western onlookers and aid organizations were quick to associate the youngest with the starkest embodiment of tragedy—boys and girls who had left behind homes torn apart by conflict, only to now be faced with the trauma of displacement.

What is more, many of the children wrapped up in this crisis appeared to be traveling without their parents. Again, the initial reaction from many Western benefactors was one of concern. Amidst the polarization and tension by which migration policy discussions were becoming increasingly surrounded, the protection of vulnerable parentless children, who had faced the treacherous journey across continents in search of safety by themselves, elicited an outpouring of goodwill and services. Even media outlets which had historically touted anti-migration discourse

---

<sup>1</sup> Eurostat statistic from "EU Asylum Applications Fall to Pre-2015 Levels," DW.COM, March 14, 2019, accessed October 25, 2020, <https://www.dw.com/en/eu-asylum-applications-fall-to-pre-2015-levels/a-47921935#:~:text=The number of first-time,asylum applications exceeded 1.2 million>).

emphasized in their headlines the needless suffering of unaccompanied minors.<sup>2</sup> To care for these children was not a political agenda, but a human responsibility.

However, Europe did not cast the collective “unaccompanied minor” in apolitical victimhood for long. As it grew clear that the vast majority of unaccompanied minors were teenage boys, this population became increasingly excluded from the realm of vulnerable children. By the end of 2015, popular narratives across Europe were ever-more shifting towards “migrant youth criminality and fears of hordes of young asylum-seeking men threatening Europe’s moral and social order.”<sup>3</sup> Many of these “children,” it seemed, were in fact almost adults—and, as conservative discourse increasingly claimed, certain individuals among the mix actually *were* adults, disguising themselves as children in hopes of being allowed to stay.

While public opinion provides crucial insight regarding host societies’ attitudes toward migration, it also provides information about the migrants themselves. What is evident in Europe’s popular response, as well as the data, is an important demographic truth: most unaccompanied minors who arrive to the EU are within very few years, if not less than 12 months, of turning 18.

With the crisis’ peak now five years in the past, the EU faces an existential challenge—whether, and how, to accept the presence of thousands of young adults who arrived at its borders as unaccompanied children and teenagers. These young people are making the legal and life transition from minor to adult while on EU territory. While the number of under-18s seeking international protection in the EU has declined since 2015, there are still thousands entering each year.

At the moment of their entry into adulthood, (former) unaccompanied minors experience a profound change in the legal protections and rights for which they are eligible. No longer children, and thus no longer indisputably vulnerable in the eyes of the law, these young people see their access to resources change, lessen or disappear altogether. Residence permits and

---

<sup>2</sup> Annika Lems, Kathrin Oester, and Sabine Strasser, "Children of the Crisis: Ethnographic Perspectives on Unaccompanied Refugee Youth in and En Route to Europe," *Journal of Ethnic and Migration Studies* 46, no. 2 (2019): 316.

<sup>3</sup> Lems, Oester, and Strasser, "Children of the Crisis," *Journal of Ethnic and Migration Studies* (2019): 316.

protections granted on the basis of minority expire, and an unnerving sense of limbo ensues for those who have yet to receive an asylum decision, or who find themselves ineligible for protected status as adults. These status changes threaten former unaccompanied minors with a loss of security, safety and networks. It is a loss instigated by the very regimes and institutions previously tasked with their protection.

Protection gaps are exacerbated by the fact that neither EU nor international law address the situation of unaccompanied minors transitioning to adulthood.<sup>4</sup> Bodies such as the UN and European Commission have indeed offered relevant recommendations, and some Member States do undertake programs of transitional support; however, no binding instrument exists across the EU compelling Member States to employ a human rights-based approach in support of unaccompanied minors turning 18. This absence of coherent legislation, coupled with a risk that unaccompanied minors will have reached legal adulthood before benefiting from child-specific procedural protections, can leave many scrambling for alternative, and risky, methods of obtaining resources.<sup>5</sup>

With human rights law as its primary framework, this thesis will examine the EU's legislative and policy approaches to unaccompanied foreign minors who transition to adulthood while on Member State territory. It will compare provisions found—or not found—within international and EU human rights law, to the actual needs and vulnerabilities of unaccompanied minors as, and after, they turn 18. It will explore the language of said provisions, in an effort to question whether state actors are taking adequate steps to address the particular needs and vulnerabilities of unaccompanied displaced youth as they reach legal majority.

In the absence of an EU-wide framework, this research views the subsequent state-by-state handling of unaccompanied minors transitioning to adulthood as leaving young people—particularly those awaiting asylum decisions or ineligible for international protection—in a position of fundamental vulnerability. This is due not only to the shift in legal status from minor to adult, but to the integral

---

<sup>4</sup> EMN Inform, “Approaches to Unaccompanied Minors Following Status Determination in the EU Plus Norway” (European Migration Network, 2018), accessed October 28, 2020, [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/00\\_emn\\_inform\\_uam\\_update\\_final\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/00_emn_inform_uam_update_final_en.pdf).

<sup>5</sup> European Council on Refugees and Exiles, “ECRE/ELENA Legal Note on Ageing Out and Family Reunification” (Brussels: ECRE, 2018), accessed October 26, 2020, <https://www.ecre.org/wp-content/uploads/2018/06/Legal-Note-4.pdf>.

bio-psycho-social (touching all facets of physical, mental and behavioral health) changes that accompany one's entry into early adulthood. As such, this thesis will ultimately argue that former unaccompanied minors' absence in international, binding human rights legislation leaves their particular needs inadequately addressed. Furthermore, Member States' reliance on national migration law when approaching former unaccompanied minors, undermines the EU's collective ability to uphold certain binding, child-specific provisions

While the experiences of unaccompanied girls and young women will be qualitatively and quantitatively represented, this research will primarily focus on teenage boys and young men. Data show that the vast majority of unaccompanied minors arriving to the EU are male. Those aged 18 to 22 are particularly described by donors, NGOs and INGOs as "no longer children and not yet quite adults."<sup>6</sup> Toeing an uncertain line between boyhood and manhood, between deserving beneficiary and potential threat, this group does not easily fit into any one category. That popular discourse is inclined to associate single teenage boys and young men with "illegal migrants," despite "illegal migrants" comprising an exceptionally small portion of the EU's total migrant population, does little to encourage targeted support from the government.<sup>7</sup> Consequently, and despite their demographic significance, unaccompanied boys are a group for whom specialized psychosocial and material initiatives are comparatively limited.

### *Layout of the Text*

This research will be organized into five chapters as follows: The first chapter will provide definitions of key terms to be used throughout this text, terms which are crucial in a human rights-focused discussion of migration. This chapter will additionally outline key international and EU legal instruments pertaining to migration and asylum.

The second chapter will shift to an interdisciplinary framework, to further justify why, in the context of EU migration, a close focus on unaccompanied minors transitioning to adulthood is so crucial. The chapter will begin with a demographic profile of unaccompanied minors in the EU since 2015. In particular, it will emphasize the considerable presence of incoming unaccompanied minors nearing adulthood. With those numbers in mind, the chapter will offer a

---

<sup>6</sup> Delphine Brun, "Men and Boys in Displacement" (London: CARE International UK, 2017), PDF, p. 10.

<sup>7</sup> Tobias G. Eule et al., *Migrants Before the Law: Contested Migration Control in Europe*, 1st ed. (Cham, Switzerland: Palgrave Macmillan, 2019), p. 4.

human development-based examination of “adolescence,” a crucial stage which concurs with a young person’s transition to adulthood. This information will provide a social-scientific foundation for later discussions of the law’s oversight concerning the needs and experiences of former unaccompanied minors.

The third chapter will return to a legal focus, and explore the language of both international and EU human rights frameworks. It will highlight several provisions explicitly concerning childhood, children and unaccompanied minors. In doing so, this chapter will question whether legal language bestows upon unaccompanied teenagers entering adulthood, and young adults in close proximity to their teenage years, a compatible recognition of need granted to these same young people while they are still minors. Juxtaposing the law’s attachment of “vulnerability” to unaccompanied minors versus young adults, this chapter will emphasize that legislative approaches to young people leaving the former group, and entering the latter, often lack continuity.

The fourth chapter will maintain a legal perspective, with a focus exclusively on the EU and its implementation of law and policy surrounding unaccompanied minors turning 18. Along with an analysis of EU-wide practice, this chapter will discuss instances in which various Member States do, or do not, support unaccompanied minors transitioning to adulthood through services such as accommodation and educational support. Chapter Four will also argue that the actions of Member States toward former unaccompanied minors who do not qualify or apply for international protection, may act as a barrier toward states fulfilling those young peoples’ best interests while they are still children.

The fifth and final chapter will turn to the experiences of former unaccompanied young adults, themselves. It will explicitly examine the vulnerabilities surrounding this population, including mental health, risk-taking behaviors, cultural factors and the impact of trauma. In doing so, this chapter will attempt to provide a human element to the otherwise legal approach, demonstrating how this population may suffer in the absence of comprehensive, EU-wide safeguards.

Upon its conclusion, this research will highlight the necessity for a more explicit acknowledgement of unaccompanied minors transitioning to adulthood in international and EU law. It will offer potential recommendations and courses of action, through which the EU might better address former unaccompanied minors via legislation. It will also emphasize why

addressing protection gaps for unaccompanied minors transitioning to adulthood, is beneficial not only for these young asylum seekers, but for the EU itself.

The evidence presented within these chapters will approach the experiences of unaccompanied minors transitioning to adulthood as occurring along a continuum; how these young people fare once they are adults, is inseparable from how the law treats them while they are still children.

*Note Concerning the UK*

On 1 February 2020, the United Kingdom left the EU (“Brexit”). As a result, it is generally excluded from Eurostat’s migration data from 1 January 2020 onward. This research, however, has included the UK in its pre-2020 quantitative analysis; thus, the term “EU28,” as opposed to “EU27,” will frequently be used in reference to the Union as a whole. In instances where only the EU27 is being examined, this will be explicitly noted. The UK’s inclusion here is for the purpose of providing the most complete picture in terms of unaccompanied minors across the EU. Its exclusion risks overlooking the experiences of certain groups whose asylum applications and migration patterns have tended to favor the UK, such as Eritreans.

## Chapter One

### *Core Definitions and Human Rights Instruments*

An adequate investigation of the relationship between unaccompanied minors transitioning to adulthood, and the law as both embodied and enacted by the State, relies upon a foundation of particular legal language. It is necessary at this point to outline the definitions and concepts upon which a human rights approach is predicated. This chapter will provide a basic glossary of key terms used by UN and EU bodies in their respective handling of migration and refugee matters. Definitions are primarily taken from the International Organization for Migration's (IOM) 2019 *Glossary on Migration*. Several terms have significance for both global and EU contexts; where this is the case, both definitions will be provided. In addition, the fundamental bodies of international and EU-specific law dictating the treatment of refugees, asylum seekers and unaccompanied minors will be outlined. Though this chapter will present only those instruments which are binding, additional ones will be discussed in Chapter Three.

#### *1.1 International Context*

Incredible strides have been made, over the last 75 years, in the way of international human rights recognition. Integral to these developments was the formation of the United Nations in 1945. WWII's end served as the impetus for its creation, particularly due to the global reckoning with horrifying crimes governments had committed against civilians over its course. The goals of the 51 founding member states included a solidification of international cooperation, peace and the protection of fundamental rights for all persons. As of 2020, 193 sovereign states are members of the UN.<sup>8</sup>

One of the first UN Commissions to be established, in 1946, was the Commission on Human Rights (CHR). Two years later, the CHR would draft, and the UN would adopt, the document which has since become central to *all* international dealings in human rights—the **Universal**

---

<sup>8</sup>"History of the UN," United Nations Seventieth Anniversary, 2015, accessed December 9, 2020, [https://www.un.org/un70/en/content/history/index.html#:~:text=The United Nations is an, living standards and human rights\).](https://www.un.org/un70/en/content/history/index.html#:~:text=The United Nations is an, living standards and human rights).)



**Declaration of Human Rights (UDHR).**<sup>9</sup> Adopted in 1948, the UDHR outlines the fundamental rights and protections to which all individuals, as a sheer function of their personhood, are entitled. Signatory states have a responsibility to uphold the provisions of the UDHR for all persons within their territory, irrespective of factors including one's migration or residence status, nationality and country of origin.

Several of the UDHR's articles are particularly relevant to migration. Article 13 concerns the protection of people on the move, as it guarantees "the right to freedom of movement and residence" within every State.<sup>10</sup> 13(2) further protects individuals from being held unlawfully in any country, and guarantees the right to re-enter one's country of citizenship. The universal right to seek asylum is stated in Article 14, as are this right's limitations. Article 14(2) explains that the right to seek asylum does not apply in instances when an individual is being prosecuted for "non-political crimes," nor does it apply if a person has acted against the objectives of the UN.<sup>11</sup> It is evident how many other articles would play a crucial role in protecting migrants, including the right to life (Article 3); equal protection under the law (Article 7); and protection from arbitrary arrest (Article 9).

### *1.1.1 Migration in the International Context*

Despite its relevance, the UDHR neither defines nor explicitly approaches migration. **Migration** is a broad term, meaning "the movement of persons away from their place of usual residence," whether such movement be domestic or international.<sup>12</sup> It is generally understood to be either regular or irregular. **Regular migration** is that which occurs "in compliance with the laws of the country of origin, transit and destination."<sup>13</sup> **Irregular migration**, thus, is migration which follows neither State nor international laws and regulations. Depending upon their method of travel and entry to the host State, refugees and other beneficiaries of international protection can

---

<sup>9</sup> "A Short History of Human Rights," Human Rights Here and Now: Celebrating the Universal Declaration of Human Rights, 2002, accessed December 9, 2020, <http://hrlibrary.umn.edu/edumat/hreduseries/hereandnow/Part-1/short-history.htm>.

<sup>10</sup> UN General Assembly, *Universal Declaration of Human Rights*, 217 (III) A (Paris, 1948), accessed December 20, 2020, <https://www.un.org/en/universal-declaration-human-rights/>, art. 13.1.

<sup>11</sup> UN General Assembly, *Universal Declaration of Human Rights*, art. 14.2.

<sup>12</sup> *Glossary on Migration*, s.v. "Migration," International Organization for Migration, accessed December 20, 2020, [https://publications.iom.int/system/files/pdf/iml\\_34\\_glossary.pdf](https://publications.iom.int/system/files/pdf/iml_34_glossary.pdf).

<sup>13</sup> *Glossary on Migration*, s.v. "Regular migration," IOM.

also be irregular migrants. Those individuals who have entered the EU via its land and sea borders since 2015 have generally been irregular migrants.

Accordingly, a **migrant** is someone who leaves their usual place of residence, “whether within a country or across an international border, temporarily or permanently, for a variety of reasons.”<sup>14</sup> As with migration, “migrant” lacks a universally accepted definition in international law. Rather, it is a term used to establish a common understanding of certain people on the move. Migrants *are* still protected by the UDHR; however, countries process them via their own laws.

Those whose journeys are spurred on by the search for better material or occupational opportunities are also referred to as **economic migrants**, as they relocate not for need of international protection, but rather in search of an improved standard of living.<sup>15</sup> Irrespective of the conditions left behind, economic migrants are not considered refugees. That is *not* to say that many migrants are not leaving behind extreme poverty and hardship. This is very often the case—still, such conditions distinguish migrants, and particularly economic migrants, from beneficiaries of international protection.

While both a part of the same migratory flows, migrants and refugees are “distinct groups governed by separate legal frameworks.”<sup>16</sup> Crucially, “refugee” *is* officially defined in international law. The universally-accepted definition comes from the UN’s 1951 **Convention relating to the Status of Refugees**, also called the “Geneva Convention.” This convention provides a framework for defining—from the standpoint of human rights law—who is considered to be a refugee. It further underlines ratifying states’ obligation to protect and aid refugees, as well as refugees’ obligations toward their host states. In 1967, an additional protocol was added to account for the growing number of displaced populations globally.

Per article 1(a) of the 1951 Convention, a **refugee** is any person who

“owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside

---

<sup>14</sup> *Glossary on Migration*, s.v. “Migrant,” IOM.

<sup>15</sup> *Glossary on Migration*, s.v. “Economic migrant,” IOM.

<sup>16</sup> UNHCR, *Global compact for safe, orderly and regular migration*, 2018, p.3, accessed December 20, 2020, [https://refugeesmigrants.un.org/sites/default/files/180711\\_final\\_draft\\_0.pdf](https://refugeesmigrants.un.org/sites/default/files/180711_final_draft_0.pdf).

the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself to the protection of that country.”<sup>17</sup>

Stateless persons outside their normal territory of residence due to the same circumstances, are also included in the Convention’s definition of refugee. Neither the Convention Relating to the Status of Refugees nor its 1967 Protocol provide explicit guidance concerning *how* states should determine refugee status.<sup>18</sup> Rather, procedure is determined by the states themselves.<sup>19</sup>

Further distinguishing them from migrants, refugees are considered to move within forced migratory flows. While **forced migration** is not officially recognized in law, it generally applies to migration that is undertaken involuntarily, driven by events such as conflict which spur mass displacement.<sup>20</sup> An additional term via which this text will approach populations in forced migration is “displaced.” **Displacement** is “the movement of persons who have been forced or obliged to flee or to leave” their normal places of residence, due to push-factors including violence or disaster.<sup>21</sup> While the CHR’s employment of the term covers internally displaced persons (IDPs) as well as trans- or inter-national forced migration, in this context “displacement” will be in reference to the latter.

**Asylum seekers** are also a part of forced migration flows, although with important distinctions from refugees. A commonality is that, like refugees, asylum seekers are defined in international law as individuals “seeking international protection.”<sup>22</sup> The corresponding procedure of **asylum** is a state’s grant of “protection on its territory to persons outside their country of nationality or habitual residence, who are fleeing persecution or serious harm or for other reasons.”<sup>23</sup> Being granted asylum means one is entitled to a number of protections, including **non-refoulement**. This principle, echoed in EU asylum legislation, prevents a person from being forcibly returned

---

<sup>17</sup> UNHCR, *The Convention Relating to the Status of Refugees and its 1967 Protocol*, 2011, art. 1, accessed December 20, 2020, <https://www.unhcr.org/about-us/background/4ec262df9/1951-convention-relating-status-refugees-its-1967-protocol.html>.

<sup>18</sup> “Note on Determination of Refugee Status under International Instruments,” UNHCR, 1977, accessed December 20, 2020, <https://www.unhcr.org/en-us/excom/scip/3ae68cc04/note-determination-refugee-status-under-international-instruments.html>.

<sup>19</sup> Or, in the case of the European Union, by region.

<sup>20</sup> *Glossary on Migration*, s.v. “Forced migration,” IOM.

<sup>21</sup> *Glossary on Migration*, s.v. “Displacement,” IOM.

<sup>22</sup> *Glossary on Migration*, s.v. “Asylum seeker,” IOM.

<sup>23</sup> *Glossary on Migration*, s.v. “Asylum,” IOM.

to a country in which they reasonably believe their life could be at risk, or that they might be subjected to cruel punishment including torture.<sup>24</sup> Other asylum guarantees include the right to stay in the country where a person has been granted asylum, and reception of humane treatment.

Per UNHCR, all refugees were first asylum-seekers; however, not every asylum-seeker will be granted the status of refugee. Individuals who are eligible for subsidiary protection, such as trafficking victims, may still receive asylum without fitting the criteria for being a refugee. A further distinction between “refugee” and “asylum-seeker” derives from the first instance of each status’ applicability. Again, per UNHCR, refugee status is a declaratory one, as “a person does not become a refugee because of recognition, but is recognized” because they are a refugee.<sup>25</sup> In other words, the experiences that qualify a person as being a refugee, occur prior to the moment when a receiving state declares them as such. A person is a refugee as soon as they are forced to leave their country due to the aforementioned circumstances. Contrastingly, a person only becomes an asylum seeker once they have lodged an application for international protection with a sovereign state distinct from their place of origin.

A phrase which appears throughout UN legislation pertaining to refugees—and one which will subsequently make frequent appearances in conversations surrounding unaccompanied minors—is “durable solutions.” Set forth by UNHCR, **durable solutions** are pathways via which refugees may establish more permanency and stability in their lives. The first, voluntary repatriation, involves refugees who decide to return to their countries and places of origin. The next is resettlement in another country; globally, however, the number of refugees who are resettled is less than 1%. Finally, integration in the host community allows refugees to “contribute socially and economically.”<sup>26</sup>

### *1.1.2 Childhood and Legal Minority in the International Context*

A product of 20<sup>th</sup> and 21<sup>st</sup> century innovations in human rights is the increased recognition paid to the rights and autonomy of children and young people over recent decades. The core piece of international law to uniquely address the rights of children is the **United Nations Convention on**

---

<sup>24</sup> *Glossary on Migration*, s.v. “Non-refoulement,” IOM.

<sup>25</sup> UNHCR Division of Refugee Law and Doctrine, “Determination of Refugee Status,” (Geneva: UNHCR, 1989), PDF, p. 5.

<sup>26</sup> “Solutions,” UNHCR USA, accessed December 20, 2020, <https://www.unhcr.org/en-us/solutions.html>.

**the Rights of the Child (CRC)**, adopted in 1989, to which all EU Member States are ratifying parties.

The CRC defines a **minor**, or child, as “every human being below the age of 18 years,” excepting instances in which the age of majority is defined as younger by law.<sup>27</sup> In theory, one is therefore protected by nature of their age, until the day of their eighteenth birthday, excepting instances when majority is attained earlier. Unaccompanied children, henceforth referred to as **unaccompanied minors**, are “children [...] who have been separated from both parents and other relatives” and who are not under the care of a legally or customarily recognized adult.<sup>28</sup> Similarly, **separated children** are children who have been separated from their parents or legal guardian, but who are still in the informal care of other relatives. As they are not in the regular and extended care of at least one of their parents (or other legal guardian), unaccompanied minors are understood to be in **alternative care**.<sup>29</sup>

The CRC approaches childhood as a protected, special period; as such, it mandates that states implement legislation to support the healthy development of all children within their territories. It is organized around four core principles.<sup>30</sup> The first, non-discrimination (Article 2), requires states to apply the provisions within the CRC to *all* children in their respective territories, regardless of factors including “national, ethnic or social origin, [...] birth or other status.”<sup>31</sup> The second principle is that of best interests (Article 3). That is to say, “in all actions concerning children [...] the best interests of the child shall be a primary consideration.”<sup>32</sup> This is to be the case irrespective of whether the acting parties are “public or private social welfare institutions, courts of law, administrative authorities or legislative bodies.”<sup>33</sup> The best interests principle in

---

<sup>27</sup> UN General Assembly, *Convention on the Rights of the Child, 1989*, accessed December 20, 2020, <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>.

<sup>28</sup> *Glossary on Migration*, s.v. “Unaccompanied minor,” IOM.

<sup>29</sup> UN General Assembly, “Guidelines for the Alternative Care of Children,” A/RES/64/142, 2010, p.6, accessed December 20, 2020, <https://bettercarenetwork.org/sites/default/files/Guidelines%20for%20the%20Alternative%20Care%20of%20Children%20-%20English.pdf>.

<sup>30</sup> Daniel Senovilla and Philippe Lagrange, eds., “The Legal Status of Unaccompanied Children Within International, European and National Frameworks: Protective Standards vs. Restrictive Implementation (PUCAFREU Project, 2011), p. 8, accessed December 20, 2020, <https://calenda.org/217903?file=1>.

<sup>31</sup> UN General Assembly, *Convention on the Rights of the Child*, art. 2.

<sup>32</sup> CRC, art. 3.

<sup>33</sup> UN General Assembly, *Convention on the Rights of the Child*, art. 3.

particular has been echoed throughout international and EU child-specific legislation. The third principle is the right to “life, survival and development” (Article 6), and the fourth is the child’s right to express their views (Article 12).<sup>34</sup>

## 1.2 EU Context

In addition to the aforementioned instruments, the EU has its own legislation pertaining to displaced populations, including unaccompanied minors. The language of these conventions is heavily influenced by international human rights law, however there are some EU-specific distinctions.

### 1.2.1 Migration in the EU Context

Laying the foundation for human rights in the EU are two basic instruments—the European Convention on Human Rights, and the Charter of Fundamental Rights of the European Union. The **European Convention on Human Rights (ECHR)** sets forth the key human rights upheld by the 47 Member States of the Council of Europe (CoE), of which the EU in entirety is a part. Similar to the motivation behind the UN, the ECHR was drafted in response to the government abuses enacted upon civilians during World War II, as a method of ensuring such abuses did not happen again. The Council of Europe drafted the ECHR in 1949, and it was placed into full effect in 1953.<sup>35</sup> So as to have a juridical body ensuring adherence to the ECHR, the CoE established the European Court of Human Rights (ECtHR) in 1959.

As stated in Article 1, the ECHR protects every person within a State’s jurisdiction, with no distinction being made as to country of origin or citizenship. While the Convention has neither refugee nor child-specific protections, there *are* three articles pertaining to “aliens,” or foreign nationals. Those two which are particularly relevant include Article 4 (Protocol 4), or the “Prohibition of collective expulsion of aliens;” and Article 1 (Protocol 7), which provides the safeguards for individuals to which States are bound when deporting foreign nationals.<sup>36</sup>

---

<sup>34</sup> Senovilla Lagrange, eds., “The Legal Status of Unaccompanied Children Within International, European and National Frameworks,” pp. 10-11.

<sup>35</sup> “What is the European Convention on Human Rights?” Equality and Human Rights Commission, April 19, 2017. Accessed December 20, 2020, <https://www.equalityhumanrights.com/en/what-european-convention-human-rights>.

<sup>36</sup> Council of Europe, *European Convention on Human Rights*, amended by Protocol 1 (Strasbourg: European Court of Human Rights, 2010), art. 1, [https://www.echr.coe.int/Documents/Convention\\_Eng.pdf](https://www.echr.coe.int/Documents/Convention_Eng.pdf).

Also notable is Article 14 (Section 1), which sets forth the “Prohibition of discrimination.” That is, the freedoms and rights laid out in the Convention apply to all people within CoE Member State territory, irrespective of factors including “national or social origin [...] birth or other status.” Age, however, is not explicitly noted as a protected category. Other basic protections which could be seen as particularly pertinent to the situation of refugees and asylum seekers include right to life (Article 2), and the right to liberty and security (Article 5).

Similar to the European Convention on Human Rights is the **Charter of Fundamental Rights of the European Union**. It also outlines the rights and freedoms held by all individuals within respective states’ territories—however, as the name suggests, it is specific to Member States of the EU. Like the Convention, the Charter of Fundamental Rights includes a non-discrimination clause. Article 21 prohibits discrimination on grounds including “sex, race, color, ethnic or social origin.”<sup>37</sup> Notably, age *is* listed among the protected classes.

In the specific context of the EU and the EFTA (European Free Trade Association), a **migrant** is considered to be someone who moves to an EU or EFTA Member State from either a different Member State or a third country, for an expected period of at least 12 months.<sup>38</sup> EU legislation also defines **refugees** in a slightly different manner than it appears in international instruments, however the approach is still informed by the 1951 UN Convention:

“a third-country national who, owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, political opinion or membership of a particular social group”

is no longer residing in their country of nationality, and is unable or unwilling to return as a result.<sup>39</sup> Stateless persons in similar circumstances are also included. The EU also defines **asylum** in a similar manner to the international context. An application for international protection is “a request by a third-country national or a stateless person for

---

<sup>37</sup> European Union, *Charter of Fundamental Rights of the European Union*, *Journal of the European Union* C83 53, (Brussels, European Union, 2010), art. 21, <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:12012P/TXT&from=EN>.

<sup>38</sup> European Migration Network (EMN), *Asylum and Migration Glossary*, 6<sup>th</sup> ed. (European Commission, 2018), s.v. “Migration,” [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european\\_migration\\_network/docs/interactive\\_glossary\\_6.0\\_final\\_version.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european_migration_network/docs/interactive_glossary_6.0_final_version.pdf).

<sup>39</sup> European Commission, “Glossary: Refugee,” Migration and Home Affairs, accessed December 20, 2020, <https://ec.europa.eu/home-affairs>.

protection from a Member State, who can be understood to seek refugee status or subsidiary protection status.”<sup>40</sup>

The rights and protections granted to all persons, including unaccompanied minors and refugees, are covered by the EU **acquis**. This is the shared body of rights and obligations which all EU Member States must uphold.<sup>41</sup> The EU acquis binds Member States not only to regional legislation and other instruments, but to also to international ones. The asylum acquis is comprised of the **Common European Asylum System (CEAS)**. Implemented in 1999, the CEAS provides the legislative framework for the EU’s handling of asylees. Through various directives and regulations, it sets forth the basic conditions and procedures for the reception of asylum seekers in the Member States, along with refugee and subsidiary protection criteria. There are five main legislative components of the CEAS, each of which has been revised, or “recast,” within the past decade. These updated frameworks include:

The **Asylum Procedures Directive (2013 recast)**, which “aims at fairer, quicker and better quality asylum decisions,” and grants special support to groups considered particularly vulnerable including unaccompanied minors;

The **Receptions Standards Directive (2013 recast)**, which covers the material conditions and rights to which asylum seekers are entitled at reception points;

The **Qualification Directive (2011 recast)**, which extrapolates upon the conditions to be met for the granting of asylum, with the aim of “making asylum decisions more robust,” providing a common Member State approach to asylum and improving refugees’ access to rights and integration;

The **Dublin III Regulation (2013 recast)**, which determines the Member State responsible for the handling of an individual’s asylum application, which is generally the first EU country the refugee or otherwise asylum seeker enters;

---

<sup>40</sup> Council of the European Union, Directive 2011/95/EU on Standards for the Qualification of Third-Country Nationals (Recast), *Official Journal L 337*, 9-26, 2011, art. 2(h), accessed December 21, 2020, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32011L0095>. Forthwith referred to as “Qualifications Directive.”

<sup>41</sup> “Acquis,” Glossary of Summaries, 2020, accessed December 21, 2020, <https://eur-lex.europa.eu/summary/glossary/acquis.html>.



and the **Eurodac Regulation (2013)**, which allows authorities to access finger printing data on asylum applicants for matters of law enforcement.<sup>42</sup>

In the EU, asylum is a fundamental right.

### 1.2.2 *Childhood and Legal Minority in the EU Context*

Concerning children in general, the EU acquis places primacy on the best interests principle, which is echoed throughout relevant legislation. The EU Charter contains one article devoted to the rights of children.<sup>43</sup> It echoes the CRC's declaration that all decisions made pertaining to children should take "the child's best interests" into primary consideration.<sup>44</sup> It also states that children have the right to adequate care and protection; that they are entitled to have their views taken into account as age-appropriate; and that if it serves their interest, they are entitled to maintain a close relationship with their parents. The EU's commitment to the CRC is echoed throughout the **Guidelines for the Promotion and Protection of the Rights of the Child** (revised 2017), which highlight child-specific measures with a particular focus on anti-trafficking.<sup>45</sup>

Pertaining to the EU, an **unaccompanied minor** is a person under the age of 18, who enters EU Member State territory "unaccompanied by the adult responsible for them by law or by the practice of the EU Member State concerned, and for as long as they are not effectively taken into the care" of a parent or other legal guardian.<sup>46</sup> An **unaccompanied minor approaching majority** will be understood as an unaccompanied minor between the ages of 16 and 17, who is thus nearing their eighteenth birthday, or the legally recognized age of majority in the EU.<sup>47</sup>

---

<sup>42</sup> "Common European Asylum System," Migration and Home Affairs, 2020, accessed December 21, 2020, [https://ec.europa.eu/home-affairs/what-we-do/policies/asylum\\_en](https://ec.europa.eu/home-affairs/what-we-do/policies/asylum_en).

<sup>43</sup> European Union, "Charter of Fundamental Rights of the European Union," art. 24.

<sup>44</sup> Ibid.

<sup>45</sup> European Commission. "EU Guidelines for the Promotion and Protection of the Rights of the Child (2017)," 2017, p. 5, accessed December 21, 2020, [https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/eu\\_guidelines\\_rights\\_of\\_child\\_0.pdf](https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/eu_guidelines_rights_of_child_0.pdf).

<sup>46</sup> Council of the European Union, Qualifications Directive, art. 2(l).

<sup>47</sup> EMN, "Approaches to Unaccompanied Minors Following Status Determination in the EU plus Norway: Synthesis Report for the EMN Study" (Brussels, European Migration Network, 2018), p. 5, accessed October 28, 2020, [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/00\\_eu\\_synthesis\\_report\\_unaccompanied\\_minors\\_2017\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/00_eu_synthesis_report_unaccompanied_minors_2017_en.pdf).

Much like its legal approach to refugees, the EU uses UN instruments—particularly the CRC—to inform its policies towards unaccompanied minors. They are recognized as possessing inherent vulnerability—not only are unaccompanied minors children, but they are displaced children, and they are displaced children deprived of their parents’ protection. As such, *all* unaccompanied minors are protected under asylum law from the moment they enter the EU.<sup>48</sup> While underage, they remain beneficiaries of international protection irrespective of eventual asylum eligibility come adulthood. Actual reception conditions, however, vary State-by-State. Latter chapters will revisit this in more explicit detail.

### *1.3 Conclusion*

The aforementioned instruments continue to lay the foundation for developments in human rights law. Additionally, there exist various other international legally and non-legally binding frameworks concerning the rights and protections of refugees and unaccompanied minors. Of the UN’s 18 Human Rights Instruments, of which the CRC is one, there are several others which all EU Member States have ratified. They include the International Convention on the Elimination of All Forms of Racial Discrimination; the International Covenant on Civil and Political Rights; and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.<sup>49</sup> While these are relevant to the rights and protections afforded adolescents, only the Covenant on Civil and Political Rights explicitly mentions children (Article 24, all children have the right to protections afforded on the basis of minority).<sup>50</sup> All EU States have also ratified the 1954 Convention Relating to the Status of Stateless Persons. No EU Member States are party to the Convention on the Protection of the Rights of All Migrant Workers and Members of their Families.

Neither the UN’s Global Compact on Refugees, nor the Global Compact for Safe, Orderly and Regular Migration, have full support of the EU. Both enacted in 2018, these non-legally binding documents aim to address protection gaps of the respective groups, alongside the needs of both

---

<sup>48</sup> Theresa Papademetriou, “European Union: Status of Unaccompanied Children Arriving at the EU Borders,” Library of Congress Law, September 2014, accessed December 20, 2020, <https://www.loc.gov/law>.

<sup>49</sup> OHCHR, “Ratification of 18 International Human Rights Treaties,” Status of Ratification Interactive Dashboard, 2014, accessed December 20, 2020, <https://indicators.ohchr.org/>.

<sup>50</sup> UN General Assembly, *International Covenant on Civil and Political Rights*, entry into force March 23, 1976, *United Nations Treaty Series* vol. 999, accessed December 21, 2020, <https://www.refworld.org/docid/3ae6b3aa0.html>.

sending and receiving communities. The Global Compact on Refugees has more support, as all Member States—bar Hungary—have voted in favor of its adoption.<sup>51</sup> Regarding the latter, several Member States either abstained from voting, or voted against it.

With the frameworks and terms presented here as a foundation, Chapter Two will step away from the law, and offer an interdisciplinary look at the general population of unaccompanied minors transitioning to adulthood within the EU.

---

<sup>51</sup> Margaret Besheer, “UN States Adopt Global Compact on Refugees,” VOA, December 17, 2018, accessed December 20, 2020, <https://www.voanews.com/europe/un-states-adopt-global-compact-refugees#:~:text=The%20United%20States%20and%20Hungary,Republic%2C%20Eritrea%20and%20Libya%20abstained.&text=There%20are%20more%20than%2025,host%2060%20percent%20of%20them>.

## Chapter Two

### *Demographic and Theoretical Justifications for Focusing on Unaccompanied Minors Transitioning to Adulthood*

The primary goal of this research is to pinpoint what this author considers to be a shortsightedness in the EU's overall legal approach to unaccompanied minors entering adulthood. This is particularly so in view of the EU's duty to protect these same displaced young people while they are still underage. However, the extent of this shortsightedness cannot be fully understood without a discussion of the crucial developmental processes occurring on either side of one's eighteenth birthday. That so many unaccompanied minors are well into adolescence, only further emphasizes the importance of considering whether the law adequately acknowledges this group.

A sophisticated understanding of unaccompanied minors' experience while transitioning to adulthood, including one reliant upon a legal approach, must extend to factors beyond the law. This chapter will aim to provide such an extension, vis-à-vis discussions of demography and human development. Where demography provides a profile of current and former unaccompanied minors in the EU, developmental information explains the crucial psychosocial changes this particular age group experiences, and hence justifies their needs. The concepts introduced here will be revisited in Chapter Five, in particular as they play out across the lives of displaced young people.

While this research addresses both asylum-seeking and non-asylum-seeking unaccompanied minors entering adulthood, the majority of quantitative information discussed here represents unaccompanied young people who have lodged asylum claims. The number of unaccompanied minors who enter the EU and do not seek asylum is not insignificant—according to European Migration Network (EMN) data, at least 48,591 unaccompanied minors entered the EU between 2014-2017 for reasons other than seeking asylum.<sup>52</sup> Other accounts estimate that, in 2016 alone, for each minor who sought asylum in Europe, another entered who did not.<sup>53</sup> Beyond these

---

<sup>52</sup> EMN Inform, "Approaches to Unaccompanied Minors Following Status Determination in the EU Plus Norway," p. 1.

<sup>53</sup> Lauren Collins, "Europe's Child Refugee Crisis," *New Yorker*, February 27, 2017, <https://www.newyorker.com/magazine/2017/02/27/europes-child-refugee-crisis>.

estimates, however, there are few statistics available regarding those unaccompanied children and teenagers who do not try to claim asylum. What information does exist, presents neither the entire picture of how many unaccompanied minors are in the EU outside of the asylum system, nor what happens to them. Hence, the most reliable demographic information available specifically follows those unaccompanied minors who have lodged an asylum claim.

### 2.1 Demography

To reiterate, 2015 brought to Europe's shores historic numbers of refugees and migrants, and saw more than 1 million applications submitted to EU Member States by first-time applicants:

Year	Total Asylum Applications Lodged	Number of First-Time Applicants
2014	626,960	562,680
2015	1,322,845	1,256,855
2016	1,260,910	1,206,045
2017	712,735	654,610
2018	664,405	602,515
2019	744,795	675,515

*Figure 1: Asylum Applications, Including First-Time Applicants, Lodged in the EU28 2014-2019<sup>54</sup>*

As the above data show, 2016 proved little different from 2015. That year, the number of first-time applicants decreased by 50,000, or a mere 4%. Since those initial months and years, the number of asylum seekers to the EU has indeed continued to decrease; however, it has not dwindled. Not until 2017 did annual first-time and total asylum applications dip below one million. While there was an additional drop in 2018, 2019 brought another influx of people seeking international protection for the first time in the EU.

<sup>54</sup> "Asylum and first time asylum applicants by citizenship, age and sex-annual aggregated data (rounded)," Eurostat, accessed December 21, 2020, [https://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr\\_asyappctza&lang=en](https://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr_asyappctza&lang=en).

### 2.1.1 Representation of Unaccompanied Minors Amongst Asylum Seekers

In 2015, more than 368,000 first-time applications for international protection in the EU28 were from individuals under the age of 18. This amounted to roughly one-fourth of the total applications received by the EU that year. The number of minors lodging asylum claims remained largely stable through 2016, in fact increasing by about 400.<sup>55</sup> In subsequent years, the asylum applications from minors have followed a similar trend to the overall, having decreased in 2017 and 2018, then risen back up to just over 202,400 in 2019.<sup>56</sup>

Of those children and adolescents seeking asylum, tens of thousands of applicants annually have been, and continue to be, unaccompanied minors. According to Eurostat, EU28 Member States received 95,205 asylum applications from unaccompanied minors with extra-EU citizenship in 2015.<sup>57</sup> This was a significant increase from years prior, particularly pre-2014, at which point annual asylum applications from unaccompanied minors remained under 13,000.

Four Member States—Sweden, Germany, Hungary and Austria—received 75% of all asylum applications lodged by unaccompanied minors in 2015. Sweden received the most, with 35,369, or roughly 40%. It was followed by Germany, which received 16%; Hungary, which received 10%; and Austria, which received 9%.<sup>58</sup> As of 2019, however, the top receiving countries had changed. The UK received the highest number of unaccompanied minor asylum applicants, with 21%; next came Greece, with almost 19%; Germany, with 15%; Belgium, with 7%; and the Netherlands, just under 6%.<sup>59</sup>

The countries from which unaccompanied minors originate have not particularly changed over the past five years; however, the proportion of asylum applicants from each country *has* shifted somewhat. In 2015, for example, roughly 50% of unaccompanied minor asylees to the EU28 were from Afghanistan, making Afghans by far the single most statistically significant

---

<sup>55</sup> “Asylum applicants considered to be unaccompanied minors by citizenship, age and sex- annual data (rounded,” Eurostat, accessed December 21, 2020, <https://appsso.eurostat.ec.europa.eu/>.

<sup>56</sup> “Asylum applicants considered to be unaccompanied minors,” Eurostat.

<sup>57</sup> *Ibid.* Ten applications came from unaccompanied minors whose country of citizenship is noted as an EU Member State.

<sup>58</sup> Aycan Celikaksoy and Eskil Wadensjö, “Mapping Experiences and Research about Unaccompanied Refugee Minors in Sweden and Other Countries,” IZA Discussion Papers no. 10143 (Bonn: Institute for the Study of Labor IZA, 2016): 3.

<sup>59</sup> “Asylum applicants considered to be unaccompanied minors,” Eurostat.

nationality.<sup>60</sup> The next largest group was from Syria, at 16%. Further among the top five nationalities represented were Eritrea (6%), Iraq (5%) and Somalia (4%).

As of 2019, nearly 60% of all unaccompanied minor asylum applicants to the EU28 were from six countries. 26% came from Afghanistan, 8% from Syria, 7% from Pakistan, 6% from Iraq, 5% from Eritrea and just under 5% from Guinea.<sup>61</sup> Thus, while Afghans continue to represent a significant number of unaccompanied minor asylees, the distribution has become more spread out across various countries of origin.

Notably, if only EU27 States are considered, Eritrea is no longer in the top six countries, but Somalia is. This is representative of the high concentration of asylum claims lodged by Eritrean unaccompanied minors in the UK. Furthermore, the exclusion of the UK means percentages slightly shift; Afghans represent 30%; Syrians and Pakistanis 10% respectively; and Somalians, Guineans and Iraqis 5% respectively.<sup>62</sup>

### *2.1.2 Demographic Significance of Unaccompanied Minors Approaching Adulthood*

The primary age range within which unaccompanied minors fall is 14-17. Since the start of the crisis in 2015, 14-17 year-olds have accounted for roughly 90% of all unaccompanied minor asylum applicants.<sup>63</sup> Of those 14-17 year old's, more have in fact been closer to their eighteenth birthdays than not. According to a May 2015 EMN synthesis report, the majority of unaccompanied minors who applied for asylum in 2014, 65%, were between the ages of 16 and 17.<sup>64</sup> While the relative percent of 16-17 year old unaccompanied asylees decreased in 2015, the actual number went up by more than 45,000. Data available from Eurostat show that, between

---

<sup>60</sup> Eurostat, Eurostat Press Office, "Almost 90,000 Unaccompanied Minors among Asylum Seekers Registered in the EU in 2015," news release, May 2, 2016, Eurostat Press Release, accessed December 21, 2020, <https://ec.europa.eu/eurostat/documents/2995521/7244677/3-02052016-AP-EN.pdf/>.

<sup>61</sup> "Asylum applicants considered to be unaccompanied minors," Eurostat.

<sup>62</sup> "Almost 14,000 unaccompanied minors among asylum seekers registered in the EU in 2019," news release, April 28, 2020, Eurostat Press Release, accessed December 21, 2020, <https://ec.europa.eu/eurostat/documents/2995521/10774034/3-28042020-AP-EN.pdf/03c694ba-9a9b-1a50-c9f4-29db665221a8>.

<sup>63</sup> "Asylum applicants considered to be unaccompanied minors," Eurostat.

<sup>64</sup> EMN, "Approaches to Unaccompanied Minors Following Status Determination in the EU plus Norway: Synthesis Report for the EMN Study," (Brussels: European Migration Network, 2015), p. 5, accessed December 20, 2020, [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/00\\_eu\\_synthesis\\_report\\_unaccompanied\\_minors\\_2017\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/00_eu_synthesis_report_unaccompanied_minors_2017_en.pdf).

2008-2019, more than 50% of all unaccompanied minor asylum applicants to EU28 Member States were between the ages of 16-17.

Thus, the largest age group of unaccompanied minors seeking asylum in the EU in 2015 was within less than two years of legal adulthood; the second most significant group was within less than four years. This trend has continued.

The below table uses Eurostat data to demonstrate the demographic evolution of unaccompanied minors applying for asylum in the EU, specifically the number of applicants aged 16-17:

Year	Number of asylum applications from unaccompanied minors lodged in EU28	Number of applicants aged 16-17	% of applicants aged 16-17
2008	11,695	6,395	54.7%
2009	12,190	6,910	56.7%
2010	10,610	6,575	61.9%
2011	11,690	7,335	62.7%
2012	12,540	8,285	66.1%
2013	12,725	8,525	66.9%
2014	23,150	15,030	64.9%
2015	95,205	55,860	58.5%
2016	63,250	43,330	68.5%
2017	31,400	24,230	77.2%
2018	19,845	14,850	74.8%
2019	17,675	12,190	68.9%

*Figure 2: Representation of unaccompanied minors among asylum applicants, including aged 16-17.<sup>65</sup>*

Notably, these data demonstrate a positive trend in annual asylum applications from unaccompanied minors through 2016. The spike in 2015 correlates to the refugee and migrant

<sup>65</sup> "Asylum applicants considered to be unaccompanied minors," Eurostat.



crisis that year. While annual applications have since decreased, 2019 figures still remained above pre-2015 levels (with the exception of 2014).

Looking specifically at 16 and 17 year old's, this age group accounts for about two-thirds of all unaccompanied minor asylum applicants prior to 2014.<sup>66</sup> They also account for more than half of unaccompanied minor applicants every year since 2008. As total asylum applications have decreased, the proportion of 16 and 17 year old's has remained consistently high, and has in fact increased since 2015. Since 2016, unaccompanied minors approaching majority have accounted for roughly 70-75% of unaccompanied minors asylees annually. In 2019, 80% of unaccompanied minors who arrived in Italy, Greece, Bulgaria and Malta were aged 15-17.<sup>67</sup>

Of the almost 56,000 16-17 year old unaccompanied minors who filed for asylum in 2015, 51,800, or 92.5%, were males.<sup>68</sup> A further 25,475 applications came from adolescent boys between the ages of 14 and 15. This make-up is echoed in country-specific numbers, some of which show even higher proportions of older teenagers than the overall. In Germany, for example, almost 92 and 93% of unaccompanied minors taken into care, in 2015 and 2016 respectively, were aged 14-17.<sup>69</sup> 72% of those taken into care in 2016 were 16 or older, more than 92% of whom were boys.

There are a multitude of reasons as to why boys make up the bulk of unaccompanied minors. For one, the risks posed to teenage boys and young men in these countries of origin are great. Beyond the wider conflict to which the general population is exposed, terrorist groups often target teenage boys and young men, whether for purposes of recruitment or violence. Unaccompanied minors from countries such as Eritrea are particularly representative of young people escaping forced military service, which can last indefinitely and involve extremely harsh treatment (though, it is important to note that both young men *and* women are made to serve in

---

<sup>66</sup> EMN, "Approaches to Unaccompanied Minors Following Status Determination in the EU plus Norway: Synthesis Report," 2015, p. 7.

<sup>67</sup> UNICEF, UNHCR, IOM, "Latest Statistics and Graphics on Refugee and Migrant Children," UNICEF Europe and Central Asia, 2020, accessed December 21, 2020, <https://www.unicef.org/eca/emergencies/latest-statistics-and-graphics-refugee-and-migrant-children>.

<sup>68</sup> "Asylum applicants considered to be unaccompanied minors," Eurostat.

<sup>69</sup> Germany, Federal Office for Migration and Refugees, *Unaccompanied Minors in Germany: Challenges and Measures after the Clarification of Residence Status*, by Julian Tangermann and Paula Hoffmeyer-Zlotnik, 2018, p. 19, accessed December 21, 2020, [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/11a\\_germany\\_uam\\_2018\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/11a_germany_uam_2018_en.pdf).

the Eritrean military).<sup>70</sup> Parents may also feel that their sons are less likely to be targeted by sexual violence along the migration route. Furthermore, teenagers who arrive first to the EU are often expected to send money to family back home, and/or create an opportunity for others to follow via family reunification. As significant numbers of unaccompanied minors originate from Muslim-majority countries, cultural factors often dictate that males should be the ones to initiate this process.

This section has employed a demographic approach to emphasize the significant number of unaccompanied asylum seekers who have reached, and are reaching, adulthood whilst in the EU. Next, unaccompanied minors transitioning to adulthood will be examined through a developmental lens, to further justify why a particular focus on this population is imperative.

### *2.2 Transition to Adulthood from a Human Development Perspective*

As demonstrated by the above data, more than half of unaccompanied minors arriving to the EU annually are within 1-2 years, if not less, of adulthood. To adequately understand the law's effects on unaccompanied minors transitioning to adulthood, it is necessary to supplement statistical analysis with a macro perspective of the life changes integral to adolescence.

It is acknowledged that this paper's approach is largely predicated upon Westernized conceptions of human development. The cross-cultural nature of migration can pose a difficulty to the task of categorizing developmental stages where youth are concerned. When they arrive to the EU, unaccompanied minors are categorized vis-à-vis the (generally) Western notion of 18 being the legal age of majority. However, many of these young people come from societies and cultures in which they are already considered adults—or at least capable of shouldering adult responsibilities.<sup>71</sup>

Yet, research on psychosocial and physiological development beginning in the pre-puberty years, and spanning into the post-puberty years, suggests core truths about the experiences young people have during this period of their lives. This section will briefly introduce the conceptual

---

<sup>70</sup> Laetitia Bader, "They are Making Us into Slaves, Not Educating Us:" How Indefinite Conscription Restricts Young People's Rights, Access to Education in Eritrea, HRW, August 8, 2019, accessed December 21, 2020, <https://www.hrw.org/report/2019/08/08/they-are-making-us-slaves-not-educating-us/how-indefinite-conscription-restricts>.

<sup>71</sup> Mia Bloom and Josh Horgan, *Small Arms: Children and Terrorism* (Ithaca: Cornell University Press, 2019).

foundations necessary for understanding the experiences of unaccompanied minors as they move into adulthood. Like the demographic information highlighted in the first section, psychosocial development is not explicitly connected to the law—however, it is an instrumental part of how unaccompanied minors transitioning to adulthood interact with all parts of society, legal institutions included.

### *2.2.1 Adolescence as a Crucial Stage*

This paper approaches the “transition to adulthood” as occurring largely within the period of adolescence, particularly late adolescence. The World Health Organization defines **adolescents** as 10-19 year old’s. Accordingly, it defines **young people** as 10-24 year old’s, and **youth** as the period between 15-24 years.<sup>72</sup> Youth similarly encompasses the ages 15-24 in the EU-specific context.<sup>73</sup> Each of these categories demonstrates a clear overlap with the protected stage of childhood as presented in the CRC. With the exception of “adolescents,” however, the aforementioned terms are generally absent from international law. Notably, where adolescents are discussed in human rights law, it is alongside, and with little distinction from, younger children.

Other sources, particularly those predicated on psychiatrics or psychology, place adolescence within a slightly different age range based upon certain criteria. In his book *Brainstorm: The Power and Purpose of the Teenage Brain*, psychotherapist Dr. Daniel Siegel places adolescence between the ages of roughly 12-24, as this period is accompanied by “a burst of growth and maturation taking place as never before.”<sup>74</sup> Due to the neurological changes that continue into one’s early twenties, this research will approach adolescence—and correspondingly the transition to adulthood—as Siegel defines it.

Irrespective of the give-or-take of a few years in either direction, it is generally agreed that adolescence is a crucial period for the development of one’s identity. Adolescents are becoming increasingly in touch with their sense of self, their sexuality and how they are perceived in the

---

<sup>72</sup> “Adolescent Health,” World Health Organization, 2020, accessed December 21, 2020,

<https://apps.who.int/adolescent/second-decade/section2/page1/recognizing-adolescence.html>.

<sup>73</sup> European Commission. “EU Guidelines for the Promotion and Protection of the Rights of the Child (2017),” p. 34.

<sup>74</sup> Daniel J. Siegel, *Brainstorm: the Power and Purpose of the Teenage Brain* (New York: Jeremy P. Tarcher/ Penguin 2013), p. 6.

eyes of others. They exhibit a desire for more independence and responsibility, and “increasingly want to assert more autonomy over their decisions, emotions and actions.”<sup>75</sup>

While the society in which one grows up certainly affects conceptualizations of adolescence, as well as how adolescents interact with their surroundings, much of one’s development during this time stems from inevitable changes in the brain’s pathways. Concurrent with, and extending beyond, the time of puberty, neural connections undergo intense rewiring.<sup>76</sup> It matters not whether one grows up in Sweden or Afghanistan—these brain changes are universal. That said, the experiences one has *during* adolescence undeniably shape the external presentation of novel brain development, vis-à-vis behavioral and mental health. What occurs during these formative years will continue to impact how individuals navigate, and interact with, the world around them throughout their adult lives.

### *2.2.2 Self and Social Perceptions During Adolescence*

Neural rewiring affects young people in a number of ways. For one, teens and young adults are more likely to engage in risk-taking behavior and act on impulse. Adolescents also experience an intensity of emotions, which can lead to mood swings that are difficult to regulate. They are particularly sensitive to how others perceive them, and negative messages (or those perceived as negative) can drastically affect a young person’s view of themselves and their capabilities. In turn, those messages can become internalized, causing adolescents to “sink” to, and embody, the criticism they are receiving in lieu of reaching their full potential.<sup>77</sup> Similarly, anthropologist Arjun Appadurai’s theory on “the capacity to aspire” demonstrates that the more resources an individual has, the more confident they feel about future success.<sup>78</sup> The support, and tone of feedback, one receives during adolescence can have life-long implications for their confidence in overcoming obstacles.

Given adolescents’ heightened awareness of how they are perceived, it follows that displaced young people may be particularly susceptible to the effects of social exclusion. As Katrine Fangen, Nils Hammaren and Thomas Johansson explore, social exclusion is a two-sided process;

---

<sup>75</sup> “Adolescent Health,” World Health Organization.

<sup>76</sup> Siegel, *Brainstorm*.

<sup>77</sup> Siegel, *Brainstorm*, p. 4.

<sup>78</sup> Jamil Jivani, *Why Young Men: Rage, Race and the Crisis of Identity* (Neutral Bay, NSW, Australia: Pantera Press, 2019), p. 47.

it “denotes both instances when a person is expelled from a community or a place *and* denial of access to ‘outsiders.’”<sup>79</sup> It is also an intersectional process, as one’s experience is shaped through a concurrence of factors such as gender, ethnicity and socioeconomic status. Whether it stems from the state or individuals, social exclusion works to make its targets feel irreconcilably different from wider society.

Social exclusion is visible primarily in relation to one’s school or work life. A young person is considered to be socially excluded if they are “currently outside the structured arenas of school and work,” and have a high probability of remaining so for the foreseeable future.<sup>80</sup> Social exclusion also affects, by way of impediment, an unaccompanied young person’s ability to navigate legal and other state institutions.

For the young migrants experiencing it, social exclusion’s implications are significant. As adolescents, their personal and external perceptions, their self-image and identity, are in a crucial phase of development. If the message from the host community is that displaced young people are unwelcome, the latter is at greater risk of feeling they are the forever outsider, irreconcilably excluded from participating in that society. That many unaccompanied young people lack access to regular education and employment, leaves them arguably more susceptible to anti-immigration discourse in popular, judicial and other realms. This is not to say that young migrants and asylum seekers are absolved of playing an active role in their own integration, as effort is required from all parties. However, and certainly in the case of adolescents, the formal and informal mechanisms to facilitate integration must first be present, and visible.

### *2.2.3 Psychological Vulnerabilities Associated with Adolescence*

Pruning, or the paring down and discarding of superfluous neurological connections, is another significant change in the adolescent brain. As a result, adolescence is the period during which psychological vulnerabilities or irregularities are most likely to manifest, particularly through mental health outcomes.<sup>81</sup> This becomes even more the case as one reaches their late teen years or early twenties. Childhood experiences frequently act as the generator for such irregularities,

---

<sup>79</sup> Fangen, Hammaren and Johansson, Chapter One, “Presentation of an Analytical Framework,” in Fangen, et al, *Young Migrants, Social Exclusion and Belonging in Europe*, Migration, Diasporas and Citizenship Series (London: Palgrave Macmillan, 2012), p. 3.

<sup>80</sup> Raaum, et al in Fangen, et al, *Young Migrants, Social Exclusion and Belonging in Europe*, p. 3.

<sup>81</sup> Siegel, *Brainstorm*, p. 97.

particularly when one has a personal history of trauma. This is why certain mental illnesses or learning difficulties are more likely to appear in adolescence. At the same time, increased dopamine release can leave adolescents more susceptible to addiction.<sup>82</sup>

As noted in the previous section, social pressures can also play a role. For example, the “social performance” nature of masculinity leads many young men to feel pressure to live up to cultural expectations of manhood.<sup>83</sup> Particularly for those from patriarchal societies—as many unaccompanied minors to the EU are—there are high expectations to embody “manhood” through certain feats, such as finding a job and providing for a family. Where this does not occur, feelings of failure may aggravate already-present psychological challenges.

Despite their comparative physiological resilience to children and adults, adolescents account for more deaths by avoidable causes than any other group.<sup>84</sup> “Avoidable causes” include suicide, drug overdose, and gun or other weapon-related deaths. According to WHO, suicide particularly is among the leading causes of mortality for adolescents, specifically 15-19 year olds. In Southeast Asia, it is the number one cause of mortality for both males and females.

Notably, the Eastern Mediterranean—within which are several top sending countries including Syria, Afghanistan and Iraq—is one of only two regions where suicide is *not* reported as a top five cause of adolescent mortality. What does disproportionately affect adolescents from the Eastern Mediterranean, however, is mortality related to widespread violence. One of every five deaths among adolescent males in the region is due to war or other conflict.<sup>85</sup> A function of their youth, adolescents—particularly adolescent boys—are also at an increased risk of conflict-related death. This is due to aforementioned factors such as military service, and the recruitment of boys by insurgent or terrorist groups. Yet, depression, suicidality and suicide deaths among current and former unaccompanied minors once in the EU, are comparatively high to rates among adolescents from the native populations. The implications of heightened suicidality for

---

<sup>82</sup> Siegel, *Brainstorm*, p. 68.

<sup>83</sup> Michael S. Kimmel, *Healing from Hate: How Young Men Get into- and out of- Violent Extremism* (Oakland: University of California Press, 2018), pp. 7-8.

<sup>84</sup> Siegel, *Brainstorm*, p. 20.

<sup>85</sup> “Adolescent Health,” World Health Organization.

unaccompanied minors transitioning to adulthood will be further explored in Chapter Five.

### 2.3 Conclusion: “Emerging Adulthood” and Promises of Adolescence

In spite of these challenges, adolescence is also a time of immense possibility and productivity. Particularly around the entry into adulthood, adolescents experience a myriad of personal and environmental shift that open up new opportunities. This is concurrent with a stage defined by Dr. Jefferey Arnett as “emerging adulthood,” which occurs between the ages of 18-25. Arnett describes this period as

““a time of life when many different directions remain possible, when little about the future is decided for certain, when the scope of independent exploration of life’s possibilities is greater for most people than it will be at any other period of the life course.””<sup>86</sup>

There are five prominent characteristics to which Arnett ascribes emerging adulthood. While some involve challenges—such as feeling caught between childhood and adulthood, and not yet being grounded in a stable, long-term position—others demonstrate the promise of late adolescence. For one, it is a period of “identity exploration,” as young people begin “exploring their career choices and ideas about intimate relationships,” which serve as an important foundation for later adulthood.<sup>87</sup> It is further an “age of self-focus.” This does not mean an inability to empathize or connect with others; in fact, emerging adults are seen to be *more* considerate, particularly when it comes to their parents, a distinction from the self-centered-ness of earlier adolescence. Still, they “focus more on themselves, as they realize they have few obligations to others” and a simultaneous window to do more of what *they* want.<sup>88</sup> It is also an “age of possibilities,” as this cohort tends to display an optimistic attitude towards the prospect of achieving their goals and dreams.

---

<sup>86</sup> Arnett, Jeffrey, in Martha Lally and Suzanne Valentine- French, *Lifespan Development: A Psychological Perspective* (Davis, CA: LibreTexts, 2019), p. 7.1.1, accessed December 21, 2020, <https://socialsci.libretexts.org/BooFrench>.

<sup>87</sup> Arnett in Lally and Valentine-French, *Lifespan Development*, p. 7.1.1.

<sup>88</sup> Ibid.

Hence, while adolescence may be a time of great challenge, it is simultaneously one of great opportunity. For this opportunity to be cultivated to the full benefit of both individual and society, however, adolescents must find themselves in a supportive environment. Even if a young person's personal circumstance precludes their immediate surroundings from providing support, it is still society's responsibility to do its part—and a key part of society is legal institutions.

To such legal institutions, the subsequent chapters will return. The next chapter, Chapter Three, will transition to an examination of the law's understanding of current and former unaccompanied minors, as such an understanding manifests in legal language.



## Chapter Three

### *Examining the Language of International and EU Law*

Unaccompanied minors transitioning to adulthood occupy a particularly contested and vulnerable legal position, as they are moving between two regimes to which the law takes vastly opposing approaches. Where the law views children as bounded by vulnerability and the need for protection, it casts migrants—particularly migrants who are young, single and male—in the light of questionable legality. For unaccompanied minors still awaiting an asylum decision by their eighteenth birthdays, or for those who find themselves ineligible for international protection as adults, reaching majority gives precedence to their precarious status as migrants, at the cost of safeguards from the state.<sup>89</sup> The child/ migrant dichotomy is challenging enough for unaccompanied minors who are still relatively in the midst of childhood, as they find themselves toeing the line between protected and unwelcome. Once those young people have turned 18, however, their lives may become totally suspended in the absence of their previous status.

When placed in conversation with the language of “particul[ar] vulnerab[ility]” frequently used to describe unaccompanied minors, the law’s concern for these same teenagers past their eighteenth birthdays appears to be significantly decreased.<sup>90</sup> To emphasize once more, the majority of unaccompanied minors applying for asylum in the EU are less than two years away from legal adulthood. Therefore, the bulk of those minors to whom the law is referring as vulnerable, at least in the context of the European Union, are relatively close to reaching majority by the time they’re registered in a Member State. This leaves their eligibility for special protection on the basis of age at risk of being extremely time-limited.

A comprehensive view of legal approaches requires a discussion of the law as it is written. As such, this third chapter will examine the language of various legal instruments pertaining to children and unaccompanied minors. It will also look at the discussions within non-binding documents, most notably recommendations, handed down to member states by authoritative

---

<sup>89</sup> Lucy Williams, “Durable Solutions’ When Turning 18,” in *Unaccompanied Young Migrants: Identity, Care and Justice* (Bristol: Polity Press, 2019).

<sup>90</sup> Germany, Federal Office for Migration and Refugees, *The Stages of the German Asylum Procedure*, February 2019, p. 45, accessed December 21, 2020, [https://www.bamf.de/SharedDocs/Anlagen/EN/AsylFluechtlingschutz/Asylverfahren/das-deutsche-asylverfahren.pdf?\\_\\_blob=publicationFile&v=12](https://www.bamf.de/SharedDocs/Anlagen/EN/AsylFluechtlingschutz/Asylverfahren/das-deutsche-asylverfahren.pdf?__blob=publicationFile&v=12).

bodies. This chapter will explore the extent to which said documents express, in black-and-white, an acknowledgement of unaccompanied minors' needs pending and following their transition to adulthood.

Included will be international instruments to which EU Member States are signatories, as well as those frameworks specific to the EU. *Vis-à-vis* these documents, this chapter will examine which provisions are potentially beneficial to unaccompanied minors nearing adulthood, as well as which ones address their needs inadequately, or not at all. In particular, the vagueness of language surrounding adolescence and age in binding frameworks will be emphasized. In examining these legal instruments, this chapter will ultimately argue that legal language does not necessarily align with the demographic realities of unaccompanied minors as a population, particularly in the instance of the EU. What is more, international law often neglects to approach the inevitable transition to adulthood in *all* unaccompanied minors' lives, as anything more than a mere afterthought.

### *3.1 International Instruments*

It is reasonable that the language of certain bodies of international human rights law should abstain from singling out particular sub-categories of unaccompanied minors. It would, for instance, be unrealistic to argue the UDHR should delineate between pre-teens and teenagers. These instruments were composed with the needs of all human beings in mind; in the case of child-specific frameworks, childhood in its entirety, rather than in distinct stages, is the focal point.

Yet such broad approaches, particularly in child- and unaccompanied minor-specific frameworks, may fail to acknowledge that young people at different developmental stages *do* have unique, age-specific needs. Such generalizations may not pose as many obstacles for younger children, unaccompanied or not, whose vulnerability is more likely to be acknowledged from the outset. For unaccompanied minors approaching and transitioning to adulthood, however, the sweeping language and emphasis on childhood means that their particular needs—most significantly, the holistic support required for development into a healthy, functional adult—are scarcely acknowledged in but a limited capacity across multiple human rights frameworks.

### 3.1.1 Language of the CRC

As discussed in Chapter One, the Convention on the Rights of the Child is the definitive body of international law concerning the rights of minors. It contains several articles addressing states' responsibility in matters which would implicitly affect unaccompanied minors transitioning to adulthood. For example, states are to take measures, including legislative, to protect children from physical or mental abuse, and should establish "social programs to provide necessary support."<sup>91</sup> As discussed in Chapter Two, the environment in which adolescents develop both mentally and physically has a significant impact on the adults they become. The CRC acknowledges this, and grants children in alternative care "special protection and assistance" from the state.<sup>92</sup> Among other measures with potential pertinence to unaccompanied minors nearing adulthood are protection from economic exploitation; protection from sexual exploitation and abuse; and protection from torture and arbitrary detention.<sup>93</sup>

The CRC directly addresses unaccompanied minors, as well as other children seeking international protection, in Article 22. It states that, whether accompanied or unaccompanied, these children should "receive appropriate protection and humanitarian assistance" with the goal of facilitating their access to rights granted by the CRC and other relevant laws.<sup>94</sup> The CRC requires states to work alongside international organizations in efforts of family tracing and reunification, and to support unaccompanied minors vis-à-vis alternative care arrangements if relatives cannot be located.

The CRC, as a body, is an invaluable informant of children's rights globally. For unaccompanied minors approaching adulthood (and younger unaccompanied minors), however, the CRC's language fails to acknowledge contemporary barriers they face in accessing specific protections. For one, it makes no explicit mention of how states should account for a child's inevitable transition to adulthood. There *are* various mentions of development; the Preamble, for instance, states that "for the full and harmonious development of his or her personality, [a child] should grow up in a family environment," as well as that every child "should be fully prepared to live an

---

<sup>91</sup> UN General Assembly, *Convention on the Rights of the Child*, art. 19.

<sup>92</sup> CRC, art. 20.

<sup>93</sup> CRC, art. 33, 34, 37.

<sup>94</sup> CRC, art. 22(1).

individual life in society.<sup>95</sup> However, the term generally appears in a context more akin to discussions of *early* childhood development, particularly as regards physical well-being.<sup>96</sup>

The CRC further takes an ambiguous approach to young people themselves. Rather than delineate the basic developmental stages leading up to adulthood, the CRC applies the term “child” to all persons below the age of 18. There is no mention of “adolescent,” “young person” or the like in the text. Such clarification may not be as necessary pertaining to children in traditional care settings, assuming responsible adults are able and willing to support those children as their needs change with age. For very young unaccompanied minors, who still unquestionably comport with collective notions of childhood, this is also less of an issue. It is teenagers ageing out of alternative care, particularly unaccompanied minors navigating the child-migrant dichotomy, for whom this ambiguity is the most problematic. For this group, the dwindling down of childhood safeguards, coupled with the necessity to prepare for what comes next after leaving care, creates a specific set of needs to be fulfilled even before turning 18. If older teenagers are grouped in with younger children, however, these needs can become overlooked.

There is an additional vagueness in the best interests principle, particularly when it is applied to unaccompanied minors. Of the CRC’s four core principles (non-discrimination; best interests of the child; right to life, survival and development; right to express views), “best interests” is arguably the most reverberated across minor-specific legislation and recommendations. In fact, this principle is now included in the majority of human rights dealings pertaining to children. For years, however, legal experts have criticized that its wording allows “many nation states [to interpret it] in ambiguous ways, often to justify harsh measures against unaccompanied young refugees.”<sup>97</sup> Simultaneously, the minimal specificity employed in explaining what actually constitutes a “best interest” leaves room for states to make decisions which counter the desires of young people themselves. This denial of autonomy can be particularly frustrating, even harmful, for unaccompanied teenagers; as adolescents, they are at a stage where becoming familiar with one’s own opinions and goals, and learning how to effectively communicate them, is crucial for healthy psychosocial development. Furthermore, too much interpretative power on the parts of

---

<sup>95</sup> CRC, preamble.

<sup>96</sup> CRC, art. 6 and 24.

<sup>97</sup> Lems et al, “Children of the Crisis,” p. 319.

states, can mean decisions made in a young person's "best interest" may ultimately prevent them from planting roots in a safe host country.

The best interest principle's ambiguity can affect the implementation of other articles. Article 12, for example, expresses that a young person has the right to freely communicate their opinion about decisions affecting them, in accordance with individual age and maturity level.<sup>98</sup> In all settings, including administrative and judicial, decision-making parties are required to take a child's or young person's views into account. However, the gravity granted to a young person's views can absolutely be impacted by various migration officials' interpretation of "best interests." This is particularly observable when Member States decide an unaccompanied minor's best interest is to be returned at 18, in spite of concerns raised by the young person that conditions in their country of origin are unsafe. Particular instances of this will be emphasized in the following two chapters.

### *3.1.2 Committee on the Rights of the Child General Comments*

General comments allow UN treaty bodies to communicate their interpretations "of the provisions of [their] respective human rights treat[ies]."<sup>99</sup> They are integral for maintaining the contemporary relevance of potentially decades' old legal instruments; vis-à-vis general comments, committees are able to contextualize provisions to meet current realities. Though not legally binding, the general comments' recommendations are highly regarded, and authoring Committees are considered to possess significant authority.

The Committee on the Rights of the Child has, to date, produced two dozen general comments supplementing various components of the CRC. Several are specific to, or consider, the situation of unaccompanied minors and adolescents, respectively. While some general comments acknowledge the vulnerabilities facing unaccompanied minors in their transition to adulthood, one has yet to be published that comprehensively explores this issue.

In September 2005, the Committee on the Rights of the Child issued General Comment 2005/6 on the "Treatment of Unaccompanied and Separated Children Outside their Country of Origin."

---

<sup>98</sup> CRC, art. 12.

<sup>99</sup> "Human Rights Treaty Bodies- General Comments," United Nations Human Rights Office of the High Commissioner, 2020, <https://www.ohchr.org/EN/HRBodies/Pages/TBGeneralComments.aspx>.

Per the “Objectives,” the issuing of the general comment was instigated by a marked increase in the number of unaccompanied and separated children globally. Its stated purpose is thus to “draw attention to the particularly vulnerable situation of unaccompanied and separated children,” so as to underline difficulties relevant actors, particularly state governments, may face in upholding the rights of unaccompanied minors.<sup>100</sup> It further aims to reinforce the legal framework provided by the CRC in regards to children’s rights and protections, with an emphasis on the principles of non-discrimination, best interest and the child’s right to express their views freely.

GC/2005/6 acknowledges, either implicitly or explicitly, a handful of protection gaps relevant to unaccompanied minors’ transition to adulthood. It highlights the risk unaccompanied and separated children face of having their temporary protected status terminated upon turning 18.<sup>101</sup> The general comment also acknowledges that “there are few effective return programmes” to ensure that safe, stable conditions await young people who are deported.<sup>102</sup> Pertaining to the best interests principle, it mentions that age may be a determining factor. However, there is no further discussion of the potential challenges facing unaccompanied minors approaching the age of majority. The general comment does not outline any repercussions the aforementioned status termination might have for young migrants’ safety or wellbeing. Also absent are suggestions as to how states might ameliorate the risks unaccompanied young people face during the transition. As in the CRC, there is limited demarcation between older teenagers and general “children.” Even the word “adolescent” is mentioned only once, in the context of ensuring that state officials make it possible for minors to access vocational training or education.

Two general comments deal closely with rights during adolescence (2003/4 on “adolescent health and development in the context of the CRC,” and a 2016 comment on “implementation of the rights of the child during adolescence”). The 2003 general comment on health and development does not discuss unaccompanied minors, and mentions migrant and refugee adolescents only in the context of a call for improved data.<sup>103</sup> That this general comment is just

---

<sup>100</sup> UNCRC, “General Comment No. 6 (2005): Treatment of unaccompanied and separated children outside their country of origin,” CRC/GC/2005/ 6, thirty-ninth session, May 17- June 3, 2005, 5, accessed December 20, 2020, <https://www2.ohchr.org/english/bodies/crc/docs/GC6.pdf>.

<sup>101</sup> UNCRC, CRC/GC/2005/6, p. 5, l.3.

<sup>102</sup> Ibid.

<sup>103</sup> UNCRC, “General Comment No. 4 (2003): Adolescent health and development in the context of the Convention on the Rights of the Child,” thirty-third session, May 19- June 6, 2003, accessed December 20, 2020, <https://www.refworld.org/docid/4538834f0.html>.

shy of 20 years old, however, makes it more difficult to project onto contemporary migration patterns. The 2016 general comment on rights during adolescence is much more recent; it reiterates the 2005 general comment's recommendation for states to employ age- and gender-sensitive legislation for unaccompanied minors.<sup>104</sup> Otherwise, it does not particularly address the situation of unaccompanied minors nearing adulthood.

There are a further two general comments dealing with children in international migration, both joint CRC-CMW (Protection of the Rights Of Migrant Workers) comments published in 2017. Only one ("State obligations [...] in the context of international migration in countries of origin, transit, destination and return") addresses protection gaps surrounding older unaccompanied minors. In one paragraph addressing age, the Committees express concern that "15-18 [year-olds] tend to be provided with much lower levels of protection, and sometimes considered as adults or left with an ambiguous migration status" until their eighteenth birthdays.<sup>105</sup> The Committees urge states to be proactive in ensuring unaccompanied minors aged 15 and above continue to receive adequate protection and support as mandated by relevant frameworks. The general comment also emphasizes states' responsibility to see that unaccompanied minors preparing to leave care are "adequately prepared for independent living," and given opportunities to continue with integrative endeavors such as education or work.<sup>106</sup> Finally, the Committees recommend that states extend protections for unaccompanied minors beyond a young person's eighteenth birthday.

### 3.1.3 UN Resolutions

Resolutions are official communications "of the opinion or will of UN organs."<sup>107</sup> Resolutions are not legally binding; much like general comments, however, signatory states consider them to

---

<sup>104</sup> UNCRC, "General Comment No. 20 (2016) on the implementation of the rights of the child during adolescence," CRC/C/GC/20, December 6, 2016, 20, accessed December 20, 2020, <https://www.refworld.org/docid/589dad3d4.html>.

<sup>105</sup> UNCRC and UNCMW, "Joint general comment No. 4 (2017) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and No. 23 (2017) of the Committee of the Rights of the Child on State Obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return," CRC/C/GC/23, November 16, 2017, 2, accessed December 20, 2020, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G17/343/65/PDF/G1734365.pdf?OpenElement>.

<sup>106</sup> CRC/C/GC/23, p. 2, II.A.3.

<sup>107</sup> "What is the Difference between a Resolution and a Decision?" Dag Hammarskjöld Library, October 11, 2019, accessed December 21, 2020, <https://ask.un.org/faq/14484>.

be highly authoritative. Among the UN bodies which have passed resolutions concerning the rights of unaccompanied minors are the General Assembly, and the UN Human Rights Council (HRC).

The 2009 General Assembly resolution on “Guidelines for the Alternative Care of Children” offers policy-based and practical recommendations for safeguarding children in alternative care. Among those children deemed particularly “vulnerable,” and hence covered by the Guidelines, are unaccompanied and separated minors.<sup>108</sup> Several parts address safeguards which, while not explicitly linked to unaccompanied minors reaching adulthood, are important considerations. These include ensuring young people have access to supportive environments in which they can thrive; never leaving a child without support of a legal guardian or otherwise competent public actor; and implementing policies focused on empowering young people to face the challenges of adulthood.<sup>109</sup>

Though older unaccompanied minors are not explicitly mentioned, the Guidelines include a brief section on states’ responsibilities towards all young people transitioning out of care as they turn 18.<sup>110</sup> The section provides a number of recommendations on how to assist these young adults in achieving both integration and independence. For example, care leavers should have continued access to education or occupational training, as well as medical, legal and social services.<sup>111</sup> Relevant actors should encourage young people to employ their own agency, and take an active role in aftercare planning. Giving care leavers space to voice their desires is critical, as it acknowledges these young adults’ need for independence, while simultaneously allowing for the continuation of support. The Guidelines further suggest that states continue to make services available to care leavers “who need continuing care or support for a transitional period” after reaching the legal age of majority.<sup>112</sup>

While it is significant that the Guidelines for the Alternative Care of Children acknowledge the specific needs of minors in state care as they transition to adulthood, and while this

---

<sup>108</sup> UN General Assembly, p. 3, A/RES/64/142, II.A.9(b).

<sup>109</sup> A/RES/64/142, p. 2, II.A.4; p. 4, II.B.19; p. 8, IV.A.34(c).

<sup>110</sup> A/RES/64/142, p. 19, VII.E.

<sup>111</sup> A/RES/64/142, p. 19, VII.E.135, 136.

<sup>112</sup> A/RES/64/142, p. 6, III.28.



acknowledgement is more prominent than in many other UN documents, many of the provisions may be difficult to apply specifically to unaccompanied minors. For those who are still awaiting an asylum decision, or who were issued a temporary protected status on account of minority, participation in the local community may not be possible. Their ability to integrate into the local job market, for example, may be limited—or impossible—due to their change in status after turning 18.

A similar lack of applicability is evident in HRC Resolution 36/5 (A/HRC/RES/36/5) on “Unaccompanied migrant children and adolescents and human rights.” Adopted on 28 September 2017, the resolution “strengthens the focus on the protection of human rights and fundamental freedoms of unaccompanied migrant children and adolescents.”<sup>113</sup> In addition, it emphasizes the importance of states’ ensuring they are acting in unaccompanied minors’ best interest when making decisions regarding their care and status. Despite its acknowledgement of adolescents as a distinct group (the term does not even appear in the CRC’s text), the Resolution fails to account for the specific needs of these teenagers as they approach adulthood, and hence a change in legal status in their host country. In the language of the document, the term generally appears in the recurrent phrase “migrant children and adolescents,” however little distinction is made between the two. The Council does call upon states to address unaccompanied minors’ psychosocial and physiological needs in “a manner that is age- and gender-sensitive.”<sup>114</sup> Otherwise, there is no mention of how, or even if, responsible parties should adjust their best interest determination to account for those unaccompanied minors who are preparing to leave childhood.

### *3.1.4 Further Discussions*

There is some guidance in other documentation, however it is still generally slim. In their almost 100 page-long guidelines for carrying out best interest determinations, the HRC mentions or suggests the transition to adulthood in three instances. For one, in emergency operations where young adults are living with unaccompanied children, “field Offices may decide to extend the

---

<sup>113</sup> Jakob Peters, Jonathan Winkler, and Luis Blum, “Human Rights Council Background Guide Update,” GerMUN, 2020, p. 4, accessed December 20, 2020, [https://germun.de/wp-content/uploads/2020/01/HRC\\_BGG\\_Updates.pdf](https://germun.de/wp-content/uploads/2020/01/HRC_BGG_Updates.pdf)

<sup>114</sup> UN General Assembly, Human Rights Council, “Resolution adopted by the Human Rights Council on 28 September 2017: Unaccompanied migrant children and adolescents and human rights,” A/HRC/RES/36/5, thirty-sixth session, September 11-29, 2017, accessed December 20, 2020, [https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A\\_HRC\\_RES\\_36\\_5.pdf](https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A_HRC_RES_36_5.pdf).

BID process to [...those] up to 21 years of age.”<sup>115</sup> In general, the BID guidelines recommend that, where unaccompanied minors are concerned, priority is given to younger children. However, in instances where only minors—rather than the general population of beneficiaries—can be resettled, field workers are encouraged to focus on older teenagers closest to adulthood. This is an effort to safeguard “access to this option and to the support provided upon arrival in the resettlement country,” for a group whose needs are often overlooked in favor of younger children.<sup>116</sup>

There is also one mention of supporting the transition to adulthood in UNHCR’s “Factors that Determine a Child’s ‘Best Interests’ Checklist.” Broadly, this document provides responsible parties with an outline of various considerations which may be in an individual child’s best interest, and are thus necessary to account for during a BID. The guide also heavily emphasizes BIDs as a crucial pathway to identifying an appropriate durable solution for a child or teenager.<sup>117</sup>

The guide includes a checklist for Child Welfare Officers, of important to consider whilst conducting a BID. In the checklist’s section on “Development and Identity Needs,” the final bullet point is “Prospects for successful transition to adulthood (employment, marriage, own family.”<sup>118</sup> It is important that the transition to adulthood is explicitly acknowledged. Simultaneously, for a tool that focuses so heavily on the end goal of durable solutions, the inevitability that children *will* become adults is scarcely recognized.

### 3.2 EU Instruments

As discussed in Chapter One, much of the EU’s human rights law is informed by its collective participation in the UN. Due to demographic records of migration inflows (however imperfect those records may be), the EU has a much more defined sense of the unaccompanied minors for whom law-making bodies are writing protections and recommendations. The previous section

---

<sup>115</sup> UNHCR, “Guidelines on Determining the Best Interests of the Child,” (Geneva: UNHCR, 2008), PDF, p. 49, <https://www.unhcr.org/4566b16b2.pdf>.

<sup>116</sup> UNHCR, “Guidelines on the Determining the Best Interests of the Child,” p. 50.

<sup>117</sup> UNHCR, “Guidelines on the Determining the Best Interests of the Child,” p. 19.

<sup>118</sup> UNHCR, “Guidelines on the Determining the Best Interests of the Child,” p. 98.

having examined the presence of unaccompanied minors transitioning to adulthood in international instruments, this section will conduct the same analysis for EU law.

### *3.2.1 Binding Instruments: The Common European Asylum System*

To reiterate, unaccompanied minors are protected under EU asylum law until they reach adulthood, unless they receive a return order whilst still underage.<sup>119</sup> The majority of unaccompanied minors whose protection is ensured by the CEAS, are within less than one-to-two years of adulthood. The CEAS emphasizes the best interests of the child in all provisions to do specifically with unaccompanied minors.<sup>120</sup> Where unaccompanied minors are discussed in greater length, their position as “vulnerable persons” is also reiterated throughout each respective instrument.<sup>121</sup>

Four of the CEAS instruments, excluding the Eurodac Regulation, devote specific articles to unaccompanied minors (Dublin III covers both accompanied and unaccompanied minors in the same articles). There is explicit mention of unaccompanied minors transitioning to adulthood in several instruments, evidently not to equal extents. A further several provisions across the pieces of CEAS legislation have an implicit effect on outcomes for these young peoples’ asylum cases, though they do not mention unaccompanied minors transitioning to adulthood forthright.

#### *3.2.1.1 Asylum Procedures Directive, Article 25*

Article 25, “Guarantees for unaccompanied minors,” underlines Member States’ responsibilities towards unaccompanied minors during the asylum process. This includes the swift assignment of a representative with “necessary expertise” of the best interests principle, who will assist the child with their asylum application as well as accessing child-specific protections; child-friendly interview and medical examination protocol; and the applicability of examination procedures in border and transit zones.<sup>122</sup> Regarding representatives, the Directive emphasizes that responsible individuals must also be straightforward with unaccompanied minors about the personal

---

<sup>119</sup> This generally does not happen.

<sup>120</sup> For an example see Article 6 of Dublin III Regulation.

<sup>121</sup> For an example, see Receptions Conditions Directive

<sup>122</sup> Council of the European Union, Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection, *Official Journal L* 180, 60-95, 2013, art. 25, accessed December 21, 2020, <https://eur-lex.europa.eu/legal-content/en/ALL/?uri=celex%3A32013L0032>. Forthwith referred to as “Asylum Procedures Directive.”

significance of various asylum outcomes. It additionally includes protocol for conducting age assessments. Member States are within their rights to conduct medically-based age assessments when the age of a person claiming to be an unaccompanied minor is doubted. They are required to do so with various safeguards, however, in the least invasive way possible and with full consent from the minor and/ or their representative.<sup>123</sup>

To the extent that the Asylum Procedures Directive addresses unaccompanied minors entering adulthood, it is to permit the denial of their access to representation. If an unaccompanied minor will “in all likelihood reach the age of 18 before a decision at first instance is taken,” Member States are entitled to refrain from appointing them a representative.<sup>124</sup> In the contemporary context of extended asylum processing times, this allowance creates a potential risk that teenagers who are months, even a year, away from turning 18 will be denied representation. No matter an unaccompanied minor’s proximity to their eighteenth birthday, there are rights to which they are entitled, and standards to which they are held, of which they may not even be aware without the guidance of an informed representative. It is difficult to assume that even the oldest unaccompanied minors would be familiar enough with the EU’s asylum procedure, to fully access whatever rights they are entitled to while still underage.

It is also interesting to hold this protocol up to the EU Charter’s principle of non-discrimination, which includes age as a ground on which discrimination is prohibited.<sup>125</sup> With the understanding that minors include *all* young people below the age of 18, without distinction as to how many months they have remaining until adulthood, CEAS protections should consequently apply to each unaccompanied minor equally. If certain groups face barriers on the basis of an uncontrollable factor such as age, those young people are disproportionality at risk continuing to face barriers as adults.

### *3.2.1.2 Reception Standards Directive, Article 24*

Largely echoing the Asylum Procedures, the Reception Standards Directive provides for representation of unaccompanied minors in asylum-related matters. It also outlines Member

---

<sup>123</sup> Council of the European Union, Asylum Procedures Directive, art. 25.

<sup>124</sup> *Ibid.*

<sup>125</sup> “Any discrimination based on any ground such as [...age...] shall be prohibited.” European Union, *Charter of Fundamental Rights of the European Union*, art. 21.

States' responsibility for securing appropriate accommodation for unaccompanied minors, such as in specialty accommodation centers. They are obliged to house unaccompanied minors "from the moment they are admitted to the territory until the moment when they are obliged to leave."<sup>126</sup> Member States must furthermore begin family tracing procedures "as soon as possible after an application for international protection is made."<sup>127</sup>

There is no further specificity concerning conditions for an unaccompanied minor's departure from care, and States are not instructed as to whether they must make accommodation provisions for unaccompanied minors as they age out. However, the Reception Standards Directive does Member States to place unaccompanied minors aged 16 and older "in accommodation centres for adult applicants," if doing so is judged to be in a young person's best interests. Because they are meant for a more general population, adult reception centers often lack adequate specialized psychosocial, legal and other resources for unaccompanied minors, if such resources are available at all.<sup>128</sup> Thus, as with the Asylum Procedure's guardianship provision, this aged-based distinction creates a potential for impeding older unaccompanied minors' ability to access child-specific protections.

Beyond Article 24, the Directive offers various other relevant mandates. It prohibits Member States from removing a young asylum seeker, or dependent of an asylum seeker, from education solely because that young person has turned 18.<sup>129</sup> Notably, this provision concerns minor asylum seekers generally, and does not consider the inherent barriers unaccompanied minors face in continuing their education once their status changes as adults. It also states that unaccompanied minors should only be detained in "exceptional circumstances," never in a prison setting, and should be released as soon as possible.<sup>130</sup>

---

<sup>126</sup> Council of the European Union, Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection, *Official Journal L* 180, 96-116, 2013, art. 24(2), accessed December 21, 2020, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32013L0033>. Forthwith referred to as "Reception Standards Directive."

<sup>127</sup> Council of the European Union, Reception Standards Directive, art. 24(3).

<sup>128</sup> Nadine Lyamouri-Bajja, "Unaccompanied and Separated Asylum-Seeking and Refugee Children Turning Eighteen: What to Celebrate?" UNHCR and Council of Europe (Strasbourg: UNHCR, 2014), accessed December 20, 2020. <https://www.refworld.org/pdfid/53281a864.pdf>.

<sup>129</sup> Council of the European Union, Reception Standards Directive, art. 14(1).

<sup>130</sup> Council of the European Union, Reception Standards Directive, art 11(3).

### 3.2.1.3 Dublin III

In line with Dublin III's recognition of primacy of family life, Member States are meant to consider an individual an unaccompanied minor as long as they were underage when their application was lodged.<sup>131</sup> In theory, therefore, unaccompanied minors who reach majority prior to receiving a final decision, should still be entitled to child-specific protections.

Dublin III's various relevant articles address asylum-seeking minors as a general group, however they include several provisions specific to unaccompanied minors. In line with the previous two instruments, Dublin III emphasizes that Member States should appoint a qualified guardian, and begin family reunification efforts, in a timely manner.<sup>132</sup> Dublin III also calls upon Member States to collaborate as necessary, particularly in matters such as "the minor's well-being and social development;" this, as well as the call to take a young person's views into account in the context of their age and maturity level, could be read as implicitly touching upon a minor's transition to adulthood.<sup>133</sup> Beyond this, Dublin III does not explicitly address the situation of unaccompanied minors turning 18.

### 3.2.1.4 The Qualifications Directive and Eurodac Regulation

Neither of these latter two instruments mention unaccompanied minors transitioning to adulthood.

It is stated that one of the Qualification Directive's main objectives is to ensure that "a minimum level of benefits is available" for international protection grantees in *all* Member States.<sup>134</sup> However, the Qualification Directive also includes that Member States may limit the granting of certain benefits—including employment, healthcare and integration programs—only to those individuals already in possession of a residence permit. For unaccompanied minors who lack a definite status after turning 18, this can limit their access to crucial resources. The Directive also

---

<sup>131</sup> European Council on Refugees and Exiles, "ECRE/ ELENA Legal Note on Ageing Out and Family Reunification," p. 4.

<sup>132</sup> Council of the European Union, Regulation (EU) No 604/2013 of the European Parliament and of the Council 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, *Official Journal L* 180, 31-59, 2013, art. 6, accessed December 21, 2020. <https://eur-lex.europa.eu/legal-content/en/ALL/?uri=celex%3A32013R0604>. Forthwith referred to as "Dublin III."

<sup>133</sup> Council of the European Union, Dublin III, art. 6.

<sup>134</sup> Council of the European Union, Qualifications Directive.

ensures educational access to all minors, and adults who have received international protection; again, however, former unaccompanied minors who have reached early adulthood, and not yet received an asylum decision, fall outside both of these groups.<sup>135</sup>

The Eurodac Regulation provides the least amount of guidance concerning minors, and does not mention unaccompanied minors at all. It does include that, in instances where fingerprinting data pertains to a minor, law enforcement can only use it “in accordance with [the relevant Member State’s] laws applicable to minors” and in accordance with the primacy of the best interest of the child.<sup>136</sup> The text also cites the CRC as a safeguard for guiding fingerprinting procedures, alongside the Charter of Fundamental Rights of the EU and Convention for the Protection of Human Rights and Fundamental Freedoms.<sup>137</sup> However, it makes no mention of whether special precautions should be taken for unaccompanied minors, whose vulnerability and special needs are otherwise expressed in the other four instruments.

For the most part, the CEAS components do provide for the needs of unaccompanied minors in the context, and independently, of the asylum process. In fact, improved protections for vulnerable groups such as unaccompanied minors was at the forefront of reforms made to the CEAS from 2011-2013.<sup>138</sup> Unaccompanied minors transitioning to adulthood, however, are a population the CEAS instruments recognize to an extremely limited extent, if they do so at all (and, in the case of the Asylum Procedures Directive, “doing so” means denying older unaccompanied minors a key resource). A potential exception is the Reception Standards’ prohibition of Member States removing a young person from education solely because said individual has turned 18. As will be demonstrated in Chapter Four, however, this conflicts with the reality of various Member States’ approaches.

It is evident, thus, that EU asylum legislation approaches childhood and adulthood as a dichotomy. One is either child *or* adult, and little concession is granted to the period in between.

---

<sup>135</sup> Council of the European Union, Qualifications Directive, art. 27

<sup>136</sup> Council of the European Union, Council of the European Union. Regulation (EU) No 603/2013 of the European Parliament and of the Council of 26 June 2013 on the establishment of 'Eurodac' [...], *Official Journal L* 337, 9-26, 2011, accessed December 20, 2020, <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX%3A32013R0603>. Forthwith referred to as “Eurodac Regulation.”

<sup>137</sup> Council of the European Union, Eurodac Regulation, art. 3(5).

<sup>138</sup> Council of Europe, “Council of Europe Action Plan on Protecting Refugee and Migrant Children in Europe (2017-2019)” (Strasbourg: Council of Europe, 2017), PDF, p. 32.

That the CEAS is the most basic manifestation of asylum law in the EU, arguably emphasizes just how significant it is that former unaccompanied minors are largely absent from it. Neither fully child nor fully adult, this group's needs are incompletely addressed in both groups' respective provisions. Beyond the aforementioned consequences, this approach leaves a great deal of interpretive freedom up to each Member States. Furthermore, it carries with it an implicit assumption that unaccompanied minors nearing adulthood are in less need, or less worthy, or support than their younger counterparts.

### *3.2.2 Non-Binding Instruments: Communications and Recommendations*

Where EU legal instruments do place more emphasis on the needs of unaccompanied minors entering adulthood, is via non-binding instruments such as recommendations and European Commission communications. Both document types allow the respective bodies to evaluate best practices, as well as gaps, in contemporary policy implementation. EU bodies have published several such evaluations highlighting Member States' collective approach to unaccompanied minors, throughout which are varied references to unaccompanied minors' transitions to adulthood.

#### *3.2.2.1 EU Action Plan on Unaccompanied Minors and Related 2017 Communications*

The Action Plan on Unaccompanied Minors (2010-2014), published in 2010, addresses the observed increase in unaccompanied minors arriving to the EU Member States from the late 2000s onwards. In response to a lack of cohesion across Member States, the Action Plan calls upon Member States to use a "common approach" to ensure the rights and protections of unaccompanied minors. This approach is informed by "the EU Charter of Fundamental Rights and the UNCRC, in particular the principle of 'the best interest of the child.'"<sup>139</sup> The Action Plan also makes evident the lack of data on unaccompanied minors up to that point, particularly as regards those young people who do not seek asylum. It is interesting to note, as discussed in Chapter Two, that ten years on a similar absence of data on non-asylum seeking unaccompanied minors continues to present challenges.

---

<sup>139</sup>European Commission, *Communication from the Commission to the European Parliament and the Council: Action Plan on Unaccompanied Minors (2010-2014)*, COM(2010)213 final, 2010, p. 3, accessed December 21, 2020, <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2010:0213:FIN:en:PDF>.



The Action Plan offers four “axes of intervention” with the intention of protecting unaccompanied minors from risks associated with irregular migration, particularly trafficking. These axes include integrating the migration of unaccompanied minors as a key development issue; targeting awareness-raising programs about the dangers of irregular migration to potential unaccompanied minors as well as wider communities; and promoting the development of child protection frameworks across various social sectors.<sup>140</sup> None of the proposed intervention measures offers age-specific considerations. Nor do the durable solutions couched in age- or development- specific analysis, despite the fact that, for many unaccompanied minors, durable solutions become a serious consideration only as adulthood draws near.<sup>141</sup> In fact, age-specific needs are largely excluded from the Action Plan.

A potential exception is the discussion of age assessments, the outcomes of which are crucial; the side of 18 on which a young person is judged to be, will entirely determine which protections they can access while awaiting an asylum decision or otherwise long-term residency decision. The Action Plan states that, until proven otherwise, “children should be treated as such until the contrary is proven.”<sup>142</sup> Thus, if migration officials are skeptical as to whether an older unaccompanied minor is actually underage, that young person should continue to benefit from child-specific guarantees whilst the assessment is underway.

It is also not difficult to see how certain provisions could, based upon certain States’ interpretations, disproportionately affect older unaccompanied minors. An example is the suggestion that Frontex get more involved, by developing tools such as an annual risk assessment, vulnerability indicators and information on threats pertaining to unaccompanied minors. In fact, Frontex’s involvement has rather posed issues for unaccompanied minors nearing and entering adulthood, as contemporary migration policy paints them increasingly as a threat. In recent years, groups such as Privacy International have also criticized Frontex’s role in migration control as being in violating many migrants’ fundamental right to privacy.<sup>143</sup>

---

<sup>140</sup> European Commission, COM(2010)213 final, p. 6.

<sup>141</sup> European Commission, COM(2010)213 final, p. 12.

<sup>142</sup> European Commission, COM(2010)213 final, p. 11.

<sup>143</sup> “The EU Funds Surveillance Around the World: Here’s What Must Be Done About It,” Privacy International, September 18, 2019, accessed December 21, 2020, <https://privacyinternational.org/long-read/3221/eu-funds-surveillance-around-world-heres-what-must-be-done-about-it>.

In the way of explicit mention, unaccompanied minors' transition to adulthood is addressed once, in the context of guaranteeing appropriate reception conditions. The Action Plan states that measures must “ensure a smooth transition period for those children who [...] may be in danger of losing protection and support” due to the proximity to their eighteenth birthdays.<sup>144</sup> However, it makes no suggestion of the specific steps States and other actors might take in doing so.

A 2017 communication on “The protection of children in migration” reiterates several points made by the 2010-2014 Action Plan, but places them in a more contemporary context. The report does suggest organizing “small scale independent living arrangements” for unaccompanied minors closer to adulthood as a way to ensure suitable, safe reception conditions.<sup>145</sup> It also emphasizes early integration into the host community as a crucial component of all migrant minors' successful transition to adulthood, and as a preventative against radicalization or otherwise criminal involvement. It points out that, just as there are mechanisms for young EU nationals transitioning to adulthood, so should there be for children in migration.<sup>146</sup> The report also underlines several areas which could be pertinent to unaccompanied minors reaching adulthood—such as the detriment of keeping minors in detention for extended periods—however, it does not necessarily couch them in an age-specific context.

Also in 2017, the European Commission published a follow-up study on the implementation of the 2010-2014 Action Plan, which also served as an accompanying piece to COM(2017) 211, the aforementioned communication on children in migration. This follow-up study recalls the problem areas identified in the Action Plan, and analyzes whether said issues had been addressed in the interim. One such focal point is the Action Plan's call for better data. The study surmises that the Action Plan had improved awareness about, and practices for, collecting qualitative and quantitative information on unaccompanied minors. However, “gaps and limitations remain” concerning information on non-asylum seeking minors.<sup>147</sup> The study does point out various

---

<sup>144</sup> European Commission, COM(2010)213 final, p. 9.

<sup>145</sup> European Commission, *Communication from the Commission to the European Parliament and the Council: The protection of children in migration*, COM(2017) 211 final, 2017, pp. 8-9, accessed December 21, 2020. [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/20170412\\_communication\\_on\\_the\\_protection\\_of\\_children\\_in\\_migration\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/20170412_communication_on_the_protection_of_children_in_migration_en.pdf).

<sup>146</sup> European Commission, COM(2017) 211 final, p. 12.

methods via which EU bodies collect data on migrants, one of which is the European Border and Coast Guard Agency's collation of "ad hoc and voluntary [...] statistics on the persons who illegally crossed the border."<sup>148</sup> These data, however, are not disaggregated by age and gender. A similar gap exists around unaccompanied minors who abscond from care. From the demographic data in Chapter Two, it is possible to estimate that a significant majority of those unaccompanied minors for whom there is not data, are not far from adulthood upon entering the EU. That these young people are leaving childhood completely unaccounted for, puts them at particular risk for exploitation and reliance upon illicit, oftentimes dangerous methods of survival.<sup>149</sup>

The 2017 study contains a handful of scattered references to unaccompanied minors transitioning to adulthood. Several of these are in the context of country-specific actions, and thus will be discussed in the following chapter. It does cite a 2015 study by the European Migration Network, which found a need for "common indicators on outcomes for unaccompanied children turning 18," including education, employment and residence status, disaggregated by both age and gender.<sup>150</sup> There is also a call for improvement of "measures preparing the transition from childhood to adulthood," however there is no further extrapolation upon how such measures might look.<sup>151</sup>

The 2017 study further discusses various initiatives which concern key components of a young person's transition to adulthood, such as entry into the workforce. For example, the EU Trust Fund for Africa has dedicated millions of euros to improving youth employment opportunities and workforce training in counties such as Chad, Mali and Niger.<sup>152</sup> The EU has also dedicated more than 90 million euros to "support sustainable reintegration of returnees" in Pakistan, Bangladesh and Afghanistan.<sup>153</sup> It is beyond the scope of this research to adequately explore the

---

<sup>147</sup> European Commission. *Commission Staff Working Document: Implementation of the Action Plan on UAMs (2010-2014)*, SWD(2017) 129 final (Brussels: 2017), p. 4, accessed December 20, 2020. [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/20170412\\_communication\\_on\\_the\\_protection\\_of\\_children\\_in\\_migration\\_annex\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/20170412_communication_on_the_protection_of_children_in_migration_annex_en.pdf).

<sup>148</sup> European Commission, SWD(2017) 129 final, p. 9.

<sup>149</sup> European Commission, *Communication from the Commission to the European Parliament and the Council on the State of Play of Implementation of the Priority Actions under the European Agenda on Migration*, COM(2016) 85 final (Brussels: 2016), p. 16, accessed December 21, 2020, <https://ec.europa.eu/transparency/regdoc/rep/1/2016/EN/1-2016-85-EN-F1-1.PDF>.

<sup>150</sup> European Commission, SWD(2017) 129 final, p. 2.

<sup>151</sup> European Commission, SWD(2017) 129 final, p. 74.

<sup>152</sup> European Commission, SWD (2017) 129 final, p. 18.

<sup>153</sup> European Commission, SWD (2017) 129 final, p. 19.

implications of these initiatives, positive and negative. One of the more obvious questions, however, is whether these programs can truly be a path for sustainable change, if the systemic instability and violence that push so many unaccompanied minors to enter the EU irregularly remain unaddressed. Such a question is particularly relevant when approaching reintegration programs in countries such as Afghanistan; no amount of money can entirely protect a young person if they are returned to an area grappling with conflict.

### 3.2.2.2 Council of Europe 2014 Resolution and 2019 Recommendation

Two non-binding instruments adopted by the Council of Europe in recent years stand as some of the few authoritative recommendations with a primary, human rights-centered focus on unaccompanied minors turning 18. Evidently, these are not EU-exclusive publications. As the EU in its entirety composes a crucial bloc of CoE Member States, however, they are worth noting.

A 2014 resolution entitled “Migrant children: what rights at 18?” recognizes that, for many unaccompanied minors, entering adulthood means “losing their rights, and [often] being obliged to leave the country where they have lived” and formed connections.<sup>154</sup> The resolution identifies this period as a “legal void,” resulting in inadequate safeguards and decreased state support. These gaps are further emphasized by the lack of legislative consensus on how to approach former unaccompanied minors. The resolution thus calls upon CoE Member States to employ a number of measures geared towards granting former unaccompanied minors safety and stability. Recommendations include creating a formal transition category for young migrants aged 18-25, and implementing according policy to further young peoples’ access to welfare, education, housing and other services.<sup>155</sup> The resolution also urges migration officials to be proactive in young migrants’ integration, and to take an empathetic, informed approach when devising relevant policies.

In 2019, Council of Europe released a related recommendation, entitled “Supporting Young Refugees in Transition to Adulthood.” While the document primarily uses the term “refugees,”

---

<sup>154</sup> Parliamentary Assembly to the Council of Europe (PACE), *Migrant Children: What Rights at 18?*, Resolution 1996 (2014) Final version, adopted 2014, accessed December 21, 2020, <https://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-EN.asp?fileid=20926&lang=en>.

<sup>155</sup> PACE, Resolution 1996 (2014).

the provisions apply to young people entering adulthood who entered Europe as children, and qualify either for refugee status *or* subsidiary protection granted either by EU or national legislation.<sup>156</sup>

The recommendation expresses concern that, once they reach majority and no longer are protected under the CRC, young migrants lose the “rights and opportunities [they had] as children.”<sup>157</sup> As adults, they must navigate (often sudden) changes to their access to crucial services, including housing, education, psychosocial support, healthcare and a host of others. The recommendation acknowledges these services not only as rights, but as fundamental parts of a young person’s entry into adulthood. Their absence can lead to young people seeking out dangerous means of survival, and increasing their risk of trafficking or other forms of exploitation. Unaccompanied young people also experience a profound shift in the eyes of the law, as upon turning 18 “a young person’s best interests may cease to be the primary consideration” in relevant legal decisions.<sup>158</sup>

The recommendation offers several action items via which States can promote a human rights approach to former unaccompanied minors. These include temporary allowances for former unaccompanied minors to continue receiving support after they turn 18, particularly support focused on integration; considering the specific needs of both young men and women; and implementing the CoE guidelines into domestic legislation and practices.<sup>159</sup> Such guidelines are extrapolated upon in the recommendation’s appendix. The CoE outright encourages States to improve their legal framework for young refugees transitioning to adulthood, and to employ cross-sectoral cooperation in assuring these young people continue having access to various forms of protection and welfare.<sup>160</sup> It affirms the crucial roles education, safe accommodation, healthcare and access to accurate legal information play in a young person becoming a productive, successful adult. It continuously revisits the necessity of integrative mechanisms, such as bringing young people into the national labor markets, and encouraging them to be active in youth spaces. It places responsibility not only on States’ shoulders, but on the shoulders of

---

<sup>156</sup> Council of Europe, *Supporting Young Refugees in Transition to Adulthood*, Recommendation CM/REC(2019)4, adopted April 24, 2019 (Strasbourg: Council of Europe, 2019), PDF, p. 9.

<sup>157</sup> Council of Europe, Recommendation CM/REC(2019)4, p. 7.

<sup>158</sup> *Ibid.*

<sup>159</sup> Council of Europe, Recommendation CM/REC(2019)4, p. 8.

<sup>160</sup> Council of Europe, Recommendation CM/REC(2019)4, p. 10.

non-governmental organizations, youth groups and international organizations as well. In all, the CoE recommendation stands out for its understanding of the transition to adulthood as a complex, challenging time for many young migrants, and its according response.

### *3.3 Conclusion: To What Extent Should the Law Acknowledge the Transition to Adulthood?*

This chapter has conducted an in-depth, though not exhaustive, examination of international and EU legislation, both binding and non-binding. The instruments and supporting documents discussed have revolutionized, in a relatively short period of time, the legislative practices surrounding young people both in and out of migration. Their recognition of autonomy, and age-specific needs, has given voice to children's and teenager's rights across the globe. Where unaccompanied minors are concerned, however, the law has not supplemented its recognition of their needs and vulnerabilities while still underage, with an adequate recognition of their needs and vulnerabilities once those child-specific protections are removed.

The objective of this chapter has not been to argue that every major legal instrument should include an explicit acknowledgement of unaccompanied minors transitioning to adulthood. Rather, it has been to point out that the law's approach to minors glosses over the crucial processes that occur when transitioning from child to adult. As demonstrated, multiple instruments *do* acknowledge that unaccompanied minors need support as they leave childhood. For the most part, however, an acknowledgement is the extent of attention paid to this incredibly crucial period in a young person's life. Building a comprehensive picture of former unaccompanied minors' legislative presence thus requires piecing together snippets from multiple frameworks, many of which are non-binding. Of the twenty frameworks analyzed, two provide a truly comprehensive understanding of former unaccompanied minors' challenges and unmet needs; furthermore, these two are the only to offer concrete actions states, and other actors, can take to better ensure safeguards for these young migrants.

In this approach, the law creates a dichotomy between two groups of young migrants. One is either child or adult, vulnerable or competent. Yet for young adults, who do not fit entirely into either of these categories, this dichotomy means legal frameworks look upon their situation with a comparative blind spot. This population, with unique needs, is very much present in Europe; in Europe's law, however, it is very much absent.

## Chapter Four

### *EU Policy and Member State Practice on Unaccompanied Minors' Transition to Adulthood*

Where human rights law leaves unaccompanied minors at their eighteenth birthdays, national migration law often picks up. No longer protected as children, unaccompanied young people who enter adulthood without a final status decision can experience a profound, often overnight, shift in the care and protection for which they are eligible.<sup>161</sup> In the absence of their previous status as minors, these now-young adults must contend foremost with their host state's migration regimes. Instruments such as the CEAS ensure that asylum and certain other policies are shared; where national immigration law is concerned, however, each Member State draws upon its own body of legislation. Depending upon where they find themselves at the time, unaccompanied minors' run up and entry into early adulthood can look one of 27 different ways.

Where Chapter Three examined the language of the law as it covers the EU in entirety, Chapter Four will focus on law and policy in practice, as it manifests in various Member States. This chapter will examine the extent to which Member States actively support unaccompanied minors transitioning to adulthood. It will draw upon a number of reports which either center around, or include the experiences of, unaccompanied minors turning 18 throughout the EU. Vis-à-vis this approach, this chapter will question whether Member States' commitments to supporting healthy development and the best interests principle, as codified by the CRC and EU child-specific legislation, is reflected in their treatment of unaccompanied children developing into young adults.

#### *4.1 An Overview of Member State Approaches*

To emphasize once more, the EU's official policy is to treat unaccompanied minors "first and foremost as children [with] measures in place to protect them whatever their migration status."<sup>162</sup> Per EU law, unaccompanied minors are to be regarded as any other child who is being cared for by the state. Unaccompanied minors will usually be "granted refugee status or subsidiary

---

<sup>161</sup> Parliamentary Assembly to the Council of Europe (PACE), Committee on Migration, Refugees and Displaced Persons, *Migrant Children: What Rights at 18?* April 23, 2014, p. 4, accessed December 22, 2020. <https://pace.coe.int/pdf/cfca00bd14395a88706d600e323005b3586dbd6c3326667a8259ffe25682ae848428feba12/doc.%2013505.pdf>.

<sup>162</sup> EMN, "Approaches to Unaccompanied Minors Following Status Determination," 2015, p. 7.

protection,” and thus receive a (generally temporary) residence permit to remain in the relevant Member State.<sup>163</sup> Many Member States also grant unaccompanied minors temporary statuses for humanitarian or other reasons. The general approach is to support unaccompanied minors through the national child welfare system. As beneficiaries of international protection, they are entitled to receive the same access to education, healthcare and other services as children who are nationals.<sup>164</sup> Accommodation possibilities include children’s homes; housing programs specifically for unaccompanied minors (including those with specific needs, such as girls and young women, older teenagers or individuals with mental health needs); and separate quarters within general reception centers.<sup>165</sup> Unaccompanied minors are eligible for state support from the moment they are registered.

Once unaccompanied minors turn 18, however, their migration status becomes the foremost consideration guiding whether or not they are legally able to stay in the country—and, if they are, whether they can access education, employment and various forms of state support. For those young people who have not received a final asylum decision by their birthdays, or for those who lose international protection due to attained majority, a period of intense, stressful waiting ensues. No longer protected by child-specific safeguards and not yet in possession a permanent status, former unaccompanied minors may lose access to a number of networks, services and integrative measures. Reaching the age of majority during this period of limbo has become a reality for more and more young asylum seekers since 2015, as application processing times have been extended, in some cases to almost two years.<sup>166</sup> Furthermore, many unaccompanied minors reach their eighteenth birthdays while on the move, in camps or detention centers. Thus, they lose the opportunity to benefit, if even temporarily, from official recognition as an unaccompanied minor.

Despite these tremendous changes, European migration officials generally offer little support that would help young people to “consider their future[s] in a methodical way.”<sup>167</sup> While Member States do share some common practices when assessing the cases of former

---

<sup>163</sup> EMN, “Approaches to Unaccompanied Minors Following Status Determination,” 2018, p. 5.

<sup>164</sup> EMN, “Approaches to Unaccompanied Minors Following Status Determination,” 2018, p. 6.

<sup>165</sup> EMN, “Approaches to Unaccompanied Minors Following Status Determination,” 2018, p. 23.

<sup>166</sup> European Council on Refugees and Exiles, “ECRE/ELENA Legal Note on Ageing Out and Family Reunification.”

<sup>167</sup> Williams, “Durable solutions when turning 18,” p. 192.



unaccompanied minors, they ultimately rely upon their respective bodies of legislation. This patchwork approach stands out against the universal standards Member States are expected to employ when dealing with these very same young people while they are still underage.

Continuity in care for these young people is also stanchied by the fact that former unaccompanied minors, as a demographic, are generally absent from international and EU human rights law. In this absence, even certain instruments which are meant to provide a cohesive approach to the benefit of asylum seekers have, in instances, exacerbated the extant differences across national asylum systems to former unaccompanied minors' detriment.

The implementation of the Dublin III Regulation since 2015 stands out as a notable example. Under Dublin III, the responsibility for processing an asylum seeker's claim most frequently falls upon the first EU Member State in which said individual arrived.<sup>168</sup> In recent years, high incidences of irregular migration via the Central and Western Mediterranean, Balkan, Black Sea and other routes have led massive numbers of asylum seekers to enter the EU through Italy, Malta, Spain and particularly Greece. The latter has shouldered an especially disproportionate burden, the effects of which have been dramatically felt by asylum seekers themselves. The ensuing shortage of personnel and resources has caused significant numbers of teenage unaccompanied minors to get stuck, and turn 18, in reception centers before they even receive an opportunity to benefit from child-specific protections. In turn, these young people enter adulthood in the absence of basic safeguards.

The categories below provide an overview of key areas in which Member States take different approaches to unaccompanied transitioning to adulthood. They are informed by findings presented in the 2014 CoE/ UNHCR joint report entitled "Unaccompanied and Separated Asylum-Seeking Children Turning Eighteen: What to Celebrate?," as well as a write-up from a related 2015 conference held in Budapest.<sup>169</sup> In conjunction with a number of stakeholders and relevant actors, including displaced young people themselves, both initiatives explore challenges

---

<sup>168</sup> Blanca Garcés-Mascareñas, "Why Dublin 'Doesn't Work,'" *Notes Internacionales* 135 (November 2015): 1-5, accessed December 21, 2020, [https://www.cidob.org/en/publications/publication\\_series/notes\\_internacionales/n1\\_135\\_por\\_que\\_dublin\\_no\\_funciona/why\\_dublin\\_doesn\\_t\\_work](https://www.cidob.org/en/publications/publication_series/notes_internacionales/n1_135_por_que_dublin_no_funciona/why_dublin_doesn_t_work).

<sup>169</sup> "What rights and realities at 18? Regional seminar to develop intersectoral cooperation in assisting refugees and asylum-seekers in transition to adulthood." Conference report at <https://rm.coe.int/09000016806ab5e1>.

unaccompanied minors face during the transition to adulthood. The following topics are based upon a sample of the primary issues presented.

#### *4.1.1 General Aftercare and Independence Support*

Upon being placed in care, unaccompanied minors work with social workers or other staff to draw up plans accounting for their individual needs and goals. As young people approach and then pass their eighteenth birthdays, whether they receive further formal assistance in planning their futures depends upon the particular Member State. Finland and Ireland, for example, help young people create aftercare plans which outline the “supports and services required by the soon-to-be aged-out unaccompanied minors.”<sup>170</sup> Finnish social services also integrate skill-building work into a care leaver’s plan, so as to accustom them to the responsibilities of independent living. Comparatively, Croatian law has no provisions for young people ageing out of care.<sup>171</sup> Feelings of unpreparedness prior to leaving care were common among interviewed former unaccompanied minors in the UK, and many young people felt the transition support provided by their social workers was inadequate.<sup>172</sup>

Turning 18 also means that unaccompanied minors in the vast majority of Member States lose their right to guardianship. As such, the young person becomes entirely responsible for managing their welfare, finances and other needs.<sup>173</sup> In Austria, for example, the Civil Code mandates that unaccompanied minors become fully responsible for arranging “their own care and education, asset management and legal representation” upon turning 18.<sup>174</sup> Guardians generally provide little in the way of transitional support, and formal contact between themselves and the young

---

<sup>170</sup> EMN, “Approaches to Unaccompanied Minors Following Status Determination,” 2018, p. 20.

<sup>171</sup> Claire Cameron, *Leaving Care and Employment in Five European Countries: An Undocumented Problem?* report, Thomas Coram Research Unit, UCL Institute of Education, June 2016, p. 4, accessed December 21, 2020, [https://www.sos-childrensvillages.org/getmedia/908bc3ed-244d-48d0-b8e1-d44d8cdd8e8a/SOS-CVI\\_Leaving-Care-and-employment-report\\_Final.pdf](https://www.sos-childrensvillages.org/getmedia/908bc3ed-244d-48d0-b8e1-d44d8cdd8e8a/SOS-CVI_Leaving-Care-and-employment-report_Final.pdf).

<sup>172</sup> Francesca Meloni and Elaine Chase, *Becoming Adult: Transitions into Institutional Adulthood*, research brief no. 4, Institute of Education, University College London. 2017, p. 2, accessed December 22, 2020, <https://becomingadultproject.files.wordpress.com/2017/12/ba-brief-4-low-res.pdf>.

<sup>173</sup> EMN, “Approaches to Unaccompanied Minors Following Status Determination,” 2018, p. 29.

<sup>174</sup> Saskia Koppenberg, *Unaccompanied Minors in Austria: Legislation, Practices and Statistics* (Vienna: IOM Country Office for Austria, 2014), p. 4, accessed December 20, 2020, [https://publications.iom.int/system/files/pdf/unaccompanied\\_minors\\_in\\_austria\\_en.pdf](https://publications.iom.int/system/files/pdf/unaccompanied_minors_in_austria_en.pdf).

person in their care ends upon the latter's eighteenth birthday; in some instances, however, the two may stay in touch informally.

If they do not qualify for international protection as adults, unaccompanied minors in many Member States lose a great deal of their prior healthcare access. Some States allow young migrants to access only basic or emergency services. In Latvia, former unaccompanied minors have access to state compulsory health insurance until age 24, after which they receive "the minimum of state-funded medical assistance."<sup>175</sup> In Member States including France, Austria, Hungary and Sweden, access to basic services continues after young people reach majority; however, access to free specialized care, such as mental health services, ends at 18.<sup>176</sup> Left to cover costs they cannot afford out-of-pocket, many young migrants lose formal psychosocial and other support that is particularly crucial at this point in their lives. In these instances, often other actors will step in. In Romania and Slovakia, for example, NGOs support former unaccompanied minors with covering medical costs and navigating health insurance policies. Refugee communities in these countries also assist current and former unaccompanied minors with medical needs, be it through providing volunteer translation services during doctor visits, or meeting young peoples' psychological needs.<sup>177</sup>

#### *4.1.2 Accommodation*

The specific point at which former unaccompanied minors must leave their accommodation varies by Member State. Generally, when the time does come, young people must relocate to a facility for adult asylum seekers, or find private housing.<sup>178</sup> Both options can present challenges. Where adult facilities lack adequate psychosocial resources for adolescents, the private housing market can be difficult for displaced young people to access due to barriers such as discrimination, lack of income and contractual difficulties.<sup>179</sup> As they have no regular status, former unaccompanied minors awaiting a decision also may not be able to access certain services, such as banks, that could facilitate stability and the chance to secure housing. NGOs

---

<sup>175</sup> EMN, "Approaches to Unaccompanied Minors Following Status Determination," 2018, p. 32.

<sup>176</sup> Lyamouri-Bajja, "Unaccompanied and Separated Asylum-Seeking and Refugee Children Turning 18," p. 38.

<sup>177</sup> Shahnazaryan, "What rights and realities at 18?," p. 18.

<sup>178</sup> EMN, "Approaches to Unaccompanied Minors Following Status Determination," 2018, p. 28.

<sup>179</sup> Shahnazaryan, "What rights and realities at 18?," p. 12.

may also provide housing to young people no longer covered by the state, or help them locate it through partner organizations.

In some Member States, one's eighteenth birthday is the decisive date by which they must leave their accommodation. In Lithuania, former unaccompanied minors must move out within three months of their birthday.<sup>180</sup> Depending on their personal migration status, some Member States extend young migrants' housing support, which can last anywhere from their 19<sup>th</sup> to 27<sup>th</sup> birthdays.<sup>181</sup> In France, former unaccompanied minors will not be placed in new accommodation by the State unless they hold a work contract; in Paris alone, this has led to hundreds of migrant teenagers sleeping on the streets.<sup>182</sup> Austria relocates young people to various adult reception facilities, which can cause "schooling and vocational training [to be] interrupted, social networks [to be] cut or siblings [to be] separated."<sup>183</sup> As adults in organized facilities, their food and accommodation benefits are also decreased to a maximum of €19 per day.<sup>184</sup>

Some Member States offer transitional independent living for older unaccompanied minors, or engage teenagers in independence-building activities prior to ageing out. Slovenia, in comparison, does not even have specialized centers for unaccompanied minors, meaning young migrants who turn 18 in reception centers do so with little support. Other Member States allow young adults to remain in their accommodation for a certain period of time, especially if a young person is enrolled in school and must finish out the academic year or graduate. The age at which this allowance ends varies by Member State. Austria's Federal Youth and Service Act provides for former unaccompanied minors still in education to stay at the same accommodation—however, this allowance ends when a young person turns 21.<sup>185</sup>

---

<sup>180</sup> EMN, "Approaches to Unaccompanied Minors Following Status Determination," 2018, p. 28.

<sup>181</sup> EMN, "Approaches to Unaccompanied Minors Following Status Determination," 2018, p. 20.

<sup>182</sup> Carla Subriana, "Turning 18 Should Be a Rite of Passage. But for Unaccompanied Child refugees, It Can Be a Nightmare," *The Independent*, October 12, 2020, accessed December 20, 2020, <https://www.independent.co.uk/voices/immigration-refugee-unaccompanied-minor-asylum-seeker-eu-law-b987677.html>.

<sup>183</sup> Koppenberg, *Unaccompanied Minors in Austria: Legislation, Practices and Statistics*, p. 16.

<sup>184</sup> Koppenberg, *Unaccompanied Minors in Austria: Legislation, Practices and Statistics*, p. 74.

<sup>185</sup> Koppenberg, *Unaccompanied Minors in Austria: Legislation, Practices and Statistics*, p. 16.

### 4.1.3 Education and Employment

Theoretically, all Member States allow unaccompanied minors with residence permits to “continue and complete primary and/or secondary education” once they turn 18, or reach the state’s respective minimum school leaving age.<sup>186</sup> However, as compulsory schooling ends around 16 in the majority of EU countries, unaccompanied minors who arrive as older teenagers may not be enrolled in education at all.<sup>187</sup> Even with the right to access education, older unaccompanied minors may face barriers due to not speaking the host country’s language, or having a limited background in formal education. Finnish officials have noted the educational difficulties facing unaccompanied minors who arrive aged 15 and up. The timeframe in which these young people can complete schooling, and qualify for further education, is extremely limited.<sup>188</sup>

Asylum seekers must wait a period of months after lodging their claim before entering the national job market. This period varies between Member States, but for 18 year-olds who are suddenly facing changes to their benefits allowance, even a few months without steady income can be destabilizing.<sup>189</sup> Various Council of Europe reports have found that, in order to support their most basic needs, former unaccompanied minors “are forced to work irregularly, often in poor conditions.”<sup>190</sup> Young migrants are also particularly vulnerable to labor exploitation, as they lack “access to justice or redress for violations of rights.”<sup>191</sup>

In a 2014 report supplementing Resolution 1996 (2014), PACE found that upon turning 18, unaccompanied young people in some states were no longer eligible for benefits paid to minors and not yet eligible for employment assistance granted to adults.<sup>192</sup> Considered of age by welfare

---

<sup>186</sup> EMN, “Approaches to Unaccompanied Minors Following Status Determination,” 2018, p. 34.

<sup>187</sup> European Commission/ EACEA/ Eurydice, *Compulsory Education in Europe- 2018/19* (Luxembourg; Publications Office of the European Union, 2018), [https://eacea.ec.europa.eu/national-policies/eurydice/sites/eurydice/files/compulsory\\_education\\_2018\\_19.pdf](https://eacea.ec.europa.eu/national-policies/eurydice/sites/eurydice/files/compulsory_education_2018_19.pdf).

<sup>188</sup> EMN/ Finnish Migration Service, *Unaccompanied Minors Following Status Determination: Approaches in EU Member States and Norway- National Report of Finland*. EMN, 2017, p. 39, accessed December 20, 2020, [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/09a\\_finland\\_unaccompanied\\_minors\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/09a_finland_unaccompanied_minors_en.pdf).

<sup>189</sup> European Commission/ EMN. “Ad Hoc Query on 2019.5 Right to work for asylum seekers,” 2019, accessed December 22, 2020, [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/20195\\_uk\\_right\\_to\\_work\\_for\\_asylum\\_seekers.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/20195_uk_right_to_work_for_asylum_seekers.pdf).

<sup>190</sup> Shahnazaryan, “What rights and realities at 18?”, p. 12.

<sup>191</sup> Ibid.

<sup>192</sup> PACE, *Migrant Children: What Rights at 18?*, p. 6.

agencies, and underage by employment agencies, simultaneously too old and too young, these young people are left suspended in financial uncertainty. Again, this leaves them vulnerable to exploitation, and sometimes seeking out illegal ways to make money.

#### *4.1.4 Status, Residency and Return*

Central to every issue presented thus far is the critical change in legal status that awaits unaccompanied minors upon their entry into adulthood. Like so many other factors unaccompanied minors face when turning 18, the point at which their residence permit expires varies by country. Some Member States, such as Sweden and Czechia, use an unaccompanied minor's eighteenth birthday as the decisive date for expiration, while others use different benchmarks.<sup>193</sup> In Denmark, an unaccompanied minor must submit a residency renewal application "in good time" before their eighteenth birthday, or they will not be able to remain in the country legally as an adult.<sup>194</sup>

In France, unaccompanied minors who enter the child protection system after turning 16, have a more difficult time obtaining long-term student or work permits than do minors who enter the system at a younger age. If a minor in France turns 18 while their age assessment is ongoing. In the UK, unaccompanied minors who are below the age of 17.5 years, and whose asylum applications have been rejected, are granted limited leave (also called unaccompanied asylum-seeking child, or UASC, leave). However, this temporary status is only granted if suitable reception conditions in the country of return cannot be arranged. UASC leave also expires once the young person has turned 17.5 years old, leaving those who qualify for it still underage but with limited resources.<sup>195</sup> Some States allow former unaccompanied minors to apply for the same residence permits as other third-country nationals, such as those on educational, work or humanitarian grounds.

In the instance that an unaccompanied minor nearing adulthood is handed a negative asylum decision, roughly half of Member States expect those young people to fulfill returns themselves.<sup>196</sup> As of 2018, three Member States—Finland, Lithuania and sometimes Germany—

---

<sup>193</sup> EMN, "Approaches to Unaccompanied Minors Following Status Determination," 2018, p. 29.

<sup>194</sup> Celikaksoy and Wadensjö, "Mapping Experiences and Research," p. 17.

<sup>195</sup> EMN, "Approaches to Unaccompanied Minors Following Status Determination," 2018, p. 19.

<sup>196</sup> *Ibid.*

as well as Norway were reported to provide care for former unaccompanied minors in adult facilities until their return was enforced.<sup>197</sup> Alongside two unaccompanied minors and 70 accompanied children, 227 young migrants were forcibly returned to Afghanistan by Norway between 2015 and 2017.<sup>198</sup> Notably, all of these young adults had entered the country as unaccompanied minors. For young people who have been issued a positive decision, accommodation and after-care support options also vary by Member State.

#### *4.2 Country-Specific Law and Practice*

It is beyond the capacity of this research to comprehensively delve into each Member State's legislative approach towards former unaccompanied minors. As such, this section will discuss law and practice in a sample of EU States. These countries—Greece (first arrival country); Hungary (transit country); and Germany and Sweden (top destination countries)—have been selected for their distinct roles since the start of the 2015 migrant and refugee crisis. The reception and hosting conditions in each of these countries are also unique, and extremely decisive when it comes to whether a young person will benefit from child-specific protections, both before and after their eighteenth birthday.

##### *4.2.1 Greece*

By far the most heavily trafficked entrance point into the EU since the crisis' start, Greece occupies a unique position. As unprecedented numbers of migrants and refugees began entering the country in 2015, Greece was still reeling from the effects of the recent years' economic crisis. Struggling to support its own citizens, Greece's "national asylum practices and child protection systems are overstretched, underfunded and ineffective."<sup>199</sup> One consequence of this has been a vast shortage of specialized services for unaccompanied minors. In lieu of designated housing, they were, until recently, allowed to be held alternatively in a detention center or police station.

---

<sup>197</sup> EMN, "Approaches to Unaccompanied Minors Following Status Determination," 2018, p. 19.

<sup>198</sup> Save the Children, European Migration Advocacy Group, "Protection beyond reach: State of play of refugee and migrant children's rights in Europe" (Ixelles: Save the Children Europe, 2020), p. 25, accessed December 20, 2020. <https://reliefweb.int/sites/reliefweb.int/files/resources/Report%20Protection%20Beyond%20Reach.pdf>.

<sup>199</sup> Digidiki, Vasileia, and Jacqueline Bhabha, "Sexual Abuse and Exploitation of Unaccompanied Migrant Children in Greece: Identifying Risk Factors and Gaps in Services during the European Migration Crisis," *Children and Youth Services Review* 92 (2018): 115, accessed December 22, 2020. doi:10.1016/j.childyouth.2018.02.040.

Others might be housed in a camp's general population, sharing living quarters with unknown adults.

Asylum-seeking unaccompanied minors are meant to be housed in supervised apartments upon turning 18.<sup>200</sup> For those young people unable or ineligible to access this accommodation, there is “a major risk of becoming homeless.”<sup>201</sup> Unstable conditions while unaccompanied minors are still teenagers can also act as a barrier to placing them in organized housing once they turn 18. As of August 2020, 1,031 of the 4,417 unaccompanied minors are reported to be in “insecure housing conditions,” which include squats, homelessness and informally living in collective apartments.<sup>202</sup> More than 92% were aged 15 to 17.

The country's lack of adequate accommodation facilities for unaccompanied minors has a particularly adverse effect on older teenagers, who can become stuck in these settings, and miss their opportunity to benefit from child-specific protections. While they might try to search for accommodation in a different camp or other facility, there are comparatively few options available for single young men of this age. Prior to burning down in September 2020, Lesvos' Moria had a designated section for 18-22 year old young men.<sup>203</sup> Like the rest of the camp, however, it was over-crowded and under-resourced, making it difficult for residents to get adequate care.

The situation in Greece also underlines the negative consequences current age assessment procedures can have for unaccompanied teenagers and young adults. In 2017, Human Rights Watch found that a number of unaccompanied minors in Lesvos had been incorrectly identified as adults, or had claimed to be—and registered as—18, despite visibly being younger. In spite of this, Greek officials were insisting that proper age assessment procedures were being followed. The country's law mandates that, in instances where authorities doubt a person claiming to be a child is actually underage, that person should be given the benefit of the doubt.<sup>204</sup> Young people

---

<sup>200</sup> “Unaccompanied Minors,” Hellenic Republic Ministry of Migration and Asylum, 2020, accessed December 20, 2020, <https://migration.gov.gr/en/gas/diadikasia-asyloy/asynodeytoi-anilikoi/>.

<sup>201</sup> Brun, “Men and boys in displacement,” 10.

<sup>202</sup> EKKKA National Center for Social Solidarity, *Situation Update: Unaccompanied Children (UAC) in Greece* (EKKKA, 2020), accessed December 22, 2020, [https://reliefweb.int/sites/reliefweb.int/files/resources/EKKA%20Dashboard\\_20200831.pdf](https://reliefweb.int/sites/reliefweb.int/files/resources/EKKA%20Dashboard_20200831.pdf).

<sup>203</sup> Human Rights Watch. “Greece: Lone Migrant Children Left Unprotected,” July 19, 2017, accessed December 22, 2020, <https://www.hrw.org/news/2017/07/19/greece-lone-migrant-children-left-unprotected>.

<sup>204</sup> Human Rights Watch, “Greece: Lone Migrant Children Left Unprotected.”



who are falsely reported as adults have ten days to appeal. However, they must submit original IDs or passports, alongside an official translation, to do so.<sup>205</sup> In general, it can take months for this status determination to be corrected, and for many unaccompanied minors, they in fact reach adulthood before having the chance to be recognized as underage. These conditions mean that older unaccompanied minors in Greece are particularly at risk of reaching their eighteenth birthdays before being officially registered.

The asylum process also varies slightly for older and younger teenagers. Only unaccompanied minors who are under the age of 15 are required to have a representative submit their asylum application. This person, selected by the relevant Public Prosecutor, is responsible for the minor during the application process, as well as submitting the application itself. Unaccompanied minors over 15, however, can submit their own asylum applications.<sup>206</sup> 15-17 year-olds may complete various processes, such as fingerprinting, alone; children under 15 must be accompanied by a representative.

In November 2019, Parliament passed “On International Protection and Other Provisions,” a law aimed at addressing issues such as the intense overcrowding in Aegean reception centers.<sup>207</sup> One provision allows for the sped-up rejection and deportation of applicants from countries considered safe, the applicability of which extends to unaccompanied minors over 15.<sup>208</sup> Older teenagers from these countries must prove, via confirmation from a medical professional, that they are victims of abuse, rape, trafficking or other violence; otherwise, in the eyes of officials, they lose the all-important shield of vulnerability.

There remains a serious need to address the indefinite wait times that many older unaccompanied minors face for recognition from the State. Turning 18 without any recognition of minority only exacerbates the effects of harm or exploitation faced while still underage. As will be discussed in

---

<sup>205</sup> Human Rights Watch, “Greece: Lone Migrant Children Left Unprotected.”

<sup>206</sup> “Unaccompanied Minors,” Hellenic Republic Ministry of Migration and Asylum.

<sup>207</sup> Alanna Fox and Devon Cone, “Without Essential Protections: A Roadmap to Safeguard the Rights of Asylum Seekers in Greece,” Refugees International, April 23, 2020, accessed December 22, 2020, <https://www.refugeesinternational.org/reports/2020/4/20/without-essential-protections-a-roadmap-to-safeguard-the-rights-of-asylum-seekers-in-greece>.

<sup>208</sup> Apostolou, Nikolia, “Greek asylum system leaves unaccompanied minors behind,” The New Humanitarian, November 20, 2019, accessed December 22, 2020, <https://www.thenewhumanitarian.org/news-feature/2019/11/20/Greek-asylum-system-unaccompanied-minors>.

the following chapter, such psychosocial needs can have serious implications if left unaddressed into early adulthood.

#### 4.2.2 Hungary

Compared to other Member States, the number of unaccompanied minors Hungary has granted asylum, including in 2015, is extremely low. The highest number of positive first-instance decisions granted to all minors, both accompanied and unaccompanied, was 645 in 2017.<sup>209</sup> It is important to note that the vast majority of migrants who have passed through Hungary in the past five years have done so with the intention of transiting through to Western-more Member States, rather than staying.<sup>210</sup> This, along with increasingly restrictive migration policies and anti-immigrant rhetoric from Viktor Orban and Fidesz, has undoubtedly impacted the number of applicants being lodged in the first place. In early 2018, for instance, Hungary reduced the number of asylum seekers allowed to enter the country to two per day.<sup>211</sup> Therefore, Hungary is being discussed more so to further emphasize the diversity of policies across the EU concerning former unaccompanied minors, rather than to demonstrate implemented approaches to significant numbers of young migrants.

In theory, unaccompanied minors are meant to have priority regarding entrance into Hungary's transit zones which run along its border with Serbia. In practice, however, the methods by which asylum seekers are granted entry into the transit zones, can have particularly negative consequences for unaccompanied minors nearing their eighteenth birthday. Unaccompanied minors aged 14 and older are required to remain in the transit zones as they await an asylum decision.<sup>212</sup> Only after being processed are these older teenagers allowed access to specialized accommodations for minors.

---

<sup>209</sup> "Asylum applicants considered to unaccompanied minors," Eurostat.

<sup>210</sup> Anemonia Hartocollis, "Travelling in Europe's River of Migrants," *New York Times*, September 5, 2015, accessed December 22, 2020, <https://www.nytimes.com/interactive/projects/cp/reporters-notebook/migrants/hungary-treatment-refugees>.

<sup>211</sup> Soraya Sarhaddi Nelson, "Hungary Reduces Number of Asylum-Seekers It Will Admit to 2 per Day," NPR, February 3, 2018, accessed December 22, 2020, <https://www.npr.org/sections/parallels/2018/02/03/582800740/hungary-reduces-number-of-asylum-seekers-it-will-admit-to-2-per-day>.

<sup>212</sup> EMN/ European Migration Network Hungary, *Member States' Approaches to Unaccompanied Minors Following Status Determination: Hungary*, EMN, 2017, p. 3, accessed December 22, 2020, [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/13a\\_hungary\\_unaccompanied\\_minors\\_2017.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/13a_hungary_unaccompanied_minors_2017.pdf).

Hungary cares for unaccompanied minors via its national childcare system. As such, “there is no special focus on those turning 18,” as the system does not distinguish between unaccompanied and Hungarian minors.<sup>213</sup> As is customary, guardianship ends once the young person has reached majority, however they do have access to other psychosocial support workers as part of the pre-arranged aftercare.

Hungary’s Child Protection Act does provide aftercare, which guardians arrange a few months before the unaccompanied minors for whom they are responsible turn 18.<sup>214</sup> Aftercare lasts until a young person turns 24, or 25 if they are still in formal education. Young people over the age of 18 are not allowed to be housed with minors per the Child Protection Act, and thus are placed in a designated institution. One of the locations, in Fót, was closed in mid-2018. However, after care is contingent upon their remaining in-status; in Hungary, those with recognized international protection must renew their status every three years to stay in the country legally.

Unaccompanied minors who receive a negative decision on their asylum applications are still eligible for a temporary humanitarian status under Act on TCNs.<sup>215</sup> Once they turn 18, however, they lose this temporary protection and must return to their country of origin.

#### 4.2.3 Germany

Unaccompanied minors transitioning to adulthood in Germany find themselves in a contested position on multiple fronts. In a legal sense, they are being pulled in opposing directions by “youth welfare and integration and, on the other hand, the residence law regulations” which can create a barrier to the former.<sup>216</sup> Even if they are able to initially benefit from occupational training and other programs, their impending change in residence status can seriously limit long-term opportunity.

As children, unaccompanied minors in Germany “are accommodated, cared for and assisted within the general child protection system,” in the same way a citizen would be.<sup>217</sup> The foremost body of law concerning unaccompanied minors, therefore, is the Child and Youth Welfare Act,

---

<sup>213</sup> EMN/ European Migration Network Hungary, *Member States’ Approaches to Unaccompanied Minors Following Status Determination: Hungary*, p. 5.

<sup>214</sup> EMN/ European Migration Network Hungary, *Member States’ Approaches [...] Hungary*, p. 8.

<sup>215</sup> EMN/ European Migration Network Hungary, *Member States’ Approaches [...] Hungary*, p. 7.

<sup>216</sup> Germany, *Unaccompanied Minors in Germany*, p. 14.

<sup>217</sup> Germany, *Unaccompanied Minors in Germany*, p. 17.

located in Book VIII of Germany's Social Code. Also relevant are the Asylum and Residence Laws, the latter of which "regulates migration and lawfulness" of third-country nationals' residence in Germany.<sup>218</sup>

For issues concerning unaccompanied minors, the Asylum and Residence laws are applied only in specific circumstances, and even then, the application is only secondary to the Child and Youth Welfare Act. Germany's Federal Office for Migration and Refugees refers to this system as the "primacy of child and youth welfare;" in other words, legal decisions concerning unaccompanied minors should emphasize their needs as children, over their status as migrants. Where unaccompanied minors, particularly older teenagers, are concerned, this principal is important due to the potential conflict between these two bodies of law.

Prior to their applying for asylum, unaccompanied minors in Germany are granted a "suspension of removal," which allows them to temporarily remain in the country on account of their age. As stated in Section 60a of the Residence Act, this is not "a residence title," but a time-limited pause on return, typically until adulthood.<sup>219</sup> As such, a long-stay residence permit is obtained either by applying for asylum, or for an alternative residence status granted by a foreigner's authority.

Germany allows all unaccompanied minors to attend school, with education being perceived as a key pathway to integration. Schooling regulations vary by municipality and Land, however, and it's rare to find specific initiatives for unaccompanied minors; still, they can make use of general "integration measures for newly arrived juveniles."<sup>220</sup> Their ability to fully benefit from educational opportunities—as well as concurrent vocational and employment training programs—can be hindered, however, by the fact that most unaccompanied minors are 16 or 17 years old by the time they've arrived in Germany. Thus, some may have time- or otherwise-limited access to integrative employment training, and others may not be issued a permit to participate in vocational programs at all.

---

<sup>218</sup> Andreas Muller, *Unaccompanied Minors in Germany: Focus-Study by the German National Contact Point for the European Migration Network*, working paper 60, Federal Office for Migration and Refugees/ EMN, 2014, p. 10, accessed December 22, 2020, [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european\\_migration\\_network/reports/docs/emn-studies/11a.germany\\_unaccompanied\\_minors\\_en\\_version.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european_migration_network/reports/docs/emn-studies/11a.germany_unaccompanied_minors_en_version.pdf).

<sup>219</sup> Germany, *Unaccompanied Minors in Germany*, p. 17.

<sup>220</sup> Germany, *Unaccompanied Minors in Germany*, p. 5.

Unaccompanied minors in Germany are assigned guardians to represent them during the asylum process. When organizing guardianship, the Family Court refers to the age of majority stated by “the law in the minor’s country of origin, and not [...] German law.”<sup>221</sup> Hence, if a minor comes from a country in which the age of majority is older than 18, their guardianship will not end until they reach that age.

This reference to a different age of majority, however, only applies to the maintenance of guardianship. In all other matters, once an unaccompanied minor has turned 18, the primacy of child and youth welfare becomes null, and the frameworks laid out by the Asylum and Residence Acts gain precedence. As young adults, they become immediately responsible “for their own interests, including legal representation.”<sup>222</sup> They also gain primary responsibility for handling their own asylum applications; if, however, they are still under guardianship (based on the above-mentioned provisions), the guardian is allowed to continue providing assistance.

Once they’ve turned 18, residence status becomes the primary determinant in whether former unaccompanied minors are able to remain in the country legally. While some young adults may remain eligible for accommodation provided by youth welfare services, this is not always the case. A similar situation arises regarding the youth welfare benefits provided to unaccompanied minors, which they may lose access to upon turning 18. The suspension of removal is not immediately voided upon reaching adulthood, and those who turn 18 before their asylum cases are closed are allowed to stay for the duration; however, they become “subject to all the legal provisions that are applicable to adult refugees with a suspension of removal.”<sup>223</sup> This can cause problems for those young people who lose guardianship at 18, as many lack the knowledge and ability to navigate the German legal system and advocate for their best interests. As a result, many are at risk of losing continued benefits to which they may be entitled while still awaiting an asylum decision.

#### 4.2.4 Sweden

Across EU Member States’ collective reception of refugees, Sweden arguably stands out as exceptional; in fact, according to *The New Yorker*, “no country [...] has responded with greater

---

<sup>221</sup> Germany, *The Stages of the Asylum Procedure*, p. 45.

<sup>222</sup> Germany, *Unaccompanied Minors in Germany*, p. 19.

<sup>223</sup> *Ibid.*

diligence and conscientiousness.”<sup>224</sup> Comparative to the national population, Sweden accepted proportionally the most refugees between 2015-2018 of any European country.<sup>225</sup> It currently stands alongside Germany as one of the top unaccompanied minor-hosting countries in the EU.<sup>226</sup>

In many ways, Sweden has been praised for its care of unaccompanied minors; still, the country has struggled to resolve the disconnect between the legal approach (or lack thereof) to former unaccompanied minors, and the true needs of this population. For those young asylum seekers whose cases have not been decided by their eighteenth birthdays, they experience several key changes in state provisions. Per general protocol, young people lose their guardian and become responsible for handling all “contacts with the authorities and sign[ing] all documents” themselves.<sup>227</sup> This means that support in areas such as the management of finances also disappears. Their access to healthcare also changes; where Sweden grants underage asylum seekers free healthcare and dental care, adult asylum seekers qualify only for acute and emergency care. As children, unaccompanied minors are not required to pay for medication if it is prescribed by a doctor; as adults, however, they “must pay for doctor’s consultations and medicines.”<sup>228</sup>

There are some forms of support which carry over once a young asylum seeker turns 18. For example, if they are still in upper secondary school, they can continue attending class while awaiting an asylum decision. If it is ordered by the municipality within which a young person lives, they may also qualify for temporary housing provide by the Swedish Migration Authority. Per Social Services legislation, unaccompanied young people aged 16-20 have access to supported housing, however this service has been criticized as not adequately specialized.<sup>229</sup>

---

<sup>224</sup> Rachel Aviv, “The Trauma of Facing Deportation,” *The New Yorker*, March 27, 2017, accessed December 22, 2020, <https://www.newyorker.com/magazine/2017/04/03/the-trauma-of-facing-deportation>.

<sup>225</sup> Asher Kessler, “Despite Its Liberal Reputation, Swede Proves No Safe Haven for Afghan Refugees,” *The New Arab*, August 1, 2018, accessed December 22, 2020, <https://english.alaraby.co.uk/english/indepth/2018/8/1/sweden-proves-no-safe-haven-for-afghan-refugees>.

<sup>226</sup> Subirana, “Turning 18 Should Be a Rite of Passage. But for Unaccompanied Child Refugees, It Can Be a Nightmare.”

<sup>227</sup> “When You Turn 18 Years,” Swedish Migration Agency, April 27, 2020, accessed December 22, 2020, <https://www.migrationsverket.se/English/Private-individuals/Protection-and-asylum-in-Sweden/Children-seeking-asylum/Without-parents/When-you-turn-18-years.html>.

<sup>228</sup> “When You Turn 18 Years,” Swedish Migration Agency.

<sup>229</sup> Celikaksoy and Wadensjö, “Mapping Experiences and Research,” pp. 10-11.

If a young person's asylum application is rejected after they've turned 18, the state is absolved of responsibility for ensuring that repatriation will be met with reception by "a relative or public authority."<sup>230</sup> They are required to leave the country within a set period of time, risking a "re-entry ban" for a period of years for noncompliance, and cannot ask for their case to be appealed. Along with other third-country nationals, former unaccompanied minors from the age of 18 and up "lose their daily allowance and accommodation" if they fail to return voluntarily upon receiving a return decision.<sup>231</sup> Furthermore, individuals issued a voluntary return are primarily responsible for covering travel costs, however "the Swedish Migration Agency can help [...] reserve and pay for the ticket."<sup>232</sup>

### *4.3 Positive Legal Developments*

Despite the challenges that continue to await many unaccompanied minors turning 18, recent years have indeed brought about positive developments in Member States' legal approaches to these young people.

In 2017, Italian Parliament passed law no. 47/17, or "Protection Measures for Unaccompanied Minors." Also known as the "Zampa" law, it is "the first comprehensive framework" regarding the protection of unaccompanied minors legislated by any Member State.<sup>233</sup> Its creation was spurred on by the increase in unaccompanied minors entering Italy from North Africa via the Central Mediterranean route, which UNICEF recognizes to be among the deadliest migration routes in the world. As of 2019, more than 4,000 individuals had signed up to be a voluntary guardian.<sup>234</sup> The law also stipulates that unaccompanied minors who have demonstrated initiative to integrate can benefit from the extension of a residence permit, as well as concurrent social

---

<sup>230</sup> "When You Turn 18 Years," Swedish Migration Agency.

<sup>231</sup> EMN, "Approaches to Unaccompanied Minors Following Status Determination," 2018, p. 16.

<sup>232</sup> "Returning voluntarily," Swedish Migration Agency, February 28, 2020, accessed December 22, 2020, <https://www.migrationsverket.se/English/Private-individuals/Leaving-Sweden/Rejection-of-application-for-asylum/Returning-voluntarily.html>.

<sup>233</sup> UNICEF, "UNICEF Hails New Italian Law to Protect Unaccompanied Refugee and Migrant Children as Model for Europe," news note, March 29, 2017, UNICEF Press Center, accessed December 22, 2020, [https://www.unicef.org/media/media\\_95485.html](https://www.unicef.org/media/media_95485.html).

<sup>234</sup> European Commission, Proceedings of 12<sup>th</sup> European Forum on the Rights of the Child: Where We Are and Where We Want to Go, April 2-3, 2019, Brussels, p. 5, accessed December 22, 2020, [https://ec.europa.eu/info/sites/info/files/report\\_eu\\_forum\\_roc\\_2019.pdf](https://ec.europa.eu/info/sites/info/files/report_eu_forum_roc_2019.pdf).

service support, through their 21<sup>st</sup> birthdays (Article 13(2)). The Zampa law has been praised by organizations such as UNICEF as an example toward which other EU States may look.<sup>235</sup>

In 2018, the Court of Justice of the EU (CJEU) ruled that unaccompanied minors who turned 18 prior to receiving an asylum decision could still benefit from family reunification rights for children. The ruling stemmed from case C-550/16 *A and S*, which concerned an unaccompanied Eritrean girl who had been granted asylum in the Netherlands, but was denied family reunification as she was not able to request it until after turning 18.<sup>236</sup> The Court argued that “if family reunification requests hinge on the date that asylum was granted,” outcomes would differ across Member States due to their respective processing times.<sup>237</sup> Thus, in order to fully grant unaccompanied young people their rights under the Family Reunification Directive, States must consider the age and date upon which the individual lodged their asylum claim as decisive.<sup>238</sup> Notably, the young person must apply for family reunification within three months of receiving a positive decision. Furthermore, some Member States continue to vary approaches when selecting “the decisive date on which an applicant’s age is determined for the purposes of applying to the Dublin III regulation.”<sup>239</sup> Germany, for example, requires the application to be filed, *and* the family to enter Member State territory, while the applicant is still underage.

A number of States have also improved former unaccompanied minors’ access to particular goods, services or institutions. In 2017, Ireland made it obligatory for social workers to coordinate individualized after-care plans for unaccompanied minors aging out of care.<sup>240</sup> Spain recently reformed regulations on labor market access for unaccompanied minors turning 18, ruling in 2020 that young people can be granted permission to stay in the country based on “their integration path rather than their participation in the labor market.”<sup>241</sup> This removes pressure from a previous ruling which had required proof of independent income for 18 year olds to

---

<sup>235</sup>AGA, Law 7 April 2017, no. 47, <https://www.garanteinfanzia.org/sites/default/files/law-no-47-of-2017-on-uams-en.pdf>.

<sup>236</sup> European Commission. “Unaccompanied minors and family reunification: asylum date application is decisive, states the CJEU,” Eur-Lex, April 25, 2020, accessed December 20, 2020, <https://eur-lex.europa.eu/content/news/unaccompanied-minors-family-reunification-asylum-date-application.html>

<sup>237</sup> <https://www.ednh.news/eu-court-refugees-who-turn-18-during-asylum-process-can-bring-family/>.

<sup>238</sup> European Council on Refugees and Exiles, “ECRE/ ELENA Legal Note on Ageing Out and Family Reunification,” p. 8.

<sup>239</sup> European Council on Refugees and Exiles, “ECRE/ ELENA Legal Note,” p. 4.

<sup>240</sup> EMN, “Approaches to Unaccompanied Minors Following Status Determination,” 2018, p. 28.

<sup>241</sup> EMN, “Approaches to Unaccompanied Minors Following Status Determination,” 2018, p. 18.



renew their residence permits. In recent years, Member States such as Poland and Estonia have also introduced laws requiring local authorities to continue supporting former unaccompanied minors, if those young people have rights to stay in the country and are pursuing higher education.<sup>242</sup>

As of November 2020, Greece's Migration Ministry announced that no unaccompanied minors remained held in police custody.<sup>243</sup> This practice, which began in 2001, has been widely condemned in recent years by bodies including the European Court of Human Rights. Since early 2020, unaccompanied minors formerly housed in police stations have been "transferred to shelters or to other [EU] countries," or reunited with family.<sup>244</sup>

Finally, as of 2021, discussions are being held with the aim of reforming the EU's asylum system to more equitably distribute pressure the burden across the Union. Member States are in the negotiation phase of determining new guidelines, officially titled the "New Pact on Migration and Asylum." Likely reform areas will include "border screenings, accelerated asylum procedures" and asylum distribution regulations.<sup>245</sup>

#### *4.4 Conclusion: Are Commitments to Unaccompanied Minors Upheld in Member State Approaches?*

This chapter has largely emphasized the protection gaps and inconsistencies that await unaccompanied minors turning 18 under EU law. In employing such a focus, this chapter is in no way attempting to argue that Member States should cease to hold control over their respective bodies of national migration law. Rather, it is arguing that adolescents and young adults who entered Member State territory as unaccompanied minors, are still in need of specialized protection from the State after they've turned 18.

---

<sup>242</sup> EMN, "Approaches to Unaccompanied Minors Following Status Determination," 2018, p. 16.

<sup>243</sup> Marion MacGregor, "Greece: 'No More Unaccompanied Minors in Police Custody,' as Report Slams Detention, Pushbacks," InfoMigrants, November 19, 2020, accessed December 22, 2020, <https://www.infomigrants.net/en/post/28635/greece-no-more-unaccompanied-minors-in-police-custody-as-report-slams-detention-pushbacks>.

<sup>244</sup> MacGregor, "Greece: 'No More Unaccompanied Minors in Police Custody,' as Report Slams Detention, Pushbacks."

<sup>245</sup> Charlotte Hauswedell, "EU Asylum Policy: Portugal Pushes Forward to Find Common Ground," InfoMigrants, January 06, 2021, [PAGE], accessed January 28, 2021, <https://www.infomigrants.net/en/post/29470/eu-asylum-policy-portugal-pushes-forward-to-find-common-ground>).

By ratifying the CRC, every EU Member State has legally bound themselves to upholding its core principles, including the best interests of the child and a commitment to seeing that *all* children on their respective territory enjoy healthy development. These core safeguards are echoed as well in the EU's own child-specific legislation, the same legislation in which unaccompanied minors' inherent vulnerabilities and needs for protection are made clear. That EU States demonstrate so many approaches to these very same young people once they enter adulthood, however, raises the question as to whether a consistent approach, including the recognition of former unaccompanied minors up a certain age as a distinct group, would protect young migrants from certain risks such as exploitation.

Early adulthood is already a time of great change in one's life. For unaccompanied minors developing into young adults while in the EU, the inherent unknowns of adolescence may be met with even more uncertainty as to what awaits them at 18. This can be incredibly stressful for young people. The prospect of returning to their countries of origin, where they may have very few resources and remaining personal connections, may lead young people to abscond and seek asylum in other EU States.

Member States' legislative and practical approaches underline a number of instances whereby unaccompanied young migrants' best interests are seemingly not taken into full account. For one, the inclusion of unaccompanied minors in the national child welfare system implicitly assumes that unaccompanied minors are as equipped as native-born young people to navigate the system as adults. Unaccompanied young people will inherently have less knowledge about, and ability to navigate, their host country's social services than will an average national of the same age. They are also coping with a fundamental change in their legal status, and potentially their very right to be in that country, which young citizens clearly do not experience. Certain Member States' grouping of unaccompanied minors with young nationals, while it may facilitate some integration, fails to account for the specialized support unaccompanied minors often need in their transition to adulthood. The lack of specialized support can also counteract integration efforts whilst they are young adults, as they may face more barriers to accessing institutions including education and the workforce.

The shift from minority to majority does not occur in a vacuum. Children do not stay children forever, and as such a complete assessment of their best interests necessitates including what that

child will need come adulthood. Whether a child becomes a successful young adult is very much informed by the institutional support they receive whilst underage. As such, Member States should strive to attain a common approach to unaccompanied young people as they turn 18.

## Chapter Five

### *Challenges Facing Unaccompanied Minors in the Transition to Adulthood*

The previous chapters have largely focused on unaccompanied minors' transition to adulthood as it is addressed, and shaped, by the law. This final chapter will return to the interdisciplinary approach of Chapter Two, and emphasize a number of factors, beyond the law, that drive former unaccompanied minors' experiences during early adulthood.

This chapter will employ a psychosocial approach, rather than legal one, to address the multi-faceted web of influences and issues facing unaccompanied minors at the moment of their transition to adulthood. It will include discussions on engagement in risk-taking behaviors, the influences of culture and trauma, and the manifestation of mental health vulnerabilities.

This chapter will build upon previous arguments that, for unaccompanied young people in migration, legal legitimization of their presence in a host country is crucial for healthy development and overall well-being. In the absence of such legitimacy, these young adults are especially exposed to a great many risks stemming from an insecure relationship with the law. These risks, in turn, inform how unaccompanied young people navigate their host societies.

In focusing largely on vulnerabilities, which will be approached primarily as barriers to integration and personal success, this chapter is not attempting to negate the personal resilience and capabilities of many current and former unaccompanied minors. Nor is it trying to argue that this group is entirely without agency. Rather, what the evidence presented below will highlight are the macro-level consequences which can manifest in the absence of comprehensive and direct legal frameworks aimed towards a particularly vulnerable population.

#### *5.1 Risks Associated with Homelessness and Material Insecurity*

Insecurity stemming from lack of housing and other services is a common problem for unaccompanied minors ageing out of child-specific care. In lieu of formal accommodation, young adults, as well as teenagers nearing their eighteenth birthdays, may resort to sleeping rough, squatting, or living with unknown adults. Alongside trauma and intense anxiety about the future linked to an uncertain legal status, housing insecurity is a major instigator of teenagers and young adults engaging in risky behavior. Whether it is out of necessity or as a means to cope, former unaccompanied minors outside the legal

system are at risk of falling into a variety of dangerous behaviors, including “drug and alcohol addiction, violence and prostitution.”<sup>246</sup> Insecurity also creates a higher risk of being trafficked, both before and after turning 18.

Prostitution in particular can be a draw for young asylum seekers who have limited financial support while awaiting decisions on their asylum applications. Such is the case in Berlin’s Tiergarten park, where teenage boys and young men, the majority of whom are Afghans belonging to the Shia Hazara minority, “can be found selling sex to the hundreds of buyers who pass through” every day.<sup>247</sup> A similar scene can be found in Athens’ Victoria Park, where teenage asylum seekers prostitute themselves to older, European men.<sup>248</sup> In Athens, the majority of victims are Afghan again boys. One report found that those at greatest risk of sexual exploitation in Greece are the young men “aged 18 and just above,” as they are no longer eligible for the support afforded unaccompanied minors.<sup>249</sup>

Particularly for Muslim boys and young men, engaging in “same-sex sex work is one of the most shameful things to do.”<sup>250</sup> For these boys and young men, prostitution demonstrates not only a desperate need for resources but “a loss of a sense of self-worth and dignity,” often exacerbated by difficulties faced on their journey to, and through, Europe.<sup>251</sup> Though prostitution of minor and young adult asylum seekers is occurring in public spaces, it is not necessarily acknowledged by local communities. This is not necessarily due to the fact that they are unaware, but rather, as is the case in Berlin, that it “[is] happening right in front of them [...] and no one [wants] to see it.”<sup>252</sup>

Prostitution often goes hand-in-hand with drug abuse, as the boys and young men search for ways to cope. There is a general a lack of data surrounding drug use and crime among this

---

<sup>246</sup> Brun, “Men and boys in displacement,” p. 10.

<sup>247</sup> Kate Hodal, “A Step Away from Hell:’ The Young Male Refugees Selling Sex to Survive,” *The Guardian*, February 21, 2020, accessed December 22, 2020, <https://www.theguardian.com/global-development/2020/feb/21/a-step-away-from-hell-the-young-male-refugees-selling-sex-to-survive-berlin-tiergarten>.

<sup>248</sup> Arwa Damon, Barbara Arvanitidis, and Clayton Nagel, “The Teenage Refugees Selling Sex on Athens Streets,” *CNN*, March 14, 2017, accessed December 22, 2020. <https://www.cnn.com/2016/11/29/europe/refugees-prostitution-teenagers-athens-greece/index.html>.

<sup>249</sup> Brun, “Men and boys in displacement,” pp. 11-12.

<sup>250</sup> Brun, “Men and boys in displacement,” p. 12.

<sup>251</sup> Ibid.

<sup>252</sup> Hodal, “A Step Away from Hell.”

population; as it stands, the participation of unaccompanied minors in both is “rarely acknowledged in the international research literature.”<sup>253</sup> What information does exist is largely observational, and specific to particular agencies. Such is the case in Sweden. According to the Swedish Ombudsman for Children, unaccompanied minors who run away from care may “end up on the street and in contexts in which they are exposed to abuse, criminality and drugs.”<sup>254</sup> The Swedish Police have also reported higher incidences of unaccompanied minors participating in drug use, particularly involving heroin. In 2017, the chief of police in Järva, northern Stockholm, reported that “nine out of ten cases” of suspected heroin use concerned unaccompanied minors.<sup>255</sup> It is not irrelevant that the majority of unaccompanied minors in Sweden are of Afghan origin, as Afghanistan has recently been dealing with a heroin epidemic.

With the extension of procedural and wait times for asylum decisions in several EU States, more and more unaccompanied minors approaching majority are exposed to the risks that come with missing out on child-specific guarantees. In 2017, the average processing time of asylum applications in Sweden was 19.3 months, and in Austria, “unaccompanied children often wait[ed] for more than 15 months for a first instance decision” on their applications.<sup>256</sup> Of the roughly 31,400 unaccompanied minors who applied for asylum in the EU that year, almost 80% were between the ages of 16 and 17. Time lost along the migration route also matters; a May 2017 report from UNICEF cited IOM data that more than three quarters of the 1,600 14-17 year-olds “who arrived in Italy via the Central Mediterranean route reported [...] being held against their will” or being forced into unpaid labor while traveling.<sup>257</sup> Such delays can mean that they are racing against the clock to receive protection as minors from the EU, before they’ve even reached Europe.

---

<sup>253</sup> Anna-Karin Ivert and Mia-Maria Magnusson, “Drug Use and Criminality among Unaccompanied Refugee Minors: A Review of the Literature,” *International Journal of Migration, Health and Social Care* 16, no. 1 (2019): 93-107, accessed December 22, 2020, doi:10.1108/ijmhsc-05-2019-0050.

<sup>254</sup> Ivert and Magnusson, “Drug Use and Criminality among Unaccompanied Refugee Minors.”

<sup>255</sup> “Heroin Use Rampant among Sweden Child Refugees: Addiction Centre,” *TheLocal.se*, January 15, 2017, accessed December 22, 2020, <https://www.thelocal.se/20170115/heroin-use-rampant-among-sweden-child-refugees>.

<sup>256</sup> European Council on Refugees and Exiles, “ECRE/ ELENA Legal Note,” p. 4.

<sup>257</sup> UNICEF, “A child is a child: Protecting children on the move from violence, abuse and exploitation,” Executive summary, May 2017, p. 2, accessed 22, 2020, [https://www.unicef.org/publications/files/UNICEF\\_A\\_child\\_is\\_a\\_child\\_Executive\\_Summary\\_May\\_2017.pdf](https://www.unicef.org/publications/files/UNICEF_A_child_is_a_child_Executive_Summary_May_2017.pdf).

That unaccompanied minors nearing adulthood are more vulnerable to these dangers is especially concerning in light of how many disappear annually whilst still underage. From January to August 2015, almost 60% of unaccompanied minors who entered Italy disappeared after initial registration. Girls and young women are at a particularly high risk, and it is estimated that up to half of female unaccompanied minors disappear every year.<sup>258</sup> It is difficult to implement safeguards surrounding unaccompanied minors who abscond or otherwise go missing, as so little is known about where they go. Based on what information *is* available, it is thought that these young people “may fall victim of kidnapping, trafficking, illegal labor, sexual exploitation or prostitution.”<sup>259</sup>

### 5.2. *Childhood Trauma*

Young people who undertake dangerous migration journeys alone often carry the impact of traumatic experiences. Particularly in key refugee and asylee-sending countries such as Syria, Iraq and Afghanistan, recent generations of children have grown up, and are continuing to grow up, against a backdrop of persistent, violent conflict. Many unaccompanied minors who arrive to the EU witness firsthand “family members killed [...] dead bodies and blood in the streets, and bombs destroying their homes” before they are even teenagers.<sup>260</sup> Some have grown up facing violence *at* home as well; in one group of refugee men surveyed in Lebanon, more than half were found to have experienced some form of abuse at the hands of family members.<sup>261</sup>

Even those teenagers coming from countries the EU recognizes as “safe,” and countries which are known for sending migrants rather than refugees, have not escaped childhood unscathed by violence, be it general or age- and gender-specific. In Nigeria, for example, the “outsourcing” of violence to local boys and young men by the elites has been a longtime occurrence.<sup>262</sup> Afghanistan, too, is now considered safe by the EU, despite the

---

<sup>258</sup> Pietro Ferrara, Giovanni Corsello, Annamaria Sbordone, Luigi Nigri, Olga Caporale, Jochen Ehrich, and Massimo Pettoello-Mantovani, “The ‘Invisible Children’: Uncertain Future of Unaccompanied Minor Migrants in Europe,” *The Journal of Pediatrics* 169 (2016): 332-33, p. 332, accessed December 22, 2020, doi:10.1016/j.jpeds.2015.10.060.

<sup>259</sup> Ferrara et al, “The ‘Invisible Children,’” p. 332.

<sup>260</sup> Bloom and Horgan, *Small Arms*, p. 4.

<sup>261</sup> Brun, “Men and boys in displacement,” p. 10-11.

<sup>262</sup> Smith, Stephen, *The Scramble for Europe: Young Africa on its Way to the Old Continent* (Cambridge: Polity, 2020), p. 35.

widespread violence, including targeted killings under growing Taliban rule, and material instability exacerbated by high numbers of IDPs.<sup>263</sup> Children also continue to account for roughly one-third of civilian deaths in the country.<sup>264</sup>

For young people to experience long-term traumatization due to violence, they do not necessarily have to be its direct targets. Research on Black inner-city youth in the United States has shown that witnessing violence during childhood, may produce “serious consequences for the child’s mental health,” which mirror those responses shown in children who were direct victims.<sup>265</sup> Common PTSD symptoms were displayed both by children who had witnessed the murder of a parent, and by those who had randomly experienced acts of violence in the community. This included a common “sense of futurelessness characterized by children’s belief that they [would] not reach adulthood.”<sup>266</sup> Children who had been exposed to violence further demonstrated a decrease in self-esteem.

The personal traumas of unaccompanied minors mirror those found among the American children. For example, witnessing conflict during childhood or adolescence means many unaccompanied minors lost a parent, sibling or other close relative. As the gendered nature of conflict means that men are more likely to die in combat, this has particularly resulted in the loss of male family members. Research suggests that boys in particular are affected by fatherlessness. In studies conducted throughout the world, boys who grow up without fathers have been found to increasingly display behaviors such as attention-seeking and aggression.<sup>267</sup>

---

<sup>263</sup> ECRE, “Joint Statement: Afghanistan is Not Safe: the Joint Way Forward Means Two Steps Back,” ECRE Weekly Bulletin, September 15, 2020, accessed December 20, 2020, <https://www.ecre.org/joint-statement-afghanistan-is-not-safe-the-joint-way-forward-means-two-steps-back/>.

<sup>264</sup> Evan Schuurman, “Children Made up a Third of Civilian Casualties in Afghanistan so Far This Year,” Save the Children Australia, July 28, 2020, accessed December 22, 2020, <https://www.savethechildren.org.au/media/media-releases/children-civilian-casualties-afghanistan#:~:text=Save%20the%20Children%20expresses%20alarm,almost%20a%20third%20were%20children.>

<sup>265</sup> Carl C. Bell and Esther J. Jenkins, “Traumatic Stress and Children” *Journal of Health Care for the Poor and Underserved* 2, no. 1 (1991): 175-85, p. 175, accessed December 22, 2020. doi:10.1353/hpu.2010.0089175.

<sup>266</sup> Bell and Jenkins, “Traumatic Stress and Children,” p. 176.

<sup>267</sup> Jivani, *Why Young Men*, p. 9.



On top of trauma incurred due to events in one's home country, the distressing experiences faced both along the migratory route and within the host country can have an additional impact. In recent years, horrific human rights abuses have been documented in Libya, as sub-Saharan Africans attempting to make their way to Europe have been held in conditions akin to modern-day slavery.<sup>268</sup> Violence against people on the move is also very much gendered; where women and girls are more likely to face sexual assault and rape, men and boys are often targeted for forced labor, as well as violent attacks from members of the host community. Unaccompanied teenage boys and men are also more likely to face harassment and hostility from border guards at checkpoints.<sup>269</sup> That is not to say that violence, including sexual violence, knows any sort of gendered bounds; men and boys too are victims of sexual assault and rape, and women and girls are targets of violent physical attacks.

There is some evidence to suggest that trauma during childhood, particularly exposure to violence, may be a contributing factor to how susceptible one is to engage in violence themselves as an adult. An example of this concerns young adults from Albania "who witnessed their mothers being sexually violated by Serbian militias during the Kosovo war."<sup>270</sup> Years after, recruiters from IS and various other jihadi groups were able to tap into, and exploit, those "feelings of helplessness as young children and persuade them to join the jihad." Such recruitment tactics, designed to appeal to the uncertainty of early adulthood, continue to appear today. Often, this uncertainty is related to factors such as "immigration and racial or religious identity," along with general dissatisfaction.<sup>271</sup>

This research is not claiming, and it would be incorrect to state, that growing up amidst conflict has turned former unaccompanied minors into ticking time bombs of radicalization. In fact, a substantial number of teenagers flee their home countries so as to *avoid* becoming involved in conflict. Still, the potential impact of childhood experiences

---

<sup>268</sup> Aryn Baker, "'It Was As If We Weren't Human.' Inside the Modern Slave Trade Trapping African Migrants," *Time*, March 14, 2019, accessed December 22, 2020, <https://time.com/longform/african-slave-trade/>.

<sup>269</sup> Brun, "Men and boys in displacement," p. 8.

<sup>270</sup> Bloom and Horgan, *Small Arms*, p. 144.

<sup>271</sup> Jivani, *Why Young Men*, p. 137.

of violence is crucial to consider as responsible parties draw up transition and aftercare plans for unaccompanied minors.

### *5.3 Mental Health Implications: Depression, Suicidality and other Vulnerabilities*

The impact of displacement and concurrent experiences on unaccompanied minors' and young adults' mental health has become increasingly explored only in recent years. A variety of factors place unaccompanied minors transitioning to adulthood at particular risk for mental health problems. This can partially be attributed to the developmental stage of adolescence, as discussed in Chapter Two; on top of this, however, are the various traumas and stressors experienced along their journey, as discussed above.

Several studies published since 2015 have highlighted the impact of trauma and stress on unaccompanied minors' behavioral and mental health. One way this can manifest is through self-harm. Adolescents often engage in self-harm as a way to cope with, as well as numb out, emotions or other stressors.<sup>272</sup> It can particularly be an outlet for those young people who feel they're unable to access other forms of therapeutic support—as is often the case for refugee and migrant youth in Europe.

A 2016 Health Needs Assessment on unaccompanied asylum seeking children, conducted by the Kent Public Health Observatory, found that up to 48% of unaccompanied minors showed symptoms “consistent with mental illness.”<sup>273</sup> Among the most observed symptoms were those associated with PTSD, agoraphobia and mood disorders. Seventy-five percent of the unaccompanied minors were aged 16-17.

In Sweden particularly high presentations of suicidality, and instances of death by suicide, were also found among unaccompanied minors seeking asylum. Amongst 14-18 year olds in particular, the rate of death by suicide in 2017 was eight times the rate displayed by 14-18 year olds from the host population.<sup>274</sup> The majority of victims, all of

---

<sup>272</sup> Ferentz, Lisa, *Treating Self-destructive Behaviors in Trauma Survivors: A Clinician's Guide* (New York: Routledge, 2015), p. 44.

<sup>273</sup> Kent Public Health Observatory, “Health Needs Assessment- Unaccompanied children seeking asylum,” Kent City Council, March 2016, p. 7, accessed December 22, 2020, [https://www.kpho.org.uk/data/assets/pdf\\_file/0011/58088/Unaccompanied-children-HNA.pdf](https://www.kpho.org.uk/data/assets/pdf_file/0011/58088/Unaccompanied-children-HNA.pdf).

<sup>274</sup> Ellenor Mittendorfer-Rutz, Ana Hagström, and Anna-Clara Hollander, “High Suicide Rates Among Unaccompanied Minors/Youth Seeking Asylum in Sweden,” *Crisis* 41, no. 4 (2020): 315, accessed December 22, 2020, doi:10.1027/0227-5910/a000636.

whom were boys, had still been awaiting a decision on their asylum applications when they died.

Furthermore, all had initially lodged their applications in 2015, meaning they had been awaiting a decision for roughly of two years, before committing suicide. The study thus suggests that lengthy processing times could contribute to poor mental health and suicidality in this population. The concentration of deaths among teenagers still awaiting a decision “is in contrast to a common belief that refusal of an application constitutes a trigger for suicidal behavior.”<sup>275</sup> The study further reported that 67% of the unaccompanied minors who had died by suicide, had past experiences of violence and poverty.

The authors noted that these rates were high not only from a national perspective, but from an international one. The fact that these suicides occurred in Sweden is not insignificant, as the country has been regarded by young asylum seekers as a top destination because of its services. Therefore, this data suggests that the conditions with which unaccompanied minors are met in their host countries, if those conditions are positive, may not be enough to adequately address mental health risk factors. Rather, it is likely a more direct and complex intervention will be required.

One 2017 case from Sweden involves a former unaccompanied minor from Afghanistan who committed suicide upon the rejection of his and his younger brothers’ asylum applications. The young man, named Assad, had already been in the country when his brother, Esmat, arrived in 2015—at this time, both were still underage. Once he turned 18, however, the Swedish Migration Authority decided Assad “would be able to care for his now 16-year-old brother in Afghanistan, and thus that there were no impediments to their deportation.”<sup>276</sup> This was despite the fact that Assad had a serious visual impairment, and both of the boys’ parents were dead.

After Assad’s death, the Swedish Migration Authority “subsequently changed their decision on Esmat’s case and he was granted permanent residency.”<sup>277</sup> Furthermore, they later admitted that

---

<sup>275</sup> Mittendorfer-Rutz et al, “High Suicide Rates Among Unaccompanied Minors/ Youth Seeking Asylum in Sweden,” 316.

<sup>276</sup> Eule et al, *Migrants Before the Law*, p. 196.

<sup>277</sup> *Ibid.*

both Assad's age and disability "made it unreasonable to assume that he alone would be able to constitute a sufficient network" for Esmat.<sup>278</sup> However, it was too little, too late for Assad.

Assad's story is not an isolated one. In an interview with *The New Arab*, Susanne Durehead, a therapist with the Red Cross Treatment Centre for Persons Affected by War and Torture, describes how the looming threat of deportation can become incredibly burdensome for many young people. According to Durehead, it is not uncommon for unaccompanied minors to exhibit a marked decrease in motivation to carry out routines such as going to school, as they near their eighteenth birthdays. Faced with the potential of being "sent back, next month, next year or in three years," such tasks seem to lose meaning.<sup>279</sup> On top of the psychological burden that can come from the uncertainty of deportation, in ceasing their education teenagers are losing a crucial opportunity for further socialization and growth.

Failure to address teenagers' mental health needs, including those linked to early trauma, can have severe consequences later in life. It is not uncommon for trauma survivors who engaged in self harm as teenagers, to still be "doing versions of self-destructive behaviors in their 40s, 50s and 60s."<sup>280</sup> Lisa Ferentz, LCSW, suggests this persistence is tied to the fact that most therapy approaches focus on "simply attempting to extinguish the behavior," as opposed to addressing the underlying trauma.<sup>281</sup> Hence, when stressors come up in later life, they may trigger response mechanisms tied to the initial, unresolved experience.

#### *5.4 Consequences of Return*

If it happens that their asylum application is rejected, or if they are required to leave their host country for other reasons upon reaching adulthood, former unaccompanied minors may be forced to return to their countries of origin. Forcible repatriation can pose a number of challenges for young adults. Especially for those who arrived in the EU as young children, there may be little sense of identification with the communities to which they are going back. They are thus tasked with integrating into a society in which they may have few remaining ties. The situation is

---

<sup>278</sup> Eule et al, *Migrants Before the Law*, p. 196.

<sup>279</sup> Kessler, "Despite Its Liberal Reputation, Sweden Proves No Safe Haven for Afghan Refugees."

<sup>280</sup> Ferentz, *Treating Self-Destructive Behaviors in Trauma Survivors*, p. 6

<sup>281</sup> Ibid.

equally difficult for those who entered the EU as teenagers, as they once more must cope with displacement. Particularly for those young men who were expected to support their families back home, or even help them make their own journey to Europe, repatriation can be “bound up with a sense of rejection and failure.”<sup>282</sup> If turning 18 means returning home, therefore, adulthood for males can arrive hand-in-hand with a “loss of gendered identity.”<sup>283</sup>

Beyond feelings of failure, the consequences of deportation can become a matter of life-and-death. Not only are returned individuals once more exposed to the very dangers from which they fled, but they may be at heightened risk of direct targeting from terrorist groups. For example, reports have come out in recent years of the Afghan Taliban capturing and killing deported refugees in retaliation for their leaving the country.<sup>284</sup>

The struggle to integrate after forced repatriation can be even further complicated for young people who were born into, or spent much of their childhoods in, displacement outside their or their parents’ country of origin. Such is the case with those Afghan unaccompanied minors who “have spent much of their young lives displaced in Iran or Pakistan before travelling on towards Europe.”<sup>285</sup> For these young people, being “returned” to a country with which they have very little association serves only to exacerbate their feelings as an outsider.

### *5.5 Conclusion: Barriers to Care*

This information demonstrates a crucial need for psychosocial services among unaccompanied teenagers and young adults. Yet, there continue to be barriers around making mental health care accessible. Evidently, the absence of comprehensive human rights legislation is one such barrier; however, in their transition to adulthood, unaccompanied minors interact with a number of other institutions and influences.

For one, there is fact that psychosocial needs remain largely unaddressed in Muslim-majority societies. Many of these young people have grown up in cultures that stigmatize the discussion and presentation of mental illness, and this can lead to challenges when

---

<sup>282</sup> Williams, “‘Durable Solutions’ When Turning 18,” p. 193.

<sup>283</sup> Brun, “Men and Boys in Displacement,” p. 12.

<sup>284</sup> Kessler, “Despite Its Liberal Reputation, Sweden Proves No Safe Haven for Afghan Refugees.”

<sup>285</sup> Williams, “‘Durable Solutions’ When Turning 18,” p. 194.

attempting to address trauma and other psychiatric needs. Research conducted in Qatar, Kuwait and Egypt—much of which focused on Arab expatriate workers including Syrians, North Africans and Sudanese—demonstrates the barriers family life in these cultures sometimes creates to the recognition of mental illness. This includes a theme of “associative stigma,” in that abnormal behavior (such as that demonstrated through the presentation of mental illness) “brings social shame not only upon the patient but also upon his or her family.”<sup>286</sup>

As research on Arab-American adolescent victims of sexual abuse has demonstrated, such barriers are also heavily gendered. Therapeutic work with young women can be particularly difficult, as “traditional Arab women in some societies [...] have been culturally conditioned to reveal little or no depth of emotions” to those they don’t know, including therapists and other psychosocial professionals.<sup>287</sup> Female victims reportedly demonstrate higher levels of shame, due to “implications [...] that she is undesirable, disgraceful, and has singlehandedly besmirched the family name.”<sup>288</sup> For Arab boys, who have been socialized to be tough and assertive, the sexual assault may bring about feelings of failed masculinity. Beyond cultural attitudes, unaccompanied minors may not have the resources to identify instances of grooming or other sexual predation, which can prevent them from reporting assault and thus receiving care.<sup>289</sup>

Barriers are also a result of state and humanitarian organization biases—particularly when it comes to addressing the needs of males. Examining both humanitarian and societal (particularly host community) response, adolescent boys and single men, particularly young men, appear to be the group whose particularly vulnerabilities are the most often overlooked where displaced populations are concerned.

Single men in particular “often lack a clear place within humanitarian response frameworks,” and therefore receive fewer targeted services than do women, children and

---

<sup>286</sup> El-Islam, M. Fakhir, “Arab Culture and Mental Health Care,” *Transcultural Psychiatry* 45, no. 4 (2008): 674, accessed December 22, 2020, doi: 10.1177/1363461508100788.

<sup>287</sup> El-Islam, “Arab Culture and Mental Health Care,” p. 673.

<sup>288</sup> Karen L. Haboush and Hala Alyan, ““Who Can You Tell?” Features of Arab Culture That Influence Conceptualization and Treatment of Childhood Sexual Abuse,” *Journal of Child Sexual Abuse* 22, no. 5 (2013): 510, accessed December 22, 2020, doi:10.1080/10538712.2013.800935.

<sup>289</sup> Kent Public Health Observatory, “Health Needs Assessment,” p. 23.

families.<sup>290</sup> This is informed by a number of factors; for one, humanitarian agencies, their donors and governments are likely to see men as being the most equipped to take care of themselves. Consequently, not only are they assumed to be the least vulnerable population, but organizations feel an emphasis on men will attract the least donor interest. Compared to women and younger children, “the situation and specific needs of single male refugees is often less understood.”<sup>291</sup>

Beyond a doubt, women and children in displacement face particular, and extreme, vulnerabilities. But the perception of one group as vulnerable, should not negate the risks faced by others. As this chapter has demonstrated, displaced young adults, including young men, are not free of their own immense challenges.

---

<sup>290</sup> Brun, “Men and Boys in Displacement,” p. 5.

<sup>291</sup> Brun, “Men and Boys in Displacement,” p. 4.

## Conclusion

### *How Should the EU Proceed?*

This research has attempted to demonstrate the lack of provisions and protections, in both EU and international human rights law, for unaccompanied minor asylum seekers in their transition to adulthood. It has placed the psychosocial and developmental needs of this population in conversation with international and EU frameworks, so as to highlight the disconnect between the two. Overall, this research has argued that the EU's collective approach to unaccompanied minors after they've turned 18, neither aligns with nor supports its human rights-based approach to those same young people while they are still underage. What can be surmised from the disconnect between the law and the tangible experiences of unaccompanied minors on the brink of adulthood, is that a number of displaced young people may miss out on the opportunity to thrive.

From a number of standpoints, it is of course necessary for society to have a legal age of majority. Age is a clear category upon which states can define their relationship with various subsections of the general population. The passage to adulthood also marks a crucial point in a young person's psychosocial and professional development, as they not only acquire new responsibilities, but access to new rights and freedoms.

At the same time, a fundamental criterion of human rights in the EU is their nature of non-discrimination. The removal of support upon unaccompanied minors' eighteenth birthdays indicates both an assumption and expectation that they have access to the same resources as young people from the general population. The issue of guardianship, and its general termination once an unaccompanied minor has reached a pre-determined age, provides a further example. Implicit in the legal approach to former unaccompanied minors, is an expectation that they will in many ways out-perform young adults native to the host country. While it is of course not universally the case, there is a greater likelihood that young people native to the host country have greater access, in comparison to asylum seekers of their same age, to social, cultural and other crucial forms of capital.

It is difficult to foresee, at least in the near future, an approach which could realistically be applied in an equitable fashion across the entire EU27. There is an added challenge, in that



understanding the experiences of unaccompanied minors transitioning to adulthood also requires examining the attitudes of receiving communities towards migration. For an increasing number of Europeans, diversification due to recent years' migration has left them feeling like "strangers in their own land."<sup>292</sup> Any legislative approach must also be sensitive to the reactions of native Europeans concerning the migration that has occurred to Europe over the past five years. Governments must encourage productive initiatives to influence discourse surrounding public perceptions of displaced populations and vulnerability.

It is Brussels' responsibility, as well as the responsibility of national and local governments, to frame migration as a positive force for its citizens—or, if not positive, at least something to be tolerated. At some point, and some point soon, Europeans will have to be realistic about their own demographic future. Across the EU, countries' population pyramids are becoming increasingly inverted, as populations age and birthrates drop. In 2018, the live birthrate per woman in the EU was 1.55.<sup>293</sup> This is well below the replacement rate of 2.1. Eurostat data shows that several EU countries, including Cyprus, Greece, Spain and Italy, have respective total fertility rates which are closer to one, than they are to two.

Human rights law is at the very core of how States interact with beneficiaries of international protection. Its inclusions, and exclusions, are apt to be mimicked at all levels of government. As such, the language used to address current and former unaccompanied minors—particularly in the bodies of law pertaining to the EU—should reflect the demographic realities of this age group. Human rights law often relies upon the general term "children" to refer to all individuals under the age of 18. From a technical perspective, such language *is* accurate. From a practical perspective, however, it fails to recognize the distinct characteristics of the unaccompanied minors who are entering the EU, the majority of whom are in very close proximity to legal adulthood.

There is also a need for better data regarding unaccompanied minors and young adults who abscond, or disappear, upon arriving in Europe. Due to the link between disappearances and behaviors such as drug use and criminality, it is unsurprising that a data gap exists concerning

---

<sup>292</sup> Smith, *The Scramble for Europe*, p. 1.

<sup>293</sup> "Fertility Statistics," Statistics Explained, May 2020, accessed December 22, 2020, [https://ec.europa.eu/eurostat/statistics-explained/index.php/Fertility\\_statistics#:~:text=By contrast, the lowest total,, and Luxembourg \(1.38\)](https://ec.europa.eu/eurostat/statistics-explained/index.php/Fertility_statistics#:~:text=By contrast, the lowest total,, and Luxembourg (1.38))

these issues as well. The need for better data is furthered by the EU's lack of a uniform approach to address and prevent disappearances of unaccompanied minors. Where efforts do exist, as reported by EMN, they emphasize "counseling to inform the unaccompanied minor about the potential risks associated with disappearing from care facilities."<sup>294</sup>

Furthermore, the EU should consider establishing a binding instrument that pertains *specifically* to unaccompanied minors transitioning to adulthood. Various frameworks and other documents contain scattered mentions of the groups' needs. However, no cohesive, EU-wide instrument is available. Arguably, Member States' failure to establish comprehensive and universal legislation concerning unaccompanied minor's transition to adulthood, creates conditions that contradict fundamental frameworks such as the ECHR and Charter.

On the part of the international community, initiatives geared towards unaccompanied minors *must* be followed up with initiatives for unaccompanied minors transitioning to adulthood. Services for younger children, such as child-friendly spaces, remain crucial, and their necessity should not be downplayed. However, the organizations working with unaccompanied minors should approach this group with both a realistic expectation of their characteristics, and an emphasis on meeting needs in the long-term. This also includes securing donors who care just as much about the needs of a parentless 17 year-old, as they do a 9 or 10 year-old. Older teenagers and young adults do not become less in need of support, simply because younger children make a more popular fundraiser.

Additionally, NGOs and other humanitarian actors must work on holding themselves accountable concerning the need to address vulnerabilities of former unaccompanied minors. Evidently, it is crucial that the needs and vulnerabilities of younger unaccompanied minors remain at the forefront of human rights initiatives. However, involved actors—particularly those with global reach and authority such as UNICEF and UNHCR—must commit to emphasizing the needs of former unaccompanied minors, to the same extent they emphasize the needs of this population before they turn 18.

---

<sup>294</sup> EMN Inform, "Approaches to Unaccompanied Minors Following Status Determination in the EU Plus Norway," p. 3.

It is crucial that the social workers, therapists and other relevant psychosocial support personnel employed by Member States, are adequately trained to work with young people transitioning to adulthood. This includes making use of “culturally responsive practice,” a social work approach which draws upon “the cultural knowledge and experiences of diverse clients to inform the ways [...] practitioners engage, assess and intervene with them.”<sup>295</sup> Among their recommendations for improving data on displaced children, UNICEF suggests data be “disaggregated by standard age categories,” including adolescence.<sup>296</sup> Organizing data as such would undoubtedly benefit unaccompanied minors transitioning to adulthood, as they would be more visible prior to turning 18.

Changes to legislation are no small tasks, but there are resources towards which the EU can turn for guidance. In 2007, the Council of Europe introduced a recommendation that states assist unaccompanied minors in creating “life projects.”<sup>297</sup> Life projects are personalized tools which account for unaccompanied minors’ goals and needs, with a focus on the long-term future. They take a realistic, personal approach to durable solutions—and as such, they are particularly useful, and potentially empowering, tools for unaccompanied minors preparing to make the transition to adulthood. At the moment, however, there is little evidence or information as to whether life projects are being regularly implemented.

No matter the steps forward, all actors—governmental and non-governmental alike—must truly consider the weight placed on a young migrant’s eighteenth birthday. In its emphasis as a temporal barrier, “18” has come to represent the bridge, for unaccompanied minors, between two categories constructed as incompatible. Yet, the move from child to adult is *not* a definitive step from one realm to the next. It is, as this research has demonstrated, a continuous process. Not just for the sake of migrants, but for all young people, law makers must question why certain bodies of legislation ignore human reality. After all, it is we who must live out the consequences of the law—therefore, it is to the realities of our lives that the law must speak.

---

<sup>295</sup> Alan J Dettlaff and Rowena Fong, eds., *Immigrant and Refugee Children and Families* (New York: Columbia University Press, 2016), PDF, p. 15.

<sup>296</sup> UNICEF, IOM, UNHCR, Eurostat, and OECD, *A Call to Action: Protecting Children on the Move Starts with Better Data*, Report, 2018, PDF, 4.

<sup>297</sup> Council of Europe, *Life projects for unaccompanied migrant minors*, Recommendation CM/REC(2007)9, adopted July 12, 2007 (Strasbourg: Council of Europe, 2007), PDF.

## Appendix A: Figures

*Figure 1: Asylum Applications, Including First-Time Applicants, Lodged in the EU28 2014-2019<sup>298</sup>*

Year	Total Asylum Applications Lodged	Number of First-Time Applicants
2014	626,960	562,680
2015	1,322,845	1,256,855
2016	1,260,910	1,206,045
2017	712,735	654,610
2018	664,405	602,515
2019	744,795	675,515

---

<sup>298</sup> "Asylum and first time asylum applicants by citizenship, age and sex-annual aggregated data (rounded)," Eurostat, accessed December 21, 2020, [https://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr\\_asyappctza&lang=en](https://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr_asyappctza&lang=en).

Figure 2: 2: Representation of unaccompanied minors among asylum applicants, including aged 16-17.<sup>299</sup>

Year	Number of asylum applications from unaccompanied minors lodged in EU28	Number of applicants aged 16-17	% of applicants aged 16-17
2008	11,695	6,395	54.7%
2009	12,190	6,910	56.7%
2010	10,610	6,575	61.9%
2011	11,690	7,335	62.7%
2012	12,540	8,285	66.1%
2013	12,725	8,525	66.9%
2014	23,150	15,030	64.9%
2015	95,205	55,860	58.5%
2016	63,250	43,330	68.5%
2017	31,400	24,230	77.2%
2018	19,845	14,850	74.8%
2019	17,675	12,190	68.9%

<sup>299</sup> "Asylum applicants considered to be unaccompanied minors," Eurostat.

## Bibliography

**Primary Sources**

- AGA. Law 7 April 2017, no. 47. <https://www.garanteinfanzia.org/sites/default/files/law-no-47-of-2017-on-uams-en.pdf>.
- “Asylum and first time applicants by citizenship, age and sex-annual aggregated data (rounded).” Eurostat. Last updated September 1, 2020. Accessed December 21, 2020. [https://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr\\_asyappctza&lang=en](https://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr_asyappctza&lang=en).
- “Asylum applicants considered to be unaccompanied minors by citizenship, age and sex-annual data (rounded).” Eurostat. Last updated November 19, 2020. Accessed December 21, 2020. [https://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr\\_asyunaa&lang=en](https://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr_asyunaa&lang=en).
- Council of Europe. *European Convention on Human Rights*. Amended by Protocol 1. Strasbourg: European Court of Human Rights, 2010. [https://www.echr.coe.int/Documents/Convention\\_Eng.pdf](https://www.echr.coe.int/Documents/Convention_Eng.pdf).
- Council of Europe. *Life projects for unaccompanied migrant minors*. Recommendation CM/REC(2007)9. Adopted July 12, 2007. Strasbourg: Council of Europe, 2007. PDF.
- Council of Europe. *Supporting Young Refugees in Transition to Adulthood*. Recommendation CM/REC(2019)4. Adopted April 24, 2019. Strasbourg: Council of Europe, 2019. PDF.
- Council of the European Union. Directive 2011/95/EU of the European parliament and of the Council 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 of for Persons Eligible for Subsidiary Protection, and for the Content of the Protection Granted (Recast). *Official Journal L 337*, 9-26. 2011. Accessed December 21, 2020. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32011L0095>.
- Council of the European Union. Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection. *Official Journal L 180*, 60-95. 2013. Accessed December 21, 2020. <https://eur-lex.europa.eu/legal-content/en/ALL/?uri=celex%3A32013L0032>.

Council of the European Union. Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection. *Official Journal L* 180, 96-116. 2013. Accessed December 21, 2020. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32013L0033>.

Council of the European Union. Regulation (EU) No 603/2013 of the European Parliament and of the Council 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. *Official Journal L* 180, 1-30. 2013. Accessed December 20, 2020. <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX%3A32013R0603>.

Council of the European Union. Regulation (EU) No 604/2013 of the European Parliament and of the Council 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. *Official Journal L* 180, 31-59. 2013. Accessed December 21, 2020. <https://eur-lex.europa.eu/legal-content/en/ALL/?uri=celex%3A32013R0604>.

ECRE. "Joint Statement: Afghanistan is Not Safe: the Joint Way Forward Means Two Steps Back." ECRE Weekly Bulletin. September 15, 2020. Accessed December 20, 2020. <https://www.ecre.org/joint-statement-afghanistan-is-not-safe-the-joint-way-forward-means-two-steps-back/>.

- European Commission. *Commission Staff Working Document: Implementation of the Action Plan on UAMs (2010-2014)*. SWD(2017) 129 final. Brussels: 2017. Accessed December 20, 2020. [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agendamigration/20170412\\_communication\\_on\\_the\\_protection\\_of\\_children\\_in\\_migration\\_annex\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agendamigration/20170412_communication_on_the_protection_of_children_in_migration_annex_en.pdf).
- European Commission. *Communication from the Commission to the European Parliament and the Council: Action Plan on Unaccompanied Minors (2010-2014)*. COM(2010)213 final. Brussels: 2010. Accessed December 21, 2020. <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2010:0213:FIN:en:PDF>.
- European Commission. *Communication from the Commission to the European Parliament and the Council on the State of Play of Implementation of the Priority Actions under the European Agenda on Migration*. COM(2016) 85 final. Brussels: 2016. Accessed December 21, 2020. <https://ec.europa.eu/transparency/regdoc/rep/1/2016/EN/1-2016-85-EN-F1-1.PDF>.
- European Commission. *Communication from the Commission to the European Parliament and the Council: The protection of children in migration*. COM(2017) 211 final. Brussels: 2017. Accessed December 21, 2020. [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/20170412\\_communication\\_on\\_the\\_protection\\_of\\_children\\_in\\_migration\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/20170412_communication_on_the_protection_of_children_in_migration_en.pdf).
- European Commission/ EMN. “Ad Hoc Query on 2019.5 Right to work for asylum seekers.” 2019. Accessed December 22, 2020. [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/20195\\_uk\\_right\\_to\\_work\\_for\\_asylum\\_seekers.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/20195_uk_right_to_work_for_asylum_seekers.pdf).
- European Union. *Charter of Fundamental Rights of the European Union. Journal of the European Union C83 53*. Brussels: European Union, 2010.



- Germany. Federal Office for Migration and Refugees. *The Stages of the German Asylum Procedure*. February 2019. Accessed December 21, 2020.  
[https://www.bamf.de/SharedDocs/Anlagen/EN/AsylFluechtlingsschutz/Asylverfahren/das-deutsche-asylverfahren.pdf?\\_\\_blob=publicationFile&v=12](https://www.bamf.de/SharedDocs/Anlagen/EN/AsylFluechtlingsschutz/Asylverfahren/das-deutsche-asylverfahren.pdf?__blob=publicationFile&v=12).
- Germany. Federal Office for Migration and Refugees. *Unaccompanied Minors in Germany: Challenges and Measures after the Clarification of Residence Status*. By Julian Tangermann and Paula Hoffmeyer-Zlotnik. 2018. Accessed December 21, 2020.  
[https://ec.europa.eu/home-affairs/sites/homeaffairs/files/11a\\_germany\\_uam\\_2018\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/11a_germany_uam_2018_en.pdf).
- Parliamentary Assembly to the Council of Europe (PACE). *Migrant Children: What Rights at 18?* Resolution 1996 (2014) Final version. Adopted 2014. Accessed December 21, 2020.  
<https://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-EN.asp?fileid=20926&lang=en>.
- UNCRC. “General Comment No. 4 (2003): Adolescent health and development in the context of the Convention on the Rights of the Child.” CRC/GC/2003/4. Thirty-third session, 19 May- 6 June. 2003. Accessed December 20, 2020.  
<https://www.refworld.org/docid/4538834f0.html>.
- UNCRC. “General Comment No. 6 (2005): Treatment of unaccompanied and separated children outside their country of origin.” CRC/GC/2005/6. Thirty-ninth session, 17 May- 3 June. 2005. Accessed December 20, 2020.  
<https://www2.ohchr.org/english/bodies/crc/docs/GC6.pdf>.
- UNCRC. “General Comment No. 20 (2016) on the implementation of the rights of the child during adolescence.” CRC/C/GC/20. December 6, 2016. Accessed December 20, 2020.  
<https://www.refworld.org/docid/589dad3d4.html>.

- UNCRC and UNCMW. “Joint general comment No. 4 (2017) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and No. 23 (2017) of the Committee of the Rights of the Child on State Obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return.” CRC/C/GC/23. November 16, 2017. Accessed December 20, 2020. <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G17/343/65/PDF/G1734365.pdf?OpenElement>.
- UNHCR. *The 1951 Convention Relating to the Status of Refugees and its 1967 Protocol*. 2011. <https://www.unhcr.org/about-us/background/4ec262df9/1951-convention-relating-status-refugees-its-1967-protocol.html>.
- UN General Assembly. *Convention on the Rights of the Child*. 1989. Entry into force September 2, 1990. Accessed December 20, 2020. <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>.
- UN General Assembly. “Guidelines for the Alternative Care of Children.” A/RES/64/142. 2010. Accessed December 20, 2020. <https://bettercarenetwork.org/sites/default/files/Guidelines%20for%20the%20Alternative%20Care%20of%20Children%20-%20English.pdf>.
- UN General Assembly. *International Covenant on Civil and Political Rights*. Entry into force March 23, 1976. *United Nations Treaty Series* vol. 999. Accessed December 21, 2020. <https://www.refworld.org/docid/3ae6b3aa0.html>.
- UN General Assembly, Human Rights Council. “Resolution adopted by the Human Rights Council on 28 September 2017: Unaccompanied migrant children and adolescents and human rights.” A/HRC/RES/36/5. Thirty-sixth session, September 11-29, 2017. Accessed December 20, 2020. [https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A\\_HRC\\_RES\\_36\\_5.pdf](https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A_HRC_RES_36_5.pdf).
- UN General Assembly. *Universal Declaration of Human Rights*. 217 (III) A. Paris, 1948. Accessed December 20, 2020. <https://www.un.org/en/universal-declaration-human-rights/>.

UNHCR. *Global Compact for Safe, Orderly and Regular Migration*. Final draft. 2018. Accessed December 20, 2020.

[https://refugeesmigrants.un.org/sites/default/files/180711\\_final\\_draft\\_0.pdf](https://refugeesmigrants.un.org/sites/default/files/180711_final_draft_0.pdf)

## Secondary Sources

“Acquis.” Glossary of Summaries, 2020. Accessed December 21, 2020.

<https://eur-lex.europa.eu/summary/glossary/acquis.html>.

“Adolescent Health.” World Health Organization. 2020. Accessed December 21, 2020.

[https://www.who.int/health-topics/adolescent-health#tab=tab\\_1](https://www.who.int/health-topics/adolescent-health#tab=tab_1).

Apostolou, Nikolia. “Greek asylum system leaves unaccompanied minors behind.” *The New Humanitarian*. November 20, 2019. Accessed December 22, 2020.

<https://www.thenewhumanitarian.org/news-feature/2019/11/20/Greek-asylum-system-unaccompanied-minors>.

Arnett, Jeffrey Jensen. “The Psychology of Emerging Adulthood: What is Known, and What Remains to be Known?” *Emerging Adults in America: Coming of Age in the 21<sup>st</sup> Century*, 2006, 303-30. Accessed December 21, 2020. <https://doi.org/10.1037/11381-013>

Aviv, Rachel. “The Trauma of Facing Deportation.” *The New Yorker*, March 27, 2017. Accessed December 22, 2020.

<https://www.newyorker.com/magazine/2017/04/03/the-trauma-of-facing-deportation>.

Baker, Aryn. “‘It Was As If We Weren’t Human.’ Inside the Modern Slave Trade Trapping African Migrants.” *Time*, March 14, 2019. Accessed December 22, 2020.

<https://time.com/longform/african-slave-trade/>.

Besheer, Margaret. “UN States Adopt Global Compact on Refugees.” VOA. December 17, 2018. Accessed December 20, 2020.

<https://www.voanews.com/europe/un-states-adopt-global-compact-refugees#:~:text=The%20United%20States%20and%20Hungary,Republic%2C%20Eritrea%20and%20Libya%20abstained.&text=There%20are%20more%20than%2025,host%2060%20percent%20of%20them>.

Bell, Carl C., and Esther J. Jenkins. “Traumatic Stress and Children.” *Journal of Health Care for the Poor and Underserved* 2, no. 1 (1991): 175-85. Accessed December 22, 2020. doi:10.1353/hpu.2010.0089.

Bloom, Mia, and Josh Horgan. *Small Arms: Children and Terrorism*. Ithaca: Cornell University Press, 2019.

Brun, Delphine. "Men and Boys in Displacement." London: CARE International UK; Rio de Janeiro: Promundo, 2017. PDF.

Cameron, Claire. *Leaving Care and Employment in Five European Countries: An Undocumented Problem?* Report. Thomas Coram Research Unit, UCL Institute of Education. June 2016. Accessed December 21, 2020.

[https://www.sos-childrensvillages.org/getmedia/908bc3ed-244d-48d0-b8e1-d44d8cdd8e8a/SOS-CVI\\_Leaving-Care-and-employment-report\\_Final.pdf](https://www.sos-childrensvillages.org/getmedia/908bc3ed-244d-48d0-b8e1-d44d8cdd8e8a/SOS-CVI_Leaving-Care-and-employment-report_Final.pdf).

Celikaksoy, Ayca and Eskil Wadensjö. "Mapping Experiences and Research about Unaccompanied Refugee Minors in Sweden and Other Countries." IZA Discussion Papers no. 10143. Bonn: Institute for the Study of Labor (IZA), 2016.

<https://www.econstor.eu/bitstream/10419/145277/1/dp10143.pdf>.

Collins, Lauren. "Europe's Child Refugee Crisis." *New Yorker*, February 27, 2017. Accessed December 21, 2020.

<https://www.newyorker.com/magazine/2017/02/27/europes-child-refugee-crisis>.

"Common European Asylum System." Migration and Home Affairs. 2020. Accessed December 21, 2020. [https://ec.europa.eu/home-affairs/what-we-do/policies/asylum\\_en](https://ec.europa.eu/home-affairs/what-we-do/policies/asylum_en).

Council of Europe. "Council of Europe Action Plan on Protecting Refugee and Migrant Children in Europe (2017-2019)." Strasbourg: Council of Europe, 2017. PDF.

Damon, Arwa, Barbara Arvanitidis, and Clayton Nagel. "The Teenage Refugees Selling Sex on Athens Streets." *CNN*, March 14, 2017. Accessed December 22, 2020.

<https://www.cnn.com/2016/11/29/europe/refugees-prostitution-teenagers-athens-greece/index.html>.

Detlaff, Alan J. and Rowena Fong, eds. *Immigrant and Refugee Children and Families*. Edited by Alan J. Dettlaff. New York: Columbia University Press, 2016. PDF.

Digidiki, Vasileia, and Jacqueline Bhabha. "Sexual Abuse and Exploitation of Unaccompanied Migrant Children in Greece: Identifying Risk Factors and Gaps in Services during the European Migration Crisis." *Children and Youth Services Review* 92 (2018): 114-21. Accessed December 22, 2020. doi:10.1016/j.childyouth.2018.02.040.

- EKKA National Center for Social Solidarity. *Situation Update: Unaccompanied Children (UAC) in Greece*. EKKA, 2020. Accessed December 22, 2020, [https://reliefweb.int/sites/reliefweb.int/files/resources/EKKA%20Dashboard\\_20200831.pdf](https://reliefweb.int/sites/reliefweb.int/files/resources/EKKA%20Dashboard_20200831.pdf).
- El-Islam, M. Fakhr. "Arab Culture and Mental Health Care." *Transcultural Psychiatry* 45, no. 4 (2008): 671-82. Accessed December 22, 2020. doi: 10.1177/1363461508100788.
- EMN. "Approaches to Unaccompanied Minors Following Status Determination in the EU plus Norway: Synthesis Report." Brussels: European Migration Network, 2015. Accessed October 28, 2020. [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/00\\_eu\\_synthesis\\_report\\_unaccompanied\\_minors\\_2017\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/00_eu_synthesis_report_unaccompanied_minors_2017_en.pdf).
- EMN. "Approaches to Unaccompanied Minors Following Status Determination in the EU plus Norway: Synthesis Report for the EMN Study." Brussels: European Migration Network, 2018. Accessed October 28, 2020. [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/00\\_eu\\_synthesis\\_report\\_unaccompanied\\_minors\\_2017\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/00_eu_synthesis_report_unaccompanied_minors_2017_en.pdf).
- EMN Inform. "Approaches to Unaccompanied Minors Following Status Determination in the EU Plus Norway." Update. Brussels: European Migration Network. 2018. Accessed October 28, 2020. [https://ec.europa.eu/homeaffairs/sites/homeaffairs/files/00\\_emn\\_inform\\_uam\\_update\\_final\\_en.pdf](https://ec.europa.eu/homeaffairs/sites/homeaffairs/files/00_emn_inform_uam_update_final_en.pdf).
- EMN. *Asylum and Migration Glossary*. 6<sup>th</sup> ed. European Commission. 2018. [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european\\_migration\\_network/docs/interactive\\_glossary\\_6.0\\_final\\_version.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european_migration_network/docs/interactive_glossary_6.0_final_version.pdf).

- EMN/ Finnish Migration Service. *Unaccompanied Minors Following Status Determination: Approaches in EU Member States and Norway- National Report of Finland*. EMN. 2017. Accessed December 22, 2020. [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/09a\\_finland\\_unaccompanied\\_minors\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/09a_finland_unaccompanied_minors_en.pdf).
- EMN/ European Migration Network Hungary. *Member States' Approaches to Unaccompanied Minors Following Status Determination: Hungary*. EMN. 2017. Accessed December 22, 2020. [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/13a\\_hungary\\_unaccompanied\\_minors\\_2017.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/13a_hungary_unaccompanied_minors_2017.pdf).
- “EU Asylum Applications Fall to Pre-2015 Levels.” DW.COM. March 14, 2019. Accessed October 25, 2020. <https://www.dw.com/en/eu-asylum-applications-fall-to-pre-2015-levels/a-47921935#:~:text=The number of first-time,asylum applications exceeded 1.2 million.>
- “The EU Funds Surveillance Around the World: Here’s What Must Be Done About It.” Privacy International. September 18, 2019. Accessed December 21, 2020. <https://privacyinternational.org/long-read/3221/eu-funds-surveillance-around-world-heres-what-must-be-done-about-it>.
- Eule, Tobias G., Lisa Marie Borrelli, Annika Lindberg, and Anna Wyss. *Migrants Before the Law: Contested Migration Control in Europe*. 1<sup>st</sup> ed. Cham, Switzerland: Palgrave Macmillan, 2019. PDF.
- European Commission. “EU Guidelines for the Promotion and Protection of the Rights of the Child (2017).” 2017. Accessed December 21, 2020. [https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/eu\\_guidelines\\_rights\\_of\\_child\\_0.pdf](https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/eu_guidelines_rights_of_child_0.pdf).
- European Commission. “Glossary: Refugee.” Migration and Home Affairs. Accessed December 20, 2020. [https://ec.europa.eu/home-affairs/e-library/glossary/refugee\\_en#:~:text=A%20person%20who%2C%20owing%20to,of%20the%20protection%20of%20that.](https://ec.europa.eu/home-affairs/e-library/glossary/refugee_en#:~:text=A%20person%20who%2C%20owing%20to,of%20the%20protection%20of%20that.)

European Commission. Proceedings of 12<sup>th</sup> European Forum on the Rights of the Child: Where We Are and Where We Want to Go. April 2-3, 2019. Brussels. Accessed December 20, 2020. [https://ec.europa.eu/info/sites/info/files/report\\_eu\\_forum\\_roc\\_2019.pdf](https://ec.europa.eu/info/sites/info/files/report_eu_forum_roc_2019.pdf).

European Commission. “Unaccompanied minors and family reunification: asylum date application is decisive, states the CJEU.” Eur-Lex. April 25, 2018. Accessed December 20, 2020. <https://eur-lex.europa.eu/content/news/unaccompanied-minors-family-reunification-asylum-date-application.html>.

European Commission/ EACEA/ Eurydice. *Compulsory Education in Europe- 2018/19*. Luxembourg: Publications Office of the European Union, 2018. Accessed December 20, 2020. [https://eacea.ec.europa.eu/national-policies/eurydice/sites/eurydice/files/compulsory\\_education\\_2018\\_19.pdf](https://eacea.ec.europa.eu/national-policies/eurydice/sites/eurydice/files/compulsory_education_2018_19.pdf).

European Council on Refugees and Exiles. “ECRE/ ELENA Legal Note on Ageing Out and Family Reunification.” Brussels: ECRE, 2018. Accessed October 26, 2020. <https://www.ecre.org/wp-content/uploads/2018/06/Legal-Note-4.pdf>.

Eurostat. Eurostat Press Office. “Almost 14,000 unaccompanied minors among asylum seekers registered in the EU in 2019.” News release, April 28, 2020. Eurostat Press Release. Accessed December 21, 2020. <https://ec.europa.eu/eurostat/documents/2995521/10774034/3-28042020-AP-EN.pdf/03c694ba-9a9b-1a50-c9f4-29db665221a8>.

Eurostat. Eurostat Press Office. “Almost 90,000 Unaccompanied Minors among Asylum Seekers Registered in the EU in 2015.” News release, May 2, 2016. Eurostat Press Release. Accessed December 21, 2020. <https://ec.europa.eu/eurostat/documents/2995521/7244677/3-02052016-AP-EN.pdf/>.

Fangen, Katrine, Thomas Johansson, and Nils Hammaren, eds. *Young Migrants: Exclusion and Social Belonging in Europe*. Migration, Diasporas and Citizenship Series. London: Palgrave Macmillan, 2012.



- Ferentz, Lisa. *Treating Self-destructive Behaviors in Trauma Survivors: A Clinicians Guide*. New York: Routledge, 2015.
- Ferrara, Pietro, Giovanni Corsello, Annamaria Sbordone, Luigi Nigri, Olga Caporale, Jochen Ehrich, and Massimo Pettoello-Mantovani. "The "Invisible Children": Uncertain Future of Unaccompanied Minor Migrants in Europe." *The Journal of Pediatrics* 169 (2016): 332-33. Accessed December 22, 2020. doi:10.1016/j.jpeds.2015.10.060.
- "Fertility Statistics." Eurostat Statistics Explained. May 2020. Accessed December 22, 2020. [https://ec.europa.eu/eurostat/statistics-explained/index.php/Fertility\\_statistics#:~:text=By contrast, the lowest total,, and Luxembourg \(1.38\).](https://ec.europa.eu/eurostat/statistics-explained/index.php/Fertility_statistics#:~:text=By contrast, the lowest total,, and Luxembourg (1.38).)
- Fox, Alanna and Devon Cone. "Without Essential Protections: A Roadmap to Safeguard the Rights of Asylum Seekers in Greece." Refugees International, April 23, 2020. Accessed December 22, 2020. <https://www.refugeesinternational.org/reports/2020/4/20/without-essential-protections-a-roadmap-to-safeguard-the-rights-of-asylum-seekers-in-greece>.
- Garcés-Mascareñas, Blanca. "Why Dublin 'Doesn't Work.'" *Notes Internacionales* 135 (November 2015): 1-5. Accessed December 21, 2020. [https://www.cidob.org/en/publications/publication\\_series/notes\\_internacionales/n1\\_135\\_p\\_or\\_que\\_dublin\\_no\\_funciona/why\\_dublin\\_doesn\\_t\\_work](https://www.cidob.org/en/publications/publication_series/notes_internacionales/n1_135_p_or_que_dublin_no_funciona/why_dublin_doesn_t_work).
- Glossary on Migration*. Geneva: International Organization for Migration, 2019. Accessed December 20, 2020. [https://publications.iom.int/system/files/pdf/iml\\_34\\_glossary.pdf](https://publications.iom.int/system/files/pdf/iml_34_glossary.pdf)
- Haboush, Karen L., and Hala Alyan. "'Who Can You Tell?' Features of Arab Culture That Influence Conceptualization and Treatment of Childhood Sexual Abuse." *Journal of Child Sexual Abuse* 22, no. 5 (2013): 499-518. Accessed December 22, 2020. doi:10.1080/10538712.2013.800935.
- Hartocollis, Anemona. "Travelling in Europe's River of Migrants." *The New York Times*, September 5, 2015. Accessed December 22, 2020. <https://www.nytimes.com/interactive/projects/cp/reporters-notebook/migrants/hungary-treatment-refugees>.

- Hausedell, Charlotte. "EU Asylum Policy: Portugal Pushes Forward to Find Common Ground." InfoMigrants. January 6, 2021. Accessed January 28, 2021.  
<https://www.infomigrants.net/en/post/29470/eu-asylum-policy-portugal-pushes-forward-to-find-common-ground>.
- "Heroin Use Rampant among Sweden Child Refugees: Addiction Centre." TheLocal.se. January 15, 2017. Accessed December 22, 2020.  
<https://www.thelocal.se/20170115/heroin-use-rampant-among-sweden-child-refugees>.
- "History of the UN." United Nations Seventieth Anniversary. 2015. Accessed December 9, 2020. <https://www.un.org/un70/en/content/history/index.html#:~:text=The United Nations is an,living standards and human rights>.
- Hodal, Kate. "A Step Away from Hell: The Young Male Refugees Selling Sex to Survive." *The Guardian*, February 21, 2020. Accessed December 22, 2020.  
<https://www.theguardian.com/global-development/2020/feb/21/a-step-away-from-hell-the-young-male-refugees-selling-sex-to-survive-berlin-tiergarten>.
- "Human Rights Treaty Bodies- General Comments." United Nations Human Rights Office of the High Commissioner. 2020. Accessed December 21, 2020.  
<https://www.ohchr.org/EN/HRBodies/Pages/TBGeneralComments.aspx>.
- Human Rights Watch. "Greece: Lone Migrant Children Left Unprotected." July 19, 2017. Accessed December 22, 2020.  
<https://www.hrw.org/news/2017/07/19/greece-lone-migrant-children-left-unprotected>.
- Ivert, Anna-Karin, and Mia-Maria Magnusson. "Drug Use and Criminality among Unaccompanied Refugee Minors: A Review of the Literature." *International Journal of Migration, Health and Social Care* 16, no. 1 (2019): 93-107. Accessed December 22, 2020. doi:10.1108/ijmhsc-05-2019-0050.
- Jivani, Jamil. *Why Young Men: Rage, Race and the Crisis of Identity*. Neutral Bay, NSW, Australia: Pantera Press, 2019.
- Kessler, Asher. "Despite Its Liberal Reputation, Sweden Proves No Safe Haven for Afghan Refugees." *The New Arab*. August 1, 2018. Accessed December 22, 2020.  
<https://english.alaraby.co.uk/english/indepth/2018/8/1/sweden-proves-no-safe-haven-for-afghan-refugees>.

- Kent Public Health Observatory. "Health Needs Assessment- Unaccompanied children seeking asylum." Kent City Council. March 2016. Accessed December 22, 2020.  
[https://www.kpho.org.uk/\\_data/assets/pdf\\_file/0011/58088/Unaccompanied-children-HNA.pdf](https://www.kpho.org.uk/_data/assets/pdf_file/0011/58088/Unaccompanied-children-HNA.pdf).
- Kimmel, Michael S. *Healing from Hate: How Young Men Get into- and out of- Violent Extremism*. Oakland: University of California Press, 2018.
- Koppenberg, Saskia. *Unaccompanied Minors in Austria: Legislation, Practices and Statistics*. Vienna: IOM Country Office for Austria, 2014. Accessed December 20, 2020.  
[https://publications.iom.int/system/files/pdf/unaccompanied\\_minors\\_in\\_austria\\_en.pdf](https://publications.iom.int/system/files/pdf/unaccompanied_minors_in_austria_en.pdf).
- Lally, Martha, and Suzanne Valentine- French. *Lifespan Development: A Psychological Perspective*. Davis, CA: LibreTexts, 2019. Accessed December 21, 2020.
- Langvad, Stig and Marite Decker. "The Purpose and Use of UN Treaty Body General Comments." European Network on Independent Living. Accessed December 20, 2020.  
<https://enil.eu/news/the-purpose-and-use-of-un-treaty-body-general-comments/>.
- Lems, Annika, Kathrin Oester, and Sabine Strasser. "Children of the Crisis: Ethnographic Perspectives on Unaccompanied Refugee Youth in and En Route to Europe." *Journal of Ethnic and Migration Studies* 46, no. 2 (2019): 315-35.  
 doi:10.1080/1369183x.2019.1584697.
- Lyamouri-Bajja, Nadine. "Unaccompanied and Separated Asylum-Seeking and Refugee Children Turning Eighteen: What to Celebrate?" UNHCR and Council of Europe. Strasbourg: UNHCR, 2014. Accessed December 20, 2020.  
<https://www.refworld.org/pdfid/53281a864.pdf>.
- MacGregor, Marion. "Greece: 'No More Unaccompanied Minors in Police Custody,' as Report Slams Detention, Pushbacks." InfoMigrants. November 19, 2020. Accessed December 22, 2020. <https://www.infomigrants.net/en/post/28635/greece-no-more-unaccompanied-minors-in-police-custody-as-report-slams-detention-pushbacks>.
- Meloni, Francesca and Elaine Chase. *Becoming Adult: Transitions into Institutional Adulthood*. Research brief no. 4. Institute of Education, University College London. 2017. Accessed December 22, 2020.  
<https://becomingadultproject.files.wordpress.com/2017/12/ba-brief-4-low-res.pdf>.

- Mittendorfer-Rutz, Ellenor, Ana Hagström, and Anna-Clara Hollander. "High Suicide Rates Among Unaccompanied Minors/Youth Seeking Asylum in Sweden." *Crisis* 41, no. 4 (2020): 314-17. Accessed December 22, 2020. doi:10.1027/0227-5910/a000636.
- Muller, Andreas. *Unaccompanied Minors in Germany: Focus-Study by the German National Contact Point for the European Migration Network*. Working Paper 60. Federal Office for Migration and Refugees/ EMN. 2014. Accessed December 22, 2020. [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european\\_migration\\_network/reports/docs/emn-studies/11a.germany\\_unaccompanied\\_minors\\_en\\_version.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european_migration_network/reports/docs/emn-studies/11a.germany_unaccompanied_minors_en_version.pdf).
- "Note on Determination of Refugee Status under International Instruments." UNHCR. 1977. Accessed December 20, 2020. <https://www.unhcr.org/en-us/excom/scip/3ae68cc04/note-determination-refugee-status-under-international-instruments.html>.
- OHCHR. "Ratification of 18 International Human Rights Treaties." Status of Ratification Interactive Dashboard. 2014. <https://indicators.ohchr.org/>.
- Papademetriou, Theresa. "European Union: Status of Unaccompanied Children Arriving at the EU Borders." Library of Congress Law. September 2014. Accessed December 20, 2020. <https://www.loc.gov/law/>
- Parliamentary Assembly to the Council of Europe (PACE). Committee on Migration, Refugees and Displaced Persons. *Migrant Children: What Rights at 18?* April 23, 2014. Accessed December 22, 2020. <https://pace.coe.int/pdf/cfca00bd14395a88706d600e323005b3586dbd6c3326667a8259ffe25682ae848428feba12/doc.%2013505.pdf>.
- Peters, Jakob, Jonathan Winkler, and Luis Blum. "Human Rights Council Background Guide Update." GerMUN. 2020. Accessed December 20, 2020. [https://germun.de/wp-content/uploads/2020/01/HRC\\_BGG\\_Updates.pdf](https://germun.de/wp-content/uploads/2020/01/HRC_BGG_Updates.pdf).
- "Returning voluntarily." Swedish Migration Agency. February 28, 2020. Accessed December 22, 2020. <https://www.migrationsverket.se/English/Private-individuals/Leaving-Sweden/Rejection-of-application-for-asylum/Returning-voluntarily.html>.

Sarhaddi Nelson, Soraya. "Hungary Reduces Number of Asylum-Seekers It Will Admit to 2 Per Day." NPR. February 3, 2018. Accessed December 22, 2020.

<https://www.npr.org/sections/parallels/2018/02/03/582800740/hungary-reduces-number-of-asylum-seekers-it-will-admit-to-2-per-day>.

Save the Children, European Migration Advocacy Group. "Protection beyond reach: State of play of refugee and migrant children's rights in Europe." Ixelles: Save the Children Europe, 2020. Accessed December 20, 2020.

<https://reliefweb.int/sites/reliefweb.int/files/resources/Report%20Protection%20Beyond%20Reach.pdf>.

Schuurman, Evan. "Children Made up a Third of Civilian Casualties in Afghanistan so Far This Year." Save the Children Australia. July 28, 2020. Accessed December 22, 2020.

<https://www.savethechildren.org.au/media/media-releases/children-civilian-casualties-afghanistan#:~:text=Save the Children expresses alarm,almost a third were children>.

Senovilla, Daniel, and Philippe Lagrange, eds. "The Legal Status of Unaccompanied Children Within International, European and National Frameworks: Protective Standards vs. Restrictive Implementation." PUCAFREU Project, 2011. Accessed December 20, 2020,

<https://calenda.org/217903?file=1>.

Shahnazaryan, Hranush. "What rights and realities at 18? Regional Seminar to develop inter-sectorial cooperation in assisting refugees and asylum-seekers in transition to adulthood." Seminar report. UNHCR and Council of Europe. Strasbourg: UNHCR, 2015.

Accessed December 20, 2020. <https://rm.coe.int/09000016806ab5e1>.

Siegel, Daniel J. *Brainstorm: the Power and Purpose of the Teenage Brain*. New York: Jeremy P. Tarcher/ Penguin, 2013.

"A Short History of Human Rights." Human Rights Here and Now: Celebrating the Universal Declaration of Human Rights. 2002. Accessed December 9, 2020.

<http://hrlibrary.umn.edu/edumat/hreduseries/hereandnow/Part-1/short-history.htm>.

Smith, Stephen. *The Scramble for Europe: Young Africa on its Way to the Old Continent*. Cambridge: Polity, 2020.

"Solutions." UNHCR USA. Accessed December 20, 2020.

<https://www.unhcr.org/en-us/solutions.html>.

Subirana, Carla. “Turning 18 Should Be a Rite of Passage. But for Unaccompanied Child Refugees, It Can Be a Nightmare.” *The Independent*, October 12, 2020. Accessed December 22, 2020. <https://www.independent.co.uk/voices/immigration-refugee-unaccompanied-minor-asylum-seeker-eu-law-b987677.html>.

“Unaccompanied Minors.” Hellenic Republic Ministry of Migration and Asylum. 2020. Accessed December 22, 2020.

<https://migration.gov.gr/en/gas/diakikasia-asyloy/asynodeytoi-anilikoi/>.

UNHCR. “Guidelines on Determining the Best Interests of the Child.” Geneva: UNHCR, 2008. PDF. <https://www.unhcr.org/4566b16b2.pdf>.

UNHCR Division of Refugee Law and Doctrine. “Determination of Refugee Status.” Geneva: UNHCR, 1989. PDF. <https://www.refworld.org/pdfid/3ae6b35c0.pdf>.

UNICEF. “A child is a child: Protecting children on the move from violence, abuse and exploitation.” Executive summary, May 2017. Accessed 22, 2020.

[https://www.unicef.org/publications/files/UNICEF\\_A\\_child\\_is\\_a\\_child\\_Executive\\_Summary\\_May\\_2017.pdf](https://www.unicef.org/publications/files/UNICEF_A_child_is_a_child_Executive_Summary_May_2017.pdf).

UNICEF. “UNICEF Hails New Italian Law to Protect Unaccompanied Refugee and Migrant Children as Model for Europe.” News note, March 29, 2017. UNICEF Press Center. Accessed December 22, 2020. [https://www.unicef.org/media/media\\_95485.html](https://www.unicef.org/media/media_95485.html).

UNICEF, UNHCR, IOM. “Latest Statistics and Graphics on Refugee and Migrant Children.” UNICEF Europe and Central Asia. 2020. Accessed December 21, 2020.

<https://www.unicef.org/eca/emergencies/latest-statistics-and-graphics-refugee-and-migrant-children>.

UNICEF, IOM, UNHCR, Eurostat, and OECD. *A Call to Action: Protecting Children on the Move Starts with Better Data*. Report. 2018. PDF.

“What is the Difference between a Resolution and a Decision?” Dag Hammarskjöld Library. October 11, 2019. Accessed December 21, 2020. <https://ask.un.org/faq/14484>.

“What is the European Convention on Human Rights?” Equality and Human Rights Commission. April 19, 2019. Accessed December 20, 2020.

<https://www.equalityhumanrights.com/en/what-european-convention-human-rights>.

“When You Turn 18 Years.” Swedish Migration Agency. April 27, 2020. Accessed December 22, 2020. <https://www.migrationsverket.se/English/Private-individuals/Protection-and-asylum-in-Sweden/Children-seeking-asylum/Without-parents/When-you-turn-18-years.html>.

Williams, Lucy. “‘Durable Solutions’ When Turning 18.” In *Unaccompanied Young Migrants: Identity, Care and Justice*, 187-208. Bristol: Polity Press, 2019.