

CONVEGNI

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The protection of children in cross-border migration*

According to official data, there are 50 million children in migration world wide and one in every 200 children is a refugee. In 2016 children comprise over 30% of all see arrival to November 2016. Despite the reality that children comprise a significant proportion of refugee and migrants, the response is often fragmented and there is a pressing need to ensure concerted, collective efforts to join the dots and address the gaps. The present paper will focus on the protection of children from all forms of violence in searching to establish "a comprehensive child protection system". The primary objectives cover a wide range of interventions, including prevention, identification, reporting, referral, investigation, traceability and statistics, Judicial involvement and effective procedures. The authors will point out how the principles for integrated child protection systems can be implemented to identify promising practices.

1. Starting from statistical data (on children in migration) for theoretical approach (on inclusive policy of children at least).

We mean by the term children in migration all third country national children who migrate from their country of origin to and within the territory of the EU in search of "better living standards" such as survival, security, education, economic opportunities, protection from exploitation and abuse, family reunification or a combination of these factors.

By recent discussions¹ children are defined below: unaccompanied children, when they may travel with their family or independently; separated children, when they travel with an extended family or a non-family member². They are seeking international protection, family members, dependents of labour migrants, victims of trafficking, and/or undocumented migrants.

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¹ See *10th European Forum of Rights of the Child*, Brussels, 29-30 November 2016, *The Protection of Children In Migration*.

²The expression separated children are provided by article 1, par. 8 General Comment n.6 *UN Committee on the Rights of child*.

According to UNICEF³, there are 50 million children in migration. 28 million of them fled violence and insecurity. One in 200 children is a refugee. One in three children living outside country of birth is a refugee. Half the refugee population are represented by children. The "migrant" population is older: one in eight migrants is a child.

Despite few exceptions, there is no coverage in the press on massive child presence in cross-border migrations. We will submit the last amended tables on child flows⁴.

Number of child asylum applicants in the EU 2010-2014-2015- 2016 (first time applicants). As of 13.03.2017 the number of child asylum applicants (0-17), both unaccompanied and with their families⁵

Year	
2010	61.005
2014	144.550
2015	368.010
2016	386.300

Number of child asylum applicants below the age of 14 in the EU 2010-2014-2015-2016 (first time applicants). As of 13.03.2017 - the number of child asylum applicants (0-14), both unaccompanied and with their families⁶

Year	
2010	45.345

³[www.unicef.org/publications/files Uprooted_growing_crisis_for_refugee_and_migrant_children.pdf](http://www.unicef.org/publications/files/Uprooted_growing_crisis_for_refugee_and_migrant_children.pdf). For recent trends in permanent flows migrations, see *International Migration Outlook*, OECD Publishing, Paris, 2017, http://dx.doi.org/10.1787/migr_outlook-2017-en

⁴ Data Collections have been presented on first time at 10th European Forum of Rights of the Child, Brussels, 29-30 November 2016, *The Protection of Children In Migration*.

⁵<http://ec.europa.eu/eurostat/web/asylum-and-managed-migration/data/database>

⁶<http://ec.europa.eu/eurostat/web/asylum-and-managed-migration/data/database>

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2014	105.605
2015	243.240
2016	281.520

Number of child asylum applicants aged 14-17 in the EU 2010- 2014-2015-2016 (first time applicants). As of 13.03.2017 the number of child asylum applicants (14-17), both unaccompanied and with their families ⁷

Year	
2010	15.660
2014	38.945
2015	124.770
2016	104.780

Number of unaccompanied child asylum applications in the EU 2010-2014-2015 (0-17)

Year	
2010	10.610
2014	23.150
2015	96.465

⁷ <http://ec.europa.eu/eurostat/web/asylum-and-managed-migration/data/database>

Number of unaccompanied child asylum applications in the EU 2010-2014-2015, differentiated by age

Year	2010	2014	2015
-10	1020	2235	12.455
-14-15	6575	5735	27775
-16-17	6575	15030	55970
age unKnown	455	150	265

How to analysis the data?⁹ Unaccompanied children arriving in Europe are basically boys between 14 and 17 who come from economically undeveloped countries; boys who escape from places by limited educational opportunities; boys who leave involved armed conflicts Nations. They are scared and desperate, without money, food, shoes, mother and father, victim of violence, rapes, criminal associations. Most of them do not survive during the long – sea and countries – passages. Children are inspired by hope for better living conditions, that means simply life, not dramatic (unjustified) death.

At first glance the high number of arriving minors should be drive to a unique reflection on humanity, on unconditional support for unaccompanied children. This is the one drive legal/political direction by European Commission (see below).

A full interpretation emphasises a double discrepancy between 1) the legal – and political – perspective, which migrants are entitled by local and global framework and policies, and child protection they receive by international and national laws; 2) the migrant’s issue as enemy or a thief to national security and the child condition, for what they are first of all children, secondly migrant children.

According to first profile, until 2010, the Common Agenda for Integration, presented by the EU Commission in 2005, was the strategy document providing for the implementation of the EU integration policy⁸. It contained a series of supportive EU mechanisms and instruments to promote integration and

⁸ *Communication from the Commission to the Council, the European Parliament, the European Economic and Social committee and the Committee of the Regions. A Common Agenda for Integration Framework for the Integration of Third-Country Nationals in the European Union*

facilitate exchanges between integration actors. The priority was entitled 'Integration: maximising the positive impact of migration in our society and economy' and emphasised the need to "prevent isolation and social exclusion of immigrant communities. A successful integration policy must contribute to understanding and dialogue between religious and cultures." The same idea was assumed in the Communication on '*A Common Immigration Policy for Europe: Principles, actions and tools*' and in the new agenda of 2010-2014 for the Area of Justice, Freedom and Security, the so-called Stockholm Programmed.

On July 2011 the EU Commission adopted a '*European Agenda for the Integration of Third-Country Nationals*' to enhance the economic, social and cultural benefits of migration in Europe. The Agenda puts the emphasis on migrants' full participation in all aspects of collective life and highlights the key role of local authorities.

Finally the EU Integration Action Plan of Third-Country Nationals has been adopted on 7th June 2016, implementing a comprehensive framework to support Member States efforts in developing and strengthening their migrant integration policies. The Action Plan describes the concrete policy, operational and financial measures the Commission will implement. While it targets all third country nationals in the EU, it contains actions to address the specific challenges faced by refugees.

It sounds like perfect provision.

According to second profile, deviant imagery (Franko Aas, 2013, 2nd, 83) has been – and is – a common feature of global and *post-global* society (Pasculli, 2017, 135). Immigrant policies go hand in hand with racism, fear, isolation, contempt. Although - currently – societies are multicultural, inviting to a pacific cohabitation of specific (ethnic) groups and subsequent integration of them, recent widespread immigrant flows (and asylum seekers) have been perceived as real threatening to "European" world 's vision (Patel, 2017, 106). The mass media offer a "justified" racist language to protect the traditional values such as nationality, religion, cultural issues, political beliefs. The word "wall" appears on political environment to describe and to create real and racial boundaries between us and others. Racist constructions (ideologies) abound with national mass media on refugees and immigrants reports. The misleading use of "crisis" – not referring to Humanity (humanitarian crisis

faced by people⁹), but to European civilisation at risk of swamped cultures, is impressive.

Basically political contexts assert the strategies of positive self-presentation and the negative other-presentation (van Dijk, 2000, 33-49, referring to discursive racism) to express the national rejections of migrants. We have to consider the different political approach toward immigrant “adult” law and immigrant “child” law.

Repressive enforcement of national rules in adult migrations flows depends on economic development and organisation of modern nations. The sovereign power decides who is allowed to enter their territories, for what, for how long. The migrants selection works for specific skills and knowledge. States reject any form of uncontrolled arrivals and asylum seekers, but accept the unaccompanied children flows (Sedmak, Sauer, Gormik, 2017).

Children issues are closely related to philosophies and politics of integrations. Children are children before being refugees and migrants. They live in a permanent condition of vulnerability (Sedmak, Sauer, Gormik, 2017.)

Starting from this core principle, it is urgent to establish a proper protection system and set the European Political Agenda from child perspective. Protecting children is more important than protecting borders.

2. EU legislative framework for Emergency. Who protects children?

A substantial body of provisions on children in EU asylum and migration law already exists. EU law recognises children as applicants for international protection in their own right and sets some procedural safeguards and protection measures. For instance art. 17 *Return Directive* (2008/115/EC) provides for the use of detention measures for children within the return period as “last resort” and for “shortest appropriate period of time”. Article 11 par. 3 *Reception Conditions Directive* (2013/33/EU) allows the detention of unaccompanied minors in “exceptional circumstances” never in prison.

There are limited – effective – articles to define special treatment for minors. Actually the recent trends in legislations from 2016 seek to address the gaps in current legislation, as well as the upgrading of the principle of the best interests of the child to apply to the full law rather than only to a child-specific article, the provisions on more effective guardianship and care, the child safeguarding in reception, the training of staff working directly with children. In-

⁹ We expressly use the common word people, not migrants or refugees. The words are important. According to the basic performative language theory, the word is the meaning and the social action (intention and speaker intention).

ternational standards on treatment of unaccompanied minors deriving from the UNCRC have been identified by the Committee on the Rights of the Child in the General Comment No 6 (2005) *Treatment of unaccompanied children outside their country of origin*.

The Action Plan on unaccompanied minors (2010-2014)¹⁰ expressly listed context-specific precautions to reinforce protection of unaccompanied minors at multiple levels: legislative action by States to enact comprehensive legislation on trafficking in human beings and sexual exploitation of children; information analysis and exchange to promote best practices; supporting action by agencies, invited to organise training activities and develop best practices, such as regarding reception conditions, asylum procedures and integration of unaccompanied minors; funding availability by Eu Commission to support European networks of guardians (Lazaridis, 2011, 156).

On first time the Communication from the Commission to the European Parliament and the Council stipules basic principles for concrete responses to the challenges based by the arrival of significant number of unaccompanied minors in Eu territories. Effective procedures have been issued for high standards of protections, such as age assessment and family tracing; return and reintegration in the country origin; integration of unaccompanied minors.

These proposals have been developed and explained in the following Child Protection System (see above par. 5). In September 2012, EU Commission issued a Mid-term Report on the Action Plan on Unaccompanied Minors, highlighting the developments between May 2010 and June 2012 and identifying the areas which required more attention and targeted action during the following years¹¹.

Past (and present) challenges posed by the arrival to the EU of vulnerable migrant children, including the unaccompanied ones, have been strengthened by migratory crisis¹².

The European Agenda on Migration COM(2015) 240 final and the Communication¹³ - on the state of play in Action Plan implementation — indicate the

¹⁰ Action Plan on Unaccompanied Minors (2010 - 2014) SEC(2010)534

¹¹ Mid-term Report on the implementation of the Action plan on Unaccompanied Minors - COM (2012) 554 final — available at http://ec.europa.eu/dgs/home-affairs/e-library/docs/uam/uam_report_20120928_en.pdf.

¹²Eurochild, *Mainstreaming children's rights in EU legislation, policy and budget — lessons from practice*, February 2014.

¹³ Implementation of the Action Plan on UAMs (2010-2014) Accompanying the document Communication from the Commission to the European Parliament and the Council The protection of children in migration COM(2017) 211 final}

protection of unaccompanied minors as priority for the EU. The overall increase of the number of migrant minors, including unaccompanied ones, calls for a comprehensive approach to their protection.

In 2016, the Commission proposed a legislative package (Eurodac Regulation, Dublin Regulation, Reception Conditions Directive, Asylum Procedures Regulation and the Qualifications Regulation) aiming for a far-reaching reform of the Common European Asylum System (CEAS)¹⁴.

Article 21 COM(2016)467 final provides for the best interest of the child as a primary consideration for Member States when applying the Regulation. Article 22 COM(2016)467 final promotes special guarantees for unaccompanied minors. Amended Reception Conditions Directive (2013/33/EU) adds article 14 Schooling and education of minors, concerning minors access to education system.

The Schengen Borders Code and The Schengen Handbook guide border explain how to deal with accompanied or unaccompanied children crossing external borders, according to Annex VII referring to Special rules for certain categories of persons, such as Minors, subject to the adult checks on entry and exit as adults, as provided for in this Regulation.

Border guards – in fact – shall pay particular attention to minors, whether traveling accompanied or unaccompanied. Basically, about minors unaccompanied, border guards shall ensure, by means of thorough checks on travel documents and supporting documents, that the minors do not leave the territory against the wishes of the person(s) having parental care over them.

The EU regular migration package (CEAS) marks specific legislation on family reunification and includes provisions on whether or not regular migrants covered by EU law must have a right to migrate with dependents or bring their families at a later date as well as provisions related to access to social security. In this case the best interest of the child is to be reunited with his/her family and grow up in his/her social and cultural environment.

Basically the reform of the CEAS has significantly increased the protection standards that Member States should grant to unaccompanied children and other vulnerable groups seeking to obtain international protection in the EU.

The principle of the best interests of the child has been enacted in the CEAS instruments, emphasising key provisions on unaccompanied children: guaranteeing the right to family reunification, enhanced procedural safeguards throughout the asylum procedure, suitable accommodation, prompt access to

¹⁴ For reference http://ec.europa.eu/justice/fundamental-rights/files/rights_child/ceas_provisions-on-children_table_updated.pdf.

health and education, protection against arbitrary detention which is allowed only in exceptional circumstances, and never in prison accommodation.

3. The Italian Law. An impressive attempt for Humanitarian positive law

After long negotiations on inclusive policies about migrants (permanent) crisis, on April 2017 Italian Parliament approved the Law No. 47 of April 7, 2017, *Disposizioni in materia di misure di protezione dei minori stranieri non accompagnati*¹⁵. Discussions on the provisions to be inserted in the Law no. 47 - with regard to the protection of children – have been a continuous stumbling-block in the negotiations of the last three years before its adoption. The last trend in political immigrant laws was the main reason why it has been difficult for a long time to reach the final agreement.

Since 2002 the Law called Bossi-Fini narrowed the criteria for entering Italy and introduced different expulsions proceeding for illegal migrants. In the text penalties are provided for the irregular presence of foreigners in national territory. The main features of the 2002 reform, introduced by law Bossi-Fini, included the tightening up of borders controls (mostly on the sea) and stricter provisions with respect to illegal entrants. In 2008 Italian government approved the 2008/125 law on illegal immigration, amended in 2009. The consequent provision was known as Pacchetto sicurezza and presented strict prescriptions on immigrant policies (Pasculli, Lanza, 2012, 105).

The Law no. 47 emphasises a sea change in immigration policy, as specific strategy for accepting and protecting children in migrations. Almost two factors have led to increase attention for the protection of minors in Italy during the last ten years: the outbreak of unaccompanied minors in the aftermath of humanitarian crisis (see above para. 1 for statistical findings) and the geographic location.

By one hand in the chaos during and after the crisis children can be separated from their families; they can be killed, forced to flee, accidentally dead, maimed. Unaccompanied minors face at risk to trafficking, sexual crimes, child labour.

On the other hand despite European Nations, the peninsular form and the presence of multiple natural and artificial harbours allow the migrants (and the traffickers in human beings) to arrive in Italy. In Europe Italy is above all the place in which the unauthorised undocumented migratory routes to Asian, African, European countries go on. The main road is by sea, with the

¹⁵*Provisions on Protective Measures for Unaccompanied Foreign Minors, Gazzetta Ufficiale*, no. 93, Apr. 21, 2017. Italy is the first European Country to expressly legislate on children status in migrations.

exception of Italic-Slovene frontier. Otherwise it is a clear attempt to harmonise aspects of children protection arrangements within the European Agenda's approach.

The Act protects unaccompanied minors who enter Italy without an adult or family member¹⁶, due to their particular vulnerability in any cases. Foreign unaccompanied minors may never be rejected at the border, prohibiting *refoulement* and expulsion.

Law's plot has a rational focus on responsive and short remedial interventions on prioritising legal, social, psychological issues. The provisions may be summarised coming up and divided into reception system (1), legal system (2); juvenile safe system (3).

As regarding sub 1), a standard multidimensional procedure to access age means to imply the support of "cultural mediator". The access to adequate age assessment involves expert professionals, identified as *cultural mediators*¹⁷ and includes an interview between unaccompanied children and qualified experts. The experts have skills for interviewing children and assessing informations provided by them. Under supervision by local public security, cultural mediators prepare the interview, make appropriate logistical arrangements, ensure the representative of the unaccompanied children is present, provide for procedural adjustments, explain the interview situation, conduct the interview in a child friendly manner (with a supporting service such as interpreter)¹⁸.

This is the first relevant step for knowledge about the child, addressing his/her special needs in the best interest of child considerations.

To say on 2), a national reception system and immigration reception centres are devoted to unaccompanied minors. The time children can be detained in reception facilities – related to first-aid provisions – decreases from 60 to 30 days – for maximum 30 days stay. The impact of the hotshot approach could be crushing on unaccompanied children. The child detention is forbidden by

¹⁶According to Article 2, paragraph 1, For legal purposes, a foreign unaccompanied minor is defined as a minor who is not an Italian or EU citizen, who for whatever reason is found in Italian territory or is subject to Italian jurisdiction, and who lacks the assistance or representation of his parents or other adults who would be responsible for him according to Italian legislation.

¹⁷ Cultural mediators are people with a professional degree, granted by an institution of higher education in Italy, whose services are used in different – social – contexts, including juvenile environment.

¹⁸Article 5 provides for the identification procedure for minors in Italy. The presence of guardian is mandatory. In the identification phase cultural mediators follow identification settings. Article 9 introduces a national monitoring system on unaccompanied minors, called "Cartella Sociale", a database to manage needs, location, findings of unaccompanied minors.

international obligations and national legislation. Children could not live inadequate material conditions, with unrelated adults, victims of criminal acts.

For ensuring the best interests of the child Italian law promotes the access to family reunification under Dublin Regulation. Intelligence agencies join in conducting a family tracing for all minors. Juvenile court will supervise on assisted return of minors. In the absence of family members, local government entities may use foster care system according to article 7, para.1. Within three months from the date of entry into force of the law, every local Juvenile Court must establish a list of voluntary legal guardians as minors representative and properly educated adult. The law also priorities – during the reception – appointment within 48 hours.

As regards 3), unaccompanied children are expressly recognised the "*right to be heard*" in administrative and judicial proceedings, even in the absence of the guardian. Law no. 47 sets a specific provision for children to access legal aid. Child rights organisations shall also have the right to challenge and obtain the cancellation of decisions which impair the rights of unaccompanied minors, as well as and to intervene in judicial decisions concerning them

Article 14 aims to enact stronger safeguards of education and health rights and possibility to support young migrants in their 18-21 years. Article 17 establishes protection and guidance for unaccompanied minors that are victims of trafficking through a specific assistance program.

4. Proposition of Law and Safeguards for Humanitarian Approach. First glance at *Ten principles for integrated child protection System*

Owing to the massive increase in the forced movement of persons (children and adults) in the EU countries, European Asylum and Migration Policies have to be discussed and promptly renewed for the best interest of child¹⁹.

On this basis in 2015 during the 9th European Forum on the rights of the child, *Coordination and cooperation in integrated child protection systems*²⁰, European Commission drafted unofficial document who declare unconditional child protection against all forms of violence, discriminations, refoulement

¹⁹ *UN Convention on the rights of the child*: <http://www.ohchr.org/en/professionalinterest/pages/crc.aspx>; *European and international standards relevant for child protection systems*: http://ec.europa.eu/justice/fundamental-rights/files/cps_international_standards.

²⁰ See *Reflection Report at 9th European Forum on the rights of the child, Coordination and cooperation in integrated child protection systems, Brussels, 3-4 June 2015*.

by States. During discussions for drafting and amending the document²¹ many issues have been facing up, such as national differing policies for migrants reception. International stakeholders gathered to exchange expertise and informations; to produce strategical reports and statistical analysis on children data; to promote innovative perspectives about “*the others*”, *the foreigners*, *the enemies*.

Among emerging issues it should be emphasised any forms of access to protection for children while following EU migration routes undetected (the most direct). Toward migration – dangerous – locations any registration and identification of unaccompanied children has been provided for referral to appropriate protection services. On the edge of *civilised human world* where are the cities welcoming refugees and migrants/accompanied children? In the *Twilight Zone* where are the places welcoming unaccompanied children?²² In Balkan migration route²³ for instance safe and age appropriate reception capacity are really missing due to endemic criminal environment and political strategies on inclusive reception care. Separate and unaccompanied children are going to evidenced risks of sexual violence, sexual exploitation and trafficking along the route as well as in reception and detention centres where procedures and mechanisms for identification of vulnerabilities are not upcoming.

In European migration route it is to complain there seems to be no common strategy for enforcement of child protection. Politicians, Academics, Agencies, No-Profit organisations light several key challenges. At same time they try to address present gaps in legal (lack of legal advice and/or representation), procedural (lack of reliable information and advice and lack of access to child-specific information and provision of information in a child-friendly manner), guardianship systems (lack of professional guardians, no immediate allocation of guardian).

In *revolutionary* migration route all countries support migrants as best they can on survival, journey and arrival. It means looking at the situation of all children in migration. It means looking at how all duty-bearers and system

²¹See Report at *10th European Forum on the rights of the child, The Protection of Children in Migration*.

²² See Report *Cities Welcoming Refugees and Migrants. Enhancing Effective Urban, Governance in an Age of Migration*, UNESCO, 2016.

²³ See Report *Desperate Journeys. Refugees and Migrants Entering and Crossing Europe via the Mediterranean and Western Balkans Routes*. UNHCR, The UN Refugee Agency, February 2017, www.unhcr.org/58b449f54.pdf.

components work together to protect the rights of all children at all stages of migration, including a specific focus on their protection from all forms of violence. Namely unaccompanied children (if they outlive desperate journeys) are welcoming to access to education and adequate healthcare, including psychosocial care.

It looks great that European Commission chooses to cross *revolutionary* migration route.

Because of gaps caused by lack of coordination among various services and agencies involved in the treatment of children in migration the Eu Commission has meanwhile proposed and published *Ten principles for integrated child protection System*, below.

1. *Every child is recognised, respected and protected as a rights holder, with non-negotiable rights to protection.* Every child is treated with dignity and as a unique and valuable human being with an individual personality, distinct needs, interests and privacy, with due regard to the child's right to participation. There are measures to empower children to protect themselves and their peers and to claim their rights. Child-sensitive and accessible complaint and reporting mechanisms, including helplines and hotlines, are integrated in the system. Children are involved in decisions that concern them, including the development, monitoring and evaluation of child protection strategies, policies, programmes and services.

2. *No child is discriminated against.* All children have access to and benefit from national child protection systems on an equal basis.

3. *Child protection systems include prevention measures.* This may include the adoption of national legislation prohibiting all forms of violence against children in all settings, policy measures promoting child rights, awareness-raising and education for children, parents and society at large, proactive policy and outreach measures especially to discriminated against groups, parenting and family support, universal and targeted social services, integrated strategies to reduce child poverty, mechanisms for children to claim their rights, links with other policy areas, robust data collection.

4. *Families are supported in their role as primary caregiver.* The primary position of families in child caregiving and protection is recognised and supported through universal and targeted services, through every stage of intervention, particularly through prevention²⁴.

²⁴E. Turno, *The Turno Review of Child Protection: Final Report. A Child - centred System*, in www.education.gov.uk/publications

5. *Societies are aware and supportive of the child's right to freedom from all forms of violence*²⁵. There are concerted efforts to inform the public, including children, about children's rights and encouraging action to prevent violence against children, and to prevent the stigmatisation of child victims of violence.

6. *Child protection systems ensure adequate care*

a) Professionals are committed and competent. Professionals and practitioners working for and with children receive training and guidance on the rights of the child, on child protection law and procedures and more generally on child development. The necessary protocols and processes are in place to facilitate their role and responses to violence against children are inter- or multi-disciplinary.

b) Information is shared on certification and training to promote trust, including cross-border. Standards, indicators and tools and systems of monitoring and evaluation are in place, under the auspices of a national coordinating framework. Systems are effectively regulated and independently monitored and accountable, ensuring accessible, quality, child-sensitive services and care for all children. The monitoring system guarantees unrestricted access to monitor the quality of services delivered, in particular for any form of institutional care.

c) Within organisations working directly for and with children, child protection policies and reporting mechanisms are in place. All agencies and service providers, civil society organisations, private associations, commercial or non-profit organisations, working directly with children have robust child protection policies.

7. *Child protection systems have transnational and cross-border mechanisms in place*. In view of the increasing prevalence of children in cross-border situations in need of child protection measures, efforts are stepped up by: clarifying roles and responsibilities, keeping abreast of country of origin information, ensuring a national focal point for cross-border child protection matters, adopting procedures/guidance/protocols/processes, for example for the transfer of responsibility within the context of asylum procedures (Dublin Regulation), or when considering out of country care placements, or family tracing and protection in cases of child trafficking. However, for children seeking international protection or child victims of trafficking where contact could put the child and/or family at risk, caution should be exercised.

²⁵ See UN GC No 8 and 2014 Global report Ending legalised violence against children, <http://www.endcorporalpunishment.org/pages/pdfs/reports/GlobalReport2014.pdf>.

8. *The child has support and protection*: No child should be without the support and protection of a legal guardian or other recognised responsible adult or competent public body at any time. In view of the need for continuity of actions, the child protection system appoints a person of reference responsible for the child from reporting and referral through to follow-up and reintegration, to assure liaison among the different sectors and to guarantee a coherent and comprehensive response.

9. *Training on identification of risks for children* in potentially vulnerable situations is also delivered to teachers at all levels of the education system, social workers, medical doctors, nurses and other health professionals, psychologists, lawyers, judges, police, probation and prison officers, journalists, community workers, residential care givers, civil servants and public officials, asylum officers and traditional and religious leaders. Rules on reporting cases of violence against children are clearly defined and professionals who have reporting obligations are held accountable.

10. *There are safe, well-publicised, confidential and accessible reporting mechanisms in place*: Mechanisms are available for children, their representatives and others to report violence against children, including through the use of 24/7 helplines and hotlines.

5. A Comprehensive Child Protection System Step by Step

A *comprehensive approach* for protection of children²⁶ aims to covering all critical stages of *desperate* journeys and short or long stays. According to multiple situations of vulnerability children need supports on their passages toward Europe after arrival in any European country.

This approach overturns migrations policy, implementing child-focused country of origin information reports to inform best interest determinations. This pursues systematically addressing child's rights and needs in the development, planning (and resource allocation), implementation and evaluation of policies and procedures affecting them.

We argue all the potential phases of a migrant child's journey or experiences within the EU, from crossing the borders into the EU, traveling between the Member States, reception conditions, residence, undergoing status determination procedures and pathways for their future lives in Europe or elsewhere, with a focus on durable solutions including for children who are undocumen-

²⁶See Report at *10th European Forum on the rights of the child, The Protection of Children in Migration*.

ted or stateless. Behind to child protection system we will point out the four steps:

1) Identification and protection. First module asks to double questions: who are who? How old are the unaccompanied children? Unavoidable premise is knowing who are people to protect: children not adults. Identification of children at arrival has to be done effective immediately. On second moment it has to be registered the identified unaccompanied and separate children. Registration promotes children informations about their rights and reduces fear of identification on forcing them to be fingerprinted. We should have to consider cases of excessive use of force to obtain fingerprints.

The specific issue of age determination has been recognised as critical role in determining effects and limits of social and legal supports. Disputed ages have a negative impact on children, such as invasive age assessment methods with variable degrees of results and reliability. Age assessment procedure outcomes may be linked to the child's credibility in asylum procedures. More often unaccompanied children are wrongly registered as adults: only x-rays of wrist bones brooks no doubts in age assessment²⁷. Comprehensive approach instead forecasts social interviews, medical exams, psychological features. Multidisciplinary assets certainly avoid margin of uncertainty and admit benefit of doubt for positive policy developments.

2) Reception. Second module asks to the question: which is the best measure to host unaccompanied children? Is it possible to ensure real alternatives to immigration detention of children? *Comprehensive* reception of children highlights positive practices in the context of migration, regardless of migratory or residence status or their lack. In this step we assume that all children have to enjoy freedom, family, health, education as fundamental rights by UN-CRC. The best interest of children should address harmonisation of European laws, as priority principle in any proceedings involving them.

Reception of children is receiving all arriving children in their best interest under international protection. Reception of children does not mean detention centre anymore. The best interest of child keeps it out. Even if EU

²⁷In order to establish a minor's age, a majority of European Union Member States impose medical examinations such as dental examinations and X-rays of various bones of the body to determine bone maturity. Based on this measure, forensic doctors attempt to determine the age of the person using different methods but with one constant: a margin of error of at least 2 years. Non-medical methods are also in use, such as research of documentary evidence. Although informal assessments are not as harmful to children, they are often very inaccurate". See Report V. Feltz, *Age Assessment for Unaccompanied Minors. When European Countries Deny Children Their Childhood*, 2015.

Commission's European Agenda on Migration generally describes *hotspot approach* as “operational solutions for emergency situations”, such as eligible place to process asylum applications, enforce return decisions and prosecute criminal associations by smugglers throughout a platform of cooperation among the European Asylum Support Office (EASO), Frontex, Europol and Eurojust, there is no formal definition of *hotspot approach*. There is a practical statement of *hotspot approach*. It is a detention centre of all arriving people (adults and children, family and smugglers, victims and perpetrators).

The high risk of detention for children includes the higher risk of detention in inappropriate conditions in the lack of separation from adults²⁸. Moreover detention centres are lack of space in open reception and of appropriate alternatives. Any inspection in detention centres or independent monitoring of reception take place for checking accepting rules and correct procedure. Eu Migration policies for unaccompanied children legally suggests adequate standard of living, access to education and healthcare, including psycho-social care, leisure activities. So it could be possible only considering alternative to detention centres as well as shared community-based for children and families (see above Italian law no. 47).

3) Access to asylum procedures and procedural safeguards. Third module asked to necessity in adapting national (judicial and legal) procedures to child's rights of access: how to guarantee procedural safeguards such as right to information, legal advise and assistance, legal representative if unaccompanied, guardianship? How to implement the principle of best interest of child in all stages of asylum procedure? How to pledge the urgency principle in all procedures regarding children?

This relevant step encompasses the child's right of access to international protection procedures as well as family reunification, relocation, return; the promotion of fair and effective friendly procedures for children; the respect of urgency principle according to the Council of Europe Guidelines on *child-friendly justice*. *Comprehensive* access aims at overcoming procedural and

²⁸ Studies suggested that children's physical and mental health were significantly affected. Researchers noted a range of disturbances associated with detention including disruptive conduct, nocturnal enuresis, separation anxiety, sleep disturbance, nightmares and impaired cognitive development. Some children also developed severe symptoms including mutism, stereotypic behaviours, and refusal to eat and drink. See Steel Z, Silove D, Brooks R, Momartin S, Alzuhairi B, Susljik I. *Impact of immigration detention and temporary protection on the mental health of refugees*. *British Journal Psych*. 2006;188:58-64; Robjant K, Hassan R, Katona C. *Mental health implications of detaining asylum seekers: Systematic review*. *British Journal Psych*. 2009;194:306-12.

other obstacles to family reunion within the EU and family tracing challenges; it seeks to implement cross-border mechanisms, in case of unavailability or unwillingness of family in EU to take care of the child; it may decrease delays in initiating tracing and establishing and verifying family links due to the lack of efficient transnational cooperation and coordination mechanisms

4) Durable solutions including integration. Fourth module is more ambitious than others. It supposes the application of *comprehensive* approach for long term solutions as well as integration in destination country (- access to education for all children, social, health and mental healthcare and psycho-social support, housing and relevant services and infrastructures -) or origin country (return in the best interest application; child-friendly return procedures).

6 . Positive conclusions

As regarding the issue of unaccompanied children from a *revolutionary* (holistic) perspective, the high number of such minors entering Europe in last few years cannot be seen by States, – political, legal, social institutions – as an embarrassment or underestimated matter.

Legally the presence of unaccompanied children underlines how migration strategies are based on *compartmentalisation*, that allows policy makers to apply limited measures of deterrences and walling-off. To say on, it has been admitted to restrict the access of adult (irregular) migrants to protection system and to drastically reject them at frontiers. States can establish detention centres and foster forced returns, but – on the opposite – all politicians have to reflect on minors position. It is more complicated to apply restrictive measures to unaccompanied children or to close them in detention centres.

The presented Child Protection System not only contradicts the traditional “cultural conflict” perspective, but disconfirms the popular idea that the high violent rejections at frontiers could not be the political answer to war traumas, to unaccompanied children, to families dramas.

The adoption of children favourable policies suggests, overall, to focus our attention on the conditions of successful integration in the host countries more than on cultural or ethnic aspects. Recent proposals for assisting minors migrant as well as illustrated in a comprehensive approach or in a new legislation aim at strengthening the protection of vulnerable groups. Special treatments and protections are welcoming for children and families.