



# Relocating unaccompanied children: applying good practices to future schemes



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# Relocating unaccompanied children: applying good practices to future schemes



# Contents

|   |           |
|---|-----------|
| INTRODUCTION .....  | 5         |
| <b>1 ACHIEVING SOLIDARITY AND RESPONSIBILITY FOR THE PROTECTION OF UNACCOMPANIED CHILDREN .....</b> | <b>9</b>  |
| 1.1 Key child protection safeguards in relocation, including respect for family unity .....         | 9         |
| 1.2 Relocation as an important expression of EU solidarity .....                                    | 10        |
| 1.3 Three relocation experiences within the EU .....  | 11        |
| 1.4 Pledges to accept unaccompanied children: low numbers despite high vulnerability .....          | 12        |
| <b>2 MAKING RELOCATION WORK IN PRACTICE .....</b>   | <b>15</b> |
| 2.1 Coordination .....  | 15        |
| 2.2 Identification and selection of children .....  | 17        |
| 2.3 Appointing a guardian .....   | 22        |
| 2.4 Access to information .....   | 24        |
| 2.5 Best interests' determination .....   | 27        |
| 2.6 Security assessment and decision to relocate .....  | 30        |
| 2.7 Pre-departure preparation and transfer .....  | 31        |
| 2.8 Services after transfer to the state of relocation .....  | 33        |
| <b>3 FUNDING MECHANISMS .....</b>   | <b>37</b> |
| <b>CONCLUDING REMARKS .....</b>   | <b>39</b> |
| <b>ANNEX: OVERVIEW OF THREE RELOCATION EXPERIENCES SINCE 2015 .....</b>                             | <b>41</b> |

## Figures

|   |    |
|---|----|
| Figure 1: Relocating unaccompanied children: applying good practices to future schemes.....   | 8  |
| Figure 2: European Emergency Relocation Mechanism: number of unaccompanied children present in Greece and Italy, potentially eligible for relocation, and who were relocated, by year ..... | 13 |
| Figure 3: Number of unaccompanied children and state of destination under the European Emergency Relocation Mechanism (2015-2017) .....   | 42 |

## Tables

|  |    |
|--|----|
| Table 1: Overview of the three relocation experiences .....  | 11 |
| Table 2: Coordination and transfer of personal data in the three relocation experiences .....                | 15 |
| Table 3: Selection criteria for children in the three relocation experiences .....                           | 18 |
| Table 4: Actors involved in the initial identification of children in the three relocation experiences ..... | 20 |
| Table 5: Role of the guardian in the three relocation experiences.....                                       | 23 |
| Table 6: Access to information in the three relocation experiences .....                                     | 25 |
| Table 7: Best interests' determination in the three relocation experiences .....                             | 27 |
| Table 8: Security assessment in the three relocation experiences .....                                       | 30 |
| Table 9: Pre-departure preparation and transfer in the three relocation experiences.....                     | 32 |
| Table 10: Services after transfer to the state of relocation in the three relocation experiences.....        | 34 |
| Table 11: Funding used in the three relocation experiences .....   | 38 |

# Introduction

Over 215,000 unaccompanied children have applied for asylum in the European Union (EU) since 2015.<sup>1</sup> Several Member States have been at the forefront of the reception of such children, straining national capacities. As a result, some unaccompanied children have been relocated inside the EU. This report looks at the three approaches to relocation taken so far. Analysing these from a child-centred perspective, it aims to help ensure that on-going and future relocation efforts are in line with the children's fundamental rights.

Unaccompanied children who arrive in the EU have undertaken dangerous journeys without the care of a parent, relative or guardian, to escape war or persecution or to pursue a better life. According to Eurostat, around 35 % were under 16 years of age and 10 % were girls.<sup>2</sup> Many experienced violence and abuse before coming to Europe. Some remained stranded for days in rescue vessels operated by non-governmental organisations (NGOs) at sea, waiting for disembarkation. Hundreds never reached safety, drowning in the Mediterranean Sea.<sup>3</sup> Once in the EU, many continue to face serious problems, as they stay in inadequate facilities and lack the necessary protection.

Each child is entitled to rights and special safeguards enshrined in the UN Convention on the Rights of the Child and other international treaties.<sup>4</sup> Given their extreme vulnerability, unaccompanied children are entitled not only to all rights as a child, but also to specific protection as children deprived of parental care. Core rights include the right to be protected from violence, abuse or neglect, the right to be reunited with their families, the right to apply for asylum, the right to express their views, to be informed, to be assigned a guardian or representative, and to be accommodated in places that are suitable for children. The best interests of the child must be a primary consideration for all actors working with children. The EU Charter of Fundamental Rights and EU secondary law, such as the Reception Conditions

Directive (2013/33/EU)<sup>5</sup> and the Asylum Procedures Directive (2013/32/EU),<sup>6</sup> reaffirm these rights.

Several Member States have been at the forefront of the reception of unaccompanied children since 2015. The persistently high number of arrivals and the consequent overcrowding of the reception systems have adversely affected the provision of adequate accommodation and special care for unaccompanied children in countries of arrival and in some transit countries. Despite efforts to increase reception capacities for them, national authorities have often been unable to provide adequately for their special protection needs.

This was an issue particularly in 2015, when arrivals reached the highest number, and this remains a challenge in some EU Member States even today. For example, while unaccompanied children should be placed in safe accommodation, in Greece more than half still live in unsafe and precarious conditions. Nearly 5,250 were present in Greece in March 2020. Around 1,600 are accommodated in the hotspots on the islands, many in deplorable conditions, with unrelated adults and in tents. Nearly 1,060 live in squats, are homeless and move frequently between different types of housing.<sup>7</sup> Some 330 are in 'protective custody',<sup>8</sup> deprived of liberty. In Malta, unaccompanied children are staying in overcrowded facilities and most are deprived of liberty for weeks upon arrival, based on public health grounds. Only a few of them have prospects of being transferred to another European Member State.<sup>9</sup>

Such extremely precarious conditions have serious implications for the well-being of the children and their physical and mental health, as well as their integration prospects. In many cases, children abscond or try to unite with family members in other Member States, undertaking perilous journeys and travelling

1 Eurostat, EU-28: Eurostat, migr\_asyunaa, data extracted on 4 March 2020.

2 *Ibid.*

3 International Organization for Migration (IOM), Missing migrants project, data extracted on 3 March 2020; United Nations High Commissioner for Refugees (UNHCR) (2019), *Desperate Journeys - January-September 2019*, 14 October 2019.

4 Charter of Fundamental Rights of the European Union, OJ C 326, 26.10.2012, p. 391-407; United Nations Convention on the Rights of the Child, New York, 20 November 1989, UN Treaty Series, vol. 1577, p. 3.

5 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 (*Reception Conditions Directive*), OJ L 180, 29.6.2013, p. 96-116.

6 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 (*Asylum Procedures Directive*), OJ L 180, 29.6.2013, p. 60-95.

7 National Center for Social Solidarity (EKKA) (2020), 'Situation update: unaccompanied children in Greece', 31 March 2020.

8 FRA (2017), *European legal and policy framework on immigration detention of children*, Luxembourg, Publications Office of the European Union (Publications Office), 22 June 2017; FRA (2020), *Children in migration in 2019*, Vienna, 30 March 2020, p. 18.

9 Malta, UNHCR (2020), 'UNHCR concerned about fire at reception centre, calls for urgent action on detention conditions', 9 January 2020.

irregularly through Europe. Some end up being trafficked or exploited.

The EU and its Member States have taken several initiatives to protect unaccompanied children. At the EU level, the European Commission has adopted a number of actions to ensure the protection of migrant and asylum-seeking children, also covering the specific situation of unaccompanied children, the urgent need for relocation and the importance of swift and effective family tracing.<sup>10</sup> Several Member States have implemented changes in their legislation and policies to ensure appropriate safeguards for unaccompanied children, for example regarding their guardianship.<sup>11</sup>

Transferring children from Member States hosting larger numbers of unaccompanied children to Member States that are less affected or have more reception capacities for them is a key solidarity measure, providing unaccompanied children with a safe legal route. Provided that the appropriate safeguards are in place and that the right to respect for family life in Article 7 of the Charter of Fundamental Rights<sup>12</sup> is respected, relocation inside the EU has proven to be a good solution to respond to a child's protection needs.

The EU and its Member States have implemented three types of relocation schemes, which mainly concerned the transfer of asylum seekers from France, Greece, Italy and Malta:

- **European Emergency Relocation Mechanism:** In September 2015, Member States formally established a European Emergency Relocation Mechanism to relocate asylum applicants from Greece and Italy, in response to the large numbers of arrivals at their borders. The mechanism allowed the transfer of almost 35,000 asylum applicants to different Member States. However, out of those, only 823 were unaccompanied children.<sup>13</sup>

- **Bilateral arrangements for unaccompanied children:** Between 2016 and 2019, some Member States concluded bilateral relocation arrangements specifically for unaccompanied children. Notably, the United Kingdom<sup>14</sup> adopted a legislative amendment (the Dubs Amendment) to its Immigration Act to enable 480 unaccompanied children in France, Greece and Italy to come to the United Kingdom. Ireland voluntarily supported the relocations of more than 40 unaccompanied children from France, located in the unofficial camps around Calais, and relocated eight unaccompanied children from Greece in 2019–2020. Portugal relocated five unaccompanied children from Greece in 2017.
- **Voluntary relocation for people rescued at sea:** Between 2018 and 2019, several Member States agreed to relocate asylum applicants rescued at sea from Italy and Malta on a voluntary basis.<sup>15</sup> Forty-five unaccompanied children who disembarked in Malta and one who disembarked in Italy were relocated.

These relocation schemes faced similar challenges with respect to unaccompanied children. The number of relocation pledges was considerably lower than the number of unaccompanied children in need of protection. Some EU Member States found that complying with their protection safeguards and special reception needs was one of the obstacles to relocation. Notably, Member States' authorities, and other parties involved, did not have enough facilities and staff to provide children with appropriate care and accommodation and to ensure that safeguards were in place on time, such as guardianship, best interests' assessment, providing legal advice and child-friendly information. Although important for the individual children who were protected, the schemes adopted so far are not sufficient to respond to the protection needs of unaccompanied children.

10 European Commission, Communication from the Commission to the European Parliament and the Council, *The protection of children in migration*, COM(2017) 211 final, Brussels, 12 April 2017.

11 Italy, Law No. 47 of 7 April 2017 on provisions regarding protection measures for unaccompanied foreign minors (*Disposizioni in materia di misure di protezione dei minori stranieri non accompagnati*), 7 April 2017; Greece, Law No. 4554 of 18 July 2018 on the regulatory framework for the guardianship of unaccompanied minors (*Επιτροπεία ασυνόδευτων ανηλίκων*), 18 July 2018.

12 Charter of Fundamental Rights of the European Union, OJ C 326, 26.10.2012, p. 391–407, Art. 7.

13 Council Decision (EU) 2015/1523 of 14 September 2015 establishing provisional measures in the area of international protection for the benefit of Italy and of Greece (*Council Decision (EU) 2015/1523 of 14 September 2015*), OJ L 239, 15.9.2015, p. 146–156; Council Decision (EU) 2015/1601 of 22 September 2015 establishing provisional measures in the area of international protection for the benefit of Italy and Greece (*Council Decision (EU) 2015/1601 of 22 September 2015*), OJ L 248, 24.9.2015, p. 80–94.

14 United Kingdom, Immigration Act 2016, Section 67 ('Dubs Amendment'), 12 May 2016.

15 Joint declaration of intent on a controlled emergency procedure – voluntary commitments by member states for a predictable temporary solidarity mechanism (*Malta Declaration*), 23 September 2019.



## Research background and methodology

This report analyses the practical experience gained from the implementation of the three types of relocation arrangements. It shows in what ways different relocation exercises worked out for unaccompanied children. By adopting a child-centred perspective, it analyses the relocation procedure step by step, and outlines the challenges encountered, the best practices developed and the lessons learned by sending states and states of relocation, to ensure that relocation is in the best interests of a particular girl or boy.

With its practical guidance, this report is intended to support on-going and future relocation schemes, whether mandatory or voluntary. For example, in September 2019, the Greek Government pleaded for additional support and solidarity efforts by asking other EU Member States to relocate 2,500 children. As a response, the European Commission and a number of EU Member States have initiated discussions on the planned relocation of 1,600 children.<sup>16</sup>

The report draws on desk research and interviews that staff of the European Union Agency for Fundamental Rights (FRA) carried out in 10 EU Member States (Belgium, Finland, France, Germany, Greece, Ireland, Italy, Malta, the Netherlands and Portugal) between November 2019 and March 2020. As FRA's mandate is limited to the EU, no research could be carried out in the United Kingdom.

FRA conducted interviews with 72 professionals directly involved in relocation of unaccompanied children, who included representatives of national authorities (30), NGOs (15), international organisations (17) and European institutions (10). Owing to time and resource limitations, it was not possible to interview children who have been involved in relocation schemes. The report includes relevant quotes from unaccompanied children that FRA collected in its research on integration of young refugees in Europe,<sup>17</sup> and success stories of relocated children that national authorities shared.

European institutions and bodies, national authorities, international organisations and civil society provided input before the report was finalised.

## Providing practical guidance

Based on the lessons learned from relocation experiences and on existing international and EU legal standards, FRA has developed a number of practical suggestions for the adjustment of relocation efforts to the protection needs of unaccompanied children. This guidance aims to be a practical tool for Member States that wish to engage in the relocation of unaccompanied children and in any future responsibility-sharing mechanisms, and to gain knowledge on how this can be done while respecting the child's best interests.

Chapter 2 presents the different steps involved, as well as the practical guidance relating to each particular step. The following graphic presents that guidance in distilled form.

<sup>16</sup> European Commission, 'European Parliament Plenary – opening statement to debate on situation at Greek-Turkish border', 10 March 2020.

<sup>17</sup> FRA (2019), *Integration of young refugees in the EU: good practices and challenges*, Luxembourg, Publications Office, 12 November 2019.

Figure 1: Relocating unaccompanied children: applying good practices to future schemes



# 1

## Achieving solidarity and responsibility for the protection of unaccompanied children



### 1.1 Key child protection safeguards in relocation, including respect for family unity

Under EU law, children who arrive in the territory of EU Member States without an adult responsible for them are considered unaccompanied.<sup>18</sup> This definition also encompasses those children who are accompanied by family members other than their parents or primary caregivers, and who are often referred to as ‘separated children’.<sup>19</sup> A child is any person under the age of 18.<sup>20</sup> This section briefly describes the safeguards that authorities must respect when deciding whether or not to transfer a child to another Member State under relocation.<sup>21</sup>

International and European law provide specific rights and guarantees to protect all children. Article 3 (3) of the Treaty on European Union (TEU) explicitly requires the EU to promote the protection of the rights of the child.<sup>22</sup> The Charter of Fundamental Rights recognises in Article 24 the right of children to protection and care as necessary for their well-being, and the right to express

their views freely.<sup>23</sup> The UN Convention on the Rights of the Child (CRC), which all EU Member States have ratified, contains a catalogue of specific human rights of children. The Convention applies to all children present in the territory of EU Member States, irrespective of nationality, immigration status, ethnic origin, religion or any other characteristic.

First, the ‘best interests’ of the child are, under international law (Article 3 of the CRC), the primary consideration in any decisions affecting the child, including unaccompanied children.<sup>24</sup> The Charter of Fundamental Rights reflects this guiding principle,<sup>25</sup> which is incorporated in relevant EU law, including the Dublin Regulation (Regulation (EU) No. 604/2013), the Reception Conditions Directive (2013/33/EU) and the Asylum Procedures Directive (2013/32/EU).<sup>26</sup> All children should undergo a comprehensive best interests’ determination (BID) process to determine which solutions are more appropriate for the specific child, including whether or not being transferred to another Member State is indeed in the best interests of that girl or boy.

18 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 (Dublin Regulation), OJ L 180, 29.6.2013.

19 UN, Committee on the Rights of the Child (2005), *General Comment No. 6 (2005): Treatment of unaccompanied and separated children outside their country of origin*, CRC/GC/2005/6, 1 September 2005, para. 8.

20 UN, Convention on the Rights of the Child (CRC), UNTS No. 27531, 20 November 1989, vol. 1577, p. 3, Art. 1; Reception Conditions Directive (2013/33/EU), Art. 2 (d).

21 Council Decision (EU) 2015/1601 of 22 September 2015, Recital 24.

22 Treaty on European Union, OJ C 326, 26.10.2012, p. 13–390.

23 Charter of Fundamental Rights of the European Union, Art. 24.

24 UN Committee on the Rights of the Child (2005), *General Comment No. 6 (2005): Treatment of unaccompanied and separated children outside their country of origin*; Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and Committee on the Rights of the Child, 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 on 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, CMW/C/GC/4-CRC/C/GC/23, 16 November 2017.

25 Charter of Fundamental Rights of the European Union, Art. 24 (2).

26 Dublin Regulation (Regulation (EU) No. 604/2013), Art. 6; Reception Conditions Directive (2013/33/EU), Art. 23; Asylum Procedures Directive (2013/32/EU), Art. 25.

Second, the CRC requires specific procedural safeguards when assessing cases of unaccompanied children, to protect their rights.<sup>27</sup> An essential safeguard is the appointment of guardian as soon as possible. The child should also receive information and qualified legal assistance. The guardian can then decide together with the child whether the child should apply for asylum or other procedures such as relocation. Children should have adequate information about their options in a child-friendly form and in a language they can understand so that they can take informed decisions.<sup>28</sup> The EU asylum *acquis* reflects these safeguards,<sup>29</sup> with which EU Member States must comply in cases of relocation.<sup>30</sup>

Third, the starting point concerning unaccompanied children is the principle of family unity, as an expression of the right to respect for family life (Article 7 of the Charter of Fundamental Rights)<sup>31</sup> Accordingly, Article 6 of the Dublin Regulation provides for family reunification as one of the guarantees for children, and Article 8 provides that, “where the applicant is an unaccompanied minor, the Member State responsible shall be that where a family member or a sibling of the unaccompanied minor is legally present, provided that it is in the best interests of the minor.” If a family member, relative or sibling is already present in another Member State, the authorities have the duty to search for the family and organise the transfer of the unaccompanied child to the Member State where the family is present, provided that this is in the best interests of the child.<sup>32</sup> Family unity should be a priority in all decisions concerning unaccompanied children, as international and EU law require. Authorities when determining the best interests of the child must first take into account the existence of family links in other Member States. Only once they have investigated and considered these can they then pursue relocation.

However, under the Dublin Regulation, tracing family members and relatives of unaccompanied children remains a challenge. In practice, efforts to reunite the child with family members are limited to cases where there is hard evidence.<sup>33</sup> This results in lengthy procedures, as applicants need to collect and submit such evidence. The effective functioning of family

reunion under the Dublin Regulation is essential to ensure the right of the child to family unity.

## 1.2 Relocation as an important expression of EU solidarity

Solidarity and fair sharing of responsibility in the area of asylum, immigration and borders is a principle of primary EU law, enshrined in Article 80 of the Treaty on the Functioning of the European Union (TFEU).<sup>34</sup> Relocation involves the transfer of asylum applicants from one Member State, responsible for examining the application, to another Member State, which agrees to receive them.<sup>35</sup> It is a form of responsibility sharing among EU Member States as they assist each other to find a durable, safe solution for asylum applicants.<sup>36</sup>

Under Article 13 (1) of the Dublin Regulation, the Member State responsible for the examination of an asylum application is in most cases the one through which the applicant entered the EU irregularly. However, through the discretionary clauses in Article 17, the regulation allows EU Member States to take charge of asylum applications they would otherwise not be responsible for.

The legal basis for EU-wide mandatory relocation schemes is in the TFEU: Article 78 (3) states that, “In the event of one or more Member States being confronted by an emergency situation characterised by a sudden inflow of nationals of third countries, the Council, on a proposal from the Commission, may adopt provisional measures for the benefit of the Member State(s) concerned. It shall act after consulting the European Parliament.”

Authorities that FRA interviewed emphasised that relocation was a particularly effective solidarity tool for those EU Member States whose reception systems were not able to provide special care to unaccompanied children because of a high and rapid increase in the overall numbers of arrivals. At the same time, they highlighted that relocation offered a safe and legal pathway for this group of children, who would otherwise go missing and look for a durable solution on their own. Relocation builds trust in the official system, reducing the risk of onward movements and protecting children from trafficking networks. Fewer children took the risk of crossing the borders irregularly when they had a trusted prospect of moving legally to another Member State. Moreover, some authorities considered relocation as contributing more broadly also to effective cross-border cooperation.

27 UN Committee on the Rights of the Child (2005), *General Comment No. 6 (2005): Treatment of unaccompanied and separated children outside their country of origin*.

28 *Ibid.*, paras. 20–21.

29 Dublin Regulation (Regulation (EU) No. 604/2013), Arts 6 (4) and 8; Asylum Procedures Directive (2013/32/EU), Art. 25.

30 Council Decision (EU) 2015/1601 of 22 September 2015, Recital 24.

31 Charter of Fundamental Rights of the European Union, Art. 7; European Convention on Human Rights (ECHR), Art. 8; UN, CRC, Art. 8.

32 Dublin Regulation (Regulation (EU) No. 604/2013), Art. 8 (2).

33 European Commission (2015), *Evaluation of the Implementation of the Dublin III Regulation: final report*, Brussels, p. 18; UNHCR (2017), *Left in limbo: UNHCR study on the implementation of the Dublin III Regulation*, p. 75.

34 Treaty on the Functioning of the European Union (TFEU), OJ C 326, 26.10.2012, p. 47–390, Art. 80.

35 Council Decision (EU) 2015/1523 of 14 September 2015, Art. 2 (e).

36 *Ibid.*, Recital 24.

Some of the actors FRA interviewed, both from public authorities and civil society, highlighted that relocation should be seen in the broader context of migration and asylum measures. It should go hand in hand with providing sustainable, safe legal channels for children seeking protection in the EU, to help them avoid dangerous journeys to reach the EU borders. The EU has already put major efforts into increasing legal pathways, such as resettlement for persons in need of international protection to EU Member States. Over 80,000 refugees were resettled to the EU between 2015 and 2019,<sup>37</sup> of whom more than 50 % were children.<sup>38</sup> Resettlement is one legal way for children to access the EU territory, but, as FRA has already indicated, other legal channels to enter the EU could also be considered.<sup>39</sup> Some lessons learned from resettlement schemes are applicable in the relocation context.<sup>40</sup>

### 1.3 Three relocation experiences within the EU

At EU level, relocation is a recent exercise. The European Commission launched the first EU-wide relocation exercise (EU Relocation Malta Project – Eurema) in 2009 to support Malta in the light of increased numbers of arrivals. Over two years, almost 230 beneficiaries of international protection were transferred to six EU Member States (France, Germany, Luxembourg, Portugal, Slovenia and the United Kingdom) under this scheme. Furthermore, 258 people were transferred under the second Eurema exercise between 2012 and 2013.<sup>41</sup> This first EU-wide relocation concerned the transfer of recognised refugees and subsidiary protection status holders.

Table 1: Overview of the three relocation experiences

| Relocation models  | Sending state | State of relocation      | Time period                        | Unaccompanied children relocated | Legal basis   |
|--|---------------|--------------------------|------------------------------------|----------------------------------|---|
| <b>European Emergency Relocation Mechanism*</b>                | EL, IT        | 16 Member States, CH, NO | September 2015 to September 2017** | 823                              | European Council Decisions 2015/1523 and 2015/1601 based on Article 78 (3) TFEU         |
| <b>Bilateral arrangements targeting unaccompanied children</b> | EL, FR, IT    | UK                       | 2016–2019                          | 475                              | ‘Dubs scheme’ as per amendment to Section 67 of the United Kingdom Immigration Act 2016 |
|  | EL, FR        | IE                       | 2017–2019                          | 49                               | Voluntary, based on Article 17 (2) of the Dublin Regulation                             |
|  | EL            | PT                       | 2017                               | 5                                |   |
| <b>Voluntary relocation for people rescued at sea</b>          | MT            | BE, DE, FI, FR, IE, SI   | 2018–2019                          | 45                               | Voluntary, based on Article 17 (2) of the Dublin Regulation                             |
|  | IT***         | PT                       | 2019                               | 1                                |   |

Notes: \* *Council Decision (EU) 2015/1601 of 22 September 2015, Annexes I and II, established a quota for relocation of applicants for 24 Member States, but only 16 Member States pledged to accept unaccompanied children.*

\*\* *The European Emergency Relocation Mechanism formally ended on 26 September 2017 (Council Decision (EU) 2015/1601 of 22 September 2015, Article 13 (2)), but some transfers did still take place in 2018.*

\*\*\* *When analysing voluntary relocation exercises for people rescued at sea, this report focuses on experiences from Malta, as only one child was relocated from Italy.*

Source: FRA, 2020 [based on European Commission (2019), ‘EU temporary relocation scheme overview’, and data collected during the research interviews]

37 Eurostat data, migr\_asyresa: EU-27, 61,855; United Kingdom, 19,070. Data extracted on 10 March 2020.

38 *Ibid.*: EU-27, 32,170; United Kingdom, 41,595. For more information on the EU efforts, see European Commission (2019), Progress report on the implementation of the European Agenda on Migration, COM(2019) 481 final, Brussels, 16 October 2019.

39 FRA (2015), Legal entry channels to the EU for persons in need of international protection: a toolbox – FRA focus, Vienna.

40 UNHCR (2016), ‘Building on the lessons learned to make the relocation schemes work more effectively’, January 2016.

41 European Commission (2011), Communication on enhanced intra-EU solidarity in the field of asylum, COM(2011) 835 final, Brussels, 2 December 2011; EASO (2012), EASO fact finding report on intra-EU relocation from Malta; Malta, Home Affairs, ‘EUREMA II: pilot project for intra-EU relocation from Malta’; European Resettlement Network, ‘Intra-EU relocation’.

In 2015, the unprecedented number of people arriving at the EU's external borders to seek international protection called for enhanced solidarity efforts. Among other measures, different relocation arrangements, some specifically targeting unaccompanied children, were set up to assist the most affected Member States in processing of asylum applications. The report will further analyse these relocation schemes from a child rights perspective. For easy reference, FRA grouped them in three categories. Further details and data are in the [Annex. Table 1](#) illustrates the relocation experiences, developed since 2015 with a focus on unaccompanied children, the sending state and state of relocation, the time period, the numbers and its legal basis.

## 1.4 Pledges to accept unaccompanied children: low numbers despite high vulnerability

The European Emergency Relocation Mechanism and other relocation arrangements affected only a very small number of unaccompanied children, as Member States pledged to take limited numbers. A pledge is how a Member State (the state of relocation) expresses its readiness to receive asylum applicants and informs the other Member State (sending state) of the number and characteristics of applicants it is willing to take.

The total number of unaccompanied children relocated was considerably lower than the number of children for whom relocation could have been considered. [Figure 2](#) illustrates that the number of unaccompanied children present in Greece and Italy was far greater than the number of those potentially eligible for relocation under the European Emergency Relocation Mechanism, given their asylum recognition rates and nationalities. Of those potentially eligible for the scheme, a small number have been effectively relocated. The figure also shows the initial delays in the implementation of the relocation scheme for unaccompanied children.

The low number of pledges to accept unaccompanied children was similar in the case of the voluntary relocations for people rescued at sea who disembarked in Malta. Of the hundreds of unaccompanied children who have disembarked in Malta in recent years, only those rescued by NGO vessels are part of the voluntary relocation arrangements. During 2018 and 2019, 352 persons declared themselves children when they were disembarked in Malta from an NGO vessel and had to undergo age assessment. Of those, 93 were finally identified as children following the age assessment, and 45 unaccompanied children were relocated to other EU Member States.

Despite repeated calls by the European Commission in the European Emergency Relocation Mechanism,<sup>42</sup> the irregularity of pledges submitted by the EU Member States and the lack of coordination in the sending states resulted in lengthy relocation procedures for unaccompanied children, increasing the risks of absconding and onward movement. According to authorities FRA interviewed, the lack of pledges also affected the selection of eligible unaccompanied children within a group at heightened risk. It hampered an effective BID, as a child's individual needs, language skills or other cultural ties could not be properly matched with a certain Member State. For example, in Italy unaccompanied children could nominate their top three preferred states of relocation.<sup>43</sup> Although preferences were non-binding and there was no right to choose,<sup>44</sup> Italian authorities found this practice helpful. Children were more willing to cooperate and less likely to abscond.<sup>45</sup> However, this choice was generally not feasible, given the low number of pledges.

The majority of the national authorities interviewed argue that states of relocation did not make pledges to accept unaccompanied children because they could not provide for their special reception needs owing to limited accommodation capacities. Equally, under the Dubs scheme, it was challenging to agree with regional or municipal authorities on the placement of unaccompanied children, even once the national authorities agreed on the transfer. This was partly because the children were highly vulnerable, many with complex care and reception needs.

Lack of sufficient pledges might jeopardise the right of children to be protected, as they would be left under the sole responsibility of frontline states that are not able to provide for adequate reception given the high number of arrivals.

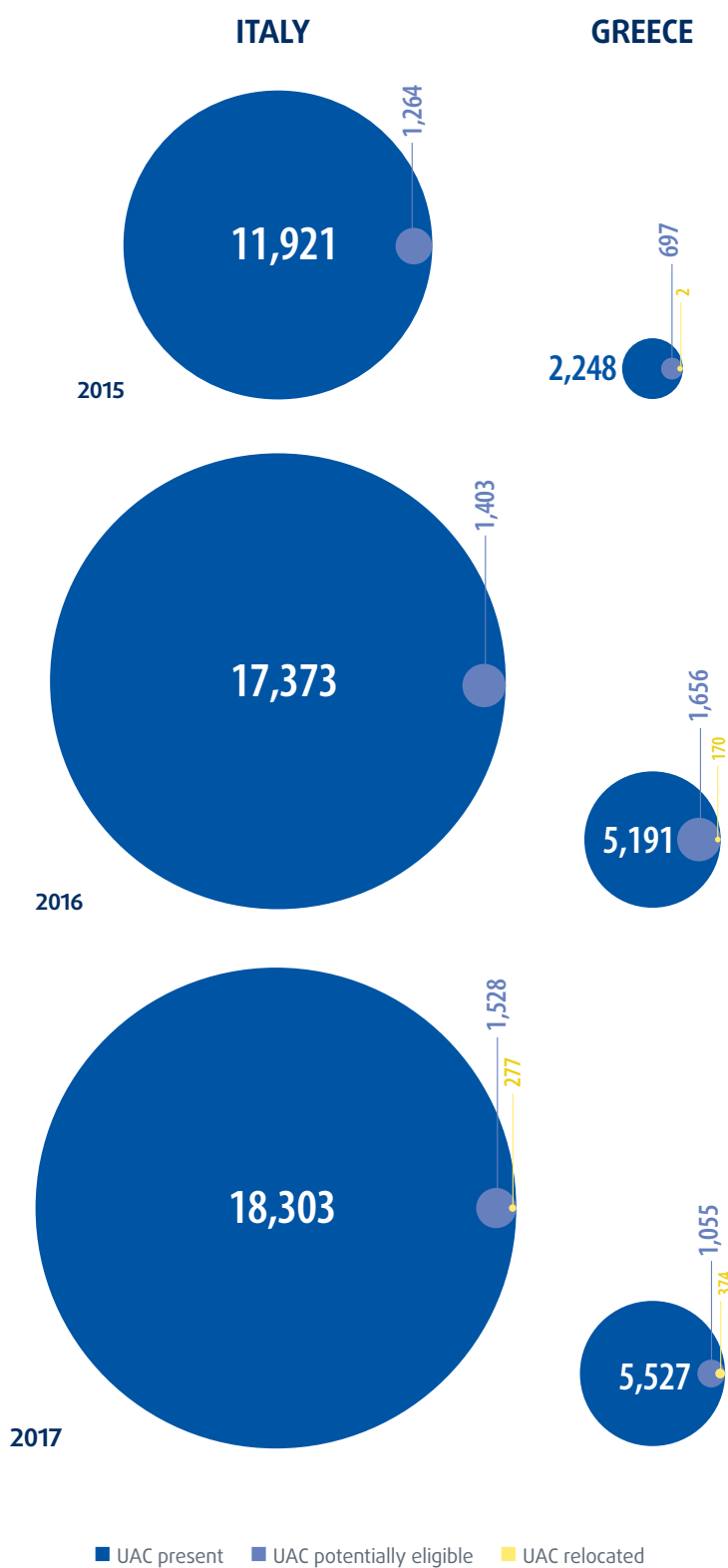
42 European Commission (2017), [Eleventh report on relocation and resettlement](#), p. 5.

43 European Commission (2016), Communication from the Commission to the European Parliament, the European Council and the Council, [Fifth report on relocation and resettlement](#), COM(2016) 480 final, Brussels, 13 July 2016; European Commission, Communication from the Commission to the European Parliament, the European Council and the Council (2016), [Eighth report on relocation and resettlement](#), COM(2016) 791 final, Brussels, 8 December 2016.

44 [Council Decision \(EU\) 2015/1523 of 14 September 2015](#), Recital 29.

45 European Parliament (2017), [Implementation of the 2015 Council Decisions establishing provisional measures in the area of international protection for the benefit of Italy and Greece: study for the LIBE Committee](#), Brussels, p. 47; European Commission (2017), Communication from the Commission to the European Parliament, the European Council and the Council, [Eleventh report on relocation and resettlement](#), COM(2017) 212 final, Brussels, p. 5; European Commission (2017), Communication from the Commission to the European Parliament, the European Council and the Council, [Thirteenth report on relocation and resettlement](#), COM(2017) 330 final, Brussels, p. 4.

Figure 2: European Emergency Relocation Mechanism: number of unaccompanied children present in Greece and Italy, potentially eligible for relocation, and who were relocated, by year



Note: UAC=unaccompanied children.

Source: FRA, 2020 [based on Italian Ministry of Labour and Social Policies for number of children present in Italy; National Center for Social Solidarity (EKKA) data for number of children present in Greece; and on European Commission data for the number of relocated unaccompanied children]





# 2

## Making relocation work in practice



For an unaccompanied child to be part of a relocation arrangement, national authorities in the sending state and in the state of relocation have to undertake a number of steps. These vary in practice depending on the type of relocation arrangement. In addition, specific child protection requirements, such as guardianship, vary between EU Member States, which also affects the relocation process. However, in all cases several actors are involved. This chapter presents in further detail the different steps, not necessarily organised in chronological order, taken under the three relocation models and brings forward promising practices under each of them.

### 2.1 Coordination

Several actors are involved in the relocation process. This requires intensive coordination in the sending state and in the state of relocation between asylum services, police, border management authorities, authorities responsible for reception, healthcare

providers, social workers, national/regional and municipal authorities, and international organisations. Regarding unaccompanied children, additional actors may have specific responsibilities, such as child protection services, guardians, legal representatives and the judiciary.

All those interviewed found that clear and timely workflows are essential to improve coordination and speed up the relocation process. This also contributes to building up applicants' trust in the procedure, thus reducing the risk of spontaneous onward movements. In all three relocation experiences, workflows and operational protocols were developed as Table 2 shows. They were internal procedural documents – usually not publicly available – that key actors involved agreed on to respond to coordination gaps after the relocation started, based on applicable EU and national law. Some of them included only general references to the special guarantees applying to unaccompanied children, citing relevant EU or national law; others provided detailed practical guidance for each relocation step.

Table 2: Coordination and transfer of personal data in the three relocation experiences

| Activity                             | European Emergency Relocation Mechanism<br><i>Relocation from Greece, Italy</i> | Bilateral arrangements targeting unaccompanied children<br><i>Relocation from France, Greece, Italy</i>      | Voluntary relocation for people rescued at sea<br><i>Relocation from Malta</i>         |
|--------------------------------------|---|--|--|
| Coordination                         | Protocols developed   | - Bilateral agreements<br>- Protocols not always developed   | - Joint declaration of intent ('Malta Declaration')<br>- Standard operating procedures |
| Transfer of files with personal data | DubliNet, as required by the Council decisions                                  | Through regular emails, via a secure platform, as password-protected files or through DubliNet in some cases | DubliNet, as per Article 17 (2) of the Dublin Regulation                               |

Source: FRA, 2020

Documents outlining step-by-step workflows can help in identifying clearly the roles of each service and institution. For example, for the voluntary relocation mechanism under the Malta Declaration, the standard operating procedures include a table explaining the workflow: relocation involves 15 actions in four phases (i.e. identification; interview and matching; checking by the state of relocation; decision and transfer).<sup>46</sup> The workflow allocates those responsible, tasks and time frames for each action. The standard operating procedures make reference to additional requirements applicable to relocations of unaccompanied children, such as the appointment of the legal guardian and the BID for children.

Under the European Emergency Relocation Mechanism, in Italy an initial challenge was to connect the various institutions and services that were involved in the relocation of unaccompanied children. Responsibilities were shared between different ministries, local authorities, tribunals and reception facilities. Bringing those responsible together to develop a tailored workflow for the relocation of unaccompanied children was found to be a useful practice and supported the start of their relocation.

Defining an authority responsible for coordination facilitates exchange of information, clarification of steps and addressing possible shortcomings. For example, under the European Emergency Relocation Mechanism, relocation protocols helped define responsibilities, tasks and time frames in relation to each procedural step. They also specified coordination roles, modalities and available support from EU agencies and international organisations.<sup>47</sup> In this framework, the European Commission held regular meetings to promote exchange on relevant developments and address possible inconsistencies in the procedure.

Dissemination and communication of the workflows to all professionals involved, including child protection services at local level, and civil society organisations providing legal, psychological and social support, was a challenge in all the relocation experiences. Regarding the Dubs relocations from France, for example, the United Kingdom Home Office and the French Ministry of the Interior developed and made public a detailed process for the transfer of unaccompanied children in December 2018, two years after the implementation of

46 'Standard operating procedures for ad hoc relocation exercises in application of the Joint Declaration of Intent on a controlled emergency procedure, agreed in Malta on 23 September 2019, adopted on 22/11/2019', internal working document, para. 4.

47 Protocol for Relocation – Greece, endorsed on 8 July 2016; Protocol for Relocation – Italy, complementing Standard Operating Procedures (SOP) for Hotspots, endorsed on 12 December 2016. See also European Commission (2016), Fifth report on relocation and resettlement, pp. 6 and 8.

## Promising practice

### Tailoring workflows for the relocation of unaccompanied children

In Italy, access of unaccompanied children to the relocation procedure had proven difficult initially under the European Emergency Relocation Mechanism. Given the high number of unaccompanied children, authorities faced challenges putting in place appropriate safeguards, such as guardianship, in a timely manner. The appointment of a guardian was a precondition for unaccompanied children to apply for asylum and relocation.

Save the Children Italy initiated a pilot project in Rome to help start their relocation process. Competent authorities working at the Rome municipal level met in early 2017 and agreed on a process, which allowed the first relocations to take place. Dialogue among relevant institutions moved to the national level, under the coordination of the European Commission.

As an outcome, a succinct step-by-step note was developed and disseminated to all courts, prefectures and police headquarters (questure) in Sicily, which accommodated the majority of the children eligible for relocation, and to all relevant stakeholders involved (i.e. Ministry of the Interior, Department of Public Security, Ministry of Labour, EU agencies and international organisations). The note outlined each procedural step in the relocation of unaccompanied children along with the roles of child protection services, legal representatives and the guardian.

It was a joint effort by the Ministry of Justice and the Ministry of the Interior, promoted by the European Commission and with inputs from relevant international organisations and civil society.

*Source: FRA interviews with European Commission, Italian Ministry of the Interior, and Save the Children Italy, January–February 2020.*

the scheme. The document explained how to identify, screen and process unaccompanied children eligible for the scheme, including how to carry out their BID.<sup>48</sup> According to some of those interviewed, the lack of availability of the document from the start and its limited dissemination left child protection stakeholders not fully aware of the procedure. In general, civil society and international organisations considered that documents that are publicly available and well communicated to all professionals concerned allow clarity of responsibilities across services and sectors and help the smooth running of the process, while ensuring accountability.

48 United Kingdom, 'Detailed process: transfer of minors to the UK from France under section 67 of the Immigration Act 2016', 20 December 2018.

All protocols regulated the data exchange between the sending state and state of relocation to ensure confidentiality and secure data transfer, as shown in Table 2. Under the European Emergency Relocation Mechanism, information was shared through DublinNet,<sup>49</sup> the established way to ensure secure information exchange between EU Member States under the Dublin Regulation. This secure system has been also used in the voluntary relocation of people rescued at sea in Malta. However, in other bilateral transfers, personal information has been shared, according to some interviewees by email or in password-protected files.

### Issues to consider for effective coordination:

- Develop protocols or standard operating procedures agreed among all actors as early as possible, to avoid lack of clarity and delays in relocation.
- Protocols should detail the specific process for the relocation of unaccompanied children including the actors, their roles, the safeguards in place, the time frame and the modalities of coordination.
- Protocols should envisage a coordination role for a properly resourced entity to facilitate exchange and monitor the implementation of the procedure.
- Protocols should be public to ensure transparency, unless they include sensitive information. In that case, a summary highlighting the key actors and responsibilities should be made public.

## 2.2 Identification and selection of children

The identification and selection of children varied according to the type of relocation arrangement as shown in Table 3. Several selection criteria were applied in the identification of eligible children such as nationalities with higher international protection recognition rates; specific vulnerabilities; certain age groups; and arrival before or after a certain date. In general, there was more flexibility in how children are selected in relocation based on voluntary exercises and bilateral agreements.

The European Emergency Relocation Mechanism established only a few criteria for the selection of the persons to be relocated. Many of those whom FRA

interviewed consider that its implementation showed many inconsistencies. The Council of the EU, in its relocation decisions, established the following as the main criteria for the relocation of persons present in Greece or Italy:

- The person applies for international protection in Greece or in Italy.<sup>50</sup>
- The applicant belongs to a nationality with at least a 75 % recognition rate in asylum applications in the first instance according to average Union-wide Eurostat data.<sup>51</sup>
- The applicant arrives in Greece or Italy after 15 August 2015, according to the first EU Council Relocation Decision,<sup>52</sup> or after 24 March 2015, according to the second EU Council Relocation Decision.<sup>53</sup> The signature of the EU-Turkey Statement<sup>54</sup> also had an impact on the eligibility, as it meant in Greece only applicants who arrived before 20 March 2016 would be eligible.<sup>55</sup>

The nationality criterion was set to ensure the relocation of asylum applicants with a high probability of being successful in their claims to international protection in the state of relocation. In the case of unaccompanied children, that criterion meant that many of them remained outside the relocation programme, as Figure 2 shows. For example in Greece, a high percentage of unaccompanied children were from Afghanistan or Pakistan (in 2016 these two nationalities together accounted for more than 50 % of all unaccompanied children) – nationalities not eligible for relocation.<sup>56</sup> The recognition rates would also fluctuate during the relocation process, leaving, for example, Iraqis out of the relocation programme as of February 2016.<sup>57</sup> Other than nationality, there were no specific criteria set for unaccompanied children beyond the general obligation of EU Member States to consider the best interests of

50 Council Decision (EU) 2015/1523 of 14 September 2015; Council Decision (EU) 2015/1601 of 22 September 2015, Art. 3 (1).

51 Council Decision (EU) 2015/1523 of 14 September 2015; Council Decision (EU) 2015/1601 of 22 September 2015, Art. 3 (2).

52 Council Decision (EU) 2015/1523 of 14 September 2015, Art. 13 (3).

53 Council Decision (EU) 2015/1601 of 22 September 2015, Art. 13 (3).

54 European Parliament (2017), Implementation of the 2015 Council decisions establishing provisional measures in the area of international protection for the benefit of Italy and Greece: study for the LIBE Committee, p. 38.

55 Greece, Greek Ombudsman (2019), Relocation revisited: the Greek case, 20 February 2019, p. 49.

56 Greece, EKKA (2016), Report 2016: service for the management of accommodation requests of asylum seekers and unaccompanied minors (Εθνικό κέντρο κοινωνικής αλληλεγγύης, υπηρεσία διαχείρισης αιτημάτων στέγασης αιτούντων άσυλο και ασυνόδευτων ανηλίκων).

57 European Commission (2017), Report from the Commission to the European Parliament, the European Council and the Council, Ninth report on relocation and resettlement, COM (2017) 74 final, Brussels, 8 February 2017.

49 Council Decision (EU) 2015/1601 of 22 September 2015, Recital 23.

Table 3: Selection criteria for children in the three relocation experiences

| <b>European Emergency Relocation Mechanism</b><br><i>Relocation from Greece, Italy</i>   | <b>Bilateral arrangements targeting unaccompanied children</b><br><i>Relocation from France, Greece, Italy</i> | <b>Voluntary relocation for people rescued at sea</b><br><i>Relocation from Malta</i>     |
|--|--|---|
| National with a 75 % recognition rate, but in practice state of relocation has additional preferences such as unmarried children, with relatives in country of relocation, certain nationalities | State of relocation has specific preferences, but more often based on the vulnerability of the child           | State of relocation has specific preferences such as certain nationalities or minimum age |

Source: FRA, 2020

the child as a primary consideration when implementing the relocation decisions.<sup>58</sup>

The 75 % recognition rate was a legal criterion and in practice regarded as a minimum threshold. Many implementation challenges derived from the additional preferences set by individual EU Member States. Sixteen EU Member States pledged to take unaccompanied children, with some pledging to accept only one or very few.<sup>59</sup> Some of the 16 EU Member States also provided their specific preferences when pledging to accept unaccompanied children. For example, Germany relocated unaccompanied children only if the child already had relatives present in Germany, and a majority of EU Member States did not relocate married children.

In relocation under bilateral arrangements, the eligibility criteria are generally less formalised and more flexible. The two EU Member States involved in the relocation process decide on the number of relocations, the eligible applicants, the implementation period and other arrangements. The agreement is also generally more informal, and envisages no legal consequences in the event of non-compliance. Some of the identifications were rather ad hoc and not based on vulnerability or other criteria, as some interviewed representatives of national authorities reported.

EU Member States did also suggest certain preferences during the voluntary relocations. The most common preferences were again related to date of arrival (e.g. before the clearance of the Calais camp, or before the EU-Turkey deal); certain age groups (young children or sometimes older children); or certain nationalities with higher recognition rates. During some of the voluntary relocations it was difficult to identify children meeting

all the criteria. As a consequence, preferences for the selection of the children were changed. For example, under the Dubs scheme the date-related criteria and the age criteria, set at the beginning of the scheme, were later dropped.<sup>60</sup>

In voluntary relocations for people rescued at sea from Malta and Italy, the state of relocation initially determined selection criteria. In the disembarkations in 2018, it was the Maltese authorities, through bilateral relations, who shared with interested EU Member States initial information about the persons arriving on the rescue vessels. Then, representatives of those EU Member States that were pledging to relocate would travel to Malta and conduct their own interviews to select the persons to be relocated. According to some of FRA’s interviewees, this process was so accelerated that it did not always ensure child protection guarantees, such as appointing a guardian or assessing the best interests of the child, including any family links. EU Member States selected unaccompanied children in accordance with their preferences, such as nationality or being of a certain age. However, in 2019 the situation changed once the European Commission took over the role of coordinating the relocation process after disembarkation operations, promoting a more coherent approach and a fairer distribution mechanism. On the basis of a jointly agreed methodology and matching criteria, the European Asylum Support Office (EASO) suggests how to match its interviewed applicants with the number of pledges and preferences of EU Member States, before the Commission then submits the final proposal to the pledging Member States.<sup>61</sup>

58 Council Decision (EU) 2015/1601 of 22 September 2015, Art. 6 (1).

59 European Commission (2019), ‘EU temporary relocation scheme overview’, April 2019.

60 United Kingdom (2017), Policy statement: Section 67 of the Immigration Act 2016, 10 March 2017.

61 EASO (2019), Over 900 EASO personnel deployed in operations in four EU Member State, Press release, 8 October 2019.

## Relocation of especially vulnerable children

Several actors interviewed, especially from sending states, expressed their concern about the difficulty in relocating married or ‘separated’ children.

Of the 16 EU Member States that relocated unaccompanied children, very few agreed to relocate married children. EU Member States argued legal obstacles, as underage marriage is not allowed under their national laws. EU Member States would also reject married children based on the rejection ground of “public order and security” provided in the relocation decisions.<sup>62</sup> However, in 2016 only Denmark (which was not part of the relocation programmes, because of its EU Justice and Home Affairs opt-out), Germany, the Netherlands and Sweden actually prohibited children under the age of 18 years from entering into marriage, a FRA survey on minimum age in the EU shows.<sup>63</sup> The rest of the EU Member States allowed it with judicial or administrative authorisation from the age of 14, 15 or more commonly 16 years. Since then, and following the CRC Committee’s recommendations,<sup>64</sup> several EU Member States have initiated legal changes to prohibit children under 18 from marrying. The exclusion of married children excluded some of the most vulnerable girls from the relocation process, according to several of FRA’s interviewees. However, marital status should not have had an impact on the protection afforded to children who had married under the laws in their countries of origin, and whose best interests should still have been the primary consideration.

In Greece, while the European Emergency Relocation Mechanism was in operation, there were some difficulties in dealing with the high number of children who were considered separated: children travelling with relatives, such as a cousin or an aunt, but not with their parents or primary caregivers. Greek authorities, together with the European Commission, established a list of categories to facilitate the pledges. The list included unaccompanied child, separated child, married child, married child with children and pregnant child. Some separated children were relocated to the same destination as the accompanying relatives, but many separated children remained in Greece.

62 Council Decision (EU) 2015/1601 of 22 September 2015, Art. 5 (7).

63 FRA (2017), *Mapping minimum age requirements concerning the rights of the child in the EU*.

64 UN, Committee on the Elimination of Discrimination against Women and Committee on the Rights of the Child, *Joint general recommendation No. 31 of the Committee on the Elimination of Discrimination against Women/general comment No. 18 of the Committee on the Rights of the Child on harmful practices*, 14 November 2014; UN, Committee on the Rights of the Child (OHCHR) (2019), *General comment No. 24 (2019) on children’s rights in the child justice system*, 18 September 2019.

In the case of the Dubs relocations from Greece, the selection criteria were in practice finally based on vulnerability, as established by a BID panel. As a result, several children who were sick or suffering from mental health issues were prioritised and relocated under the Dubs scheme. (See Section 2.5 on best interests’ determination panels.)

### Promising practice

#### Pledging to accept unaccompanied children

**Finland** was one of the first EU Member States to pledge to accept unaccompanied children, and also pledged to relocate married children. Under the European Emergency Relocation Mechanism, Finland relocated 23 married girls, including 14 underage mothers with children of their own. The youngest relocated married girl was 13 years old. The decision to relocate underage married girls did not mean that Finland recognised the marriages. The marriages merely did not exclude them from being relocated.

Considered ‘separated children’, married girls moved with their spouses to Finland. Specific guidance to caseworkers was provided on how to process their asylum cases once in Finland. The couple would live initially in separate shelters. Both the girl and her child, if she had one, each had a guardian assigned to them. At the age of 16 (age of sexual consent in Finland), social workers would assess the relationship and decide if it was in accordance with the child’s best interests to stay in the relationship.

*Source: FRA interview with Finnish Immigration Service, January 2020*

#### Issues to consider in the identification of unaccompanied children:

- Eligibility criteria for relocation should be agreed and equally applied by all EU Member States to avoid discriminatory practices and implementation challenges. Particular preferences of the state of relocation could be considered only when related to reception or asylum-processing capacities.
- Eligibility criteria should not be too many or so strict that they make the identification of unaccompanied children to be relocated practically impossible.
- National authorities should, based on the best interests of the child, prioritise those children who are especially at risk and require special protection. When relocation of those children is not possible, special procedures to ensure their protection need to be put in place.

## Actors involved in selecting unaccompanied children for relocation

The actors involved varied between the relocation schemes, as Table 4 shows. In the European Emergency Relocation Mechanism, the main responsibility was upon the asylum authorities of the sending state. In some bilateral voluntary relocations, there was an increased role for civil society. Meanwhile, in the multilateral voluntary relocation exercises, the Commission and EASO played an important part, notably to ensure the impartiality of the process. In some bilateral agreements, authorities from the state of relocation would have a key role, as they could travel to the sending state and select the applicants.

State authorities originally started the transfer of five unaccompanied children from Greece to Portugal in 2017, but left the actual selection, preparation and transfer to the responsibility of NGOs.

In the Dubs relocations from France, one of the key difficulties in the identification of children was the scattered location of children around different municipalities, sometimes with no contact with regional social services in France. The scheme applied to all of France, but identification tended to take place mainly in the northern French departments during its initial phases. Many actors, including civil society organisations and volunteers, supported their referral to the scheme during the dismantling of the informal camp at Calais. To increase protection, in 2018, specialised NGOs were tasked to reach out to the children, host them in safe accommodation, inform them about the available legal pathways and propose them for a Dubs transfer, in cooperation with UNHCR.<sup>65</sup> From mid-2017, UNHCR supported the identification of unaccompanied children placed in child protection accommodation facilities around the country, through regular monitoring activities.

In the case of Dubs relocations from Greece, Greek and British authorities, together with UNHCR, agreed on a detailed system to assess the best interests of the child and select the children to be relocated accordingly (see Section 2.5). The National Center for Social Solidarity (EKKA), UNHCR and the IOM played an important role in the identification and the selection process. The stronger role of child protection actors allowed the selection of children depending on vulnerability criteria.

<sup>65</sup> France, France Terre d'Asile, 'Qui sont les mineurs isolés de Calais'.

## Promising practices

### Tasking specialised entities to select unaccompanied children for relocation

In 2018 the Department of Calais entrusted the NGO France Terre d'Asile with the responsibility for selecting children eligible under the Dubs scheme. The 'House for Young Refugees' – managed by France Terre d'Asile in Saint-Omer, which is 40 km from Calais – became the official shelter hosting unaccompanied children waiting for family reunion or relocation transfers. UNHCR provided support in the procedure by reinforcing the capacities of the association France Terre d'Asile.

Tasking a specialised NGO and opening a specific shelter for unaccompanied children was found to be a useful measure, as it helped to identify and assist children who had not previously had contact with local authorities.

*Source: FRA interview with France Terre d'Asile, February 2020*

### Reaching out to children: the role of mobile teams

Mobile teams supported the detection of unaccompanied children in some relocation experiences. In Italy, EASO mobile teams worked intensively in centres for unaccompanied children in Sicily, where most eligible children were accommodated, to provide information and follow each case. This was done in coordination with the European Commission, UNHCR, the United Nations Children's Fund (UNICEF) and NGOs, and with guidance from Italian authorities. Furthermore, the CivicoZero initiative, run by Save the Children Italy, put in place mobile teams (cultural mediators and legal advisors) to reach out to unaccompanied children in transit in Rome and Milan and living in the streets outside the reception system.

Similarly, in France, mobile teams from the association France Terre d'Asile have reached out to unaccompanied children since 2017 in the unofficial camps in Calais. They have informed children about available legal pathways, accommodation and child protection services. The mobile teams provided information in several languages and, depending on the accommodation places available, they operated every day.

Both in Italy and in France, these interventions significantly helped children to gain trust in the system, enter the reception system and seek legal means to reach other Member States.

*Source: FRA interviews with Save the Children Italy, February 2020; France Terre d'Asile, March 2020*

Table 4: Actors involved in the initial identification of children in the three relocation experiences

| European Emergency Relocation Mechanism<br><i>Relocation from Greece, Italy</i> | Bilateral arrangements targeting unaccompanied children<br><i>Relocation from France, Greece, Italy</i> | Voluntary relocation for people rescued at sea<br><i>Relocation from Malta</i>  |
|---|---|---|
| Done by Greek or Italian authorities, with the support of EASO, IOM and UNHCR   | Done by authorities where the child is located, also with involvement of NGOs, IOM and UNHCR            | Since early 2019, proposal submitted by the Commission to the relocating Member States on the basis of EASO interviews and matching |

Source: FRA, 2020

### Issues to consider in relation to the role of actors in identifying children for relocation:

- Child protection authorities should be more involved to ensure better integration of child protection expertise in the relocation process.
- National authorities should remain overall responsible for identifying eligible children, although it could use the help of UNHCR, NGOs and other bodies that have intimate knowledge of the field to identify eligible children.
- In voluntary arrangements, a supranational authority, such as the European Commission, can facilitate the fair and transparent distribution of cases for relocation among the different Member States.

In all relocation experiences, national authorities apply the regular procedure for age assessment, but this requires time and can delay the relocation process. For example, in the voluntary relocation for people rescued at sea, Maltese authorities carried out hundreds of age assessments. The Agency for the Welfare of Asylum-seekers (AWAS) has too few staff to carry out a high number of age assessments speedily, and this has caused significant delays in the relocation process.

Once the sending state assessed the child's age, the states of relocation generally accepted the assessment without requiring further evidence, based on the mutual trust between national authorities, interviewees explained. Only in some cases would the state of relocation ask for further information, for example for the age-assessment-related tests to be translated. On some occasions the state of relocation would repeat the age assessment, sometimes even at the request of the child.

### Age assessment

Eligible children often have to go through an age assessment as part of their first registration. This should in principle be the case only when the child does not carry documentation and the authorities have serious doubts about the declared age. The Asylum Procedures Directive (2013/32/EU) sets out, in Article 25, the rules for determining the age of unaccompanied children. The principle that an applicant must be considered a child should apply in cases of doubt. The child and/or the representative needs to consent to a medical examination, if such an examination is needed. However, such consent was not always possible in the relocation procedure, according to some of FRA's interviewees, as in some cases the temporary guardian was appointed only once the person had been assessed to be a child.

*"When I arrived [...] I gave them my age, 17 years, but they refused to take [it ...] they don't test me ...nothing. [...] [When] they bring my paper I see they wrote 18 years. After, I complained with one man and he went to speak with them. After he came back and said these guys will change your age. But they did not change it."*

Boy from Gambia, 17 years at time of arrival in Italy

### Issues to consider when assessing the age of a child:

- Follow the practical guidance provided by [EASO on age assessment](#) and the gradual implementation of methods starting with non-medical methods.
- Allocate sufficient resources to allow a speedy age assessment only in cases of doubt, which fully complies with the safeguards established in the Asylum Procedures Directive.
- A temporary guardian with the required child protection expertise should provide consent in cases where a medical examination is necessary.
- Authorities should apply the benefit of the doubt and evaluate whether or not age assessments are needed given limited resources.

## 2.3 Appointing a guardian

The EU asylum *acquis* contains provisions relating to the appointment of a guardian or a representative for applicants for international protection who are unaccompanied by their parents. This requirement is set in Article 31 of the Qualification Directive (2011/95/EU),<sup>66</sup> in Article 24 of the Reception Conditions Directive (2013/33/EU), in Article 25 of the Asylum Procedures Directive (2013/32/EU) and in Article 6 of the Dublin Regulation. The Committee of Ministers of the Council of Europe has emphasised that an effective guardianship system constitutes an essential safeguard for the protection of the rights of unaccompanied and separated children in migration. In 2019, the Committee adopted a recommendation in this regard with a set of nine principles covering issues such as appointment of the guardian, legal responsibilities and tasks, and cooperation at the national and international levels.<sup>67</sup> Moreover, the UN Committee on the Rights of the Child considers the appointment of a guardian an essential element of the protection of unaccompanied children.<sup>68</sup>

The EU asylum *acquis* defines the representative “as a person or an organisation appointed by the competent bodies in order to assist and represent an unaccompanied minor in procedures provided for in this Regulation with a view to ensuring the best interests of the child and exercising legal capacity for the minor where necessary. Where an organisation is appointed as a representative, it shall designate a person responsible for carrying out its duties in respect of the minor, in accordance with this Regulation.”<sup>69</sup> It also requires the representative to have the qualifications and expertise to ensure that the best interests of the child are taken into consideration during the procedures, and requires that public

- 66 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 or for persons eligible for subsidiary protection, and for the content of the protection granted (Qualification Directive), OJ L 337, 20.12.2011, p. 9–26, Art. 31.
- 67 Council of Europe, Committee of Ministers, Recommendation CM/Rec(2019)11 of the Committee of Ministers to member States on effective guardianship for unaccompanied and separated children in the context of migration, 11 December 2019.
- 68 UN, Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and Committee on the Rights of the Child, 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 on 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, CMW/C/GC/4-CRC/C/GC/23, 16 November 2017.
- 69 Dublin Regulation (Regulation (EU) No. 604/2013), Art. 2 (k); Reception Conditions Directive (2013/33/EU), Art. 2 (j); Asylum Procedures Directive (2013/32/EU), Art. 2 (n).

### FRA ACTIVITY

#### Providing guidance on the role of guardians

FRA and the European Commission have developed a handbook to strengthen national guardianship systems and ensure that they are better equipped to deal with the specific needs of unaccompanied children. The handbook provides guidance and recommendations to EU Member States, setting forth the core principles, the design and the management of guardianship systems. It also clarifies the roles of figures who are possibly involved, such as legal representative, guardian or legal adviser. The handbook is available in all EU languages.

*For more information, see FRA (2015), Guardianship for children deprived of parental care- a handbook to reinforce guardianship systems to cater to the specific needs of child victims of trafficking.*

authorities provide the guardian with access to the documents in the child’s file.<sup>70</sup>

The EU asylum *acquis* does not exhaustively list the tasks assigned to legal representatives or guardians, but it contains a number of provisions generally describing their involvement, such as the duty to provide information to the child on the procedures, accompany the child in a series of proceedings (e.g. asylum interview and age assessment) and safeguard the child’s well-being. Naturally, the role of the guardian in each step of the relocation process is fundamental: notably in the initial stages of applying for asylum, assessing the best interests of the child, assessing family links and finally consenting to the actual relocation.<sup>71</sup> Table 5 shows the usual role that guardians played in the three relocation experiences.

However, in situations of increased arrivals, the appointment of guardians is challenging in practice, as FRA’s regular migration updates published since 2015 show.<sup>72</sup> Guardians were not assigned to all unaccompanied children, according to some of the representatives of national authorities, international organisations and civil society whom FRA interviewed, while in some cases appointments took months or guardians had so many children under their care that they could not provide individualised support.<sup>73</sup>

70 Dublin Regulation (Regulation (EU) No. 604/2013), Art. 6; Reception Conditions Directive (2013/33/EU), Art. 24; Asylum Procedures Directive (2013/32/EU), Art. 25.

71 Qualification Directive (2011/95/EU), Art. 31; Reception Conditions Directive (2013/33/EU), Art. 24 and 25.

72 See FRA (2015–2020), Migration: key fundamental rights concerns, quarterly bulletins.

73 UNHCR (2016), ‘Building on the lessons learned to make the relocation schemes work more effectively’, January 2016.



Table 5: Role of the guardian in the three relocation experiences

| European Emergency Relocation Mechanism<br><i>Relocation from Greece, Italy</i>                    | Bilateral arrangements targeting unaccompanied children<br><i>Relocation from France, Greece, Italy</i> | Voluntary relocation for people rescued at sea<br><i>Relocation from Malta</i> |
|--|---|--|
| Involved in certain processes, for example the BID. Guardian consents to the transfer of the child | Various practices, but sometimes no prominent role  | Temporary guardians providing limited support to the child                     |

Source: FRA, 2020

*“I don’t know whether I’ve got a guardian, but I’ve never seen him. I used to ask, where’s my guardian? But they [the professionals working for the reception centre the interviewee was living in] told me that I didn’t have one because not everyone can have one. [...] I think that I didn’t have one up until 2018, but I don’t know.”*

Boy from Somalia, 14 years old at time of arrival in Italy

Speed is a very important element in the relocation scheme. The relocation decisions setting up the European Emergency Relocation Mechanism provided very strict timelines with which all parties had to comply. Delays in the appointment of guardians created difficulties in respecting these time limits and children were often relocated without the individualised support of a guardian.

Some representatives from civil society and national authorities interviewed claimed that guardians were appointed, if at all, as a pro forma, to sign or provide official approval in the most important procedural steps. In this context, these guardians were not able to build a relationship of trust with the child and to accompany the child through the different processes, such as the security interviews with authorities from the states of relocation (see Section 2.6). Guardians also had no role in establishing cooperation with the state of relocation.

To address these challenges, some Member States established a system to appoint temporary guardians. For example, in Italy it was usually the manager of the reception centre, and Greece appointed NGOs as authorised representatives of the child’s guardian (i.e. the prosecutor).

Some of those interviewed also provided examples of successful cases where the guardian played a central and continuous role in relocation. In Italy, for example, the guardian or the temporary guardian accompanied the child during the asylum application, applying the best interests principle, and gave the child information. The guardian’s assessment of the best interests of the child was a precondition for relocation in the European Emergency Relocation Mechanism and in the Dubs scheme.

*“Every time she [the guardian] had to do something, before implementing it, she asked for my opinion.”*

Boy from Afghanistan, 15 years old at time of arrival in France

The voluntary relocation of five children from Greece to Portugal in 2017 was predominantly organised and managed by the NGO METAdrasi, an organisation that has established a guardianship network for unaccompanied children. The Greek Prosecutor, who holds formal guardianship under Greek law, assigned delegated powers to members of the network to act in support of the child. METAdrasi, as an authorised representative, carried out the assessment of the best interests of the child, established contacts with the Portuguese actors and managed the whole relocation, including the pre-departure preparation and transfer of the children. METAdrasi also ensured certain follow-up and monitoring of the situation once the children were residing in Portugal.

*“She [the guardian] does not only do her job. Well, I like her just as I like my family. I simply feel comfortable with her.”*

Boy from Afghanistan, 14 years old at time of arrival in Germany

In the voluntary relocations for people rescued at sea in 2018 in Malta, guardianship was not always ensured, because of the long delays in the appointment of a guardian. However, from 2019, and thanks to a delegated act from the Ministry for the Family, Children’s Rights and Social Solidarity, the reception authority, AWAS, was able to temporarily assign the role of guardian to one of its social workers. This appointment might, however, still take weeks or months. The guardian needs to be present during the registration for asylum, and accompany the child if a representative of the state of relocation is conducting an interview. This social worker is usually the same person who prepares a social report, on which the recommendation to relocate that child is based. Maltese authorities are currently exploring how to apply in practice the recently adopted child protection law, which ensures that the guardian is an autonomous person who can act independently from AWAS, as the latter is also responsible for carrying out the age assessment.<sup>74</sup>

74 Malta, Act No. XXIII of 2019, 16 July 2019.

None of the relocation schemes had a structured system to provide legal advice or support. If the child had a guardian, it was their role to provide minimum legal advice about the best legal options for the child. However, not all guardians have the legal expertise to play such a role.

### Issues to consider in relation to the appointment of a guardian and legal support:

- Appoint a guardian or a temporary guardian with the necessary qualifications as early as possible after the child is identified as an unaccompanied child.
- The guardian should be tasked with safeguarding the best interests of the child, ensuring the child's overall well-being, guaranteeing the child's participation in all processes where the child's rights are at stake, and exercising or facilitating their legal representation in the relocation process.
- The guardian should be trained in how relocation schemes apply, and in the application of the Dublin Regulation and any interaction between the Dublin Regulation and the relocation procedures.
- To ensure a unified and coordinated approach to the child, the guardian should be consulted by all those involved in the different phases of the relocation, such as the initial decision to register the child for relocation, age assessment, BID, consenting to the relocation and transfer of guardianship.
- The guardian should accompany, support and ensure the participation of the child in important steps, such as in security interviews, or when the child receives the positive or negative relocation decision.
- Provide free legal information, assistance and representation to the child and to the guardian to ensure their understanding of the different procedures and to assess the best legal pathway for the child.

NGOs or UNHCR also provided legal information and support. For example, under the European Emergency Relocation Mechanism, in 2017, Save the Children Italy provided assistance, including legal aid, through the CivicoZero daily drop-in centres, to unaccompanied children in transit in Rome and Milan. Paralegal staff of the CivicoZero centres held group information sessions and individual meetings with unaccompanied children, throughout the entire procedure. They provided information and support in family tracing and in BID procedures for relocation. The work of the centres

helped the children to enter the national protection system and pursue the relocation procedure.

*"Unfortunately it is like that, it has always been. Some get what they are supposed to get, but some do not get that. I don't know. But back then, it was – there was only one girl who had legal counselling and so ... but I did not have it."*

Girl from Afghanistan, 14 years old at time of arrival in Austria

## 2.4 Access to information

The right to information is a precondition for children to be heard, participate and express an opinion in matters affecting them. The Charter for Fundamental Rights enshrines the right of children to express their views freely and for such views to be taken into consideration on matters concerning them.<sup>75</sup> The right to be heard is an important principle that derives from Article 12 of the CRC and has been reflected in EU and national law. The right to information to applicants involved in Dublin procedures is established in the Dublin Regulation, which also calls for a specific child-friendly leaflet.

For relocations of unaccompanied children, all authorities interviewed agreed that adequate provision of information was an essential element to build trust in the procedure and cooperation with the authorities. Across all relocation experiences, the provision information concerned two main steps: (1) initial information about the programme when the child was found and (2) regular child-friendly communication with the child throughout the procedure and until their transfer. Although early access to information was available in all relocations, authorities interviewed encountered difficulties in keeping unaccompanied children properly informed during all the different steps.

*"When they learned my age, they told me 'You will not stay with your sister.' I refused at first but then they said 'When your sister is officially your guardian then you will be together.' They put me in that place for four days. I do not know what that place was."*

Boy from Syria, 17 years old at time of arrival in Greece

Initial provision of information about relocation was a key step to raise awareness and to identify eligible applicants in all the different relocations. Table 6 shows the main actors responsible for this task. Some relocations expressly envisaged early access to information in the legal and operational frameworks.

For example, it was a requirement in the Council Decisions setting up the European Emergency Relocation

<sup>75</sup> Charter of Fundamental Rights of the European Union, Art. 24 (1).

Table 6: Access to information in the three relocation experiences

| European Emergency Relocation Mechanism<br><i>Relocation from Greece, Italy</i>    | Bilateral arrangements targeting unaccompanied children<br><i>Relocation from France, Greece, Italy</i> | Voluntary relocation for people rescued at sea<br><i>Relocation from Malta</i>              |
|--|---|---|
| Done by Greek Asylum Service, EASO and UNHCR – child-friendly approaches developed | Done in ad hoc ways. NGOs would also support the process  | Done by social workers of AWAS (reception authority), IOM, UNHCR and Jesuit Refugee Service |

Source: FRA 2020

Mechanism.<sup>76</sup> EASO and UNHCR were in charge of informing applicants about the available legal pathways (e.g. asylum, family reunion and reunification, and relocation) at arrival. EASO developed child-friendly approaches and material to explain the relocation procedure to unaccompanied children with applicable child-specific safeguards.

In the bilateral relocations, agreed workflows did not set out early access to information, so the approach was less structured. Under the Dubs scheme, for example, civil society played a key role in reaching out to children in France, in the unofficial camps in the Calais and Dunkirk areas. However, systematic child-friendly information tools and services were not always available.

#### Promising practice

##### Tools and guidance: providing child-friendly information to unaccompanied children

The Council of Europe's handbook for frontline professionals on How to convey child-friendly information to children in migration provides useful practical guidance on developing trustworthy and accessible information. It contains recommendations for professionals on how to improve communication with children and provides examples of promising practices. The handbook has practical tips and examples illustrating how to inform children about the various procedures, including relocation in the EU.

Source: Council of Europe (2018), *How to convey child-friendly information to children in migration: a handbook for frontline professionals*, Strasbourg, Council of Europe Publishing.

After initial information, several factors made it challenging to maintain effective communication with unaccompanied children about relocation. First, those responsible had to deal with wrong information from other sources, often based on rumours or smugglers' information. Second, the relocation procedure was generally too complex to understand, and would often change in the light of the available pledges. In the Dubs relocations from France, for example, unaccompanied children often asked about the

<sup>76</sup> Council Decision (EU) 2015/1601 of 22 September 2015, Art. 6 (3).

duration of the procedure, as they were afraid that they would turn 18 before the transfer. Volunteers working on the ground were not always aware of the procedure and thus were not able to answer to children's questions about the timeline of a decision, the number of places available and the rights of children in the state of relocation. Third, the intimidating presence of unrelated adults from their community and the lack of privacy raised serious difficulties in gaining the trust of the children.<sup>77</sup>

Some actors interviewed pointed out that the constantly changing circumstances made it difficult to have up-to-date written material for children and argued that up-to-date oral information was more effective.

*"I didn't know anything [about age assessment], the interpreter translated but she only said 'now go there, now do this, now do that', but I did not know anything."*

Girl from Somalia, 16 years old at time of arrival in Austria

#### Promising practice

##### Developing child-friendly material on relocation

Within the activities of its drop-in centre CivicoZero in Rome, Save the Children Italy developed a board game for children involved in the relocations under the European Emergency Relocation Mechanism. With a flag indicating the child's name, each child was able to identify at which procedural step they were standing in the process. This tool aimed to explain each step and enable children to better follow their process. The game helped children to be actively involved in decisions concerning them.

Source: FRA interview with Save the Children Italy, February 2020

*"The staff of the centre, they gave me the information. I asked 'what did you say?', but I could not understand anything that day, I did not understand what they told me."*

Boy from Guinea, 17 years old at time of arrival in Italy

<sup>77</sup> UNICEF (2016), *Neither safe nor sound: unaccompanied children on the coastline of the English Channel and the North Sea*, June 2016; Défenseur de droit (2018), *Rapport: exilés et droits fondamentaux, trois ans après le rapport Calais*, December 2018.

Many actors interviewed underlined that the presence of properly trained and skilled staff helped mitigate these challenges. To attract children to join the relocation procedure under the European Emergency Relocation Mechanism in Italy, and under the Dubs scheme in France, the involvement of civil society, legal experts, interpreters and cultural mediators alongside the guardians was important. In both experiences, mobile teams helped to detect unaccompanied children in transit (Section 2.2). In addition, interviewees considered day information centres useful, as they helped to maintain communication with the children, responding to their concerns and creating a bond with them (Section 2.3).

Proper coordination and communication among all those working and speaking with the unaccompanied children was also vital to identify the most vulnerable cases and to reach those children who would otherwise escape the official channels. In the Dubs relocations from France, for example, NGOs working on the ground met several times with the children and could communicate their needs to the mobile teams, which were sometimes understaffed or not sufficiently present in all the territories concerned.<sup>78</sup>

### Issues to consider in relation to access to information:

- Include provision of information as a cross-cutting activity in workflows and protocols.
- Provide child-friendly information as early as possible and at all stages of the procedure in order to allow children and their guardians to make appropriate decisions, and incidentally reduce false expectations and prevent unaccompanied children from absconding.
- This information should be age appropriate by being adapted to the child's age, maturity, language, gender and culture. Engaging cultural mediators, for example, could help ensure this.
- Provide written information on general issues that will probably remain the same over time, e.g. the right to access a guardian.
- Provide oral information on fluctuating issues regularly, e.g. the likely duration of the procedures, what reception conditions are available in the states of relocation or the outcome of their BID.
- Use a combination of different communication channels to give information in a child-friendly way, including by using cartoons, videos and games.
- Train professionals, including from NGOs, providing information on relocation and working with children on the ground.

<sup>78</sup> Défenseur de droit (2018), *Rapport: exilés et droits fondamentaux, trois ans après le rapport Calais*, December 2018, pp. 34–39.

### Promising practices

#### Providing oral information about relocation in a child-friendly manner

##### Keeping applicants informed: the experience of EASO helplines for relocation

In Greece and Italy, EASO set up free helplines to provide real-time support to relocation applicants in a culturally sensitive way. Interviewees considered that the hotlines helped to maintain trust in the European Emergency Relocation Mechanism, despite the long waiting periods, and prevented applicants from resorting to unofficial sources of information, such as those provided by smugglers.

Unaccompanied children resorted to the helpline particularly when they felt insecure. In Italy, cultural mediators working on the helplines could, at an early stage, identify children at risk of absconding. The helplines had a multilingual team of EASO experts, cultural mediators and interpreters.

*Sources: EASO, 'EASO hotline in Greece: a multilingual service to support the relocation applicants'; EASO, 'Press release: EASO's hotline in Italy for the EU relocation programme', August 2017.*

##### Gaining the trust of unaccompanied children: the role of cultural mediators

Cultural mediators played a key role in reaching out to and build a trustworthy relationship with unaccompanied children in Italy, particularly at the start of the European Emergency Relocation Mechanism. They helped authorities and other organisations to communicate with children at almost all procedural steps of relocation, from initial information from EASO and UNCHR to pre-departure information from the IOM.

The **Italian Law No. 47 of 7 April 2017** on the protection of unaccompanied minors also requires the presence of cultural mediators in the identification of an unaccompanied child, as a support to the guardian. Cultural mediators were tasked with explaining the procedure in a culturally sensitive way, addressing questions and concerns.

Even after relocation they would remain a point of reference for the child. In some cases, they were able to dissuade children from leaving the protection system and putting themselves at risk.

*Sources: FRA interviews with Ministry of the Interior and Save the Children Italy, February 2020.*

## 2.5 Best interests' determination

The best interests of the child is one of the four guiding principles of the CRC (Article 3).<sup>79</sup> It is also a central element of the rights of the child protected by the Charter of Fundamental Rights<sup>80</sup> and the Treaty on European Union.<sup>81</sup> The principle of the best interests of the child is also incorporated in all legislative instruments of the EU asylum *acquis*, including the Dublin Regulation<sup>82</sup> and in the relocation decisions of the Council of the EU.<sup>83</sup> When carrying out any procedure related to an unaccompanied child, including relocation, the best interests of the child must be a primary consideration.

Article 6 (3) of the Dublin Regulation specifies that, when assessing the best interests of the child, EU Member States need to consider several issues: family reunification possibilities, the child's well-being and social development; safety and security considerations; and the views of the child, as appropriate to their age and maturity. In the relocation context, a genuine BID should be holistic and consider all possible options. The BID could also reveal other needs or support services required for children beyond the relocation process. Table 7 shows the main practice and actors involved in the BID in the three relocation experiences.

### Managing time pressure

In all the relocation experiences analysed, setting specific timelines for the relocation often led to a swift assessment of the best interests of the child. For a meaningful assessment to be carried out, appropriate child-friendly safeguards should be in place, such as guardianship, and engagement with the child should be effective. Under the European Emergency Relocation Mechanism, authorities interviewed considered that the two-month duration of the relocation process – as envisaged in the Council decisions<sup>84</sup> – was often too short to comply with all guarantees for unaccompanied children and conduct a proper BID. The assessment of the child's best interests had to be done speedily. Interviewees found it was a challenge to find the right balance between expediting the procedures and ensuring all guarantees.

In the bilateral voluntary arrangements, there was generally a sense of urgency and the need to assess and transfer the child as soon as possible. This arose from consideration of the difficult situations in which unaccompanied children often find themselves, although there were usually no formal and tight deadlines. Only the Malta Declaration,<sup>85</sup> a non-binding document, suggests that voluntary relocation for people rescued at sea should take place within four weeks.

**Table 7: Best interests' determination in the three relocation experiences**

| European Emergency Relocation Mechanism<br><i>Relocation from Greece, Italy</i>   | Bilateral arrangements targeting unaccompanied children<br><i>Relocation from France, Greece, Italy</i>   | Voluntary relocation for people rescued at sea<br><i>Relocation from Malta</i> |
|---|---|--|
| Greek or Italian authorities assess whether or not relocation is in the best interests of the child. Sometimes the guardian provides an initial assessment. EASO/UNHCR have a supporting role | Various practices, including cases in which the child did not undergo an assessment, and other cases with a formalised system involving the guardian and/or with UNHCR support (e.g. Dubs scheme) | A social worker does a social report on the child                              |

Source: FRA, 2020

79 UN, Committee on the Rights of the Child, General comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration (Art. 3, para. 1), CRC/C/GC/14, 29 May 2013.

80 Charter of Fundamental Rights of the European Union, Art. 24.

81 Treaty on European Union, Art. 3 (3).

82 Dublin Regulation (Regulation (EU) No. 604/2013), Recitals 13, 16, 24 and 35 and Arts 2, 6 and 8.

83 Council Decision (EU) 2015/1523 of 14 September 2015, Art. 6; Council Decision (EU) 2015/1601 of 22 September 2015, Art. 6.

84 Council Decision (EU) 2015/1523 of 14 September 2015, Art. 5 (10); Council Decision (EU) 2015/1601 of 22 September 2015, Art. 5 (10).

85 Joint declaration of intent on a controlled emergency procedure – voluntary commitments by member states for a predictable temporary solidarity mechanism (Malta Declaration), 23 September 2019.

In 2018, before the European Commission and EASO got involved in the voluntary relocation for people rescued at sea from Malta, the urgency of the process led to ad hoc procedures, which could differ from case to case.

Since 2019, the protocol has been that a social worker of AWAS, the Maltese reception authority, assesses the child and compiles a social report. It is a brief overview looking especially at family links, in case the child should be reunified with family members instead of opting for relocation.

The transfers under the Dubs scheme had a different approach and were implemented over a longer period. This allowed the development of methods and structures to assess best interests in more depth. The process developed in Greece, for example, involved UNHCR and EKKA. EKKA had not been involved in previous relocation schemes, although it is responsible for the accommodation of unaccompanied children in mainland Greece. The assessment of cases submitted for relocation under Dubs was based on vulnerability criteria.

#### Promising practice

##### Joining expertise: best interests' determination panels in Greece

For the Dubs relocations from Greece to the United Kingdom, UNHCR and EKKA put BID panels in place, to determine if relocation was in a child's best interests. Either the guardian or social workers working in the child's shelter submitted the standardised UNHCR BID form for each child. UNHCR reviewed all BID reports before they were analysed by the BID panel formed by UNHCR, EKKA and the IOM. EKKA held the casting vote. The panel also assessed specific child protection needs and vulnerabilities, and whether or not the child met the criteria for relocation set by the United Kingdom.

Priority was given to children at heightened or medium risk of vulnerability, such as children with serious sicknesses. Vulnerability criteria were developed by UNHCR and endorsed by EKKA, taking into consideration the specific profile of unaccompanied children arriving in Greece. In the case of a decision for relocation, and following the United Kingdom's security clearance, UNHCR summarised the BID panel decision and transmitted it to the United Kingdom Home Office and the IOM through a secure online system. The full BID report was not shared, given the sensitivity of the data. Each panel member was bound to confidentiality and non-disclosure of the information.

*Source: FRA interview with UNHCR, December 2019. For more information, see UNHCR (2018), [Guidelines on assessing and determining the best interests of the child](#).*

## Repetitive and uncoordinated assessments

Several of those interviewed considered there were too many bodies assessing the child for different purposes and during different phases of relocation. This created additional stress for children having to go through the same or similar questions repeatedly with different people.

During relocation from Greece, EASO experts supported the Greek Asylum Service in the asylum registration in the hotspots, where a first best interests' assessment took place, including questions on relocation. The Greek Asylum Service afterwards assessed whether or not the child was eligible for relocation. If so, it transferred the child to the mainland to specialised accommodation managed by UNHCR, the IOM or NGOs, under EKKA's coordination. The Greek Asylum Service made a further assessment of best interests based on a standard form EASO developed in 2016. The form looked at family links, health status, vulnerabilities, education and other circumstances.

In the relocations from Italy, the guardian (duty temporarily assigned to the manager of the reception centre) was in charge of assessing the child's best interests ahead of the judicial decision authorising the transfer. EASO and the Ministry of the Interior could provide support in the process. This was the precondition for Italian authorities to proceed with the relocation. As in Greece, EASO then provided a standard form. Once the child was selected for relocation to a specific Member State, the IOM in Greece and Italy would undertake another assessment for the purposes of reception in the state of relocation. This served to facilitate the discussions with the authorities about the child's reception needs and care services required after the transfer. In Greece, the IOM would first review all available information on the child and then have separate counselling sessions to review the child's consent (subject to age and maturity), identify underlying issues and help the child understand the process. Identified issues were followed up during the pre-departure health assessment. This information, along with specific information gathered from authorities and the IOM offices in the state of relocation about services and support for the child, was included in the report that was prepared and submitted to the Public Prosecutor. Based on the report, the prosecutor would make recommendations, consent to the transfer and appoint an escort. In the Dubs relocations from France, starting from 2018, France Terre d'Asile conducted an interview with the child that combined both age assessment, in cases of doubt, and best interests' assessment for unaccompanied children who joined the House of Young Refugees from the Calais unofficial camp. However, owing to limited resources, these interviews were carried out by only one social worker.



*“What was a little difficult is that you have to start all over again. They ask you in several different places about your situation, your real problem. You are obliged ... and then that gets to you. It gets to you very badly. Because everything you’ve experienced and all the stuff that [...] the misery you’ve had or [...] there are things you do not want to talk about, and they’ll ask you all that again.”*

Boy from Guinea, 17 years old at time of arrival in France

### Promising practice

#### Standardising best interests’ assessments: EASO best interests’ assessment tool

While the European Emergency Relocation Mechanism was in operation, EASO developed a best interests’ assessment tool that helped competent authorities to determine if relocation was in a child’s best interests. The tool provided a comprehensive overview of the best interests principle, outlining the relevant preconditions and safeguards, and presented a checklist designed to ensure that competent authorities implemented all key safeguards when assessing the inclusion of a child in the relocation or other procedures.

The *questure* in Italy and the Greek Asylum Service actively used it to check that safeguards were effectively in place and to assess if relocation was the best option for that child. Based on this experience, EASO developed a guide for assessing the best interests of children in asylum and other procedures.

*Sources: FRA interviews with EASO (Greece), January 2020; Greek Asylum Office, February 2020; Italian Dublin Unit, February 2020. For more information, see EASO (2019), EASO practical guide on the best interests of the child in asylum procedures, Luxembourg, Publications Office.*

### The child’s views

Article 12 of the CRC guarantees the right of all children to be heard. It is one of the four general principles of the Convention. The EU Charter under Article 24 requires that children’s views must be taken into consideration on matters that concern them in accordance with their age and maturity. In this light, considering the child’s views is an intrinsic part of any genuine best interests’ assessment. However, in the relocation context there was no standardised procedure for when and how children could provide their views and how actors would take their views into consideration. For example, in Greece, the child gave consent to be relocated at an early stage when undergoing the Greek Asylum Service BID. This means they would not give their consent to a specific state of relocation, as this became known only at a later stage. To address this, the IOM’s best interests’ assessment procedure, which included in the sessions a review of consent to the specific town, city

and country, was an important built-in safety tool. A similar situation occurred in Italy, where children would give their preferences for three states of relocation when registering the asylum claim, but must at the same time give a blank consent for relocation in any state of relocation that would be approved.

In the BID process used in Greece under the Dubs scheme, children were interviewed by the guardian or social worker as a systematic means of obtaining their views, which were then recorded in the BID reports submitted to the BID panel. Although the panel did not interview the child, it considered their views, as reported in the standardised BID reports from the guardian or social worker. Much like the procedure for relocation, in drawing up the IOM best interests’ assessment report for the Dubs scheme in Greece, experienced child protection staff reviewed with the child their consent to be transferred to a specific location in the United Kingdom and their rights and obligations in the United Kingdom. This ensured that the child knew what to expect and made their consent meaningful.

#### Issues to consider in relation to the BID:

- First, assess the child’s family links. If a child qualifies for family reunion under the Dublin Regulation, facilitate and accelerate that procedure, and avoid putting children through the relocation procedure.
- The urgency of the relocation procedure should not prevent authorities from undertaking an individual assessment to confirm that relocation is in the best interests of that particular girl or boy.
- Ensure that the child’s views are considered and heard in important phases of the process by trained professionals. The child and the guardian should provide full written consent once the state of relocation is known.
- Avoid repetitive questioning of the child, by coordinating the various actors involved and sharing information about their BIDs, in accordance with confidentiality and data protection rules.

## 2.6 Security assessment and decision to relocate

In all relocation experiences, the security assessment is a necessary step before taking the relocation decision. As Table 8 shows, in all relocation arrangements the sending state carried out the first security checks. The state of relocation did further checks based on the existing data. In addition, some Member States decided to do a personal interview with the applicant.

Under the European Emergency Relocation Mechanism, a state of relocation could reject an applicant based on the security assessment.<sup>86</sup> A rejection was possible if there were reasonable grounds for regarding the person as a danger to national security or public order, or where there were serious reasons for applying the exclusions provision of Article 12 of the Qualification Directive (2011/95/EU). However, according to some actors from national authorities FRA interviewed, some Member States used a broad interpretation of the security or public order clause.<sup>87</sup> For example, several Member State systematically rejected married children for public order reasons. Greek and Italian authorities had to adapt their selection to the specific preference of the state of relocation and would no longer suggest married children.

Under the European Emergency Relocation Mechanism, another practice that developed was that some states of relocation carried out interviews with applicants. This was sometimes done by national liaison officers,<sup>88</sup> and sometimes by asylum or security staff who travelled to the sending state. However, when an application

was rejected, Greek and Italian authorities were not systematically informed about the specific security risks identified.<sup>89</sup> Rejected candidates in Italy could be proposed for relocation to another Member State, whereas in Greece they were referred to the national asylum system. According to the national authorities interviewed, few cases of unaccompanied children were rejected, other than married children.

To prevent repeated questioning, some states of relocation decided not to interview unaccompanied children selected for relocation. For example, Finland and Germany carried out only the regular security checks, based on biographical and biometric data against the Schengen Information System and other national databases. Requests for additional biometric data by states of relocation resulted in further delays, according to national authorities FRA interviewed.

Other Member States interviewed the child, but adapted the interview to make it more child-friendly. For the Netherlands, trained child-interviewing specialists carried out interviews in Greece and Italy, focusing on the asylum claims and not on security concerns. Guardians were generally not present at interviews by the state of relocation, according to the authorities interviewed.

Only some Member States carried out security interviews with children under the European Emergency Relocation Mechanism. They are more frequent under the voluntary relocation for people rescued at sea in Malta. Several Member States conducting interviews with children. Finland and Slovenia maintained their previous practice of not interviewing children.

**Table 8: Security assessment in the three relocation experiences**

| European Emergency Relocation Mechanism<br><i>Relocation from Greece, Italy</i>  | Bilateral arrangements targeting unaccompanied children<br><i>Relocation from France, Greece, Italy</i>      | Voluntary relocation for people rescued at sea<br><i>Relocation from Malta</i>               |
|--|--|--|
| Done by Greek or Italian authorities. All Member States conducted further checks, sometimes involving additional interviews with the child in Greece | State of relocation and sending state conduct security checks, sometimes involving interviews with the child | Done by Maltese authorities. Most Member States conduct additional interviews with the child |

Source: FRA, 2020

86 Council Decision (EU) 2015/1601 of 22 September 2015, Art. 5 (3) and 5 (7).

87 European Commission, Communication from the Commission to the European Parliament, the European Council and the Council, Eleventh report on relocation and resettlement, p. 7.

88 Council Decision (EU) 2015/1523 of 14 September 2015, Art. 5 (1).

89 European Parliament (2017), Implementation of the 2015 Council Decisions establishing provisional measures in the area of international protection for the benefit of Italy and Greece: study for the LIBE Committee, p. 35.



## Promising practice

**Child protection and law enforcement authorities working together during child interviews**

In bilateral relocations to Ireland, Tusla, the Irish Child and Family Agency, cooperated closely with the Irish National Police and Security Service to avoid duplicating each other's work when interviewing children selected for relocation.

Tusla carries out a well-being assessment of the child, while the Garda undertakes screening and security checks. Before starting the interview, Tusla's social workers inform the child about the purposes of the interviews and the role of each authority present. Both authorities remain during the whole interview with the child. Besides increasing efficiency, this practice has helped build a relationship of trust with the child.

*Source: FRA interview with Tusla, the Irish Child and Family Agency, and An Garda Síochána, the Irish National Police and Security Service, December 2019.*

After the security checks, the state of relocation sent a formal acceptance or rejection of the applicant to the competent authority in the sending state. In none of the relocation arrangements was it possible to appeal against the decision, unless to ensure respect for the child's fundamental rights, as established in the European Emergency Relocation Mechanism.<sup>90</sup> If accepted, the child was notified and the pre-departure preparations started.

**Issues to consider in relation to security checks:**

- Security assessments should prioritise checks based on existing biometric data against the Schengen Information System and other national databases
- If a security interview with the child is considered necessary, authorities should ensure the presence of the guardian or a person of trust, and child-appropriate interview formats. Interviewers should be trained in child-specific interviewing techniques.
- Ensure the child has legal assistance and access to an effective remedy to ensure respect for the child's fundamental rights.
- The exclusion of a child from relocation based on security concerns should be explicitly justified. Security concerns should be shared with security authorities of the sending state.

<sup>90</sup> Council Decision (EU) 2015/1601 of 22 September 2015, Preamble 35.

**2.7 Pre-departure preparation and transfer**

Once accepted for relocation, children go through a number of pre-departure measures: health assessments, pre-departure information and cultural orientation sessions, travel document preparation and travel arrangements, as well as fit-to-travel checks right before departure. As Table 9 shows, the IOM has been responsible for these activities to a large extent in all relocation arrangements in the framework of EU-funded projects and bilateral agreements.<sup>91</sup>

The European Emergency Relocation Mechanism set a two-month time frame for the relocation process, with a possible extension of up to six weeks.<sup>92</sup> Depending on the case, the pre-departure preparation and transfer to the state of relocation would take from two to four weeks from the moment that the reception facility was confirmed.

In the European Emergency Relocation Mechanism, the IOM established an individual best interests' assessment report to exchange information with national liaison officers about continuity of care and availability of services in the host communities. Where possible, appointed guardians were consulted in this phase. In Italy, the evaluation was shared with the guardian from the state of relocation.

The IOM, in cooperation with the states of relocation, has designed pre-departure orientation sessions for unaccompanied children, of approximately four hours, to equip them with information about their arrival in the country where they will start a new life. Some Member States have provided child-friendly material, such as videos or visual material. Other Member States asked the IOM to provide the unaccompanied children with specific information, for example about post-arrival accommodation. Some Member States provided their own information session. For example, the Netherlands offered a two-day information session to the unaccompanied children before the departure. Actors involved whom FRA interviewed found the cooperation with the relocating Member State very useful, as it increased children's trust and acceptance of being relocated to that specific Member State.

<sup>91</sup> IOM, 'Relocation'; European Commission, 'Managing migration: EU financial support to Greece', February 2020; European Commission, 'Managing migration: EU financial support to Italy', February 2020; European Commission, 'Managing migration: EU financial support to Malta', February 2020.

<sup>92</sup> Council Decision (EU) 2015/1601 of 22 September 2015, Art. 5 (10).

**Table 9: Pre-departure preparation and transfer in the three relocation experiences**

| Pre-departure and transfer | European Emergency Relocation Mechanism<br><i>Relocation from Greece, Italy</i>          | Bilateral arrangements targeting unaccompanied children<br><i>Relocation from France, Greece, Italy</i> | Voluntary relocation for people rescued at sea<br><i>Relocation from Malta</i>                |
|----------------------------|--|---|---|
| Pre-departure preparation  | Done by the IOM, in cooperation or with materials received from the states of relocation | Done by the IOM, in cooperation or with materials received from the state of relocation                 | Done by the sending state or by the IOM, with materials received from the state of relocation |
| Transfer                   | IOM  | IOM   | Done by the state of relocation or by the IOM   |

Source: FRA, 2020

### Promising practice

#### Tailoring pre-departure orientation to the needs of unaccompanied children

The IOM tailors pre-departure orientation sessions to the needs of unaccompanied children. The sessions take place in safe spaces where children can ask questions and receive age-appropriate guidance about the travel, reception upon arrival and generally the country of relocation.

The IOM informs them about the available reception services in the state of relocation: the guardianship system, available child protection services, support helplines, and access to health, education and other relevant services. In cooperation with the state of relocation, the IOM compiles information on the domestic child protection legislation, for example on corporal punishment, child abuse and violence against children. Visual materials and games are used to engage with children.

In the Dubs relocations to the United Kingdom, the IOM also facilitated contacts between the child and the social worker in the receiving municipalities to help their integration and adjustment in the community.

Sources: FRA interviews with the IOM, January–February 2020

Health assessments prior to departure are standard practice to identify any medical needs requiring follow-up treatment in the state of relocation. This applies equally to children and adults, with the exception of certain medical checks. The medical services of the IOM do not necessarily have access to the child’s medical history and previous examinations. Some of the actors interviewed find this challenging, especially for unaccompanied children, who undergo repeated uncoordinated examinations. Health assessment reports are shared with the receiving country in due time to arrange any necessary treatment or special accommodation upon arrival. With regard to

data sharing, the IOM signs specific data protection protocols. Personal medical data are transmitted through encrypted and password-protected emails to the IOM office in the country of relocation. In the voluntary arrangements, authorities interviewed reported cases in which files were not received, slowing down post-arrival procedure and adequate provision of care upon arrival.

In the various relocation arrangements, depending on the case, the pre-departure preparation and transfer to the state of relocation took from two to four weeks from the moment the authorities in the state of relocation identified a place for the child in an appropriate reception facility. In some cases, children could access language classes or other activities facilitating their integration in the state of relocation while waiting for their relocation. For example, under the Dubs relocation from France to the United Kingdom, unaccompanied children in the special shelter managed by France Terre d’Asile in Saint Omer could attend English language classes to prepare them for their integration in the United Kingdom.

Once the pre-departure steps are completed, the IOM generally ensures the safe transfer and escort of the child to the state of relocation. In some cases the state of relocation has facilitated and organised the transfer. Practices have been developed to provide for the child’s safety and for a child-friendly process. For example, where possible, the escort accompanying the child is the same staff member who has been working with the child during the preparatory phases. Unaccompanied children travel in small groups (approximately five to 10 children), allowing better and more individualised pre-departure services but also targeted post-arrival care and reception.



### Issues to consider in the pre-departure preparation and transfer:

- Provide child-appropriate information and preparation to ensure the child knows what to expect in the transfer process and in the state of relocation, including cultural awareness, reception conditions and asylum procedures.
- Ensure early coordination between authorities from both Member States involved to transfer the child's care and custodial responsibilities.
- Assign as travel escort the same person who provides the information or a person who is in regular contact with the child before the transfer.
- Establish as soon as possible contact between the child and the child guardian or carer in the state of relocation.
- Ensure the timely, safe and data-protection-compliant transfer of files with sensitive data, especially medical records, through secure IT systems.

### Relocating from Malta to Ireland

Danny was 16 when he was relocated from Malta to Ireland. The IOM escorted Danny to Ireland with four other boys. A social worker transferred him to a town close to Dublin where he was accommodated in a children's home. Danny was allowed to stay there until the end of his schooling, even though he became 18 in the meantime. With the help of a social worker he applied for asylum and obtained refugee status.

*"You have to be open; if you are quiet and hiding in yourself then you will be left alone and that's not good for integration. You have to be open to the culture ... even if it's not all great, it's important to learn and to adapt. Then people will learn from you and your culture when you share your culture with them. Trying to be involved in sports and volunteering really helped with my integration in Ireland."*

Danny, from Guinea, 16 years old when he was relocated from Malta to Ireland

Source: information provided by Tusla, Child protection Agency, Ireland.

## 2.8 Services after transfer to the state of relocation

### Relocating from Greece to Belgium

A Belgian guardian describes the success story of integration of a Syrian boy who was relocated from Greece when he was 17 years old. He had a lot of pain in his back, because he had worked for two years in Turkey sewing 10 hours a day.

His asylum procedure in Belgium proceeded very quickly and he was recognised as a refugee four months after being relocated from Greece. He learned Dutch very quickly and started music classes. The courses at school were not easy for him, but after his 18th birthday he started attending classes for adults to get his high school diploma. He was able to reunite with him in Belgium seven months after he was given refugee status.

*"After my time working in Turkey, and the one year waiting in Greece, I am lucky to be in Belgium and to study here now. Friends say I am very good at drawing portraits, and I am earning some extra money drawing portraits for my friends as presents for their girlfriends."*  
Abdallah, from Syria, 17 years old when he was relocated from Greece to Belgium

Source: information provided by the Guardianship service, Belgium.

The state of relocation has to ensure that reception conditions are adequate for the protection of unaccompanied children and comply with the requirements set in the Reception Conditions Directive. These include ensuring access to school, accommodation appropriate for unaccompanied children and separate from adults, and that children are assisted by appropriately trained staff.<sup>93</sup> EASO has developed guidance to support Member States in implementing key provisions of the Reception Conditions Directive for the protection of unaccompanied children.<sup>94</sup>

Upon arrival in the state of relocation, the IOM escorts the child or the group of children to the responsible authority, who signs a formal handover file, the 'take charge form'. The receiving authority is generally border police together with immigration, child protection or reception authorities. In the Netherlands, the same persons who provided the two-day information session in the sending state receive the child at the airport, whenever possible.

Authorities transfer the child to the assigned reception facility, where the regular procedure starts, e.g. appointment of guardian, registration of asylum claim, etc. According to some national authorities interviewed, persons working with the child require a new assessment

<sup>93</sup> Reception Conditions Directive (2013/33/EU), Arts 11, 14 and 24.

<sup>94</sup> EASO (2018), EASO guidance on reception conditions for unaccompanied children: operational standards and indicators, December 2018.

of the child, as generally the information received from the sending state is insufficient to plan the next steps and to find a durable solution for the child.

After arrival in the state of relocation, the child will generally receive the same accommodation as any child arriving there spontaneously and benefit from similar reception conditions.<sup>95</sup> The child go through the normal asylum procedure, except in some relocations, for which national authorities established a different process for examining the asylum claim, as shown in Table 10. For example, the Irish Department of Justice and Equality decided to grant programme refugee status, as in resettlement programmes, to those children who were voluntarily relocated from France under the Calais special project.<sup>96</sup> Children relocated to Ireland from Greece or Malta had to apply for international protection and follow the regular procedure.

Other Member States, such as the Netherlands under the European Emergency Relocation Mechanism, also granted a residence permit to children upon arrival without going through the asylum procedure.<sup>97</sup> In the transfers to the United Kingdom, under the Dubs

scheme, the child could decide whether to apply for asylum or to request a special leave.<sup>98</sup> The special leave granted the right to study, work and access public services for a period of five years to children who would not otherwise receive international protection. The children granted that form of leave, however, would not be eligible to sponsor a family member to enter the United Kingdom.<sup>99</sup>

**Promising practice**

**Informing the guardian in the state of relocation about the child**

In the Netherlands, the authorities involved in the relocation of the unaccompanied child compile a social report for Nidos, the guardianship authority. The report about each child relocated includes the language spoken, the people they know in the Netherlands, possible vulnerabilities, etc. The social report helped Nidos prepare targeted reception services.

Source: FRA interview with reception authorities and Immigration and Naturalisation Services, Netherlands, March 2020.

**Table 10: Services after transfer to the state of relocation in the three relocation experiences**

| Service                                     | European Emergency Relocation Mechanism<br><i>Relocation from Greece, Italy</i>  | Bilateral arrangements targeting unaccompanied children<br><i>Relocation from France, Greece, Italy</i>  | Voluntary relocation for people rescued at sea<br><i>Relocation from Malta</i>   |
|---|--|--|--|
| <b>Reception in the state of relocation</b> | The IOM handed over the responsibility for the child to national authorities of the state of relocation, and the child was included in the regular reception system for unaccompanied children | The IOM handed over the responsibility for the child to national authorities of the state of relocation, and the child was included in the regular reception system for unaccompanied children | If the IOM was involved, it handed over the responsibility for the child to national authorities of the state of relocation, and the child was included in the regular reception system for unaccompanied children |
| <b>Asylum procedures</b>                    | In the state of relocation, although some states did asylum (exclusion) interviews before relocation and granted protection status upon arrival  | In the state of relocation, although in some cases children received protection status upon arrival, without going through the asylum process  | In the state of relocation, although some states did asylum exclusion interviews before the child was relocated  |

Source: FRA, 2020

95 Asylum Information Database , European Council on Refugees and Exiles (ECRE) (2018), *Relocation of asylum seekers in Europe: a view from receiving countries*, May 2018.

96 Ireland, Department of Justice and Equality, *Parliamentary question No. 204*, 12 July 2018.

97 Asylum Information Database , European Council on Refugees and Exiles (ECRE) (2018), *Relocation of asylum seekers in Europe: a view from receiving countries*, May 2018, p. 8.

98 United Kingdom, Home Office, *Section 67 of the Immigration Act 2016 leave*, 6 July 2018.

99 *Ibid.*, p. 14.



Many of the children relocated reached the age of majority by the time of their transfer or soon after. The transition to adulthood is often a challenging moment, as FRA's report on the integration of young refugees shows.<sup>100</sup> In 2019 the Committee of Ministers of the Council of Europe adopted a recommendation on supporting young refugees in transition to adulthood. In this recommendation, the Committee of Ministers sets a series of principles to enable young refugees to access their rights. This includes access to social services and accommodation, information and legal advice, education, healthcare and psychological support as well as the right to non-discrimination and family reunification.<sup>101</sup>

In some Member States, children reaching majority were able to receive after-care services in the state of relocation. In other cases, children had difficulties in accessing services adapted to their needs and had to go straight into services for adults.

## FRA ACTIVITY

### Integration of young refugees in the EU: good practices and challenges

The majority of unaccompanied children relocated were between the ages of 16 and 18. Some of them became adults before they were transferred to the state of relocation. Supporting children in transition to adulthood is key for a successful integration. A 2019 report by FRA explores the challenges of young people between the ages of 16 and 24 years who fled armed conflict or persecution and arrived in the EU in 2015 and 2016. Analysing the impact of policies concerning their integration, the report shows many promising practices as well as major gaps and challenges. Whereas several Member States have some legal provisions that would allow authorities to extend support to young adults, in practice only a few young people who were unaccompanied children benefit from such arrangements.

For more information see FRA (2019), *Integration of young refugees in the EU: good practices and challenges*, Luxembourg, Publications Office.

## Promising practice

### Monitoring the integration of unaccompanied children in the receiving countries

IOM Italy conducted an own-initiative evaluation of the impact of relocation on the unaccompanied children transferred from Italy to another Member State. It carried out interviews with children in the country of relocation to hear their views about integration prospects and the overall process.

Children shared both positive and negative experiences. For example, some had not fully understood that they would have to undergo the asylum procedure once they were in the state of relocation. The IOM also spoke to the social workers in the accommodation facilities to assess the quality of the services provided at pre-departure.

Source: FRA interview with IOM Italy, January 2019.

### Issues to consider in the provision of services after the transfer:

- Authorities in charge of the relocation process should provide all available information about the particular child to the guardian and the responsible child carer in the state of relocation.
- Whenever possible, support persons from the state of relocation who were in contact with the child before the transfer should also establish contact with the child after the transfer.
- The child should receive sufficient information, before and after the transfer, about their immigration status, their rights and the procedures that will follow the transfer, in a child-friendly and culturally appropriate way.
- Authorities should prepare a transition plan in preparation for the child reaching the age of majority. They should identify which reception services the child will need during this transition to avoid an abrupt interruption of child-appropriate services.

<sup>100</sup> FRA (2019), *Integration of young refugees in the EU: good practices and challenges*, Luxembourg, Publications Office, 12 November 2019, pp. 59–63.

<sup>101</sup> Council of Europe (2019), *Recommendation CM/Rec(2019)4 of the Committee of Ministers to member States on supporting young refugees in transition to adulthood*, 24 April 2019.



# 3

## Funding mechanisms



Under the European Emergency Relocation Mechanism, EU Member States received financial support through the Asylum, Migration and Integration Fund (AMIF). In particular, for each person relocated, the European Commission disbursed € 500 to Greece or Italy to cover travel costs and € 6,000 to the state of relocation for reception costs.<sup>102</sup> There are different views among national authorities concerning the adequacy of the AMIF funds to address operational and political barriers.<sup>103</sup> A total of € 225.6 million was allocated during the operation of the European Emergency Relocation Mechanism.<sup>104</sup>

The financial support was implemented in accordance with Article 18 of the AMIF Regulation (Regulation (EU) No. 516/2014), which provides resources for the transfer of beneficiaries of international protection in the light of the principle of solidarity.<sup>105</sup>

Similarly, since 2019, AMIF funds have been made available to Member States willing to relocate asylum applicants in the context of disembarkation operations.<sup>106</sup>

The Council of the EU working paper ‘Guidelines on temporary arrangements for disembarkation’ suggests support of € 6,000 for the state of relocation for each applicant relocated and an additional sum for the sending state to cover transfer costs. When a Member State makes full use of the lump sums available under the national programmes, the guidelines suggest that additional financial support could be provided.<sup>107</sup>

Table 11 shows the funding used in the implementation of the three relocation models. The European Emergency Relocation Mechanism and the voluntary relocation for people rescued at sea in Malta and Italy were financially supported through AMIF. The European Commission supported additional services in Greece, Italy and Malta through the emergency assistance under the AMIF.<sup>108</sup>

Relocations carried out on the basis of bilateral arrangements among Member States were funded mainly by national funds, and in some cases with the support of private donors or NGOs, such as the five cases transferred from Greece to Portugal.<sup>109</sup>

<sup>102</sup> Council Decision (EU) 2015/1523 of 14 September 2015 and Council Decision (EU) 2015/1601 of 22 September 2015, Art. 10.

<sup>103</sup> UNHCR and ECRE (2020), *Follow the money III – Solidarity: the use of AMIF funds to incentivise resettlement and relocation in the EU*, 6 March 2020.

<sup>104</sup> European Court of Auditors (2019), *Asylum, relocation and return of migrants: time to step up action to address disparities between objectives and results*, Special Report, No. 24, Luxembourg, 13 November 2019.

<sup>105</sup> Regulation (EU) No. 516/2014 of the European Parliament and of the Council of 16 April 2014 establishing the Asylum, Migration and Integration Fund, amending Council Decision 2008/381/EC and repealing Decisions No. 573/2007/EC and No. 575/2007/EC of the European Parliament and of the Council and Council Decision 2007/435/EC (AMIF Regulation), OJ L 150, 20.5.2014, p. 168–194.

<sup>106</sup> Council of the European Union (2019), Working Paper, *Guidelines on temporary arrangements for disembarkation*, WK 7219/2019 INIT, Brussels, 12 June 2019, Section VIII. a

<sup>107</sup> *Ibid.*

<sup>108</sup> European Commission (2018), *Commission Working Document, Interim evaluation of the Asylum, Migration and Integration Fund 2014–2017 accompanying the document Report from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on interim evaluation of the Asylum, Migration and Integration Fund and the Internal Security Fund*, SWD(2018) 339 final, Brussels, 12 June 2018.

<sup>109</sup> Portugal, *Confederação Nacional das Instituições de Solidariedade (CNIS), Unaccompanied and separated children transfer and planned reception and integration in Portugal*, paper on the pilot scheme.

The funds provided in the European Emergency Relocation Mechanism and in the voluntary relocation arrangement for people rescued at sea were granted per applicant, independently of the age, the needs or the vulnerability of the person. The reception and additional support needs of unaccompanied children were not taken into account. As Section 1.4 explains, the low number of pledges to accept unaccompanied children is often explained through the limited reception capacity for unaccompanied children in some Member States. Some of the relocations, such as the transfers

from Greece to the United Kingdom under the Dubs scheme, were delayed by the difficulties the central government faced in finding a local authority able to take on responsibility for the child’s care. Local authorities were requesting additional funding for child protection services for unaccompanied children, which the Home Office granted in 2019.<sup>110</sup> Improvements in the reception and child protection infrastructure triggered by relocation also constitute a longer-term investment to increase Member States’ capacity to respond to the needs of unaccompanied children.

**Table 11: Funding used in the three relocation experiences**

| <b>European Emergency Relocation Mechanism</b><br><i>Relocation from Greece, Italy</i>  | <b>Bilateral arrangements targeting unaccompanied children</b><br><i>Relocation from France, Greece, Italy</i> | <b>Voluntary relocation for people rescued at sea</b><br><i>Relocation from Malta and Italy</i>                                   |
|---|--|---|
| € 6,000 lump sum per applicant for the state of relocation (as per Article 18 of the AMIF Regulation (516/2014))<br>€ 500 for the sending state | No established funds, some funded by private donors  | AMIF funds (€ 6,000 lump sum per applicant for state of relocation)<br>Additional support to cover transfer costs through the IOM |

Source: FRA, 2020

<sup>110</sup> United Kingdom, Parliament (2019), Home Office funding for local authorities supporting unaccompanied asylum-seeking children: written statement – HCWS1543, 8 May 2019; United Kingdom, Home Office (2019), Funding to local authorities financial year 2019/20 – Home Office funding: unaccompanied asylum-seeking children, 1 November 2019.





## Concluding remarks

The relocation of thousands of people through the European Emergency Relocation Mechanism from 2015 to 2017 and under voluntary relocation schemes was an important expression of solidarity and responsibility sharing across the EU. The relocation of unaccompanied children in the emergency relocation and in bilateral schemes was complex and took some time to function. Despite the difficulties, Member States provided protection to almost 1,400 children.

Identifying and responding to the specific protection needs of children may require longer time frames than the ones provided for adults. Future schemes could consider having different timelines for relocation of unaccompanied children to ensure that due assistance and child protection guarantees are in place. This would allow the appointment of a guardian, and a better assessment of the child's best interests. However, timelines should be reasonable, as the aim is to integrate the child as soon as possible in the state of relocation. Children should not be waiting for unnecessary periods because of failures in the reception or guardianship system. This implies that states of relocation should initiate a strategic planning exercise to prepare for the mobilisation of the financial and human resources necessary for the future relocation. Designing eligibility criteria based on nationality and recognition rates left many children in need of protection excluded from the relocation scheme.<sup>111</sup> Future schemes could establish different eligibility criteria for unaccompanied children from those for adults. Those criteria should be based on the child's vulnerability and protection needs.

In times of increased arrivals, resources are often scarce. The EU should ensure that sufficient financial resources are allocated to responsibility-sharing mechanisms. The € 6,000 lump sum provided per relocated person could be topped up with additional resources when relocating unaccompanied children. The lump sum provided to the sending state could also be adapted, to ensure that the necessary safeguards and appropriate reception facilities are in place while it is processing the relocation. Funding should also be provided to ensure the monitoring and evaluation of relocation schemes to inform future policy development.

Practical difficulties in the relocation of unaccompanied children were large. However, relocation had great political importance and individual impact. The experience gained across Europe can undoubtedly assist developing further responsibility-sharing mechanisms. Relocation schemes showed how trust and solidarity among Member States can work in practice for the protection of unaccompanied children.

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<sup>111</sup> See also European Parliament (2017), Implementation of the 2015 Council Decisions establishing provisional measures in the area of international protection for the benefit of Italy and Greece: study for the LIBE Committee; European Court of Auditors, Asylum, relocation and return of migrants: Time to step up action to address disparities between objectives and results.



# Annex: Overview of three relocation experiences since 2015

## 1. European Emergency Relocation Mechanism (2015–2017)

The Council of the EU agreed in 2015 on a European Emergency Relocation Mechanism providing temporary and mandatory measures for relocation to support Italy and Greece in response to the high number of asylum seekers arriving in 2014 and 2015.<sup>112</sup> Relocation concerned only asylum applicants belonging to a nationality for which the recognition rate of first asylum applications was at least 75 % in the EU, based on Eurostat.<sup>113</sup> The relocation mechanism was legally binding on all EU Member States, except Denmark and the United Kingdom, which did not opt in.<sup>114</sup> Ireland opted in. Liechtenstein, Norway and Switzerland also participated in the scheme.

The Council of the EU relocation decisions<sup>115</sup> envisaged the relocation of **160,000** asylum applicants over a period of two years. The second relocation decision gave a detailed relocation quota for each Member State based on a distribution key. The distribution among Member States was set according to the population size, the total gross domestic product, the average number of past asylum applications and the unemployment rate of each Member State.<sup>116</sup> In September 2016, the Council of the EU adopted an amending decision allowing EU Member States to fulfil their relocation obligations also by admitting Syrian refugees present in Turkey.<sup>117</sup> Many Member States did not fulfil the established quota.<sup>118</sup> The European Commission brought infringement procedures against Czechia, Hungary and Poland. The Court of Justice of the EU ruled that those three Member States had failed to comply with their

obligations under European Union law.<sup>119</sup> This relocation mechanism<sup>120</sup> finished officially in September 2017, and the last relocations were carried out during the first months of 2018 from Greece and in the first months of 2019 from Italy.<sup>121</sup>

The relocation decisions clarified that Member States remained bound by the Dublin Regulation in relation to family reunion, the special protection of unaccompanied children and the discretionary clauses on humanitarian grounds.<sup>122</sup> The relocation decisions expressly highlighted that the best interests of the child must be a primary consideration for Member States when implementing the relocation programme.<sup>123</sup> The decisions prioritised vulnerable groups, among them unaccompanied children,<sup>124</sup> and required a fair distribution of these vulnerable groups.<sup>125</sup> However, no specific quota was allocated to unaccompanied children. In practice, EU Member States could fill the quota with any applicants they wished to relocate, whether adults, families or unaccompanied children.

Almost 35,000 asylum seekers were relocated to 22 EU Member States under the scheme. Out of these, 823 were unaccompanied children, 277 relocated from Italy and 546 from Greece to 16 Member States, Norway and Switzerland. As [Figure 3](#) shows, the Netherlands (194), Germany (139) and Finland (137) took the most children, whereas other Member States received only a few of them.<sup>126</sup> Some EU Member States relocated only one child.

112 Council Decision (EU) 2015/1523 of 14 September 2015 and Council Decision (EU) 2015/1601 of 22 September 2015.

113 Council Decision (EU) 2015/1523 of 14 September 2015, Art. 3 (2).

114 Council Decision (EU) 2015/1523 of 14 September 2015, Recitals 39 and 40.

115 Council Decision (EU) 2015/1523 of 14 September 2015 and Council Decision (EU) 2015/1601 of 22 September 2015.

116 Council Decision (EU) 2015/1601 of 22 September 2015, Annexes I and II.

117 Council Decision (EU) 2016/1754 of 29 September 2016 amending Decision (EU) 2015/1601 establishing provisional measures in the area of international protection for the benefit of Italy and Greece (Council Decision (EU) 2016/1754 of 29 September 2016), OJ L 268, 1.10.2016, p. 82–84.

118 European Commission (2017), Report from the Commission to the European Parliament, the European Council and the Council, *Fifteenth report on relocation and resettlement*, COM(2017) 465 final, Brussels, 6 September 2017.

119 Court of Justice of the European Union (CJEU), *Joined cases C-715/17, C-718/17 and C-719/17, Commission v. Poland, Hungary and the Czech Republic*, 2 April 2020.

120 European Commission (2018), Communication from the Commission to the European Parliament, the European Council and the Council, *Progress report on the implementation of the European Agenda on Migration*, COM(2018) 301 final, Brussels, 16 May 2018; IOM (2018), 'IOM's activities in the EU relocation scheme', 30 April 2018.

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122 Council Decision (EU) 2015/1523 of 14 September 2015, Recital 19; Council Decision (EU) 2015/1601 of 22 September 2015, Recital 24.

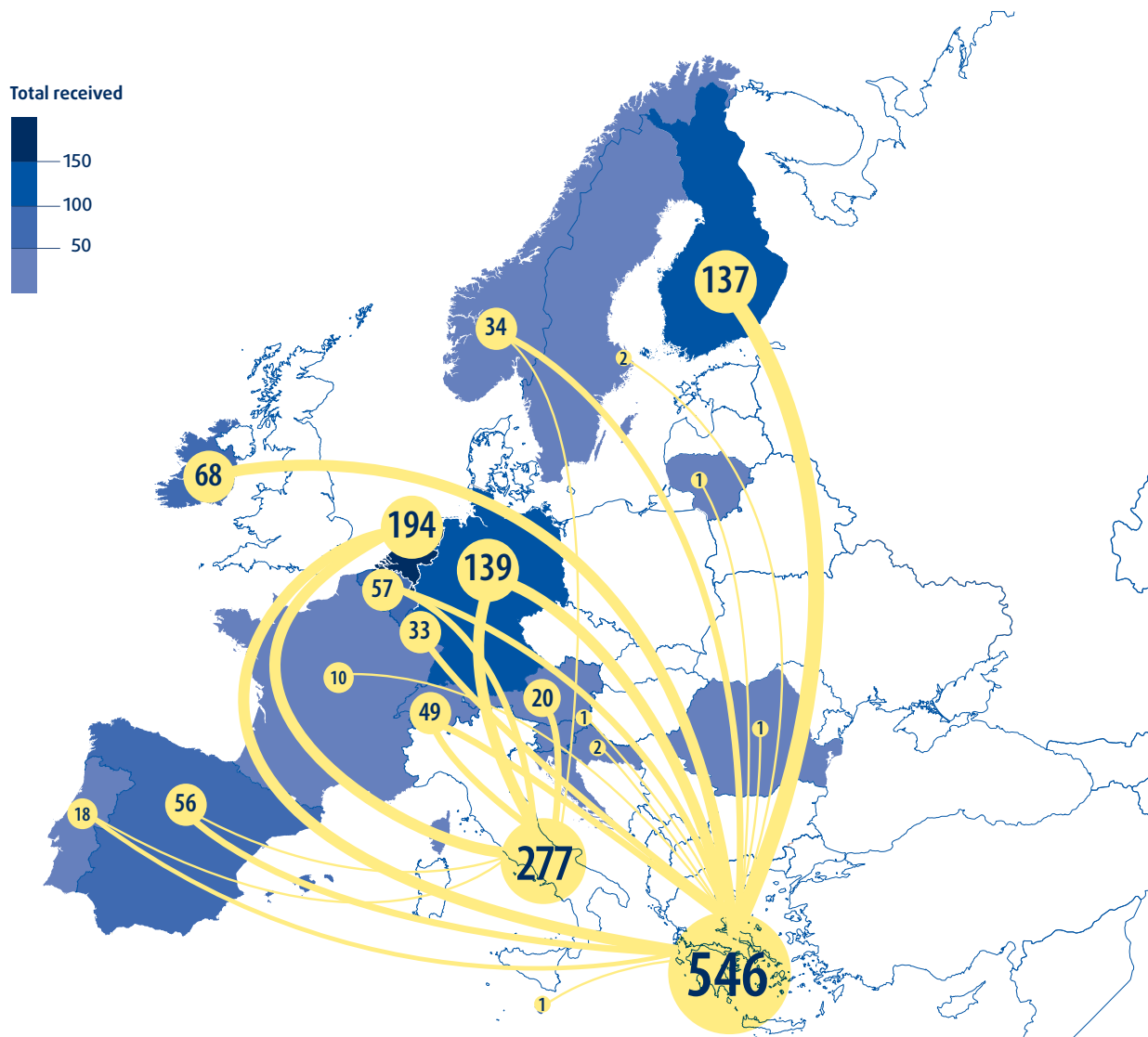
123 Council Decision (EU) 2015/1523 of 14 September 2015, Art. 6.

124 Council Decision (EU) 2015/1601 of 22 September 2015, Art. 5 (3).

125 *Ibid.*, Recital 34.

126 For more information, see European Commission (2019), 'EU temporary relocation scheme overview', April 2019.

Figure 3: Number of unaccompanied children and state of destination under the European Emergency Relocation Mechanism (2015-2017)



Source: FRA, 2020 [based on European Commission data, April 2019]



## 2. Bilateral relocation arrangements specifically targeting unaccompanied children

Some Member States expressed their solidarity through bilateral relocation arrangements, mostly based on formal pledges of specific places for unaccompanied children by the state of relocation. These were coordinated by national authorities, with the involvement of international organisations and sometimes NGOs.

Relocations of unaccompanied children to the United Kingdom, which had not participated in the European Emergency Relocation Mechanism, were based on a legislative amendment, known as the Dubs Amendment, after its sponsor (Lord Dubs), established in Section 67 of the Immigration Act 2016.<sup>127</sup> This scheme targeted unaccompanied children in France, Greece and Italy. Most of the children were relocated to the United Kingdom from France, where they had been staying in very precarious conditions in unofficial camps, such as in the Calais and Dunkirk areas.<sup>128</sup> Cooperation between France and the United Kingdom developed further in January 2018 when the Sandhurst Treaty was signed.<sup>129</sup> The selection criteria were also changed to make more children eligible for relocation to the United Kingdom. Out of the initial 480 pledges, over 220 children were transferred to the United Kingdom when the unofficial Calais camp was cleared in late 2016.<sup>130</sup> According to FRA's interviewees, further transfers took place from France (around 85), Greece (119) and Italy (50).<sup>131</sup>

In addition to the transfers under the European Emergency Relocation Mechanism, Ireland took part in bilateral relocations of unaccompanied children from France, namely from the unofficial camps around Calais, and from Greece in 2019/2020.<sup>132</sup> Under a smaller bilateral initiative, five children were relocated from Greece to Portugal.<sup>133</sup>

127 United Kingdom, *Dubs Amendment*.

128 United Kingdom, Parliament, Home Affairs Committee (2019), 'Oral evidence: English Channel migrant crossings', HC 1900, 22 January 2019.

129 United Kingdom and France, Treaty between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the French Republic concerning the reinforcement of cooperation for the coordinated management of their shared border [TS No. 1/2018], 18 January 2018, entered into force on 1 February 2018, Art. 3.

130 United Kingdom, Parliament (2020), 'Asylum: children: written question – HL2580', 13 March 2020; United Kingdom, Home Office (2020), 'Policy statement: Section 67 of the Immigration Act 2016', February 2020.

131 United Kingdom, Home Office (2020), 'Factsheet: unaccompanied asylum seeking children', 15 January 2020.

132 Ireland, Parliament (2019), 'Parliamentary question No. 195', 12 March 2019.

133 Greece, FRA interview with METAdrasi, December 2020.

## 3. Voluntary relocation arrangements for people rescued at sea

Since 2018, a small number of Member States have participated in the ad hoc relocation of people disembarked in Italy and Malta following search and rescue operations. These post-disembarkation relocations were based on the goodwill of the Member States and had an ad hoc nature.<sup>134</sup>

The European Commission and EASO became involved in early 2019 when they started ensuring coordination and support, while ensuring that all people to be relocated were first registered as asylum applicants and then transferred on the basis of Article 17 (2) of the Dublin Regulation.<sup>135</sup>

While the Council of the European Union was considering guidelines on temporary arrangements for disembarkation, in September 2019 France, Italy, Germany and Malta signed a joint declaration of intent (the 'Malta Declaration') on a controlled emergency procedure on the disembarkation of asylum seekers in the central Mediterranean. The declaration aimed to establish a more predictable and efficient temporary solidarity mechanism for persons rescued at sea in the central Mediterranean.<sup>136</sup> In October 2019, the Home Affairs Council discussed the declaration, with the aim of encouraging other Member States to participate in the solidarity efforts, which however failed to obtain wide support.<sup>137</sup>

Since 2018, 12 Member States have already voluntarily relocated 1,820 asylum applicants from Italy and Malta. A few of them have relocated a total of 45 unaccompanied children from Malta: Belgium (1), Finland (5), France (4), Germany (25), Ireland (8) and Slovenia (2).<sup>138</sup> Only one unaccompanied child was relocated from Italy to Portugal, as Italy decided not to include unaccompanied children in voluntary relocations.<sup>139</sup>

134 Carrera, S. and Cortinovis, R. (2019), *Search and rescue, disembarkation and relocation arrangements in the Mediterranean: sailing away from responsibility?*, CEPS, No. 2019-10, Brussels, June 2019.

135 European Commission (2019), *Progress report on the implementation of the European Agenda on Migration*, COM(2019) 481 final, Brussels, 16 October 2019, and EASO, *Over 900 EASO personnel deployed in operations in four EU Member State*, Press release 8 October 2019.

136 *Malta Declaration*.

137 Council of the EU (2019), 'Justice and Home Affairs Council, 7-8 October 2019', Brussels, 7-8 October 2019.

138 UNHCR, UNICEF and IOM (2019), *Refugee and migrant children in Europe: overview of trends in 2019 – January to June 2019*, December 2019.

139 Data provided by Maltese Ministry of Home Affairs, National Security and Law enforcement.



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## HELPING TO MAKE FUNDAMENTAL RIGHTS A REALITY FOR EVERYONE IN THE EUROPEAN UNION

In recent years, thousands of girls and boys have reached Europe without their parents, and sought international protection. Many of them experienced violence, abuse and neglect in their home countries, and while in transit. They have the right to be protected in line with the provisions of the UN Convention on the Rights of the Child, the European Convention on Human Rights, and European Union law.

As arrivals increased at the European borders, some of the EU Member States receiving them could not adequately provide for their rights. As a measure of solidarity, since 2015, almost 1,400 unaccompanied children have been transferred from the Member State of arrival to another EU Member State under different relocation arrangements.

This report explores the challenges and good practices gathered in the implementation of such relocation programmes. Based on information FRA collected in 10 EU Member States, it aims to help national authorities to support the relocation of unaccompanied children by taking measures that are fully rights compliant and practically feasible.



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