

Resolution 2136 (2016)¹

Harmonising the protection of unaccompanied minors in Europe

Parliamentary Assembly

1. Almost 90 000 unaccompanied minors applied for asylum in European Union countries in 2015, an increase over 2014. In 2016 there are no signs of a reversal of this trend, as the total number of minors applying for asylum in the month of June 2016 alone stood at 30 000. The present migration and refugee crisis in Europe has exacerbated the difficulties of treating and assisting these children on the move, and generated new problems with the realisation that large numbers of children are going missing at different stages of their journey, especially directly after arrival at reception centres.

2. New challenges to child protection have also emerged during recent phases of the crisis, especially with the partial or total closure of routes across Europe, followed by the first effects of the European Union–Turkey agreement of 18 March 2016. The international public was made aware of a major concern when the European Union law-enforcement agency Europol announced in January 2016 that 10 000 migrant minors were missing in Europe, and there is reason to believe that actual figures were much higher. In May 2016, the total number for Germany alone rose to about 9 000, according to the German Federal Criminal Police.

3. The Parliamentary Assembly has voiced its concern about the situation of unaccompanied migrant minors in Europe on several occasions and made proposals for solutions, in particular in its [Recommendation 1969 \(2011\)](#) and [Resolution 1810 \(2011\)](#) on unaccompanied children in Europe: issues of arrival, stay and return, which proposes 15 common principles for handling unaccompanied migrant children, with particular focus on the need to treat unaccompanied children first and foremost as children, not as migrants. The Assembly regrets that, in the majority of member States, there is no legal definition of “missing children” as a separate category in national legislation. The Assembly also regrets the fact that the absence of a legally binding definition of missing children has had a major negative impact on investigations, waiting times and levels of alarm. The Assembly deeply regrets that the European Union has discontinued the funding of the hotline (116 000) for missing children, established in almost all EU member States, even though 54% of the staff were volunteers. Unfortunately, the number of calls has also decreased dramatically.

4. Related issues, such as the determination of children’s age and ending immigration detention of children were taken up in [Resolution 1996 \(2014\)](#) “Migrant children: what rights at 18?” and in [Recommendation 2056 \(2014\)](#) on the alternatives to immigration detention of children. These texts were the basis for the launching of the ongoing Parliamentary Campaign to End Immigration Detention of Children.

5. The Assembly recalls that the general principle of respect for migrant minors’ rights first and foremost as children implies that they should benefit from special protection, including social and health care which ensure their physical and psychological integrity and development, sufficient and child-friendly information, education and empowerment. On observation of the situation in member States, it is clear that these conditions are far from being systematically guaranteed for unaccompanied migrant minors.

1. *Assembly debate* on 13 October 2016 (35th Sitting) (see [Doc. 14142](#), report of the Committee on Migration, Refugees and Displaced Persons, rapporteur: Mr Manlio Di Stefano; and [Doc. 14174](#), opinion of the Committee on Social Affairs, Health and Sustainable Development: Mr Valeriu Ghileti). *Text adopted by the Assembly* on 13 October 2016 (35th Sitting).



6. The Assembly refers to the United Nations Convention on the Rights of the Child, specifically Article 3 on the best interests of the child, Articles 19 and 20 on special protection and assistance from the State for unaccompanied and separated children, Article 22 on the rights of children seeking refugee status and General Comment No. 6 (2005) on the treatment of unaccompanied and separated children outside their country of origin, to the New York Declaration for Refugees and Migrants adopted by the United Nations General Assembly on 19 September 2016, and to the European Convention on the Exercise of Children's Rights (ETS No. 160), the Council of Europe Convention on Action against Trafficking in Human Beings (CETS No. 197) and the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (CETS No. 201).

7. The Assembly reiterates the recommendations set out in the European Commission Principles on integrated child protection systems, the Seven Point Plan for Refugee and Migrant Children of the United Nations Children's Emergency Fund (UNICEF), the Guidelines on Determining the Best Interests of the Child of the Office of the United Nations High Commissioner for Refugees (UNHCR) and other guidelines designed to serve as models for the treatment of unaccompanied migrant minors,

8. The Assembly urges member States to work at the national and regional levels and, through international co-operation, to improve the protection of unaccompanied migrant minors and to prevent their going missing, in particular by:

8.1. in the context of international co-operation, including with countries of origin:

8.1.1. ensuring that national police forces co-operate to constitute reliable, comprehensive and regularly updated databases on unaccompanied children who go missing, involving Europol and Frontex in investigations against criminal groups that might harm and exploit unaccompanied children; and by fully co-operating in efforts to track missing children and to support the further development of the Schengen Information System (SIS);

8.1.2. assuring protection of children from trafficking and criminal activities to which they are particularly vulnerable and stepping up co-operation with the countries of origin and transit in this area;

8.1.3. harmonising the rules concerning the designation of guardians and legal representatives and a common definition of their mandate and role;

8.1.4. upholding the right to family reunion in the case of separated migrant minors, in accordance with each child's right to live with their parents, as enshrined in Article 22 of the United Nations Convention on the Rights of the Child;

8.1.5. recalling that a rights-based approach to the protection of children also involves reacting to violations;

8.2. in the context of national and regional policies and action:

8.2.1. ensuring that all unaccompanied migrant children are adequately registered upon arrival in Europe, and that registration data are exchanged between the various authorities involved in their reception and care;

8.2.2. assigning responsibilities to institutions specifically in charge of implementing programmes for the protection of unaccompanied migrant minors and of supervising and co-ordinating their asylum procedures involving various public authorities and services and civil society organisations;

8.2.3. ensuring that unaccompanied migrant minors are treated first and foremost as children immediately on arrival in Europe, that they are allocated dedicated accommodation and given protection against all forms of violence and abuse (including sexual abuse and exploitation and human trafficking), that they are not held in immigration detention under any circumstances, as promoted by the Parliamentary Campaign to End Immigration Detention of Children, and that they have access to health care and sanitary conditions which are conducive to their rapid recovery from physical and psychological hardship;

8.2.4. providing child-friendly information and trained interpreters and counsellors for children on arrival to avoid confusion, re-traumatisation and misunderstandings from the outset, which, added to substandard reception conditions, push children to abscond from reception centres;

8.2.5. in cases where a child's age cannot be established by identity documents and only where there is doubt as to the individual's status as a minor, carrying out early and non-intrusive age assessment in full respect for the dignity and integrity of children. The procedure should be

multidisciplinary and carried out by independent professionals, familiar with their ethnic, cultural and developmental characteristics. Similar principles should apply when there is a dispute over the country of origin;

8.2.6. improving or introducing accelerated asylum application procedures for unaccompanied minors, including the early designation of sufficiently trained guardians and legal representatives who can assist children and who are each allocated a small number of migrant children;

8.2.7. ensuring that children have access to education at registration and throughout waiting periods, then facilitating their entry into mainstream education systems once the procedures for asylum or other forms of regularisation are engaged;

8.2.8. allocating sufficient funding to the structures put in place for care and protection of unaccompanied migrant minors, in particular associations and other civil society bodies, but also ensuring that domestic legislation and regulations are adapted to provide specific administrative procedures for lone child migrants;

8.2.9. to prevent unaccompanied migrant children from going missing, ensuring that responsibilities are transferred seamlessly during the different stages of the procedure, from reception to integration of migrant minors, in order to minimise the risk of unaccompanied minors “slipping through the gaps” in protection and absconding;

8.2.10. identifying and implementing durable solutions for unaccompanied children, based on a thorough assessment of the best interests of the child, on her or his right to safety, protection and development and on the definition of a life project with each child, and establishing monitoring procedures on compliance with the best interests of the child in case of return of the children;

8.2.11. in all cases, ensuring that unaccompanied or separated migrant minors are never refused entry into a country, in accordance with the *non-refoulement* obligations deriving from international human rights, humanitarian and refugee law.

9. The Assembly also calls on the European Union to continue taking into account the need for special protection for unaccompanied migrant minors when reviewing the Dublin III Regulation, in particular by introducing a provision on asylum applications for unaccompanied minors in the country where they are located, to avoid adding unnecessary transfers to their already traumatising journeys.