



International Organization for Migration (IOM)  
The UN Migration Agency

## **IOM Written Submission to the Human Trafficking Foundation Inquiry into the Situation of Unaccompanied and Separated Minors in Europe**

The International Organization for Migration Country Office for the United Kingdom (IOM UK) welcomes this inquiry into the situation of Unaccompanied and Separated Minors in Europe, initiated by the Human Trafficking Foundation and conducted by the Rt. Hon Fiona MacTaggart and Baroness Butler-Sloss, with the support of Lord Dubs.

IOM UK is pleased to submit its views to this inquiry given the specific vulnerabilities and special protection needs of unaccompanied and separated children in Europe. IOM UK hopes that the findings of this inquiry will encourage further debate and official action by the UK in this particular area.

For the purpose of this inquiry, IOM UK will use the acronym UASC to refer to unaccompanied and separated children (rather than unaccompanied asylum-seeking children which is more commonly used in the UK). Separated children are separated from both parents, or from their previous legal or customary primary care-giver, but not necessarily from other relatives. These may, therefore, include children accompanied by other adult family members. Unaccompanied children are children who have been separated from both parents and other relatives and are not being cared for by an adult who, by law or custom, is responsible for doing so.

In responding to this inquiry, IOM UK has grouped some of the different aims together, covering the following areas: data on UASC in Europe, including missing UASC; risks and protection gaps for UASC in Europe; reinforcing legal pathways to the UK; legal pathways and the idea of “pull factors”; and improving protection for UASC in the UK.

### **Background**

IOM is an intergovernmental organization established in 1951 and a related agency to the UN, committed to the principle that humane and orderly migration benefits migrants and society. The Organization acts to help meet the operational challenges of migration, advance understanding of migration issues, encourage social and economic development through migration and work towards effective respect for the human rights and well-being of migrants<sup>1</sup>. IOM’s mandate allows it to work with migrants, refugees, displaced persons and others in need of migration services or assistance. With over 400 offices worldwide and numerous ongoing projects and programmes, IOM is in a strong position to offer advice to governments and bring best practices from experiences in other countries. Over the past few years, IOM’s work has grown substantially in relation to providing protection and assistance to children on the move, in particular, unaccompanied and separated migrant children, and those who are victims of trafficking, exploitation and abuse. IOM carries out both national and regional child protection programmes in Greece and Italy, as well as other countries on the migration route.<sup>2</sup>

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<sup>1</sup> According to Article 1 (c) of the IOM Constitution, one of the purposes and functions of the Organization is “to provide [...] advisory services on migration questions and other assistance as is in accord with the aims of the Organization”. The IOM Strategy, adopted by the IOM Council in 2007, further provides that the Organization will focus on inter alia “assisting States in the development and delivery of programmes, studies and technical expertise on combating migrant smuggling and trafficking in persons, in particular women and children, in a manner consistent with international law”.

<sup>2</sup> Such programmes include information provision; direct assistance (psycho-social and case management as arrival points and temporary and longer-term accommodation sites); family tracing/assessments and possible family reunification, access to education and health, and support with identifying and enacting durable solutions (for instance through IOM’s resettlement/relocation-related activities); integration activities or return and reintegration in the country of origin, where it is deemed in the best interest of the child.

## Summary of IOM's Submission

- There is no clear data on the number of UASC currently in Europe. However, available data on the number of UASC arriving in Europe and the number claiming asylum indicate that there has been a significant increase in the last three years. In 2016, over 33,800 UASC arrived in Europe. In the same year, 63,300 UASC applied for international protection in Europe, while 96,500 applied in 2015. Some of these children are in reception facilities or other state care arrangements, a very small number have been transferred from countries of first arrival to other European countries through formal relocation or family reunion and reunification schemes. Many others remain unregistered. This has created a large number of UASC who are lost to view. It is understood that many have either sought to move onwards or found themselves destitute on the streets or in informal accommodation.
- UASC in Europe face a number of risks and face significant protection gaps, including lack of safety, food and access to services (such as health care and shelter), violence, extortion and exploitation, as well as injury and death. Many UASC are deprived of education, due process and justice in immigration and asylum procedures, legal representation, and effective guardianship.
- Europe is struggling to provide protection to these children on the move (those who are not in the place they want to be and are struggling to travel onward) and to UASC who have come to a (possibly) temporary or permanent halt. Serious gaps in the laws, policies and services meant to protect these children have been exposed.
- Unprotected and alone, and with few opportunities to move legally, these children resort to dangerous routes and engage smugglers to help them cross borders. They are vulnerable to abuse and exploitation, and some risk falling into the hands of criminals, including those engaged in organised crime and human trafficking.
- The UK can contribute to improving the situation for some UASC in Europe by effectively implementing existing tools that can provide access to legal pathways to the UK, namely the Dublin III Regulation and 'Dubs Amendment'<sup>3</sup> scheme. This can be achieved by making these systems more accessible, accelerating processing times, reducing restriction and investing in the required resources to build the necessary infrastructure for effective protection and processing arrangements.
- Based on the available evidence, there is no reason to believe that the existence of such family reunion and relocation resettlement schemes provide incentives for more UASC to embark on a journey to Europe or from Europe to the UK, and no evidence has been advanced that such schemes provide opportunities to traffickers. To the contrary, these schemes, when effectively implemented, are likely to encourage children to engage with the authorities and the formal system, in the hope of a safe transfer, rather than risking a journey facilitated by a smuggler.
- For those UASC who are transferred to the UK or arrive by their own means, additional improvements are required to close protection gaps and address issues of children going missing from care or being criminalised for activities they have been forced to carry out whilst in exploitative situations.

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<sup>3</sup> Section 67 of the Immigration Act 2016

## Written Submission

### 1. Data on UASC in Europe

In the first part of this written submission, IOM UK will focus on providing an overview on the data available that relates to UASC in Europe to highlight the current situation in terms of numbers and trends. It compiles key UASC-related data based on available official sources: arrivals, reception centre caseloads, asylum applications and relocation schemes. It also includes information on data issues surrounding missing UASC in Europe.

It should be noted that there is no official estimate of the number of UASC in Europe. The information below just provides an indication of this population based on the best available data. It should be highlighted, however, that there are significant limitations to the data in terms of collection issues and practices, different definitions, low levels of registration and backlogs in national systems<sup>4</sup>. Most of the data provided comes from the recent IOM, UNICEF and UNHCR factsheet on refugee and migrant children in the EU<sup>5</sup>, unless otherwise specified.

- *Arrivals*

In 2016, a total of **33,806** UASC arrived in Europe<sup>6</sup>. The majority arrived in Italy, where 92% of all of children arriving were unaccompanied or separated, representing a total of **25,846** children<sup>7</sup>. In the first four months of 2017, a total of 5,190 UASC have arrived in Italy. The three countries of origin most commonly represented were Bangladesh, Guinea and Ivory Coast.<sup>8</sup>

In Greece comprehensive data on the number of UASC is not captured upon arrival, but they were estimated to total **5,192** (8% of all children arriving) in 2016, based on referrals to the National Centre for Social Solidarity (EKKA). The majority of UASC arriving to Greece were from Pakistan, Afghanistan and Syria.

In Bulgaria, a total of 6,447 children applied for asylum in 2016, of whom **2,768** (43%) were UASC, mostly from Afghanistan, Iraq and Syria<sup>9</sup>.

- *Gender and Age*

The majority of UASC, who arrived in Europe in 2016 were boys (94%), and the majority were aged between 15 and 17 years old (92% in Italy, 84% in Greece and 72% in Bulgaria).

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<sup>4</sup> There is no comprehensive data on arrivals (including for UASC) in Europe, especially by land and air, as such movements are largely irregular and involve smuggling networks, which are difficult to track. If collected, data is rarely disaggregated by nationalities, risk category, gender or age. Reliable data on the number of UASC either arriving to, or currently residing in, different European countries is often unavailable. The number of asylum applications filed by UASC is used to provide an indication of trends but does not necessarily provide an accurate picture of the caseload due to backlogs in national asylum systems, onward irregular movements or not applying for asylum at all. In addition, due to different definitions and national procedures and practices, collecting accurate data on separated children specifically is very challenging (e.g. separated children being registered as either accompanied or unaccompanied).

<sup>5</sup> See UNHCR, UNICEF and IOM *Refugee and Migrant children in the EU – Including Unaccompanied and Separated Children – in the EU: Overview of Trends in 2016, April 2017* and available at:

<https://data2.unhcr.org/en/documents/download/55971>

<sup>6</sup> UASC make up 34% of all child arrivals registered in Greece, Italy, Spain and Bulgaria (100,264 children).

<sup>7</sup> This is double the number of UASC who arrived in 2015 (12,360). Most of them originated from North, East and West Africa.

<sup>8</sup> The increase in the number of Bangladeshi UASC arriving in Italy is a new trend detected in 2017. Data for the first four months of 2017 in relation to UASC is only available for the Central Mediterranean route, covering arrivals to Italy. See IOM's report on Mixed Migration Flows in the Mediterranean, April 2017, available at:

[http://migration.iom.int/docs/Monthly\\_Flows\\_Compilation\\_Report\\_No5\\_May\\_2017.pdf](http://migration.iom.int/docs/Monthly_Flows_Compilation_Report_No5_May_2017.pdf)

<sup>9</sup> There is no comprehensive data on arrivals in Bulgaria since apprehensions take place upon irregular entry, exit or inside the country. In Spain, there were 1,674 children arriving in 2016, almost half of whom were Syrians (809). Data on unaccompanied children is not available from the Spanish Ministry of Interior.

- *Asylum*

In 2016, 63,300 UASC applied for asylum in Europe. This is considerably less compared with 2015, when the figure was 96,500, but it is still about five times higher than the annual average during the period (2008-2013). Over half were Afghans or Syrians<sup>10</sup>.

- *Reception*

At the end of 2016, 17,373 UASC were in shelters run by state authorities in Italy. This includes UASC who arrived in Italy both prior to and during 2016.

According to figures provided by EKKA Greece at the end of 2016, 1,142 UASC were in UASC shelters and 324 were in reception and identification shelters, including 15 in protective custody/detention. This is out of an estimated 2,300 UASC present in Greece.

In Bulgaria, all children (6,447), including UASC, were accommodated in reception centres in Sofia and Southern Bulgaria at the end of 2016. All persons intercepted in Bulgaria<sup>11</sup>, including UASC, are routinely detained until they claim asylum. In 2016, children spent 8 days on average in detention before being transferred to a reception centre.

- *Relocation, Transfers and Family Reunification*

As at 2 April 2017, the number of UASC who had been relocated from Greece and Italy was 341<sup>12</sup>. The vast majority were relocated from Greece to countries such as Finland, Netherlands, Spain, Luxembourg, Norway, Ireland and Belgium. Only two UASC were relocated from Italy to the Netherlands.

IOM UK also understands that 350 UASC have been or are in the process of being transferred to the UK from Europe under Section 67 of the Immigration Act 2016, widely referred to as the 'Dubs Amendment' scheme<sup>13</sup>, with a further 130 announced in February.

Data on family reunification (under the Dublin III Regulation<sup>14</sup> or Family Reunification Directive) for refugee and migrant children in Europe is not available.

- *Missing UASC*

As is clear from the figures above, a large number of UASC are not in shelters or reception centres, and have not been transferred to other European countries through formal relocation or family reunification schemes. It is understood that most have either sought to move onwards to join family members in other countries, or found themselves destitute on the streets or in informal accommodation. Many other children have remained unregistered. This creates a pool of UASC who are lost to view.

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<sup>10</sup> See Eurostat News release 80/2017, 11 May 2017, available at:

<http://ec.europa.eu/eurostat/documents/2995521/8016696/3-11052017-AP-EN.pdf/30ca2206-0db9-4076-a681-e069a4bc5290>

<sup>11</sup> With the exception of families with small children.

<sup>12</sup> See Communication from the European Commission to the European Parliament and the Council on the Protection of Children in Migration, COM (2017) 211 Final, available at:

[https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/20170412\\_communication\\_on\\_the\\_protection\\_of\\_children\\_in\\_migration\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/20170412_communication_on_the_protection_of_children_in_migration_en.pdf)

<sup>13</sup> On 8 February 2017 the Immigration minister, Robert Goodwill, released a written ministerial statement that the 'Dubs Amendment' scheme would in effect be closed when 350 UASC had been transferred. At that point, 200 UASC had arrived in the UK, and an anticipated 150 additional UASC were due to be transferred. On 26 April, the Immigration minister announced that a further 130 UASC would be transferred to the UK from France, Italy and Greece.

<sup>14</sup> The Dublin III Regulation states that asylum seekers with family members already under international protection, or in the process of seeking asylum, have the right to be transferred to join their family members and claim asylum in the same country.

Unfortunately, there is no official data on missing UASC in Europe. In general, across EU Member States, there is no consistency in the definition of “missing children”. Only half hold statistics on UASC who went missing or absconded; where statistics are available, these are often not comparable or not systematically collected. Only a minority of countries report to have specific legal or procedural regulations on missing migrant children (Austria, Finland, Ireland and Romania)<sup>15</sup>.

Many variations also exist in terms of how the different “types” of missing children are recorded and traced in Europe and many focus on those who go missing from their institution or placement. In several countries, no specific categorization is used. Reporting arrangements for such cases differ substantially.

There is no single type of data source for missing UASC in EU Member States, including police, interior ministries or immigration services. In many countries, data are simply not available for this type of missing child, while in the United Kingdom, the issue is that data exist but are not collated at a national level.

## **2. Risk factors and protection gaps for UASC in Europe**

### *Risk Factors*

Migrants and refugees who have reached Europe through the Central and Eastern Mediterranean routes have been exposed to extreme risks of injury and death, and many have been subjected to harassment, aggression, extortion, kidnapping and ransom demands, physical violence, sexual abuse and gender-based violence. The risks of apprehension, detention and forced removal, as well as statelessness, are also significant.

In IOM’s experience, even when migration is planned, voluntary and accompanied by parents, the danger of exploitation is still present. Without the protection of their parents, this risk then increases for children that travel without their families.

Indeed, IOM survey data published in April 2017, shows that 91% of the migrant children (aged 14-17) who travelled to Europe through the Central Mediterranean route (through North Africa to Italy; the route through which most unaccompanied and separated children are arriving into Europe), experienced exploitation and abuse on their journeys. This is considerably higher than average response rate among adults of 74%. These children responded positively to at least one of the trafficking and other exploitative practices questions, based on their direct experiences. Indicators include: experiencing physical violence, being held against their will, working without getting the expected payment or being forced to work without payment<sup>16</sup>.

Once in Europe, violence towards UASC can continue and may come in the form of physical and sexual abuse (from others in their camps, settlements or street situation), state action (particularly during migration enforcement or detention), the general public (in the form of xenophobic attacks), employers (in various forms of child labour), other children (including bullying and abuse in schools), or self-harm. Some children avoid authorities for fear of detention, living on the streets under difficult

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<sup>15</sup> See IOM’s Data Briefing *Children and Unsafe Migration in Europe: data and policy, understanding the evidence base* [https://publications.iom.int/system/files/gmdac\\_data\\_briefing\\_series\\_issue5.pdf](https://publications.iom.int/system/files/gmdac_data_briefing_series_issue5.pdf)

<sup>16</sup> See IOM Analysis, *Flow Monitoring Surveys – the Human Trafficking and Other Exploitative Practices Prevalence Indication Survey*, April 2017, available at: [http://migration.iom.int/docs/Analysis\\_Flow\\_Monitoring\\_and\\_Human\\_Trafficking\\_Surveys\\_in\\_the\\_Mediterranean\\_and\\_Beyond\\_26\\_April\\_2017.pdf](http://migration.iom.int/docs/Analysis_Flow_Monitoring_and_Human_Trafficking_Surveys_in_the_Mediterranean_and_Beyond_26_April_2017.pdf)

conditions. These children are highly vulnerable to exclusion, marginalisation and exploitation, including commercial sexual exploitation, prostitution, forced labour and domestic labour.

The situation that many UASC in Europe find themselves in – feeling stranded in countries where they do not want to stay, are not welcome, or have few prospects – can generate feelings of anxiety and despair. This drains a child’s psychological resources, exacerbating deprivations and can make them feel increasingly desperate.

Children develop a variety of coping mechanisms to deal with their vulnerability and the stresses and depredations of their journeys. While some of these coping mechanisms can reduce their vulnerability, others can put them at greater risk of abuse and exploitation. For some living on the street, theft and selling sexual services can be a means of survival; for others, a way to earn money to continue their journeys.

In such situations of limbo, many UASC resort to dangerous routes and the services of smugglers to help them cross borders. Smugglers can seem to be people who want to help others in need<sup>17</sup> and can often be well known, perhaps trusted, within the community, and may belong to the same social circles as those they smuggle. However, smugglers can often charge high fees which can deplete the resources of children or lead them and their families to take on debts that they struggle to pay back, potentially leading to exploitative situations later on<sup>18</sup>. Smugglers may resort to violence and abuse – or trafficking and other forms of exploitation – to ensure payment<sup>19</sup>. Furthermore, some smugglers are part of organised criminal groups with direct ties to human trafficking networks; indeed Europol estimates that 20% of suspected smugglers on their radar have ties to human trafficking<sup>20</sup>. UASC who use smugglers do therefore face significant risks of abuse, exploitation and possibly trafficking.

### *Protection Gaps*

National authorities and agencies are seeking to improve the reception conditions for refugee and migrant children in Europe, particularly in Greece, Italy and across the Balkans. Yet many refugee and migrant children have been living for months, sometimes a year, in reception and accommodation centres, which do not provide age and gender-appropriate shelter, protection and services. Across Europe, some of the rights violations that UASC face include lack of access to health care and shelter, education, birth registration and housing, lack of safety, food and access to services, as well as due process and justice in immigration and asylum procedures, legal representation, and effective guardianship for unaccompanied children. Mistrust of authorities and fear of detention and deportation also keep children from coming forward to seek protection and support.

According to the European Commission<sup>21</sup>, there are a number of priority areas that need to be addressed in order to reduce the current protection gaps for migrant children in Europe. These include: strengthening child protection systems along the migratory route; improving identification

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<sup>17</sup> Landry, Rachel, ‘Decriminalising “Humanitarian Smuggling”’, RSC Research in Brief 6, University of Oxford Refugee Studies Centre, Oxford, March 2017.

<sup>18</sup> See UNICEF, *A Child is a Child: Protecting children on the move from violence, abuse and exploitation*, available at: [https://www.unicef.org/publications/files/UNICEF\\_A\\_child\\_is\\_a\\_child\\_May\\_2017\\_EN.pdf](https://www.unicef.org/publications/files/UNICEF_A_child_is_a_child_May_2017_EN.pdf)

<sup>19</sup> See IOM *Assessing the Risks of Migration along the Central and Eastern Mediterranean Routes: Iraq and Nigeria as case study countries*, November 2016, p. 55.

<sup>20</sup> See EUROPOL, *Migrant smuggling in the EU*, February 2016, available at: [https://www.europol.europa.eu/sites/default/files/documents/migrant\\_smuggling\\_europol\\_report\\_2016.pdf](https://www.europol.europa.eu/sites/default/files/documents/migrant_smuggling_europol_report_2016.pdf)

<sup>21</sup> European Commission, *Communication on the protection of children in migration*, 12 April 2017, available at: [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/20170412\\_communication\\_on\\_the\\_protection\\_of\\_children\\_in\\_migration\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/20170412_communication_on_the_protection_of_children_in_migration_en.pdf)

and data collection; introducing procedures to report missing UASC; ensuring alternative care options exist for UASC; guaranteeing access to status determination procedures – including swift and effective family tracing; and identifying durable solutions, including integration, safe return, resettlement or reunification with family members in a third country.

In order to achieve the required improvements in these priority areas and strengthen protection for UASC in Europe, more efficient and swift transnational cooperation between EU Member States is needed. In particular, the Commission notes that smoother procedures for family tracing and reunification for all children (whether applying for transfers under the Dublin III Regulation, Family Reunification Directive or ‘Dubs Amendment’) are required. Further, the Commission urges Member States to intensify their efforts to facilitate and accelerate the relocation of vulnerable persons, including UASC. However, they note that as of 2 April 2017, only 341 UASC have been relocated<sup>22</sup>.

Moreover, large numbers of UASC are excluded from pathways such as relocation (key nationalities are Afghans, Pakistanis, Egyptians and Iraqis): indeed it is estimated that, due to multiple criteria related to nationality and time of arrival, only 17% of UASC arriving in Italy and 48% of UASC pre-registered on mainland Greece are eligible for relocation. Many other UASC are formally excluded from family reunification through the Dublin III Regulation, due to a restrictive definition of family<sup>23</sup> and increasingly restrictive national legal frameworks, or they are effectively excluded due to the fact that cross-border family tracing and reunification processes are not being carried out, are protracted or start too late.

Another significant gap is the lack of arrangements and legal assistance for UASC when turning 18 years of age. Appropriate measures need to be taken to ensure a smooth transition period for those children who – due to turning 18 and becoming adults – may be in the danger of losing protection and support.

### **3. Reinforcing Legal Pathways to the UK**

There are currently two important mechanisms by which UASC in Europe can be transferred legally to the UK. The first is the Dublin III regulation which, as noted above, extends from EU law and is designed to protect the internationally recognised right to an intact family unit and is particularly important to the many UASC in Europe who have family members in the UK. The second mechanism that currently exists is the so-called ‘Dubs Amendment’ scheme, which offers safe refuge in the UK to UASC, but focuses on those who may not have a clear and close family link in the UK.

However, while these mechanisms exist, the evidence suggests that they are not being effectively implemented and are not working for children. In order for these important tools to offer meaningful and realistic legal options for UASC in Europe, and when it is in their best interest, IOM considers that the following urgent improvements are required<sup>24</sup>:

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<sup>22</sup> Ibid. IOM supports relocation procedures in Greece and Italy, in term of pre-departure orientation and health assessments for all relocation candidates (adults and children). For UASC specialised staff conduct best interest assessments together with national legal guardianship authorities and EU Member States of Relocation, taking into account the view and opinions of the child. At the end of April 2017, 252 unaccompanied or separated migrant children were relocated from Greece to other EU Member States, and 2 from Italy. See [www.eea.iom.int/index.php/what-we-do/eu-relocation](http://www.eea.iom.int/index.php/what-we-do/eu-relocation)

<sup>23</sup> It is expected that that a revised Dublin IV Regulation will come into effect by the end of 2017. In the consultation process, IOM has welcomed the Commission’s proposal to extend the definition of “family members” to include siblings of an applicant as well as including family relationships formed after leaving the country of origin. These documents can be provided upon request.

<sup>24</sup> For more detailed recommendations on the application of the Dublin III Regulation and the Dubs Amendment for children in Calais, please see British Red Cross *No Place for Children October 2016*, Available from

- Better integrate cross-border family tracing and reunification into best interest assessments to establish as quickly as possible if a UASC in Europe has family members in the UK;
- Speed up processing times to ensure that interviews, fingerprints, photographs and copies of identity documents are carried out as soon as possible and within reasonable time-frames<sup>25</sup>;
- Ensure that age and language appropriate information about their rights and options, including family reunification (where appropriate), is made accessible to UASC in Europe, through mechanisms that provide them with legal advice;
- Exercise adequate discretion when reviewing the evidence provided by UASC on family links to ensure that access to legal options are not more restrictive than they need to be. This is particularly important given the journeys that UASC in Europe have taken which make access to paperwork and family records difficult. Similarly, greater discretion should be exercised when reviewing applications that are submitted with administrative errors.

In addition to the improvements outlined above that would reinforce existing options for UASC in Europe, IOM would also welcome the continuation of the ‘Dubs Amendment’ scheme beyond the expected limit of 480 children. The ‘Dubs Amendment’ scheme is particularly important given that it supports those UASC with no family members in the EU, and also because it does not automatically exclude children of certain nationalities. Since the relocation scheme that exists in Europe for UASC with no family members excludes those from countries that are significantly affected by conflict and insecurity, such as Afghanistan and Iraq, the ‘Dubs Amendment’ scheme is the only legal option for transfer out of countries of first arrival for such children, as well as others who do not fall within the 75% acceptance rate required by the EU Relocation Framework. This is because the ‘Dubs Amendment’ Scheme makes assessments based on the individual circumstances, rather than solely on nationality.

Furthermore, IOM’s view is that all unaccompanied and separated children have the right to family unity and should be safeguarded, irrespective of whether they make a claim for asylum or not. This is an assertion that is embedded within the UN Convention on the Rights of the Child. In order to ensure the UK’s approach to family reunification and relocation of UASC in Europe does not ignore the safeguarding needs of children who have not claimed asylum, IOM would encourage flexibility within the ‘Dubs Amendment’ Scheme to include a proportion who have not sought international protection, but are considered acutely vulnerable and where the UK can provide a durable solution for the child. For unaccompanied and separated children in Europe who have not sought asylum but have family members in the UK, IOM would support a family reunification visa when it is considered in the best interests of the child.

#### **4. Legal Pathways and ‘Pull Factors’**

Based on the available evidence and on IOM’s understanding of the situation surrounding UASC and access to legal options for transfer to the UK, there is no reason to believe that the existence of such

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<http://www.redcross.org.uk/~media/BritishRedCross/Documents/What%20we%20do/Refugee%20support/No%20place%20for%20children.pdf>

<sup>25</sup> According to the Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice, in all proceedings involving children, the urgency principle should be applied to provide a speedy response and protect the best interest of the child, while respecting the rule of law. See <https://rm.coe.int/168045f5a9>



schemes provide incentives for more UASC to embark on a journey to Europe or from Europe to the UK, and no evidence has been advanced that such schemes provide opportunities to traffickers.

The idea that the effective implementation or continuation of these schemes will fundamentally alter the calculations of the unaccompanied and separated children, or their families, who make the decision to migrate to Europe, ignores the push factors that are causing them to move in the first place. UASC move to escape violence and conflict, poverty and inequality and to improve their life opportunities in terms of work and education. The situation in Europe where overburdened countries are struggling to meet the protection needs of these UASC who may feel unsafe, or where ineffective systems are forcing them to be alone when they could otherwise be with family members in the UK, become further push factors.

Similarly, the notion that effective implementation of the Dublin III or the continuation of the ‘Dubs Amendment’ scheme will provide additional opportunities for traffickers, or those who seek to exploit UASC, has not been substantiated with evidence. Indeed, such schemes provide safe and legal routes for children who would otherwise continue to be vulnerable in Europe and open to underground, high risk smuggling routes. Further, these schemes, when effectively implemented, are likely to encourage children to engage with the authorities and the formal system, in the hope of a safe transfer, rather than risking a journey facilitated by a smuggler.

## **5. Improving protection for UASC in the UK**

For those UASC who are transferred through legal pathways to the UK, as well as those who arrive spontaneously through irregular means, and those who have been identified as victims of trafficking, additional improvements are required to close protection gaps that have been identified by various child-focused UK NGOs, and in particular, addressing the issue of UASC and trafficked children going missing from care<sup>26</sup>. This includes mechanisms to strengthen the foster care arrangements for UASC and trafficked children to build their trust and engagement. Projects supporting foster carers to look after children who have been trafficked through training, for example, are fundamental<sup>27</sup>, but strategies must also be put in place to mitigate risks of uncertainty arising through the National Transfer Scheme and any other immigration policies not based on the best interests of children. In fact, these policy changes can lead to children being more likely to go missing from care as they approach 17.5 years of age, with the fear of being sent back to their countries of origin if they are not recognised as refugees.

Further, for trafficked UASC who have been forced into criminal behaviour, better application of the non-punishment principle is required to ensure such children are not being criminalised<sup>28</sup> for crimes they are compelled to commit when in a trafficking situation.

### **IOM UK, May 2017**

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<sup>26</sup> ECPAT/Missing People, *Heading Back to Harm - A study on trafficked and unaccompanied children going missing from care in the UK*, 2016, available at: [http://www.ecpat.org.uk/sites/default/files/hbth\\_report2016\\_final\\_web\\_0.pdf](http://www.ecpat.org.uk/sites/default/files/hbth_report2016_final_web_0.pdf) - page 10: “from September 2014 to September 2015, 28% of trafficked children (167 children) in care and 13% of unaccompanied children (593 children) in care went missing at least once.”

<sup>27</sup> Such as the Department of Education commissioning Refugee Council and ECPAT to deliver training to foster carers across the UK, and IOM and Croydon Council’s pilot project to support foster carers looking after Albanian and Vietnamese children who are potential victims of trafficking and modern slavery, funded by the Home Office.

<sup>28</sup> See UNICEF UK, *Victim, not Criminal: Trafficked Children and the non-punishment principle in the UK*, 2017, available at: [https://downloads.unicef.org.uk/wp-content/uploads/2017/05/Unicef-UK-Briefing\\_Victim-Not-Criminal\\_2017.pdf](https://downloads.unicef.org.uk/wp-content/uploads/2017/05/Unicef-UK-Briefing_Victim-Not-Criminal_2017.pdf)