

Safeguarding the Rights of Unaccompanied Children at EU Borders under the EU Pact on Migration and Asylum

Joint NGO analysis and recommendations

“ Life is something so precious, there is no time to waste. Each year lost from moving forward with my life, is time lost¹.

Ehsan, 17 years old in 2023, when he entered the EU.



Painting by an unaccompanied child living in a shelter somewhere in Europe

SIGNATORIES

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1. The names of the children have been changed and the country they refer to erased to preserve anonymity

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INTRODUCTION

New and protracted conflicts and instability, violence, persecution, impacts of climate change, economic hardship and food instability force people, including children, to undertake dangerous journeys to reach Europe. With limited or no access to safe routes, children on the move, especially unaccompanied children, are exposed to a continuum of violence from their countries of origin, during their journeys, and even after arriving in Europe. According to [Eurostat](#), 41,525 unaccompanied children applied for asylum in EU countries for the first time in 2023 and 23,630 [in the first nine months of 2024](#). According to a recent [UNICEF report](#) on countries along the Balkan route (Greece, Italy, Bulgaria, Serbia, and Bosnia and Herzegovina), including three main first-entry Member States, *"significant pushbacks and detentions as well as psychological and physical violence continued to be reported, whilst insufficient mechanisms for identification, referrals, individual case management and best interest determination, as well as limited availability of alternative care and legal guardianship services, exacerbated the vulnerability of children on the move"*.

It is a legal and moral obligation for the EU and its Member States to protect children within their territory. **As Member States are preparing for the national implementation of the EU Pact on Migration and Asylum (the EU Pact), it is crucial that they address weaknesses in their systems and introduce effective safeguards to protect unaccompanied children at their borders.**

Whilst EU institutions [claim](#) that the EU Pact's new and reinforced safeguards will ["significantly enhance protection for unaccompanied minors and families with children"](#), based on our work on the ground, we are concerned that some of the provisions of the EU Pact are set to perpetuate many of the most worrying elements of present practices, including racial profiling and discrimination, particularly affecting children seeking protection.

To start with, the EU Pact failed to resolve the critical issue of distribution of responsibility for first-entry states and raises alarms regarding the focus on burdensome administrative returns and derogations from asylum rules in 'crisis' scenarios. As a result, rights violations at borders, such as pushbacks, are likely to persist. Moreover, the accelerated assessment of vulnerabilities at borders can create issues of inaccuracy. Plus, Member States may decide to assess children's ages during Screening, even though the safeguards and protective framework on age assessments are absent from that Regulation. This can lead to children and young people seeing their rights violated, not in the least if they are wrongly registered as adults. In addition, provisions during screening, including the lack of clearly defined criteria for assessing unaccompanied children as potential "security risks" in particular, when assessed as "being violent", is likely to increase detention, especially *de facto*. Finally, provisions should be put in place so that independent monitoring mechanisms by Member States are truly independent, expanded to cover access to territory, and child-friendly, to ensure that reports of human rights violations at borders are effectively addressed.

This brief combines an analysis of the EU Pact by our organisations with field evidence, based on our extensive experience in supporting unaccompanied children, highlighting the risks they face due to the shortcomings of current policy frameworks and practices (Section 2). The brief further offers specific recommendations for EU Member States to strengthen safeguards for unaccompanied children at their borders whilst planning the national implementation of the EU Pact (Section 3).



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INCREASED RISKS FOR UNACCOMPANIED CHILDREN'S RIGHTS AT BORDERS IN THE CONTEXT OF THE EU PACT IMPLEMENTATION

The EU Pact contains a series of safeguards to protect unaccompanied children, such as "the swift appointment of a representative", "limited circumstances for an accompanied minor to be channeled through the accelerated procedure", "age assessments to be performed through a multidisciplinary assessment (including psychosocial evaluations by qualified professionals)", "free legal counseling", "detention as last resort", "access to education in detention", and "exemption from the border procedure unless a minor poses a national security threat". Most of these safeguards are not new and were already provided in national legislation and a combination of European Union law, international treaties, and human rights instruments. These legal frameworks prioritise children's best interests, protection from harm, and access to asylum procedures, and are built upon the principles of non-refoulement, the prohibition of child detention, the right to family unity, and the provision of special care for unaccompanied children. However, the problem is that these provisions are not respected in practice by many Member States, with inefficient age assessments, detention, pushbacks and violence at borders, and exacerbating factors like racial profiling and discrimination, observed extensively across the EU.

A number of child protection organisations have already been critical of the EU Pact and have asked for clarity and transparency on the implementation of some of its provisions and the potential impact on children. **Despite claims that the EU Pact will better protect children, the signatory organisations fear that existing shortcomings that put the rights of children at risk are not addressed.**

2.1 Need to prevent persistent rights violations at borders

“ I feel so sick all the time, when I see my injuries, I remember everything that they did to me, I cannot forget it, I remember everything. Elhan, 17-years-old at the time he reported being pushed back from an EU country.

Pushbacks, informal detention, and incidents of other forms of violence against unaccompanied children have been extensively documented and reported by international organisations, regional institutions, non-government and civil society organisations, and investigative journalists across the EU.

The International Rescue Committee (IRC) and the Foundation for Access to Rights (FAR) interviewed 66 unaccompanied children who they supported in Bulgaria, Greece, Italy and Serbia in 2023. 51% of those trying to enter Bulgaria and 70% of those trying to enter Greece reported pushbacks and various forms of violence, with most children identifying those responsible for the violence they endured as law enforcement authorities. These include physical and psychological violence, forced stripping, theft of personal belongings, deprivation of necessities, and informal detention in degrading conditions, resulting in exposure to hazardous and life-threatening conditions and environments. The patterns described by the children interviewed by the IRC and FAR are similar to those documented by other actors, showing common and systematic practices across different EU borders and suggesting these violations are not the work of rogue agents, but rather a "de facto general policy", as described by the UN Rapporteur on the Human Rights of Migrants in 2022.

With the EU Pact's emphasis on stronger external border controls as one of its declared objectives, and prevailing political narratives in the EU on migration, first-entry Member States are likely to resort to a more aggressive response to irregular crossings, including pushbacks. Without fairer responsibility-sharing and effective implementation of solidarity measures, disproportionate pressure on first-entry Member States as primary entry points will continue, with a risk that persistent reports of pushbacks and rights violations at borders will continue and potentially increase.

The EU Pact's focus on enhancing the efficiency and number of returns of asylum seekers to their countries of origin or transit might further incentivise pushbacks, as a way for Member States to sidestep the complex processes involved in formally processing and returning asylum seekers, especially unaccompanied children.

In addition, while the Crisis Regulation allows for Member States to diverge from their obligations in cases of "crisis, instrumentalisation, and *force majeure*", due to its vague formulations, there is a risk of derogations being used as the norm rather than the exception, leading to more rather than less disorder at the EU's borders, lowering asylum and border standards.



2.2 Need to effectively resource screening, reception and asylum processes

“ They thought I was big, but I was small. They ask where you are from and nothing else. Achraf, who was around 17 years old in 2022 when he entered the EU.

The expedited processes created by the EU Pact, coupled with serious capacity shortages and poorly resourced national asylum and reception systems, may not adequately allow for the identification of unaccompanied children and the accurate assessment of their age or their best interests. These systems may overlook their specific needs and vulnerabilities, leading to inadequate consideration of their asylum claims and protection needs, and even their exclusion from family reunification procedures. For example, in Greece, between April 2021 and March 2023, there were 1,024 age dispute cases, and in 37% of them, the people involved were found to be children. While it may be possible for identity and security checks to be completed within a tight timeframe, there is a significant risk that vulnerability assessments will be rushed, or even omitted, for the sake of speed, something recently witnessed in the implementation of the Italy-Albania deal.

Other serious risks are associated with the lack of clearly defined criteria under which unaccompanied children may be assessed as security risks, in particular, when assessed as "being violent", and thus channeled into the accelerat-

ed border procedure, which may not allow for a detailed examination of their case. In addition, the possibility of using "a proportionate degree of coercion" against children for biometric data collection, could potentially expose them to harm and violence without clarity on what constitutes a "proportionate degree".

Concerns have also been raised regarding representatives of unaccompanied children. During the screening process, a representative should be appointed to represent and assist an unaccompanied child "as soon as possible", yet there is no clearly defined deadline for such appointment during this critical phase of the process. The Asylum Procedure Regulation also provides that unaccompanied children are to be assisted and represented by a temporary representative to help with the registration, biometric data collection, and all the necessary procedural steps. While this provision is welcome, its practical implementation will depend on how well-resourced the national guardianship system is, both in terms of funding and personnel, as well as how effectively the representatives are trained. This widely differs among Member States, calling for special attention in national implementation.

Finally, the EU Pact requires the national authorities to consider the best interest of the child as a guiding principle in all their actions and to conduct a best interest assessment. However, significant uncertainty surrounds this safeguard, including the absence of a standardised template or procedure across the EU, as well as a lack of clear guidance on how to balance various relevant factors – such as weighing the child's opinion against that of their representative. Increased coordination and cooperation between national migration and child protection authorities, along with various child protection service providers, including non-governmental and civil society organisations is needed, to ensure unaccompanied children can access the protection and essential services to which they are entitled.



2.3 Need to explicitly prohibit detention of children

“They would keep us one or two days with no food or water or anything – it was like a ‘camp’ and just many people from different countries in one place. Mohammed, who was 16 years old at the time he was detained in an EU country in 2023.

At European borders and across Member States, children are being routinely subjected to migration-related detention.

Detention of migrant children is counter to the general prohibition articulated by international and regional human rights bodies, and international organisations, while UNHCR’s position states that detention of children in the immigration context (whether unaccompanied, separated or as part of a family) is *“in violation of the CRC [Convention on the Rights of the Child] in many respects and should be stopped”*.

The EU Pact failed to embed a unified regional prohibition of children’s detention, and more unaccompanied children will be at risk of being put into detention or de facto detention unless Member States explicitly prohibit it in their national legislation and effective alternatives to detention are introduced. In particular, the EU Pact allows for unaccompanied children to be (*de facto*) detained: for up to 7 days during the screening processes “to remain available to authorities”, up to 12 weeks, if channeled into the border procedure – in case considered as “a danger to national security or public order”, up to 18 weeks under the Crisis Regulation, whilst detention up to 6 months is possible under the Return Directive.



2.4 Need for an Independent Monitoring of Unaccompanied Children’s Rights and Accountability for Violations

What I experienced destroyed my mental well-being. I have no focus,

“I cannot study or focus on my studies because these incidents stay in my mind. I cannot forget them, I cannot focus on anything.”

Mohammed, who reported being pushed back from two EU countries in 2022, when he was 16 years old and in 2023, when he was 17 years old.

The EU Pact requires Member States to establish an independent mechanism to monitor compliance with fundamental rights during the screening of new arrivals and when assessing asylum claims at external borders. Among others, as elaborated on by a new guide “On National Independent Mechanisms” by the Fundamental Rights Agency, the monitoring should look into adherence to the best interests of the child and whether children are adequately protected. To achieve this, it is vital that child protection specialists and information in child-friendly language is provided for.

Moreover, to be an effective safeguard against violations of the rights of unaccompanied children, the fundamental rights monitoring mechanism needs to be institutionally and functionally independent. Significantly, to create a robust mechanism at national level, there need to be consequences for obstruction of the mechanism’s work (e.g. failure to grant access to certain areas or documents) or non-compliance with its findings.

Finally, the vast majority of unlawful practices take place outside of official border crossings, police facilities or formal procedures. Thus, geographical (e.g. only at certain centres; border crossings) or procedural (e.g. only in relation to certain processes, such as the screening phase) limitations to the scope of the mechanism create accountability vulnerabilities and enable violations to continue. Therefore, in the national implementation of the independent mechanism to monitor compliance with fundamental rights, its scope should be expanded to cover all alleged fundamental rights violations by national border management authorities or during border control activities.

3.

RECOMMENDATIONS: MITIGATING RISKS AND IMPLEMENTING SAFEGUARDS TO STRENGTHEN PROTECTION OF UNACCOMPANIED CHILDREN

As the EU and its Member States move towards implementation of the EU Pact, they should ensure that the rights of unaccompanied children are protected, in line with international refugee and human rights law.

To strengthen the protection of unaccompanied children, ensure their rights are upheld, including the right to seek asylum, and support their development, the undersigned organisations recommend that Member States:

1. **Ensure that all actions under the EU Pact are guided by the best interests of the child**, providing all unaccompanied children with access to territory, regardless of the documentation they have or lack, and ensure that they have access to asylum procedures, with child-friendly processes that prioritise their safety and well-being.
2. **Direct financial and human resources toward building effective screening, reception and asylum systems**, ensuring specialised, trained personnel to guarantee sensitive and informed handling of their cases, apply the benefit of the doubt when ages are unclear and conduct multidisciplinary age assessments in line with international standards, safeguards and the Asylum Procedures Regulation.
3. **Invest financial and human resources to implement procedural safeguards for unaccompanied children**, such as standardised procedures for the assessment of the best interests of the child, the swift appointment of a representative, access to free legal counseling, interpretation, and child-friendly provision of information, appeal procedures for age assessments, as well as **clear frameworks and narrowly defined criteria for assessing unaccompanied children as potential "security risks"** with their application subject to scrutiny.
4. **Explicitly prohibit the immigration detention of children**, including *de facto* detention during screening. Invest in safe, age-appropriate accommodation options that provide a supportive environment for unaccompanied children, including access to education, healthcare, and psychological support.
5. **Establish institutionally and functionally independent monitoring mechanisms that oversee the treatment of unaccompanied children** during border controls, including at unofficial crossings, reception centres and during the asylum and return process. These mechanisms should include child protection specialists and age appropriate, child-friendly mechanisms, procedures, and remedies. There should be clear consequences for Member States that do not set up these mechanisms, fail to cooperate with them or ignore their findings.
6. **Guarantee and reinforce zero tolerance for all forms of discrimination, racism and violence against children. Ensure effective investigation of complaints and access to justice** to children who have suffered violence, including, where appropriate, criminal prosecution of alleged perpetrators and restitution for victims.
7. **Integrate child-specific safeguards in the solidarity mechanism to alleviate the risks faced by unaccompanied children**. This requires a fair and transparent system, which includes relocation coordinators and prioritises the best interest of the child and family unity.
8. **Engage with non-governmental organisations and civil society groups that specialise in child protection** to leverage their expertise and resources.
9. **Implement systems for collecting and analysing data on unaccompanied children** to inform policy decisions, track outcomes, and identify areas for improvement in the protection of their rights.
10. **Expand resettlement, family reunification, and other safe routes for children from third countries to the EU.**

