

# Unaccompanied Minors and the 'Migrant Crisis'

A case study on the reception of unaccompanied minors in Eastern-Sicily



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Master Thesis: International Crimes and Criminology

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May 2016

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# Acknowledgements

First, I would like to thank all of my respondents in Eastern-Sicily. I would like to dedicate this text to all of the unaccompanied minors arriving in Europe, for those who are struggling to improve their lives on the European streets, in reception centers, and in transit.

I would like to thank all Sub-Saharan, Egyptian and Bangladeshi unaccompanied minors I was able to meet and who shared their personal stories with me. Secondly, this study was made possible thanks to the Sicilian respondents who are putting so much work into supporting the arriving unaccompanied minors. I especially like to thank my colleagues at *Accoglierete*: Ahmed, Alessia, Carla F., Carla T., Christina, Damiano, Desiree Flavia, Lucia, Nathalia, Paolo, Richard, Rita, Sara, Simona, and my colleagues at *Emergency*: Bader, Federica, Giulia, Johannes, Fabrizio, Salima and Susanna. I enjoyed your warm Sicilian welcome and I am grateful you were willing to share your thoughts, frustrations, and experiences with me. Grazie mille!

Secondly, I would like to thank Joris van Wijk my supervisor, for his interesting insights on doing research with migrants, the useful comments, and his enthusiasm. He has been an important source of inspiration as he has motivated me to study migration, war crimes, and human rights related issues. In addition, I am grateful to Jan Murk of Nidos in Utrecht for bringing me in contact with Sicilian actors. Furthermore, I would like to thank Annalisa Furia of the University of Bologna for her information.

I am very grateful to my parents and my sisters for their unconditional support and interest in this project. In addition, I am thankful for the valuable support of my boyfriend Tommaso. I learned a lot from his humorous insights in which he puts my experiences in perspective and his practical explanations on Italian society. In addition, I would also like to thank my friends in Syracuse: Asta, Fiona, Mauro, Santina, Simon, and Lucia for welcoming me in their homes, for their help, and for the interesting discussions. Not unimportant, I really benefitted from the support from my fellow students including Anke, Naomi, July and Hamed, and my friends in Amsterdam: Duifje, Eva, Josip, Liza, Meret and all other friends I forget to mention.

**Lucia Slot**

## Acronyms:

ANCI	National Council Italian Municipalities ( <i>Associazione Nazionale dei Comuni Italiani</i> )
ARCI	Italian Organization for Culture and Recreation ( <i>Associazione Ricreativa e Culturale Italiana</i> )
ASGI	Association for Juridical Studies on Migration ( <i>Associazione Studi Giuridici Immigrazione</i> )
ASP	Provincial Health Authority ( <i>Associazione Sanitaria Provinciale</i> )
CARA	Reception Center for Adult Asylum-Seekers ( <i>Centro di Accoglienza per Richiedenti-Asilo</i> )
CAS	Extraordinary Reception Center ( <i>Centro Accoglienza Straordinaria</i> )
CDA	Reception Center for Migrants ( <i>Centro di Accoglienza</i> )
CIE	Identification and Expulsion Center ( <i>Centro di Identificazione ed Espulsione</i> )
CIR	Italian Council for Refugees ( <i>Consiglio Italiano per i Rifugiati</i> )
CPSA	Center for First Aid and Reception ( <i>Centro di Primo Soccorso e Accoglienza</i> )
EASO	European Asylum Support Office
ECHR	European Convention on Human Rights
ECRE	European Council on Refugees and Exiles
EMN	European Migrant Network
ENGI	European Network of Guardianship Institutions
EU	European Union
FRONTEX	European Agency for the Management of Operational Cooperation at the External EU Borders
GRETA	Group of Experts on Action against Trafficking
IGO	Intergovernmental Organization
IOM	International Organization for Migration
ISTAT	Italian Institute of Statistics
MOAS	Migrant Offshore Aid Station
MSNA	Unaccompanied Minor ( <i>Minore Straniero Non Accompagnato</i> )
NGO	Non-Governmental Organization
NIDOS	Dutch Guardianship Organization for Unaccompanied Minors
PICUM	Platform for International Cooperation on Undocumented Migrants

SCEP	Separated Children in Europe Programme
SPRAR	National Protection System for Asylum-Seekers and Refugees ( <i>Servizio di Protezione Richiedenti Asilo e Rifugiati</i> ).
UAM	Unaccompanied Minor
UNCRC	United Nations Convention on the Rights of the Child
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund



Figure 1. Map of Sicily

Increasing numbers of refugees and migrants take their chances aboard unseaworthy boats and dinghies in a desperate bid to reach Europe. The vast majority of those attempting this dangerous crossing are in need of international protection, fleeing war, violence and persecution in their country of origin. Every year these movements continue to exact a devastating toll on human life.

### Top-10 nationalities of Mediterranean sea arrivals

Top-10 nationalities represent 90% of the sea arrivals

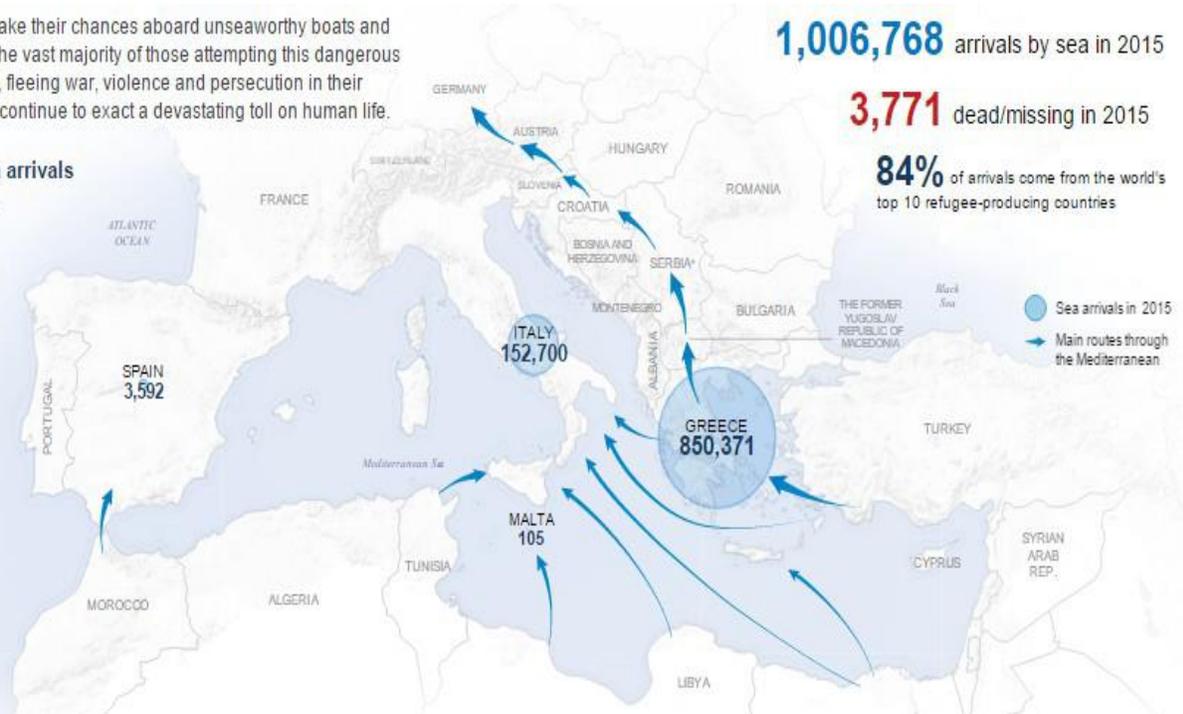
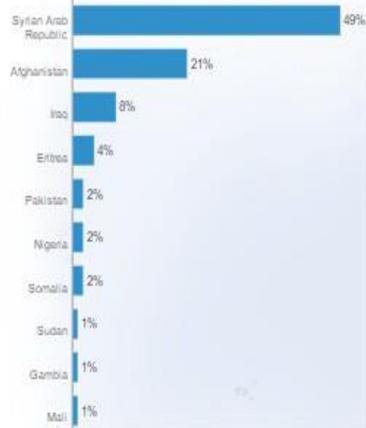


Figure 2. Arrivals of migrants in Europe in 2015.<sup>1</sup>

<sup>1</sup> UNHCR infographic, retrieved from: <http://data.unhcr.org/mediterranean/regional.php>

# Introduction

Migration is one of the largest social and political phenomena of our times. The International Organization for Migration (IOM) stated that Europe faced the 'largest migration crisis since the Second World War in 2015'.<sup>2</sup> Over one million migrants and asylum-seekers, estimated at 1.006.768, have crossed the Mediterranean by boat to Greece and Italy, which is four times more than in 2014.<sup>3</sup> UNHCR counted that an estimated 84 percent of these people came from refugee-producing countries including; Syria, Afghanistan, Iraq, Somalia and Eritrea. The death toll is estimated at 3.771 people, of which the majority drowned in the Canal of Sicily.<sup>4</sup> Media attention shifted from the rapidly shifting migrant scenarios from Libya to the southern Italian coasts to the migrant crossing to Greek Islands in 2015. The European immigration policies are changing rapidly while EU Member States have made efforts to keep asylum-seekers out by building fences and increasing border controls. This has had a detrimental effect on vulnerable migrants, including minors, women and the elderly. The year 2015 had a record number of arriving minors, of which a large part consisted of unaccompanied minors (UAMS). According to UNICEF, in 2015 approximately 700 minors in Europe (accompanied and unaccompanied) were seeking asylum per day. By October 2015, one in three migrants in Greece was under the age of 18.<sup>5</sup>

A rising number of UAMs have arrived in Sicily, which acts as a European 'gatekeeper' due to its proximity to both Libya and Tunisia. The United Nations High Commissioner for Refugees (UNHCR) reports that an estimated 170.000 migrants disembarked at the Italian shores in 2014 while approximately 153.600 migrants arrived at its shores in 2015.<sup>6</sup> An estimated 26.100 children arrived in Italy, of whom 54 percent (14.243) were unaccompanied minors (UAMS) in 2014 and an estimated 15.949 unaccompanied minors were registered by 31

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<sup>2</sup> Speech general Director IOM William Lacy Swing, 4-06-2015. Retrieved from: [https://www.google.nl/url?sa=t&rct=j&q=&esrc=s&source=web&cd=8&cad=rja&uact=8&ved=0ahUKEwjp2vvMrpfKAhXF\\_w4KHbHRBcoQFghZMAc&url=https%3A%2F%2Fwww.dienstterugkeerenvertrek.nl%2Fimages%2Fspeech-by-the-general-director-iom-william-lacy-swing\\_tcm66-597872.pdf&usg=AFQjCNGWTe-oXxBpV3RKctHOCi9EHGgaEwg&sig2=6VDmrgq5-4nBDVJVkeFuOg&bvm=bv.110151844,d.ZWU](https://www.google.nl/url?sa=t&rct=j&q=&esrc=s&source=web&cd=8&cad=rja&uact=8&ved=0ahUKEwjp2vvMrpfKAhXF_w4KHbHRBcoQFghZMAc&url=https%3A%2F%2Fwww.dienstterugkeerenvertrek.nl%2Fimages%2Fspeech-by-the-general-director-iom-william-lacy-swing_tcm66-597872.pdf&usg=AFQjCNGWTe-oXxBpV3RKctHOCi9EHGgaEwg&sig2=6VDmrgq5-4nBDVJVkeFuOg&bvm=bv.110151844,d.ZWU)

<sup>3</sup> From January to 30 April 2016, the IOM registered the arrival of 181.476 migrants by sea to Greece and Italy. IOM Mediterranean Migrant Arrivals in 2016, retrieved from: <https://www.iom.int/news/mediterranean-migrant-arrivals-2016-181476-deaths-1232>

<sup>4</sup> However, the number of sea deaths is expected to be much larger as many bodies are uncounted for. UNHCR, 'Data on Mediterranean in 2015', retrieved from: <http://data.unhcr.org/mediterranean/regional.php>

<sup>5</sup> UNICEF news, retrieved from: [http://www.un.org/apps/news/story.asp?NewsID=52565&utm\\_source=Campaign+%28minus+change.org%29&utm\\_campaign=5f29cb77f4-Campaign\\_Int\\_Childrens\\_day\\_2015&utm\\_medium=email&utm\\_term=0\\_32930702fc-5f29cb77f4-112648053#.VICKeo2FOP\\_](http://www.un.org/apps/news/story.asp?NewsID=52565&utm_source=Campaign+%28minus+change.org%29&utm_campaign=5f29cb77f4-Campaign_Int_Childrens_day_2015&utm_medium=email&utm_term=0_32930702fc-5f29cb77f4-112648053#.VICKeo2FOP_)

<sup>6</sup> BBC, 'Migrant Crisis: Migration to Europe explained in graphics', 22-12-2015. Retrieved from: <http://www.bbc.com/news/world-europe-34131911>

October 2015 (Commissione di Inchiesta 2015: 12). Italian statistics suggest that the ratio of unaccompanied versus accompanied minors has increased in 2015 as 73 percent of all minors were unaccompanied (Ministero del Lavoro 2015: 2). The majority of UAMs in Italy are male (95 percent) and are between 15 and 17 years old (EMN 2015b: 75).

Italy is struggling to cope with the cumulating influx of boat migrants at its southern coasts. After two *migrant 'emergencies'*, one during 2011 known as '*Emergenza Nord-Africa*' and the other, '*Mare Nostrum*' in 2014, it appears the Italian authorities seek to improve the overall treatment of unaccompanied minors in the country. In 2015, the Ministry of Interior drafted policies to redistribute migrants over the Northern regions to alleviate the pressures on the impoverished South. However, the response of the Italian regions to the influx of UAMs is pivotal to the well-being of UAMs. Both national and local institutions fail to respect the European minimum standards on reception of asylum-seekers. The European Commission even started infringement procedures against Italy for failing to meet its European obligations and accused Italy of being unable to secure the effective access to the asylum procedures for UAMs.<sup>7</sup>

On the local level, the Italian provinces and municipalities have difficulty to provide thousands of UAMs with adequate reception services. Sicily is currently hosting 34 percent of the total number of UAMs in Italy (Ministero dell'Interno 2015: 35).<sup>8</sup> Many UAMs are placed in provisory shelters for months, whereas they ought to have been relocated to the '*second phase*' structures within 3 months. Consequently, humanitarian organizations advocate against the lacking services and protection of vulnerable minors (Save the Children 2009, 2014, 2015, Defense for Children 2011, Doctors without Borders 2015). More than half of the total number of UAMs escaped the reception centers in 2015 and went missing (Commissione di Inchiesta 2015: 99).

This explorative research aims to give an overview of the European and Italian policies and practices regarding unaccompanied minors and secondly, to assess the challenges that unaccompanied minors may encounter in Europe, and in Italy, while focusing on Sicily. The following two central research questions specify the purpose of this research:

1. *What policies do Europe and Italy have regarding the reception of unaccompanied minors?*
2. *What challenges do unaccompanied minors encounter in Italy?*

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<sup>7</sup> EU Migration and Home Affairs: EU Law monitoring. Infringement number 2014/2171: Situation of Unaccompanied minors seeking asylum, 10-07-2014.

<sup>8</sup> Sicily hosted almost 4.000 of the 10.952 unaccompanied minors by 31 November 2015 according to Parliamentary Commission of Inquiry 2015: 13

Italian law defines *unaccompanied minors* as “*third-country nationals or stateless persons below the age of eighteen, who arrive on the territory of the Member States unaccompanied by an adult responsible for them whether by law or custom...or minors who are left unaccompanied after they have entered the territory of the Member States*”.<sup>9</sup> Policy makers and researchers also apply the term *separated children* aside the term *unaccompanied minors*. *Separated children* are regarded children who appear to be ‘accompanied’ when they arrive in Europe, but in practice are left alone because the accompanying adult is unable or unsuitable to assume responsibility for the child (Bhabha 2014a). The adult maybe a family member, a ‘smuggler’ aiming to exploit the child or even someone involved in human trafficking. In this thesis, I will in overall apply the term ‘*unaccompanied minor*’.<sup>10</sup>

This explorative study aims to understand the phenomenon of unaccompanied minors within a local context. The author engaged in a fieldwork research of three months in the province of Syracuse, in Sicily from September until November 2015 and conducted in total 47 semi-structured interviews with local ‘*stakeholders*’, persons working with UAMs including lawyers, social workers and NGO workers, and informal conversations with unaccompanied minors. Chapter 4 discusses the employed methodology in detail. Furthermore, this study attempts to analyze the implemented policies and the challenges UAMs on three levels: on the European level, the national level and on the local level.

This thesis is divided into two parts: part one consists of three chapters and discusses European policies and the challenges of unaccompanied minors in Europe. Part 2 also consists of three chapters and discusses the Italian reception policies and the challenges of UAMs encounter in Eastern-Sicily. In part one: Chapter 1 discusses the concept of an ‘unaccompanied minor’, migration drivers and reception measures; Chapter 2 the International and European legal and policy framework concerning unaccompanied minors will be examined; Chapter 3 discusses the challenges unaccompanied minors may encounter in Europe such as dangerous travel routes, age assessment, detention, and risks to abuses. In part two: Chapter 4 addresses the methodology which was employed during the 3-moths fieldwork period; Chapter 5 provides a general overview of the Italian legal framework and the reception arrangements for UAMs; Chapter 6 will discuss the challenges which unaccompanied minors encounter focusing on Eastern-Sicily, and identifies issues concerning identification, expulsion, reception, asylum application and trafficking and abuse. Chapter 7 contains the conclusion, reflecting on the findings of this study and suggests ideas for further research in the discussion.

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<sup>9</sup> Italy follows the definition of the EU Directive 2001/55/EC

<sup>10</sup> I use the term ‘separated children’ together with ‘unaccompanied minor’, when I intend to capture the entire group of child migrants

## Part 1: Unaccompanied minors and Fortress Europe

*'In the life of a refugee, trust is overwhelmed by mistrust, besieged of suspicion and relentlessly undermined by caprice'* (Daniel and Knudsen 1995)



Figure 3. Sub-Saharan migrants in a rubber dinghy in the waters of the Sicilian Channel.<sup>11</sup>

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<sup>11</sup> The photo was retrieved from the Repubblica, Palermo edition:  
[http://palermo.repubblica.it/cronaca/2014/09/02/news/sbarcati\\_1700\\_migranti\\_in\\_sicilia\\_allarme\\_minori\\_a\\_pozzallo-94900520/](http://palermo.repubblica.it/cronaca/2014/09/02/news/sbarcati_1700_migranti_in_sicilia_allarme_minori_a_pozzallo-94900520/)

# Chapter 1: The arrival of unaccompanied minors in Europe

Although children have always taken part in migration, either independently or with their families, the 'late-modern migratory processes have been characterized by a quantitatively superior and different degree of involvement of minors and young adults in independent migration' (Mai 2011: 1239). The arrival of unaccompanied minors in the European Union (EU) from third countries is not a temporary phenomenon but is a central feature of the current migratory flows to Europe. UNHCR notes that 25 percent of the migrants arriving by sea in 2015 were children.<sup>12</sup> These undocumented migrant children are a 'multifaceted and diverse group' (PICUM 2008). This chapter is organized in different sections and discusses the growing influx of UAMs, the term 'unaccompanied minor', migration drivers and the reception of unaccompanied minors in Europe.

## 1.1 The growing influx of child migrants in Europe

Since the 1990s, Europe has witnessed a huge movement of child migrants traveling from third world countries into the European Union (EU). The numbers of unaccompanied minors (UAMs) and children separated from their parents or other caregivers, termed '*separated children*', entering the European Union have increased steadily over the past two decades (EMN 2015b, Save the Children 2014, 2015). According to the European Migration Network (EMN), the number of asylum-seeking unaccompanied minors in Europe has increased steadily since 2010. According to Eurostat, the number of asylum applications in 2014 increased by 75 percent compared to 2013, with an estimated 24.075 UAMs in Europe in 2014 (EMN 2015b: 5).

The European Network of Guardianship Organizations (ENGI) notes that a large number of the unaccompanied children in the EU seek asylum in the destination countries, which are most often northwestern countries of the EU, such as Sweden and Germany. In 2015, countries like Sweden and Germany received a record number of asylum-seeking unaccompanied minors from Eritrea, Afghanistan and Somalia.<sup>13</sup> Southern European countries such as Spain and Italy are both destination countries as well as 'transit' countries. Save the Children Italy indicated that an estimated 25.800 migrant children arrived in 2014, of which 12.900 were unaccompanied minors (Save the Children Italy 2015). However, it is difficult to assess the exact number, because of the challenges in the accurate identification of UAMs.<sup>14</sup> Yet, it seems that the top five list of the UAMs' destination

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<sup>12</sup> UN Statistics, Retrieved from: <http://www.unhcr.org/5683d0b56.html>

<sup>13</sup> Migrationsverket, 'Record number of unaccompanied minors arrived in Sweden', 10-07-2015. Retrieved from: <http://www.migrationsverket.se/English/About-the-Migration-Agency/News-archive/News-archive-2015/2015-07-10-Record-number-of-unaccompanied-minors-arrived-in-Sweden-in-June.html>

<sup>14</sup> UNHCR briefing note, 'Unaccompanied minors and separated children', 9-10-2015. Retrieved from: <file:///C:/Users/Acer/Downloads/Europerefugeecrisis-briefingnoteonunaccompaniedandseperatedchildren.pdf>

countries differ per year because the flows of UAMs are inconstant. This also depends on the trends in travel routes and the rapidly changing asylum-policies within the different EU states. According to FRONTEX, which is the European border control agency, the travel routes and *modus operandi* vary according to the nationality of the minors. For example, Afghans and Bangladeshi take land routes towards Europe, and cross Turkey and enter Greece through sea routes, while UAMs from the Horn of Africa take land routes through Sudan to Libya, and then to Italy (Frontex 2010: 4).

The 'top' nationalities of UAMs and separated children in Europe were Syrian, Eritrean, Somali, Gambian, Nigerian, and Afghan in 2015, with significant variations between different EU countries. However, different countries report the increase of differing nationalities, which suggests different routes and migration strategies between UAMs 'on the move'. The majority of the unaccompanied minors in the EU are between 16 and 17 years old. UNHCR notes that some EU countries have reported an increase of younger children and girls in 2015. For example, Serbia identified 1.047 girls amongst the incoming UAMs in 2015 compared to 85 in 2015.<sup>15</sup>

Many children often arrive in Europe with the help of a smuggler and stay in EU countries without ever being exposed to the authorities. Many of the UAMs who do not apply for asylum while transiting in different EU countries, therefore, become invisible and remain unknown to authorities. Therefore, it is difficult to report the exact number of unaccompanied minors in Europe. According to UNHCR, UAMs transit the EU states where they first arrive, bypass identification and registration, and escape from reception centers in countries like Greece, Hungary, and Italy.<sup>16</sup>

The situation of UAMs is not uniform at either the European level, national or local level. Individual stories and reasons to migrate vary, and aid and opportunities are not equal to all UAMs. Furthermore, the number of UAMs who are not applying for asylum is unknown, as there is a lack of comprehensible data. In general, the European data collection on the topic is fragmented, and common definitions, criteria, and indicators are lacking. In many cases, national authorities do not regularly exchange information and statistics amongst each other (UNHCR 2012). The available data is mostly based on border apprehension data and asylum claims of UAMs. There is a high chance of underreporting by the UAMs who are singled out by the authorities (Bhabha 2014a). However, the influx of unaccompanied minors and separated children has attracted more attention by the European and national policy makers, support and advocacy groups (Sigona and Hughes 2012).

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<sup>15</sup> ibid

<sup>16</sup> ibid

## 1.2 Definition

The United Nations High Commissioner for Refugees (UNHCR) defined an unaccompanied minor as follows:

‘Unaccompanied children’ (also referred to as unaccompanied minors) are children under 18 years of age who have been separated from both parents and other relatives and are not being cared for by an adult, who by the law of custom, is responsible for doing so’ (UNHCR 2014).

Several scholars have noted that unaccompanied minors are a highly heterogeneous group of children (Sigona and Hughes 2012, Bhabha 2005, 2014, O’Connell Davidson 2011). Jacqueline Bhabha observes a gradual transformation in the conception of migrant children in the evolution of terminology from the 1990s onwards. While the majority of child migrants were classified as being members of families, the child migrants arriving alone were first referred to as ‘*unaccompanied children*’ and were generally assumed to be asylum seekers. One of the first official documents to address this specific migrant group was the 1997 UNHCR *Guidelines on Policies and Procedures in Dealing with Unaccompanied Children Seeking Asylum*. In the same year, the European Union passed the Resolution ‘*on Unaccompanied Minors who are nationals of Third Countries*’, following the assumption that all unaccompanied minors would fall within the asylum seeking framework (Bhabha 2014a).

Later on, it became apparent that this terminology did not fully capture the heterogeneity of the migrant group concerned. Some of the children, who appeared to be ‘accompanied’ when they arrived in Europe, may be accompanied by an adult person who is unable or unsuitable to assume responsibility for the child. The adult may not have the intention or possibility to function as a responsible guardian and defend the interests of the child. These migrant children are known as *separated children* (Save the Children 2003). The UNHCR definition of a separated child is as follows; ‘one who is under the age of eighteen and is separated from both parents and other relatives and is not being cared for by an adult who, by law or custom, is responsible for doing so’ (UNHCR 2009: 121). Different scholars note that these groups of children who were accompanied but not properly taken care of are a highly vulnerable group of children who risk coming into contact with traffickers or other exploitative persons (Bhabha 2014a: 4, Raghallaigh 2013, Sigona and Hughes 2012).

Despite the wide-ranging motivations for migration, in the 1990s independent child migration was predominantly understood as the result of ‘*human trafficking*’. Sigona and Hughes note that this premise produces a limited and distorted understanding of other forms of child migration (Sigona and Hughes 2012: 6). For O’Connell Davidson, this ‘moral panic’ around human trafficking and smuggling overlooks the structural

factors that underpin the phenomenon.<sup>17</sup> She notes that when independent child migration is ‘solely framed in terms of ‘human trafficking’, it serves to shore up a model of children as passive objects and victims’ (O’Connell 2011: 455).

In the mid-2000s, the influx of applications from child migrants coming from the Western Balkans, North and West Africa and Latin America showed that not all unaccompanied and separated children were seeking asylum. It clarified that it was a mix of young migrants who are driven to cross borders for different motives, and it included trafficked and exploited unaccompanied children, job seekers, youngsters seeking education, and adolescents migrating to be reunited with their family. In the past ten years, it became apparent that this diverse group of young migrants would not all fit into the asylum-determination framework (Bhabha 2014a).

International migration is generally conceived as an activity carried out by adults and families in search of safety, employment or family reunification. Within a generally adult-centered migrant discourse, children are not automatically thought of as trans-national migrants (Bhabha 2014a). If one follows the definition adopted by the United Nations Convention on the Rights of the child (CRC), a child is ‘every human being below the age of 18 years unless, under the law applicable to the child, the majority is attained earlier’ (CRC: Article 1). The UNCRC definition reveals the constructed nature of this categorization as it takes biological age as the main criterion. However, the social construction of childhood is not limited to the definition of the target group but also involves value systems, the agency of the child, and its obligations which differ from place to place (Sigona 2010: 5). While adults make calculations regarding the risks of migration for their children, for example, teenagers, may also be capable of making independent decisions concerning their future (Mai 2011, Sigona 2010).

Unaccompanied minors are triply vulnerable as they are at the intersection of three specifically vulnerable populations including migrants, undocumented persons, and children. Despite demographic and cultural differences in this highly heterogeneous group, many UAMs, and separated children share the same key risk factors (EMN 2015). Several scholars have pointed out that national policies aimed at protecting unaccompanied minors fail to recognize the agency of UAMs (Bhabha 2014a, Davidson O’Connell 2011, Mai 2011, Furia 2012, NIDOS 2014a). There needs to be a more nuanced understanding of the autonomous desires and plans of UAMs and there ought to be an individual assessment of ‘the best interest of the child’ during the reception

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<sup>17</sup> Smuggling and human trafficking are two distinct concepts. The smuggling of migrants consists of assisting migrants with the illegal entry in another country in the exchange of money. ‘Human trafficking’ is the recruitment, transportation, transfer and harboring of persons for the purpose of exploiting them such as slavery, sexual exploitation or forced labor, article 3 of the 2000 UN protocol to prevent, suppress and punish trafficking in persons).

procedures. Nick Mai argues that the ‘infantilizing’ social protection schemes in Europe fail to understand the complex mix of vulnerability and resilience of unaccompanied minors (Mai 2011: 1238).

All unaccompanied minors qualify as migrants, and a large part of them are irregular or undocumented migrants. No universally recognized definition for ‘migrant’ exists, but the term is usually understood to cover all cases where an individual makes the voluntarily decision to migrate, for example, to improve one’s social and material conditions. The United Nation’s Refugee Agency (UNHCR) defines a *migrant* as ‘someone who has resided in a foreign country for more than one year, irrespective of the causes and the means used to migrate’. Moreover, an ‘irregular’ migrant can be defined as ‘a person who owing to unauthorized entry, breach of a condition of entry or the expiry, lacks a legal status in the transit or receiving country’ (UNHCR 2015a). The term ‘irregular’ is preferred over ‘illegal’, as the latter carries a negative connotation to criminalize migrants. Sigona and Hughes remind us that the definition of ‘irregular migrant’ is only apparently unproblematic. According to them, there exists no single category of irregular migrant, but differing modes of ‘irregular statuses’ relating to the increasing magnitude and complexity of international migration flows. Thus, the act of dividing migrants into the dichotomous concept of ‘legal’ and ‘illegal’ does not conform to migrants’ own experiences and the ‘in-between’ nature of their status (Sigona and Hughes 2012: 6).

### **1.3 Migration drivers**

International migration has reached even the most isolated areas in the world and can be seen as an integral element of the globalization processes. Joris Schapendonk notes that today’s migration dynamics are being affected by new time-space flexibilities (Schapendonk 2011). The changing patterns of contemporary migration helped to produce a large number of migrant categories such as irregular migrants, return migrants, and trafficked persons. The lines between the different categories have become blurred, and the root causes of migration such as political instability and economic decline are inter-linked (Castles and Miller 2003, Schapendonk 2011). Therefore, the traditional distinction between *economic migrants* and a *refugee* fleeing persecution often does not correspond with the lived realities of migrants themselves. Apsia Papadopoulou argues that irregular migration and the search for asylum overlap, and calls this the ‘*migration-asylum nexus*’. Persons in need of international protection are increasingly forced to take irregular migration routes to reach Europe, while on the other hand, persons who seek to migrate to Europe for other reasons tend to enter into the European asylum system and consider it as the only means to access a legal status and a residence permit (Papadopoulou 2005, 2008). Likewise, Schapendonk notes that even though clear-cut cases may exist, the motivations of migrants themselves often include both voluntarily and compulsory elements (Schapendonk 2011).

There are different drivers, which motivate unaccompanied minors to migrate to Europe including those who flee conflict situations, persecution, exploitation, and forced recruitment. Others might be victims of trafficking, are motivated to reunify with family members, or there are those who look for economic or educational opportunities (EMN 2015b). One can observe that these young people embark on the dangerous journeys to reach the Europe to secure rights that they are lacking at home.

Therefore, one can differentiate between three types of unaccompanied child migration (Bhabha 2014a: 10). The first type of child migration is motivated by family reunion. These children aim to follow their parents or other relatives who have migrated first. Children can also be sent to Europe by the family first as *'forerunners'*, with the hopes that this triggers the family reunification (Frontex 2010). Often, children are sent ahead by families first in order to secure a residence permit and opportunities. In many cases, the often-poor families build up enormous debts to pay for the migration project of the child. The expectations of the child and his family are often based on information obtained largely through informal networks (UNHCR 2014).

The second type of child migration is driven by the intention to exploit child migrant through child trafficking for the purposes of exploiting them as sex workers or as a cheap workforce. It is reported that many of these trafficking victims are reported to have been trafficked many times, as traffickers reclaim children after they have passed through the initial reception process (Bhabha 2014a). Sometimes their own relatives are partly responsible for allowing or selling their child to exploiters and gain benefit from this (Frontex 2010).

Lastly, the third type of child migration concerns children who are driven to migrate to developed countries in search of survival, opportunity and in search of a 'better future' (Bhabha 2014b). This includes children who flee their home country to escape politically, religiously motivated or ethnically based persecution. Thomas et al. note that a common reason for the fleeing of the asylum-seeking UAMs in the UK involved the death of parents or siblings who had disappeared or have been murdered (Thomas et al. 2003). In addition, there are children who flee persecution and dangers that specifically apply to children in cases such as forced conscription, recruitment as a gang member, child marriage, or child sex labor (Bhabha 2014a: 230).

The reasons to migrate to a specific country are multi-fold. They are shaped by factors such as family reunification, joining a diaspora community, pressures from family and smugglers and practical considerations relating to accessing a legal status and job, and educational opportunities (UNHCR 2012). Even though one might desire to arrive in a specific destination country, many UAMs end up somewhere because of unintentional or external factors. For example, this depends on where he or she is intercepted at an EU external border, the security situation, and depends on the decisions taken by the persons facilitating the journey. The European

Migration Network (EMN) notes that in cases the migration projects of UAMs are built on decisions taken by family members who are concerned about the child's well-being and safety (EMN report 2015b). It appears that the drivers for unaccompanied minors to migrate are not always known to the national institutions working with the UAMs. Some of the children may have difficulties to fully express themselves because of their early age, because of their severe traumatization, or because they might not trust the persons working with them. Many of the UAMs are reluctant to reveal their travel story and their plans to the authorities because they mistrust them (Raghallaigh 2008, EMN 2015b).

#### **1.4 Reception in the European Member States**

The English word 'reception' originates from the Latin verb *recipere* coming from *re* (back) and *capere* (take), meaning *to accept, guarantee or to take in*. According to the Oxford dictionary, *reception* 'involves 'the action of admitting someone to a place, group or institution, or the process of being admitted'.<sup>18</sup> The 'material reception' of child migrants includes housing, food and clothing, and financial allowances' while the 'non-material reception' can be regarded as the full set of protection measures that EU member states are obliged to grant unaccompanied minors (EMN report 2015b: 7).

According to of the UN Convention on the Rights of the Child (UNCRC, articles 3 and 27), all receiving states carry the obligation to care for unaccompanied minors. States ought to provide UAMs with adequate living standards and special protection measures until the age of eighteen. The UNCRC leaves a broad margin of discretion to member states on how to respond to the needs of children who are (temporarily) deprived of a family environment. The European Guardianship Network (ENGI) notes that UAMs should have access to safe and appropriate housing, be appointed a guardian within 24 hours and should have immediate access to professionals such as a lawyer and an interpreter (ENGI 2010: 14). Furthermore, EU Member States ought to provide unaccompanied minors with special reception facilities. Several European countries have created a system where asylum-seeking UAMs are received in transit facilities in the initial phase of the reception and moved to a more permanent location after some weeks or months (ibid).

Most of the EU member states apply a similar reception system to both asylum seeking and non-asylum seeking unaccompanied minors. The type and quality of the reception facilities within the EU differ greatly. In some countries, the reception is organized nationally, while in others the reception is decentralized and managed by local or regional authorities (EMN 2015b). Unaccompanied children may be accommodated in separate

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<sup>18</sup> Oxford dictionaries 2014. Retrieved on 10 July 2015 from:  
<http://www.oxforddictionaries.com/definition/english/reception>

reception facilities specifically designed for minors, in foster families, or in special units for UAMs within mainstream reception facilities (ibid).

The individuals who are responsible for the care of unaccompanied children in the reception facilities are a divergent group of professionals. They include social workers, psychologists, teachers, and pedagogues. The main tasks of professionals working in the reception facilities include counseling, supervision, and giving social support to the minors. In some EU countries, other specialists are present at the facilities, for example, translators, lawyers, and nurses (EMN report 2015b). The qualification and capabilities of the staff are divergent. In many EU countries, the care workers employed are social workers and educators who have undergone specific training, and in some member states, reception facilities rely on volunteers and 'semi-professionals' who lack sufficient training (ibid). Because of the current trend of decentralization of welfare services and budget cuts in several European countries, the local authorities may struggle to provide for adequate training and payment for staff (NIDOS 2014a).

A significant proportion of UAMs have difficulty in accessing the protective rights they are entitled to. Save the Children, notes that the level of legal protection and quality of reception conditions available across the European Union vary greatly. Inadequate reception conditions and protection systems for example in Italy and Greece, motivate children arriving in these countries to move to other countries in Europe (Save the Children Italia 2013).

## **1.5 Conclusion**

Unaccompanied minors and separated children are a highly diverse group with divergent past experiences and plans. They are received in the different EU countries under different conditions and under different national laws. All EU member states carry the obligation to respect the human - and child-specific rights of UAMs and separated children. The reception and initial assistance procedures have a great impact on the well-being of unaccompanied children. Several NGO reports have pointed out that in many cases UAMs are *de facto* excluded from the social services which are set up to protect and assist them. While children are entitled to a number of protective measures and facilities on paper, in practice they do not always have access to basic means and services such as legal representation, adequate health care, and general care. Moreover, the irregular status of undocumented UAMs represents a barrier to access education, health care, and protection, and exposes children to additional risks. The following chapter discusses the relevant European legislation and policy concerning unaccompanied minors and separated children.

## Chapter 2: The European legislative framework

The topic of unaccompanied minors has been placed on the European agenda for around two decades. The growing numbers of unaccompanied minors and related issues led to increased attention and triggered the development of European legislation and policies since the 1990s after the establishment of the UN *Convention on the Rights of the Child* (CRC). This chapter aims to give an overview of the relevant international conventions on children's rights, and the directives of the European Council and EU Parliament addressing the rights of UAMs. At the end of this chapter, the Dublin regulations II and III and the EU pilot project is known as the *European Return Platform for Unaccompanied Minors* (ERPUM) will be discussed briefly.

### 2.1 International legislative framework

Universal human rights law entitles all human beings as bearers of rights. This also includes irregular migrants and children. A number of civil, political, social, and economic rights apply to all individuals, irrespective of their legal status (United Nations Human Rights). These international human rights are guaranteed through international legal instruments such as the *European Convention on Human Rights*, the *Universal Declaration of Human Rights* and the *International Covenant on Economic, Social, and Cultural Rights*. European member states carry the obligation to respect children's rights on three levels: to respect obligations on an international level following international law, on the European level, and thirdly on the national level.

The international law document, which considered the child migrants for the first time, can be traced back to the 1924 *Declaration of the Rights of the Child*. The declaration was adopted by the League of Nations and is one of the first international human rights declarations (Van Bueren: 1995). Then, 65 years later, a true landmark for international development of children's rights took place. The *UN General Assembly adopted the United Nations Convention on the Rights of the Child*, later known as *CRC* or '*the Convention*' on 20 November 1989. The CRC is the primary legal instrument in international law enforcing the rights of all children. The preamble of the convention states that 'the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection'. It is the most ratified instrument of international law worldwide. Over 190 countries ratified the CRC, except for the United States and Somalia, both who fail to do so (Archard 2004: 59). As a soft law instrument, the CRC generated further international commitments to respect children's rights and has a norm setting function in granting children a full array of basic legal rights. These include rights to

state protection from harm, exploitation, and violence. Article 3 of the convention contains the core principle, which dictates how all of the other rights in the convention need to be applied. Article 3(1) stipulates that:

In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the *best interests of the child* shall be a primary consideration.

State parties to the Convention are required to treat the 'best interest of the child' as a primary consideration in all decisions affecting children. Even though the centrality of the '*best interests of the child*' principle is undisputed, the interpretation of the concept of the child's best interests is open to interpretation by national authorities.

Unfortunately, the practical and legal impact of the CRC is limited, and the systematic abuse of children's human rights continues worldwide. No international court to which cases of alleged breaches of the CRC can be brought currently exists. However, after the ratification of the convention, the *United Nations Committee on the Rights of the Child* (UNCRC) was founded in 1989. This international committee advises on the implementation of the Convention and publicizes general comments. The commission has produced responses to child migrants' specific challenges including age-determination procedures and the appointment of guardians. The *UN General Comment number 6* (2005), focuses on unaccompanied minors and separated children. The text provides for a range of guidelines on how to fulfill the rights' protection of child migrants. Articles 20 and 22 stress that member states must employ measures to ensure effective protection, care, and assistance for UAMs. Secondly, the *UN General Comment number 14* (2013) deals with the 'best interests of the child as a primary consideration'. The text notes that children in a vulnerable situation (including UAMs) should be allowed to express their view during procedures in determining their best interests.

## **2.2 European Union legislative framework**

In recent years, the European Union has adopted new provisions addressing the situation of unaccompanied minors. According to Save the Children, UNHCR, and NIDOS, children's rights are 'increasingly prominent' in EU Asylum and Migration policies, and new EU Council Directives improved the legal position and protection of UAMs in Europe (NIDOS 2014b). Within European legislation, UAMs enjoy rights regarding entry and asylum procedures, residence status procedures, protection from being trafficked or abused, and social rights on reception, housing etcetera (EMN report 2015b). Nevertheless, EU provisions on UAMs are still fragmented (EMN 2015b).

There are a number of EU directives, which refer to asylum seeking unaccompanied minors. Firstly, the *Recast 'Reception Directive'* lays down standards for the reception and therefore grants a number of rights to applicants because of international protection states are obliged to grant them to refugees under the Refugee Convention (Boeles eds. 2014: 268).<sup>19</sup> This directive aims to limit secondary moments of asylum seekers within Europe because of disparities in reception conditions in EU member states (Preamble). However, it does not aim to harmonize reception conditions as the Member States have discretion when deciding how to integrate the reception conditions into their national legal systems. Member states should ensure an 'adequate standard of living' and provide for material reception including housing, food, and clothing (Article 17 and 18). In addition, article 24 of the directive stipulates the obligation of EU states for the reception and treatment of UAMs and separated children in their country.

Secondly, the *Recast 'Qualification Directive'* sets out minimum standards for the qualification and status of 'third country nationals' as refugees and defines the concept of refugee, subsidiary, and complementary protection.<sup>20</sup> This revised version extends the rights of child migrants and stipulates that UAMs should be allowed legal representation, appropriate reception facilities and that family members should be traced as quickly as possible. Another relevant legal act is the *'Family Reunification' Directive*.<sup>21</sup> It grants children the right to be reunified with their parents legally residing in one of the EU member states. However, this directive does not apply to 'third-country nationals' who apply for asylum.

Furthermore, the *Recast 'Asylum Procedure' Directive* outlines the EU procedures on *granting and withdrawing international protection*.<sup>22</sup> International refugee law based on the 1951 UN Refugee Convention and its 1967 Protocol inspired the EU directive. The directive includes new procedural guarantees such as the obligation on states to gather information on the situation of the unaccompanied minor, and a child-friendly immigration interview. When unaccompanied minors claim asylum within an EU member state, they need to present proof to support their story, and establish that they have either been persecuted in the past or have a '*well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion*'.<sup>23</sup> Likewise, UAMs are entitled to claim *subsidiary protection*, which is the second form of international protection, providing the person with fewer protection measures. This measure was introduced under *the Council Directive 2004/83/EC* in 2004. Under this directive, persons can qualify for *subsidiary*

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<sup>19</sup> EU Directive 2013/33/EU

<sup>20</sup> EU Directive 2011/95/EU

<sup>21</sup> EU Directive 2003/86/EC

<sup>22</sup> EU Directive 2013/32/EU

<sup>23</sup> Following the UN Convention Relating to the Status of Refugees (1951).

*protection* if they face the risk of suffering great harm when they return home. This harm includes the death penalty or execution, torture or inhumane and degrading treatment or a serious risk to someone's life because of indiscriminate violence (article 15).

Within the European Union, unaccompanied minors can receive an 'EU harmonized protection status' (international protection status) which is in line with the *EU Recast Qualification Directive* or another type of protection status based on national law, such as protection based on humanitarian grounds.<sup>24</sup> The type of residence permits granted to UAMs differs from one EU country to another. Only some EU countries grant residence permits to non-asylum seeking UAMs. The ground for a temporary or permanent residence permit differs among the Member States (EMN 2015b: 20-22).

### **2.3 European policies on unaccompanied minors**

Developments within EU policy contributed to the greater attention focused on unaccompanied minors and separated children. In 2009, European parliament passed the resolution on the '*Stockholm program*'.<sup>25</sup> This resolution provides guidelines for the justice departments and home affairs, and aims to better address the 'problems of migration in solidarity'. The *Stockholm program* calls for practical measures to improve the situation of non-asylum-seeking unaccompanied minors. The resolution stipulates to 'treat migrant children first and foremost, to ensure that they benefit from their rights as children without discrimination... and that all unaccompanied children receive special protection and assistance whilst in the European Union'.<sup>26</sup>

A year later, the European Commission issued the '*Action Plan on Unaccompanied Minors for the years 2010-2014*' in May 2010. The Action Plan has been an important development within the EU policy framework and proposes a common approach to providing for concrete responses to protecting unaccompanied minors within the EU territory. It aims to achieve 'higher standards of protection for unaccompanied children' in Europe in order to respect the rights of the child. Specifically, the three main strands of action are i. to prevent the unsafe migration and children of trafficking, ii. to place detected UAMs under the appropriate protection, to appoint him or her as a (legal) representative and to provide him or her with the appropriate accommodation and iii. to find durable solutions for unaccompanied minors and to assess each case separately keeping in mind the '*best interests of the child*'. Furthermore, the European Parliament passed a resolution 'on the situation of

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<sup>24</sup> EU Directive 2011/95/EU

<sup>25</sup> EU Resolution 2009/2534

<sup>26</sup> Point 79 of the Stockholm Program Resolution

unaccompanied children' in 2013.<sup>27</sup> The resolution urged member states to prioritize child protection over immigration policies and to respect the core principles of the child's best interests since these minors are 'by definition vulnerable'. It strongly condemns the lacunae in EU policies concerning the protection of UAMs and criticizes the 'deplorable conditions in which minors are received' in Europe'.<sup>28</sup>

#### **2.4 The Dublin Regulations and ERPUM pilot**

Among the various EU immigration and asylum regulations, the Dublin Regulation is central to all issues concerning asylum-seekers and migrants in Europe. The Dublin agreement originally took form as a Convention, which was signed in 1990 by the then twelve EU Member States. It was revised in 2003 and adopted as the '*Dublin II Regulation*'.<sup>29</sup> This binding law is based on two fundamental principles. Firstly, it ensures that only one asylum application per individual is assessed in the EU and secondly, it secures the right of asylum seekers to have his or her case considered in at least one country, to avoid double registration within the Union (Nidos 2014c). The '*Dublin system*' implies that the individual seeking asylum that has moved between EU countries should be transferred back to the first country of entry. Article 8(4) notes that the Member State responsible for examining the application of an unaccompanied minor, 'shall be that where a member of his or her family is legally present' and in the absence of a family member, the Member State responsible for examining the asylum application 'shall be that where the minor has lodged his or her application for asylum'.

The *Eurodac* 'asylum fingerprint database' is the central instrument to implement the Dublin regulation.<sup>30</sup> This database registers the fingerprints of any migrant and asylum seekers who are identified at an (external) EU border. The fingerprints and photographs are collected from all persons older than 14 years, as the Dublin II Regulation does not contain a provision on the implementation of the transfer of minors. Article 10(2) of the *EU Return Directive* stipulates that 'before removing an unaccompanied minor from the territory of a member state, the authorities shall be satisfied that he or she will be returned to a member of his or her family, a nominated guardian or adequate reception facilities in the State of return'.<sup>31</sup> The *Resolution 1810* of the European Council (2011) stipulates the Dublin II Regulation should only be applied to unaccompanied minors if transfer to a third country is within the child's 'best interests'.<sup>32</sup>

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<sup>27</sup> Resolution 2012/2263(INI)

<sup>28</sup> General recommendations 1 and 3

<sup>29</sup> Council Regulation 343/2003

<sup>30</sup> Council of Europe: Regulation 2725/2000

<sup>31</sup> Directive 2008/115/EC

<sup>32</sup> Point 5.14 of EU Resolution 1810

Terre d'Asile (2012) notes that most EU countries allow for the transfer of UAMs under the Dublin II Regulation for reasons of family reunification or sending a child back to where he or she has already lodged an asylum application. In some EU countries, children are accompanied to the first EU country of arrival, while in other countries UAMs travel back unaccompanied and are collected at arrival. However, is little known concerning the reception of UAMs who have been transferred back to the first country of entry under the Dublin II regulation. The Dutch Guardianship organ, NIDOS notes that it encountered many cases of unaccompanied minors who had received inadequate treatment after they were sent back to the first EU country of arrival such as Greece or Italy. It notes that some of the minors started living on the streets, were abandoned, and risked abuse (NIDOS 2014a).

In 2011, the European Court of Human Rights (ECHR) recognized the breach of the protection of asylum-seeking unaccompanied minors who were pushed back in the *M.S.S. v. Belgium and Greece* case (2011) and the *Tarakhel v. Switzerland* (2014) cases. Because of the judgment, the transfer of unaccompanied minors to Greece under the Dublin return policy was put on hold in most EU countries. Some EU countries also ceased to return Dublin-cases of unaccompanied minors to Italy since they considered the reception of returned UAMs insufficient there (Terre d'Asile 2012: 48).

In June 2013, the renewed Dublin Regulation, known as the '*Dublin III Regulation*' was adopted.<sup>33</sup> The renewed regulation strengthened the position of unaccompanied minors in Europe compared to the Dublin II Regulation. Under the current Dublin regulation, unaccompanied minors can also be reunited with brothers, sisters, uncles, and aunts if they are in another EU country and not only with the parents as was the rule before. Secondly, the recast regulation has a tracing requirement to track down the minor's family members in other EU member states. Thirdly, in the case that an unaccompanied minor *without* family members in Europe lodges an asylum application in more than one EU Member State, the Member State in which the minor is present, will be responsible for examining the request and receiving the minor. This measure is based on a ruling of the European Court of Justice (ECJ) on 6 June 2013 in the *C-648/11* case and was later incorporated in *Dublin III* (NIDOS 2014c).

Furthermore, a group of EU member states experimented with the plan to deport UAMs outside Europe, known as *European Return Platform for Unaccompanied Minors* (ERPUM). The EU pilot was funded by the EU Commission and planned to organize the deportation of (asylum-seeking) unaccompanied minors who received

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<sup>33</sup> EU Directive 604/13

a final rejection of their asylum application to their countries of origin. The project was initiated in January 2011 and the core members of ERPUM were Norway, the Netherlands, Sweden, the UK and the 'observer states' Denmark and Belgium. The involved states aimed to return these children to countries of origin and to set up reception facilities for children in three project countries (Iraq, Afghanistan and Morocco). Lemberg-Pedersen notes that within the ERPUM agenda, breaching the *nonrefoulement* principle for child migrants was justified to the European commission because of the 'massive influx' of unaccompanied minors to the ERPUM countries (Lemberg-Pedersen 2015). However, after a while, the ERPUM project faced major difficulties in employing its plan. The family tracing practices in the first two transfer countries, Afghanistan and Iraq were hampered by the deteriorating security situation, and limited resources at the respective embassies (Lemberg-Pedersen 2015: 8, 33). ERPUM delegations attempted to identify future reception centers in Kabul, which could serve as temporary facilities until their families were traced. Because of the endeavors of child protection organizations, the project was abandoned in June 2014 (ibid).

## **2.5 Conclusion**

This chapter has given a brief overview of the relevant International treaties, European legislation, and European policies relating to UAMs. Over the past years, the European Council has repeatedly highlighted the need and urgency to protect UAM's. All unaccompanied minors and separated children enjoy basic and child-specific rights regardless of their legal status. This includes the freedom from inhumane or degrading treatments, access to adequate health care, education, and welfare support, as well as to shelter. It is, however, unclear whether the European policies will be properly translated and implemented on the local level, and whether member states will guarantee all UAMs effective safeguards for care and protection. Even though EU member countries have incorporated the recast EU directives within their national legislation, a number of EU countries fail to respect the universally established children rights of unaccompanied minors. Hence, the local political and social context and informal practices are decisive in determining the treatment of UAMs 'on the ground'. Chapter 3, discusses this divergence between law and practice, and will provide an overview of the various challenges that unaccompanied minors may encounter when migrating to Europe.

# Chapter 3: Challenges of unaccompanied minors migrating to Europe

This chapter aims to examine different issues related to unaccompanied minors who are migrating to Europe and stay in the EU Member States. UAMs may encounter manifold challenges related to experiences before departure, during the journey and after their arrival. In the countries of origin, UAMs may have suffered from traumatic and difficult pre-flight experiences. *En route*, UAMs may have suffered ill-treatment, imprisonment, and dangers in the transit countries. Last of all, upon arrival, the UAMs may face difficulties with nerve-racking asylum procedures, adjusting to a new cultural context, and worries concerning their immigration status, debts, and their relatives they left behind. Several authors delineated the tension between the nation's legal obligations to safeguard the children's rights and the diluted implementation of immigration policies on the ground (Bhabha 2014a, EMN 2015, Furia 2012, Hopkins and Hill 2008, Sigona & Hughes 2012). Notwithstanding the difficulties to get an understanding of the wide-ranging individual cases, this chapter aims to review the key issues concerning UAMs in Europe described in the literature. This chapter reviews a number of issues related to the journey, difficulties to access a guardian and legal representation, traumatization, age assessment, and risks to detention, forced return and finally, human trafficking.

## 3.1 Perilous journeys to Fortress Europe

Unaccompanied minors are exposed to divergent risks and lack effective protection in all stages of the migration process. Currently, many of them attempted to reach Europe over land through the 'Western Balkan' route and over the sea through the 'Western Mediterranean' (Spain), 'Central Mediterranean' (Malta and Italy) and the 'Eastern Mediterranean' (Turkey, Bulgaria, and Greece) routes (Frontex 2014). Both sea and land routes involve life-threatening situations. Many of these young individuals' experience highly traumatizing moments on their trip, which take months or even years. Many UAMs pay one or more 'smugglers' to make the journey to Europe. These 'smugglers' make the children follow dangerous itineraries in order to evade the EU immigration controls. The routes may include extreme travel conditions in which children need to walk long distances, cross-border fences, cross the Mediterranean Sea in unseaworthy the boats, hide in lorries or hang under trucks (EMN report 2015b).

Especially during the influx of huge numbers of Syrian, Afghan and Iraqi asylum-seekers in the EU in the autumn and winter of 2015, European countries started building fences, barriers to fortress national borders and employ

harsh measures to stem the migrant flow. Hungary, Austria, Serbia, Macedonia and Slovenia closed their borders and constructed new border fences, and a growing number of EU member-countries started to reinstall border controls. This forced vulnerable migrants to take routes that are even more dangerous.<sup>34</sup> Furthermore, the humanitarian situation in the Greek islands and in the Western-Balkans deteriorated. A large number of refugees are trapped at the Greek border while thousands continue to arrive by boat from Turkey.<sup>35</sup>

The International Organization for Migration (IOM) registered a sharp rise in deaths at sea. In 2015, an estimated 3.771 people drowned in the Sicilian canal and in the Aegean Sea before the coast of Turkey and Greece. UNHCR reports that unaccompanied minors arriving in Europe are currently at a heightened risk to encounter violence, intimidation, and abusive police behavior now that they find themselves in overcrowded reception centers and at public places (UNHCR 2015b). Due to the high number of people and chaotic conditions at border crossings, unaccompanied minors often do not receive the care and protection they are entitled to. Neither will they always be correctly identified as an unaccompanied minor and are therefore treated as adults (ibid).

The general hostile political climate in Europe and prevailing xenophobia against the growing influx of migrants in Europe pose challenges for newly arriving unaccompanied minors. The European Union's efforts to close the legal entry for asylum-seekers and migrants, the large numbers, and the closing borders are a fertile ground for the growing of the smuggling industry in Southern Europe and the Western Balkans.<sup>36</sup> The criminalized nature of human smuggling and the dangerous travel modes expose young migrants to dangerous situations. Moreover, the Dublin system of '*the first arrival countries*' creates a difficult situation for vulnerable migrants who attempt to stay out of sight and avoid registration in the Southern transit countries. If asylum-seekers and migrants lack the necessary assistance from official institutions, the only option, which is left for migrants, is to make use of smugglers to move on (Lemberg-Pedersen 2015).

The armed conflict between Libyan factions meant the security situation in Libya deteriorated in 2014. The chaos in the country led to a wave of violence and spiraling lawlessness. The volatile situation in the country contributed to the proliferation of Libyan smuggling networks, which were sending an increasing number of migrants at sea in unseaworthy boats. Arbitrary detentions of migrants are widespread. Human Rights Watch

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<sup>34</sup> Guardian, 'Still the refugees are coming, but in Europe the barriers are rising', 31-10-2015. Retrieved from: <http://www.theguardian.com/world/2015/oct/31/austria-fence-slovenia-wire-europe-refugees>

<sup>35</sup> An estimated 2.860 people lost their lives on the Central Mediterranean route in 2015. UNHCR data retrieved from: <http://data.unhcr.org/mediterranean/regional.php>

<sup>36</sup> Spiegel, 'Asylum's dark side: The deadly business of human smuggling', Retrieved from: <http://www.spiegel.de/international/europe/refugee-smuggling-a-big-business-in-the-balkans-a-1051461.html>

(HRW) reports that migrants are held in deplorable and abusive detention centers for long periods and migrants face consistent abductions, torture, and physical assaults by criminal gangs, smugglers and different militias (HRW 2015). Many of the detained migrants in the overcrowded detention centers are subjected to torture and ill-treatment until a ransom is paid (MHUB 2015). According to Amnesty International, the majority of women held in Libyan detention centers were subjected to sexual violence.<sup>37</sup> The sub-Saharan migrants, including unaccompanied minors risk to be thrown in the ‘passenger houses’ (*mezeratah*) where thousands of migrants are held until they are allowed to embark. The New York Times reported that Eritrean UAMs who are fleeing the severe conditions of Eritrea’s military regime are kidnapped by armed groups and held in dire conditions. Smugglers who force them to pay huge ransoms are extorting their families in Eritrea.<sup>38</sup>

### 3.2 Challenges to protection

As austerity measures have hit European countries since 2008 during the European economic crisis, the budget cuts have had negative effects on the civil society organizations and local authorities who administer the reception of migrants. UNHCR argues that several EU countries struggle to fulfill their obligations to arrange proper protective services for unaccompanied minors (UNHCR 2015b, NIDOS 2014b). Persisting policy gaps in the international, regional and domestic legislation leads to unaccompanied minors falling through the bureaucratic cracks. As UAMs are typically dealt with fewer than two different sets of laws: immigration legislation and child-protection legislation, the child’s best interests are not always fully respected. Often authorities resort to immigration legislation first, which may have dire consequences for the minors (HRW 2009a). Furthermore, many EU countries fail to carry out proper age and vulnerability assessments of the unaccompanied children. UAMs have difficulty to accessing a guardian, finding legal representation, and access to a competent lawyer (EMN 2015b, Bhabha 2014a). Undocumented unaccompanied minors, sometimes called ‘the invisible children’ are sometimes forced to live on the streets or in informal slum settlements (ibid).

Thus, European states fall short in fulfilling their international obligations under their capacity of *parens patriae* to protect vulnerable children outside a caring environment (Bhabha 2014b). Moreover, the prevailing European immigration policies have an ambivalent stance towards protecting the rights of child migrants. On one hand, children are viewed as ‘passive victims’ who are first and foremost children entitled to protective rights, while

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<sup>37</sup> Amnesty, ‘Libya: horrific abuse driving migrants to risk lives in Mediterranean crossings’, 11-05-2015. Retrieved from: <https://www.amnesty.org/en/latest/news/2015/05/libya-horrific-abuse-driving-migrants-to-risk-lives-in-mediterranean-crossings/>

<sup>38</sup> New York Times, ‘Young African Migrants Caught in Trafficking Machine’, 06-05-2015. Retrieved from: [http://www.nytimes.com/2015/05/06/world/africa/migrants-libya.html?\\_r=0](http://www.nytimes.com/2015/05/06/world/africa/migrants-libya.html?_r=0)

on the other hand, unaccompanied minors are regarded as ‘nonconforming children and juvenile participants in illegal migration practices’ (Bhabha 2014a, Furia 2012). This contradictory stand towards UAMs is combined with the EU Member States currently facing major challenges to cope with the growing number of incoming UAMs.

UNHCR reports that the situation for unaccompanied minors has dramatically degenerated in 2015 and 2016 (UNHCR 2015b, 2016). National procedures for unaccompanied minors in EU countries are overwhelmed and not adapted to the high incoming numbers. Identification and assessment of UAMs are poorly executed or not carried out in some countries such as Macedonia, Serbia, Greece, and Hungary. Moreover, reception facilities in countries like Germany, Austria, Italy and Greece are overwhelmed and there is a shortage of adequate accommodation. Many UAMs are placed in informal and temporary accommodation without sufficient protection and care and they do not receive the (legal) information they need in a timely manner. UNHCR further criticizes EU countries in being unable to assess the UAMs needs and to timely appoint guardians, or to collect the necessary information for family reunification (ibid).

### **3.3. Making an asylum application**

Children have always been a part of the refugee population worldwide. The majority of refugee children travel with family members while a smaller percentage consists of unaccompanied minors. The UAMs who are seeking international protection ought to be a group of extra concern (UNHCR 2012). The UNHCR defines an asylum seeker as ‘an individual someone who is seeking international protection’ and issued specific guidelines for carrying out child asylum claims in a child-sensitive manner (UNHCR 2009).

Different NGO reports state that many unaccompanied minors lack legal defense. This leaves them unable to claim their rights and to seek redress in case of a negative asylum decision, from challenging detention etcetera (HRW 2010). Even though the right to asylum for UAMs is laid down in European and international law, child migrants regularly face obstacles to accessing asylum procedures. The report of the European Agency for Fundamental Rights (FRA) argues that the information on the asylum application is not communicated in several EU countries (FRA 2009). UAMs do not always fully understand what the asylum process entails, the rights they are entitled to, and what process they have to undergo. Long waiting times, the absence of a translator or refusing to give an application form are examples of informal practices of authorities, which obstruct UAMs to apply for asylum (Terre d’Asile 2012: 13). Furthermore, delays in the asylum determination procedures have a negative impact on children who are in need of certainty. The immigration procedures can cause deep anxiety, frustration, and chronic stress for UAMs (FRA 2009).

In several countries, UAMs are not correctly registered as minors, are therefore treated as adults, with the risk of expulsion, and end up being illegally present in the country (HRW 2010). Several authors point out that many UAMs have a stronger claim to asylum than is generally recognized or acknowledged (Bhabha, Crock 2007, Furia 2012). For many UAMs, the asylum interview is an unpleasant experience and feels a police interrogation (FRA 2009). The official attitude towards UAMs is colored by a '*culture of disbelief*' as immigration officials presume that applicants attempt to abuse the asylum system. Hynes notes that the interviews of UAMs in the UK were 'conducted in an atmosphere of suspicion and disbelief' (Hynes 2009). In many cases, administrators, immigration commissions, and tutelary judges fail to take a child-sensitive approach and to listen carefully to the factual basis for the children's asylum claims (Raghallaigh 2013).

Therefore, the UNHCR (2012) notes that due to the restrictive definition of 'family members' at EU level, asylum-seeking children face great difficulties to achieve an effective family reunification. The UAMs who migrate to join family members in the EU often prefer not to have themselves identified in the '*transit*' countries and travel within the EU irregularly to reach their family. This can pose threats to the safety of children as they might end up being exploited (UNHCR 2012: 10).

As was already stated in chapter 2, there are several provisions and measures under European *acquis* available for asylum-seeking unaccompanied minors. It appears that there still exist gaps in the European legislation for UAMs who do not apply for asylum (EMN 2015b). After-care services seem to be available only for UAMs who have been granted asylum. In several EU countries, after UAMs turn eighteen, they encounter difficulties as they will be considered 'illegally present' and are treated as adult undocumented migrants.

### **3.3.1 Obstacles to access legal representation and a guardian**

Since unaccompanied children do not have legal capacity, they ought to be represented by an adult in all legal procedures. When an unaccompanied minor applies for asylum, the asylum claim can only be considered valid if such a legal guardian is present. It is, therefore, crucial that all UAMs are provided a legal guardian quickly. Article 12 of the CRC stipulates that all children have the right to be represented in all legal procedures. A legal guardian can be defined as a person who represents the minor throughout legal and administrative procedures, and secondly, who overlooks whether the child's needs are properly safeguarded. Legal guardians represent the UAMs during asylum procedures ought to have specific knowledge in the field of immigration law and asylum procedures (EMN 2015b). Article 19 of the *EU Council 'Reception Directive'* holds that EU member states need to

take measures to ensure the necessary representation of unaccompanied minors as quickly as possible.<sup>39</sup> Therefore, the Committee of the rights of the child advises that a guardian or advisor should be appointed as soon as the unaccompanied or separated child is identified and the arrangements last until the child has reached the age of eighteen.<sup>40</sup> It appears that there is a positive correlation between legal representation and the asylum application, as it increases the chance to asylum and opportunities to integrate. The absence of effective legal representation neutralizes the legal entitlements of minors and increases that risk of not being properly taken care of (Bhabha 2014a, ENGI report 2011).

The Dutch guardianship organization for UAMs NIDOS, argues that guardianship is organized differently within Europe. The responsibility for guardianship may be at a national, regional, or local level and may be implemented by state organizations or NGO's (ENGI 2011). In some countries, guardians represent children on a voluntary basis while in other countries, guardians are professionals. Moreover, in some countries, UAMs have access to certified guardians, specialized lawyers, and case workers, while others have guardians who are not specially appointed for this procedure and lack power or necessary juridical expertise (ibid). If the unaccompanied minors are appointed a guardian, they might not always be active or involved. In the EU countries with a decentralized system<sup>41</sup>, in some EU countries, unaccompanied minors do not have a guardian appointed at all. It is crucial to timely appoint a guardian in order to respond to the needs of the child and to signal trafficking (EMN 2015b).

In some cases, guardians' efforts are ineffective, fail to consult with the UAMs and understand what is in the best interest of the child concerned. In this case, children may be worse off than adults as they are legally incapable. In some EU countries, government' institutions such as local mayors act as the child's guardian. These guardians have a conflict of interest in representing the child. Children may not have the power to object to ill-treatment by their guardians. In these dysfunctional guardianship systems in European countries, UAMs are at risk to not effectively access administrative procedures and make an asylum claim (HRW 2010, EMN 2015b). UAMs remain trapped in limbo and are pushed into illegality. UAMs should be able to access both a guardian and an independent lawyer, when necessary.

### **3.3.2 Trauma**

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<sup>39</sup> EU Directive 2003/09/EC

<sup>40</sup> General comment number 6, 2005, p. 12

<sup>41</sup> This includes Italy, Malta, Spain and the UK

Unaccompanied minors are considered a highly vulnerable group of migrants and are at the risk because of the interplay between traumatic experiences and separation from emotional relationships with loved ones (Hopkins 2008, Kohli 2006). Mental health is an important factor adding to the vulnerability of children. The psychological distress is caused because of a number of triggering factors. This includes stress related to the human rights situation in the home country and the abuses, anxieties, and hardships these children encountered during their hazardous journeys (CONNECT 2014b). Prolonged separation from family and caregivers can also be distressing. In addition, the situation in the European reception facilities and the long waiting time for a legal status influences the mental well-being of UAMs (UNHCR 2015b). Some of the UAMs who experienced traumatizing events suffer from psychological mental distress such as hyperactive arousal, psychosis or *Posttraumatic Stress Disorder* (PTSD).

UAMs suffering any form of psychological distress are in need of psychosocial or psychiatric care within or outside the reception centers. NIDOS notes that specialized psychological support is not always readily available and local care services may be overwhelmed by a large amount of arriving migrants in need of help. A common issue is that UAMS are unable to access an interpreter to accompany him or her, nor able to access a care provider who is sensitive to cultural differences concerning psychological distress (NIDOS 2014b).

### **3.3.3 Age Assessment**

The age assessment of unaccompanied minors is often initiated by the authorities when they suspect that a person who declares to be a child, is in fact 18 years or older. Border guards, the immigration services, the local childcare services or the persons working in the childcare facilities (EASO 2014) may trigger the age assessment. Most of the UAMs arriving in Europe do not carry documents with them. These might have been lost and if they do have documents, the national immigration services might question the authenticity of these documents. National and local authorities request an age assessment test because they want to prevent adults from entering the child facilities (ibid).

The General Comment number 6 (2005), emphasizes that the age assessment should only be undertaken when there are grounds for 'serious doubts about somebody's age. The committee warns that it should not be undertaken as a routine practice and that authorities should protect the child's right to preserve his or her identity (article 8 of the CRC). Authorities should avoid any risk to the physical integrity of the child and in case the outcome of the assessment is uncertain, the child should receive the benefit of the doubt (General Comment 6, 2005: 11).

Throughout Europe, the grounds, timing, and methods for conducting age assessment differ. There is a lack of a standardized approach and currently, there is no single method in place which is able to correctly identify the exact age of an individual (EASO 2014). The majority of the EU countries employs one-dimensional physical examinations such as dental observation, sexual maturity test and makes x-rays of the wrists, collarbone, and teeth to establish a chronological age (EMN 2015b). In some countries, the age exams are unreliable and arbitrarily order age assessment tests for UAMs without a clear reason. The '*Culture of Disbelief*' also seems to apply to some medical specialists conduct age assessment tests. HRW interviewed UAMs in Greece and Hungary and report that children are sometimes registered as older than their real ages. An Afghan boy in Hungary noted 'I told those [Hungarian officials] I am 16. They told me I was lying... The police then took me to a doctor and removed my T-shirt. The doctor just looked at me and said that I'm an adult'.<sup>42</sup>

Assessing someone's chronological age through medical exams has its limitations when the social age and maturity are not fully taken into account. Because the age assessment techniques are imprecise and not standardized within the EU, there is a risk that the UAMs are wrongly identified as adults (EASO 2014). This induces the risks to the safety and protection of the persons whose age is being disputed. Medical specialists have challenged the reliability of the one-dimensional strategies of age-determination as an inexact science and note that a maximum five-year margin of error should be taken into account.<sup>43</sup> Furthermore, the tests are being criticized for failing to take into account ethnic variations, malnutrition, and dietary differences of children coming from developing countries (Bhabha 2014a: 44). The prevailing European conceptions of childhood should not be considered as objective criteria for performing an age assessment test.

### **3.3.4 Detention and forced return**

Detention has severe, negative, short and long-term effects on children. Detention can be a traumatizing experience that affects the emotional and cognitive development of children (Council of Europe 2010).<sup>44</sup> There is a high risk that detained children are deprived of education and health care and may be subjected to violence. Even though alternative care arrangements exist for child migrants in the Europe, Member States continue to allow child detention under special circumstances such as a health screening, for identification purposes, or when they are forcibly deported (Council of Europe 2010).

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<sup>42</sup> HRW, 'Hungary: Locked up for Seeking Asylum. Long Detention Poor Conditions and Little help for Vulnerable Persons', 1-12-2015, Retrieved from: <https://www.hrw.org/news/2015/12/01/hungary-locked-seeking-asylum>

<sup>43</sup> The Health of Refugee children: Guidelines for Practitioners (London 1999). Royal College of Pediatrics and Child Health. Page 13.

<sup>44</sup> UNHCR defines 'detention' as the 'deprivation of liberty in a confined place from which the person is not permitted or cannot expect to leave at will or without authorization'.

The EU *Return Directive* lays down standards on the detention and return of undocumented migrants.<sup>45</sup> Article 17(1) of the directive stipulates that the detention of UAMs shall only be a ‘measure of last resort and for the shortest appropriate period of time’. Therefore, the *EU recast reception conditions directive* holds that UAMs shall only be detained under ‘exceptional circumstances’ and those unaccompanied minors may never be detained in a prison accommodation nor shall he or she be accommodated together with adults (article 14(3)).<sup>46</sup>

The European Court of Human Rights (ECtHR) has increasingly developed case law on child migrants and delivered judgments on the inadmissibility of the child detention in a number of cases. The *Mubilanzila Mayeka and Kaniki Mitunga v. Belgium* case at the ECHR is a shocking example of the detention of a young Congolese girl named Tabitha who was held in a closed detention center for adults in Belgium at the age of five, in 2002. After two months, she was returned to the Democratic Republic of Congo (DRC) where nobody would pick her up at the airport in Kinshasa.<sup>47</sup> Secondly, the *M.S.S. v. Belgium and Greece* ECHR case is another example of a fifteen-year-old boy who was detained in a closed center in Lesbos and was refused any assistance. In this case, the court pointed out that asylum-seeking unaccompanied minors are particularly vulnerable.<sup>48</sup> It is unclear how many UAMs are currently detained in Europe, as statistics on child detention are limited. For example, Hungary reportedly detained children including unaccompanied minors for longer periods in 2015. Human Rights Watch reported that UAMs who were detained did not receive an age assessment test and were held in detention centers with poor conditions.<sup>49</sup> Save the Children and HRW reported that roughly 4,200 Syrian and Afghan asylum-seekers were detained on Greek Island on 6 April 2016 after the EU-Turkey deal on curbing the flow of refugees went into effect.<sup>50</sup> The asylum-seekers were automatically brought to the overcrowded Moira and VIAL closed centers after they arrival on the islands of Lesbos and Chios by boat. Roughly, 40 percent of the asylum-seekers in the VIAL center at Chios were reported to amount to accompanied and unaccompanied minors, toddlers and even babies.<sup>51</sup>

The Dublin regulations pose a considerable risk to the well-being of UAMs who were being returned to the first country of arrival within Europe, which was discussed in chapter 2. In some countries, unaccompanied minors also risk being returned to their countries of origins outside of Europe. A majority of EU Member States have

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<sup>45</sup> EU Directive 2008/115/EC

<sup>46</sup> EU Directive 2013/33/EU

<sup>47</sup> ECHR case: *Mubilanza Mayeka and Kaniki Mitunga v. Belgium*, case number 13178/03 2006-XI

<sup>48</sup> ECHR case: *M.S.S. v. Belgium and Greece*, case number 30696/09 2011. Paragraph 85-86.

<sup>49</sup> see footnote 25

<sup>50</sup> HRW, ‘Greece: Asylum Seekers Locked Up. Wretched Conditions for People in Need’, 14-04-2016. Retrieved from: <https://www.hrw.org/news/2016/04/14/greece-asylum-seekers-locked>

<sup>51</sup> Guardian, ‘Refugee Babies detained on Greek Island ‘not getting adequate milk’, 19-04-2016. Retrieved from: <http://www.theguardian.com/world/2016/apr/19/refugee-babies-milk-supplies-greek-detention-centre-chios>

voluntarily return procedures of UAMs under the EU *'Return Directive'*.<sup>52</sup> The Directive stipulates the responsible authorities ought to assess the security situation and reception conditions in the country of origin and trace family members. The EMN notes that approximately half of the EU Member States have detention measures for UAMs who await their return (EMN 2015b).

Moreover, several EU States employ forced return procedures for UAMs. The respective authorities do not always consider whether returning children is in their *'best interests'*. The Committee of the Right of the Child underlines that states are obliged to respect the principle of *nonrefoulement* and should not return a child to a country when there are substantial grounds to believe that the child could risk irreparable harm (General Comment 6).<sup>53</sup> The principle of *nonrefoulement* is also enshrined in the *European Convention on Human Rights* (ECHR) and in the Convention against Torture. HRW (2009b) described that numerous unaccompanied minors were held in a closed transit zone and deported from the Charles de Gaulle Airport in 2009. The current EU-Turkey plans to send back all arriving asylum-seekers who arrived in Greece back to Turkey (since April 2016) are likely to constitute similar human rights violations.

### **3.3.5 Trafficking and abuse**

Many unaccompanied minors leave reception centers at an early stage. UAMs disappear from reception centers for a variety of reasons; to move on to another country, they desire to work, because they are treated badly in the center or because they are subject to mistreatment of traffickers (Connect Report 2014b). Safe accommodation is crucial to protect children from exploitation and abuse. According to international law, children deprived of his or her family environment are entitled to special protection and assistance from the receiving state.<sup>54</sup> Reception centers are often isolated which is not conducive to the integration of UAMs staying there. Some of the centers are overcrowded, unhygienic, and lack professional and committed personnel. The lack of suitable accommodation, information and care motivate the predominantly undocumented unaccompanied minors to escape the reception centers (UNHCR 2012).

Again, there is little data available on how many UAMs actually go missing in Europe and only half of the EU states hold statistics on missing UAMs (EMN 2015b). Consequently, the scale of the problem of trafficking of

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<sup>52</sup> Directive 2008/155/EC.

<sup>53</sup> *Nonrefoulement* is a core principle in international refugee law. It prohibits states from returning a refugee or asylum seeker to territories where his or her life or freedom would be threatened. The right originates from article 33 of the 1951 Geneva Convention: 'no Contracting State shall expel or return (*'refouler'*) a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened'.

<sup>54</sup> EU Directive 2011/36/EU on Prevention and Combating Trafficking in Human Beings.

UAMs is unknown. The highest numbers of disappeared children from the reception centers and residential units were in Spain (1251) and in Italy (1754) by 2012 (European Commission 2012: 48). The EMN estimated that 40 to 50 percent of the UAMs France, Italy, Slovenia and Lithuania disappeared from the reception centers in 2014-2015 (EMN 2015b: 29).

The necessity of migrants to rely on criminal networks to arrive in Europe adds to their vulnerability. In view of a large number of UAMs arranging their trip with the help of a 'smuggler', it increases the risk to end up in a situation of abuse, exploitation, and trafficking. As Holmes notes, 'people smuggling readily mutates into human trafficking (Holmes 2010: 4). As 'smugglers' ask high sums of money for the journey, a down payment for the transportation fee is made before departure and the rest will need to be paid after arrival (EMN 2015b). After the UAMs arrive in the 'destination' country, many of them face the looming pressure to repay their travel debts. The minors feel compelled by their family and the smugglers network to repay the high debts and to start working as quickly as possible. UAMs drift into these abusive contexts because of the protection gaps left by ineffective and unstable family contexts and the European state's failures to protect trafficking victims (HRW 2008, 2009, UNHCR 2012, Bhabha 2014a). Furthermore, because of their irregular immigration status, discrimination, and lack of educational and practical skills, they face difficulties to access mainstream opportunities. UAMs who live outside the state-sponsored care arrangements find themselves in a daily struggle for survival and many ends up in black market avenues (UNICEF 2011, EMN 2015b).

The EU Expert Group on Action against Trafficking expresses its concern on the trafficking of children in Europe. A part of the unaccompanied minors who go missing in the reception centers are suspected to come into contact with exploitative persons or are re-claimed by their traffickers (Aronowitz 2009). Since most reception centers in EU countries are open, UAMs are free to come in and out during the day. Exploiters are able to manipulate the child-welfare staff and contact their victims once the children have passed through the initial admission (EMN 2015b). Hence, children are put to work in areas such as street prostitution, in construction or restaurants, as domestic servants or as thieves to work for criminal organizations (Bhabha 2014a, Aronowitz 2009). A considerable part of under-aged victims of '*sex trafficking*' in Europe are Nigerian girls and young women, of which the majority arrives through Italy (EASO 2015b).<sup>55</sup>

It is very difficult to measure child trafficking because of the hidden and criminalized nature of the phenomenon (O'Connell Davidson 2011). Article 3(a) of the UN Trafficking Protocol defines trafficking in comprising 'the

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<sup>55</sup> Sex trafficking involves 'moving people within and across local and national borders for the purpose of sexual exploitation', EASO report 2014.

recruitment, transportation, transfer, harboring or receipt of persons... exploitation shall include the exploitation of the prostitution or other forms of sexual exploitation, forced labor or services, slavery, servitude ... (UN Convention against Transnational Organized Crime). In this definition, however, 'exploitation' is not clearly defined and in practice it is difficult to apply, the definition consistently with the child trafficking cases on-the-ground (UNICEF 2015). A blurry line exists between being voluntarily smuggled and wanting to gain an income when the consented smuggling turns into 'trafficking', coercion, and exploitation. Therefore, the dichotomy between coerced and consensual illegal migration cannot be considered absolute (Bhabha 2014a). Hathaway notes that increased border controls 'may in practice exacerbate the risk of human rights abuse by creating the conditions in which simple smuggling is transformed into trafficking' (Hathaway 2008: 10).

The EU '*Anti-Trafficking Directive*' has laid down explicit obligations for the Member States to respond to the special needs of vulnerable persons, including unaccompanied minors.<sup>56</sup> Within the EU, only Norway has a system for referring trafficked children to a protection system, which can grant them asylum. In other states, children are treated alongside adult victims. In some of the cases, European authorities fail to recognize that the child in question is a victim of trafficking. Bhabha and Crock note that in practice, the personnel who deal with trafficked children have a limited understanding of the trafficking or migration-related issues and fail to recognize children as victims of trafficking at an early stage (Bhabha & Crock 2007).

### 3.4 Conclusion

This chapter discussed the risks and difficulties UAMs may encounter during their journey and after their arrival in EU countries. In spite of the increased attention on unaccompanied minors at the European level, the children's rights of UAMs are still violated and pose the UAMs into an increasingly vulnerable position. Likewise, EU countries have increasingly expressed their willingness to protect child migrants from trafficking, while in practice UAMs continue to face practical obstacles to access protection. At the policy-level, the CRC's '*best interest principle*' has come to the forefront, but it is ambiguous what *the best interests* of unaccompanied minors entail in practice. A large majority of UAMs have no access to effective legal representation and a guardian and end up in what Bhabha coined, '*the normalized state of exception*, as a space that is routinely located outside the reach of the law'. Policies of exclusion and rejection restrict the UAMs' access to sufficient care, protection and tools for integration. The second part of this thesis addresses the situation of unaccompanied minors in Italy, which serves as a *gateway* to Europe for the thousands of boat migrants reaching Europe.

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<sup>56</sup> EU Directive 2011/36/EU

## Part 2: Unaccompanied Minors in Italy

*'Il migrante va dove c'è il pane', Johannes, Syracuse (The migrant goes where he can earn a living).*



Figure 4. West-African unaccompanied minors at the *Scuole Verde*, a temporary center for UAMs in Augusta in 2014.<sup>57</sup>

<sup>57</sup> The photo was retrieved from Toronto Star by Scott Simmie  
[http://projects.thestar.com/news/world/2014/11/07/young\\_and\\_alone\\_with\\_an\\_uncertain\\_future.html](http://projects.thestar.com/news/world/2014/11/07/young_and_alone_with_an_uncertain_future.html)

## Chapter 4: Methodology

The second part of this thesis addresses unaccompanied minors within the context of Italy, and more specifically in Sicily. The findings in the upcoming chapters are based on a fieldwork research of three months that was conducted in the autumn of 2015. The purpose of the fieldwork was first to gain a proper understanding of the reception conditions of UAMs in Italy and secondly, to experience first-hand what kind of challenges they were facing. This explorative case study was undertaken in Eastern-Sicily. A case study can be defined as ‘an intensive study of a single unit with an aim to generalize across a larger set of units’ (Gerring 2004: 341). Qualitative research aims to understand the social world by examining the interpretation of the world by its participants (Bryman 2008: 366). This chapter discusses the methods which were employed, including the extensive literature review and secondly, the semi-structured interviews with local ‘stakeholders’ and the informal conversations with unaccompanied minors. The last two paragraphs discuss the strengths and weaknesses of the case study, and the ethical considerations in doing research with unaccompanied minors.

### 4.1 Literature review

In the first months of research, literature and news articles concerning UAMs in Europe and Italy were gathered and both legal and anthropological academic articles and books were gathered. The statistics were retrieved from Eurostat and Frontex statistics, and periodical reports compiled by Italian ministries. Furthermore, International conventions, European acquis, and Italian legislation relating to unaccompanied minors were analyzed. Furthermore, the following reports were gathered i. reports compiled by inter-governmental organizations (IGOs) including the *European Migration Network (EMN)*, *European Council on Refugees and Exiles (ECRE)*, and the *UN Refugee Organization (UNHCR)*, ii. reports from national organizations including the Dutch Guardianship Organization NIDOS, and the Italian refugee council (CIR), and iii. reports compiled by non-governmental organizations (NGOs) including Save the Children, Terre des Hommes, Human Rights Watch, and Amnesty International. Different sources were utilized in order to properly balance unclear and conflicting information.

### 4.2 Fieldwork in Eastern Sicily

A qualitative research strategy was chosen in order to give an in-depth and multi-layered understanding of the phenomenon in a local context. Sicily has functioned as one of the major gateways to Europe for centuries. Close

to the Ancient Greek city Syracuse lays the military harbor Augusta, which received the largest number of migrants in Italy in 2014 and 2015.<sup>58</sup> Consequently, the region of Sicily continues to host the largest amount of unaccompanied minors in Italy. Because of the limited timeframe and budget restrictions of this fieldwork study, it was decided to focus on the reception in Sicily and to use Syracuse as a home base. The fieldwork was conducted during a period of three months, from September 1 until the end of November 2015, predominantly in the province of Syracuse, and was extended to the Sicilian provinces of Ragusa and Catania. Syracuse is located on the southeastern coast of the Sicilian Island and has approximately 122.000 inhabitants.<sup>59</sup> Over the last decade, the Southern city was greatly affected by the large influx of migrants. Until the start of the rescue missions by *Mare Nostrum* in November 2013, rickety fisher boats with migrants arrived at the coasts of the southern Sicilian towns and villages.<sup>60</sup>

With the help of Nidos, a local non-governmental organization in Syracuse called *Accoglierete* was contacted in the summer of 2015. Shortly after, I was allowed to become a volunteer at the NGO.<sup>61</sup> A group of civil society members from Syracuse founded *Accoglierete* in 2013. The small NGO aims to protect the interests of UAMs and is active in assisting unaccompanied minors with legal and practical matters. Specifically, the NGO helps UAMS to access a guardian, assists with the replacement of UAMs in suitable centers and in foster homes, assists with the asylum application, and organizes language courses and work internships for UAMs. As a volunteer, I assisted with translation, Italian classes and intake interviews and to signal UAMs at *Accoglierete*. Volunteering gave me the opportunity to establish a bond with some of the boys and the encounters with colleagues and related institutions provided me with contacts and valuable information.

From October 2015, I was also able to volunteer at a larger NGO active in the area, *Emergency*, a local NGO, which provides medical assistance in Italy as well as in conflict regions around the world.<sup>62</sup> Together with the

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<sup>58</sup> According to the report of the Italian Parliamentary Commission of Inquiry (3-11-2015), Augusta is the number one port in Italy and received 19.831 persons in 2015. Other ports with high numbers of arrivals were Lampedusa (19.461), Reggio Calabria (15.649), Pozzallo (13.835), Palermo (10.525), Messina (9911) and Catania (8642).

<sup>59</sup> Information retrieved from: <http://www.comuni-italiani.it/089/017/>

<sup>60</sup> In order to get a better idea of the location, see figure 1 and 2 which maps of Sicily and of the Mediterranean migration route, page 3

<sup>61</sup> *Accoglie-Rete* means 'welcome'/'receive' – network in Italian. The NGO was founded by seven civil society members including immigration lawyers, social workers and a policy maker. The organization has built up a network of voluntary guardians for UAMs. The NGO has 7 active founders, 3 paid employees, approximately 40 active legal guardians and a number of volunteers. *Accoglierete* receives funds from the Italian welfare organization CESVI, private donors and the Open Society Foundation.

<sup>62</sup> *Emergency* was founded in 1994 by Gino Strada and operates in Italy since 2006 to guarantee basic healthcare to migrants and marginalized people. *Emergency* works in Sicily since 2013 and cures migrants in its mobile clinics at the ports, on the street and in temporary reception centers. Retrieved from: <http://www.emergency.it/italia/siracusa-assistenza-medica-migranti.html?uniq=efa515d2a36a47d922a9a029ab46f515>

Emergency team of doctors, nurses and cultural mediators, I was allowed to enter local sites around Syracuse where Emergency was operating and I assisted the local team with translations.

### **4.3 Research Methods**

At the beginning of the research, I applied the *'snowball sampling'*, in order to get in contact with respondents. With this *convenience sampling* method, the researcher is able to come into contact with a small group of people relevant to the research topic and attempts to establish new contacts through these initial contacts (Bryman 2008: 184). As it is difficult to make an accessible sampling frame for the population, this technique proved suitable to reach *'difficult-to-reach'* populations such as unaccompanied minors. Fieldwork research that deals with marginalized persons calls for a multidisciplinary approach (Van Liempt, Bilger 2009). I have attempted to approach a diverse group of stakeholders engaging with UAMs in order to understand the different issues at stake from different perspectives. I was helped by a number of *'gatekeepers'* who have helped with entering the local field. They were my colleagues at *Accogliere* and a representative of *Borderline Sicily*.

#### **4.3.1 Semi-structured interviews**

During the three months of fieldwork, I held 47 semi-structured interviews with local *'stakeholders'* in Syracuse, Catania and smaller towns and villages such as Ragusa, Modica, Scicli, Floridia, and Augusta. The respondents were contacted through e-mail, phone calls and other people. When I encountered the respondent, I explained the purpose of this research, ensured them anonymity and told them that they were allowed to refuse any of the questions. Six of the interviews were conducted by telephone while the rest of the interviews were face to face with the respondent. The interviews were held in different settings including offices, at reception centers and at the NGO *Accogliere* as well as at public places including bars and parks. All interviews were held in Italian and took approximately 25 minutes to 3 hours. In total 16 interviews were taped. Some of the respondents refused to tape the interview related to confidentiality.

The table below gives an overview of the 47 *'stakeholder'* respondents. The respondents were divided into six different groups: 1. Local NGOs, 2. International NGOs, 3. UN organizations, 4. Reception Centers, 5. Local and National Institutions and 6. Other.

Type:	Number:	Professions, Institutions or Organizations:
1. Local NGOs	12 respondents	Accoglierete(7) Rete Anti-Razzista (1) <sup>63</sup> Borderline Sicilia (2) <sup>64</sup> ARCI (2) <sup>65</sup>
2. International NGOs	5 respondents	Save the Children Italy (2) <sup>66</sup> Terre des Hommes (2) <sup>67</sup> Emergency (1)
3. United Nations' organizations	2 respondents	UNICEF Italy (1) UNHCR Italy (1)
4. Reception Centers for UAMs	10 respondents	First Phase Reception Center (2) <i>Comunita per Minori</i> (4) SPRAR for minors (3) Informal shelter (1)
5. Local or National Institutions	11 respondents	Tutelary Judge (1) Local Prosecutor (1) Sicilian Coast Guard (1) Local Police Unit (2) Physician at <i>Azienda Sanitaria Provinciale</i> (2) Local Vice-Mayor (1) Parliamentarian <i>Camera Dei Deputati</i> (1) Social worker at Local Municipality (2)
6. Other	7 respondents	Journalist (2) Independent Translator (1)

<sup>63</sup> *Rete Anti-Razzista* was founded as an anarchist and anti-fascist activist group and aims to fight discrimination and neo-liberalist reforms. The organizations in Catania are especially active in organizing protests and assisting irregular migrants.

<sup>64</sup> *Borderline Sicilia* is a local NGO active in different locations in Sicily and aims to monitor the (ill-) treatment of migrants and asylum-seekers, advocacy, and to publish research findings on their blog.

<sup>65</sup> *ARCI (Associazione Ricreativa e Culturale Italiana)* is a large National Organization for cultural expression. *ARCI* in Syracuse holds office hours twice a week and aims to assist migrants, asylum-seekers and refugees with bureaucratic issues and legal matters.

<sup>66</sup> Save the Children is an International NGO focused on child protection, and was involved the '*Praesidium*' project in Sicily, in collaboration with UNHCR, IOM and the Italian Red Cross from 2013 until mid-2015. The organization aims to signal child migrants and assists and inform UAMs about the legal procedures and their rights in the ports and reception centers.

<sup>67</sup> *Terre des Hommes* is an International NGO focused on child protection and provide them with psychosocial support. *Terre des Hommes* assists UAMs in temporary reception centers with socio-psychological support under the FARO Project.

		Local Ombudsman for Children (1) Immigration Lawyer and Guardian (1)  Member Local Refugee Council (1) President Local Consortium of Cooperatives (1)
<b>total:</b>	<b>47 respondents</b>	

### 4.3.2 Informal conversations and observations

Additionally, I held in chats and informal conversations with around 20 to 30 unaccompanied minors and with boys who had recently become 18 years. I was able to meet these young men at different reception centers for UAMs and at the office hours at local NGO's: *Accoglierete*, *ARCI*, and at *Centro Astalli* in Catania.<sup>68</sup> Initially, I planned to hold interviews with both local 'stakeholders' as well as with the unaccompanied minors. Although I had access to a large group of UAMs in Syracuse, I decided to refrain from the plan to conduct formal interviews with UAMs. After spending some time with the local UAMs in Syracuse, I realized that it was better to approach the UAMs in an informal manner in order not to raise suspicion. Moreover, felt ethical reservations to do so. I worried about *re-traumatization* and a large number of them did not have an official guardian to formally consent to an interview.

Consequently, I held numerous informal conversations with the UAMs I spontaneously met and the UAMs I assisted during my work as a volunteer. Annex 2 gives an overview of the five unaccompanied minors with whom I was able to have longer conversations with. We engaged in conversation talking about differences between Italy and their home country, their current situation, and on the difficulties they encountered. The majority of meetings with the UAMs were within a group context at Italian class at *Accoglierete*, on the street and at the reception centers. The majority of the UAMs were West-African (mainly Gambian, Nigerian, and Malian) and Egyptian boys between the ages of 14 to 18. At the language classes and at the office hours of *ARCI* I was able to meet some of the UAMs more frequently and have chats, which lasted approximately 10-20 minutes. I was able to meet the UAMs at the reception centers only once.

<sup>68</sup> *Centro Astalli* is a Jesuit charity organization founded in Catania. The volunteers of the center offer legal and administrative assistance to migrants.

When I engaged in talking to the UAMs, I explained them the purpose of the research in a simplified manner. Furthermore, I continuously reminded the UAMs that what we discussed was confidential. As Ravi Kohli (2006) suggests, unaccompanied minors often remain silent about their past life and about their reasons to migrate towards authority figures. Some UAMs stay silent because they are severely traumatized, because they are frightened to talk, or because they fear to influence their asylum procedure (Kohli 2006). I noticed that some UAMs I encountered told different accounts of the same story, lied about their age and while others told me a modified or '*thin story*' by leaving out certain details of their story.

In addition to holding in interviews, I was able to observe all sorts of matters. During the three months in Sicily, I spent numerous mornings with UAMs at the local NGOs, visited temporary and second phase reception centers for UAMs in and around Syracuse, I visited local events and went to the '*sbarchi*', the disembarkation of recently saved boat migrants at the ports of Augusta, Catania, and Pozzallo. During these visits, I was able to have an informal conversation and to observe the interactions of the UAMs with the reception center employees, NGO workers, and state officials. Furthermore, I was regularly present at numbers of intake interviews, which were undertaken by NGO employees and translators with recently arrived UAMs. These sessions provided me with valuable insights and information.

#### **4.4 Strengths and weaknesses**

During this fieldwork, I was able to get in contact with a network of people who were actively engaged with UAMs. Because of my position as a volunteer, I was able to get a more in-depth understanding of the local dynamics between the institutions, guardians, NGOs, and migrants.

However, I encountered difficulty in accessing certain information as I was unable to contact the local authorities. I repeatedly made requests for interviews to both the immigration office of the Prefecture of Syracuse<sup>69</sup> and police (*Questura*)<sup>70</sup> but received no response, or I was refused an interview. This means that the perspectives of the immigration offices concerning UAMs are not included. Furthermore, I was unable to gain access to the considerable amount of reception centers for UAMs despite numerous attempts and after making official requests. The results gained from the *snowball sampling* are unable to be representing of all unaccompanied minors. Thus, the generalizability of my findings on UAMs to a larger group of unaccompanied

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<sup>69</sup> The Prefecture is a body of the Italian ministry of internal affairs. It represents the national government at provincial level and acts as the territorial office of the Government. The Prefecture is responsible for coordinating activities concerning the first entry procedures of UAMs between the Immigration offices, and regional and local authorities (Connect 2014: 8).

<sup>70</sup> The Immigration Office of the Police is a body responsible for issuing documents and to coordinate asylum requests.

minors in the country is problematic because of the limited number of respondents (Bijleveld 2013). As the number of 'hidden' populations including irregular migrants and asylum-seekers are unknown, in effect sampling is inevitably difficult (Van Liempt and Bilger 2009).

During this research, I have solely interacted with male unaccompanied minors, aged between twelve and eighteen years old. This implies that the female UAMs are under-represented in this study because I was unable to get in contact with them. The Italian ministry of internal affairs reports that 4.7% percent of the UAMs arriving in Italy are female, of which the majority is Nigerian, Somalian, and Eritrean.<sup>71</sup> Female UAMs are notorious for being hard to reach. Most Eritrean and Somalian girls attempt to transit quickly to the northern Europe while the majority of the Nigerian girls are caught up in trafficking networks and often forced to work as sex workers (EASO 2015a, EASO 2015b).

#### **4.5 Ethics**

Every field worker should elaborate on the ethical aspects of his or her research. Especially when doing research on minors it is essential to reflect on the influence of the researcher on the respondents. During this fieldwork research, I was active as both a researcher as well as a volunteer and, I sometimes played a double role. Additionally, my involvement at local NGOs who actively advocate for better treatment and procedures on UAMs may put my objectivity as a researcher into question. Nevertheless, I believe that the help of the NGOs has proved essential to gain access to respondents.

Because of the ethical difficulties related to doing research with UAMs, I decided to limit myself to hold informal conversations with UAMs. Van Liempt and Bilger (2009) argue that certain research strategies can negatively affect vulnerable respondents and emphasize that there is a strong privacy concern when it comes to '*hard-to-reach*' populations. Issues of confidentiality and the minimization of harm are a central benchmark in conducting ethical research with children (Hopkins 2008, Raghallaigh 2013). Raghallaigh notes that unaccompanied minors face numerous challenges to adjust to the new context and encounter difficulties in establishing trust with others because they are accustomed to mistrusting others (Raghallaigh 2013).

In situations where children's rights are violated, it would sometimes put me in a dilemma whether to needed to intervene in the situation. During the three months, I have regularly signaled vulnerable minors including UAMs

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<sup>71</sup> According to reports of the Ministry of Internal Affairs on 30-11-2015: 95.3 % of the reported UAMs is male. Retrieved from: [http://www.lavoro.gov.it/AreaSociale/Immigrazione/minori\\_stranieri/Documents/Report%20MSNA%2030-11-2015.pdf](http://www.lavoro.gov.it/AreaSociale/Immigrazione/minori_stranieri/Documents/Report%20MSNA%2030-11-2015.pdf)

who had escaped their centers, minors who had received an expulsion letter and lived on the street and those who had been identified as adults. I attempted to share this information with my colleagues as much as possible and on most occasions, I advised the minors themselves to contact a local lawyer and to get in contact the relevant NGO workers.

#### **4.6 Conclusion**

This chapter discussed the methods, which were employed during the fieldwork research in Eastern-Sicily. The case study was conducted through an extensive literature review, semi-structured interviews with local 'stakeholders' and through observation and informal conversations with the unaccompanied minors themselves. As is described in the literature, unaccompanied minors are a highly complex group to research because of their age, mobility, and vulnerable position. Because of the challenges to interview underage migrants who are lacking a guardian or relatives, the researcher, therefore, decided to focus on the 'stakeholders' working with the UAMs, while UAMs we're attempted to contact through observations at the office hours, visits to reception centers and informal encounters in public areas. The next chapter gives an overview of the Italian legislative frameworks and policies concerning unaccompanied minors.

# Chapter 5: The Italian legislative framework

The arrival of unaccompanied minors only recently came to the attention of the Italian public and institutions. The massive increase of UAMs arriving from Libya led to increased attention of Italian media and advocacy groups. Within one year, the number of UAMs doubled from 8.461 in 2013 to 14.243 in 2014. Sicilian state institutions were entirely overwhelmed by these numbers and responded with *impromptu* measures. A large number of the mostly African UAMs were placed in improvised inadequate structures caused by the lack of places in the state-sponsored reception facilities. This chapter discusses the Italian statistics on UAMs, gives an overview of the main legal procedures concerning (asylum-seeking) unaccompanied minors and reviews the various reception arrangements for UAMs in the country.

## 5.1 Numbers

Unaccompanied minors are increasingly arriving in Italy and are predominantly arriving from Libya and Egypt. Marco Accorinti examined the available data collected by Italian institutions from 2009 until 2014 (EMN 2015a).<sup>72</sup> Accorinti argues that Italian statistics are not entirely reliable, only part of the local authorities reports their statistics on UAMs to the Ministry of Internal Affairs. Secondly, the same State institutions that collect data on migrants are often also responsible for reception procedures and the examination of asylum applications (EMN 2015b: 145).

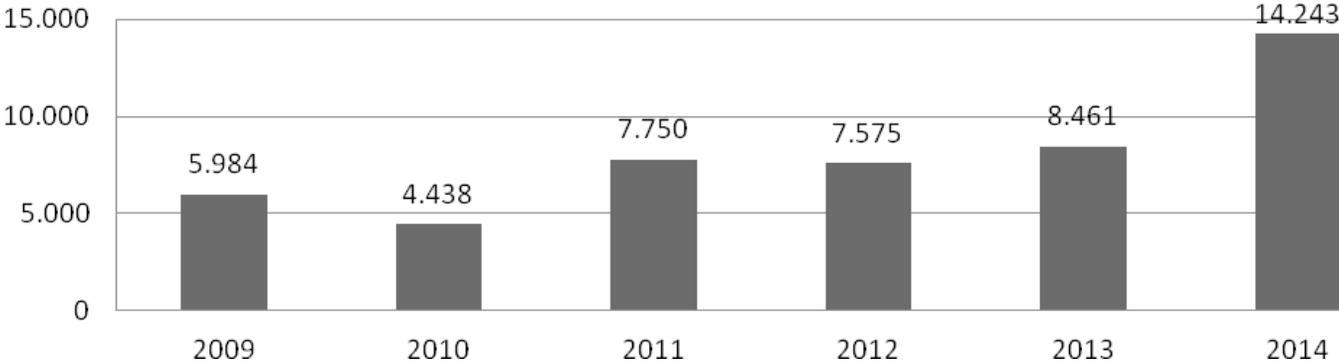


Figure 4. The total amount of intercepted unaccompanied minors in Italy from 2009 to 2014.<sup>73</sup>

<sup>72</sup> The data information was retrieved from the General Directorate of Immigration and Integration Policies of the Ministry of Labor and Social Services.

<sup>73</sup> Data from Ministry of labor (EMN 2015b: 74).

Figure 4 shows the growing number of unaccompanied minors arriving in Italy from 2009 to 2014. In 2014, the number of UAMs increased by almost 200 percent. The total number of UAMs on 31 October 2015 was estimated at 15.949, this means that there was an estimated increase of 1.700 UAMs compared to 2014 (Parliamentary Commission of Inquiry 2015: 12). However, the Ministry of Labour estimated the total of UAMs present on 31 December 2015, at 11.921 (Ministry of Labor 2015). Save the Children, notes that the number of unaccompanied minors who have arrived in the first months of 2016 has been more than doubled compared to 2015. Of the 14.000 persons who arrived in January and February, approximately 2.270 were UAMs. This means 14, 6 % of total consisted of minors in 2016, compared to a percentage of 6, 6 in 2015.<sup>74</sup>

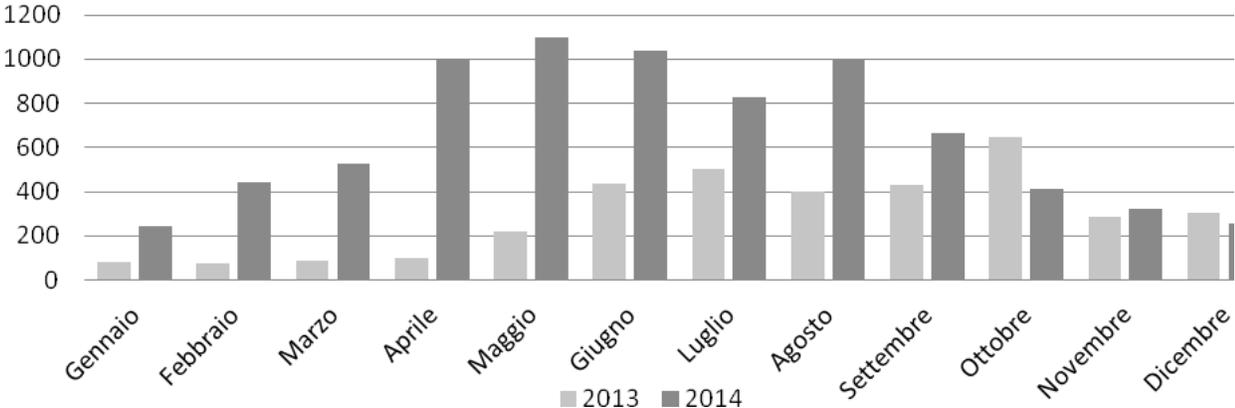


Figure 5. Total of disembarked UAMs per month in 2013 and 2014.<sup>75</sup>

Figure 5 gives an overview of the number of arriving UAMs per month in 2013 and 2014. The number of arrivals increased dramatically in the summer of 2014.

<sup>74</sup> Save the Children Italy, ‘Migranti, Save the Children: piú che raddoppiato il numero dei minori stranieri non accompagnati’, 30-03-2016.

<sup>75</sup> Data from Ministry of Labor (EMN 2015b: 75).

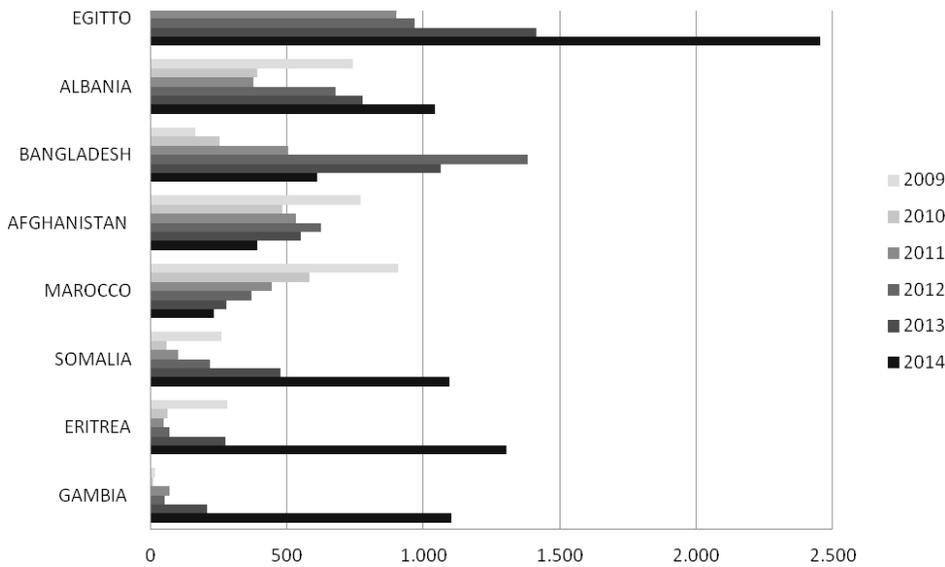


Figure 6. Countries of origins from intercepted unaccompanied minors in Italy from 2009 to 2014.<sup>76</sup>

Likewise, the graphic in figure 6 shows the number of unaccompanied minors per nationality from 2009 to 2014. According to data from the Italian Ministry of Labor, the top 10 of countries of origin of arriving UAMs from January to October 2015 were: Egypt (3.158 UAMs), Eritrea (2.686), Somalia (2.090). Albania (1.226), Gambia (1190), Afghanistan (994), Nigeria (624), Bangladesh (564), Senegal (501), and Mali (503). In 2015, Egyptian UAMs amounted to 22 percent of the total number of UAMs in 2015 (Parliamentary Commission of Inquiry: 12).

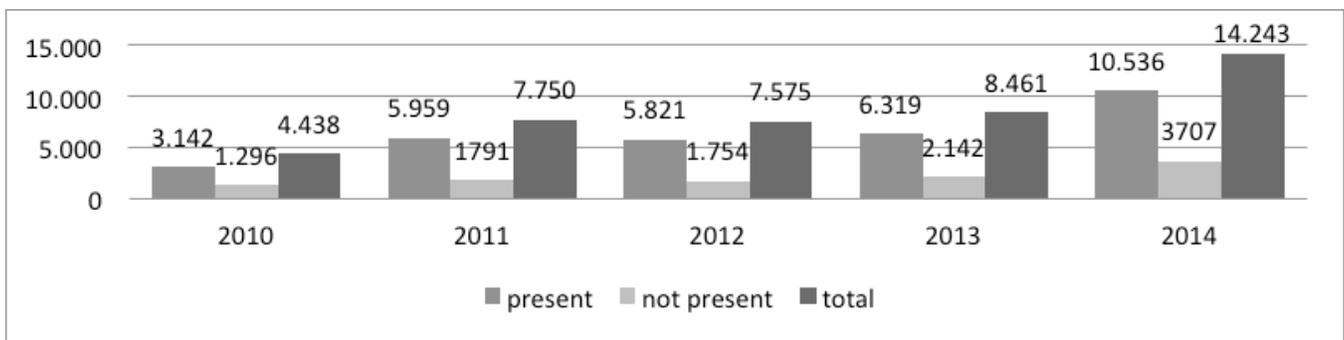


Figure 7. the total number of unaccompanied minors that went missing from 2010 to 2014.<sup>77</sup>

Figure 7 shows the number that went missing after their interception in Italy. The numbers from the ministry of Internal affairs suggest that a reported 5.707 of the 15.949 UAMs went missing between January and 31 October 2015 (Parliamentary Commission of Inquiry: 12). The group of missing UAMs amounted to 35 percent in

<sup>76</sup> Data from Ministry of Labor (EMN 2015b: 79).

<sup>77</sup> Data from Ministry of Labor (EMN 2015b:147).

2015 which is a considerable increase compared to the percentages from 2010 to 2014.

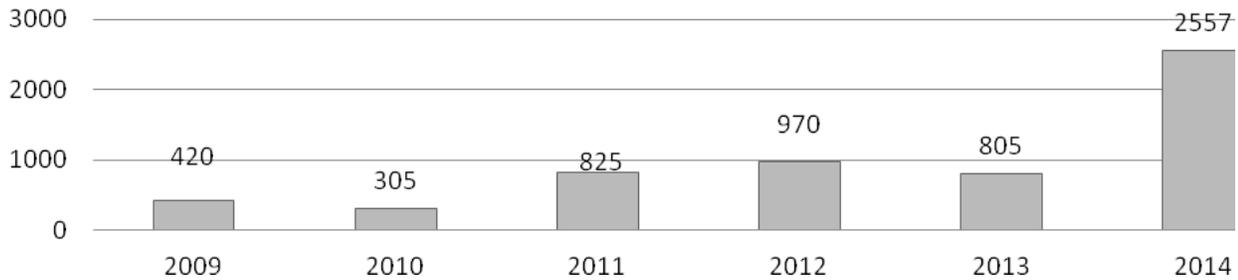


Figure 8. asylum requests from unaccompanied minors from 2009 to 2015.<sup>78</sup>

Lastly, figure 8 shows the number of asylum requests registered by the Ministry of Internal Affairs from 2010 to 2014. Moreover, Accorinti highlights that a large number of asylum-seeking UAMs uses Italy as a transit country.<sup>79</sup> According to the data of the territorial commissions of asylum, 2,557 UAMs requested asylum in 2014 while a total of 2,942 UAMs requested asylum from January to October 2015 (Parliamentary Commission of Inquiry: 97). The largest majority of UAMs requesting asylum in Italy are West-Africans (Gambians, Nigerians, Senegalese, Malian, and Ghanaians) and Bangladeshi. The data suggest that only 999 UAMs had their asylum claims examined. Of those, only 5 percent were granted a refugee status and 82 percent of them received a humanitarian protection status (Parliamentary Commission of Inquiry: 99). This suggests that the large groups of minors originating from conflict-ridden and unstable countries including Eritrea, Somalia, and Afghanistan, use Italy as a transit country and aim to move on to EU countries up north to make their asylum request.

## 5.2 Asylum procedures

Immigration Law for third-country nationals is a relatively new phenomenon in Italy. Up to 1990, Italian legislation only allowed European asylum-seekers to apply for asylum as Italian included a geographical limitation clause to their signature of the Refugee Convention. The asylum-seekers from outside of Europe were subjected to *ad hoc* measures and received 'temporary protection' under the mandate of UNHCR (Hein 2010: 36).<sup>80</sup> According to ISTAT (the Italian statistics agency), approximately 5 million individuals are first or second

<sup>78</sup> Data from Ministry of Internal affairs (EMN 2015b: 82).

<sup>79</sup> Accorinti Marco, *I Minori Stranieri non Accompagnati in Italia e in Europa*, 27-01-2015. Retrieved from: <http://www.neodemos.info/i-minori-stranieri-non-accompagnati-in-italia-e-in-europa/>

<sup>80</sup> The right to asylum was allowed to third country nationals with the Martelli law in 1990: Legislative Decree 39/1990.

generation immigrants are legally staying in Italy by 2015. The number of irregular migrants (*clandestini*) in Italy is, however, unknown and is estimated at more than one million.<sup>81</sup>

In the 1990s, the number of asylum applications increased and the Italian authorities gradually adopted an asylum system open to all nationalities. The general immigration framework is centered on the *Testo Unico sull'Immigrazione* originating from 1998.<sup>82</sup> This legal text disciplines the entry, the stay, and expulsion of immigrants in Italy. Article 19(2) a of the *Testo Unico* stipulates the prohibition to expulsion and *refoulement* of minors.<sup>83</sup> Non-asylum-seeking UAMs are allowed to be repatriated (*'rimpatrio assistito'*) after an investigation in the country of origin has been carried and proved that the return is voluntary and within 'the best interest' of the minor.<sup>84</sup> Furthermore, all unaccompanied minors are entitled to all rights laid down in the Convention to the Rights of the Child of 1989.

The norms on the protection of UAMs derive from two different sets of rules: child protection law and immigration law. The Italian legislation widely grants rights protection to unaccompanied minors (*minori stranieri non accompagnati*). The Italian Civil Code obliges public officials to signal minors to the Juvenile Court and the local child protection services. After the interception of the unaccompanied minor, he or she is entrusted to the social services of the local municipality responsible for the care and the placement of UAMs.<sup>85</sup>

By law, UAMs are equal to Italian minors and are therefore entitled to equal treatment and the same protection measures, education and health care rights as Italian children (Furia 2012: 12). The general legislation on reception was updated by August 2015, in which the minimum standards of the Recast EU Reception Directive 2013/33/EU were incorporated into Italian legislation.<sup>86</sup> In Italy, reception is framed within the regular child protection scheme and is therefore not specific to the asylum procedure. Annalisa Furia (2012) argues that the Italian regulations on immigration and child protection are scattered over a chaotic array of laws, governmental - and regional decrees, ministerial directives, and circulars. Consequently, there exist neither clear parameters nor standardized enforcement of the rules and leads to divergent interpretations in the local context (Giovanetti 2009, Defense for Children 2011).

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<sup>81</sup> The migrant population amounts to 8, 3% of the Italian population. Retrieved from: <http://www.istat.it/it/archivio/149003>

<sup>82</sup> Legislative Decree 286/1998

<sup>83</sup> Decree of the President of the Italian Republic 394/1999, article 28. However, in some cases the authorities are allowed to expulse UAMs for 'security reasons'; *Testo Unico* 286/1998 article 31(4)

<sup>84</sup> *Testo Unico* 286/1998, article 30, 33, Circular Ministry of Internal Affairs of 09-04-2001

<sup>85</sup> Article 403 of the Italian Civil Code, Law 184/1983, article 33

<sup>86</sup> Legislative Decree 142/2015 of 18-08-2015

After the unaccompanied minor arrives at a sea or land border, the Italian police authorities should preliminarily identify and report the child to the Juvenile Court (*Tribunale per Minorenni*), the Tutelary Judge (*Giudice Tutelare*), and the childcare services of the local municipality who will start child custody procedures.<sup>87</sup> According to Italian childcare law, the Tutelary Judge should appoint a voluntary guardian to the minor within 48 hours. The guardianship must be opened within 30 days from submission of the application for a residence permit.<sup>88</sup> Guardians are voluntary by law in Italy and need to be registered in a local guardianship list at the Juvenile Tribunal.<sup>89</sup> In case the Tutelary Judge considers it necessary, unaccompanied minors can be placed in a foster home and UAMs under 14 years old are eligible for adoption.<sup>90</sup>

Unaccompanied minors must have a guardian in order for them to apply for asylum.<sup>91</sup> Secondly, in order to make an asylum claim, the migrants need to formalize their request by filling in the 'C3 Model'. Asylum applications are examined by a territorial asylum commission, (*Commissione Territoriale*) who ought to arrange the asylum interview within 30 days (EMN 2015b: 105). The asylum commission bases its decision on criteria that are laid down by the 1949 *Geneva Refugee Conventions*. All unaccompanied minors attending the interview should be allowed a temporary residence permit for asylum-seekers (*permesso di soggiorno per richiesta di asilo*). After the interview, the asylum commission could grant; *international protection* (refugee status of 5 years), *subsidiary protection* (3 years), a residence permit for *humanitarian reasons* (1 year, renewable each year) or reject the asylum application. According to Italian law, *subsidiary protection* applies to 'third-country citizens or stateless persons who do not possess the requirements to be recognized a refugee but there are reasonable grounds to believe that returning to the country of origin face considerable risks to suffer from serious harm'.<sup>92</sup> After the negation of the asylum claim, a minor may appeal the decision of the asylum commission. A large part of asylum-seeking UAMs currently receives a *subsidiary protection* status at the asylum commission in Eastern-Sicily (R14).<sup>93</sup>

All unaccompanied minors have the right to a residence permit for minors (*permesso di soggiorno per minore età*) in Italy. Minors are able to renew the permit for minors into a permit for work or study motives after they turn 18, in case where they satisfy the conditions.<sup>94</sup> This permit of stay should be released only if the minor does

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<sup>87</sup> Article 26(5) of Legislative Decree 25/2008, article 37 of the Italian Civil Code

<sup>88</sup> Article 330, 343 of the Italian Civil Code

<sup>89</sup> Article 350 of the Italian Civil Code

<sup>90</sup> Royal Decree Law 1404/1934

<sup>91</sup> Legislative Decree 251/2007, article 343

<sup>92</sup> Legislative Decree 21/2007, article 2(g)

<sup>93</sup> Law 39/1990, article 1

<sup>94</sup> Decree of the President of the Italian Republic 394/1999, article 28, Law 189/2002, article 25

not apply for a permit of stay for family reasons (*motivi familiari*), adoption (*affidamento*) or international protection.<sup>95</sup> Minors who have suffered from violence or (sexual) exploitation may be eligible for a residence permit for social protection (*protezione sociale*).<sup>96</sup> The residence permit may be requested by the guardian, and in case, the minor does not have a guardian, by the attorney of the reception center where the minor staying.<sup>97</sup> However, this type of residence permit is rarely requested nor granted (R14).

In December 2014, the Italian government launched the ‘national system for the reception of unaccompanied minors’ campaign with the aim to streamline local practices and to develop standardized procedures concerning UAMs on a national level. However, the program was never executed nor financed (EMN 2015a: 119). Since 2015, the Ministry of Interior is responsible for both asylum seeking and non-asylum seeking UAMs, while prior, the Ministry of Labor was responsible for the non-asylum seeking UAMs.

### **5.3 ‘Prima Accoglienza’: reception arrangements at arrival**

The majority of UAMs arrives in Sicily by boat and departs with the help of ‘smugglers’ from Libya and Egypt. The trip at sea may take one to ten days and most migrants are currently saved by Frontex ships, commercial vessels or the Italian Coast Guard under the EU Triton collaboration and are brought to the ports in Sicily and Calabria. After disembarkation (*Barco*), the migrants are identified by the forensic police and provided with food and a medical check-up by the Red Cross and Medical NGOs. The immigration police provide the Migrants with a personal number and take a preliminary photo. Afterwards, the migrants are requested to go to the immigration police for the official identification. In separated building, they are interviewed about their identity and reasons to migrate and are requested to give their fingerprints (*fotosegnalamento*) to be inserted into the *Eurodac* system.

After the unaccompanied minor is identified by the immigration police, he or she should be placed in a so-called ‘bridge facility’ (*structure point*), which is a temporary shelter. These facilities function as transit locations for immediate placement where the child receives a medical check-up (EMN 2015b: 116).<sup>98</sup> Providing migrants with the emergency shelter are termed ‘first phase’ reception (*prima accoglienza*). These facilities aim to host UAMs for a maximum of 3 months before they will be transferred to ‘second phase’ reception centers (*seconda accoglienza*). In practice, this implies that UAMs are often placed in large open centers in remote areas such as

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<sup>95</sup> Circular of the Ministry of Internal Affairs of 23-12-1999

<sup>96</sup> Testo Unico sull’ Immigrazione 282/1998, article 18(6)

<sup>97</sup> Law 183/1983, article 3

<sup>98</sup> However, as the practices differ greatly depending on the port. In some cases migrants needed to sleep in tents inside the port for days before their transfer when reception places were lacking.

schools or former hotels, which most of the time offer only basic services the provision of food and accommodation (ECRE 2015b: 55).

After the arrival, UAMs are assigned to the childcare services of the local municipality where the *'bridge facility'* is located. In many cases, UAMs are entrusted to the local mayor and childcare department of the municipality of arrival (EMN 2015b: 102). The childcare services of the local municipality have the responsibility to i. provide UAMs with accommodation, ii. to report on the situation of UAMs to the Juvenile Court, Prefecture and the Ministry of Interior, iii. to initiate administrative procedures and iv. facilitate the replacement of the child to *'second phase'* centers (Connect 2014: 8).<sup>99</sup> The local social workers carry the responsibility to ensure proper care and inform and notify the minor concerning the procedures and the asylum system (EMN 2015b: 117, R25). A part of the reception costs are paid for by the national fund for the reception of UAMs, FAMI (*Fondo Asilo Migrazione e Integrazione*) of the Ministry of Internal Affairs<sup>100</sup>, of European subsidies and with the contribution of local municipalities (SPRAR 2015: 29).<sup>101</sup> Some emergency centers are run by charity organizations which receive no state funding and finance the emergency services entirely from donations.<sup>102</sup>

#### 5.4 Secondo Accoglienza: long-term reception arrangements

The *'second phase'* reception centers consist of the family home centers (*Comunita di Accoglienza per Minori*), and secondly, the *'SPRAR'* centers. The traditional reception framework for the accommodation of unaccompanied minors is based on the SPRAR network for asylum-seekers (*'Sistema Protezione Richiedenti Asilo e Rifugiati'*). SPRAR was established nationally in 2002 and consists of a publicly funded network responsible for the reception and integration of asylum-seekers who stay in reception centers run by local contractors (*Cooperativa Sociale*).<sup>103</sup> The SPRAR framework for the reception of asylum-seeking UAMs was established in 2005 after a decision of a Juvenile Court. The Juvenile Judge ruled that the reception of UAMs needs to be arranged by the local municipalities who contract third parties to run the SPRAR facilities.<sup>104</sup>

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<sup>99</sup> Legislative Decree 140/2005

<sup>100</sup> *'Il fondo per l' accoglienza dei minori stranieri non accompagnati'* was launched by the Ministry of Interior in 2012. In 2015, the budget of the funding was doubled up to 32,5 million euros with the *'Legge di Stabilita'* 190/2015.

<sup>101</sup> Up to June 2015, the municipality of disembarkation was financially responsible for the reception of the UAMs, also after the UAMs was already transferred to another municipality. Currently, the municipality where the UAM is residing carries the responsibility for the financial costs and relocation of the minor. Circular of the Region of Sicily number 8902 on 14-07-2015

<sup>102</sup> An example is *'Casa delle Culture'* of the Mediterranean Hope Federation in Scicli, this *'bridge facility'* is fully funded by the Waldensian Church (R31).

<sup>103</sup> Retrieved from: [http://www.sprar.it/images/attivita\\_e\\_servizi/Accoglienza\\_integrata/manuale.pdf](http://www.sprar.it/images/attivita_e_servizi/Accoglienza_integrata/manuale.pdf)

<sup>104</sup> Legislative Decree 140/2005, article 8(4)

UAMs ought to be placed in an SPRAR center after they have filed their asylum claim. The minors are allowed to stay in the SPRAR for UAMs until they become 18.<sup>105</sup> Already in 2013, there were an insufficient number of places available in the SPRAR centers for the arriving UAMs (R14). SPRAR centers were overwhelmed by the large numbers of UAMs who disembarked in Sicily. By March 2015, of the 21.449 places in SPRAR centers, only 941 places were destined for UAMs (SPRAR 2015: 166). In 2008, CARA centers (*Centro Accoglienza Richiedente Asilo*) were established for asylum-seekers who had launched an asylum request and adults who still needed to be identified. A large part of the adult migrants and would-be asylum seekers are hosted in the CARA centers assigned to adult men and women. Currently, the most common reception centers for UAMs are the '*Comunita di Accoglienza per Minori*' or '*Casa Famiglia*' (family homes). They consist of small-scale care facilities for unaccompanied children, disabled people, and elderly. The family homes replaced the traditional orphanages for Italian children in 1986.<sup>106</sup> As the number of UAMs rises and places in SPRAR centers is lacking, unaccompanied minors are increasingly placed in homes with a maximum of 10 to 12 places. The *Comunita di Accoglienza per Minori* have mushroomed in the recent years and have become the standard accommodation for UAMs, especially in Southern Italy (R2, R27). The centers are generally located in apartment buildings and are subject to strict minimum standards laid down by national childcare law. Again, the quality of the reception highly depends on the social cooperative managing the center, the collaboration between 'stakeholders' within the municipality and opportunities for integration in the area.

## 5.5 Conclusion

Firstly, this chapter discussed that the number of UAMs has increased in Italy. Secondly, it gave an overview of the legal framework and reception arrangements for UAMs in Italy. Italy recognizes the right to asylum within the Constitution, but has no comprehensive legal framework on asylum and mostly refers to European directives. The European directives in combination with Italian childcare laws constitute a comprehensive package of protection measures for asylum-seeking UAMs. The Italian reception policies and asylum procedures for of UAMs are relatively recent and are characterized by fragmentation and decentralization at the local level. A network of local 'stakeholders' is involved to guarantee the care and protection of UAMs. These actors include the local police forces, the immigration services of the Prefecture and *Questura* (provincial police office), the mayor and the childcare services at municipality level, the Juvenile Tribunal and the Tutelary Judge, voluntary guardians, social cooperatives and the involved NGOs. This bureaucratization of protection procedures however also increases the risks for unaccompanied minors to fall through the cracks of the reception system. Hence,

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<sup>105</sup> Legislative Decree 25/2008, article 20.

<sup>106</sup> Law of the Region of Sicily 22/1986, 10 May 1986

there are concerns that the minimum standards and asylum procedures are incorrectly implemented on the ground and that the vulnerabilities of UAMs are exacerbated when UAMs are not treated as minors entitled to protection. The Southern Italian regions suffer from a general economic downturn and high unemployment rates and while at the same time these regions are confronted to host a large number of the unaccompanied minors whom they need to provide with adequate care and shelter. The following chapter addresses the challenges and risks that UAMs may encounter in Eastern-Sicily and more generally in the whole of Italy.

## Chapter 6: Challenges of reception in Eastern-Sicily

This empirical chapter mirrors the general challenges that UAMs encounter in Europe described in chapter 3. The key issues, which were highlighted in chapter 3, seem to recur in the Sicilian context. Being an unaccompanied minor seeking asylum in Italy is often a condition of uncertainty and arbitrariness. Within a context that is often referred to as the 'migrant emergency' by Italian media and politicians, unaccompanied minors are a vulnerable category and are entitled to a number of guarantees. In the local context of an everyday routine, many UAMS are left to wait for their legal and administrative procedure for months. This chapter emphasizes a number of key issues, which were extracted from the literature and from interviews with stakeholders, conversations with UAMs and observations during the fieldwork research. The first paragraph shortly discusses the migration route UAMs take towards to Italy. The following paragraphs will give an overview of different challenges that UAMs encounter related to reception conditions, the asylum procedure, accessing a guardian and information and to safety concerns.

### 6.1. Arrival in Italy

#### 6.1.1 Perilous journeys to Italy

The majority of UAMs that arrive in Italy have been subjected to dangerous itineraries on the smuggling routes and frequently have suffered from abuses. The pull factor for migrants to travel to Libya is the booming smuggling business as was discussed in chapter 3.1. An increasing number of UAMs originating from Western and Eastern have also taken the Libya route with the help of a smuggler. For example, the number of unaccompanied minors in the refugee camps in Ethiopia and Sudan has increased and there are signals that the majority of these UAMs aim to transit to Libya with the hope to reach Europe (Sahan 2016:9).

A large majority of unaccompanied minors arriving in Sicily have transited through Libya before they embarked on a boat (except for Central-Asian and Egyptian UAMs). Because of the deteriorating security and lawlessness in Libya, more Sub-Saharan migrants and refugees feel pressured to leave Libya. Numerous people who formerly considered Libya as a destination country are currently subjected to discrimination, arbitrary arrests, forced labor and ill-treatment (MHUB 2015a). In addition, migrants in Libya are sometimes also *forced to disembark* the rubber dinghies after they have waited in passenger houses or have been released on bail. The MHUB report notes that unaccompanied minors are detained in detention facilities that are run by militias collaborating with smugglers and by Libyan security forces in Salim, Ganfuda, Gharyan and Ain Zara (MHUB

205a: 80). Furthermore, Islamic State-affiliated groups in the Sirte region have abducted, detained and beheaded East-African refugees, including unaccompanied minors in the Sirte region in 2015 (Sahan 2016: 27). Three recently arrived West-African migrants commented that ‘in Libya we (Africans) are treated like animals’. Some of them had stayed in the passenger houses before departure where they told they lacked food, were refused to wash and had been subjected to beatings with belts and rifles, and in some cases electric shocks.<sup>107</sup>

The boat trip on the Mediterranean is a central moment of traumatization for the UAMs. People fear for their lives while they embark on the unseaworthy and overcrowded rubber dinghies. UAMs argue that there is very little space on the boat, that they suffered from dehydration and that they feared their lives during the rough. In some instances, UAMs were even threatened that they would be thrown out of the boat (U1 and R14). In October, a fishing vessel filled with an estimated 150 Egyptian unaccompanied minors floated on the Mediterranean for 10 days and migrants inside lacked sufficient food and water (R45). In 2015, the Central Mediterranean Route remains the most dangerous route to Europe and the majority of shipwrecks causing migrant deaths occurred in the waters of the Sicilian Channel.<sup>108</sup> In addition, unaccompanied minors have drowned and made part of the estimated 3771 sea deaths, a number that will likely be much higher. UNHCR, CIR and other NGOs have expressed their concern about the limited scale and mandate of the Joint EU Operation Triton which supports the Italian authorities with search and rescue operations in the Mediterranean, which would lead to more deaths at sea (AIDA 2015b: 23). An example is the case of a 15-year old Somalian boy called Mohamed Ulet who died on the rescue ship ‘*Dignity*’ of Doctors without Borders after he was saved on August 25, 2015. He died of his injuries resulting in the torture he was subjected to in Libya.<sup>109</sup>

### 6.1.2 Identification at the port

The identification practices of migrants in Sicily differs per port. The European Migration Network (2014) underlines that there is a lack of a uniform approach concerning the interpretation of the norms and procedures in the local context in Italy (EMN 2015a: 36). The arbitrary behavior of the local police cause chaotic identification practices (NOAS 2011). Migrants are identified differently by border guards and depending on the amount of arrivals, the port and on the police unit on duty (municipal police, *Guardia di Finanza*, *Carabinieri* or

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<sup>107</sup> Informal conversation with 3 Gambian UAMs and one Senegalese UAM at a temporary reception center in Syracuse on 25-10-2015

<sup>108</sup> IOM estimates that 2.892 migrants died at sea crossings in the ‘Central Mediterranean route’ in 2015, in 2014, the number was 3.186 deaths. IOM missing migrants: Mediterranean Sea, Data of Missing Migrants. Retrieved from: <http://missingmigrants.iom.int/mediterranean>

<sup>109</sup> Huffington Post, ‘1 minori migranti possono riaccendere in noi la cultura della solidarieta’, 26-08-2015. Retrieved from: [http://www.huffingtonpost.it/vanna-iori/minori-migranti-cultura-della-solidarieta\\_b\\_8041494.html](http://www.huffingtonpost.it/vanna-iori/minori-migranti-cultura-della-solidarieta_b_8041494.html)

border guards). In some ports, migrants are identified quickly and have their fingerprints taken within an hour, while in other ports such as Pozzallo, only a photo of the migrants is taken and the migrants are quickly transported in buses to the north of Italy where they will be identified in the reception center (R47). The improvised practices often do not allow the asylum-seekers at the port to claim asylum immediately and because immigration lawyers and adequate interpreters are lacking. The aid and refugee organizations UNHCR, IOM, Save the Children, Terre des Hommes and the Italian Red Cross have attempted to fill the gaps left by the Italian authorities, and provide the exhausted migrants with medical assistance and information concerning the asylum procedures.

The unaccompanied minors also suffer from the protection gaps concerning identification. Local respondents report hasty and chaotic identification practices and the lack of translators during the registration at the port (R14, R41, R43, and R47). This is crucial for migrants to be able to tell their reasons for migration and to identify themselves to the immigration police. UNHCR and Save reported the chaos of during the identification of migrants and argued that their legal operators were only allowed provide the migrants with information after the migrants had undergone the screening procedures (R18). In some cases, the right to information on individual rights was entirely refused for migrants who were refused to talk to the NGO workers.<sup>110</sup> A gap exists between the stated policies and the actual policy implementation on the ground. In line with the concept of Bhabha and Gibney, on the *'culture of disbelief'*, similar practices can be distilled in the Sicilian institutional context (Bhabha 2014, Furia 2012). Sicilian officials including police functionaries and the immigration service of the Prefecture seemed suspicious of migrants abusing the asylum system. UAMs were frequently registered under a different birth date (for example 1997 instead of 1999) and had their names spelled wrong. These mistakes often occurred because UAMs had not received proper translation during the intake interview at the port of arrival and because police officials insufficiently assess whether the migrant is underage. Dozens of unaccompanied minors have been wrongly identified and registered as adults in the ports of Augusta, Catania and Pozzallo 2015 (R14, R25, R47).<sup>111</sup> A local NGO worker stated 'we signaled a number of unaccompanied minors...which were transferred in a temporary center hosting adults, only months after the Juvenile Tribunal responded to our notification'.<sup>112</sup>

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<sup>110</sup> Sicilia Borderline, Sbarchi: Chaos identificazioni, anche i minori a rischio espulsione. 'gravi violazioni'. Retrieved from: <http://siciliamigranti.blogspot.nl/2015/11/sbarchi-caos-identificazioni-anche-i.html>

<sup>111</sup> Numerous UAMs who had been wrongly identified as adults asked local immigration lawyers for help. They recounted that when they showed their identification document in the port, the immigration police registered a wrong birth date for example '1-01-1998'.

<sup>112</sup> Ibid footnote 113

Large shares of the arriving migrants arriving in the Italian ports are undocumented and have no valid identity papers. Therefore, the immigration police cannot assess their identity and is unable to crosscheck the individual statements on identity, age, and nationality. This provides migrants with room for maneuver to negotiate their identity. Allegedly, ‘smugglers’ instruct the traveling migrants to declare certain facts to the Italian authorities upon arrival (Sahan 2016). Within the complex politics of identification, it becomes clear that age is crucial for a person to influence the process to access the reception facilities and a legal status. Several respondents outlined that mostly Eritrean and Somalian minors were well aware of the Dublin system, and often declared to be over 18 in order not to register and to ‘get stuck’ in the Italian child care system. Eritrean and Somalians in this manner hope to be able to transit to Northern-European countries unnoticed (NOAS 2011: 16, R14, R25, and R42). In contrast, there are also adult West-African migrants who declare to be under aged as they hope to receive a residence permit for minors and better treatment (R14, R27, R32, and R41). Another factor is the relativity of the concept of ‘age’ in Sub-Saharan countries. Many irregular migrants do not know their birth date and exact age because they do not have a birth certificate or identity documents. Especially in rural areas in African countries, registration offices are difficult to reach and parents are unable to register their newborn child. Therefore, UAMs are often unable to provide for a birth certificate because they simply do not have one or are unable to contact their relatives to send a copy (U2, U3).

In May and December 2015, the European Commission urged Italy and Greece to take measures for stricter fingerprinting of migrants in conformity with the Dublin regulations. The European Commission requested Italy to fingerprint and register all incoming migrants in the new ‘hotspot’ centers in order to facilitate the planned relocation of migrants over other EU countries.<sup>113</sup> The redistribution of asylum seekers from Italy and Greece hardly took place in 2015, and the European compromise of burden sharing proved unsuccessful now the divided EU Member States failed to collaborate. Greece and Italy were unable to prevent migrants to transit to other European countries. In addition, they were either unable or unwilling to fingerprint and register all disembarking migrants and asylum-seekers (Den Heijer, Rijpma, and Spijkerboer 2016). One could doubt whether there is sufficient political will to abide by the EU policy to set up the ‘hotspot’ and register all incoming migrants. The Italian reception system is overburdened and lacks financial resources and correspondingly, many migrants hope to end up in northern Europe where they believe conditions are better.

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<sup>113</sup> Council of Europe Directive of 21/10/2015. The six ‘hotspot’ areas in Italy have been designated in: Lampedusa (650 places), Pozzallo (300), Augusta (300), Porto Empedocle (300), Trapani (400) and Taranto (300), and needed to be operative before the end of 2015 but the deadline was not reached. European Commission press release, ‘Progress report on the Implementation of the hotspots in Italy’, 15-12-2015. Retrieved from: [http://europa.eu/rapid/press-release\\_IP-16-269\\_en.htm](http://europa.eu/rapid/press-release_IP-16-269_en.htm)

A police officer in the port of Augusta noted that the migrants who refused to give their fingerprints would simply need to put their names on a temporary list and would be identified later in the reception center.<sup>114</sup> To the contrary, Borderline Sicily and ASGI (The Association for Italian immigration lawyers) reported that asylum-seekers are increasingly coerced to give their fingerprints in the ports.<sup>115</sup> The NGOs worry that the fundamental rights of the migrants are violated in the closed *hotspot* centers that are monitored by Italian police and the European agency Frontex. Now migrants are deliberately prevented from entering the Italian mainland, it reminds us of Agamben's conceptualization of a '*camp*' as 'a space of immobilization and deprivation of rights, under which certain categories of people live...' (Agamben 1995: 174, Sigona 2014). Agamben's view on the '*camp*' as a 'space of exception' is interesting relating to current practices in which the European Union increasingly attempts to control the movement people by putting them in confined spaces.

### 6.1.3 Violation of *nonrefoulement*

Italy carries the obligation to respect the principle of *nonrefoulement* of asylum-seekers and children. According to article 10(4) e of the 1998 Decree, 'no person entering the territory who is manifestly willing to make an asylum claim may be expelled'.<sup>116</sup> The principle of *nonrefoulement* is a central element to the 1951 *Geneva Convention relating to the status of Refugees* (Article 33), the 1984 *Convention against Torture* (article 3) and the *ECHR* (article 4 of the Fourth Protocol) and forbids to deport or return people who have encounter risks to their life and freedom. However, unaccompanied minors who have arrived in Sicily in the recent years have been expelled from the country.

Human Rights Watch reported that Italy has engaged in pushbacks of asylum-seekers in international waters towards Libya and secondly has indiscriminately returned UAMs traveling in a ferry back to Greece. Italian authorities failed to screen the migrants for vulnerable cases such as unaccompanied minors and prevented the migrants from entering the asylum procedure (HRW 2009a, 2013). After the ECtHR judgments concerning the Italian *pushbacks*, including *Hirsi Jamaa and Others v Italy* (2011), *Mohammed Hussein v. Netherlands and Italy* (2013), *Sharifi and Others v. Italy and Greece* (2014),) and *Tarakhel v. Switzerland* (2014) cases, it seemed that Italian authorities stopped engaging in these actions. However, it appears that the Sicilian *Questure* (provincial

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<sup>114</sup> Visit to the port of Augusta with the medical team of Emergency, during the disembarkation of 48 Somali and Eritrean migrants on 22 October 2014.

<sup>115</sup> Sicilia Borderline, 'Pala Nebiolo di Messina: impronte con la forza e bugie ai vulnerabili', 15-02-2016. Retrieved from: <http://siciliamigranti.blogspot.nl/2016/02/pala-nebiolo-di-messina-impronte-con-la.html>, ASGI, Hotspot road map, 21-10-2015, retrieved from: [http://www.asgi.it/wp-content/uploads/2015/10/2015\\_documento-ASGI-hot-spot-road-map-21-ottobre-def.pdf](http://www.asgi.it/wp-content/uploads/2015/10/2015_documento-ASGI-hot-spot-road-map-21-ottobre-def.pdf)

<sup>116</sup> Decreto Legislativo 286/1998, article 10(4)E and art. 19.

police headquarters) were actively issuing in collective expulsion orders to third country nationals in 2015 (R47).<sup>117</sup> It is impossible to distinguish between a teenager and adult without making an in-depth case-to-case assessment of the migrant.<sup>118</sup> A substantiated assessment of somebody's age and vulnerability takes time. It appears that Italy does not have a well-formulated policy framework on return procedures for rejected asylum-seekers, nor does Italy physically return these people in airplanes (R15).

The European commission reported that Italy carried out 14.000 '*forced returns*' in 2015.<sup>119</sup> The '*expulsion*' in practice consists of an expulsion letter (*decreto di espulsione*) in which is stated that the migrant needs to leave the country within 7 days. Migrants receive no translation or information about the meaning of the letter, nor are they provided with financial support, diplomatic collaboration with the country of origin, or administrative support to return to his or her country. A number of local NGOs reported the expulsion of recent arrivals labeled by the immigration police as 'economic migrants' in Sicily.<sup>120</sup> The evicted migrants also included unaccompanied minors, which had been wrongly identified as adults.<sup>121</sup> Borderline Sicilia and ASGI argue that dozens of UAMs were expelled in Syracuse, Catania, Agrigento, Pozzallo, and Palermo in 2015 and 2016 (Freddi 2016: 31).<sup>122</sup> An example of expelled unaccompanied minors is the group of five West-African unaccompanied minors who had been identified as an adult in the port of Pozzallo and were provided with an expulsion letter without receiving any further explanation in October 2015.<sup>123</sup> They were refused to stay in a state-run reception center and were left to sleep on the streets in Catania, without anybody intervening. The minors depended on food from local charity organizations (R43, R47, and U3). The expelled UAMs were unaware of the negative consequences of the expulsion, as nobody had explained to them what it meant. It remains unclear how large the number of expelled UAMs actually is.

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<sup>117</sup> Repubblica, 'Respingimenti, si ricomincia a cacciare via i migranti' economici', 19-10-2015. Retrieved from: <http://www.repubblica.it/solidarieta/immigrazione/2015/10/19/news/respingimenti-125425049/>

<sup>118</sup> ASGI, Hotspot road map, 21-10-2015, page 3

<sup>119</sup> European Commission press release, 'Progress report on the Implementation of the hotspots in Italy', 15-12-2015

<sup>120</sup> Repubblica, 'Continuano I respingimenti da Pozzallo', 7-10-2015'. Retrieved from:

<http://www.repubblica.it/solidarieta/immigrazione/2015/10/19/news/respingimenti-125425049/>, MSF, Espulsioni a Pozzallo, 16-10-2015, retrieved from: <http://briguglio.asgi.it/immigrazione-e-asilo/2015/ottobre/msf-pozzallo.pdf>, Oxfam Italia and ASGI, 'Negli Hotspots Gravi Violazioni Dei Diritti Dei Migranti', 3-12-2015. Retrieved from: [http://www.oxfamitalia.org/wp-content/uploads/2015/12/3.-CS\\_OXFAM-ASGI-A-BUON-DIRITTO\\_-%E2%80%9CNEGLI-HOSPOTS-GRAVI-VIOLAZIONI-DEI-DIRITTI-DEI-MIGRANTI%E2%80%9D.pdf](http://www.oxfamitalia.org/wp-content/uploads/2015/12/3.-CS_OXFAM-ASGI-A-BUON-DIRITTO_-%E2%80%9CNEGLI-HOSPOTS-GRAVI-VIOLAZIONI-DEI-DIRITTI-DEI-MIGRANTI%E2%80%9D.pdf), <http://siciliamigranti.blogspot.nl/2015/12/la-verita-sul-sistema-hot-spot.html>.

<sup>121</sup> During my stay in Syracuse, I counted at least eight unaccompanied minors who had been registered as adults.

<sup>122</sup> Borderline Sicilia, 'Sbarchi: caos Identificazioni, anche i minori a rischio espulsione. 'gravi violazioni'', 13-11-2015, Retrieved from: <http://siciliamigranti.blogspot.nl/2015/11/sbarchi-caos-identificazioni-anche-i.html>

<sup>123</sup> The immigration police completes a module during the identification of migrants at the port. In order to separate migrants from potential asylum-seekers, the police asks the migrants why they decided to come to Italy and ask them to choose between the options: 'work, family reunification, escape poverty or to request asylum'. Allegedly, the police bases the list for expulsions on the questionnaires that were taken at the port right after arrival (R47).

The expelled unaccompanied minors find themselves in an extremely vulnerable position and do not have effective access to legal aid, information, and shelter. Furthermore, expelled UAMs face great challenges to find a roof, food and care in the gray areas of Italian cities where they do not speak the language. Because of the long delays at the immigration service offices and a large number of appeals at the local Tribunals, it can take months for wrongly identified minors to appeal against their expulsion. Furthermore, wrongly identified UAMs need to wait several months to access the re-identification and age assessment procedures (R47, R27, U3, and U4). In addition, many of the expelled migrants are insufficiently informed about their right to appeal and are unaware they may receive support from a *Pro Bono* immigration lawyer. An example is L. who is a Gambian minor. He proved unable to provide the immigration service with a birth certificate and was ruled to be older than 17 by the doctors who carried out his age assessment. He continued to say he is sixteen and only after weeks after his expulsion and he received help from an immigration lawyer to file an appeal. However but it took around six months before he was allowed an appointment to be re-identified at the local immigration office of the *Questura* (U3). A local respondent noted that the immigration service at the *Questura* would not even take into consideration to requests for re-identification if the UAM could not show them a copy of their birth certificate (R14).

## **6.2 Challenges to protection**

A large number of UAMs, disembarks and remain in Sicily, which is a region already suffering from structural economic and political problems (R26, R27). The increasing amount of incoming UAMs in 2014 and 2015 caused the Italian child protection mechanisms to stagnate, especially in the regions with a high concentration of unaccompanied minors, in Sicily and Rome. The Norwegian Refugee Council (NOAS) argues that asylum-seekers in Italy are often forced to rely on informal networks as they lack the minimum support and financial assistance by the Italian state, as is formulated in the EU *Recast Reception Directive* (NOAS 2011).<sup>124</sup> Even though there is an increase in legal and procedural safeguards for unaccompanied minors in Italy, UAMs continue to encounter difficulties to access these services as the uniform implementation of the standards is generally lacking (ENGI 2011: 39).

### **6.2.1 Filing an asylum claim**

Asylum seekers arriving in Italy are able to enter the asylum procedure in Italy. However, they may encounter numerous difficulties in accessing information, legal assistance and adequate reception centers (NOAS 2011:

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<sup>124</sup> EU Recast Reception Directive 2013/33/EU

12). The majority of unaccompanied minors arriving in Italy are unaware of their right to claim asylum and make their asylum request only after months until they are informed about the procedures. Several respondents underlined that UAMs encountered difficulties to make an asylum claim (R10, R14, R18, R27, R43). Reasons constitute the lack of a guardian, lawyer, and the fact that someone needs to have a residence in order to apply for asylum (AIDA 2015b: 20). In addition, many UAMs receive little help from the personnel of the reception center and there are significant procedural delays at the local immigration service and Juvenile Tribunals. The waiting times for appointments at the immigration service for identification and for temporary residence permits may take months. Delays are considerable because of bureaucracy and understaffing at immigration offices at the Prefecture and *Questura* (provincial police headquarters) and the Juvenile tribunal (R15, R27, R43, R47). Guardians need to pass by the Immigration Office of the *Questura* up to 7 times for the asylum request, identification and residence permit (R29, R30). According to Italian law, the asylum Commission should arrange an interview with a minor within thirty days after receiving the application (EMN 2014: 106). In practice, many UAMs wait for their asylum interview up to 8 or even 12 months (R14, R41). In Italy, there are 20 asylum commissions, of which four are located in Sicily. Considering a large number of an asylum application, it appears there are still insufficient commissions to process all applications (R12).

Several respondents worry about the faith of the UAMs who are turning 18 but are still waiting for their asylum interview. The UAMs who are allowed the interview after they recently turned 18 are no longer allowed the special treatment for asylum-seeking minors or a residence permit for minors. Additionally, when UAMs turn 18, the guardianship will automatically finish and there will be no one for them to request for conversion of the residence permit (R20, R27, and R29). The majority of UAMs who do not apply for asylum are Albanian, Bangladeshi and Egyptian minors and receive a permit of stay for minors.

Frequently, the UAMs which stay in temporary 'first phase' reception centers (*prima accoglienza*), do not immediately file an asylum request. The asylum application is scheduled ahead and the personnel of the temporary center considers it better that this will be taken care of after the UAMs will be relocated to 'second phase' centers. The personnel of the temporary center does not always properly inform the UAMs about their rights to request asylum nor is there always a translator available (ENGI 2011, R14, and R27). UAMs are often inadequately informed about the asylum procedures and the decisions affecting them (Connect 2014: 46) Respondents argue that UAMs are 'parked' in temporary structures, without being able to access a legal representative, a guardian or education and recreational activities (R14, R23, and R29).

### 6.2.2. Accessing legal representation and a guardian

According to Italian law, a guardian should be appointed to a minor within 48 hours. As it was earlier discussed in chapter 5, UAMs encounter difficulties to make an asylum request and to appeal without a guardian.<sup>125</sup> The legal guardian should assist the UAM during the whole asylum process and needs to accompany the minors to the appointments at the immigration office and needs to be present at the asylum interview and needs to formalize the asylum claim (AIDA 2015a: 2). The lack of a guardian forces UAMs into a legal limbo and makes them vulnerable to have an irregular status because of delayed procedures.

The childcare service of the local municipality where the UAM is housed is the competent body responsible for the unaccompanied minor. These childcare services are required to provide the UAMs with assistance and are responsible for assuring they are placed in adequate centers or homes and monitor the integration of the minor.<sup>126</sup> Save the Children and AIDA note that many Sicilian municipalities lacked the expertise and funds to assess and monitor the large numbers of arriving UAMs. Guardians are rarely appointed within the 48 hours prescribed by law and Juvenile Judges often appoint guardian weeks or even months (Save the Children 2010a, 2010b, AIDA 2015a).

Because of the unprecedented inflow of UAMs, there started to be a lack of guardians already in 2013. For example, of the 540 UAMs that arrived in Syracuse by July 2013, only six of them had a guardian (R14). Several respondents stated that it could take several months before a minor is assigned a guardian by the Juvenile Tribunal (R10, R14, R29, R25, and R32). In many temporary centers, UAMs receive no information concerning their right to have a guardian. The waiting times at the local Juvenile Tribunals can be up to eight months because the three Juvenile Tribunals in Sicily are already overburdened by cases of Italian minors (R14, R29). Another factor is the lack of enlisted guardians who are willing to represent these foreign minors. Many lawyers are unable or unwilling to perform the task because being a guardian is voluntary and unpaid by law. Hence, Juvenile Tribunals have insufficient guardians enlisted (R14, R27). In some cases, these guardians are not sufficiently informed about the personal circumstances and the migratory project of the UAMs and therefore are unable to effectively defend the '*best interest of the child*'. Numerous legal guardians meet the UAM for the first time at the hearing before the asylum commission (R14, R43). There exist no legal provisions specifying that

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<sup>125</sup> EMN notes that as UAMs request for asylum without having a guardian, the *Questura* should suspend the asylum procedures and will need to inform the Juvenile court and childcare services (EMN 2014: 106).

<sup>126</sup> Circular of the Region of Sicily number 7 of 29-11-2014; stipulates that the price pro capita/pro die for an unaccompanied minor in a family home or SPRAR center is 70 euro a day

legal guardians should undergo training on asylum procedures for minors and there is no monitoring system to control guardians (AIDA 2015a: 3)

Furthermore, confusion exists whether a temporary or *de facto* guardian can take responsibility for the UAM before a 'genuine' guardian is elected. Save the Children underlined that in many cases UAMs are still assigned to the local mayor in Sicily and Calabria (Save the Children 2010a, 2013). Local respondents indicated that the directors of emergency centers often perform the role of a *de facto* guardian to organize procedures for the UAMs who do not have a guardian yet (R8, R10, R14, R24, and R29). These actors have a serious conflict of interest and it is, therefore, doubtful whether these persons are capable of genuinely representing the best interest of the child'. This practice violates article 24(1) of the EU Recast Reception Directive, which notes that 'individuals whose interest conflict with those of the unaccompanied minors shall not become eligible to become representatives'. Furthermore, other UAMs were assigned two guardians and enjoyed the care of a provisional guardian without being aware who they 'real' guardian actually was. This misunderstanding was caused by the slow and chaotic response of the Juvenile Tribunal (R35).

### 6.2.3. Age assessment

Chapter 3.3.3. discussed age assessment practices on a European level. In Italy, uniform protocols on how to carry out age-assessment lack (AIDA 2015a). The Italian regulations concerning age assessment are primarily based on fragmented and secondary legal sources with a limited scope (EMN 2014: 107, R35). A third-country national may be subjected to an age assessment in case the guardian is notified and consents to the test. Secondly, the age assessment needs to be non-invasive and cannot impose risks to the health of the minor.<sup>127</sup> According to national legislation incorporated in 2014, age assessment should employ multidisciplinary methods; however, it seems that this is not effectively implemented in local practice.<sup>128</sup> The European Group of Experts on Action against Trafficking (GRETA), reports that the shortcomings in the identification of child victims of trafficking relate to insufficiencies in the age assessment tests. The identification of child victims of trafficking requires specialized training and is crucial to prevent *re-trafficking* of minors (GRETA 2016: 36).

In Italy, the age assessment tests are generally one-dimensional examinations including dental observation, sexual maturity test and making an X-ray of the wrist or the collarbone, but lacks a psychological assessment test (NOAS 2011: 16). A number of UAMs in Syracuse were subjected to an age-assessment test without the

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<sup>127</sup> Legislative Decree 25/2008, article 19.

<sup>128</sup> Legislative Decree 24/2014, article 4.

consent of their guardian and did not receive proper information on the medical examination or the margin of error. In many instances, there were examined by regular doctors on duty rather than specialists to carry out age assessments that were ordered by the local police. This appears to happen more frequently in other parts of Italy as well (AIDA 2015: 2). It is, therefore, doubtful whether the principle of '*favor minoris*', the principle that the best interest of the child should always prevail, is respected in practice. In some cases, the age assessment was carried out without the attendance of a translator and the guardian as the guardian was not informed about the test or the minor did not have a guardian assigned yet (R14).

The case of M. from Senegal is exemplary for how age assessment tests can be used against the interests of the minor himself. M. was identified in the port of Pozzallo as an adult while he was carrying his identity card that said he is sixteen years old. After a few days, the local *Questura* expelled him from Italy. With the help of his lawyer, M. requested for re-identification at the immigration service of the *Questura* in October. Only in December he was allowed to undergo an age assessment test, even though he could identify himself with a valid Senegalese identity card. The doctors concluded he was 18 or older, and affirmed the police identification. His lawyer appealed the decision, but M. needed to wait for months before the judge would rule on his case (R1). This case violates Italian law. A case in Ravenna in 2013 established that X-ray examinations for age assessments could not be considered reliable. Consequently, in case the UAM holds a document proving he or she is underage, the documents prevail over the medical examination (AIDA 2015b: 54).<sup>129</sup>

Subsequently, in some cases, the police authorities arbitrarily impose age assessment tests, without providing the UAMs and their legal representatives with information concerning the grounds and the implications of the test. In the case of two Malian boys, M. and F. were expelled from the *comunita per minori* as the director of the center requested an age-assessment test to the police regarding the boys. The director of the center who had the responsibility to protect their interests had accused them of violating the rules of the center. The age assessment tests were undertaken without the approval of their guardian and it was ruled that the boys were adults without any further explanation. This example illustrates arbitrary enforcement of age assessments on a local level by stakeholders, such as the director of a *comunita per minori* who had responsibility for the UAMs.

#### **6.2.4 Trauma**

Many unaccompanied minors have suffered from traumatic experiences in their home countries and often during their journey. After their arrival, they are often under a lot of stress relating to their asylum procedure

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<sup>129</sup> Court of Ravenna, case number 106, 14-11-2013

and their new environment, as was already discussed in chapter 3.3.2. In a number of emergency centers, UAMs suffer from neglect and the lack of care and recreational activities. Respondents argued that UAMs are often 'parked' in isolated temporary reception centers where they often unable to communicate with the operators because of language problems (R40, R45, R47). In many cases, UAMs received no psychosocial therapy to process the intense experiences of the past. The lack of attention, information and translation may lead to re-traumatization and depression. Respondents argued that some UAMs suffer from anxieties, depressions, nightmares, a *Posttraumatic Stress Disorder* (PTSD). NGO workers noted that vulnerable UAMs are often not reported to the local institutional in time and secondly, they stated the unaccompanied minors that suffer from serious mental distress too often stayed in the overcrowded *first phase* centers without adequate medical attendance (R40, R41, R45). Frequently local NGOs and the general practitioners of the Provincial Medical Center (ASP) report the vulnerable migrants to the institutions while the childcare services at municipal level and the employees of the reception centers responsible for the UAMs fail to intervene (R40).

Examples of UAMs suffering mental distress are the cases of a fifteen-year-old girl from Eritrea B. and an 18-year-old boy from Gambia M. Both UAMs arrived in Italy by boat from Libya in 2015 and suffered from severe mental stress already before they arrived. B. developed a psychosis after she had been gang-raped in a detention center by Libyan men for weeks. In Sicily, B. remained in the psychiatric hospital for 3 months where she would receive antipsychotics but initially lacked a translator and a guardian (R14). Secondly, M. was a psychiatric patient for a longer period and was treated with strong pharmaceutical drugs and stayed in a *comunita per minori*. After he became 18, M. was relocated from the second phase reception center to an emergency center for adults with inadequate services while his guardian stayed uninformed about his transfer. M. was unable to access a specialized center for asylum-seekers and refugees with mental pathologies afterwards (R14, R29).

### **6.3 Reception conditions in Sicily**

In *Tarakhel v Switzerland* (2014), the European Court of Human Rights (ECHR) ruled that Switzerland would breach article 3 of the EU Human Rights Convention if it would return Afghan asylum-seeking UAMs to Italy under the Dublin agreement. The Human Rights Court expressed doubts concerning the quality of the Italian reception system for asylum seekers in Italy. It observed that the Italian emergency reception centers lacked the required services for vulnerable individuals such as asylum-seeking minors and the mentally ill. The Court noted that a significant number of asylum seekers 'may be left without accommodation, or accommodated in overcrowded facilities without privacy, or even in insalubrious or violent conditions cannot be dismissed as

unfounded'.<sup>130</sup> Despite multiple attempts of the Italian government to harmonize the national reception system for migrants, there is no clear mandate established with regard to unaccompanied minors on the local level (Connect 2014: 48).

A number of Italian scholars have studied the relationships between the '*emergency discourse*' employed by Italian politicians and the increase of irregular migrants (Furia 2012, Dal Zotto 2014, Paleologo 2012, Cuttita 2012). The Italian philosopher Giorgio Agamben underlined that fundamental rights are suspended during a '*state of exception*', which lies in 'a no man's land, between public law and political facts, between public order and life' (Agamben 2003: 10). He argues that ordinary laws remain in place but are suspended because of the weakened position of these norms within the current political reality (Dal Zotto 2014: 5). In the heyday of the '*emergency*' politics, in 2011-2012 and 2014-2015, the Italian Ministry of Interior installed '*extraordinary*' governmental reception centers, the *Centro di Accoglienza Straordinaria* (CAS) in response to the high inflow of migrants. Vrenna and Biondi Val Monte (2012) argue that the 'migrant crisis' was institutionally transformed into a '*state of emergency*', and it, therefore, becomes increasingly difficult to keep control over the centers' bookkeeping and will lead to less transparency and political accountability.

IOM notes that it is concerned regarding the '*ad hoc*' centers, the CAS centers that can be activated by the local Prefecture under the so-called '*Apulia Law*'.<sup>131</sup> There exists no clear-cut regulation on how long people can be housed in these temporary centers, where scarce economic resources are allocated to the migrants and often medical and psychosocial care is lacking (IOM 2013: 6). In Italy, the reception of migrants is regularly contracted to social cooperatives who apply for contracts through public tender procedures (*bando di gara*). According to Italian law, social cooperatives running the reception centers are not allowed to make a profit. However, this appears to happen in practice under the '*emergency*' decrees.<sup>132</sup> Corruption and infiltration of local '*mafia*' families within local municipalities are common in Sicily.<sup>133</sup> It appears that there is a link between institutional corruption and the field of migration. This was recently highlighted during '*Mafia Capitale*' criminal proceedings at the Tribunal in Rome. It came to light that millions of euros reserved for the reception of migrants was

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<sup>130</sup> Point 115, of the ECtHR Judgment in *Tarakhel v. Switzerland*, application no. 29217/12, 4-11-2014.

<sup>131</sup> Law number 563/1995

<sup>132</sup> Code of Contracts article 27, Legislative Decree 165/2006.

<sup>133</sup> Espresso, 'Mafia, ecco chi comanda in Italia', 24-02-2015. Retrieved from: <http://espresso.repubblica.it/attualita/2015/02/24/news/le-mafie-che-comandano-in-italia-1.200870>

channeled away to local politicians and businessmen in Rome and at the largest reception center in Italy, the CARA at the former American Army base 'Mineo' near Catania (R13).<sup>134</sup>

Likewise, respondents underlined that social cooperatives in Sicily are making '*business*' out of the reception of migrants and channel away funds intended for services, food and pocket money for the asylum-seekers (R13, R14, R15, R27, R40, 47). The last years, many of extraordinary centers outside this tender system had been opened in Sicily and were accredited as temporary CAS centers to temporarily house migrants. Certain CAS centers remained open even though the local childcare services had opposed to the contract (R23). Private entrepreneurs such as hotel owners could easily obtain contracts to open a temporary center because for example 2000 places were immediately needed (R15, Campagni 2015: 33). A local aid worker argued: 'a cooperative of cleaners turns themselves into a team of qualified personnel working in a local reception center' (R14). Another respondent argued 'after they close a temporary center, shortly after another center from the same cooperative opens, but then under a different name (R47).

The local Prefecture appears to play a central role in assigning the contracts for opening CAS centers outside of the formal tender procedure (R29). Respondents recounted that certain social cooperatives were exempted from formal inspections by the Prefecture and were allowed to operate without having an official contract for longer periods of time (R29, R30, R47). In this way, a system of informality is created. A director of *comunita per minori* argued that she was deliberately excluded by the local municipality from the call of tender for a reception center for minors after she had refused to collude with local corrupt practices. She stated; 'all local cooperatives are bound to enter into a corrupted system' (R29). Another director of a center for asylum-seekers had an improvised bomb placed on the doorstep of his private house (R14, R15).

According to Italian law, unaccompanied minors should stay no longer than 3 months in the 'first phase' reception centers. UAMs often remain in the '*bridge facilities*' (termed CPSA or CAS) for more than a year before they were transferred to a 'second phase' center. Especially in Sicily and Lombardy, the numbers of temporary CAS centers were considerable in 2014-2015.<sup>135</sup> In addition, an overview of available places in centers for UAMs is lacking. Statistics of certain Italian regions are simply unavailable and there is no comprehensive auditing of

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<sup>134</sup> Internazionale, 'Comincia il processo a Massimo Carminati e agli altri imputati per Mafia Capitale, 04-11-2015. Retrieved from: <http://www.internazionale.it/notizie/2015/11/04/mafia-capitale-processo-carminati>

<sup>135</sup> Until 3 November 2015, Sicily hosted 7.462, while Lombardy hosted 11.995 migrants in temporary structures (Parliamentary Commission of Inquiry: 14).

the financial costs of the reception on a national level available (Defense for Children 2014: 12).<sup>136</sup> A researcher of Borderline Sicily argued: 'In Agrigento the situation is very complex, many reception centers for minors are not registered and were opened under the 'emergency' laws. In some of these centers, the Prefecture does not even have an updated list of these new temporary centers' (quoted in Campagni 2015: 32).

### **6.3.1. The reception in *prima accoglienza* centers**

The accommodation and care for unaccompanied minors are the responsibility of the Italian state and executed by the local municipalities under the supervision of the local Prefecture. In Italy, there exists no uniform procedure concerning the transfer of UAMs from emergency structures to long-term centers for UAMs (ECRE/ELENA: 51). The quality of the reception largely depends on local initiatives, the financial situation of the local municipality and on the manner in which local authorities collaborate with other 'stakeholders' involved (NOAS 2011, Save the Children 2013). The Sicilian context is currently characterized by understaffing at the municipalities, Juvenile Tribunals and the immigration offices, and the lack of sufficient places in specialized reception centers for UAMs (R14, R29, R30, and R47). Fulvio Vassallo Paleologo argued in May 2016 'the reception in the whole country is under pressure, as is the case each year'.<sup>137</sup>

According to Italian law, the Juvenile Judge and the social workers of the local childcare services are tasked with monitoring the asylum procedures of individual UAMs and the quality of the reception. After the arrival of the UAM, the local childcare institutions are assigned to draft an integration program covering education and leisure together with the minor (R27, R34, EMN 2015b: 11). According to the ENGI report, several Sicilian municipalities lacked the expertise, capacity and sufficient funds for the monitoring and follow-up of the large numbers of UAMs (ENGI 2014: 40). The problems at municipality level thus hamper the implementation of national and regional policies aimed to improve the conditions for UAMs. These dynamics reminds us of Michael Lipsky conceptualization of *street-level bureaucrats*, who are considered to be the local face of the policy implementation. The bureaucrats have a day-to-day interaction and act as a liaison to mediate and communicate with the persons on the territory. By imposing restrictions on the scope of their powers, *the street-level bureaucrat* is freed from perceived responsibility from his or her outcomes and reduces the strain on resources and objectives (Lipsky 1980: 149). The bureaucratization of the child care services within the local

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<sup>136</sup> Terre des Hommes, 'Minori Stranieri non Accompagnati: e emergenza nel Siracusano, Terre des Hommes: Accoglienza Inadeguata e Promiscuita in Violazione dei Loro Diritti – Serve una Banca Dati Nazionale.' 2014. Retrieved from: <http://terredeshommes.it/comunicati/minori-stranieri-non-accompagnati-e-emergenza-nel-siracusano-terre-des-hommes-accoglienza-inadeguata-e-promiscuita-in-violazione-dei-loro-diritti-serve-una-banca-dati-nazionale/>

<sup>137</sup> Volkskrant, 'Hotspotsysteem van de EU in Italië werkt nauwelijks', 4-06-2016. Retrieved from: <http://www.volkskrant.nl/buitenland/hotspot-systeem-van-de-eu-in-italie-werkt-nauwelijks~a4294229/>

municipalities, and the ambiguously defined roles and responsibilities between local stakeholder causes protection gaps of UAMs.

Currently, the Italian state is calling for contracts to open more *comunita per minori* and SPRAR centers for UAMs in an attempt to stop the chaotic practices in the temporary centers. However, in the Sicilian context, many temporary centers without official accreditation remained operative because of a chronic shortage of places (R14, R24). In some instances the large CAS centers are police surveillance outside of the gate (R40). In 2015 and 2016, there continued to be instances of unaccompanied minors who stayed in makeshift tents in the ports of arrival for days, without duly considering the specific needs of the minors (R32). The port of Augusta hosted migrants in the tents up to seven days in the summer of 2015, because of the lack of places for UAMs. In March 2016, approximately 40 UAMs stayed inside the port of Pozzallo, in the new 'hotspot' (the former emergency center CPSA) for more than two weeks. The minors were held in overcrowded halls together with adults and were refused to leave the terrain. Holding unaccompanied minors in a closed center for two weeks is a violation of the recent European regulation, stipulating that migrants should stay maximally 72 hours in the newly installed 'hotspots'.<sup>138</sup> Doctors without Borders withdrew from the 'hotspot' and denounced the overcrowding, degrading sanitary conditions and the lack of treatment of diseases such as scabies (Doctors without Borders 2015).

The conditions of 'first phase' centers vary greatly within Italy. Each center follows its internal rules based on regional guidelines because Italian regions are responsible for regional legislation on foster care and child protection (EMN 2015a:122). EMN notes that often it remains entirely unclear to the UAMs how long they will remain in the 'bridge facilities'. This depends on the organization in the local municipality and the number of arrivals (EMN 2015a: 120). Some UAMs are transferred within a week to a *comunita per minori* while others stay in the often-isolated emergency centers for 3 up to 14 months (R40).<sup>139</sup> There is a slow transfer to long-term reception and an unclear number of UAMs stay in CAS centers until they reach the age of 18.<sup>140</sup> Many first reception centers in Sicily are located in remote areas and are located in obsolete buildings including former hospitals, hotels, and vacant schools. Many centers are far away from villages and hence UAMs encounter difficulties to quickly integrate and to access education, health care or recreational activities. In addition, the

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<sup>138</sup> Borderline Sicilia, 'Minori a Pozzallo: da Settimane all'Interno dell'hotspot', 16-03-2016, Retrieved from: <http://siciliamigranti.blogspot.nl/2016/03/minori-pozzallo-da-settimane-allinterno.html>

<sup>139</sup> Borderline Sicilia, 'Centro di Altissima Specializzazione', Retrieved from: <http://siciliamigranti.blogspot.it/2015/10/centro-di-altissima-specializzazione.html?spref=fb>

<sup>140</sup> Terre des Hommes Press Release, 'I was thinking of staying in Libya to work, but Libya is Hell', 24-09-2014, retrieved from: <http://destination-unknown.org/wp-content/uploads/Press-Release-Syracusa-DU3.pdf>

centers often lack qualified personnel with language skills and legal employees, even though cooperatives are obliged to employ qualified personnel according to the minimum standards (R14, R27). An unaccompanied minor in Catania noted ‘all I do is sleeping, eating and waiting here...I am sick of waiting for my appointment at the asylum commission.’<sup>141</sup> Furthermore, local institutions often fail to take into account the personal circumstances of the minors when they transfer the UAMs to ‘second phase’ centers. For example, some unaccompanied minors hope to be reunited with relatives in Italy but are placed in a center in a different region far away from their relatives (R14, Connect 2014: 49).

In 2013, a large number UAMs were kept in the overcrowded CAS center ‘*Umberto Primo*’ in Syracuse, a former boarding school accredited by the local Prefecture. UAMs were placed together with adults of whom some of them mistreated them and took money and clothes from them (R14). Again in September 2015, approximately 130 Egyptian UAMs with ages varying from 12 to 16 (all arrived on the same fishing boat from Egypt), were held in the closed *Umberto Primo* center with the police surveillance outside. Local NGOs aiming to inform the minors about their rights were refused entrance. The majority of UAMs had escaped the center within a week, took the train towards Rome in order to become prey to Egyptian exploiters on the black market.<sup>142</sup> The local authorities failed to investigate their whereabouts and the grounds for their disappearance (R14). A month after, approximately 8 West-African unaccompanied minors identified as adults were placed together with 150 adults in the *Umberto Primo* center for weeks, without being able to file an asylum request or to access a lawyer.<sup>143</sup>

Another example of poor reception is the remote center ‘*Don Aureole*’ outside of the town Floridia. UAMs were held one floor up from the mental institution hosting psychiatric patients in 2014. The traumatized UAMs were frightened of the psychiatric patients while they were unable to access a guardian (R14, R23). In the center ‘*Madonnina sull’Etna*’ near Catania, female and male UAMs were put together in rooms and feared to be physically abused by the operators of the center when they would not obey to the rules (R23).

A third example of inadequate reception is the case of the ‘Green Schools’ (*Scuole Verde*) in Augusta. A run-down elementary school housed hundreds of male UAMs who had arrived in the port of Augusta in 2014. The center lacked basic facilities including sanitation and a night watch. Hundreds of UAMs were forced to sleep on dirty mattresses in the former classrooms and in doorways while at night the UAMs closed inside the center alone. Some of the UAMs had recounted they were approached by local inhabitants for sexual favors in

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<sup>141</sup> Visit to a temporary center for UAMs in Catania, 9-11-2015

<sup>142</sup> Visit at the *Umberto Primo* center, Syracuse, on 15-09-2015

<sup>143</sup> Visit at the *Umberto Primo* center, Syracuse, on 27-10-2015

exchange for food and many of them had decided to escape from the center. The local municipality of Augusta became responsible for hundreds of arriving UAMs. Meanwhile, there was no effective local administration in the town because the municipal council was being investigated by the police for collusion with the local mafia (R14, R23, and R27). Up to today, numerous UAMs are held in makeshift tents in the '*Pala Nebbiolo*' camp in Messina. UAMs are housed in tents together with adults on a terrain at risk of flooding. They are unable to access to legal aid, information, and a guardian (R23, R47).<sup>144</sup>

Moreover, in some cases, UAMs were transferred from emergency center to emergency center (from CAS to CAS or from a CPSA to a CAS center). These provisional measures constitute a serious violation of the legal maximum of 3 months (R45, R47). For example, a West-African minor stayed in the Emergency center for minors in Ragusa for ten months and was subsequently moved to the CAS for minors and families, '*la Zagara*' outside of Syracuse. In the second center, still did not have access to Italian classes or regular education, still did not go to his asylum interviews, as he had no guardian assigned to him (R40). Furthermore, there are unaccompanied minors who had reached the age of 18 before they was assigned a guardian, while they waited in the temporary centers for months (R29).

Besides that, there are also undocumented UAMs who are forced to remain shelter in informal shelters including parishes and shelters run by church organizations. They include expelled minors who were mistaken for adults, unidentified UAMs in transit, and victims of trafficking (R7). In Rome, there are informal shelters, for example, center Baobab, which hosted numerous Eritrean and Somali UAMs in transit to Northern Europe and provided them with a bed, food and medical care in 2015.<sup>145</sup> A group of four West-African minors stayed in a local parish in Syracuse for more than five months. M. and F. from Mali were thrown out from the *Community per Minori* while L. from Gambia and M. from Senegal were identified as adults and had been expelled from Italy three days after their arrival in Pozzallo. The local municipality refused to provide them with a shelter, as they were not allowed to stay in any state-funded reception center by law (R14). Related to the arbitrary identification and expulsions orders, the Italian authorities create a *blurred* system where it becomes a matter of good luck for UAMs to end up in a well-organized center, a temporary center or an informal shelter.

### **6.3.2 The reception in *Seconda Accoglienza* Centers**

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<sup>144</sup> Sicilia Border, '*Pala Nebbiolo di Messina: impronte con la forza e bugie ai vulnerabili*', 15-02-2016. Retrieved from: <http://siciliamigranti.blogspot.nl/2016/02/pala-nebiolo-di-messina-impronte-con-la.html>

<sup>145</sup> L'Espresso, '*Blitz della polizia nel centro di Baobab, modello Romano di accoglienza*', 13-10-2015. Retrieved from: <http://espresso.repubblica.it/attualita/2015/10/12/news/poca-burocrazia-e-tanta-solidarieta-cosi-roma-accoglie-i-migranti-1.233972#gallery-slider=undefined>

Most UAMs arriving in Sicily are currently placed in the newly opening ‘*Comunita per Minori*’, as was outlined in Chapter 5.4. These small reception centers are accredited by the municipality and provide UAMs with sufficient services to integrate. They need to abide by stricter standards than the temporary centers and need to have a team of qualified personnel including one social worker, four pedagogical workers, one translator, one psychologist and a supervisor.<sup>146</sup> In general, the conditions in small-scale family homes have better facilities and a smaller number of UAMs receive attention and follow-up. I have encountered a number of good examples of hospitable and well-organized *comunita per minori* and *SPRAR* centers in the province of Syracuse, where UAMs enjoyed adequate reception conditions such as to language classes, schooling, leisure activities and a guardian and pocket money.

Municipalities are often unable to finance the costs of the accommodation for UAMs because of budget deficits and frequently receive the funding of the Ministry of Labour too late (IOM 2013: 30). A large number of the social cooperatives running the family home centers (*Comunita per Minori*) consequently encounter serious financial deficits, are reimbursed only after 12 or even 18 months by the local municipality. Because of the excessive bureaucracy and payment delays, many *comunita per minori* are unable to cover their basic expenditure for UAMs and the salaries of their staff in time (R8, R13, R15, R29, and R47). The delayed money flow contributes to the deterioration of the quality of services. For example, a large part of the *comunita per minori* lack qualified staff including translators or legal advisors (R29, R32). In some centers, UAMs do not receive the pocket money and clothes they are entitled to according to regional standards.<sup>147</sup>

As was outlined before, social workers of the childcare department of the local municipality are tasked with monitoring, to carry out family tracing procedures, and to facilitate transfers and the appointment of a guardian. In a number of Sicilian municipalities, the childcare personnel is unable or unwilling to carry out these tasks because of understaffing and budget deficits. It appears there is no proper system to follow-up with the UAMs who have been transferred to reception centers in other provinces. The implementation of protection measures is weak because of childcare workers are inactive. Because the municipality is insufficiently performing its duties, the personnel of the reception centers or NGO workers such as Save the Children assume the tasks (R8, R13, and R29). In addition, respondents stated that the Presidium organizations UNHCR, IOM and Save the Children often lack sufficient personnel to cover all the migrants arriving at different ports in Sicilia (R47). Furthermore, Save the Children employees did not always sufficiently inform UAMs nor did they take effective action after they had signaled vulnerable UAMs in the port (R40). Furthermore, local NGO workers, journalists,

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<sup>146</sup> Region of Sicily Law 22/86, Presidential Decree of the Sicilian Region number 600, August 2014

<sup>147</sup> Ibid footnote 147

and human rights advocates were often refused to enter the ports of arrival and the temporary centers and *comunita per minori* for UAMs by the local Prefecture (R14, R27, and R47). Considerable discord and division between NGOs active to assist UAMs in the area could also be observed, which increasingly prevents them to cooperate with each other and advocate for better reception and treatment for UAMs.

## **6.4 Risks to well-being**

### **6.4.1 Minors who go missing**

In chapter 5.1, the numbers of UAMs absconding from reception centers were discussed. It appears that groups of UAMs refuse identification and registration at the port of arrival. Furthermore, mostly Egyptian, Somalian, and Eritrean UAMs leave the emergency reception centers within days after arrival. The decision can be motivated by wanting to transit to the north of Europe, and other reasons including inadequate housing and services in the center, debt bondage by smugglers and pressures to send money home. UAMs make themselves 'invisible' to the authorities while they want to reach their destination and meanwhile they become especially vulnerable to abuse and exploitation.

There exists no specific legislation on unaccompanied minors who go missing in Italy and it appears there are no special measures in place to combat a large number of disappearances. The exchange of information and coordination among involved actors to combat the disappearances on a national level is weak. Likewise, there are no functioning national databases on missing UAMs, which is used by all law enforcement agencies, and secondly, the communication between actors on ongoing procedures is poor. After UAMs are localized in a new location in Italy, they have to undergo the same procedures again, including the appointment of a guardian, their asylum request, and possible age assessment tests. The desire of UAMs to reach relatives in other EU countries is insufficiently recognized, as there are no active family reunification procedures either (Connect 2014: 38).

Considerable parts of the unaccompanied minors have left the first and second phase reception centers in the past years. The majority of the UAMs are undocumented and have no relatives looking out for them. Europol estimates that approximately 10,000 UAMs have gone missing in Europe in 2014-2015 and reports that a share has been victims of sexual exploitation.<sup>148</sup> GRETA, the Expert Group on Trafficking, expressed its concern on the 'alarming' numbers of UAMs who went missing and the insufficient protection against trafficking in Italy in

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<sup>148</sup> ECRE news, 'Europol estimates 10,000 underage refugee children have gone missing', 5-02-2016. Retrieved from: [ecre.org/component/content/article70-weekly-bulletin-articles/1372](http://ecre.org/component/content/article70-weekly-bulletin-articles/1372)

2015 (GRETA 2016: 38). According to the Italian ministry of Labor and Social Policies, 5.707 of the registered 10.242 UAMs went missing from January until 31 October 2015 (*Direzione Generale del Immigrazione* 2015: 12). The largest number of UAMs went missing in the Southern regions where UAMs disembark, especially in Sicily and Puglia (PUCAFREU: 5). This means that more than half of the UAMs present in Italy had left the reception centers in 2015. Save the Children estimates that a few thousand irregular minors are now living on the streets of the big cities, with more than 1.000 UAMs in Rome alone (Save the Children 2010a, NOAS 2011).

#### **6.4.2 Trafficking, sexual abuse, and exploitation**

UAMs have an increased risk of exploitation and ill-treatment compared to the majority of migrants that are male adults. Italy has positive obligations to prevent and address the trafficking of persons under the 2000 Palermo Protocol and the 2008 European Council Convention on Action against Trafficking in Human Beings.<sup>149</sup> Article 10(4) of the Palermo Protocol stipulates that as soon as a minor is identified of a trafficking victim, each Party needs to provide minors with legal presentation, a guardian and take the necessary steps to identify the child. However, GRETA has highlighted that Italy lacks neither a coherent national identification nor a referral mechanism in place for potential victims of trafficking. It suggested that Italy should develop procedures to identify potential trafficking victims in the first phase reception centers (GRETA 2015). Save the Children Italy, points out that the Italian authorities fail to properly identify victims of trafficking and that policies to fight the trafficking of children lack in Italy (R23, Save the Children 2015a). Especially Egyptian, Nigerian, Chinese, Eritrean UAMs are targets for child trafficking in Italy (Save the Children 2014). Below, three target groups for trafficking and abuse are outlined: Nigerian, Eritrean, and Egyptian UAMs.

The IOM reports that a 300 percent increase of trafficking of Nigerian women in Italy in 2015.<sup>150</sup> Trafficking of Nigerian girls and women has occurred in Italy for a long period. EASO points out that Italy and Spain appear to be the primary destinations for the transport and sexual exploitation of Nigerian women and girls by Nigerian criminal groups in collusion with local criminal groups (EASO 2015b: 35). Nigerian minors are said to be worth more than adult women on the street (R23). Frontex notes that Nigerian UAMs often carry genuine travel documents, travel on commercial vessels and pretend to be part of a Nigerian family in order to avoid suspicion (Frontex 2010). Most of the Nigerian girls are initially hosted in emergency reception centers in Sicily, before

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<sup>149</sup> UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, supplement to the UN Convention against Transnational organized crime of November 2000.

<sup>150</sup> IOM data brief 'Refugee and migrant Crisis Europe', 30 November 2015. Retrieved from: [http://www.iom.int/sites/default/files/press\\_release/file/IOM-UNICEF-Data-Brief-Refugee-and-Migrant-Crisis-in-Europe-30.11.15.pdf](http://www.iom.int/sites/default/files/press_release/file/IOM-UNICEF-Data-Brief-Refugee-and-Migrant-Crisis-in-Europe-30.11.15.pdf)[http://www.iom.int/sites/default/files/press\\_release/file/IOM-UNICEF-Data-Brief-Refugee-and-Migrant-Crisis-in-Europe-30.11.15.pdf](http://www.iom.int/sites/default/files/press_release/file/IOM-UNICEF-Data-Brief-Refugee-and-Migrant-Crisis-in-Europe-30.11.15.pdf)

they are picked up and brought to work as street prostitutes in Italian cities including Rome, Naples, and Bologna. Many Nigerian girls are trapped in the sex trade related to debt-bondage and because of fear of repercussions and because they are controlled by a Nigerian prostitute, the so-called '*Mamam*'. Many of the Nigerian girls claim to be older than 18 years old and thus are not registered as minors. The childcare institutions often fail to identify these girls as victims of trafficking and are unable to prevent them from re-entering the circuit (Save the Children 2015: 14-15).

Secondly, Eritrean minors may be subject to exploitation. A by a well-organized network of co-nationals, who are often first generation Eritrean make a profit to smuggle Eritreans to the north of Italy with illegal taxis and overpriced tickets. Especially in the 'smuggle hubs' Catania, Milan, and Rome, there exists a well-organized network of Eritrean 'smugglers' which actively exploiting the frightened Eritreans. These persons convince the newly arrived Eritreans to facilitate their journey to the north of Europe and coerce the migrants to pay high prices for bus tickets and taxis and extract high interests on the money they withdraw from money transfer companies (R36). The Eritrean smuggling industry is growing and violent intimidation practices and spying on new refugees occurs within a deeply divided Eritrean diaspora (UN Commission of Inquiry on Eritrea 2015, EASO 2015b). In some cases, Eritrean migrants including minors were held in confined spaces in Catania for days before they were smuggled to Northern Italy (R31, R36). As most Eritreans refuse to be registered, they are unable to sleep in the state-financed emergency centers and sleep on the streets or in informal shelters. Eritrean girls run the risk of being sexually abused in transit by co-nationals (R23, Save the Children 2015: 11, 19).

The largest group of arriving UAMs in Italy consists of Egyptians minors. The majority of them do not request for asylum and travel to Italy at a very young age to work and predominantly come from poor rural families. The Egyptian boys are transported by boat from Egypt by co-nationals for large sums of money. Save the Children reports that Egyptian minors are a target group for labor exploitation in Italy. The majority of Egyptian UAMs escape the reception centers in Sicily in groups and travel to Rome and Milan to meet their contact who will find them an underpaid job on the black market (Save the Children 2015: 19). The Egyptian exploiters come to pick up the often Egyptian UAMs from the reception centers and the Sicilian bus stations and facilitates their trip to Rome. They often present themselves as a relative of the minors in case they meet local NGOs (R14). A 17-year-old Egyptian boy noted 'I said "bye bye Sicily", as nobody was helping us in the centers over there....there are guys who help you with tickets. You earn only two to ten euros for a day of work, but my family has to pay back

the 2.500 euro trip to Italy.’<sup>151</sup> Generally, local authorities fail to intervene and are often unwilling or unable to prevent the young boys to end up working as cheap laborers and drug dealers on the black market (R23). The lack of financial means increases the vulnerability of these minors. Many UAMs including Sub-Saharan, Bangladeshi, and Egyptian UAMs receive pressure from their relatives to send money home or are forced to pay off their travel debts (R43). Therefore, many UAMs choose to work for ten or twenty euros a day at fruit markets, car washes, in restaurants, selling drugs on the streets, or become male sex workers (Save the Children 2015, R23).

A number of respondents noted that UAMs had been approached by Italian men near the Sicilian reception centers to perform sexual services in exchange for money, mobile phones, or clothes (R14, R37, and R47). There are indications that sexual abuse is not ruled out in the some of the reception centers for UAMs. An example of sexual abuse is the case of Don Librizzi, a local priest and a member of the asylum commission in Trapani. Don Librizzi was recently sentenced to nine years in prison for extortion and sexual abuse of migrants, including unaccompanied minors in October 2015. Reportedly, he requested sexual services of migrants, in return for a favorable treatment of their asylum application.<sup>152</sup> Furthermore, UAMs may even risk sexual abuse from their guardians. An example is a fifty-year-old schoolteacher and guardian who was a counselor in the local municipality of Augusta. He gave the UAMs he was a guardian of small presents in exchange for sexual favors (R14, R27).<sup>153</sup>

## 6.5 Conclusion

This chapter outlined the challenges unaccompanied minors encounter in the reception in Eastern Sicily. Despite the Italian efforts to harmonize the national legislation and reception of migrants, the enforcement of the protection measures for unaccompanied minors on the grassroots level is weak. It is, therefore, questionable whether the actors active in implementing European and Italian migration policies, genuinely take into account the ‘*best interests*’ of these unaccompanied minors. In practice, immigration law appears to take precedence over childcare law, and the Italian legislative framework applied to UAMs is based on childcare law designed for

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<sup>151</sup> Guardian, ‘Thousands of African child migrants feared in thrall to Italian traffickers’, 17-10-2014. Retrieved from: <http://www.theguardian.com/global-development/2014/oct/17/african-child-migrants-italian-traffickers-forced-labour-sexual-exploitation>

<sup>152</sup> Repubblica Palermo, ‘Violenza sessuale: abusi su migranti, 9 anni a don Librizzi, 30-10-2015, retrieved from: [http://palermo.repubblica.it/cronaca/2015/10/30/news/violenza\\_sessuale\\_abusi\\_su\\_migranti\\_9\\_anni\\_a\\_don\\_librizzi-126254864/](http://palermo.repubblica.it/cronaca/2015/10/30/news/violenza_sessuale_abusi_su_migranti_9_anni_a_don_librizzi-126254864/)

<sup>153</sup> Huffington Post, ‘Augusta, Insegnante di religione arrestato mentre consumava rapporti sessuali con minorenni migranti, 5-06-2015.

Italian minors. The framework does not fully correspond to the additional factors related to foreign minors such as the irregular status, language barriers, and asylum applications. A large number of UAMs are placed in large-scale *ad hoc* reception centers (*prima accoglienza*) where they wait for their asylum interview, guardian and Italian lessons for months. A number of the temporary centers are overcrowded, offer poor services and prevent UAMs from integrating into Italian society. The large groups of UAMs are often considered ‘numbers’ by the local authorities while the authorities fail to employ a case-by-case approach and to assess the vulnerability of each individual. Furthermore, a number of UAMs are still housed in temporary centers together with adults after they are wrongly identified as adults. A considerable percentage of UAMs disappear shortly after arrival in the port or reception center and risks exploitation. Frequently, their whereabouts remain unknown because there is no effective monitoring and follow-up system in place. An unknown percentage of UAMs is wrongly identified as an adult or claims to be over 17 in order to move on to Northern-European countries. Furthermore, UAMs suffer from the long delays at the Juvenile Tribunals before they are assigned a guardian. I will end this thesis in the following chapter with some concluding remarks.

## Chapter 7: Conclusion and Discussion

In 2015 when around a million migrants and asylum-seekers reached southern Europe by boat, numerous unaccompanied minors have arrived in Southern Italy. While global media in 2015 focused in particular on the arrival situation at the Aegean Sea in Greece, more than 150.000 people arrived in Sicily and Calabria that same year. This thesis focuses on the reception and challenges that unaccompanied minors encounter after their arrival in Italy. By taking an interdisciplinary approach, this thesis answered the two research questions, which were posed at the introduction of this dissertation:

1. *What policies do Europe and Italy have regarding the reception of unaccompanied minors?*
2. *What challenges do unaccompanied minors encounter in Italy?*

This case study is based on the analyses of information gathered in the literature and reports, as well as the data that was gathered during the fieldwork study in Eastern Sicily in the autumn of 2015. Semi-structured interviews were held with a broad array of 'stakeholders' including NGO workers, Italian officials, and operators working in the reception centers. Informal conversation and observations with unaccompanied minors were held in the provinces of Syracuse, Catania and Ragusa.

In part 1 of this thesis discussed the legal framework on unaccompanied minors in Europe and assessed how the reception of UAMs is organized in the different European Member States. Different case studies and NGO reports have suggested that the treatment and care of UAMs vary enormously within the European Union. An unknown number of UAMs have attempted to avoid registration in the transit countries (Greece, Italy, Western-Balkans) aiming to avoid being trapped in these countries under the Dublin system. The European policies on UAMs are far from harmonizing and in practice, EU member states often fail to comply with the existing policies concerning UAMs. The good intentions outlined in EU directives to respect the '*best interests of the child*' are often not taken into consideration and the personal needs of UAMs, for example, to reunify with relatives in another EU country are not taken into account.

Part 2 of this thesis focused on the challenges encountered by UAMs in Eastern-Sicily. The findings of this study in Sicily are in line with the previous literature and report on (asylum-seeking) unaccompanied minors in Italy. The outcomes of this research have indicated that the implementation of the immigration policies for UAMs is problematic on a local level and that the reception of migrants can be characterized by ambiguity. A large number of unaccompanied minors are 'parked' in inadequate temporary centers for months and receive

substandard care. These centers often lack the necessary medical and socio-psychological care, and educational facilities, leisure activities. A number of stakeholders indicated that unaccompanied minors have poor access to a guardian, translator and immigration lawyer. There is poor access to information on asylum procedures, while these individuals are often unaware of their special entitlements. UAMs are often unable to access protection measures and are disregarded by the local institutions responsible for them, including the municipality's childcare workers. The procedures at the Juvenile tribunal in Sicily are bureaucratic and slow, and the assignments of guardians can take months while UAMs need to be assigned a guardian within 72 hours. Therefore, many asylum-seeking UAMs file their asylum request only after months and need to wait for the interview at the Asylum Commission and their residence permit for months.

The Italian legislation on unaccompanied minors consists of a patchwork of different legal sources from a European, national and regional sources. There exists a gap between the normative framework and the concrete enforcement of policies at the local level. Furthermore, there appears to be a tendency of the Italian authorities to treat unaccompanied minors as adult migrants. The UAMs arriving in Sicily are frequently subjected to age arbitrary identification at the ports, age assessments, and expulsions without having their minor age taken into account. The long delays at the immigration services, Juvenile Tribunals, and Territorial asylum Commissions forces unaccompanied minors into a legal limbo and risks to exacerbate their vulnerable position.

The collaboration and communication between the involved state agencies are poor and the protection measures are not uniformly applied throughout Italy. Moreover, the Italian institutions struggle to meet their legal obligations and insufficiently monitor the well-being of UAMs in the reception centers. The authorities often fail to take a case-by-case approach and frequently regard unaccompanied minors as 'numbers' instead of individuals. Local authorities often do not report that the UAMs have gone missing from the centers and fail to make inquiries into the whereabouts of the missing UAMs. Consequently, UAMs are insufficiently protected against possible smugglers or traffickers and there is a heightened risk for UAMs to become victims of trafficking. Especially UAMs in transit and those who are under pressure to pay off their travel debt are at risk. Moreover, there is a lack of collaboration between stakeholders local and national level with regard to the integration the unaccompanied minors and parameters for integration of UAMs in Italy are absent.

Albanian, Egyptian and Bangladeshi UAMs are generally deemed as non-asylum seeking UAMs. Guardians and lawyers often advise them against making an asylum application and they will generally regarded as 'economic migrants'. Secondly, the asylum system seems to be the only valid option for Sub-Saharan and Middle-Eastern minors to secure a prolonged residence permit, the asylum application seems to be the only viable for accessing

a residence permit in Italy. A large number of these UAMs attempt to frustrate this system and manipulate their migration story in order to try to fall into the category of 'asylum-seeker'. This is especially true for UAMs coming from Gambia, Senegal, Guinea Conakry and Nigeria who often traveled to Italy in search for a better life and have left behind family problems and extreme poverty.

This study has provided a short overview of the local reception and treatments of UAMs and the principal challenges that UAMs encounter at one of the main gateways to Europe. The findings of this study are relevant as 2015 marked a sharp rise of unaccompanied minors and a better understanding of the implementation and protection of UAMs by local 'stakeholders' is needed. European policies increasingly push for harmonization of national asylum policies, while there are divergent and even contradictory interests at play at the national and local level. Italy currently receives the second largest number of migrants and asylum seekers after Greece, and has an interest not to abide by the European policies and procedures including the Dublin Regulation, 'hotspots' and the intervention of EU agencies including Frontex and EASO at its external borders.

Currently, EU countries are overburdened with processing asylum applications and with providing shelter thousands of asylum-seekers that have arrived in their country. Now the 'high season' of arriving migrant boats, the summer, is approaching, Italy fears to become the 'new Greece' in 2016. Italy fears to become the new 'main route' now the Balkan Route has been practically closed off after the European-Turkey deal to send back asylum-seekers to Turkey was signed in March 2016. Some actors predict that Syrian and Iraqi asylum-seekers shall attempt to travel from Egypt and Libya to Italy. Hence, it is important to gain a better understanding of the local dynamics concerning the reception of asylum-seekers and migrants in Italy in order to anticipate on future 'migrant crises'.<sup>154</sup>

The current EU immigration policies are rapidly changing, and in the recent years unaccompanied minors have sporadically appeared on the European agenda. The national politics on migrants appear to harden and the open border regime under Schengen is suspended now a number of EU Member States have re-installed border controls. The policy changes have led to fragmented travel routes and make it increasingly difficult for people, including unaccompanied minors to legally access international protection in the in destination countries. Children rights organizations advocate against the tendency of EU member states to choose immigration control over childcare law and to disregard the vulnerable position of unaccompanied minors traveling alone. In-depth

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<sup>154</sup> Repubblica, Sicilia, soccorsi mille migranti partiti dall'Egitto. Frontex: 'In Italia piu arrive che in Grecia', 13-05-2016. Retrieved from: [http://palermo.repubblica.it/cronaca/2016/05/13/news/sicilia\\_soccorsi\\_mille\\_migranti-139689812/?refresh\\_ce](http://palermo.repubblica.it/cronaca/2016/05/13/news/sicilia_soccorsi_mille_migranti-139689812/?refresh_ce)

research is needed to elucidate the negative effects of EU immigration policies on UAMs and to get a better understanding of the security risks, protection gaps and to find new ways to improve the reception and integration of UAMs. In addition, more research is needed to assess how UAMs themselves perceive the reception procedures in Italy.

Another suggestion for further research into the criminalization of unaccompanied minors in Italy. Recently, academic research has been undertaken to grasp the criminalization of undocumented migrants and the troubling convergence of immigration and criminal law, coined by Juliet Stumpf as '*crimmigration*' (2006). The Guardian already reported in 2014 that 'smugglers' have employed UAMs to conduct the migrant boats from Libya and that some of these UAMs have been arrested on smuggling charges. Sicilian lawyers had argued that more and more UAMs were being charged with offenses related to conducting the boats.<sup>155</sup> Two respondents have confirmed the occurrence of this practice and pointed out that the Italian police had accused a small number of UAMs of being a smuggler (R43, R44). Respondents noted that Gambian, Nigerian, Eritrean and Somalian UAMs were arrested quickly after disembarking in the port. Either these UAMs were forced to steer the boats or they were driving the boat in exchange for a free trip to Italy.<sup>156</sup> They were accused of 'facilitating clandestine migration' at the Juvenile Court in Catania. A number of these UAMs were allegedly sentenced to a community service or short prison sentences in juvenile prison.<sup>157</sup> Incriminating asylum seekers as 'smugglers' who themselves pay a 'smuggler' for the trip is a new and disturbing phenomenon. Despite that, there was insufficient information available to corroborate the detention of UAMs for facilitation of illegal immigration; further research is needed to investigate this development and to assess the implications of this practice on children's rights.

Lastly, it is important to draw the attention to the so-called '*invisible children*' which are unaccompanied minors in transit and UAMs who have disappeared from the reception system. Hundreds of unaccompanied minors are currently at the mercy of human smugglers and traffickers in Europe, Eastern and Northern Africa, and at the Mexican-American Border, while little is done to protect these minors effectively and to combat their invisibility. Building on the concept of Hannah Arendt; do undocumented unaccompanied minors arriving in Europe without the support of their parents and own government, 'have the right to have rights'?

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<sup>155</sup> Guardian, Luca Muzi, 'Traffickers turn to teenagers to drive migrant boats across Mediterranean, 18-11-2014. Retrieved from: [www.theguardian.com/people/trafficking-teenagers-migrants-boats-mediterranean](http://www.theguardian.com/people/trafficking-teenagers-migrants-boats-mediterranean)

<sup>156</sup> Internazionale, 'Chi sono davvero gli scafisti', 24-04-2015, retrieved from: <http://www.internazionale.it/notizie/2015/04/24/scafisti-trafficienti-chi-sono>

<sup>157</sup> Article 12 of the *Testo Unico per la Migrazione*

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## Annex 1: Stakeholder respondents

<b>Code:</b>	<b>Role:</b>	<b>Interview:</b>
R1	Guardian at Local NGO	face-to-face
R2	Journalist	face-to-face
R3	Captain at Sicilian Coastguard	face-to-face
R4	Legal advisor at Local NGO	face-to-face
R5	Translator at Local Police Unit	face-to-face
R6	Physician at <i>Azienda Sanitaria Provinciale</i>	face-to-face
R7	Priest running Informal Shelter for migrants	face-to-face
R8	Director at <i>Comunita per Minori</i>	face-to-face
R10	Translator at Local NGO	face-to-face
R11	Guardian at Local NGO	face-to-face
R12	Immigration lawyer at Local NGO	face-to-face
R13	Translator at International NGO	face-to-face
R14	Legal advisor at Local NGO	face-to-face
R15	Director at SPRAR for UAMs	face-to-face
R16	Pedagogue at <i>Comunita per Minori</i>	face-to-face
R17	Representative at International NGO	face-to-face
R18	Representative at International NGO	face-to-face
R19	Representative at UN organization	face-to-face
R20	Pedagogue at <i>Comunita per Minori</i>	face-to-face
R21	Director at Local NGO	face-to-face
R22	Member at Local Refugee Council	face-to-face
R23	Journalist	by phone
R24	Vice-Mayor at Local Municipality	face-to-face
R25	Social worker Local Municipality	face-to-face
R26	Parliamentarian at Italian <i>Camera dei Deputati</i>	by phone
R27	Social worker at Local NGO	face-to-face
R28	Local Ombudsman for children	face-to-face
R29	Director at <i>Comunita per Minori</i>	face-to-face
R30	Director at SPRAR for UAMs	face-to-face
R31	Director at First Phase reception center for UAMs	face-to-face
R32	Director at First Phase reception center for UAMs	face-to-face
R33	Representative UN organization	by phone
R34	Social worker at Local Municipality	face-to-face
R35	Tutelary Judge	face-to-face
R36	Independent Translator	face-to-face
R37	Physician at <i>Azienda Sanitaria Provinciale</i>	face-to-face
R38	Prosecutor at Local Tribunal	face-to-face
R39	Commissioner at Local Police Unit	face-to-face
R40	Representative of International NGO	face-to-face
R41	Immigration lawyer, Guardian	by phone
R42	Legal Advisor at SPRAR for UAMs	face-to-face
R43	Immigration lawyer at Local NGO	face-to-face
R44	Immigration lawyer at Local NGO	face-to-face

R45	Representative at International NGO	by phone
R46	Director at consortium of Social Cooperatives	by phone
R47	Representative at Local NGO	face-to-face

## **Annex 2: Unaccompanied minors:**

<b>Code:</b>	<b>Location:</b>	<b>Country of Origin:</b>
U1: unaccompanied minor	Syracuse	Gambia
U2: unaccompanied minor	Syracuse	Gambia
U3: unaccompanied minor	Catania	Gambia
U4: unaccompanied minor	Syracuse	Senegal
U5: unaccompanied minor	Syracuse	Nigeria