

# MISSING UNACCOMPANIED FOREIGN MINORS: WHAT ARE THE RISKS AND WHAT ARE THE SAFEGUARDS?

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## Introduction

In recent years the juvenile element of the immigration influx in European countries, has been changing gradually not only in numbers and provenance but also the category of children involved. The presence of unaccompanied foreign minors (MSNA ) is becoming even more significant as they flee from situations of war, destitution or economic hardship in search of a 'better life' in terms of security, peace, but also access to opportunities for study and work.

“Unaccompanied foreign minor” is classified: “as *the minor who arrives in the member State unaccompanied by an adult responsible for them whether by law or by practice of the member State concerned, or until the moment that the minor is actually entrusted to such a person; The term includes the minor who is abandoned after entering the territory of the Member States*” (Directive 2011/95 / EU of the European Commission 13.01.2011).

For many of these children anxiety and suffering do not cease at the moment of arrival given that for various reasons they fall into the network of criminal organisations that exploit them for illegal work, prostitution and the organ market.

Among the MSNA are those who *"disappear after identification and assignment to a host community"* ("missing ") and those *"who choose immediately to escape from the institutions of the host country to reach other destinations"* ("transit "). While these are the minors most at risk, they do not enjoy the protection usually given to other *non-migrant minors who have gone missing*. This is a clear example of denial of their rights as *"children"* as defined by the New York Convention and ratified by all European countries.

## Analysis of the European context

According to the Save the Children Report, about twenty-six thousand MSNA entered the EU in 2015. Eurostat (Statistics Office of the European Communities) reported that in 2014, the European Union (EU) received 23,075 asylum applications by unaccompanied minors, of whom 2,240 were under 14 years; both numbers are about double the previous year. Also in 2013, only 13 Member States were able to give the exact number of unaccompanied minors who had not applied for asylum (12,465).

The incomplete data about unaccompanied minors not seeking asylum, does not allow us in Europe to have a valid and complete picture of the existence of this particularly vulnerable group of foreign minors.

While the manner of receiving minors differs from country to country within the European Union, the disappearance of some of them is a transversal phenomenon occurring both in the period of initial reception a few hours after their arrival or following their being placed in a dedicated centre. EUROPOL - the European Intelligence Agency - recently reported the disappearance of at least 10 thousand unaccompanied children following their arrival in Europe.

The quantification of the phenomenon of missing unaccompanied minors remains a complex operation but some Member States have tried to understand the extent of the problem:

- In Sweden, the coastal town of Trelleborg reported in 2015 the disappearance of 1000 of the 1,900 minors who had arrived in September.
- In the UK, the Asylum Screening Unit reported that in 2010, 60% of unaccompanied minors accommodated in reception centres had totally disappeared.
- In Germany, on 1 January 2016, the Federal Criminal Police (BKA) reported that 4,749 unaccompanied minors were missing and among them 431 are under the age of 13, 4,287 are between the ages of 14 and 17 while 31 are between 17 and 18.
- The data collected by the hotlines for missing children which operate in 29 European countries via the 116 000 European Hotline (Missing Children Europe, MCE) reveal that about 1.1 % of all calls received concern the disappearance of unaccompanied foreign minors mainly aged 8 to 17 years.

Only a fraction of these vulnerable children in their search for a better life, are able to reach family members in other European countries. The rest end up in situations that are even worse than those they have left. They are victims of kidnapping, trafficking, labour and sexual exploitation, compulsory organ donation, drug dealing, smuggling and begging.

### **Focus on the situation of MSNA in Italy**

In Italy, data surveyed by the Ministry of Labour show a significant MSNA increase in recent years: as of 31 December 2015, there were 11,921 (13.1% more than in 2014). Egypt continues to be the country from which the majority of minors arrive (23%), followed by Albania (12%), Eritrea and The Gambia (10% both). The male gender strongly predominates among the minors with 81% between 16 and 17 years and 18.5% between 7 and 15.

Particularly significant is the data concerning missing children: it was reported that 6,135 left the reception structures. This growing phenomenon compared to previous years (23% in 2014), is found mainly among young Eritreans, Somalis and Egyptians and has also been confirmed by the latest February 2016 data.

In addition to the missing MSNA, there are the minors "in transit" in Italy on their way to other European countries. There is no available data for this group.

The migration route and the more or less embedded presence of the community of origin in Italy would appear to influence the percentage of the "missing" in various groups (Rome Caritas Report, 2015).

Young Albanians, who are often accompanied to Italy by an acquaintance, enter the reception centres and almost all of them end the regularisation process in a community. Eritreans are mainly "in transit."

Much more complex however is the situation of Egyptian minors in Italy. In February 2016, the Labour Ministry received indications about 2,047 Egyptian MSNA of whom 1,182 were missing. The majority came to Italy at their parents' urging with the hope of finding work and sending money home, possibly with the help of the family network and fellow countrymen already in Italy. Many of them reject the proposal for a training programme offered by the Reception Services, either due to the anticipated length of time involved and/or family pressure; so they are looking for a job and rely on fellow citizens who often use them in money-making activities. Child labour or illegal work, depending on the age, is one of the main areas of exploitation of these children.

Another possibility is access to the world of petty crime where they are subjected to various types of exploitation (sexual, manpower for illegal activities, begging, organ removal). Criminal organizations attract these children in large cities (mainly Milan and Rome) where Egyptian communities are numerous and well-established and take advantage of the regulations linked to residence permits for

minors (expulsion is forbidden). In the long run, this state of exploitation and marginalization, including access to healthcare, gradually undermines the health of these children.

### **European norms**

In recent years the MSNA phenomenon has received mounting awareness at European level. EU efforts have included the development of a special action plan "The Action Plan on Unaccompanied Minors", adopted in 2010 and finalised in 2014. It addressed the need to prevent the hazardous migration of these children and, once arrived, to ensure their protection with long-lasting interventions. The European Agenda on migration (May 2015) includes the decision of the European Commission (EC) to develop a global strategy to protect MSNA rights especially those who have disappeared. Implementation of this strategy has not yet been finalised but there have been various meetings between the EC and the main organizations dealing with these minors. Many challenges still remain vis-à-vis the development of an effective and coordinated response to the specific issue of missing unaccompanied minors.

A recent EC study "Missing Children in the European Union - mapping, data collection and statistics" (2013) - highlighted the huge inconsistency in behavioural patterns concerning the disappearance of these children:

- In Denmark, missing child migrants should be reported immediately if they are younger than 15 years, while for those over the age of 15 a waiting period of 24 hours is indicated.
- In Finland, the 24-hour waiting period before declaring the disappearance of a MSNA is valid for all age groups.
- In Slovenia, police are required to cooperate with the reception centre to determine the circumstances in which the asylum seeking minors have disappeared. However, if the children have not been found within three days, the asylum application is annulled and there is no further investigation.

Only a minority of countries report having laws or procedures for MSNA (Austria, Finland, Ireland, Romania).

In Italy there is no specific legislation for the management of MSNA, but certainly the legislative Decree of 18 August 2015, n.142, "Rules for the reception of foreign children" represents a further step forward concerning the reception and protection of MSNA in Italy.

This decree states that the paramount importance of the minor, should be the priority guideline in applying reception procedures. The child must always be listened to and account taken of the child's age and level of maturity in order to identify its past experience and assess the risk that it may have been a victim of trafficking but also to investigate the possibility of the child being reunited with family members who may be present in another EU country.

Moreover Art. 19 states that:

Operators dealing with children should receive special training and be aware that any data and information they have relating to minors is confidential.

- Guardians must have the skills needed to do their duties and perform their tasks in accordance with the minor's best interests. Individuals or organisations whose interests are at odds or even potentially at odds with those of the child cannot be appointed guardians.

Art. 20 provides for the monitoring and control of the administration of reception facilities.

## **Critical issues and proposals**

A recent study coordinated by Missing Children Europe (2015), to identify good practices and major challenges entailed in cooperation between the various stakeholders in prevention and assistance to unaccompanied minors identified four possible areas for intervening:

- prevention of the disappearance
- response of institutions to the disappearance
- approach to the missing child who has returned
- operator training.

Seven key countries took part: Belgium, Cyprus, Greece, Ireland, Italy, Spain and the United Kingdom.

The results can be summarized as follows:

### Prevention of disappearance:

An early and accurate assessment of the risk of the individual MSNA going missing at the moment of initial reception and being entrusted to the community is of the utmost importance both to prevent the removal of the minor and to activate a speedy and more appropriate response by the security forces where the child has gone missing. Specifically:

- The compilation of detailed and comprehensive information relating to the child (especially biometric data and images) is essential to guarantee the correct intervention when the child has disappeared. This compilation can be facilitated by the use of standard modules and the simplification of administrative procedures.
- The most effective interventions re forestalling the disappearance risk are those that take into account the "time" and "place" factors. Operators working at the frontiers (ports, airports, etc.) must be able to identify the minor as quickly as possible and entrust the child to the protection services.
- The guardian for the MSNA must be appointed as soon as possible after 'arrival'.
- Cooperation between the Services when there is a disappearance must be underpinned by systems that allow for easy storage and retrieval of information. The creation of personal files and the development of centralised databases are good practices that have been noted.

### The response of institutions to those missing

- The disappearance of an MSNA does not seem to have the same priority, the same urgency and the same attention as that given to non migrant citizens. The assumption that the minor has left the reception centre of his own free will is often automatic and leads to a delay or failure to set in motion the search for the minor. The assessment of the reason for the disappearance is often hasty and hampers the discovery of the child.
- The rapid reporting of the disappearance of unaccompanied minors to the police is crucial but is often hampered by cumbersome procedures, lack of human resources in reception centres and frustration due to an inadequate response from the police. Furthermore rapid reporting procedures (by telephone or email) would require a centralised data system.
- Liability relating to the disappearance of an MSNA and a clear and common division of duties between each of the parties involved is critical in ensuring an appropriate response to the child's disappearance.
- Setting up a multi-function HUB involving police, social services and anti-trafficking experts supporting the core work of the professionals has shown to greatly improve cooperation

between the services particularly regarding the sharing of information, collection of data and research mainly in trans-border research.

### Approach to the missing and re-found MSNA

It would appear that there are no official procedures in various European countries for dealing with the phenomenon of the “return” of a previously missing MSNA despite the obvious importance of this phase.

The MSNA found in specific situations who testify their involvement in criminal activities, are not always treated as victims. This has a negative impact on the welfare of a child and often puts them at risk of a “relapse”. A personal talk with a trained professional is considered the most effective way to gather the necessary information not only for the development of a proper care plan for the child but equally for investigations into criminal organisations. The fundamental rights must always be respected even, if necessary, with the presence of an independent lawyer.

### Training of Operators

Frontline operators dealing with missing children and the protection of minors must have suitable training.

This is particularly urgent today, as the growing number of unaccompanied minors arriving in Europe has required public and private organisations to recruit personnel often with little or no experience in the specific protection needs of this group of children at risk.

### **Conclusion**

In the current European political, economic and social situation, what is emerging is a progressive increase in the number of MSNA, accompanied or not, coming from countries affected by war and persecution, all with specific vulnerabilities that require targeted, impartial and inclusive administration. European policies on immigration up to now have been marked by the lack of a child-centred approach: this leads to situations in which migrant children are up against regulations, bureaucratic-administrative and socio-cultural barriers which inevitably threaten their rights and often their lives.

In 2011, the Council of Europe stated that *"a child is first and foremost just a child, and then a migrant"*. Therefore, despite awareness that all children are children regardless of their migrant status, many of them in Europe are living at high risk of poverty, exploitation, violence and social exclusion.

Among these, MSNA are particularly vulnerable especially at a time when, for whatever reason, they leave the protection systems in place in various European countries and risk becoming part of criminal circles where they are fated to be subjected to systematic violation of their basic human rights.

The protection of these children is a responsibility shared by all EU Member States, local institutions, law enforcement authorities, guardians and professionals working in the reception centres and in the running of missing children telephone lines.

Too often the lack of cooperation and coordination between these groups at national and transnational levels becomes an obstacle to achieving the common objective which is to protect the rights of these children, and defend them impartially and inclusively from the criminal acts committed against them.

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