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**EU Asylum Law for
Unaccompanied Minors**

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Abstract

This paper addresses EU asylum law for unaccompanied minors — non-EU nationals or stateless persons under the age of eighteen who arrive on the territory of a Member State unaccompanied by an adult responsible for them. Unaccompanied minors are an extremely vulnerable population that faces immense challenges both during the journey to the European Union and thereafter. They are vulnerable as children, as migrants, and because they are alone. This extreme vulnerability is only exacerbated by how unaccompanied minors are received, processed, and treated at their point of entry into the EU. While the European Union has, through legislative measures, tried to harmonize and ensure high standards of protection for unaccompanied minors across all Member States, there unfortunately exist several shortcomings in the law and how it is implemented.

This paper examines such shortcomings by evaluating EU asylum law for unaccompanied minors and its application in different Member States. Specifically, this paper explores the following deficiencies in the law and its implementation: (a) the lack of a standard mechanism for identifying unaccompanied minors, (b) ambiguity regarding the role of the representative appointed to an unaccompanied minor, (c) overly broad requirements regarding the accommodations for unaccompanied minors, and (d) the absence of a complete ban on the detention of unaccompanied minors. The paper then concludes by offering recommendations on how the European Union can attempt to address these concerns and enhance the rights and protection of unaccompanied minors.

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I. INTRODUCTION

Every day, hundreds of migrants attempt to enter the European Union, seeking a life more promising than the one they have left behind.¹ Often fleeing from war, persecution, poverty, famine, and other abject circumstances in their homeland,² many embark on a treacherous journey, risking robbery, torture, kidnapping, trafficking, and death along the way.³ And among these groups of migrants are unaccompanied minors, non-EU nationals or stateless persons under the age of eighteen who arrive on the territory of a Member State unaccompanied by an adult responsible for them.⁴ In 2013 alone, 12,430 asylum applications were filled by unaccompanied minors in the EU. In the following year, that number nearly doubled to 23,730.⁵

¹ SPANDA FOUNDATION, ON THE MOVE: UNACCOMPANIED FOREIGN MINORS IN THE EUROPEAN UNION 4-5 (2014), available at http://www.spanda.org/On_the_MoveL.pdf.

² EUROPEAN MIGRATION NETWORK, POLICIES ON RECEPTION, RETURN AND INTEGRATION ARRANGEMENTS FOR, AND NUMBERS OF, UNACCOMPANIED MINORS: AN EU COMPARATIVE STUDY (2010), available at http://emn.ie/files/p_20100716105712unaccompanied%20minors%20synthesis%20report.pdf.

³ The April 2015 migrant drownings in the Mediterranean Sea are an example of this tragic reality. See Jim Yardley, *Hundreds of Migrants Are Feared Dead as Ship Capsizes Off Libyan Coast*, N.Y. TIMES (Apr. 19, 2015), available at <http://www.nytimes.com/2015/04/20/world/europe/italy-migrants-capsized-boat-off-libya.html>; see also John Hooper, *Africa's Lone Child Migrants Face Robbery and Torture on Journey to Europe*, GUARDIAN (Apr. 18, 2015), available at <http://www.theguardian.com/world/2015/apr/18/africas-lone-child-migrants-face-robbery-and-torture-on-journey-to-europe>; Gemma Parkin, *The EU Can No Longer Stand by While Child Migrants are Drowning*, GUARDIAN (Apr. 21, 2015), available at <http://www.theguardian.com/commentisfree/2015/apr/21/eu-child-migrants-drowning-libya-trafficking> (describing the risks that unaccompanied minors face on their journey to Europe, including dehydration and malnutrition, kidnapping, detention, extortion, torture, child slavery, trafficking, physical and sexual abuse, and murder) (“We were continuously beaten up, in some cases with iron bars.” (internal quotation marks omitted)) (“[Sixty-three] of the migrants [an unaccompanied minor] was trafficked with were killed . . . [and] of these, 25 had their heads cut off.”); see also United Nations High Commissioner for Refugees, *Unaccompanied Children Look Toward School After Ordeal to Reach Europe*, UNHCR (Aug. 22, 2012), available at <http://www.unhcr.org/5034c9a69.html> (“I was smuggled from Afghanistan into Europe in a truck together with 17 other youngsters. It was horrible. Three of us died in this container.” (internal quotation marks omitted)).

⁴ Directive 2011/95/EU, of the European Parliament and of the Council of 13 December 2011 on Standards for the Qualification of Third-Country Nationals or Stateless Persons as Beneficiaries of International Protection, for a Uniform Status for Refugees or for Persons Eligible for Subsidiary Protection, and for the Content of the Protection Granted (recast), art. 2, 2011 O.J. (L 337) 9 [hereinafter Qualification Directive (2011)].

⁵ Eurostat, *Asylum Applicants Considered to be Unaccompanied Minors by Citizenship, Age and Sex: Annual Data (Rounded)*, EUROPA (last visited May 14, 2015), http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr_asyunaa&lang=en. The vast majority of unaccompanied minors seeking asylum in the EU are male (in 2013, 86% were male versus 14% who were female), and most of the applicants tend to be between the ages of sixteen and seventeen years old. The main countries of origin of unaccompanied minors are Afghanistan, Eritrea, Syria, Somalia, Gambia, and Morocco. EUROPEAN MIGRATION NETWORK, POLICIES, PRACTICES AND DATA ON UNACCOMPANIED MINORS IN THE EU MEMBER STATES AND NORWAY: SYNTHESIS REPORT 5 (2015), available at http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/docs/emn-

Unaccompanied minors face extreme vulnerability both during their journey to the European Union and thereafter. They are vulnerable as children, as migrants, and because they are alone.⁶ First, as children deprived of their family members and adult caregivers, unaccompanied minors are exposed to a greater risk of neglect, abuse, and exploitation than adults or accompanied minors.⁷ Additionally, unaccompanied minors tend to be more psychologically vulnerable, as they are more likely to experience anxiety, depression, and post-traumatic stress as a result of their past experiences in their home country, their arduous passage to the territory of a Member State, and their fears and frustrations of being in a new and foreign environment.⁸ This extreme vulnerability is only exacerbated by how unaccompanied minors are received, processed, and treated at their point of entry into the EU.⁹ While the European Union has, through legislative measures, tried to harmonize and ensure high standards of protection for unaccompanied minors across all Member States, there unfortunately exist several shortcomings in the law and how it is implemented.

This paper attempts to explore such shortcomings by evaluating EU asylum law for unaccompanied minors and its application in different Member States. First, it provides a backdrop for the discussion by explaining the methodology that was used to conduct the research for this paper, along with the methodology's limitations.¹⁰ Next, it presents an overview of the

studies/emn_study_policies_practices_and_data_on_unaccompanied_minors_in_the_eu_member_states_and_norway_synthesis_report_final_eu_2015.pdf.

⁶ Marie Diop, *Unaccompanied Minors' Rights within the European Union: Is the EU Asylum and Immigration Legislation in Line with the Convention on the Rights of the Child?* 16 (2008-2009), available at <http://www.statewatch.org/news/2010/oct/eu-unaccompanied-minors-asylum-and-immigration-legislation-Marie-Diop.pdf>.

⁷ *Id.*

⁸ *Id.*; Annamaria Enenajor, *Rethinking Vulnerability: European Asylum Policy Harmonization and Unaccompanied Asylum Seeking Minors*, 2 CHILDHOODS TODAY 5-6 (2008), available at <http://www.childhoodstoday.org/download.php?id=17>.

⁹ Enenajor, *supra* note 8.

¹⁰ *See infra* Part II.

European Union's competence in the area of asylum law and the relevant EU *acquis*.¹¹ Then, it outlines some of the deficiencies in the law with regard to unaccompanied minors and in the varying ways in which the law has been implemented in different Member States.¹² And finally, the paper concludes by suggesting recommendations on how the European Union can try to address some of these concerns.¹³

II. METHODOLOGY

To identify and evaluate some of the shortcomings in EU asylum law for unaccompanied minors and its implementation, this paper presents and analyzes data from comparative studies across Member States, as well as from national reports of fourteen EU countries: Austria, Belgium, Cyprus, France, Germany, Greece, Hungary, Ireland, Italy, Malta, the Netherlands, Poland, Sweden, and the United Kingdom. These Member States were selected due to the availability of and ease of access to data regarding their asylum law and practices concerning unaccompanied minors. Additionally, they were chosen for their collective diversity in terms of geographic location, population size, and economic size.¹⁴ Moreover, the selected EU countries

¹¹ See *infra* Part III.

¹² See *infra* Part IV.

¹³ See *infra* Part V.

¹⁴ The selected Member States represent different regions of Europe: Western Europe (Belgium, France, Germany, Ireland, the Netherlands, and the UK), Central and Eastern Europe (Austria, Germany, Hungary, and Poland), Northern Europe (Sweden), Southern Europe (Greece and Italy), and island nations in the Mediterranean Sea (Cyprus and Malta). They also vary in population size, comprising countries with: under 10 million people (Austria, Cyprus, Ireland, and Malta), 10 to 20 million people (Belgium, Hungary, the Netherlands, and Sweden), and over 20 million people (Greece, France, Germany, Italy, Poland, and the UK). Lastly, they also differ in economic size and include Member States with a Gross Domestic Product (GDP) of: under \$250 billion (Cyprus, Ireland, Greece, Hungary, and Malta), \$250 billion to \$1 trillion (Austria, Belgium, the Netherlands, Poland, and Sweden), and over \$1 trillion (France, Germany, Italy, and the UK). See *The World Factbook: Austria*, U.S. CIA (last visited Apr. 5, 2015), <https://www.cia.gov/library/publications/the-world-factbook/geos/au.html>; *The World Factbook: Belgium*, U.S. CIA (last visited Apr. 5, 2015), <https://www.cia.gov/library/publications/the-world-factbook/geos/be.html>; *The World Factbook: Cyprus*, U.S. CIA (last visited Apr. 5, 2015), <https://www.cia.gov/library/publications/the-world-factbook/geos/cy.html>; *The World Factbook: France*, U.S. CIA (last visited Apr. 5, 2015), <https://www.cia.gov/library/publications/the-world-factbook/geos/fr.html>; *The World Factbook: Germany*, U.S. CIA (last visited Apr. 5, 2015), <https://www.cia.gov/library/publications/the-world-factbook/geos/gm.html>; *The World Factbook: Greece*, U.S. CIA (last visited Apr. 5, 2015), <https://www.cia.gov/library/publications/the-world-factbook/geos/gr.html>.

include the five Member States that received the highest number of asylum applications from unaccompanied minors in the most recent year, 2014: Sweden, Germany, Italy, Austria, and the United Kingdom.¹⁵

While the data gathered from these comparative studies and national reports provide valuable insight into the topic of this paper, they are not without limitations and must thus be evaluated with several considerations in mind. First, the data have not all been drawn from each of the current twenty-eight EU countries. Second, they are based on information on only those unaccompanied minors who have applied for asylum in a Member State. And lastly, the data may be based on records that are not entirely accurate or up to date, and have been collected using methods that have not been harmonized across the European Union.¹⁶ Therefore, it is important to view the findings presented here with a critical eye and to recognize that unfortunately there are likely many more unaccompanied minors in the EU who are unaccounted for—and who face similar or even more dire challenges and circumstances than those described in this paper.

factbook/geos/gr.html; *The World Factbook: Hungary*, U.S. CIA (last visited Apr. 5, 2015), <https://www.cia.gov/library/publications/the-world-factbook/geos/hu.html>; *The World Factbook: Ireland*, U.S. CIA (last visited Apr. 5, 2015), <https://www.cia.gov/library/publications/the-world-factbook/geos/ei.html>; *The World Factbook: Italy*, U.S. CIA (last visited Apr. 5, 2015), <https://www.cia.gov/library/publications/the-world-factbook/geos/it.html>; *The World Factbook: Malta*, U.S. CIA (last visited Apr. 5, 2015), <https://www.cia.gov/library/publications/the-world-factbook/geos/mt.html>; *The World Factbook: Netherlands*, U.S. CIA (last visited Apr. 5, 2015), <https://www.cia.gov/library/publications/the-world-factbook/geos/nl.html>; *The World Factbook: Poland*, U.S. CIA (last visited Apr. 5, 2015), <https://www.cia.gov/library/publications/the-world-factbook/geos/pl.html>; *The World Factbook: Sweden*, U.S. CIA (last visited Apr. 5, 2015), <https://www.cia.gov/library/publications/the-world-factbook/geos/sw.html>; *The World Factbook: United Kingdom*, U.S. CIA (last visited Apr. 5, 2015), <https://www.cia.gov/library/publications/the-world-factbook/geos/uk.html>.

¹⁵ In 2014, Sweden received 7,050 applications from unaccompanied minors, or 29% of the total number of unaccompanied minors who applied for asylum in the EU, Germany received 4,400 or 18%, Italy received 2,505 or 10%, Austria received 1,975 or 8%, and the UK received 1,860 or 8%—collectively representing more than 70% of the total EU number. EUROPEAN MIGRATION NETWORK, *supra* note 5, at 9.

¹⁶ Amanda Levinson, *Unaccompanied Immigrant Children: A Growing Phenomenon with Few Easy Solutions*, MIGRATION POLICY INSTITUTION (Jan. 24, 2011), available at <http://www.migrationpolicy.org/article/unaccompanied-immigrant-children-growing-phenomenon-few-easy-solutions>.

III. THE EU'S COMPETENCE IN THE AREA OF ASYLUM LAW AND RELEVANT EU *AQUIS*¹⁷

Under the Treaty of Amsterdam, and subsequently further clarified under the Treaty of Lisbon, the European Union has been granted the authority to legislate and adopt asylum law.¹⁸ The EU has shared competence in the field of asylum, immigration, and external border control under the area of freedom, security, and justice.¹⁹ Currently, this is specified in Article 67 of the Treaty on the Functioning of the European Union (TFEU), which provides that the EU “shall frame a common policy on asylum, immigration and external border control, based on solidarity between Member States, which is fair towards third-country nationals.”²⁰ Furthermore, Article 78 of the TFEU calls for the EU to “develop a common policy on asylum, subsidiary protection and temporary protection with a view to offering appropriate status to any third-country national requiring international protection”²¹

Since the Treaty of Amsterdam entered into force in 1999, the European Union has been working to establish such a common policy on asylum, the Common European Asylum System

¹⁷ Since the focus of this paper is on EU asylum law, it does not delve into international asylum law, such as international treaties or United Nations conventions, or other non-EU asylum law that apply to Member States. They include the Geneva Convention, Hague Convention on the Protection of Children, United Nations Convention relating to the Status of Refugees of 1951, United Nations Convention on the Rights of the Child, and European Convention for the Protection of Human Rights and Fundamental Freedoms. (For a summary of relevant international asylum law, see EUROPEAN MIGRATION NETWORK, *supra* note 2, at 15-16.) However, it is important to note that certain EU law provisions reference and require adherence to international, non-EU law. For example, Article 78 of the Treaty on the Functioning of the European Union (TFEU) states that the European Union “shall develop a common policy on asylum, subsidiary protection and temporary protection [that] . . . must be in accordance with the Geneva Convention of 28 July 1951 and the Protocol of 31 January 1967 relating to the status of refugees, and other relevant treaties.” Consolidated Version of the Treaty on the Functioning of the European Union, art. 78, Oct. 26, 2012 [hereinafter TFEU].

¹⁸ CATHERINE BARNARD, *THE SUBSTANTIVE LAW OF THE EU: THE FOUR FREEDOMS* 538-47 (2013); EUROPEAN UNION AGENCY OF FUNDAMENTAL RIGHTS & COUNCIL OF EUROPE, *HANDBOOK ON EUROPEAN LAW RELATING TO ASYLUM, BORDERS AND IMMIGRATION* 18-19 (2014), available at http://fra.europa.eu/sites/default/files/handbook-law-asylum-migration-borders-2nded_en.pdf.

¹⁹ *Id.*

²⁰ TFEU art. 67.

²¹ Article 78 of the TFEU replaced Article 63 of the Treaty establishing the European Community (TEC), which had provided for the adoption of “minimum standards” rather than a “common policy” or system as provided in Article 78 of the TFEU. *Cf. id.* art. 78, with Consolidated Version of Treaty establishing the European Community, art. 63, Dec. 29, 2006 [hereinafter TEC].

(CEAS).²² The CEAS aims to harmonize asylum law in the EU by creating common standards of protection for asylum seekers across all Member States.²³ To date, the CEAS has been implemented in three phases: Phase One, Phase Two, and Phase Three.

During Phase One of the CEAS, which spanned from 1999 to 2004 under the Tampere Program,²⁴ the European Union adopted a series of important asylum legislation, notably: (1) the Asylum Procedures Directive, (2) the Reception Conditions Directive, (3) the Qualification Directive, and (4) the Dublin Regulation.²⁵ First, the Asylum Procedures Directive set out rules on the process of claiming asylum, including on how asylum seekers could apply for asylum, how their applications would be examined, what assistance they would be provided, and how they could appeal a decision.²⁶ Second, the Reception Conditions Directive addressed an asylum seekers' access to reception conditions while awaiting the examination of their claim. The directive ensured that asylum seekers would have an adequate standard of living, including access to food, housing, healthcare, and education for minors.²⁷ Third, the Qualification Directive laid out the grounds for granting international protection to asylum seekers, such as their being subject to persecution or serious harm in their home country, and the content of

²² European Commission, Directorate-General Migration and Home Affairs, *Common European Asylum System*, EUROPA (last update Feb. 4, 2015), available at http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/asylum/index_en.htm.

²³ CIARA SMYTH, EUROPEAN ASYLUM LAW AND THE RIGHTS OF THE CHILD 9 (2014); SAMANTHA VELLUTI, REFORMING THE COMMON EUROPEAN ASYLUM SYSTEM: LEGISLATIVE DEVELOPMENTS AND JUDICIAL ACTIVISM OF THE EUROPEAN COURTS xi (2014).

²⁴ Elizabeth Collette, *The European Union's Stockholm Program: Less Ambition on Immigration and Asylum, But More Detailed Plans*, MIGRATION POLICY INSTITUTE (Jan. 12, 2010), <http://www.migrationpolicy.org/article/european-unions-stockholm-program-less-ambition-immigration-and-asylum-more-detailed-plans>.

²⁵ VELLUTI, *supra* note 23, at 17-18.

²⁶ Council Directive 2005/85/EC of 1 December 2005 on Minimum Standards on Procedures in Member States for Granting and Withdrawing Refugee Status, 2005 O.J. (L 326) 13 [hereinafter Asylum Procedures Directive (2005)]; see also EUROPEAN COMMISSION, A COMMON EUROPEAN ASYLUM SYSTEM (2014), available at http://ec.europa.eu/dgs/home-affairs/e-library/docs/ceas-fact-sheets/ceas_factsheet_en.pdf.

²⁷ Council Directive 2003/9/EC of 27 January 2003 Laying Down Minimum Standards for the Reception of Asylum Seekers, 2003 O.J. (L 31) 18 [hereinafter Reception Conditions Directive (2003)]; see also EUROPEAN COMMISSION, *supra* note 26.

protection to be granted.²⁸ And finally, the Dublin Regulation specified the criteria and mechanism for determining which Member State would be responsible for examining an application for asylum.²⁹ For example, for unaccompanied minors, the Member State responsible was to be where a family member was legally present, or in the absence of a family member, the Member State where they had lodged their application.³⁰

While the Phase One legislative measures led to improvements in standards in some Member States, they were generally characterized by vague rules, discretionary provisions, and derogations permitting Member States to preserve their own national rules, even ones that were below the agreed upon minimum standards.³¹ Moreover, the EU's adopted minimum standards consisted of the lowest common denominator between Member States at the time.³² The high level of discretion left to Member States and the low level of harmonization sought during Phase One led to diverse national practices in terms of asylum procedures, reception, and qualification standards.³³ Subsequently, the CEAS instruments were recast during Phase Two (2005-2009/2010/2012/2013³⁴) and Phase Three (2010-2014), under the Hague Program and Stockholm Program, respectively.³⁵

During this time, the four main CEAS legislative measures were amended to include

²⁸ Council Directive 2004/83/EC of 29 April 2004 on Minimum Standards for the Qualification and Status of Third-Country Nationals of Stateless Persons as Refugees or Persons Who Otherwise Need International Protection and the Content of the Protection Granted, 2004 O.J. (L 304) 12 [hereinafter Qualification Directive (2004)]; *see also* EUROPEAN COMMISSION, *supra* note 26.

²⁹ Council Regulation (EC) No 343/2003 of 18 February 2003 Establishing the Criteria and Mechanisms for Determining the Member State Responsible for Examining an Asylum Application Lodged in One of the Member States by a Third-Country National, 2003 O.J. (L 50) 1 [hereinafter Dublin Regulation].

³⁰ *Id.* art. 6.

³¹ SMYTH, *supra* note 23, at 10, 12.

³² *Id.* The EU's choice of common *minimum* standards rather than a higher level of harmonization was in accordance with Article 63 of the TEC. *See supra* note 21.

³³ SMYTH, *supra* note 23, at 10-12.

³⁴ Phase Two's deadline was repeatedly postponed, as the drafting and adoption of proposed recasts of CEAS instruments were delayed, leading to an overlap in time between Phase Two and Phase Three. *Id.* at 14.

³⁵ Collette, *supra* note 24.

changes aimed at ensuring a stronger level of protection for asylum seekers.³⁶ Rather than establish merely minimum standards, the European Union attempted to create common high-quality standards of protection across all Member States.³⁷ First, the Asylum Procedures Directive was amended to provide for more fair and expedient asylum decisions.³⁸ For example, now under the recast directive, due to be transposed by July 2015, asylum seekers in need of special procedural guarantees are entitled to receive adequate support to explain their claim, and unaccompanied minors are to be appointed a representative with the necessary expertise to represent and assist them.³⁹ Second, the Reception Conditions Directive was amended to ensure a dignified standard of living for all asylum seekers. The recast directive, due to be transposed by July 2015, now also includes detailed rules regarding the detention of asylum seekers, such as restrictions on the detention of unaccompanied minors.⁴⁰ Third, the Qualification Directive was amended to clarify the grounds for granting international protection to asylum seekers, thereby improving the efficiency of the asylum process and the prevention of fraud.⁴¹ The recast directive, which became applicable in December 2013, now also provides greater access to rights and integration measures for beneficiaries of international protection.⁴² And finally, the Dublin

³⁶ VELLUTI, *supra* note 23. Ireland and the UK (along with Denmark) are not bound by all of the recast CEAS instruments, including the recast Asylum Procedures Directive, recast Reception Conditions Directive, and recast Qualification Directive, but data from Ireland and the UK have been included in this paper for purposes of comparing asylum practices across the EU.

³⁷ EUROPEAN COMMISSION, *supra* note 26. This change in approach was in accordance with Article 78 of the TFEU, which had replaced Article 63 of the TEC. *See supra* note 21.

³⁸ Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on Common Procedures for Granting and Withdrawing International Protections (recast), 2013 O.J. (L 180) 60 [hereinafter Asylum Procedures Directive (2013)].

³⁹ European Commission, Directorate-General Migration and Home Affairs, *supra* note 22; EUROPEAN COMMISSION, *supra* note 26.

⁴⁰ Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 on Laying Down Standards for the Reception of Applicants for International Protection (recast), 2013 O.J. (L 180) 96 [hereinafter Reception Conditions Directive (2013)]; *see also* European Commission, Directorate-General Migration and Home Affairs, *supra* note 22; EUROPEAN COMMISSION, *supra* note 26.

⁴¹ Qualification Directive (2011), *supra* note 4; *see also* European Commission, Directorate-General Migration and Home Affairs, *supra* note 22; EUROPEAN COMMISSION, *supra* note 26.

⁴² European Commission, Directorate-General Migration and Home Affairs, *supra* note 22; EUROPEAN COMMISSION, *supra* note 26.

Regulation was amended to strengthen the protection of asylum seekers during the process determining the Member State responsible for examining their application.⁴³ For instance, the most recent version of the regulation, the Dublin III Regulation, which entered into force in July 2013,⁴⁴ ensures asylum seekers the right to appeal a transfer decision and provides additional guarantees for minors, including a detailed description of how Member States should assess the best interests of a child.⁴⁵

IV. SHORTCOMINGS IN THE LAW AND IN ITS IMPLEMENTATION

The foregoing changes brought on by the recast CEAS instruments constitute progress and reflect the EU's intent to bolster its asylum law. However, several shortcomings remain, both with respect to the law's provisions concerning unaccompanied minors and how the law is being implemented in practice. They include (a) the lack of a standard mechanism for identifying unaccompanied minors, (b) ambiguity regarding the role of the representative appointed to an unaccompanied minor, (c) overly broad requirements regarding the accommodations for unaccompanied minors, and (d) the absence of a complete ban on the detention of unaccompanied minors.

A. Lack of a Standard Mechanism for Identifying Unaccompanied Minors

First, EU asylum law does not provide a standard mechanism for identifying unaccompanied minors. None of the CEAS instruments require that a particular method be used

⁴³ European Commission, Directorate-General Migration and Home Affairs, *supra* note 22; EUROPEAN COMMISSION, *supra* note 26.

⁴⁴ Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 Establishing the Criteria and Mechanisms for Determining the Member State Responsible for Examining an Application for International Protection Lodged in One of the Member States by a Third-Country National or a Stateless Person (recast), 2013 O.J. (L 180) 31[hereinafter Dublin III Regulation].

⁴⁵ The assessment of a child's best interests must take into account the following factors: family reunification possibilities, the minor's well-being and social development, safety and security considerations, and the views of the minor in accordance with his age and maturity. Dublin III Regulation, *supra* note 44, art. 6.

by Member States to determine the age of, and thus confirm the status of, unaccompanied minors.⁴⁶ And while Article 25 of the recast Asylum Procedures Directive provides that Member States *may* use medical examinations to determine the age of unaccompanied minors, it does not mandate its use or that of any other type of age assessment.⁴⁷ Consequently, when the age of a young asylum seeker is in question, Member States take varying approaches to assess the applicant's age—if at all. Austria, Belgium, Cyprus, Hungary, Italy, the Netherlands, Poland, and Sweden use medical examinations, including X-ray, computed tomography (CT), or magnetic resonance tomography (MRT) examinations of bones; dental examinations; and physical development assessments or general medical examinations by a pediatrician.⁴⁸ In contrast, in Ireland, only non-medical methods are relied upon. Social workers conduct interviews with the asylum seeker, often through an interpreter, and determine the applicant's age based on such factors as his articulateness and emotional development.⁴⁹ Meanwhile in France, Germany, Greece, Malta, and the United Kingdom, a combination of medical and non-medical methods are

⁴⁶ See, e.g., Asylum Procedures Directive (2013), *supra* note 38; Dublin III Regulation, *supra* note 44; Qualification Directive (2011), *supra* note 4; Reception Conditions Directive (2013), *supra* note 40.

⁴⁷ Asylum Procedures Directive (2013), *supra* note 38, art. 25.

⁴⁸ STEVEN AMMERAAL ET AL., ASYLUM INFORMATION DATABASE COUNTRY REPORT: NETHERLANDS 33-34 (2015), available at http://www.asylumineurope.org/sites/default/files/report-download/aida_-_netherlands_thirdupdate_final.pdf; MARIA DE DONATO, ASYLUM INFORMATION DATABASE COUNTRY REPORT: ITALY 44-45 (2015), available at http://www.asylumineurope.org/sites/default/files/report-download/aida_italy_thirdupdate_final_0.pdf; CORINA DROUSIOTOU ET AL., ASYLUM INFORMATION DATABASE COUNTRY REPORT: CYPRUS 40 (2015), available at http://www.asylumineurope.org/sites/default/files/report-download/aida_cyprus_first_update_february_2015_final.pdf; GEORGE JOSEPH, ASYLUM INFORMATION DATABASE COUNTRY REPORT: SWEDEN 30-32 (2015), available at http://www.asylumineurope.org/sites/default/files/report-download/aida_sweden_second_update_final.pdf; ANNY KNAPP, ASYLUM INFORMATION DATABASE COUNTRY REPORT: AUSTRIA 51 (2014), available at http://www.asylumineurope.org/sites/default/files/report-download/aida_-_austria_thirdupdate_final.pdf; MARTA PARDAVI ET AL., ASYLUM INFORMATION DATABASE COUNTRY REPORT: HUNGARY 34-35 (2015), available at http://www.asylumineurope.org/sites/default/files/report-download/aida_-_hungary_thirdupdate_final_february_2015.pdf; KAROLINA RUSILOWICZ ET AL., ASYLUM INFORMATION DATABASE COUNTRY REPORT: POLAND 34-35 (2015), available at http://www.asylumineurope.org/sites/default/files/report-download/aida_poland_third_update_final_clean-1.pdf; RUBEN WISSING, ASYLUM INFORMATION DATABASE COUNTRY REPORT: BELGIUM 50 (2015), available at http://www.asylumineurope.org/sites/default/files/report-download/aida_-_belgium_thirdupdate_final.pdf.

⁴⁹ MARIA HENNESSY, ASYLUM INFORMATION DATABASE COUNTRY REPORT: IRELAND 46 (2015), available at http://www.asylumineurope.org/sites/default/files/report-download/aida_-_ireland_thirdupdate_final_0.pdf.

used, usually with both medical personnel and social workers being involved in the process.⁵⁰ Following an age assessment, if the results of the examinations prove to be inconclusive, some Member States, such as Hungary and Italy, tend to give asylum seekers the benefit of the doubt and identify them as unaccompanied minors.⁵¹ But others, such as France and Ireland, do not.⁵²

The lack of a standard mechanism for identifying unaccompanied minors in the EU is problematic, for it leaves the issue entirely to the discretion of Member States. They are thus permitted to abstain from implementing any mechanism or to choose a method that may not be the most reliable. For instance, many Member States use solely medical examinations to assess the age of young asylum seekers.⁵³ However, medical examinations are quite controversial and have been found to entail a considerable margin of error.⁵⁴ Therefore, the absence of a standard identification mechanism poses a risk to unaccompanied minors, for it could potentially lead to an incorrect age determination that could render them ineligible for the specific rights and protection afforded only to unaccompanied minors.

B. Ambiguity Regarding the Role of the Appointed Representative

Second, EU asylum law is unclear regarding the role of the representative appointed to an unaccompanied minor. The original Asylum Procedures Directive mandated that an unaccompanied minor be appointed a “representative” without adequately defining the term. And

⁵⁰ ADITUS FOUNDATION & JESUIT REFUGEE SERVICE (MALTA), ASYLUM INFORMATION DATABASE COUNTRY REPORT: MALTA 34 (2015), *available at* http://www.asylumineurope.org/sites/default/files/report-download/aida_-_malta_thirdupdate_final.pdf; GINA CLAYTON, ASYLUM INFORMATION DATABASE COUNTRY REPORT: UNITED KINGDOM 45-46 (2014), *available at* http://www.asylumineurope.org/sites/default/files/report-download/aida_-_uk_thirdupdate_final.pdf; MICHAEL KALKMANN, ASYLUM INFORMATION DATABASE COUNTRY REPORT: GERMANY 47 (2015), *available at* http://www.asylumineurope.org/sites/default/files/report-download/aida_-_germany_thirdupdate_final.pdf; SPYROS KOULOCHERIS ET AL., ASYLUM INFORMATION DATABASE COUNTRY REPORT: GREECE 60 (2015), *available at* http://www.asylumineurope.org/sites/default/files/report-download/aida_-_greece_final.pdf; CLAIRE SALIGNAT & VERONIQUE PLANES-BOISSAC, ASYLUM INFORMATION DATABASE COUNTRY REPORT: FRANCE 48-49 (2015), *available at* http://www.asylumineurope.org/sites/default/files/report-download/aida_france_thirdupdate_final.pdf.

⁵¹ DE DONATO, *supra* note 48, at 44-45; PARDAVI ET AL., *supra* note 48, at 34-35.

⁵² HENNESSY, *supra* note 49, at 46; SALIGNAT & PLANES-BOISSAC, *supra* note 50, at 48-49.

⁵³ *See supra* note 48 and accompanying text.

⁵⁴ KOULOCHERIS ET AL., *supra* note 50, at 60.

the original Reception Conditions Directive, while not explicitly using the word “representative,” similarly required that an unaccompanied minor be appointed “representation . . . by legal guardianship or, where necessary, representation by an organization which is responsible for the care and well-being of minors, or by any other appropriate representation.”⁵⁵ Such language led to ambiguity regarding the exact role of an appointed representative: Was a representative a *legal representative* tasked with representing an unaccompanied minor in a legal capacity? Or was he a *guardian* tasked with ensuring the child’s well-being? Or both?

The recast Asylum Procedures Directive and the recast Reception Conditions Directive, both due to be transposed by July 2015, provide some but insufficient clarity on the matter. They both mandate the appointment of a “representative” to any unaccompanied minor and define “representative” as “a person or an organisation appointed by the competent bodies in order to assist and represent an unaccompanied minor in procedures provided for in this Directive with a view to ensuring the best interests of the child *and* exercising legal capacity for the minor where necessary.”⁵⁶ Moreover, all four of the major CEAS instruments, including the recast Qualification Directive and the Dublin III Regulation, now state that a representative must be appointed to an unaccompanied minor “to represent *and* assist the child” with respect to his rights, obligations, and procedures provided for in each of the legislative measures.⁵⁷ Thus, it appears that under the recast instruments, an appointed representative is responsible for fulfilling a dual role, both legally representing an unaccompanied minor and ensuring the child’s best interests.

⁵⁵ The original Asylum Procedures Directive defined “representative” as “a legal guardian,” a person “responsible for the care and well-being of minors,” or “any other appropriate representat[ive] appointed to ensure [the child’s] best interest.” Asylum Procedures Directive (2005), *supra* note 26.

⁵⁶ Asylum Procedures Directive (2013), *supra* note 38, art. 25; Reception Conditions Directive (2013), *supra* note 40, art. 24 (emphasis added).

⁵⁷ Asylum Procedures Directive (2013), *supra* note 38, art. 25; Dublin III Regulation, *supra* note 44, art. 6; Qualification Directive (2011), *supra* note 4, art. 31; Reception Conditions Directive (2013), *supra* note 40, art. 24 (emphasis added).

While a small minority of Member States currently appoint representatives that meet this new enhanced definition of “representative,” many other Member States fail to do so. For example, in Belgium, Cyprus, Hungary, Italy, and the Netherlands, a representative must assume full responsibility of an unaccompanied minor, ensuring both the child’s legal representation and his well-being, including his accommodation, necessary care, and schooling.⁵⁸ But in Austria, France, Ireland, Poland, Sweden, and the United Kingdom, a representative is appointed only to legally represent and assist an unaccompanied minor in his asylum procedures; he is not responsible for managing the child’s welfare.⁵⁹ Meanwhile, in Germany and Malta, the role of the representative is unclear,⁶⁰ and in Greece, unaccompanied minors are often deprived of a representative altogether due to a “completely dysfunctional” appointment system.⁶¹

What is more, in many Member States, including Austria, Germany, Italy, Malta, Poland, and Sweden, there are no specific qualification requirements for representatives, such as specific training in asylum law or expertise in children’s welfare.⁶² In fact, in Poland, due to a lack of trained representatives, NGO staff and students of legal clinics at universities are appointed to represent unaccompanied minors.⁶³ And although training is made available to representatives in

⁵⁸ AMMERAAL ET AL., *supra* note 48, at 33-34; DE DONATO, *supra* note 48, at 44-46; DROUSIOTOU ET AL., *supra* note 48, at 41; PARDAVI ET AL., *supra* note 48, at 34-36; WISSING, *supra* note 48, at 50.

⁵⁹ EMN SWEDEN, POLICIES ON RECEPTION, RETURN AND INTEGRATION ARRANGEMENTS FOR, AND NUMBERS OF, UNACCOMPANIED MINORS IN SWEDEN 26 (2009), *available at* http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/docs/emn-studies/unaccompanied-minors/26._sweden_national_report_on_unaccompanied_minors_version_16june09_en.pdf; HENNESSY, *supra* note LLL, at 46-47; KNAPP, *supra* note 48; LINDA RICE & SARA POPPLETON, POLICIES ON RECEPTION, RETURN, AND INTEGRATION ARRANGEMENTS FOR, AND NUMBERS OF, UNACCOMPANIED MINORS—UK REPORT FOR AN EU COMPARATIVE STUDY 31 (2009), *available at* http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/docs/emn-studies/unaccompanied-minors/27._united_kingdom_national_report_on_unaccompanied_minors_final_version_16mar10_en.pdf; RUSILOWICZ ET AL., *supra* note 48, at 35-36; SALIGNAT & PLANES-BOISSAC, *supra* note 50, at 48-49.

⁶⁰ ADITUS FOUNDATION & JESUIT REFUGEE SERVICE (MALTA), *supra* note 50, at 34-35; KALKMANN, *supra* note 50, at 47-48.

⁶¹ KOULOCHERIS ET AL., *supra* note 50, at 61.

⁶² ADITUS FOUNDATION & JESUIT REFUGEE SERVICE (MALTA), *supra* note 50, at 34-35; DE DONATO, *supra* note 48, at 44-46; JOSEPH, *supra* note 48, at 32; KALKMANN, *supra* note 50, at 47-48; KNAPP, *supra* note 48, at 51; RUSILOWICZ ET AL., *supra* note 48, at 35-36.

⁶³ RUSILOWICZ ET AL., *supra* note 48, at 35-36.

some Member States, such as Italy, Sweden, and the United Kingdom, it is strictly voluntary.⁶⁴

This poor practice of appointing representatives without any required training has been permitted in the past because the original CEAS instruments did not specify a qualification requirement for representatives. However, Article 25 of the recast Asylum Procedures Directive, Article 24 of the recast Reception Conditions Directive, and Article 6 of the Dublin III Regulation now require representatives to have the necessary expertise to ensure that the best interests of the child are taken into consideration.⁶⁵ This new qualification requirement is a much-needed amendment to EU asylum law. Unfortunately, however, the recast legislative measures do not specify the type of expertise needed by the representatives—whether it be expertise in asylum law, children’s welfare, or both. Moreover, the CEAS instruments still fail to adequately define the duties of a representative in his capacity as both a legal representative and a guardian. Thus, ambiguity remains regarding the role of the representative appointed to unaccompanied minors.

C. Overly Broad Requirements Regarding Accommodations for

Unaccompanied Minors

Additionally, EU asylum law includes overly broad requirements regarding the accommodations for unaccompanied minors. Article 24 of the recast Reception Conditions Directive and Article 31 of the recast Qualification Directive ensure that unaccompanied minors are placed in one of the following types of accommodations: with adult relatives, with a foster family, in a center or facility for minors, or in any “other accommodation suitable for minors.”⁶⁶ Moreover, unaccompanied minors aged sixteen or over may be placed in accommodation centers

⁶⁴ DE DONATO, *supra* note 48, at 44-46; JOSEPH, *supra* note 48, at 32; RICE & POPPLETON, *supra* note 59, at 31.

⁶⁵ Asylum Procedures Directive (2013), *supra* note 38, art. 25; Reception Conditions Directive (2013), *supra* note 40, art. 24; Dublin III Regulation, *supra* note 44 art. 6.

⁶⁶ Asylum Procedures Directive (2013), *supra* note 38, art. 24; Reception Conditions Directive (2013), *supra* note 40, art. 31.

for adults.⁶⁷ Such over-inclusive provisions—especially the authorization to place unaccompanied minors in any “other accommodation suitable for minors”—grant Member States much discretion in the type of accommodation they can provide to unaccompanied minors. This leads to varying practices in different Member States. For example, Austria, Hungary, and Malta place unaccompanied minors only in reception facilities.⁶⁸ In contrast, Cyprus, France, Germany, Ireland, Italy, Poland, and the United Kingdom place unaccompanied minors in reception facilities or with foster families.⁶⁹ Meanwhile, Belgium, Greece, the Netherlands, and Sweden make use of the many options available under EU asylum law, placing children with adult relatives, with foster families, or in reception facilities.⁷⁰

⁶⁷ Asylum Procedures Directive (2013), *supra* note 38, art. 24; Reception Conditions Directive (2013), *supra* note 40, art. 31.

⁶⁸ SASKIA KOPPENBERG, UNACCOMPANIED MINORS IN AUSTRIA: LEGISLATION, PRACTICES AND STATISTICS 53 (2014), *available at* http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/docs/emn-studies/01a_austria_policies_practices_data_on_unaccompanied_minors_study_en_version.pdf; EMN HUNGARY, POLICIES, PRACTICES, AND DATA ON UNACCOMPANIED MINORS IN 2014 (HUNGARY) 20 (2014), *available at* http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/docs/emn-studies/unaccompanied-minors/13a_hungary_unaccompanied_minors_en.pdf; EMN MALTA, UNACCOMPANIED MINORS IN MALTA: THEIR NUMBERS AND THE POLICIES AND ARRANGEMENTS FOR THEIR RECEPTION, RETURN, AND INTEGRATION 22 (2009), *available at* http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/docs/emn-studies/unaccompanied-minors/18_malta_national_report_on_unaccompanied_minors_final_version_8dec09_en.pdf.

⁶⁹ EMN CYPRUS, POLICIES, PRACTICES AND DATA ON UNACCOMPANIED MINORS IN 2014 (CYPRUS) 29-30 (2014), *available at* http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/docs/emn-studies/05a.cyprus_unaccompanied_minors_en_version.pdf; EMN FRANCE, POLICIES, PRACTICES, AND DATA ON UNACCOMPANIED MINORS IN 2014 (FRANCE) 24 (2014), *available at* http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/docs/emn-studies/unaccompanied-minors/10a_france_uams_study_english_version_final.pdf; EMN ITALY, POLICIES, PRACTICES, AND DATA ON UNACCOMPANIED MINORS IN 2014 (ITALIAN CASE) 21-24 (2014), *available at* http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/docs/emn-studies/15_italy_unaccompanied_minors_en_version.pdf; EMN POLAND, POLICIES ON RECEPTION, RETURN AND INTEGRATION ARRANGEMENTS FOR, AND NUMBERS OF, UNACCOMPANIED MINORS IN POLAND 22-23 (2009), *available at* http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/docs/emn-studies/unaccompanied-minors/20_poland_national_report_on_unaccompanied_minors_final_version23nov09_en.pdf; EUROPEAN MIGRATION NETWORK, *supra* note 5, at 37; ANDREAS MULLER, UNACCOMPANIED MINORS IN GERMANY: FOCUS-STUDY BY THE GERMAN NATIONAL CONTACT POINT FOR THE EUROPEAN MIGRATION NETWORK (EMN) 38 (2014), *available at* http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/docs/emn-studies/11a.germany_unaccompanied_minors_en_version.pdf; EMMA QUINN ET AL., POLICIES AND PRACTICES IN IRELAND 45-47 (2014), *available at* http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/docs/emn-studies/unaccompanied-minors/ireland_national_report_uams_en.pdf; RICE & POPPLETON, *supra* note 58, at 28.

⁷⁰ EMN BELGIUM, POLICIES, PRACTICES, AND DATA ON UNACCOMPANIED MINORS IN BELGIUM: 2014 UPDATE 33 (2014), *available at* http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/docs/emn-studies/02.belgium_unaccompanied_minors_en_version.pdf; EMN NETHERLANDS, POLICIES,

It is likely that this wide range in the types of accommodations provided to unaccompanied minors results in varying levels in the support and protection unaccompanied minors receive in the EU. For instance, those placed with adult relatives or foster families may benefit from greater individualized care and supervision since they are in a more intimate and personal setting. And in fact, in a study conducted in ten Member States—Austria, Belgium, the Czech Republic, France, Hungary, Italy, the Netherlands, Slovakia, Slovenia, and the UK—children reported a preference for being placed with a foster family over being placed in a reception facility or any other type of accommodation.⁷¹ Furthermore, reception facilities in many Member States are notorious for their lack of oversight and poor security, which have led to frequent disappearances and kidnappings of children.⁷² Thus, placing unaccompanied minors with adult relatives or foster families, as opposed to in reception facilities, may be in the best interest of most children, and therefore should generally be given preference in all Member States. While not every Member State may have the resources to make this possible, EU asylum law should take the foregoing considerations into account.

D. Absence of a Complete Ban on the Detention of Unaccompanied Minors

Lastly, EU asylum law suffers from the absence of a complete ban on the detention of unaccompanied minors. Article 11 of the recast Reception Conditions Directive states:

PRACTICES, AND DATA ON UNACCOMPANIED MINORS IN 2014 (NETHERLANDS) 27-30 (2014), *available at* http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/docs/emn-studies/20a_netherlands_uam_study_final_english.pdf; EMN SWEDEN, *supra* note 58, at 23-25; MARIA DANIELLE MAROUDA ET AL., POLICIES, PRACTICES, AND DATA ON UNACCOMPANIED MINORS IN 2014 (GREECE) 23-24 (2014), *available at* http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/docs/emn-studies/unaccompanied-minors/greece_national_report_uams_en.pdf; EUROPEAN MIGRATION NETWORK, *supra* note 5, at 37.

⁷¹ BLANKA HANCILOVA & BERNADETTE KNAUDER, UNACCOMPANIED MINOR ASYLUM-SEEKERS: OVERVIEW OF PROTECTION, ASSISTANCE AND PROMISING PRACTICES 9, 47 (2011), *available at* http://iom.hu/PDF/Unaccompanied_Minors_Aylum-seekers_Overview_of_Protection_Assistance_and_Promising_Practices.pdf.

⁷² See Levinson, *supra* note 16.

Minors shall be detained only as a measure of last resort and after it having been established that other less coercive alternative measures cannot be applied effectively. Such detention shall be for the shortest period of time and all efforts shall be made to release the detained minors and place them in accommodations suitable for minors. The minor's best interests . . . shall be a primary consideration for Member States.⁷³

Article 11 then further provides that unaccompanied minors must be detained in only “exceptional circumstances,” must never be detained in prison accommodations, and must be accommodated separately from adults.⁷⁴ While such restrictions on when and where unaccompanied minors can be detained offer much-needed safeguards, it is nevertheless troublesome that unaccompanied minors can be detained at all. Research has shown that the detention of a minor, an unaccompanied minor in particular, can have severe negative consequences on the child's psychosocial and physical stability.⁷⁵ Thus, even if EU asylum law permits the detention of unaccompanied minors in only exceptional circumstances, it could still lead to tremendous harm, and thus should be avoided at all costs.

Moreover, the grounds for and frequency of detention of unaccompanied minors vary widely across Member States. In Malta, the detention of unaccompanied minors is prohibited by a national policy document.⁷⁶ And in Belgium, Cyprus, France, Hungary, Ireland, Italy, and Poland, national laws have been enacted to prohibit the detention of unaccompanied minors seeking asylum—although in practice, some children have still been detained.⁷⁷ Meanwhile, the practice in Austria, Germany, the Netherlands, Sweden, and the United Kingdom is in line with the recast Reception Conditions Directive; the aforementioned Member States permit the

⁷³ Reception Conditions Directive (2013), *supra* note 40, art. 11.

⁷⁴ *Id.*

⁷⁵ Asylum Information Database, MIND THE GAP: AN NGO PERSPECTIVE ON CHALLENGES TO ACCESSING PROTECTION IN THE COMMON EUROPEAN ASYLUM SYSTEM: ANNUAL REPORT 2013/2014 (2014); available at http://www.asylumineurope.org/sites/default/files/shadow-reports/aida_annual_report_2013-2014_0.pdf.

⁷⁶ ADITUS FOUNDATION & JESUIT REFUGEE SERVICE (MALTA), *supra* note 50, at 48-49.

⁷⁷ DE DONATO, *supra* note 48, at 44-46; DROUSIOTOU ET AL., *supra* note 48, at 60, 63; HENNESSY, *supra* note 49, at 71; PARDAVI ET AL., *supra* note 48, at 56; SALIGNAT & PLANES-BOISSAC, *supra* note 50, at 76-77; WISSING, *supra* note 48, at 73, 75.

detention of unaccompanied minors but in only exceptional circumstances.⁷⁸ And in Greece, unaccompanied minors are to be detained only until they can be placed in a reception facility for minors. However, due to the extreme shortage of space available in reception facilities, unaccompanied minors are systematically detained for months and in the same facilities as adults.⁷⁹

Even if the detention of unaccompanied minors in a Member State is rare and allowed in only exceptional circumstances, given the particular vulnerability of these children, the practice should not be permitted in any manner. Thus, EU asylum law should be amended to ensure that all Member States ban the detention of unaccompanied minors, without any exceptions or permissible derogations, for its potential harm is far too great to justify.

V. RECOMMENDATIONS

This paper has identified some of the shortcomings of EU asylum law for unaccompanied minors, namely: (a) the lack of a standard mechanism for identifying unaccompanied minors, (b) ambiguity regarding the role of the representative appointed to an unaccompanied minor, (c) overly broad requirements regarding the accommodations for unaccompanied minors, and (d) the absence of a complete ban on the detention of unaccompanied minors.

To address these concerns, the European Union should, first, establish a standard mechanism for identifying unaccompanied minors—one that comprises the most reliable method of determining a person's age, likely a non-medical procedure, and that gives asylum seekers the benefit of the doubt when the results of such an assessment are inconclusive. Second, the EU should provide further clarity regarding the role of the representative appointed to an

⁷⁸ AMMERAAL ET AL., *supra* note 48, at 54, 56; CLAYTON, *supra* note 50, at 70-71; JOSEPH, *supra* note 48, at 46; KALKMANN, *supra* note 50, at 68; KNAPP, *supra* note 48, at 71, 74.

⁷⁹ KOULOCHERIS ET AL., *supra* note 50, at 79, 82, 84.

unaccompanied minor. It should more clearly explain the representative's particular duties as a legal representative and a guardian, and should specify the type of expertise the representative must possess—whether it be expertise in asylum law, children's welfare, or both. Next, the EU should take into account the preferences and best interests of unaccompanied minors with respect to their assigned accommodations. The currently over-inclusive requirements regarding accommodations for unaccompanied minors should be narrowed by favoring the placement of children with adult relatives and foster families over their placement in reception facilities, and by restricting the catch-all option of any "other accommodation suitable for minors." Lastly, the EU should establish a complete ban on the detention of unaccompanied minors across all Member States, and strictly enforce the prohibition, for even permitting detention in only exceptional circumstances threatens the safety and well-being of these most vulnerable children.

Implementing the aforementioned changes would likely help address the shortcomings discussed in this paper and lead to higher standards of protection for unaccompanied minors. They would also improve the harmonization of asylum law across all Member States, bringing the EU closer toward realizing the "common policy on asylum"—a truly common CEAS—as envisioned by Article 78 of the TFEU.⁸⁰ Moreover, not just EU asylum law but EU law in general would greatly benefit from some of these practices. For example, the European Union should invariably draft and adopt legislative measures that clearly define relevant terms and delineate in detail new rules and requirements. The EU should also refrain from including exceptions and permitting derogations that will essentially nullify the law. And finally, once a legal instrument is entered into force, the EU should be more vigilant about enforcing its compliance by all Member States—especially when it concerns the protection and welfare of vulnerable persons such as unaccompanied minors.

⁸⁰ See *supra* note 21 and accompanying text.

VI. CONCLUSION

This paper explored a few of the major shortcomings of EU asylum law for unaccompanied minors and proposed some ideas on how the European Union could address them going forward. However, a more comprehensive analysis—one evaluating asylum law and practices of all twenty-eight Member States—is needed to provide a fuller picture of the legal landscape and to identify other deficiencies that likely warrant attention. Nevertheless, it is important to recognize that the EU is at least headed in the right direction. While changes to EU asylum law have been happening gradually and in piecemeal, and while there is still much room for improvement, throughout the successive phases of the CEAS, the European Union has demonstrated a commitment to amending the law in order to enhance the rights and protection of unaccompanied minors.

VII. APPENDIX

Table 1: Mechanism for Identifying Unaccompanied Minors

Member State	Mechanism for Identifying Unaccompanied Minors (UAMs)
Austria	In the case of doubt regarding an asylum seeker’s age, authorities may order a medical examination, including a general medical examination, an X-ray examination of the wrist, and a dental examination. ⁱ
Belgium	If a public authority responsible for migration and asylum has doubt regarding an asylum seeker’s age, a medical age assessment can be ordered. A margin of error of 2 years is taken into account. ⁱⁱ
Cyprus	Cypriot law allows for age assessments, but there is no required identification mechanism. If there is doubt regarding an asylum seeker’s age, the officer examining the asylum application usually gives the applicant the benefit of the doubt and examines the application as that of a minor. But in a few cases, a medical age assessment has been used. ⁱⁱⁱ
France	There have been local initiatives in France to impose a common age assessment procedure, but currently, there is no French law that provides for an identification mechanism for UAMs. In practice, age assessments are conducted and vary between France’s départements. Some place an emphasis on civil status documentation, while others conduct a social evaluation and may proceed to a bone examination. In the event that an evaluation cannot establish an asylum seeker’s exact age, he is seldom given the benefit of the doubt. ^{iv}
Germany	There is no German law that provides for an identification mechanism for UAMs, but age assessments may be conducted by both youth welfare officers and the federal police. The majority of age assessments is based on the physical appearance of and on an interview with the asylum seeker. In some Federal States of Germany, the age assessment is based on medical examinations, such as X-ray, computed tomography (CT), or Magnetic Resonance Tomography (MRT) examinations of bones. ^v
Greece	Greek law provides for an identification mechanism for UAMs. In first reception facilities, in cases where there is doubt regarding an asylum seeker’s age, an age assessment is to be conducted. First, the assessment is based on the physical appearance of the asylum seeker (e.g., height, weight, body mass index, and hair growth) and a clinical examination from a pediatrician. If the asylum seeker’s age still cannot be adequately determined, a psychosocial evaluation is completed by a psychologist and

	social worker, assessing his cognitive, behavioral, and psychological development. If a pediatrician is not available or if the interdisciplinary staff cannot reach a firm determination, as a last resort, the asylum seeker will be referred to a public hospital for medical examinations, such as an X-ray of the wrist or a dental examination. ^{vi}
Hungary	There is no Hungarian law that provides for an identification mechanism for UAMs, but if there is doubt regarding an asylum seeker's age, an age assessment may be conducted by an asylum officer. The asylum seeker or his representative must consent to the assessment. The primary methods used are the observation of physical appearance (e.g., height, weight, sexual maturity, etc.) and medical examinations, such as an X-ray of the wrist or collarbone or a dental examination. The Office of Immigration and Nationality (OIN) does not use psychosocial evaluations. An age assessment opinion typically provides an interval of at least 2 years rather than an exact age, and in cases of uncertainty, the asylum seeker is usually given the benefit of the doubt. The police have recently created a protocol to provide uniform standards on age assessment procedures. This protocol is not yet public or binding, but it has been reported that the protocol excludes psychosocial evaluations. ^{vii}
Ireland	Irish law provides for an identification mechanism for UAMs in the case of doubt regarding an asylum seeker's age. The age assessment is based on non-medical methods. The child is interviewed by two social workers and often an interpreter by phone. The interview includes questions about the child's family, education, his age when he traveled to Ireland, etc. The social workers assess the child's age based on such factors as his articulateness and emotional development. In the event that an age assessment cannot establish an asylum seeker's exact age, he is seldom given the benefit of the doubt. ^{viii}
Italy	Italian law allows for age assessments, subject to the consent of the unaccompanied minor or his representative. An age assessment must be based on non-invasive medical examinations, with priority given to those carried out by specialized personnel in public health facilities with pediatric departments. However, medical examinations, especially X-ray examinations, are not considered entirely reliable. Thus, in cases of uncertainty over the results of medical examinations, the asylum seeker is given the benefit of the doubt. In practice, age assessments are often conducted by non-specialized personnel and through X-ray examinations. ^{ix}
Malta	In the case of doubt regarding an asylum seeker's age, Maltese law requires that an age assessment be conducted. The age assessment begins with an initial interview with the unaccompanied minor by a member of the Agency for the Welfare of Asylum Seekers. If the interview is inconclusive, a second interview is conducted by an Age Assessment Team. If there is still uncertainty, a Further Age Verification test is conducted, which essentially consists of an X-ray examination of the wrist. ^x
Netherlands	Dutch law provides for an identification mechanism for UAMs in the case of doubt regarding an asylum seeker's age. In most cases, the age assessment is based on X-ray

	examinations of the clavicle, hand, and wrist conducted by radiologists. ^{xi}
Poland	Polish law provides for an identification mechanism for UAMs in the case of doubt regarding an asylum seeker’s age. If the consent of the unaccompanied minor or his representative is not obtained, he is automatically considered an adult. The age assessment must be based on one of the following methods: X-ray examinations of the wrist, dental examinations, or general medical examinations, with the first method being the most common. The results of the medical examinations should include information about the acceptable margin of error. ^{xii}
Sweden	In the case of doubt regarding an asylum seeker’s age, authorities may order an age assessment. Previously, this consisted of solely medical examinations using either skeletal or dental evidence. However, a judgment by the Migration Court of Appeal has held that a more holistic approach is necessary in which all factors are evaluated by a pediatric specialist. The Migration Agency has developed a model for age assessments that includes medical examinations and an assessment by a pediatric expert. However, in practice, few counties in Sweden have been able to follow this comprehensive approach. ^{xiii}
United Kingdom	In the case of doubt regarding an asylum seeker’s age, the UK’s Home Office may request an age assessment. The assessment must be conducted by appropriately trained and qualified social workers. Guidelines provided by local authorities, and endorsed by the courts, call for a holistic approach to age determination that takes into account the child’s demeanor, life experiences, educational history, and his social, cultural, and family background. Medical evidence of the child’s age is also treated as relevant but not determinative. ^{xiv}

Table 2: The Role of the Appointed Representative

Member State	The Role of the Appointed Representative
Austria	Once an unaccompanied minor applies for asylum, he is appointed a legal representative. The representative must be present at interviews organized by the Federal Agency for Immigration and Asylum and hearings at the Federal Administrative Court. During the UAM’s admissibility procedure, the legal advisers, who are contracted by the Ministry of the Interior, act as legal representatives of the unaccompanied minor. These legal advisers, however, are only responsible for the asylum procedure and do not have whole custody of the child. Furthermore, they are not required to have special expertise in children. ^{xv}
Belgium	Once an asylum seeker is identified as being underage, he is appointed a guardian, or “tutor.” The tutor represents the UAM in all asylum and other legal procedures and is also responsible for ensuring that all necessary steps are taken during the child’s stay in Belgium. The tutor must arrange for the UAM’s accommodation and ensure that he receives the necessary medical and psychological care, attend school, etc. ^{xvi}
Cyprus	Cyprus’s Social Welfare Services is required to provide guardianship as well as legal representation to UAMs. An officer from the Social Welfare Services usually carries out both the role of guardian and of representative. A guardian is responsible for the overall well-being of an unaccompanied minor, including his accommodation, school arrangements, and access to healthcare. A representative is responsible for representing and assisting an unaccompanied minor during the examination of his asylum application. Officers from the Social Welfare Services do not have any knowledge of or receive training in legal or asylum issues. ^{xvii}
France	If an unaccompanied minor has not already been appointed a guardian by a guardianship judge before placement in care, the UAM is appointed a legal representative, or “ad hoc administrator.” The ad hoc administrator represents the UAM in only administrative and judicial procedures related to an asylum claim, and is not responsible for ensuring the child’s welfare. Moreover, the ad hoc administrator is not required to have any specific training in asylum procedures. ^{xviii}
Germany	UAMs are appointed a guardian by the youth welfare office, but the role of the guardian has been described as being unclear. In the Federal State of Hesse, guardians can ask a court to appoint a legal representative to the UAM if they are not competent to represent the child in the asylum procedure, but this practice has not been established in other Federal States. Furthermore, guardians often do not have specific knowledge of asylum laws and are too overburdened to adequately support UAMs. ^{xix}

<p>Greece</p>	<p>In principle, each UAM is to be appointed a guardian by a public prosecutor, and the guardian is to represent the child in any legal act or proceeding. However, in practice, such an appointment is often delayed or never made because prosecutors in Greece are under-resourced and overworked. Thus, the mechanism in place for appointing guardians for UAMs has been described as “completely dysfunctional,” and the procedures followed to ensure the representation and protection of UAMs are at the discretion of the prosecutors and depend largely on the supporting services (e.g., NGOs and social services) available to them.^{xx}</p>
<p>Hungary</p>	<p>UAMs are appointed a guardian by the Guardianship Authority. The guardian is responsible for both legally representing the child and ensuring his overall care. The law provides that the appointment of the guardian is to be done “without delay,” but in practice, the appointment may be delayed up to 3 months, which results in lengthy asylum procedures. Additionally, while guardians are typically local attorneys, they are not required to be, and are generally not, trained in asylum law or foreign language skills, which could lead to ineffective representation. And in some cases, the guardian is a social worker working at the childcare institution where the UAM has been placed.^{xxi}</p>
<p>Ireland</p>	<p>UAMs are appointed a representative, or guardian <i>ad litem</i>. The guardian <i>ad litem</i> is responsible for legally representing the child, while a separately appointed social worker is responsible for the child’s welfare, including his health, psychological, social, and educational needs.^{xxii}</p>
<p>Italy</p>	<p>UAMs are appointed a legal guardian by a Judge for guardianship, or “Giudice tutelare.” The legal guardian is responsible for both assisting the child during the asylum procedures and for ensuring his protection and well-being. Guardianship is typically granted to individuals who provide social assistance or other services for the municipality, but it may also be granted to “volunteer guardians” who have received special training. However, there is no requirement that legal guardians be trained or possess expertise in asylum law.^{xxiii}</p>
<p>Malta</p>	<p>UAMs are appointed a legal guardian who is a staff member of the Agency for the Welfare of Asylum Seekers and who is usually a social worker. The legal guardian is not independent from public authorities and tends to be responsible for a large number of unaccompanied minors. He is responsible for informing the child about his status determination interview and attending the interview with the child, but advice regarding the asylum procedure is provided by NGOs upon referral by the legal guardian. There are no qualification requirements for legal guardians.^{xxiv}</p>
<p>Netherlands</p>	<p>UAMs are appointed a guardian by the juvenile court. The guardian, or “youth protector,” is a qualified and trained professional working for Nidos, an independent guardianship and supervision agency. The youth protector is responsible for both the child’s legal advocacy and his well-being and care.^{xxv}</p>

<p>Poland</p>	<p>UAMs are appointed a guardian, or “kurator,” by the district custodial court. The kurator is appointed only for the purpose of the asylum procedures. There are no qualification requirements for guardians. Due to a shortage of trained guardians, NGO staff and students of legal clinics at universities can be appointed as guardians.^{xxvi}</p>
<p>Sweden</p>	<p>Once an unaccompanied minor applies for asylum, he is appointed a legal representative, or guardian <i>ad litem</i>. The guardian <i>ad litem</i> is responsible for looking after the child’s rights and for deciding all matters related to his personal, financial, and legal affairs, but the guardian <i>ad litem</i> is not responsible for managing the child’s care and supervision.^{xxvii} Legal representatives must be persons of high moral character and are not required to have any formal education or expertise in asylum law. However, legal representatives are increasingly being offered basic training courses.^{xxviii}</p>
<p>United Kingdom</p>	<p>UAMs are appointed a legal representative, or guardian <i>ad litem</i>. The guardian <i>ad litem</i> is responsible for both assisting an unaccompanied minor during the asylum procedures and ensuring that the UK’s Home Office is fulfilling its duty to safeguard the welfare of the child. The guardian <i>ad litem</i> himself is not tasked with managing the child’s welfare. Training is available to legal representatives but is not required.^{xxix}</p>

Table 3: Accommodations for Unaccompanied Minors

Member State	Accommodations for Unaccompanied Minors (UAMs)
Austria	UAMs are placed in a reception facility. ^{xxx} The types of facilities include apartment-sharing groups, residential homes, or supervised accommodation, with the first type being the most common. ^{xxx1}
Belgium	UAMs are placed with adult relatives, with a foster family, or in a reception facility. ^{xxxii} UAMs are almost always cared for in a special ward for unaccompanied minors, which is located within larger reception centers but are mostly separated from the living facilities for adults. ^{xxxiii}
Cyprus	UAMs are placed with a foster family or in a reception facility run by the government or an NGO. ^{xxxiv}
France	UAMs are placed with a foster family or in a reception facility. UAMs between the ages of 16 and 18 may be accommodated in a hostel for young workers or a shared apartment. ^{xxxv}
Germany	UAMs are placed with a foster family or in a reception facility. Reception facilities provide intensive socio-educational and individual care tailored specifically to the needs of children. ^{xxxvi}
Greece	UAMs are placed with adult relatives, a foster family, or in a reception facility. ^{xxxvii} Greek reception facilities for UAMs are currently suffering from insufficient funding, which has led to challenges in long-term planning and understaffing. Additionally, a wide discrepancy exists in the treatment UAMs receive in different reception centers, depending on their location. For example, those located in major cities tend to have easier access to services. ^{xxxviii}
Hungary	UAMs are placed in a reception facility designated to accommodate minors. However, in the case of doubt regarding the age of an asylum applicant, he is treated as an adult and accommodated in an adult reception facility or detention center until his minority status is confirmed. ^{xxxix}
Ireland	UAMs are placed with a foster family or in a reception facility. UAMs under the age of 12 are immediately placed with a foster family. ^{xl}

Italy	UAMs are placed with a foster family or in a reception facility. Facilities have varying reception standards and much depends on the flow of UAM arrivals at a given time. ^{xi}
Malta	UAMs are placed in a reception facility. Some who need special attention are placed in Osanna Pia, a church-run hostel. ^{xlii}
Netherlands	UAMs are placed with adult relatives, with a foster family, or in a reception facility. UAMs under the age of 13, as well as vulnerable older children, are placed with a foster family. UAMs aged 13 or over are placed in a reception facility. UAMs with behavioral or psychological needs may be placed in an institution. ^{xliii}
Poland	UAMs are placed with a foster family or in a reception facility. Facilities may be an intervention-type care center or an educational-care center. ^{xliv}
Sweden	UAMs are placed with adult relatives, a foster family, or in a reception facility. ^{xlv}
United Kingdom	UAMs are placed with a foster family, in a residential home, or in a supported local authority accommodation. Most UAMs under the age of 16 are placed with a foster family, and most UAMs aged 16 or over are placed in a semi-independent living arrangement. ^{xlvi}

Table 4: Detention of Unaccompanied Minors

Member State	Detention of Unaccompanied Minors (UAMs)
Austria	UAMs may be and are detained in practice, although rarely. They are separated from adults in the detention center, but are often kept alone in their cell, which can have a detrimental psychological impact. ^{xlvi}
Belgium	In principle, the detention of UAMs is prohibited by Belgian law. However, in practice, UAMs are detained, although rarely. In cases where the UAM’s age is in doubt, the UAM may be detained for the time necessary to assess his age through a medical examination—no longer than 3 to 6 days. But this time limit is often not respected. ^{xlvi}
Cyprus	In principle, the detention of UAMs is prohibited by Cypriot law. However, in practice, UAMs are detained, although rarely. In some cases where UAMs have been arrested or convicted of a criminal offense, they have been detained as “prohibited immigrants.” ^{xlvi}
France	Under French law, asylum seekers cannot be detained for the purpose of the asylum procedure; they can be placed in administrative detention centers only for the purpose of removal. In principle, UAMs in France cannot be returned, only transferred, and therefore they cannot be detained. However, in practice, UAMs have been found in administrative detention centers, though rarely. ⁱ
Germany	UAMs may be and are detained in practice, although rarely. ^{li}
Greece	In principle, while Greek law does not prohibit the detention of UAMs, it enjoins authorities to avoid it. Unaccompanied minors are only to be detained until they can be placed in a reception facility for minors. However, in practice, due to the extreme lack of space available in reception facilities, UAMs are systematically detained for months and in the same detention facilities as adults. ^{lii}
Hungary	In principle, the detention of UAMs is prohibited by Hungarian law. However, in practice, UAMs have been detained due to incorrect age assessments. ^{liii}
Ireland	The detention of UAMs is prohibited by Irish law. ^{liv}
Italy	In principle, the detention of UAMs is prohibited by Italian law. However, in practice, UAMs have been detained due to incorrect age assessments. ^{lv}

Malta	In principle, the detention of UAMs is prohibited in Malta by a national policy document. However, in practice, UAMs are frequently detained, such as when it is not readily apparent that they are minors. ^{lvi}
Netherlands	UAMs may be and are detained in practice, although rarely. ^{lvii}
Poland	In principle, the detention of UAMs is prohibited by Polish law. However, in practice, UAMs have been detained in cases of doubt regarding their age. ^{lviii}
Sweden	UAMs may be and are detained in practice, although rarely. ^{lix}
United Kingdom	UAMs may be and are detained in practice, although rarely. ^{lx}

ⁱ ANNY KNAPP, ASYLUM INFORMATION DATABASE COUNTRY REPORT: AUSTRIA 51 (2014), *available at* http://www.asylumineurope.org/sites/default/files/report-download/aida_-_austria_thirdupdate_final.pdf.

ⁱⁱ RUBEN WISSING, ASYLUM INFORMATION DATABASE COUNTRY REPORT: BELGIUM 50 (2015), *available at* http://www.asylumineurope.org/sites/default/files/report-download/aida_-_belgium_thirdupdate_final.pdf.

ⁱⁱⁱ CORINA DROUSIOTOU ET AL., ASYLUM INFORMATION DATABASE COUNTRY REPORT: CYPRUS 40 (2015), *available at* http://www.asylumineurope.org/sites/default/files/report-download/aida_cyprus_first_update_february_2015_final.pdf.

^{iv} CLAIRE SALIGNAT & VERONIQUE PLANES-BOISSAC, ASYLUM INFORMATION DATABASE COUNTRY REPORT: FRANCE 48-49 (2015), *available at* http://www.asylumineurope.org/sites/default/files/report-download/aida_france_third_update_final.pdf.

^v MICHAEL KALKMANN, ASYLUM INFORMATION DATABASE COUNTRY REPORT: GERMANY 47 (2015), *available at* http://www.asylumineurope.org/sites/default/files/report-download/aida_-_germany_thirdupdate_final.pdf.

^{vi} SPYROS KOULOCHERIS ET AL., ASYLUM INFORMATION DATABASE COUNTRY REPORT: GREECE 60 (2015), *available at* http://www.asylumineurope.org/sites/default/files/report-download/aida_-_greece_final.pdf.

^{vii} MARTA PARDAVI ET AL., ASYLUM INFORMATION DATABASE COUNTRY REPORT: HUNGARY 34-35 (2015), *available at* http://www.asylumineurope.org/sites/default/files/report-download/aida_-_hungary_thirdupdate_final_february_2015.pdf.

^{viii} MARIA HENNESSY, ASYLUM INFORMATION DATABASE COUNTRY REPORT: IRELAND 46 (2015), *available at* http://www.asylumineurope.org/sites/default/files/report-download/aida_-_ireland_thirdupdate_final_0.pdf.

^{ix} MARIA DE DONATO, ASYLUM INFORMATION DATABASE COUNTRY REPORT: ITALY 44-45 (2015), *available at* http://www.asylumineurope.org/sites/default/files/report-download/aida_italy_thirdupdate_final_0.pdf.

^x ADITUS FOUNDATION & JESUIT REFUGEE SERVICE (MALTA), ASYLUM INFORMATION DATABASE COUNTRY REPORT: MALTA 34 (2015), *available at* http://www.asylumineurope.org/sites/default/files/report-download/aida_-_malta_thirdupdate_final.pdf.

^{xi} STEVEN AMMERAAL ET AL., ASYLUM INFORMATION DATABASE COUNTRY REPORT: NETHERLANDS 33-34 (2015), *available at* http://www.asylumineurope.org/sites/default/files/report-download/aida_-_netherlands_thirdupdate_final.pdf.

^{xii} KAROLINA RUSILOWICZ ET AL., ASYLUM INFORMATION DATABASE COUNTRY REPORT: POLAND 34-35 (2015), *available at* http://www.asylumineurope.org/sites/default/files/report-download/aida_poland_third_update_final_clean-1.pdf.

- ^{xiii} GEORGE JOSEPH, ASYLUM INFORMATION DATABASE COUNTRY REPORT: SWEDEN 30-32 (2015), *available at* http://www.asylumineurope.org/sites/default/files/report-download/aida_sweden_second_update_final.pdf.
- ^{xiv} GINA CLAYTON, ASYLUM INFORMATION DATABASE COUNTRY REPORT: UNITED KINGDOM 45-46 (2014), *available at* http://www.asylumineurope.org/sites/default/files/report-download/aida_-_uk_thirdupdate_final.pdf.
- ^{xv} KNAPP, *supra* note i, at 51.
- ^{xvi} WISSING, *supra* note ii, 50.
- ^{xvii} DROUSIOTOU ET AL., *supra* note iii, at 41.
- ^{xviii} SALIGNAT & PLANES-BOISSAC, *supra* note iv, at 48-49.
- ^{xix} KALKMANN, *supra* note v, at 47-48.
- ^{xx} KOULOCHERIS ET AL., *supra* note vi, at 61; MAROUDA ET AL., POLICIES, PRACTICES, AND DATA ON UNACCOMPANIED MINORS IN 2014 (GREECE) 14 (2015), *available at* http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/docs/emn-studies/unaccompanied-minors/greece_national_report_uams_en.pdf.
- ^{xxi} PARDAVI ET AL., *supra* note vii, at 34-36.
- ^{xxii} HENNESSY, *supra* note viii, at 46-47; EMMA QUINN ET AL., POLICIES AND PRACTICES IN IRELAND 34 (2014), *available at* http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/docs/emn-studies/unaccompanied-minors/ireland_national_report_uams_en.pdf.
- ^{xxiii} DE DONATO, *supra* note ix, at 44-46.
- ^{xxiv} ADITUS FOUNDATION & JESUIT REFUGEE SERVICE (MALTA), *supra* note x, at 34-35.
- ^{xxv} AMMERAAL ET AL., *supra* note xi, at 33-34.
- ^{xxvi} RUSILOWICZ ET AL., *supra* note xii, at 35-36.
- ^{xxvii} EMN SWEDEN, POLICIES ON RECEPTION, RETURN AND INTEGRATION ARRANGEMENTS FOR, AND NUMBERS OF, UNACCOMPANIED MINORS IN SWEDEN 26 (2009), *available at* http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/docs/emn-studies/unaccompanied-minors/26_sweden_national_report_on_unaccompanied_minors_version_16june09_en.pdf.
- ^{xxviii} JOSEPH, *supra* note xiii, at 32.
- ^{xxix} LINDA RICE & SARA POPPLETON, POLICIES ON RECEPTION, RETURN, AND INTEGRATION ARRANGEMENTS FOR, AND NUMBERS OF, UNACCOMPANIED MINORS—UK REPORT FOR AN EU COMPARATIVE STUDY 31 (2009), *available at* http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/docs/emn-studies/unaccompanied-minors/27_united_kingdom_national_report_on_unaccompanied_minors_final_version_16mar10_en.pdf.
- ^{xxx} EUROPEAN MIGRATION NETWORK, POLICIES, PRACTICES AND DATA ON UNACCOMPANIED MINORS IN THE EU MEMBER STATES AND NORWAY: ANNEXES TO THE SYNTHESIS REPORT 37 (2015), *available at* http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/docs/emn-studies/emn_study_policies_practices_and_data_on_unaccompanied_minors_in_the_eu_member_states_and_norway_annexes_to_the_synthesis_report_eu_2015.pdf.
- ^{xxxi} SASKIA KOPPENBERG, UNACCOMPANIED MINORS IN AUSTRIA: LEGISLATION, PRACTICES AND STATISTICS 53 (2014), *available at* http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/docs/emn-studies/01a_austria_policies_practices_data_on_unaccompanied_minors_study_en_version.pdf.
- ^{xxxii} EUROPEAN MIGRATION NETWORK, *supra* note xxx, at 37.
- ^{xxxiii} EMN BELGIUM, POLICIES, PRACTICES, AND DATA ON UNACCOMPANIED MINORS IN BELGIUM: 2014 UPDATE 33 (2014), *available at* http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/docs/emn-studies/02.belgium_unaccompanied_minors_en_version.pdf.
- ^{xxxiv} EMN CYPRUS, POLICIES, PRACTICES AND DATA ON UNACCOMPANIED MINORS IN 2014 (CYPRUS) 29-30 (2014), *available at* http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/docs/emn-studies/05a.cyprus_unaccompanied_minors_en_version.pdf.
- ^{xxxv} EMN FRANCE, POLICIES, PRACTICES, AND DATA ON UNACCOMPANIED MINORS IN 2014 (FRANCE) 24 (2014), *available at* http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/docs/emn-studies/unaccompanied-minors/10a_france_uams_study_english_version_final.pdf.
- ^{xxxvi} ANDREAS MULLER, UNACCOMPANIED MINORS IN GERMANY: FOCUS-STUDY BY THE GERMAN NATIONAL CONTACT POINT FOR THE EUROPEAN MIGRATION NETWORK (EMN) 38 (2014), *available at* http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/docs/emn-studies/11a.germany_unaccompanied_minors_en_version.pdf.
- ^{xxxvii} MAROUDA ET AL., *supra* note xx, at 23-24.
- ^{xxxviii} *Id.* at 25-26.

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- ^{xxxix} EMN HUNGARY, POLICIES, PRACTICES, AND DATA ON UNACCOMPANIED MINORS IN 2014 (HUNGARY) 20 (2014), *available at* http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/docs/emn-studies/unaccompanied-minors/13a_hungary_unaccompanied_minors_en.pdf.
- ^{xl} EMMA QUINN ET AL., POLICIES AND PRACTICES IN IRELAND 45-47 (2014), *available at* http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/docs/emn-studies/unaccompanied-minors/ireland_national_report_uams_en.pdf.
- ^{xli} EMN ITALY, POLICIES, PRACTICES, AND DATA ON UNACCOMPANIED MINORS IN 2014 (ITALIAN CASE) 21-24 (2014), *available at* http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/docs/emn-studies/15.italy_unaccompanied_minors_en_version.pdf.
- ^{xlii} EMN MALTA, UNACCOMPANIED MINORS IN MALTA: THEIR NUMBERS AND THE POLICIES AND ARRANGEMENTS FOR THEIR RECEPTION, RETURN, AND INTEGRATION 22 (2009), *available at* http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/docs/emn-studies/unaccompanied-minors/18._malta_national_report_on_unaccompanied_minors_final_version_8dec09_en.pdf.
- ^{xliii} EMN NETHERLANDS, POLICIES, PRACTICES, AND DATA ON UNACCOMPANIED MINORS IN 2014 (NETHERLANDS) 27-30 (2014), *available at* http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/docs/emn-studies/20a_netherlands_uam_study_final_english.pdf.
- ^{xliv} EMN POLAND, POLICIES ON RECEPTION, RETURN AND INTEGRATION ARRANGEMENTS FOR, AND NUMBERS OF, UNACCOMPANIED MINORS IN POLAND 22-23 (2009), *available at* http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/docs/emn-studies/unaccompanied-minors/20._poland_national_report_on_unaccompanied_minors_final_version23nov09_en.pdf.
- ^{xlv} EMN SWEDEN, *supra* note xxvii, at 23-25.
- ^{xlvi} RICE & POPPLETON, *supra* note xxix, at 28.
- ^{xlvii} KNAPP, *supra* note i, at 71, 74.
- ^{xlviii} WISSING, *supra* note ii, at 73, 75.
- ^{lix} DROUSIOTOU ET AL., *supra* note iii, at 60, 63.
- ^l SALIGNAT & PLANES-BOISSAC, *supra* note iv, at 76-77.
- ^{li} KALKMANN, *supra* note v, at 68.
- ^{lii} KOULOCHERIS ET AL., *supra* note vi, at 79, 82, 84.
- ^{liii} PARDAVI ET AL., *supra* note vii, at 56.
- ^{liv} HENNESSY, *supra* note viii, at 71.
- ^{lv} DE DONATO, *supra* note ix, at 44-46.
- ^{lvi} ADITUS FOUNDATION & JESUIT REFUGEE SERVICE (MALTA), *supra* note x, at 48-49.
- ^{lvii} AMMERAAL ET AL., *supra* note xi, at 54, 56.
- ^{lviii} RUSILOWICZ ET AL., *supra* note xii, at 57-58.
- ^{lix} JOSEPH, *supra* note xiii, at 46.
- ^{lx} CLAYTON, *supra* note xiv, at 70-71.