



# UNACCOMPANIED MIGRANT CHILDREN IN CROATIA

Radojka Kraljević / Lovorka Marinović / Branka Živković Žigante

 **UNHCR**  
The UN Refugee Agency

**60**  
YEARS • ANS



**UNHCR**  
The UN Refugee Agency

**60**  
YEARS • ANS

# UNACCOMPANIED MIGRANT CHILDREN IN CROATIA

Radojka Kraljević / Lovorka Marinović / Branka Živković Žigante

Zagreb, May 2011

Unaccompanied Migrant Children in the Republic of Croatia  
*Understanding of the problem, capacity for action and necessary measures for assistance  
and care*

*Authors:*

Radojka Kraljević  
Lovorka Marinović  
Branka Živković Žigante

*Reviewers:*

Milan Mesić  
Heikki Mattila

*Editor:*

Jasna Barberić

*Translation into English:*

Biserka Sirovica

*Proofreading:*

Mark Davies

*Typesetting:*

Digitel&

*Print:*

*Publisher:*

UNHCR, Representation in the Republic of Croatia

*Edition:*

300 copies

ISBN 978-953-95763-5-4

A CIP catalogue record for this book is available from the National and University  
Library in Zagreb under 783543

The views expressed in this publication are those of the authors and do not  
necessarily represent the views of UNHCR.

Short extracts from this publication may be reproduced unaltered without  
authorization, on condition that the source is indicated.

***Abbreviations used for references:***

|               |   |
|---------------|---|
| <b>ECHR</b>   | European Convention for the Protection of Human Rights and Fundamental Freedoms |
| <b>EMN</b>    | European Migration Network  |
| <b>EU</b>     | European Union  |
| <b>ILO</b>    | International Labour Organization   |
| <b>IOM</b>    | International Organization for Migration  |
| <b>MOI</b>    | Ministry of the Interior  |
| <b>MHSW</b>   | Ministry of Health and Social Welfare   |
| <b>RC</b>     | Republic of Croatia   |
| <b>UAC</b>    | Unaccompanied Child   |
| <b>UAM</b>    | Unaccompanied Minor   |
| <b>UN</b>     | United Nations  |
| <b>UNHCR</b>  | United Nations High Commissioner for Refugees                                   |
| <b>UNICEF</b> | United Nations Children's Fund  |

## **TABLE OF CONTENTS**

|    |  |
|----|--|
| 6  | ACKNOWLEDGEMENTS   |
| 7  | FOREWORD   |
| 8  | SUMMARY  |
| 13 | <b>1. INTRODUCTION</b>   |
| 15 | 1.1. Definition of “unaccompanied children”                                |
| 15 | 1.2. Evaluation of the scope of the problem: the European context          |
| 17 | 1.3. Unaccompanied children - foreign nationals in the Republic of Croatia |
| 21 | <b>2. OBJECTIVES AND DESCRIPTION OF THE STUDY</b>                          |
| 22 | 2.1. Objectives of the study   |
| 22 | 2.2. Methods and participants of the study                                 |
| 24 | 2.3. Study instruments   |
| 27 | <b>3. INTERNATIONAL AND NATIONAL LEGAL FRAMEWORK</b>                       |
| 28 | 3.1. International legal framework   |
| 35 | 3.2. Study instruments   |
| 45 | <b>4. RESULTS OF EMPIRICAL ASSESSMENT AND DISCUSSION</b>                   |
| 46 | 4.1. General level of information and legal framework                      |
| 47 | 4.2. Recorded data on unaccompanied children in the Republic of Croatia    |
| 56 | 4.3. National system of protection and care                                |
| 62 | 4.4. Prevention  |
| 65 | <b>5. CONCLUSIONS AND RECOMMENDATIONS</b>                                  |
| 74 | <b>6. LITERATURE</b>   |
| 75 | <b>7. INTERNATIONAL, REGIONAL AND NATIONAL LEGAL DOCUMENTS</b>             |

## **ACKNOWLEDGMENTS**

Dedication to work, cooperation, and the professionalism of all participants in this project have contributed to the successful completion of the study, which represents a first step in elucidating the phenomenon of unaccompanied minor foreign nationals in the Republic of Croatia. At the same time, it is our duty and honor to share the results of the study, published in the form of a handbook, with all participants who have cooperated in the study, as well as with all other readers.

We are grateful to the executive bodies of the Government of the Republic of Croatia (the Ministry of Health and Social Welfare, the Ministry of the Interior, the Office for Human Rights, the State Attorney's Office, and the State Inspectorate) for providing data, which have provided an official insight into the problem concerned. We are especially grateful to officials that cooperated in the preparation of the study, in particular to Ms Lidija Pentavec, Officer in the Border Administration of the Ministry of the Interior, and Ms Dubravka Marušić, Social Pedagogue of the Children's Home in Dugave. We appreciate their dedication to work and readiness to share with us their experience in a very interesting way.

The study was conducted within the program for unaccompanied minors of the Office of the United Nations High Commissioner for Refugees (UNHCR) in the Republic of Croatia. We are particularly grateful to Mr. Wilfried Buchhorn for his valuable comments that contributed to the planning of the study, to Ms Jasna Barberić for her support and engagement during the entire period of preparation of the study, and to Mr. Trence Pike who, through his understanding of the problem and sensitivity for assistance for this vulnerable group of children, provided support for our engagement and enabled the study to be successfully completed. We are very grateful for UNHCR's understanding and financial support which made both the preparation of the study and the publication of this handbook possible.

We are especially grateful to the reviewers who, with their valuable suggestions and comments, have contributed to the study as a whole.

Finally, we would like to thank all collaborators for their contributions and endless patience, and to all who have helped us with their enthusiasm and wholehearted support

## **The Authors**

## FOREWORD

In the turmoil of conflict and flight, children are at an increased risk of becoming separated from their families and caregivers. “Unaccompanied children” (also referred to as “unaccompanied minors”) are girls and boys under 18 years of age who are separated from both parents and are not being cared for by an adult who by law or by custom is responsible for doing so. However, there are also children who are accompanied by extended family members, but have been separated from both parents or from their previous legal or customary primary caregiver. These separated children face risks similar to those of unaccompanied children, and their protection needs also require priority attention.

Unaccompanied and separated girls and boys are entitled to international protection. They often require immediate protection and assistance. While all children have common needs, certain groups may face increased protection risks. These include unaccompanied and separated children; victims of trafficking and sexual abuse; survivors of violence, in particular sexual and gender-based violence; children who are or have been associated with armed groups; children in detention; children who face social discrimination; children with mental or physical disabilities; children living with or affected by HIV and AIDS; and children out of school.

The protection and care of forcibly displaced children is a UNHCR priority, and therefore the rights of girls and boys of diverse backgrounds and abilities are of specific concern. Of the current 36.4 million people of concern to UNHCR, almost half are children. The 1989 UN Convention on the Rights of the Child and other legal instruments provide the framework for UNHCR to assist and protect children. Under its mandate, UNHCR seeks to uphold the rights of all children of concern, including through prevention and response to all forms of violence, exploitation, abuse and neglect. The organization’s Five Global Priorities for Refugee Children and Ex Com Conclusion No. 107 (LVIII-2007) on Children at Risk guide UNHCR’s work.

The Office of the United Nations High Commissioner for Refugees (UNHCR), the United Nations Children’s Fund (UNICEF) and other organizations working in the field share common aims: to prevent separation whenever possible; to identify, register and document both unaccompanied and separated girls and boys; to trace and reunify them with their families in a timely manner, if that is in the best interests of the child; and to ensure that they receive the necessary protection and care, taking into account the specific needs of each child according to age, gender and background, as well as the overall goal of finding durable solutions.

This study aims to collect some of the principal findings and conclusions reached during the research on unaccompanied and/or separated children, foreigners, in Croatia. It is a contribution to a wider debate on the protection of migrant children and adolescents, a human rights issue that requires a multilateral and inter-agency approach. With this study, UNHCR, in accordance with its mandate, calls upon national authorities to ensure that effective legal mechanisms are put in place to protect separated and unaccompanied migrant children within mixed migration movements.

**Terence Pike**

UNHCR Representative  
in the Republic of Croatia

## SUMMARY

The root of the problem covered in this study is the term “unaccompanied children” which is defined as persons under 18 years of age, third-country nationals or stateless persons, who are outside their countries of origin and are found on the territory of a foreign country without the possibility to enter or stay there and who are separated from their legal caregivers, thus lacking adequate care.

The phenomenon of unaccompanied children has been widely recognized as a serious international problem, which has been increasing in the last 10 years in Europe. The dramatic growth in the number of unaccompanied children attempting to enter Europe has given rise to thousands of children exposed to serious danger and violation of their fundamental human rights. Considering the different approaches to this problem, the current trend shows that the EU Member States are directed by a common policy based on: a) the Treaty of Lisbon (entered into force on 1 December 2009), relating also to the protection of the rights of children; b) the Stockholm Programme, adopted on 2 December 2009, whose principal goal (set for the period from 2010 to 2014) refers to “responsibility, solidarity and partnership in the field of migration and asylum”, stressing that migrant children should be considered primarily as children. The documents above preceded the adoption of the EU Action Plan on Unaccompanied Minors that obliges Member States to set high standards of reception, protection and integration of unaccompanied minors, considering the principle of the best interests of the child, proclaimed by the United Nations Convention on the Rights of the Child.

The Republic of Croatia is no exception to the dynamics and reality of illegal migrations, including unaccompanied children that make up 10% of the total number of foreigners staying illegally in the Republic of Croatia. A systematic study on unaccompanied children has not been undertaken in the Republic of Croatia so far. The present study is a small attempt to consider the problem of unaccompanied children in the Republic of Croatia. The study presents an overview of the national and international legal framework, outlining how the problem is tackled, which type of assistance and care is provided for unaccompanied children and whether preventive measures exist, thus generally contributing to an improvement of our understanding of the position of unaccompanied children.

We bear witness to a time when borders between the EU Member States and countries outside the European Union are increasingly controlled, especially in the light of the fight against terrorism. There are numerous reasons for children migrating. They look for better lives, they run away from poverty, political conflicts, wars, persecution, loss of family security, or they migrate after having survived natural disasters.

There are three categories of unaccompanied children: a) children migrating and looking for better lives, but staying illegally in the country; b) migrant children who become victims of trafficking in persons; c) children running from danger and seeking asylum in the country of destination.

Unaccompanied children should be entitled, like all other children, to specific rights and should be protected by the provisions of the Convention on the Rights of the Child, regardless of their immigrant status. For this reason, the study attempts to answer the question of whether the protection of unaccompanied children

found illegally in the Republic of Croatia is in accordance with the provisions of the Convention on the Rights of the Child and whether this protection is provided in the best interests of the child.

## **MAIN FINDINGS**

The study indicates in general that competent state institutions, non-governmental organizations, international organizations and professionals in the Republic of Croatia still have not adequately recognized and studied this complex phenomenon.

In order to obtain the best possible answers to different aspects related to unaccompanied children, it is essential to be aware of the scope of the problem and the related definition. This study indicates that the study participants are not in accord over the definition of "unaccompanied children". The same has been noted with reference to a sociological definition and an evaluation of the areas that such a definition would embrace. The results of the study indicate that a number of participants tend to recognize this phenomenon at the theoretical level, although they are negligent as far as practical implementation is concerned.

According to the collected data, the number of unaccompanied children has varied over the past 10 years; thus, it increased in the period from 2000 to 2007 and decreased from 2007 to 2010, after which an increase in the numbers of unaccompanied children of illegal status was again recorded. Data on illegal crossings of the state border indicate that children make 10% of the total number of such crossings. On the other hand, unaccompanied children represent a great number of all minors of illegal status found in the Republic of Croatia (84.26%).

The related statistical data received by the study participants are incomplete. In addition, for the same period of time, different institutions provide different data. We can conclude that there are serious shortcomings in the collection of reliable data. Each of the institutions participating in the study deals exclusively with a selected part which falls under its own competence. It is not possible to collect data related to reasons for leaving the country of origin and data related to the family, gender, age and education of the child, way of arriving and period of stay in the Republic of Croatia, health and psycho-physical state of the minor and the manner of return to the country of origin.

The system of collecting data by the institutions participating in the study and which are competent to deal with these issues in the Republic of Croatia has not been formed in a way to allow the collection of specific data on unaccompanied children in a uniform manner. We can therefore conclude that it is probably for this reason that the bodies competent for passing related decisions and implementing the relevant policy are not fully aware of the scope of this phenomenon and its complexity. This tends to make unaccompanied children "invisible"; they do not receive adequate assistance and protection and are often exposed to the danger of becoming victims of organized crime.

It is necessary to underline that a guardian should be appointed without delay to unaccompanied children, regardless of their immigration status or whether they have attempted to cross the border illegally. By analyzing the data provided by the competent ministries, we have noted significant differences in the numbers of appointed guardians and the unaccompanied children identified. In the procedure of appointing a guardian, the opinion of the minor should be taken into account, which does not happen in practice. Namely, such a possibility to express an opinion is questionable, as the minor does not know the Croatian language and does not know the person who will be appointed as guardian. Although a person whose interests are contrary to the interests of the child concerned cannot be appointed as guardian, practice shows that persons belonging to the group of illegal migrants who themselves have violated the law are appointed as such. Their possibility to represent the best interest of the child is therefore questionable.

The study participants state that basic problems between legislation and official policy on unaccompanied children relate to determining standard protection mechanisms and harmonization with best practice principles. They also point out problems connected with non-allocated funds for the implementation of these standards, as well as attention given to ensure that the undertaken measures are in the best interest of the child. Notwithstanding the existing attempt to provide care for unaccompanied children in accordance with their needs and rights, a number of contradictions appear in practice. For example, unaccompanied children are placed in the Reception Center for Foreigners for "administrative reasons". Given their vulnerability and the risks they face of exploitation, abuse and neglect, unaccompanied children should receive special protection. There is no doubt that unaccompanied children should receive assistance and protection as children and that they should not be treated as migrants of illegal status.

The study indicates only a partial level of information on the duration of stay of unaccompanied children and the manner of return to their countries of origin. Return is organized under a standard procedure, in accordance with the Protocol on Dealing with Separated Children who are Foreign Nationals. Contacts with the families of unaccompanied children and with competent bodies in the country of origin are established through diplomatic channels. On the basis of the answers provided by the study participants, we can conclude that the related information and verification that the unaccompanied child is duly cared for on return to the country of origin are provided only at the formal level. The participants of the study were not able to provide information on whether the program of voluntary return has been applied.

We can generally conclude from the study results that unaccompanied children are a complex phenomenon which, in the Republic of Croatia, has still not been sufficiently recognized, that related statistical indicators do not support this phenomenon, and that effective care of unaccompanied children has not been established. Data collected in the study indicate the need for a different operation of competent state institutions with regard to unaccompanied children. The results of the study confirm systematic omissions and unsatisfactory care and protection

provided to unaccompanied children. However, the collected data represent only a partial picture of the problem, indicating the need for more comprehensive information in order to respond to the protection needs of unaccompanied children of illegal status.

## **RECOMMENDATIONS**

The results of the study on unaccompanied children clearly indicate the need for an immediate policy change, given the necessity for the competent institutions to operate efficiently, for the provision of assistance and protection to unaccompanied children, following the best interests of the child and for the immediate implementation of measures foreseen in the Statement of Good Practice which is grounded on the UN Convention on the Rights of the Child.

First of all, it is important to indicate the need to initiate preparations for harmonization with the relevant European framework and standards concerning these problems. In this respect, a National Action Plan for the assistance and protection of unaccompanied children should be adopted. The National Action Plan should establish transparent procedures to ensure a universal, neutral and individualized evaluation of every unaccompanied child, aimed at finding a durable solution in the best interest of the child. The National Action Plan should include the following tasks:

1. To establish a national referral system to observe the phenomenon of unaccompanied children;
2. To introduce a unique definition of “unaccompanied child” in all relevant laws and legal acts concerning minors. To fully apply, in all actions concerning unaccompanied children, the Convention on the Rights of the Child;
3. To establish clear criteria for the appointment of guardians and to appoint a guardian for every unaccompanied child;
4. To establish specialized accommodation for unaccompanied minor foreign nationals in order to ensure for them optimal protection and adequate social welfare and health care;
5. To ensure that unaccompanied children have the right to education and to develop long-term integration programs;
6. To establish clear procedures for voluntary return to the country of origin;
7. To continuously implement specialized training of professionals dealing with unaccompanied children;
8. To encourage the more active involvement of the media in order to secure public sensitivity for unaccompanied children. In this respect, the relevant training of journalists should be organized;
9. To encourage non-governmental organizations to adopt a proactive approach;
10. To improve interagency cooperation at national and international levels in order to improve analyses and the exchange of information.



**1.**

INTRODUCTION

## **1. INTRODUCTION**

The globalization process has intensified mobility and migration, making them integral parts of the lives of millions. According to the available data, there are more than 200 million migrants worldwide, while up to 20% of them have been involved in illegal migration. Smugglers and traffickers of persons easily turn this situation into a profitable business. Due to the complexity of migration processes and the appearance of new migration forms and models, studying migration has become a challenging task which requires a multidisciplinary approach.

Studies on migration generally confirm the assumption that persons between 15 and 35 years of age migrate more than other age groups. Migration may be caused by a multitude of factors such as the economic situation in the country concerned (poverty), wars, political instability and different forms of discrimination, natural disasters and similar reasons. Migration often causes family separation and this particularly serious and expanding problem includes unaccompanied minors (UAMs) who are found outside their own countries. This problem has attracted growing attention in the past few years. However, the phenomenon is still insufficiently studied and explained and there is still a lack of precise and reliable data to indicate the real scope of the problem at European and national levels.

The separation of children from their parents and caregivers increases the risk of them becoming victims of trafficking in persons. Such children are often included in begging, pickpocketing, performing servants' duties, drug distribution, prostitution and pornography. In addition, they often become victims of false adoption and organ trafficking.

The United Nations Children's Fund (UNICEF) estimates that every year 1,200,000 children become victims of trafficking in persons (hereinafter: "trafficking" or TIP). Children from undeveloped, poor countries are those most exposed to such danger. It is estimated that every year 1,000 to 1,500 children from Guatemala are sold for adoption in North America and Europe. Girls of 15 years of age, mostly originating from Asia and Eastern Europe, become victims of trafficking in persons as "mail-order brides". Compared with previous years, it has been noticed that more children are involved in pickpocketing and stealing in Europe. Traffickers "rent" or buy children in the poorest regions of some countries and such children, when brought to the streets of Western European countries, are forced to earn up to EUR 2,000 daily. The most skilful pickpockets are sometimes re-sold for a couple of thousand Euros, which makes a high profit for traffickers. The International Labour Organization (ILO) and UNICEF estimate that children make up 40% to 50% of all victims of forced labor, and 2/3 of such children are in the age group of 5 to 14 years. Some 10 to 15% of victims of trafficking who have been assisted by the International Organization for Migration (IOM) in returning to their countries of origin (territories of Eastern Europe) are girls younger than 18 years of age.

The data above indicate that unaccompanied minors are exposed to many risks. It is well known that the living conditions of unaccompanied children affect their growth and development and can cause long-lasting detrimental consequences to their mental state. In a psychological sense, it would be important to prevent the transgenerational transmission of trauma. Otherwise, the consequences of the experienced trauma will also be manifested in future generations.

## 1.1. Definition of “unaccompanied children”

Who are unaccompanied children? There are different definitions and terms used in literature for children who are unaccompanied. “Unaccompanied children” and “separated children” are the most frequently used terms.

This study uses the term “unaccompanied children” to cover persons under 18 years of age, third-country nationals or stateless persons, who stay outside their countries of origin, who are found on the territory of a foreign country without the opportunity to enter or stay there, and who are separated from their legal caregivers, thus lacking adequate care.

Such a definition corresponds to the definition of the Convention on the Rights of the Child and Article 2 (f) of Council Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof. Following the Convention on the Rights of the Child and the definition in the Council Directive, the Croatian legislator stipulates that an “unaccompanied child” is a *foreigner below the age of eighteen who arrives in the Republic of Croatia unaccompanied by his/her parents or legal guardian, or who is left unaccompanied on the territory of the Republic of Croatia.*

Unaccompanied children who are found in other countries are either migrants without legal status or asylum seekers. They could also be victims of trafficking, victims of forced labor, or victims of other forms of abuse. Unaccompanied children are not a homogeneous group. Some of them say that they “live in a world that nobody knows about”.

The principles of good practice, grounded in the Convention on the Rights of the Child, should be applied in dealing with unaccompanied children.

## 1.2. Evaluation of the scope of the problem: the European context

Statistics show that children make up 1/5 of the population of the European Union (EU). Pursuant to the principles of the Convention on the Rights of the Child and the European Convention for the Protection of Human Rights and Fundamental Freedoms, states are obliged to protect, respect and promote the rights of children. Although the European Union is one of the most developed regions in the world, according to Eurostat data 19% of children from 0 – 16 years are at risk of poverty.<sup>1</sup> The situation of a large number of these children is worrying, as they suffer from abuse in their family or elsewhere in society; children are exposed to trafficking in persons and smuggling throughout Europe; unaccompanied children who are asylum seekers are often accommodated in inappropriate premises, they lack medical care, education, etc.

<sup>1</sup> The indicator “at risk of poverty” refers to households and individuals who fall under a certain threshold, which in the European Union is set at 60% of the median income. Median income is the amount that divides the income distribution into two equal parts, where 50% of the population of a certain country have a higher level of income than the median, and 50% have a lower level of income. Although such an indicator serves its purpose and could be used for purposes of comparison, such a determination which does not measure concrete poverty has been criticized for not being precise enough.

Although EU Member States undertake protection measures in line with related international instruments on the rights of unaccompanied minors, there is still a problem in registering and recording unaccompanied children arriving in Europe.

It is not easy to gain a clear overview of the number of unaccompanied minors arriving in Europe in the migration process. However, available data indicate that unaccompanied children, most of them boys between 15 and 17 years of age, constitute 4 to 5% of asylum seekers

The problem can be considered from the point of view of the number of asylum seekers up to 18 years of age who are without the care of adult persons. According to Eurostat, during 2009, in 22 EU Member States (the Czech Republic, Denmark, France, Poland and Romania were not included), 10,960 unaccompanied children requested asylum, an increase of 13% in comparison with 2008 when 9,695 asylum applications were submitted.

There are various reasons for the arrival of unaccompanied children: they run away from war and conflicts, poverty, natural disasters, discrimination or persecution. According to the available data, differences exist among EU Member States with regard to the country of origin of unaccompanied children, but most originate from Afghanistan, Iraq and some African countries. However, the data are partial and insufficient, as some EU countries do not keep such records, or data are simply not available.

Following the needs of the European Commission, the European Migration Network (EMN) prepared a study on national policies applied in 22 Member States towards unaccompanied minors arriving in the European Union.<sup>2</sup> The study was presented to the public in Brussels on 6 May 2010. It analyses the reasons for the arrival of unaccompanied minors in the European Union, the procedure for their acceptance in the country, the integration policy, return, and the identification of best practice. Relevant data were collected, while omissions and defects were pointed out in the collection of data, record keeping, the identification of unaccompanied children, the provision of accommodation, and in the provision of assistance and return to the country of origin. The complexity of the problems is due to the lack of a clear and standardized definition, the different understandings under the legal framework of some countries, as well as the different forms that the phenomenon of unaccompanied children may assume.

Considering the results of the study and aiming at the better protection of unaccompanied children arriving in the European Union, as well as at establishing a common and coordinated approach in finding solutions to these problems, the European Commission on 6 May 2010 adopted an Action Plan on Unaccompanied Minors (2010 – 2014), as a particularly vulnerable group of migrants.<sup>3</sup> The Action Plan obliges the State Parties to make efforts aiming at a higher level of acceptance, protection and integration of unaccompanied minors in line with the principle of the best interest of the child, based on the Convention on the Rights of the Child and the Charter of Fundamental Rights of the European Union.

<sup>2</sup> <http://emn.intrasoft-intl.com/Downloads/prepareShowFiles.do%3b?directoryID=115>

<sup>3</sup> <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2010:0213:FIN:EN:PDF>

### **1.3. Unaccompanied children – foreign nationals in the Republic of Croatia**

According to information from the Ministry of the Interior, in the period from 2002 to 2007, the estimated number of illegal border crossings ranged between 4,000 and 5,000 a year. An increase in illegal border crossings of minors was also recorded (from 4% in 2002 to 20% in 2007). As the number of illegal border crossings has decreased significantly in the last three years, the number of illegal border crossings of minors has also dropped (ranging from between 8 and 11%). The Republic of Croatia is considered primarily a transit country. However, an increase in the illegal stay of foreigners in previous years indicates that the character of Croatia as a transit country has changed. A total of 1,551 violations related to illegal stay were recorded in 2007, while this figure reached 2,010 in 2008, showing an increase of 29%. A total of 1,673 cases of illegal stay were recorded in 2009, marking a drop of 16% in comparison with 2008. Nationals of South Eastern European countries make up the majority of illegal migrants (over 80%). Unfortunately, the figures of unaccompanied children illegally staying in the Republic of Croatia are not complete or sufficient.

The Republic of Croatia succeeded to the United Nations Convention on the Rights of the Child (effective retroactively as of 8 October 1991, i.e. as of Croatia's independence). It is expected that Croatia will act in line, in particular with reference to Article 2 which refers to respecting and ensuring the rights to each child without discrimination of any kind.

Implementation of the international project "Separated Children in Europe" started in 1997. The project was initiated by UNHCR (United Nations High Commissioner for Refugees) and the non-governmental organization Save the Children. The UNHCR office in Croatia and the non-governmental organization Center for Social Policy Initiatives became actively involved in the network of non-governmental organizations and UNHCR offices in Europe dealing with related issues. The preparation of National Reports was an integral part of the project and Croatian National Reports were prepared for 2000 and 2003. Both National Reports indicated problems concerning identification and the provision of assistance and protection for this vulnerable group of children. Recommendations were formulated for the improved protection of unaccompanied children, but some of the identified problems still remain unresolved.

In 2001, the Center for Social Policy Initiatives established a Coordination to follow the situation of children who are outside their countries of origin, who are without parental care, and are found on the territory of the Republic of Croatia. The Coordination aimed at the better protection of separated children, the provision of adequate and more efficient care, and the preparation of proposals for improved policies and practices.

The Statement of Good Practice, a document prepared by UNHCR and the International Save the Children Alliance as a basis for good policy and practice in the protection of the rights of separated children in Europe, was translated into Croatian in 2004. The document provides a definition of separated children (children separated from parents or caregivers, and who are outside their country of origin), and offers related recommendations for the treatment of unaccompanied children who are foreign nationals.

Aiming at harmonizing procedures for unaccompanied children, the Office of the Ombudsman for Children, jointly with the Center for Social Policy Initiatives, organized training for national stakeholders, providers of assistance and protection to unaccompanied children, including social welfare officials, police officers, Croatian Red Cross officials, judges from the Misdemeanor Courts, etc. In order to inform professionals about the training results and the harmonized standards of procedure, the Office of the Ombudsman for Children in 2008 published Proceedings of the training.<sup>4</sup>

Unaccompanied children found in Croatia are a vulnerable category of persons and they could become victims of different criminal acts, such as trafficking in persons and forced labor.

A significant step forward has been taken with the adoption of laws related to trafficking in persons and granting of asylum (international protection). These laws have been fully harmonized with EU regulations. The European Commission Progress Report for Croatia for 2010<sup>5</sup> notes that significant progress has been achieved in the area of asylum. It also comments that, with the adoption of Amendments to the Asylum Act (July 2010), the Croatian legislation has been fully harmonized with the EU *acquis*, particularly with regard to interviewing asylum seekers in the accelerated procedure, the availability of free legal aid at second instance, and with respect to the related terminology. The Report further notes that special attention should be given to procedures dealing with unaccompanied minors, considering them as a vulnerable group.

---

<sup>4</sup> <http://www.dijete.hr/hr/publikacijepravobraniteljia.html>

<sup>5</sup> [http://www.delhrv.ec.europa.eu/files/file/articles-lzvješće%20o%20napretku%202010.\\_hr-1291808178.pdf](http://www.delhrv.ec.europa.eu/files/file/articles-lzvješće%20o%20napretku%202010._hr-1291808178.pdf)





# 2.

## OBJECTIVES AND DESCRIPTION OF THE STUDY

## **2. OBJECTIVES AND DESCRIPTION OF THE STUDY**

### **2.1. Objectives of the study**

A systematic study on unaccompanied children has not been undertaken in the Republic of Croatia so far, and we do not hold data showing the scale involved. Reports provided by competent institutions and official statistics are quite limited in terms of the information on unaccompanied children. On the other hand, the Republic of Croatia will, as an EU Member State, be involved in the EU Action Plan on Unaccompanied Minors. But, so far, the many shortcomings in the available data hamper public and official understanding of the problem. Considering the new migration trends in the European Union, we believe that a study was needed to provide fresh answers to the current situation in the field at the national level, to encourage further studies and systematic follow-up, as well as to provide grounds for action, in line with the European framework and the Statement of Good Practice.

**The objective** of the study is as follows: to determine the possibilities and limitations for certain participants in the system to find solutions to the problem of unaccompanied children; to evaluate the current state in this field; and to propose further activities to establish a more efficient system of assistance and protection of unaccompanied children on the territory of the Republic of Croatia, pursuant to the Action Plan and the related European framework.

### **2.2. Methods and participants of the study**

The Center for New Initiatives, in cooperation with UNHCR, undertook the study in the period from 1 July 2010 to 31 December 2010. Aiming at obtaining a realistic overview of the state of unaccompanied children in the Republic of Croatia, the study applied a qualitative and quantitative methodology.

In the initial stage of the study, relevant state institutions, non-governmental and international organizations involved in the review on the basis of their respective areas of work in connection with unaccompanied children were identified. A total of fifteen state institutions, five non-governmental organizations and three international organizations participated in the study. One state institution and one inter-governmental institution did not respond to the invitation to participate. Study participants are shown in Table 1.

**Table 1.** State institutions, non-governmental and international organizations – providers of assistance to unaccompanied children that participated in the study

| State institutions                                    | Non-governmental organizations         | International organizations | Institutions and organizations -providers of assistance                     |
|---|--|-----------------------------|---|
| Ministry of Health and Social Welfare                 | Croatian Red Cross                     | UNHCR                       | Children's institutions: Dubrovnik, Split, Rijeka, Zagreb, Osijek, Varaždin |
| Ministry of Interior                                  | Caritas of the Croatian Archbishopric* | UNICEF                      |   |
| Ministry of Justice                                   | Center for Social Policy Initiatives   | IOM*                        | Organization for Integrity and Prosperity                                   |
| Office for Human Rights of the Republic of Croatia    |  |                             | Croatian Law Center   |
| State Attorney's Office                               |  |                             |   |
| State Inspectorate                                    |  |                             |   |
| Ministry of Foreign Affairs and European Integration* |  |                             |   |

\* did not submit data

Eight state institutions, three non-governmental organizations and three international organizations participated in the study by completing a related questionnaire. In the letter in which they were invited to participate in the study, it was explained that the collection of data would serve to better review the current state in the field, as well as to propose further actions aimed at establishing a more efficient national system of assistance and protection for unaccompanied children found on the territory of the Republic of Croatia. The questionnaire was enclosed with the letter with a request for it to be completed and returned in the enclosed addressed envelope. Each institution participating in the study appointed a contact person to provide additional information in the event of insufficient or unclear data specified in the questionnaire, as well as to clarify other issues that might arise during the entering of the data by the study participants. In cases where questionnaires were insufficiently or partially completed, further data were collected through additionally scheduled interviews with competent persons (contact persons).

Interviews were organized in seven governmental institutions and two non-governmental organizations providing a system of assistance and protection for unaccompanied children. Specially trained persons held the interviews lasting two hours on average.

It should be pointed out that, in terms of the methodology of the study, besides that mentioned above, the study included a review of national and foreign literature related to the issues concerned, as well as a review of the related legal frameworks.

### **2.3. Study instruments**

A questionnaire consisting of 46 questions was prepared for the needs of the study.

The questionnaire included five areas. The first part of the questionnaire enquired about the general level of information related to unaccompanied children (knowledge about the notion and its definition). The second part included questions related to the recorded data on unaccompanied children in Croatia over the past five years. The third part asked about the international and national legal framework. The fourth part was related to the existing national system of assistance and protection provided to unaccompanied children and to an evaluation of its efficiency. The fifth part included an evaluation of the role of the particular organizations dealing with unaccompanied children (their capacity and limitations), as well as the preventative measures available.

Data related to accommodation and care of unaccompanied children were collected through specially organized interviews with professionals that provide assistance and protection. Professionals in accommodation institutions expressed readiness and a high level of motivation for cooperation, and, by answering all the questions, they provided additional important information on unaccompanied children.





# 3.

## INTERNATIONAL AND NATIONAL LEGAL FRAMEWORK

### **3. INTERNATIONAL AND NATIONAL LEGAL FRAMEWORK**

#### **3.1. International legal framework**

As a Member State of the United Nations and the Council of Europe, Croatia has ratified a large number of international instruments, and thus committed itself to accept recognized standards of human rights and to harmonize national legislation accordingly.

The **United Nations Charter** underlines, *inter alia*, the principle of respect of human rights of the child, while the **Universal Declaration of Human Rights** proclaims that motherhood and childhood are entitled to special care and assistance,<sup>6</sup> aiming at preparing a child for independent life in society in line with a spirit of peace, dignity tolerance, freedom, non discrimination and solidarity.

The United Nations General Assembly proclaimed, on 20 November 1959, the **Declaration of the Rights of the Child**.<sup>7</sup> In the formal sense, this was a non binding document, but, until the adoption of the Convention on the Rights of the Child, it served as the only document that exclusively and comprehensively dealt with the rights of the child. The Declaration of the Rights of the Child has a moral power and it underlines that “the child, by reason of his/her physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before and after birth”. Discrimination of children is prohibited and protection from all kinds of negligence, cruelty and misuse is prescribed.

Thirty years later, on 20 November 1989, at the 44<sup>th</sup> session of the United Nations General Assembly, the Convention on the Rights of the Child was adopted. It entered into force on 2 September 1990 and the Republic of Croatia became a State Party, by succession with retroactive application as of 8 October 1991, the day when Croatia proclaimed its independence.

The Convention on the Rights of the Child (CRC) is a comprehensive instrument on child protection, which obliges the State Parties, within their jurisdiction, to ensure the rights set forth in the Convention without discrimination of any kind, with the particular obligation of a State Party, when undertaking the above-mentioned activities, to take care that the best interests of the child are the primary consideration.

The Convention supersedes the national legislation. It also includes the right of supervising the implementation of the Convention in all State Parties.

Article 1 of the Convention on the Rights of the Child stipulates that a child shall mean every human being below the age of eighteen years, unless under the law applicable to the child, majority is attained earlier, which is not the case in Croatia.

The Convention on the Rights of the Child is a comprehensive instrument which ensures civil, economic, political, social and cultural rights to all children in all situations. It supports the view that all rights are integral, mutually dependant and

<sup>6</sup> Official Gazette – International Treaties, No. 12/09.

<sup>7</sup> <http://www.unhchr.ch/html/menu3/b/25.htm>

equally important for all children. The fundamental principles of child protection, including unaccompanied children, are the following:

### ***The best interests of the child***

#### ***Article 3***

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

#### ***Article 20***

1. A child temporarily or permanently deprived of his or her family environment, or in whose own best interests cannot be allowed to remain in that environment, shall be entitled to special protection and assistance provided by the State.

2. States Parties shall in accordance with their national laws ensure alternative care for such a child.

### ***Non-discrimination***

#### ***Article 2***

1. States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, color, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.

2. States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members.

#### ***Article 22***

1. States Parties shall take appropriate measures to ensure that a child who is seeking refugee status or who is considered a refugee in accordance with applicable international or domestic law and procedures shall, whether unaccompanied or accompanied by his or her parents or by any other person, receive appropriate protection and humanitarian assistance in the enjoyment of applicable rights set forth in the present Convention and in other international human rights or humanitarian instruments to which the said States are Parties.

2. For this purpose, States Parties shall provide, as they consider appropriate, co-operation in any efforts by the United Nations and other competent intergovernmental organizations or non-governmental organizations co-operating with the United Nations to protect and assist such a child and to trace the parents or other members of the family of any refugee child in order to obtain information necessary for reunification with his or her family. In cases where no parents or

other members of the family can be found, the child shall be accorded the same protection as any other child permanently or temporarily deprived of his or her family environment for any reason, as set forth in the present Convention.

### ***Right to participate***

#### ***Article 12***

1. States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.

2. For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.

#### ***Article 25***

States Parties recognize the right of a child who has been placed by the competent authorities for the purposes of care, protection or treatment of his or her physical or mental health, to a periodic review of the treatment provided to the child and all other circumstances relevant to his or her placement.

### ***Right to life, survival and development***

#### ***Article 6***

1. States Parties recognize that every child has the inherent right to life.

2. States Parties shall ensure to the maximum extent possible the survival and development of the child.

Other principles relate to the following Articles of the Convention:

- **Right not to be separated from his or her parents** (Article 9);
- **Protection from violence** (Article 19);
- **Right to health** (Article 24);
- **Right to education and free time** (Articles 28 – 31);
- **Right to be protected from economic exploitation, sexual exploitation and violence** (Articles 32, 34 and 36).

There are other UN Conventions and Protocols that provide guidelines for respecting the rights of unaccompanied children:

**Convention relating to the Status of Refugees** (1951) and **Protocol relating to the Status of Refugees** (1967);

**Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography** (2000), which the Republic of Croatia ratified and became Party to on 13 June 2002. It underlines the best interests of the child as the primary goal, putting emphasis on individual responsibility;

**Convention No. 182 of the International Labour Organization concerning the Prohibition of and Immediate Action for the Elimination of the Worst Forms of Child Labour** (1999), ratified by the Republic of Croatia on 17 July 2001;

**Convention against Transnational Organized Crime**, as well as its two accompanying protocols:

**Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children** (Palermo Protocol); and **Protocol against Smuggling of Migrants**, ratified by the Republic of Croatia on 11 November 2002.

**European Convention for the Protection of Human Rights and Fundamental Freedoms**, known as the European Convention on Human Rights – adopted by the Council of Europe in 1950, entering into force in 1959. The Republic of Croatia ratified the European Convention on Human Rights on 5 November 1997. The Convention aims at achieving rights proclaimed by the Universal Declaration on Human Rights, supplemented by the related Protocols. Following the establishment of the European Court of Human Rights, which decides on the violation of rights proclaimed by the Convention, it has become the most significant international instrument for the protection of human rights.

Besides the European Convention for the Protection of Human Rights and Fundamental Freedoms, the **European Convention on the Exercise of Children's Rights**, ratified by the Republic of Croatia on 29 January 2010, is also a very important instrument. This Convention provides the procedural measures aimed at promoting the exercise of children's rights. It emphasizes the right of children to be informed and to express their opinion, as well as the right to request the appointment of a special guardian.

Furthermore, the following Conventions are also important: the **Council of Europe Convention on the Protection of Children from Sexual Exploitation and Sexual Abuse** and the **Council of Europe Convention on Action Against Trafficking in Human Beings**, ratified by the Republic of Croatia in July 2007. (It is based on the principle that trafficking in persons shall constitute a violation of human rights and a criminal offence against the dignity and integrity of the human being). The Convention is more comprehensive than the Palermo Protocol, and its added value lies in the fact that it is focused on the protection of the victim and his/her human rights.

Legal instruments that make up the basic legal framework for the reception and stay of third-country nationals in the European Union (including children) are the following Directives:

**Council Directive 2003/86/EC** of 22 September 2003 on the right to family reunification;

**Council Directive 2003/9/EC** of 27 January 2003 laying down minimum standards for the reception of asylum seekers;

**Council Directive 2004/83/EC** of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted;

**Council Directive 2008/115/EC** of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals (Directive on return).

National legislations of the Member States and of candidate countries should be harmonized with the above-mentioned Directives in order for them to combat illegal migration more efficiently and thereby protecting the right to asylum.

Besides the above-mentioned binding legal norms, there are also non-binding norms that provide guidelines for states to ensure the best protection of unaccompanied children within the context of three groups of binding regulations: laws on migration, laws on refugees, and laws on children. In order to achieve the best protection of unaccompanied children, we would like to emphasize the following non-binding legal norms which should be respected:

UNHCR Guidelines on Unaccompanied Children (1997);

EU Resolution on Unaccompanied Minors (1997);

Inter-Agency Guiding Principles on Unaccompanied and Separated Children (2004);

The UNHCR and Save the Children Alliance Separated Children in Europe Programme (2004);

UN Committee on the Rights of the Child - General Comment No. 6 on the Treatment of Unaccompanied Children and Separated Children outside their Countries of Origin (2005);

Council of Europe: Committee of Ministers, Twenty Guidelines on Forced Return (2005);

UNHCR Guidelines on Formal Determination of the Best Interests of the Child (2006);

UNHCR, Save the Children Alliance and UNICEF Statement of Good Practice (2009);

(The EU) Action Plan on Unaccompanied Minors as an Especially Vulnerable Group of Migrants (2010).

**The Action Plan on Unaccompanied Minors** is a document that regulates the common approach of Member States in dealing with this issue and which is based on the following:

1) respect of the rights of the child pursuant to the UN Convention on the Rights

of the Child and the EU Charter on Fundamental Rights;

2) solidarity and shared responsibility among Member States, countries of origin and countries of transit;

3) enhanced cooperation with non-governmental and international organizations.

The Action Plan obliges Member States to set a high standard of reception, protection and integration of unaccompanied minors, considering the principle of the best interests of the child. It is based on the following 10 principles:

1. **All children should be treated first and foremost as children.** The best interests of the child should be the primary consideration in all actions concerning unaccompanied minors.
2. **All children should be treated in accordance with the rules and principles followed in the European Union and its Member States,** in particular with the Charter of Fundamental Rights of the European Union, the United Nations Convention on the Rights of the Child and the European Convention on Human Rights.
3. **All possible efforts should be made to create an environment allowing children to grow up in their countries of origin with good prospects for personal development and decent standards of living.**
4. **Children should be protected from traffickers and criminal groups and other forms of violence or exploitation.**
5. **Every effort should be made to find the family of the child and to reunite the child with his or her family, provided that this is in the best interest of the child.**
6. **Child-specific reception measures and procedural guarantees should apply from the moment the child is found at the external border or within a Member State, until a durable solution is found. Guardianship and legal representation of the child are of crucial importance.**
7. **A decision on the future of each child should be taken within the shortest possible period, preferably within six months.**
8. **Unaccompanied minors<sup>8</sup> should always be placed in appropriate accommodation and treated in a manner that is fully compatible with their best interests.** Where detention is exceptionally justified, it is to be used only as a measure of last resort, for the shortest appropriate period of time and taking into account the best interests of the child as a primary consideration.

<sup>8</sup> The Action Plan uses the term “unaccompanied minors”, while the study uses the term “unaccompanied children” (which are in fact synonyms).

9. **Durable solutions should be determined on the basis of an individual assessment of the best interests of the child.** They should consist of return to the country of origin where reintegration of the child should be guaranteed, granting international protection status or another legal status allowing the child to integrate in the Member State of residence, or resettlement in the European Union.
10. **All interested parties** – EU institutions, Member States, countries of origin and transit countries, international organizations and civil society organizations – **should join forces and strengthen their efforts in addressing the issue of unaccompanied minors and ensuring that the best interest of the child is protected.**

Non-compliance with the above principles is considered a violation of the fundamental rights of the child, i.e. violation of his/her human rights.

**The UNHCR, Save the Children Alliance and UNICEF Statement of Good Practice** is based on the Convention on the Rights of the Child and should be applied in all procedures dealing with children. The UN Committee on the Rights of the Child stipulates that the following four basic principles should be applied in all aspects of care and assistance provided to unaccompanied children:

- a) **Right to life, survival and development** – this principle applies to all children in all aspects of their lives (physical, emotional, social, and psycho-social).
- b) **Best interests of the child** shall be a primary consideration in all activities concerning children. The best interest shall be determined by professionals dealing with children in each and every case. It concerns government, administrative and judicial bodies' decisions as well as decisions brought by the family.
- c) **Non-discrimination** – following this principle, unaccompanied children – foreign nationals shall be entitled to the same treatment and rights as nationals and their migration status shall be considered as a secondary issue.
- d) **Right to express own views** - following this principle unaccompanied children shall be actively involved in the resolution of all issues affecting their lives. They shall be entitled to express their views, which should be taken into account in decision making concerning children.
- e) All other rights and services provided to unaccompanied children are also based on the UN Convention, and they include:

**Right to information** – respecting the age of an unaccompanied child.

**Confidentiality** - it should primarily be taken into account that personal data which could endanger the child's safety, as well as the safety of his/her family members, shall not be disclosed. Such data should not be used for purposes other than those for which consent is given.

**Interpretation** – it is necessary to ensure interpretation in order to enable better access to legal proceedings and services. It is important to stress that interpreters should be trained to work with this group of children.

**Respect for Cultural Identity** – this is very important in the provision of care, medical assistance and education. Maintaining the mother tongue and culture is an integral part of the unaccompanied child's identity, especially in the case where he/she is returned to the country of origin.

**Timeliness and Durability of Decisions** – to counter and prevent all possible future difficulties. As this concerns a socially vulnerable group, it is necessary to **train staff** in order to enable them to obtain specific knowledge on efficient interventions and understanding in this regard.

**Inter-Organizational Cooperation** – this is important not only in terms of prevention but also in finding solutions through the exchange of views and in tackling the problem more efficiently.

The above principles constitute an integral part of procedures and should be the basis of all steps in dealing with unaccompanied children.

### **3.2. Legal framework in the Republic of Croatia**

Ratifications of the UN Conventions place the Republic of Croatia among the countries that have undertaken to protect human rights and fundamental freedoms. The principle related to respect, protection and promotion of human rights is entered in the Croatian legislation, and is enshrined in Article 3 of the Croatian Constitution: "Respect for human rights is one of the highest values of the constitutional order and the grounds for interpretation of the Constitution".

**The Constitution of the Republic of Croatia** proclaims that the state shall afford special care to unaccompanied minors and everybody shall be obliged to protect children.

When the Croatian legislation was reviewed, it was noted that the term "unaccompanied child" was insufficiently defined and explained. Nevertheless, this will not prevent the implementation of the provisions relating to children in general and to their protection.

On the other hand, in the past five years, a number of children have, for various reasons, been forced to leave their countries of origin and seek protection or better living conditions in some other countries. Consequently, questions need to be considered on how to eliminate shortcomings in legal practice when children become victims of trafficking in persons or of other forms of exploitation or how to react when the care provided to them is insufficient.

The migration of unaccompanied children is not a rare phenomenon worldwide, and it has not bypassed the Republic of Croatia. There is a question over which law should define unaccompanied children. A number of Croatian laws regulate the protection of children and their rights, and they consequently apply to unaccompanied children.

Article 149 of **the Family Act** regulates guardianship as a form of protection of minors without parental care.<sup>9</sup>

Pursuant to Article 151 of the Family Act, guardianship is performed by the Center for Social Welfare, a guardian or a special guardian.

**The Center for Social Welfare** is a public institution established to perform social welfare activities pursuant to the Social Welfare Act.

**A guardian** is a person of attributes and abilities for performing guardianship and who accepts guardianship duties (Article 174, paragraph 1 of the Family Act). In exceptional cases, when required by the well-being of the ward, the Center for Social Welfare itself can decide to perform the duties of guardian, in which case an official of the Center will be appointed as a guardian in the case concerned.

Article 175 of the Family Act stipulates who cannot be appointed as a guardian, thus specifying that the guardian cannot be a person deprived of parental rights or divested of the capacity to act, as well as a person whose interests are contrary to the interests of the ward.

Considering that neither the Family Act nor any other regulation specifies the attributes that a potential guardian should have, such attributes should be derived from legislation in general. Therefore, it can be concluded that a guardian should have the attributes and behavior of an ordinary person who can be expected to perform his/her guardianship duties conscientiously related to the personal interests of the ward. The scope of rights and duties of a guardian depends on the type of guardianship.

Article 167, paragraph 1 of the Family Act lays down that a **child foreign citizen found on the territory of the Republic of Croatia without a legal guardian shall be appointed with a special guardian by the Center for Social Welfare to protect particular personal and proprietary rights and the interests of the child concerned.**

The above provision derives from the State's duty to protect all children, including unaccompanied children who are foreign nationals, as well as stateless children who are found on the territory of the Republic of Croatia without their legal guardians. This provision is considered an exception to other provisions relating to guardianship, as unaccompanied children are not Croatian nationals, and a special guardian should be appointed for those children.

In the above cases, the Center for Social Welfare, by its own decision, appoints a guardian and determines his/her rights and duties. A special guardian can be any person with legal capacity, assuming that such a person has all the attributes that make him/her suitable to be a guardian. Attorneys-at-law may be appointed as special guardians.

It most commonly happens that, due to the urgency of the cases, the Centers for Social Welfare appoint their officials as guardians.

Article 74 of **the Social Welfare Act** lays down that a child found in vagrancy

---

<sup>9</sup> Official Gazette, Nos. 116/03, 17/04, 136/04, 107/07.

without parents or other adults, and who is not capable of taking care of himself/herself or who faces certain problems “shall have temporary care outside his/her family, in a children’s institution or in some other way, until return to his/her own or foster care family is ensured”.<sup>10</sup>

Paragraph 2 provides that temporary accommodation shall be ensured, under the conditions specified above, to a foreigner and a stateless person without residence in the Republic of Croatia. It is understood that unaccompanied children belong to this group.

Paragraph 3 prescribes that temporary accommodation shall be ensured for child victims of family violence and victims of trafficking in persons, as long as there is such a need.

Pursuant to Article 75 of the Social Welfare Act, children, as well as unaccompanied children, shall be entitled to immediate care outside their families in urgent cases, while Centers for Social Welfare shall be obliged to pass a related decision on accommodation within 8 days from the day when the temporary accommodation was organized.

**The Asylum Act** is the only legal act that defines the unaccompanied minor, thus specifying under Article 2 that **unaccompanied minor means a foreigner below the age of eighteen who arrives in the Republic of Croatia unaccompanied by an adult responsible for him/her whether by law or by custom, and for as long as he/she is not effectively taken into the care of such a person, including a minor who is left unaccompanied after he/she has entered the Republic of Croatia.**<sup>11</sup>

Article 26 lays down that the body competent for social welfare shall appoint a guardian to an unaccompanied minor seeking asylum and to an unaccompanied minor who has been granted protection pursuant to the provisions of the Asylum Act.

As an exception to the provision of Article 26, paragraph 1, the provision of paragraph 2 prescribes that a guardian shall not be appointed to an unaccompanied minor who is over 16 years of age and is married.

Special protection is regulated by Article 26, paragraph 4 by which the application for asylum of an unaccompanied minor shall be decided upon within the shortest time possible. Paragraph 3 of the same Article specifies that the Ministry shall take the necessary steps to find the parents of the minor.

Article 32 of the Asylum Act relating to the education of minor asylum seekers also refers to unaccompanied minors who are entitled to elementary and secondary education under the same conditions as Croatian nationals.

Regardless of the above facts and legal regulations, the procedure of the competent bodies in dealing with unaccompanied children has not been specified

<sup>10</sup> Official Gazette Nos. 73/97, 27/01, 59/01, 82/01, 103/03, 44/06, 79/07, 123/10.

<sup>11</sup> Official Gazette Nos. 79/07 and 80/10.

and the following issues have not been determined: how to communicate with unaccompanied children; how they can express their opinions; the need to ensure free services of interpreters and legal advisers specialized in working with children and young people, given that unaccompanied children arrive in the Republic of Croatia from other societies; the continued follow-up of the exercise of the child's rights with the assistance of a professional guardian appointed in the best interest of the child; the giving up of a criminal or misdemeanor procedure on account of illegal entry into the Republic of Croatia; the prohibition of deportation or expulsion.

Considering the above situation, **the Protocol between the Ministry of Interior and the Ministry of Health and Social Welfare on Dealing with Separated Children who are Foreign Nationals** was adopted in 2009.

The Protocol aimed to remedy shortcomings in the legislation in relation to the above facts.<sup>12</sup>

Article 2 of the Protocol stipulates that an **unaccompanied child means a person below the age of eighteen who is not a Croatian citizen, i.e. who is a third-country national or a stateless person without a legal guardian and adequate care and who does not fulfill the legal requirements for entry or stay in the Republic of Croatia.**

The Protocol, *inter alia*, prescribes mutual information sharing between the Ministries concerned. Considering the well-being of the child, the competent bodies (the Ministry of the Interior) shall, from the very first contact with unaccompanied children, be engaged in ensuring their children's rights.

**The Aliens Act** prescribes the conditions for the entry, movement and stay of foreigners in the Republic of Croatia. As far as unaccompanied minors are concerned, their entry to the Republic of Croatia and stay in the country can be legal, as in the case of temporary stay for educational reasons, etc., as well as illegal.

According to Article 87, stay in the Republic of Croatia is considered illegal if a foreigner (minor): is residing in the country illegally; entered the Republic of Croatia illegally; does not hold a valid visa or a residence permit in the Republic of Croatia when one is required; entered the Republic of Croatia following the denial of his/her entry or cancellation of his/her stay and who was returned to the Republic of Croatia pursuant to an international treaty related to the illegal crossing of the state border; and when illegal stay is subject to a misdemeanor procedure and expulsion from the Republic of Croatia.

However, Article 68, paragraph 2 lays down that temporary residence on humanitarian grounds shall be granted to a minor who was abandoned, or who was a victim of organized crime, or who, for some other reasons, remains without parental protection or guardianship, or who, for other reasons, remains unaccompanied.

Article 73 additionally prescribes that all bodies involved in the assistance and protection program of a minor victim shall bear in mind the best interests of the minor, while the Ministry shall take the necessary measures to determine his/her identity and nationality and to locate members of his/her family.

---

<sup>12</sup> The Protocol has not been published in the Official Gazette.

Pursuant to Article 74, when the temporary residence of a minor victim is terminated, the opinion of the body competent for social welfare shall be requested.

Article 75 prescribes that minors who are victims of trafficking in persons shall not be returned to any state if, after an evaluation of the risks and safety, there are indications that such a return would not be in the best interest of the minor concerned.

Article 95 clearly notes that an underage foreigner shall not be expelled if so doing would be contrary to the European Convention for the Protection of Human Rights and Fundamental Freedoms, the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, and the Convention on the Rights of the Child.

The legislator clearly intends to protect unaccompanied children in particular, but it is necessary to include in the related legislation a provision to specifically exclude a misdemeanor procedure in the case of a violation of any of the articles of the Aliens Act or the Act on Supervision of the State Border, as far as unaccompanied children are concerned.

If a procedure is initiated pursuant to the above-mentioned laws, Centers for Social Welfare are obliged to appoint a guardian to the unaccompanied child. Shortcomings in the system are seen in the fact that the guardian and the related procedure often do not meet certain requirements for the child's optimal well-being.

By a decision of the Center for Social Welfare, a minor shall be assigned for upbringing and care to a guardian, to another person, foster family, children's institution or other legal person that performs social care activities. The guardian of a minor shall conscientiously, just like a parent, take care of the child's rights, in particular his/her health, upbringing and education. A guardian shall have his/her legal obligation conferred by a related decision of the Center for Social Welfare (Article 154 of the Family Act).

Article 157 of the Family Act, which is based on Article 12 of the Convention on the Rights of the Child, prescribes that a minor shall be entitled to learn important facts of his/her case, receive advice and express his/her views, and shall also be informed of the possible consequences of the acceptance of such views when his/her rights or interests are decided upon. This article is important when a decision is made on the appointment of a guardian to an unaccompanied child. An unsuitable person, who does not possess sufficient knowledge and skills to ensure that the child exercises his/her rights, is very often appointed as a guardian to an unaccompanied child.

Pursuant to the Social Welfare Act, vagrancy is an important element in the provision of protection for unaccompanied children. It often forms the grounds for deciding on temporary accommodation and temporary care for foreign nationals, unaccompanied children in particular. Children in such a situation can be exposed to additional trauma due to the so-called mixing of the population. They can be threatened, uninformed of the process to be followed, and can remain without the possibility to communicate, etc.

A special part in the Croatian legislation should relate to the protection of unaccompanied children under misdemeanor and criminal legislation.

**The Misdemeanor Act**, which entered into force on 1 January 2008, does not define “unaccompanied children”. Therefore, provisions relating to minor perpetrators of misdemeanor acts apply to unaccompanied children.<sup>13</sup>

Pursuant to the Misdemeanor Act, a certain number of punishments apply to minors, such as: educational measures, protective measures and sanctions (a fine or juvenile imprisonment). A punishment aims to suitably influence the upbringing of the minor, strengthen his/her personal responsibility, and assist him/her in accepting responsibility and in receiving general education.

In misdemeanor proceedings, the cases of minor perpetrators have always been processed by courts that are competent according to the place where the misdemeanor act was committed or attempted. In the court proceedings, a minor is interviewed during which a special guardian does not need to be present. The court should inform the Center for Social Welfare when, in the misdemeanor procedure, the need is established for the protection of the rights and well-being of the minor.

The shortcomings of the above-mentioned provisions have been removed by the prescribed obligation of the prosecutor to inform the competent Center for Social Welfare whenever a misdemeanor procedure has been initiated.

The position of unaccompanied children in the criminal legislation is regulated by the Juvenile Courts Act,<sup>14</sup> **as well as by the provisions on criminal offences against children and minors**. A perpetrator of a criminal offence can be a child or a juvenile, including unaccompanied minors. Considering the Juvenile Courts Act, in the cases of delinquency of a juvenile between 14 and 18 years of age, as well as of a person aged between 18 and 21 years, it is necessary for juvenile judges, state juvenile prosecutors and all other court experts and state attorney office experts to obtain comprehensive insight into the scope, forms and causes of the possible criminality of unaccompanied children in order to give this specific subject matter a special position in the related legislation and to treat it in greater conformity with international standards, as far as this especially vulnerable group of children is concerned.

The Juvenile Courts Act refers to young perpetrators of criminal offences (juveniles and young persons of age). Under Croatian legislation, persons who have not turned 14 years at the time when a criminal offence was committed are called children and they do not bear criminal responsibility. Persons between 14 and 16 years are called younger juveniles, those between 16 and 18 years are called older juveniles, while persons between 18 and 21 years are called younger persons of age. When the age group is to be determined, it is considered that a person has reached **14, 16, 18, or 21** upon the expiration of the corresponding date on which he/she was born, which is an important element in acts committed against persons of certain age groups.

<sup>13</sup> Official Gazette No. 107/07.

<sup>14</sup> Official Gazette no. 111/97, 27/98, 12/02.

Pursuant to Article 4, the following sanctions are pronounced on juveniles who have committed criminal offences: educational measures, juvenile imprisonment and protective measures. Minors who, at the time when the criminal acts were committed, had not turned 16 years, have only the following educational measures pronounced on them, as stipulated by Article 6: court reprimand, special obligations, assignment to a disciplinary center, increased care and supervision, increased care and supervision with a daily stay in a correctional institution, assignment to a correctional institution, assignment to a rehabilitation centre, and assignment to a special correctional institute.

The above sanctions, in their content, create a significant problem for unaccompanied children, as these children have anyway been separated from their social environment. An additional dilemma exists regarding the institutional treatment to which an unaccompanied minor, a perpetrator of a criminal offence, can be assigned, so as not to additionally traumatize him/her.

**The Act on the Execution of Sanctions Pronounced on Juveniles for Crimes and Misdemeanors**, as a special law, regulates the execution of sanctions pronounced on juveniles and younger persons of age in criminal and misdemeanor proceedings.<sup>15</sup>

Article 2 prescribes that the Ministry competent for social welfare shall execute the following educational measures: special obligations, assignment to a disciplinary center, increased care and supervision, increased care and supervision with daily stay in a correctional institution, assignment to a correctional institution, assignment to a rehabilitation centre, while the pronouncement of assignment to a special correctional institute and juvenile imprisonment falls within the competence of the Ministry of Justice.

Article 11 lays down the possibility for the Ministry competent for social welfare to put in charge of the execution of certain educational measures non-governmental organizations and legal entities registered for performing social welfare activities and which fulfill the conditions for performing social welfare activities in the area of education and work with young people.

Article 3 of the above-mentioned Act prescribes that juveniles and younger persons of age shall enjoy the protection of the fundamental rights proclaimed by the Constitution of the Republic of Croatia, the UN Convention on the Rights of the Child and other international treaties, as well as the Juvenile Courts Act and the Act on the Execution of Sanctions Pronounced on Juveniles.

**The Ombudsman for Children Act**<sup>16</sup> regulates the competence and methods of work of the Ombudsman for Children. Article 2 prescribes that “the Ombudsman for Children protects, monitors and promotes the rights and interests of children on the basis of the Constitution of the Republic of Croatia, international treaties and laws”.

---

<sup>15</sup> Official Gazette No. 153/09.

<sup>16</sup> Official Gazette No. 96/03.

Article 6 specifies the scope of work of the Ombudsman for Children, stipulating, *inter alia*, that the Ombudsman for Children shall: make efforts towards the protection and promotion of the rights and interests of disabled children, monitor the violation of the individual rights of children, study the general occurrences and manner of violation of the rights and interests of children and monitor the fulfillment of the obligations of the Republic of Croatia arising from the Convention on the Rights of the Child and other international documents.

Article 10 prescribes that the Ombudsman for Children is authorized to warn and to make proposals and recommendations, which will strengthen the role of the Ombudsman for Children in relation to the scope of work regulated by Article 6.

Article 8 provides that “the Ombudsman for Children may take part in the procedure of preparing draft proposals of regulations concerned with the rights of children or those regulating important issues for children.”

Regardless of the fact that the provision of Article 8 does not have binding force, active implementation of the above-mentioned possibility would significantly contribute to the protection of unaccompanied children. The possible participation of the Ombudsman for Children in the relevant legislation procedure should be introduced as a rule.

After a thorough review of the laws above, it can be concluded that they ensure protection of children and minors, including unaccompanied children. However, it is clear that the legislation concerning unaccompanied children is insufficient in relation to the standards that should be adopted, considering that these children need special care and assistance.





# 4.

## RESULTS OF THE EMPIRICAL ASSESSMENT AND DISCUSSION

## **4. RESULTS OF THE EMPIRICAL ASSESSMENT AND DISCUSSION**

The part of the study that included the questionnaire drew on eight state institutions, three non-governmental organizations and three international organizations. In relation to the system of assistance and care of unaccompanied children, interviews were carried out in seven governmental and two non-governmental organizations that provide assistance and care to unaccompanied children. Data collected in such a way were considered in relation to areas included in the questionnaire.

### **4.1. General level of information and legal framework**

The collected data show that participants are either not familiar with the definition of the term “unaccompanied children” or that they use various definitions. The same was noted with reference to the sociological definition and the evaluation of the areas that such a definition would cover. The participants of the study indicate a number of documents that define “the best interest of the child”, such as: the Universal Declaration of Human Rights, the Constitution of the Republic of Croatia,<sup>17</sup> the Aliens Act,<sup>18</sup> the Asylum Act,<sup>19</sup> the Social Welfare Act,<sup>20</sup> the Police Act,<sup>21</sup> and the Action Plan “A World Fit for Children”.<sup>22</sup> Maximum agreement relates to the Convention on the Rights of the Child, the instrument that the majority of the participants specify as the most relevant document in the related field. The collected data are not surprising, as it is well known that in the European Union there are also differences in the legal definition of the term “unaccompanied child”.

All participants consider unaccompanied children as a significant problem, giving the following arguments:

it is expected that, with accession to the European Union, the number of unaccompanied children will increase;

the Republic of Croatia is a transit country and unaccompanied children do not have adequate accommodation (the participants point out that unaccompanied children damage the premises where they are accommodated in the related institutions, endanger other children, behave violently);

it is necessary to adopt a Protocol on dealing with unaccompanied children and on the cooperation of all bodies concerned; it is also important to ensure more appropriate protection for this vulnerable group of children;

---

<sup>17</sup> Official Gazette No. 85/10 (revised text).

<sup>18</sup> Official Gazette Nos. 79/07 and 36/09.

<sup>19</sup> Official Gazette Nos. 79/07 and 88/09.

<sup>20</sup> Official Gazette Nos. 73/97, 27/01, 59/01, 82/01, 103/03, 44/06, 79/07, Decision of the Constitutional Court No. 123/10.

<sup>21</sup> Official Gazette No. 76/09.

<sup>22</sup> Action Plan “A World Fit for Children” is an outcome document of the United Nations Special Session on Children, May 2002.

the Constitution of the Republic of Croatia states that the State shall afford special care to unaccompanied minors and children who are without parental care; therefore, it is important to afford protection to all unaccompanied children, regardless of whether they are asylum seekers, victims of trafficking in persons or foreigners staying illegally in the country;

UNHCR also refers to Article 64, paragraph 5 of the Constitution of the Republic of Croatia, which states that the State shall afford special care to minors without parents and to children who are not cared for by their parents; unaccompanied children are considered to belong to this group of children.

Furthermore, problems have been recorded that indicate difficulties in identifying unaccompanied children, and there is insufficient knowledge of this problem in general. There is a lack of awareness of related international studies, of non-governmental organizations dealing with unaccompanied children and of the network of institutions cooperating at international level.

#### **4.2. Recorded data on unaccompanied children in the Republic of Croatia**

Data related to unaccompanied children in the Republic of Croatia have been recorded and classified under three categories: unaccompanied children who are foreign nationals and who cross the border illegally; unaccompanied child asylum seekers; and unaccompanied child victims of trafficking in persons.

During 2008 and 2009, a decrease was noted in the number of migrant unaccompanied children found illegally on the territory of the Republic of Croatia. However, such data are not in accord with European experience and with the experience of some international organizations that indicated an increasing number of migrant children found illegally in the European Union. In the Republic of Croatia, during 2010, the number of migrant unaccompanied children found illegally in the country also increased, which indicates the same trends as in the European Union.

**Table 2.** *Total number of unaccompanied children in the Republic of Croatia by categories*

| UAC                               | 2005.      | 2006.      | 2007.      | 2008.      | 2009.      | 2010.      | TOTAL       |
|-----------------------------------|------------|------------|------------|------------|------------|------------|-------------|
| Illegal border crossings          | 418        | 581        | 584        | 149        | 103        | 172        | <b>2007</b> |
| Asylum seekers                    | 5          | 1          | 10         | 4          | 20         | 43         | <b>83</b>   |
| Victims of trafficking in persons | 3          | 2          | 1          | 0          | 1          | 2          | <b>9</b>    |
| <b>Total</b>                      | <b>426</b> | <b>584</b> | <b>595</b> | <b>153</b> | <b>124</b> | <b>217</b> | <b>2099</b> |

In contrast to the number of migrant children, children crossing the border illegally and children identified as victims of trafficking in persons, the number of child asylum seekers indicates an increasing trend, thus during 2009 and 2010 the number of such children doubled.

The relation between the large number of unaccompanied children identified in the illegal crossing of the state border (2007) and the number of child victims of trafficking (9) indicates that it is especially this group of unaccompanied children that requires special attention. Competent bodies should acquire the specialized knowledge needed for appropriate identification, for which the importance of interviewing the children should be stressed.

The participants of the study pointed out the countries that unaccompanied children arrived from in the past five years. Data indicate that the participants agree in relation to the countries that the unaccompanied children arrive from, concerning groups of migrants, asylum seekers and victims of trafficking in persons. However, there is only a partial overlap in recording the countries of origin, which most likely relates to the place and modality of identification and registration of unaccompanied children.

**Table 3.** *Country of origin of unaccompanied children by categories*

| UAC migrants   | UAC asylum seekers   | UAC victims of trafficking in persons                    |
|--|--|--|
| Albania<br>Bosnia and Herzegovina<br>Serbia<br>Turkey<br>Afghanistan | Afghanistan<br>Albania<br>Angola<br>Armenia<br>Gambia<br>India<br>Iraq<br>Iran<br>Republic of Congo<br>Sri Lanka<br>Azerbaijan<br>Pakistan | Ukraine<br>Rumania<br>Bulgaria<br>Bosnia and Herzegovina |

The table indicates that unaccompanied children (depending on the particular category) arrive from different countries. The data correspond to European data relating to unaccompanied minors, whether migrants, asylum seekers or victims of trafficking in persons.

#### **4.2.1. Unaccompanied child foreign nationals who cross the border illegally**

The Ministry of the Interior keeps statistics of illegal crossings of the state border. Data on unaccompanied children found on Croatian territory are not available, as the Ministry of the Interior does not keep such statistics. It was not possible to evaluate the information received from the Ministry of Health and Social Welfare due to its insufficient and unsystematic recording.

The Ministry of the Interior data relating to foreigners (adults, minors and unaccompanied minors) found illegally crossing the state border in the period from 2005 to 2010 are listed in the following table, unfortunately without a breakdown by gender. Besides data on adult migrants found illegally crossing the border, the table also includes categories of accompanied and unaccompanied minors similarly involved in illegal border-crossing.

**Table 4.** *Foreigners found illegally crossing the state border in the period from 2005 to 2010 (according to data provided by the Ministry of the Interior)*

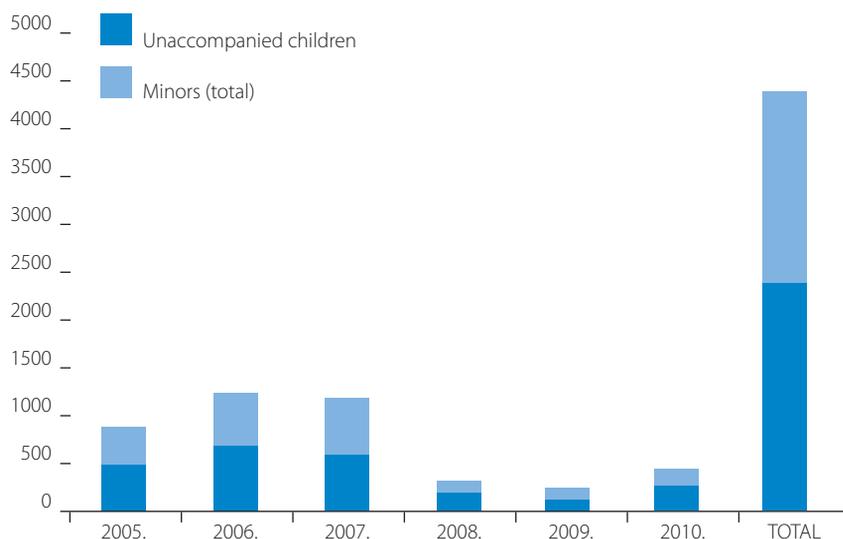
| FOREIGNERS             | 2005. | 2006. | 2007. | 2008. | 2009. | 2010. | Ukupno |
|------------------------|-------|-------|-------|-------|-------|-------|--------|
| Adults                 | 5,169 | 5,665 | 4,000 | 2,013 | 1,546 | 1,948 | 20,341 |
| Minors (total)         | 484   | 684   | 614   | 179   | 150   | 271   | 2,382  |
| Unaccompanied children | 418   | 581   | 584   | 149   | 103   | 172   | 2,007  |

It can be seen from the table above that the number of children crossing the border illegally before 2010 decreases, while in 2010 the number of illegal border crossings increased in all categories (Figure 1).

According to data of the Ministry of the Interior, in the above-mentioned period, 20,341 foreigners were identified illegally crossing the state border, 2,383 of whom were minors, which makes up 11.71 % of the total number of illegal migrants. In the total number of foreigners caught illegally crossing the border, unaccompanied children (2,007) make up 10%.

It can also be seen from the table that only 375 minors were accompanied by legal guardians, while 2,007 children (out of 2,382) were unaccompanied. It can be concluded that unaccompanied children make up 84.26 % of the total number of minors caught illegally crossing the state border (accompanied and unaccompanied).

**Figure 1.** *Number of foreign minors who crossed the border illegally*



A detailed overview of the countries of origin and the number of unaccompanied children crossing the state border in the period from 2005 to 2005 is presented in Table 6 (data provided by the Ministry of the Interior). The data show that 90.28%

**Table 5.** Countries of origin of unaccompanied children crossing the border illegally from 2005 to 2010 (data provided by the Ministry of Interior)

| Country of origin          | 2005.      | 2006.      | 2007.      | 2008.      | 2009.      | 2010.      | Total        |
|----------------------------|------------|------------|------------|------------|------------|------------|--------------|
| Albanija                   | 249        | 441        | 400        | 58         | 26         | 16         | <b>1,190</b> |
| Afganistan                 |            |            | 7          |            | 17         | 76         | <b>100</b>   |
| Algeria                    |            |            |            |            |            | 4          | <b>4</b>     |
| Azerbaijan                 |            |            |            |            |            | 1          | <b>1</b>     |
| Austria                    |            |            | 1          |            | 1          |            | <b>2</b>     |
| Belgium                    |            |            |            |            |            | 1          | <b>1</b>     |
| Bosnia and Herzegovina     | 26         | 17         | 17         | 23         | 20         | 20         | <b>123</b>   |
| Bulgaria                   | 1          |            |            |            |            |            | <b>1</b>     |
| Burkina Faso               | 1          |            |            |            |            |            | <b>1</b>     |
| Bolivia                    |            |            |            | 1          |            |            | <b>1</b>     |
| Monte Negro                |            |            | 1          |            |            |            | <b>1</b>     |
| Check Republic             |            |            |            |            |            | 1          | <b>1</b>     |
| Eritrea                    | 1          |            |            |            |            |            | <b>1</b>     |
| France                     |            |            |            |            |            | 1          | <b>1</b>     |
| India                      | 1          |            | 3          |            |            |            | <b>4</b>     |
| Iran                       |            |            |            |            | 1          | 4          | <b>5</b>     |
| Italy                      |            | 1          |            |            |            |            | <b>1</b>     |
| Iraq                       |            |            | 4          |            |            | 7          | <b>11</b>    |
| Israel                     |            |            |            |            |            | 17         | <b>17</b>    |
| Kosovo                     |            |            |            | 3          | 23         | 4          | <b>30</b>    |
| Macedonia                  | 24         | 11         | 7          | 6          | 1          |            | <b>49</b>    |
| Morocco                    |            |            |            |            |            | 2          | <b>2</b>     |
| Moldova                    | 7          | 8          |            |            |            |            | <b>15</b>    |
| Hungary                    | 1          |            |            |            | 1          | 2          | <b>4</b>     |
| Germany                    |            |            | 2          | 1          | 1          |            | <b>4</b>     |
| Nigeria                    |            |            | 1          |            |            |            | <b>1</b>     |
| Pakistan                   | 1          |            |            |            | 1          | 1          | <b>3</b>     |
| Palestine                  |            | 2          |            |            |            | 8          | <b>10</b>    |
| Rumania                    | 5          | 1          |            |            |            |            | <b>6</b>     |
| Somalia                    |            |            |            |            |            | 3          | <b>3</b>     |
| Sierra Leone               |            |            | 2          |            |            |            | <b>2</b>     |
| Slovenia                   | 2          |            | 2          |            |            |            | <b>4</b>     |
| Serbia and Monte Negro     | 75         | 63         |            |            |            |            | <b>138</b>   |
| Serbia                     |            | 17         | 120        | 34         | 8          |            | <b>179</b>   |
| Sri Lanka                  |            |            | 2          | 1          |            |            | <b>3</b>     |
| Switzerland                |            |            |            |            | 1          |            | <b>1</b>     |
| Turkey                     | 23         | 20         | 12         | 21         | 2          | 2          | <b>80</b>    |
| Ukraine                    |            |            | 1          |            |            |            | <b>1</b>     |
| Without data/<br>stateless | 1          |            | 2          | 1          |            | 2          | <b>6</b>     |
| <b>TOTAL</b>               | <b>418</b> | <b>581</b> | <b>584</b> | <b>149</b> | <b>103</b> | <b>172</b> | <b>2,007</b> |

#### 4.2.2. Unaccompanied child asylum seekers

**Table 6.** Number of unaccompanied child asylum seekers in Croatia in 2004 – 2010 (according to data provided by the Ministry of the Interior and UNHCR analyses)

| Year         | Country       | Sex       |   | Age group |           |           | Total     |
|--------------|---------------|-----------|---|-----------|-----------|-----------|-----------|
|              |               | M         | F | 0-6       | 7-14      | 15-18     |           |
| 2004. [1]    | Iraq          | 1         |   |           |           | 1         | 1         |
|              | Cote d'Ivoire | 3         |   |           |           | 3         | 3         |
|              | <b>Total</b>  | <b>4</b>  |   |           |           | <b>4</b>  | <b>4</b>  |
| 2005.        | Albania       | 1         |   |           |           | 1         | 1         |
|              | Burkina Faso  | 1         |   |           |           | 1         | 1         |
|              | Cameroon      | 1         |   |           |           | 1         | 1         |
|              | China         | 2         |   |           |           | 2         | 2         |
|              | <b>Total</b>  | <b>5</b>  |   |           |           | <b>5</b>  | <b>5</b>  |
| 2006.        | Russia        |           | 1 |           |           | 1         | 1         |
|              | <b>Total</b>  | <b>1</b>  |   |           |           | <b>1</b>  | <b>1</b>  |
| 2007.        | India         | 3         |   |           |           | 3         | 3         |
|              | Iraq          | 1         |   |           |           | 1         | 1         |
|              | Serbia/Kosovo | 4         |   |           |           | 4         | 4         |
|              | Sri Lanka     | 2         |   |           |           | 2         | 2         |
|              | <b>Total</b>  | <b>10</b> |   |           |           | <b>10</b> | <b>10</b> |
| 2008.        | Albania       | 1         |   |           |           | 1         | 1         |
|              | Angola        | 1         |   |           |           | 1         | 1         |
|              | Gambia        | 1         |   |           |           | 1         | 1         |
|              | Sri Lanka     | 1         |   |           |           | 1         | 1         |
|              | <b>Total</b>  | <b>4</b>  |   |           |           | <b>4</b>  | <b>4</b>  |
| 2009.        | Afghanistan   | 16        |   |           | 5         | 11        | 16        |
|              | Armenia       | 1         |   |           |           | 1         | 1         |
|              | Iran          | 1         |   |           |           | 1         | 1         |
|              | Pakistan      | 1         |   |           |           | 1         | 1         |
|              | R. Congo      | 1         |   |           |           | 1         | 1         |
|              | <b>Total</b>  | <b>20</b> |   |           | <b>5</b>  | <b>15</b> | <b>20</b> |
| 2010.        | Afghanistan   | 39        |   |           | 1         | 38        | 39        |
|              | Palestine     | 2         |   |           |           | 2         | 2         |
|              | Somalia       | 2         |   |           |           | 2         | 2         |
|              | <b>Total</b>  | <b>43</b> |   |           | <b>1</b>  | <b>42</b> | <b>43</b> |
| <b>TOTAL</b> | <b>86</b>     | <b>1</b>  |   | <b>6</b>  | <b>81</b> | <b>87</b> |           |

[1] Data for 2004 refer to the period after July, when the first Asylum Act came into force.

of the unaccompanied children arrive from South Eastern Europe. The largest number of unaccompanied children originate from Albania (1,190, i.e. 59.29 %). Since 2007, a decrease in the number of unaccompanied children originating from Albania has been noticed, while an increasing trend has been observed in unaccompanied children originating from Afghanistan, which is in accordance with the increased number of such children in all other countries of Western Europe. Children originating from former Yugoslavia represent 26.11% of the total number of unaccompanied child illegal migrants.

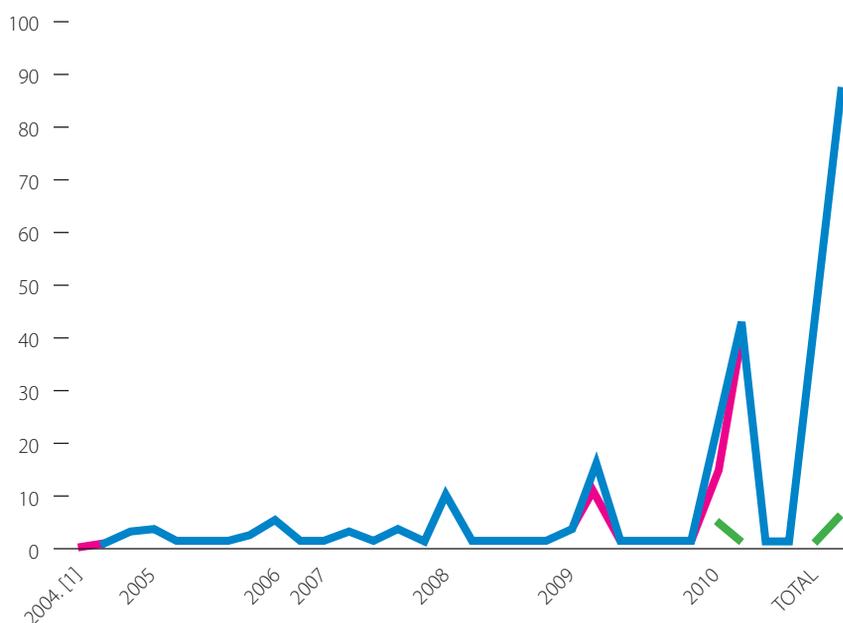
If an unaccompanied child is found illegally crossing the state border and he/she does not seek asylum in the Republic of Croatia, or if he/she is not identified as a victim of trafficking in persons, access to the country could be denied, in which case the unaccompanied child remains unprotected. In such a case, it is necessary to provide valid information to the unaccompanied child on the possibility for him/her to seek international protection, i.e. to seek asylum.

We have not been informed of the appointment of guardians for the identified foreign national minors caught illegally crossing the border at the border itself. This indicates that the participants of the study have insufficient knowledge of how to deal with unaccompanied children following the principle of the best interest of the child, i.e. on the related legal rules and the need to ensure a guardian for unaccompanied children in the best interest of the child.

By treating the unaccompanied child as an adult migrant staying illegally in the country, his/her vulnerability would not be taken into account, and, with such an attitude, the competent institutions would express indifference to the needs of unaccompanied minors.

The above data indicate an increasing trend in the number of child asylum seekers in 2009 and 2010, which is in accordance with the trends in EU countries. We would like to point out that such increases most likely result from the recent additional training of experts working in the related field, and the fact that the competent institutions correctly identify asylum seekers as a risk group in need of treatment pursuant to the related rules (Asylum Act) and the best practice of other countries.

**Figure 2.** Number of child asylum seekers in the Republic of Croatia



In 2009 and 2010, an increasing number of asylum seekers originating from Afghanistan was recorded in the Republic of Croatia, as was the case in EU countries. A total of 55 children from Afghanistan sought asylum in the Republic of Croatia. This represents 63.22 % of the total number of asylum applications in that period.

In the above data, only one female asylum seeker was recorded. Out of the total number, 93.10% of the underage asylum seekers belonged to the age group ranging from 15 to 18 years, while 6.90 % belonged to the age group ranging from 7 to 14 years.

According to the available data, out of the total number of unaccompanied children included in the asylum procedure, 4 unaccompanied minors received protection in the Republic of Croatia: in 2009, asylum was granted to a minor, a national of Armenia, while in 2010 a minor, a national of the Republic of Congo, was granted asylum, and two minors, nationals of Afghanistan, were granted subsidiary protection.

#### **4.2.3. Unaccompanied child victims of trafficking in persons**

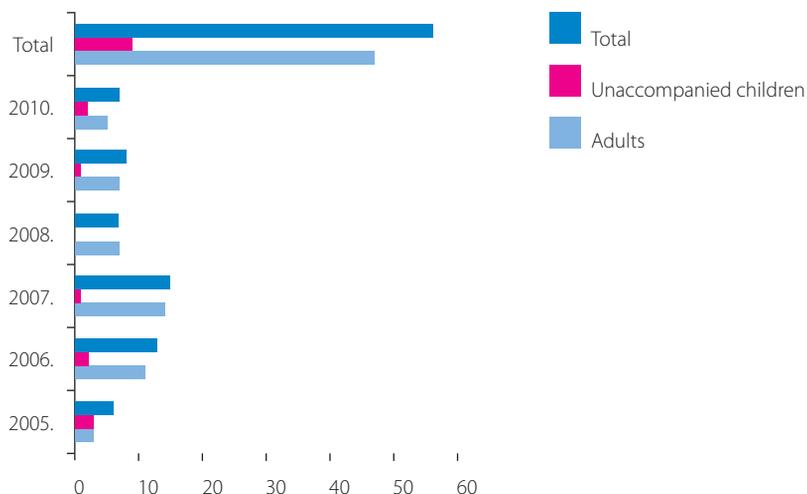
Unaccompanied children are at particular risk of becoming victims of trafficking in persons, of being forced to beg or pickpocket, forced into prostitution, and at risk of becoming involved in other activities, such as stealing and drug distribution. Although the number of identified victims of trafficking in persons in the Republic of Croatia is relatively low, data show that the Republic of Croatia is not only a transit country, but also a country of origin and a final destination for child trafficking.

**Table 7.** Number of identified victims of trafficking in persons in the period from 2005 to 2010 in the Republic of Croatia (data provided by the Office for Human Rights)

| Victims of trafficking in persons | 2005.    | 2006.     | 2007.     | 2008.    | 2009.    | 2010.    | Total     |
|-----------------------------------|----------|-----------|-----------|----------|----------|----------|-----------|
| Adults                            | 3        | 11        | 14        | 7        | 7        | 5        | <b>47</b> |
| Unaccompanied children            | 3        | 2         | 1         | 0        | 1        | 2        | <b>9</b>  |
| <b>TOTAL</b>                      | <b>6</b> | <b>13</b> | <b>15</b> | <b>7</b> | <b>8</b> | <b>7</b> | <b>56</b> |

It is seen from the Table 7 that unaccompanied children represent 16, 07 % out of the total number of identified victims of trafficking in persons in the past five years.

**Chart 3.** Identified victims of trafficking in persons



**Table 8.** Number of victims of trafficking in persons in the period from 2005 to 2010 (data provided by the Office for Human Rights of the Republic of Croatia)

|                        | 2005.    | 2006.    | 2007.    | 2008.    | 2009.    | 2010.    | Total    |
|------------------------|----------|----------|----------|----------|----------|----------|----------|
| Bulgaria               | 1        |          |          |          |          |          | 1        |
| Rumania                | 1        | 1        |          |          |          |          | 2        |
| Ukraine                |          | 1        |          |          |          |          | 1        |
| Bosnia and Herzegovina | 1        |          | 1        |          | 1        | 1        | 4        |
| Croatia                |          |          |          |          |          | 1        | 1        |
| <b>TOTAL</b>           | <b>3</b> | <b>2</b> | <b>1</b> | <b>0</b> | <b>1</b> | <b>2</b> | <b>9</b> |

Children identified as victims of trafficking in persons were aged 13 years on average, while the youngest victim was 4 years old. All victims were female. Most of them had been sexually exploited. For seven of the victims, the Republic of Croatia was the country of final destination, while one victim was in transit. All victims received necessary care in a safe accommodation center. They were returned to their countries of origin in an organized manner and were accompanied by guardians during the return process. Unfortunately, data were not received specifying the reasons for leaving the country of origin, the family situation, education, way of arrival and period of stay in the Republic of Croatia, the medical and psycho-physical state of the minor, or the method of return to the country of origin.

As previously indicated, the number of identified minor victims of trafficking in persons is not high in the statistical sense. However, considering the consequences on the state of mental health of the minors concerned, the number is neither low nor irrelevant. Following existing knowledge and data provided by international non-governmental organizations, 80% of unaccompanied children are either considered as potential victims of trafficking in persons or have already been identified as such victims.

The world is presently confronted with an increase in demand for cheap labor, and unaccompanied children, as a particularly vulnerable group, are also being exploited as a labor force. According to data provided by the State Inspectorate, in the period from 2005 to 2009, a total of 6 (six) child foreign nationals worked in the Republic of Croatia illegally. Unfortunately, the State Inspectorate does not possess data on whether these children were unaccompanied.

We are concerned by the fact that there is no information on whether children begging on the streets, washing car windscreens at crossroads or singing on public transport are victims of trafficking in persons. The exploitation of unaccompanied children in forced labor can have long lasting consequences on their growth and development.

Following answers to the questions of the related part of the questionnaire, we can conclude that the majority of participants consider that the Ministry of the Interior and the Ministry of Health and Social Welfare should be responsible for the collection of relevant data. The Ministry of Family, Veterans and Intergenerational Solidarity and the Office of the Ombudsman for Children were also specified within this context.

From the received statistical data, we can conclude that there are serious shortcomings in their collection. Data are insufficient, and for the same period of time different institutions provide different data. Each institution participating in the study deals exclusively within its scope of competence. However, important data, listed as follows, has not been available: reasons for leaving the country of origin, family situation, gender, age, education, way of arrival and period of stay in the Republic of Croatia, medical and psycho-physical state of the minor, and the method of return to the country of origin.

Since the data collection system has not been formed in a way to provide a unique collection of specific data on unaccompanied children, we can conclude that such

a situation most likely affects the competent bodies so that, when passing related decisions and implementing legally determined measures and procedures, they are not fully aware of the scope of this phenomenon and its complexity.

In relation to the above, we consider it necessary to establish a clear and officially determined procedure of harmonizing and unifying the data provided by all competent institutions. Furthermore, it is necessary to carry out a study related to migration trends and the composition of groups of unaccompanied children, including information on their age, gender, and country of origin, reasons for migrating and their special needs. Only after the results of such a study will it be possible to establish efficient programs of assistance to this risk group, following the principles of good practice.

#### **4.3. National system of protection and care**

The Ministry of the Interior and the Ministry of Health and Social Welfare have jointly prepared a **Protocol on Dealing with Separated Children who are Foreign Nationals**. The Protocol is based on legislation regulating the related issues, including: the Aliens Act; the Asylum Act; the Rule Book on Travel Documents for Aliens, Visas and the Procedure with Aliens; the Rule Book on Accommodation of Asylum Seekers, Asylees, Aliens under Temporary Protection and Aliens under Subsidiary Protection; the Act on Health Care for Aliens in the Republic of Croatia; the Rule Book on the Content of Medical Examination of Asylum Seekers, Asylees, Aliens under Temporary Protection and Aliens under Subsidiary Protection; the Social Welfare Act and the Family Act.

The Protocol defines the unaccompanied child and it regulates the mutual relation of the two Ministries concerned during the identification of unaccompanied children in the Republic of Croatia, the police procedure, the consequent competent court procedure and the procedure related to acceptance, accommodation, provision of care and return to the country of origin or the country of last residence.

If an unaccompanied child submits an asylum request, the provisions of the Asylum Act apply. If there is suspicion that an unaccompanied child might be a victim of trafficking in persons, the related provisions of the Aliens Act, the National Plan for the Suppression of Trafficking in Persons, the Protocol relating to Identification, Assistance and Protection provided to Victims of Trafficking in Persons, the Standard Operational Procedure of the Ministry of Health and Social Welfare relating to Trafficking in Persons, as well as the Cooperation Agreement among the Ministry of the Interior, the Ministry of Health and Social Welfare, the Croatian Red Cross and the Organization for Integrity and Prosperity, apply.

The *main way of identifying* unaccompanied children in the Republic of Croatia is an *interview*. After interviewing a child, officials establish the child profile, identify the country of origin and the child's family, and determine the reasons for entering the country. The interview should be conducted by an official specially trained to deal with minors. A guardian should be appointed immediately after the identification of the minor and should be actively involved in interviewing the minor.

Unaccompanied children found on the territory of the Republic of Croatia have needs that the Republic of Croatia, as a signatory of the Convention on the Rights of the Child, should meet. A guardian has a special position in the system of providing assistance and care for an unaccompanied child. A guardian is a legal representative who should conscientiously take care of the child and his/her rights and duties, until the child is returned to the country of origin. Before any decision is passed, a guardian should consider the child's views and contribute to the process of finding a durable solution in the best interest of the child.

Every child and unaccompanied minor foreign national found on the territory of the Republic of Croatia should have a special guardian appointed to him/her. According to the data provided by the Ministry of Health and Social Welfare, Table 9 gives an overview of guardians appointed in 2008 and 2009. Comparing the total number of unaccompanied children and considering the possibility for a person to be appointed as a guardian for a number of children, we notice a discrepancy between the number of appointed guardians and the identified unaccompanied children.

**Table 9.** *Guardians appointed to unaccompanied children in 2008 and 2009*

| APPOINTED GUARDIAN                         | 2008.     | 2009.     | TOTAL      |
|--|-----------|-----------|------------|
| Officials of the Center for Social Welfare | 31        | 65        | <b>96</b>  |
| Relatives                                  | 5         | 4         | <b>9</b>   |
| Illegal migrants – members of the group    | 29        | 3         | <b>32</b>  |
| Other                                      | 32        | 3         | <b>35</b>  |
| <b>TOTAL</b>                               | <b>97</b> | <b>75</b> | <b>172</b> |

The above data show that in 2008 the majority of guardians were appointed from the professionals/officials of the Centers for Social Welfare and from the members of the group of illegal migrants

It is important to stress that, pursuant to legal acts, when appointing a guardian, the views of the ward should be taken into account. In practice, this raises the question of how to establish communication between a guardian and a ward as language may be a barrier. It should be underlined that a person whose interests are contrary to the interests of the child cannot be appointed a guardian. On the other hand, guardians appointed from the group of illegal migrants have already violated the law and their opportunity to represent the best interest of the child is therefore put in question.

We would like to stress that the role of the guardian is very important when the best interest of the child is determined, for the entire period of a child's stay in the Republic of Croatia. In order to improve current practice and harmonize it with the Statement of Good Practice, clear criteria for the selection of guardians, as well as the practice of appointing a guardian from the group of migrants with whom the child was traveling, should be established.

**Table 10.** Breakdown of unaccompanied children according to countries of origin in the period from 2005 to the end of 2010

| Country of origin      | 2005.     |           |           | 2006.      |           |            | 2007.      |           |            | 2008.     |           |           | 2009.     |          |           | 2010.     |          |           | TOTAL      |
|------------------------|-----------|-----------|-----------|------------|-----------|------------|------------|-----------|------------|-----------|-----------|-----------|-----------|----------|-----------|-----------|----------|-----------|------------|
|                        | M         | F         | T         | M          | F         | T          | M          | F         | T          | M         | F         | T         | M         | F        | T         | M         | F        | T         |            |
| Albania                | 37        |           | 37        | 108        | 1         | 109        | 75         |           | 75         | 23        |           | 23        | 10        |          | 10        |           |          |           | <b>254</b> |
| Bosnia and Herzegovina | 8         | 2         | 10        | 8          | 2         | 10         | 11         | 4         | 15         | 7         | 5         | 12        | 4         | 1        | 5         | 1         | 3        | 4         | <b>56</b>  |
| Kosovo                 | 1         | 2         | 3         | 11         | 1         | 12         | 16         | 7         | 23         | 4         |           | 4         | 3         | 1        | 4         |           |          |           | <b>46</b>  |
| Turkey                 | 8         | 1         | 9         | 5          |           | 5          | 7          |           | 7          | 9         |           | 9         |           |          |           |           |          |           | <b>30</b>  |
| Romania                | 3         |           | 3         | 5          | 1         | 6          |            | 1         | 1          | 5         | 3         | 8         | 1         |          | 1         |           |          |           | <b>19</b>  |
| Moldova                |           | 2         | 2         | 13         |           | 13         | 2          |           | 2          |           |           |           |           |          |           |           |          |           | <b>17</b>  |
| Serbia                 |           |           |           | 2          | 1         | 3          | 8          | 1         | 9          | 1         | 4         | 5         |           |          |           |           |          |           | <b>17</b>  |
| Macedonia              | 1         | 2         | 3         | 3          | 1         | 4          | 3          |           | 3          | 1         |           | 1         |           | 2        | 2         |           | 2        | 2         | <b>15</b>  |
| Check Republic         |           |           |           | 2          |           | 2          |            | 2         | 2          | 2         | 2         | 4         |           |          |           |           | 2        | 2         | <b>10</b>  |
| Bulgaria               | 2         | 2         | 4         |            | 3         | 3          |            |           |            |           |           |           |           |          |           |           |          |           | <b>7</b>   |
| Slovenia               |           |           |           |            |           |            |            |           |            | 7         |           | 7         |           | 2        | 2         |           |          |           | <b>9</b>   |
| Afghanistan            |           |           |           |            |           |            |            |           |            |           |           |           | 5         |          | 5         | 3         |          | 3         | <b>8</b>   |
| Germany                |           |           |           |            | 1         | 1          |            | 2         | 2          |           | 1         | 1         |           |          |           | 1         |          | 1         | <b>5</b>   |
| Palestine              |           |           |           | 2          |           | 2          |            |           |            |           |           |           |           |          |           | 5         |          | 5         | <b>7</b>   |
| Austria                | 1         |           | 1         | 1          | 1         | 2          |            |           |            |           |           |           |           |          |           |           |          |           | <b>3</b>   |
| France                 | 1         |           | 1         |            |           |            |            |           |            | 2         |           | 2         |           |          |           | 2         |          | 2         | <b>5</b>   |
| Italy                  |           |           |           |            | 1         | 1          | 2          |           | 2          |           |           |           |           |          |           |           |          |           | <b>3</b>   |
| Nigeria                |           |           |           |            |           |            |            | 2         | 2          |           |           |           | 1         |          | 1         |           |          |           | <b>3</b>   |
| Sierra Leone           |           |           |           |            |           |            | 2          |           | 2          |           |           |           |           |          |           |           |          |           | <b>2</b>   |
| Ukraine                |           |           |           |            |           |            |            | 2         | 2          |           |           |           |           |          |           |           |          |           | <b>2</b>   |
| Chechnya               |           |           |           |            | 1         | 1          |            |           |            |           |           |           |           |          |           |           |          |           | <b>1</b>   |
| Angola                 |           |           |           |            |           |            |            |           |            | 1         |           | 1         |           |          |           |           |          |           | <b>1</b>   |
| Belgium                |           |           |           |            |           |            |            |           |            | 1         |           | 1         |           |          |           |           |          |           | <b>1</b>   |
| Bolivia                |           |           |           |            |           |            |            |           |            |           | 1         | 1         |           |          |           |           |          |           | <b>1</b>   |
| Brazil                 |           |           |           |            |           |            |            | 1         | 1          |           |           |           |           |          |           |           |          |           | <b>1</b>   |
| Burkina Faso           | 1         |           | 1         |            |           |            |            |           |            |           |           |           |           |          |           |           |          |           | <b>1</b>   |
| Cameroon               | 1         |           | 1         |            |           |            |            |           |            |           |           |           |           |          |           |           |          |           | <b>1</b>   |
| Hungary                |           |           |           |            |           |            |            |           |            |           |           |           | 1         | 1        |           |           |          |           | <b>1</b>   |
| Netherlands            |           |           |           |            |           |            |            | 1         | 1          |           |           |           |           |          |           |           |          |           | <b>1</b>   |
| USA                    |           |           |           |            |           |            |            |           |            |           |           |           |           |          |           | 1         |          | 1         | <b>1</b>   |
| <b>Grand Total</b>     | <b>64</b> | <b>11</b> | <b>75</b> | <b>160</b> | <b>14</b> | <b>174</b> | <b>126</b> | <b>23</b> | <b>149</b> | <b>63</b> | <b>16</b> | <b>79</b> | <b>24</b> | <b>7</b> | <b>31</b> | <b>13</b> | <b>7</b> | <b>20</b> | <b>528</b> |

It is also important to emphasize that it is in the interest of unaccompanied children if an appointed guardian possesses particular competences that enable him/her to care for the child and to ensure that harmful consequences do not affect the child's development and growth. This means that guardians need to be trained in accordance with current experience in working with unaccompanied children.

The legal acts specify where an unaccompanied child may be accommodated. On the basis of an evaluation by the competent official of the Center for Social Welfare, an unaccompanied child may be placed in the following accommodation facilities:

- a) Reception Center for Foreigners of the Ministry of the Interior, if a decision on return to the country of origin was pronounced and if a person from the group has been appointed as a guardian of the unaccompanied minor concerned;
- b) Home for children and youth or any other territorially competent social welfare institution. A child below 14 years of age shall be placed in a children's home, while a child that has turned 14 years shall be placed in a home for children and youth;
- c) Reception Center for Asylum Seekers, as prescribed by the Asylum Act;
- d) Safe house for victims of trafficking in persons, if competent bodies have determined that the child belongs to that category.

Children's homes to which unaccompanied children are placed exist in Zagreb, Split, Rijeka, Osijek and Varaždin. During the stay of an unaccompanied child in such an institution, he/she shall be provided with basic living conditions and accommodation. The child should have the same medical care as children who are Croatian nationals; however, the measures in the Aliens Act shall apply to this group of children. Education should be made available to unaccompanied children just as it is to children who are Croatian nationals, but practice shows that special programs have not been ensured for this group of children. Conditions in the existing accommodation facilities do not meet the specific needs of unaccompanied children and there is a lack of professionals specifically trained to deal with unaccompanied children in a way that would ensure that their particular cultural needs are satisfied.

***The Dugave-Zagreb Home for Children and Youth*** has had the most experience as an institution dealing with unaccompanied children. The Department for Diagnostics, Acceptance and Provision of Treatment of the Dugave Home provides emergency social care for children without legal guardians. Temporary short-term accommodation is provided for children with behavioral problems who are Croatian nationals and unaccompanied foreign children illegally staying in the country, aged between 7 and 18 years.

From 2005 to 2010, the Home for Children and Youth accommodated 528 unaccompanied minor foreign nationals originating from 30 countries.

The relevant data show that the highest number of unaccompanied children arrive from South Eastern Europe, most of them originating from Albania (254),

which represents 48.11% of the total number of unaccompanied children in the Republic of Croatia. Unaccompanied children originating from the countries of former Yugoslavia account for 27.08% of the total, while 12.12% of unaccompanied children originate from EU countries.

The reasons for leaving the country of origin are mostly of an economic nature. Only in a few cases has a reason related to war or religion been given.

Out of the total number of unaccompanied children, 85.2% were male (450), while 14.8 % were female (78).

The largest group of unaccompanied children were 17 years old (46.03%), while 24.75% were 16 years old, and 16.24% were 15 years old. The youngest child accommodated in the Home was 7 and originated from Kosovo.

The Dugave Home keeps records on the way unaccompanied children leave the Home. The majority of unaccompanied children were taken from the Home by the police (64.80%). Only a small number were taken by their parents or close relatives (6.19%), social welfare authorities (1.74%) or responsible embassies (0.58%), while one unaccompanied child was sent home. Out of the total number of unaccompanied children placed in the Home, 25.57% left on their own without notification (disappeared from the Home).

Officials of the institutions in which unaccompanied children are placed point out the accommodation related difficulties they face in dealing with unaccompanied children. One of the difficulties relates to the "mixing" of unaccompanied minor foreign nationals with children who are Croatian nationals. Professionals dealing with children in the institutions do not have basic information on the unaccompanied children placed in their institutions, such as: living conditions in the unaccompanied minors' countries of origin, their reasons for leaving their home countries, their intended final destination, whether they are victims of violence, etc.

The professionals working in the accommodation institutions observe that unaccompanied children are upset, frightened, anxious and lack sleep when they arrive. They distrust other children in the institution and the professionals working there and express concern for their family members.

The language barrier also causes a serious problem. Considering that unaccompanied children cannot express their needs and the difficulties they face in the language they are familiar with, both the children and the professionals that would like to help them become frustrated. It should not be forgotten that sometimes, due to cultural differences, it is also difficult to establish non-verbal communication.

For all these reasons, in some cases even basic information, such as age and personal data, are not available. These unaccompanied children might feel helpless and they could react in an aggressive manner; they could engage in self-aggressive behavior and be destructive, which can represent an expression of physical violence and introversion and, unfortunately, in some cases, can lead to attempted suicide. It is important to point out that unaccompanied children are not necessarily children with behavioral problems. They just react in a normal manner to the abnormal

situation in which they find themselves. All these circumstances could be avoided if the needs of unaccompanied children were satisfied and the conditions for care, assistance and protection properly ensured.

The participants of the study indicate that major problems affecting unaccompanied children relate to shortcomings in establishing standards of protection as well as in harmonizing the principles of good practice in the best interest of the child. Funds for the implementation of the above-mentioned standards have not been ensured, which may cause additional problem. The participants also point to a lack of specialized institutions for the placement of unaccompanied children, problems related to guardians, an insufficient number of interpreters, and shortcomings related to medical care. Furthermore, there is no mechanism to follow the movement of unaccompanied children once they leave the Republic of Croatia.

Collected data concerning unaccompanied children unfortunately follow the experience of other European countries, where unaccompanied children are placed in reception centers for foreigners for “administrative reasons”. If the competent Center for Social Welfare appoints for an unaccompanied child a guardian from among the group of migrants staying illegally in the country, and who is served with an expulsion order, the unaccompanied child concerned is placed in the Ježevo Reception Shelter for Foreigners.

The procedure related to the placement of unaccompanied children in this shelter unfortunately does not consider the special needs of these children. Despite efforts made to ensure that the stay there is as short as possible, the placement of children together with adult migrants is contrary to the best interest of the child, i.e. placement in a special institution for the accommodation of unaccompanied children.

Although there is no coordination between institutions responsible for the protection of unaccompanied children, all participants of the study consider that special accommodation should be secured for unaccompanied children and that clear criteria for the selection and appointment of guardians should be formulated. The work of a guardian appointed to an unaccompanied child should be evaluated.

When interviewing the participants, it was established that they had only a partial level of information on the duration of stay of unaccompanied children and on their manner of return to the country of origin. The return is organized in line with standardized procedures and following the Protocol on Dealing with Separated Children who are Foreign Nationals. The countries to which the return is often organized are the following: Albania, Turkey, Bosnia and Herzegovina, Serbia, Macedonia, Romania and Bulgaria. Contacts with families and competent bodies in the countries of origin are maintained by diplomatic services. Following the answers provided by the study participants, we conclude that information is gained only formally, by checking whether the child will be adequately cared for upon return to the country of origin. The participants could not provide information on whether the Program on Voluntary Return applies.

An expulsion order from the Republic of Croatia can be pronounced on a separated child in a misdemeanor procedure, or pursuant to the Aliens Act. In such

a case, police officers provide travel documents for such unaccompanied children and accompany them to the border. A guardian or a person from the institution where the minor was accommodated, authorized by a competent Center for Social Welfare, is present in the border procedure, together with the police officers.

Unaccompanied asylum-seeking minors are placed in the Reception Center for Asylum Seekers on the basis of the related decision on accommodation passed by the Center for Social Welfare competent according to the place where the unaccompanied child was found. The Reception Center for Asylum Seekers in Kutina is an open type of institution where children above 14 years of age are placed. Younger children are usually placed in a home for children and youth or in some other social welfare institution. In the Reception Centre for Asylum Seekers in Kutina, children are not separated from adult asylum seekers. We consider that a special division should be established there where children would be separated from adults. Officials of this Center face children running away from the Center while they wait for the resolution of their status. The children obviously intend to continue their journey to the final destination country.

Unaccompanied children identified as victims of trafficking in persons are placed in an especially established safe house for victims of trafficking in persons, following a decision on accommodation passed by the Center for Social Welfare.

#### **4.4. Prevention**

The study participants are not familiar with previous studies on unaccompanied children at national and regional levels, or with organizations carrying out such studies. Apart from UNHCR, all other participants state that they are not familiar with organizations dealing with the issues concerned.

It is evident that systematic data on unaccompanied children are not available, and even if they do exist, they are not available to the public. All participants of the study consider there is a need for future studies covering this area. They specifically recognize the need for studies that would facilitate the preparation of efficient programs. The need was also indicated for the training of professionals and the provision of related information to the public. Relevant literature in this particular area is insufficient, it is not updated and there are too few professional texts on this subject published at the national level. An efficient approach to this problem is lacking both at the level of particular organizations and at state level.

In the Republic of Croatia, informational material, brochures, leaflets and posters concerning unaccompanied children are lacking. In particular, there is no material prepared in the languages of the countries of origin of the unaccompanied children to inform them of their rights in the Republic of Croatia.

It is well known that neither children nor the professionals dealing with this particular group have enough information and knowledge on this phenomenon, which may be considered as one of reasons for the increasing number of trafficking in persons.

The participants of the study point out that professionals dealing with unaccompanied children are the first persons that may identify unaccompanied children and whose reaction and treatment may make their relation less or more complicated. Therefore, the need has been underlined for the permanent training of these professionals, aiming at ensuring their particular competences in dealing with unaccompanied children.

Besides well-trained professionals dealing with unaccompanied children, there is also the need for a program to enable the identification of current difficulties, to update statistical data and to implement the related measures in the best interests of unaccompanied children.

The participants of the study consider that it is necessary to establish an operating body at the national level to coordinate all the related sectors and to establish a special Agency in charge of the placement of unaccompanied children. We consider, when establishing a specialized institution for the placement of unaccompanied children, that experienced and additionally trained professionals in dealing with unaccompanied minor foreign nationals should be engaged, and that all the best practice of professionals and organizations involved in dealing with unaccompanied children so far should be taken into account and all the potentials used.

Experts in the newly established institution would also deal with prevention. In this respect, future focus should be on establishing a single database, i.e. the Referral Center for unaccompanied children. The Centre would ensure an analytical approach and the realization of activities relating to the provision of psycho-social, medical and legal assistance to unaccompanied children. The Referral Center would also be able to ensure conditions for a comprehensive approach to this phenomenon, realized through intersectoral cooperation, primarily through an exchange of information. Following the results of systematic analyses, the Center would be able to propose guidelines for more efficient activities in line with the principles of good practice at all levels concerned.



# 5.

## CONCLUSIONS AND RECOMMENDATIONS

## **5. CONCLUSIONS AND RECOMMENDATIONS**

The aim of this study was to evaluate the phenomenon of unaccompanied children and to indicate its scope in the Republic of Croatia. We were interested in the types and modalities of assistance and protection available to this risk group, as well as the related legal framework, official recognition of the problem, and the work of the competent bodies. The results of the study on unaccompanied children clearly show that competent state institutions, non-governmental organizations and international organizations in the Republic of Croatia still have not fully recognized and studied this complex issue. The study confirms that the arrival of unaccompanied children has not been followed by related statistical indicators and that an efficient system of care has not been established, which points to the need for the immediate implementation of the measures foreseen in the Statement of Good Practices based on the Convention on the Rights of the Child. The following data have been gathered for the five relevant areas of the study.

### **5.1. General level of information and legal framework**

The presently available reports of the competent state institutions and official statistics related to unaccompanied children include little information or no information at all on this particularly vulnerable group of children. Such a gap is reflected in the public and official understanding of the given problem. We note the existence of two dominant approaches: a) recognition of the problem, but with a number of obstacles for efficient action and the absence of a clear action plan; and b) toning down the problem. The results of the study indicate that a number of study participants tend to recognize this phenomenon at the theoretical level, but are rather more neglectful as far as practical implementation is concerned.

A number of laws are applied to unaccompanied children found illegally in the Republic of Croatia. The term “unaccompanied child” is defined in the Asylum Act and the Protocol on Dealing with Separated Children who are Foreign Nationals. When reviewing the related legislation, we note that two groups of law cover these issues: legislation related to migration, and legislation related to the protection of children. The study shows that when unaccompanied children are identified at the border, the implementation of the migration law prevails (the Aliens Act). In such a way, by giving preference to migration legislation, the child is primarily treated as a migrant, which can have long-lasting consequences for the child concerned. We consider that unaccompanied children should be treated primarily as children and the Convention of the Rights of the Child and the Statement of Good Practice should be fully applied.

## ***5.2. Scope of the phenomenon of unaccompanied children***

The study confirms the existence of serious shortcomings in the collection of statistical data on unaccompanied children staying illegally in the country. The related statistical data are incomplete and, for the same period of time, different institutions provide different data. Each of the institutions participating in the study deals exclusively with a selected segment of the problem which falls under its own competence. Consequently, it is not possible to collect data on reasons for leaving the country of origin, family related data, data on the gender, age and education of the child, the way of arriving and period of stay in the Republic of Croatia, the health and psycho-physical state of the minor and the method of returning to the country of origin.

As the data collection system used by the institutions participating in the study, comprising governmental and non-governmental organizations, as well as international organizations in the Republic of Croatia, is not shaped in a way to allow for the uniform collection of specific data on unaccompanied children, the bodies competent for passing related decisions and for implementing policy are most probably not fully aware of the scope of the problem and its complexity.

## ***5.3. General characteristics of the system of assistance and protection of unaccompanied children***

Many unaccompanied children arrive in the country either without any identification documents or possessing false documents. Children separated from their parents and legal guardians should receive adequate social care in the country where they are identified. They should be entitled to health care and education in the same way as all other children.

The study indicates the potential danger of having the interests of unaccompanied children infringed even during the identification interview, due to a lack of guidelines for interviews with this vulnerable group of children and a lack of especially trained professionals for conducting the related interviews.

The study confirms that general problems between legislation and official policy on unaccompanied children are interrelated in the following way: determination of the standards of assistance and protection; harmonization with best practice principles; and an assessment of whether the measures undertaken are in the best interest of the child.

A guardian should be appointed to unaccompanied children during the identification phase and he/she should be obliged, in all proceedings concerning the child, to protect the best interest of the child, carry out his/her duties in a high-quality manner and ensure that harmful consequences to the growth and development of the unaccompanied child are avoided. However, the study indicates that guardians are often only formally appointed, while in reality they are inefficient, they do not meet the children and do not monitor their work. When a

guardian is appointed from among the members of a group of illegal migrants, the protection of the unaccompanied child and his/her rights remains in question.

The results of the study indicate that the placement of unaccompanied children in institutions falling under the social welfare system does not take into account the particular needs of the children concerned. Accommodating unaccompanied foreign children together with national children who are placed in the institution due to behavioral problems or for misdemeanor offences is clearly contrary to the principle of the best interest of the child. In particular, the study indicates the insufficiency of specialized institutions for the placement of unaccompanied children, the lack of interpreters, the fact that it is impossible for them to be enrolled in the education process, the lack of health care, inappropriate ways for them to return to their country of origin, and the lack of a mechanism to observe the movement of unaccompanied children once they leave the Republic of Croatia.

#### ***5.4. Prevention and raising awareness of the phenomenon of unaccompanied children***

It emerges from the study that the participants were neither familiar with the studies previously conducted in this field nor with the organizations conducting the studies on unaccompanied children, and that there are no available publications indicating the scope of this problem and its consequences. It also emerges from the study that systematically recorded data on unaccompanied children do not exist, while existing data are not publicly available.

The study indicates a lack of specific informational materials with details on the rights of the child in the Republic of Croatia, as well as specific materials prepared in the languages of the countries from which unaccompanied children arrive.

The results of the study also indicate a lack of continuous training for professionals in the related field to allow them to gain additional and specific knowledge on how to deal with unaccompanied children. Alongside trained professionals, programs are needed through which it would be possible to identify difficulties and to update and analyze statistical data necessary for the adoption and implementation of policy and measures in the best interest of unaccompanied children.

In general, the results of the study indicate the lack of an efficient approach to unaccompanied children at the level of particular organizations, but also at the State level. Such a conclusion is grounded on the results of the study that confirm systematic omissions and the generally unsatisfactory impacts of assistance, protection, the appointment and work of guardians, and the impacts of institutions competent for dealing with unaccompanied children, primarily social welfare services.

## 5.5. Recommendations

The results of the study on unaccompanied children undoubtedly indicate a need for immediate policy change and a different kind of operation of the competent state institutions regarding unaccompanied children, primarily of the social welfare institutions and the police.

The need for policy change is based on two goals: a) the provision of assistance and protection for unaccompanied children following the principles of the best interests of the child; and b) the more efficient operation of the related institutions pursuant to the Statement of Good Practice. Political decisions to establish different mechanisms of operation are required to reach these goals. A National Action Plan for the assistance and protection of unaccompanied children should be adopted. As a strategic document, the Action Plan should include goals, measures, responsible authorities, a precise timeframe and cost analyses. The following mechanisms should be included in the Action Plan:

### **I) Establishment of a national referral system to observe the phenomenon of unaccompanied children**

- To establish a unique model for collecting statistical data on all categories of unaccompanied children, i.e. unaccompanied children staying illegally in the country, child asylum seekers, and child victims of trafficking in persons. The related statistics should include: age, gender, country of origin, reason for leaving the country of origin, family status, way of entering the country and place of identification, assistance and protection provided, period of stay, and method of return to the country of origin.
- To ensure the protection of personal data of the child.
- To ensure coordination and observation of the problem of unaccompanied children by an independent institution/referral center which would collect data and would, following analyses of the data and trends, create related recommendations for future operation.
- To establish a reporting system and a system of informing the public on the related phenomenon.

### **II) Legal framework**

- To introduce a unique definition of “unaccompanied child” in all relevant laws and legal acts concerning minors. The glossary should be harmonized, pursuant to international laws, as this category of children, being a particularly vulnerable group, falls within the special protection of the State.
- To unreservedly apply, in all actions concerning unaccompanied children, the Convention on the Rights of the Child, ratified by the Republic of Croatia, which in its legal force supersedes the national legislation.
- To amend related laws in order to clearly specify all phases of the procedure concerning unaccompanied children. Unaccompanied children found illegally in the country should always be treated as children, and the laws relating to the protection of children should apply to them, while the laws referring to the movement and stay of foreigners should not apply in these cases. Only through such an implementation of laws will adequate protection and safety of unaccompanied minors be ensured.

### **III) Assistance, protection and return of unaccompanied children**

- To establish *criteria for the appointment of guardians* and to additionally *train guardians* to deal with unaccompanied children.
- Every unaccompanied child should immediately, during the identification procedure, have an *appointed guardian* who should be independent and should take care of the child from the moment of his/her arrival in the country.
- To establish an independent system of *evaluation of the guardian's work*.
- To develop and implement a *standardized procedure* and determine long-term measures to be in the best interest of the child, i.e. to implement an individual approach (to prepare a plan of activities).
- When an unaccompanied child is found at the state border, he/she should be *informed in a language that he/she understands* about the procedure for seeking international protection, i.e. about the asylum procedure.
- To establish *specialized accommodation for unaccompanied foreign children* in order to ensure for them optimal protection and adequate assistance provided by professionals specially (additionally) trained to deal with this vulnerable group.
- To secure the provision of *health care* for all unaccompanied children, not limiting it only to urgent care. To establish a Protocol to determine age based on the voluntary consent of the child.
- To provide all unaccompanied children with *access to social welfare*, adjusted to their individual needs, aiming at ensuring durable assistance to unaccompanied children.
- To ensure the *right to education* for unaccompanied children under the same conditions as Croatian nationals, taking into account the necessary adjustment of these children to allow them to be integrated into the educational system.
- To develop long-term *integration programs*.
- To *improve the procedure of return* of unaccompanied children to their countries of origin, ensuring that such return is voluntary, safe and humane. In this respect, a clear procedure should be established, including: a voluntarily expressed wish for return; an evaluation of the family situation in the country of origin; an evaluation of the social, economic and political situation in that country, together with follow-up measures upon return.

### **IV) Prevention and capacity building**

- To acquaint all relevant participants of the system with the *legal definition* and documents specifying the term "unaccompanied child" and with related international instruments.
- To continuously conduct the *specialized training of professionals* - social workers, police officers, guardians and other professionals dealing with unaccompanied children (interpreters, non-governmental and governmental organizations).
- To conduct the *training and supervision of officials of specialized accommodation facilities* directly dealing with unaccompanied children.
- To conduct a *public information campaign* related to the problem of unaccompanied children and its consequences (parents, young people, the local community, the general public).
- To encourage the *media* to become actively involved in reporting on this phenomenon. In this respect, a number of journalists should be additionally

trained on the related issues in order to facilitate their follow-up and reports on the given situation. With such public information activities, public sensitivity towards unaccompanied children would be ensured.

- To encourage *non-governmental organizations and local communities* to adopt a proactive approach to issues of unaccompanied children.
- To encourage *scientific institutions* to conduct qualitative and quantitative studies on different aspects of the migration of children, particularly concerning unaccompanied children, in order to define current trends. Systematic studies are of utmost importance for the implementation of efficient social policies.
- To improve *cooperation with international agencies* and related networks in order to improve analyses and an exchange of relevant information at regional and European levels. This would improve the protection of unaccompanied children.

Most of the above recommendations should be conducted simultaneously, as only with their synergistic implementation can the phenomenon of unaccompanied children be better understood and tackled. First of all, it is important to stress the need to raise social awareness of the problems related to unaccompanied children, as well as to carry out harmonization with the related European framework and standards concerning the protection of unaccompanied children.

Dealing with unaccompanied minor foreign nationals in line with best practice and with the provisions of the United Nations Convention on the Rights of the Child represents a moral and social commitment to reducing the risk of victimization of this particularly vulnerable group of children and to creating conditions for the provision of protection which unaccompanied children need and to which they are entitled.



# 6.

LITERATURE

# 7.

INTERNATIONAL, REGIONAL AND  
NATIONAL LEGAL DOCUMENTS

## **6. LITERATURE**

Boland, K., (2010) Children on the Move: A Report on Children of Afghan Origin Moving to Western Countries. UNICEF

Carlier, M., de Donato, M., Pavlou, M., (2010) The Reception and Care of Unaccompanied Minors in Eight Countries of the European Union. France terre d'asile; Consiglio Italiano per i Rifugiati; Institute for Rights, Equality and Diversity

European Union Agency for Fundamental Rights (FRA), (2009) Developing Indicators for the Protection, Respect and Promotion of the Rights of the Child in the European Union: Summary report

Diop, M., (2008-2009) 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? Odysseus Network

Pravobranitelj za djecu, (2008) Djeca bez pratnje – Djeca stranci odvojena od roditelja. Zbornik priopćenja s Okruglog stola, Zagreb

Mougne, C., (2010) Trees Only Move in the Wind: A Study of Unaccompanied Afghan Children in Europe. UNHCR

International Organization for Migration, (2008) Children and Youth Victims of Trafficking in Human Beings: Police, Judicial, Educational, Social and Medical Services. National Assessments

Sipavičiene, A., Kuleš, R., Jeršovas, M., (2009) On the Road: Unaccompanied Minors in Lithuania. Vilnius: International Organization for Migration, European Migration Network, Institute of Social Research

Raboteg-Šarić, Z., Bouillet, D., Marinović, L., (2007) Trgovanje ljudima kako ga vide mladi u Hrvatskoj. Međunarodna organizacija za migracije

Troller, S., (2010) In the Migration Trap: Unaccompanied Migrant Children in Europe. Human Rights Watch

Valenti, S., (2010) The Protection of Separated or Unaccompanied Minors by National Human Rights Structures (Workshop debriefing paper). Interdepartmental Centre on Human Rights and the Rights of People of the University of Padua, Council of Europe and European Union

## **7. INTERNATIONAL, REGIONAL AND NATIONAL LEGAL DOCUMENTS**

### ***I United Nations Legal Documents***

- United Nations Charter (1948)
- Declaration of the Rights of the Child (1959)
- Convention on the Rights of the Child (1989)
- Convention relating to the Status of Refugees (1951) and Protocol relating to the Status of Refugees (1967)
- Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography (2000)
- Convention No. 182 of the International Labour Organization concerning the Prohibition of and Immediate Action for the Elimination of the Worst Forms of Child Labour (1999)
- Convention against Transnational Organized Crime, and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Palermo Protocol) and the Protocol against Smuggling of Migrants
- UNHCR Guidelines on Unaccompanied Children (1997)
- UN Leading Principles on Unaccompanied and Separated Children (2004)
- UNHCR and Save the Children Alliance Programme on Separated Children in Europe (2004)
- UN Committee on the Rights of the Child - General Comment No. 6 on the Treatment of Unaccompanied Children and Separated Children outside their Countries of Origin (2005)
- UNHCR Guidelines on Formal Determination of the Best Interests of the Child (2006)
- UNHCR, Save the Children Alliance and UNICEF Statement of Good Practice (2009)

### ***II European Union Legal Documents***

- Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification
- Council Directive 2003/9/EC of 27 January 2003 laying down minimum standards for the reception of asylum seekers
- Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted
- Council Directive 2008/115/EC of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals (Directive on Return)
- Council Directive 2004/81/EC of 29 April 2004 on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal migration
- EU Resolution on Unaccompanied Children (1997),
- Action Plan on Unaccompanied Children as an Especially Vulnerable Group of Migrants (2010)
- Summary of EU legislation on unaccompanied minors, including Council

Resolution 97/C221/03 of 26 June 1997 on unaccompanied minors who are nationals of third countries

- Recommendation 1703 (2005) 1 Protection and assistance for separated children seeking asylum
- Charter of Fundamental Rights of the European Union - Article 24 The Rights of the Child

### **III Council of Europe Legal Documents**

- European Convention for the Protection of Human Rights and Fundamental Freedoms (1950)
- European Convention on the Exercise of Children's Rights
- European Social Charter – Children's Rights Under the European Social Charter
- Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse
- Council of Europe Convention on Prevention of Trafficking in Persons
- Council of Europe 20 Guidelines on Forced Return (2005)

### **IV National Legal Documents**

- The Constitution of the Republic of Croatia
- The Family Act (Official Gazette, Nos. 116/03, 17/04, 136/04, 107/07)
- The Social Welfare Act (Official Gazette Nos. 73/97, 27/01, 59/01, 82/01, 103/03, 44/06, 79/07, 123/10)
- The Asylum Act (Official Gazette Nos. 79/07 and 80/10)
- The Aliens Act (Official Gazette Nos. 79/07 and 36/9)
- The Misdemeanor Act 2008 (Official Gazette No. 107/07)
- The Juvenile Courts Act (Official Gazette Nos. 111/97, 27/98, 12/02)
- The Act on the Execution of Sanctions Pronounced on Juveniles for Crimes and Misdemeanors (Official Gazette No. 153/09)
- The Ombudsman for Children Act (Official Gazette No. 96/03)
- The Protocol between the Ministry of Interior and the Ministry of Health and Social Welfare on Dealing with Separated Children who are Foreign Nationals (2009)

**“Irrespective of their legal status, unaccompanied minors should be entitled to the necessary protection and basic care [.]”**

(Council Resolution of 26 June 1997 on unaccompanied minors who are nationals of third countries, Official Journal C 221,19/07/1997 P. 0023 – 0027)

**“Non-rights-based arguments such as those relating to general migration control cannot override best interests’ consideration”**

(General Comment No.6 (2005) - Treatment of Unaccompanied and Separated Children outside Their Country of Origin, United Nations Committee on the Rights of the Child, CRC/GC/2005/6, 1 September 2005, paragraph 86, p.23)