



Monica de Sousa Braga

**Spanish and French policies for the
reception of unaccompanied minors**

Dissertação de Mestrado

Dissertation presented to the Programa de Pós-Graduação em Análise e Gestão de Políticas Internacionais da PUC-Rio, in partial fulfilment of the requirements for the degree of Mestre (Opção Profissional).

Advisor: Prof^a. Andréa Ribeiro Hoffmann

Rio de Janeiro
April 2023



Monica de Sousa Braga

**Spanish and French policies for the
reception of unaccompanied minors**

Dissertation presented to the Programa de Pós-Graduação em Análise e Gestão de Políticas Internacionais da PUC-Rio in partial fulfillment of the requirements for the degree of Mestre em Análise e Gestão de Políticas Internacionais. Approved by the Examination Committee:

Prof^a. Andrea Ribeiro Hoffmann

Advisor

Instituto de Relações Internacionais – PUC-Rio

Prof. Roberto Vilchez Yamato

Instituto de Relações Internacionais – PUC-Rio

Prof^a. Cláudia Alvarenga Marconi

PUC/SP

Rio de Janeiro, April 03, 2023

All rights reserved. The partial or full reproduction without the prior consent of the University, the author and the supervisor is strictly prohibited.

Monica de Sousa Braga

The author completed her Bachelor of Laws from Faculdade de Direito Cândido Mendes – Centro in 1995, her Specialization in Armed Conflicts and Human Rights at the University of Coimbra in 2023, and is a Ph.D. candidate on Migrations at the Social Science Institute of the University of Lisbon.

Ficha Catalográfica

Braga, Monica de Sousa

Spanish and French policies for the reception of unaccompanied minors / Monica de Sousa Braga; advisor: Andréa Ribeiro Hoffmann. – 2023.

63 f.: il. color. ; 30 cm

Dissertação (mestrado) – Pontifícia Universidade Católica do Rio de Janeiro, Instituto de Relações Internacionais, 2023.

Inclui bibliografia

1. Relações Internacionais – Teses. 2. Menores desacompanhados. 3. Imigração. 4. Políticas públicas. 5. Espanha. 6. França. I. Hoffmann, Andréa Ribeiro. II. Pontifícia Universidade Católica do Rio de Janeiro. Instituto de Relações Internacionais. III. Título.

CDD: 327

Acknowledgements

To my father (*in memoriam*), who always thought me the value of education.

To my mother, who showed me that women can do whatever they want.

To my husband, Leonardo, and my daughters, Maria Antônia and Isabel, for their love, patience, and support.

To my advisor, Andrea Ribeiro Hoffmann, for being so patient, kind, and supportive. I could never thank her enough.

To all MAPI professors and staff, especially Nena, who was always available whenever we needed it.

To all those who look for a better life, wherever it is.

This study was financed in part by the Coordenação de Aperfeiçoamento de Pessoal de Nível Superior - Brasil (CAPES) - Finance Code 001.

Abstract

Braga, Monica de Sousa; Hoffmann, Andréa Ribeiro (Advisor). **Spanish and French policies for the reception of unaccompanied minors**. Rio de Janeiro, 2023. 63f. Dissertação de Mestrado – Instituto de Relações Internacionais, Pontifícia Universidade Católica do Rio de Janeiro.

Since the beginning of the 20th century, European Union countries have been the destination of thousands of children and adolescents who arrive unaccompanied without the protection of an adult. They come primarily from Africa and the Middle East through three main routes, which lead to Spain, across the Straits of Gibraltar (Western Mediterranean), Italy (Eastern Mediterranean), and Greece and the Balkans (Western Border). This study aims to analyse public policies for the reception and protection of migrant minors who arrive unaccompanied in Spain and France and their compliance with international and European principles for protecting children and immigrants. The role of civil society in supporting unaccompanied minors' reception and integration and defending their rights through advocacy campaigns is also explored.

Keywords

Unaccompanied minors; migration; France; Spain; public policies.

Resumo

Braga, Monica de Sousa; Hoffmann, Andréa Ribeiro. **Políticas de acolhimento a menores na Espanha e França**. Rio de Janeiro, 2023. 63f. Dissertação de Mestrado – Instituto de Relações Internacionais, Pontifícia Universidade Católica do Rio de Janeiro.

Desde o início do século XX, os países da União Europeia tem sido o destino de milhares de crianças e adolescentes que chegam desacompanhados, isto é, sem a proteção de um adulto responsável por elas. Eles vêm prioritariamente da África e do Oriente Médio, através de três rotas principais, que levam à Espanha, através do Estreito de Gibraltar (Mediterrânea Ocidental), à Itália (Mediterrânea Oriental), e à Grécia e Balcãs (Fronteira Ocidental). O principal objetivo do presente estudo é analisar as políticas públicas de acolhimento e proteção de menores migrantes que chegam desacompanhados à Espanha e à França e sua conformidade com os principais instrumentos internacionais e europeus de proteção às crianças e aos imigrantes. Também é analisado o papel da sociedade civil tanto no suporte ao acolhimento e integração de menores imigrantes desacompanhados, como na defesa seus direitos através de campanhas de *advocacy*.

Palavras-chave

Menores não acompanhados; migrações; França; Espanha; políticas públicas.

Table of Contents

1. Introduction.....	10
2. Legal Framework.....	13
2.1. International and European legislation	14
2.1.1. Children’s rights.....	14
2.1.2. Border control and European legislation and policies.....	20
2.1.3. Main European rules on foreign unaccompanied minors and their main objectives.....	26
2.2. Spanish legal dispositions	29
2.3. French legal dispositions	32
3. Public policies: an overview.....	35
3.1. The European Union and third-country immigrants	35
3.2. Effectiveness of the European migration policy.....	36
3.3. Spain, France, and unaccompanied minors	39
4. The role of the civil society	48
5. Conclusions.....	55
6. References.....	58

List of figures

Figure 1: Children’s Rights Main Legal Texts	19
Figure 2: Map of the reception according to the CRC	20
Figure 3: Border Control, Free Movement of People, and Immigration ..	28
Figure 4: Frontex budget from 2020 to 2022	37
Figure 5: Unaccompanied children in Spain per community	40
Figure 6: Statistics on unaccompanied children in France	43
Figure 7: Map of French protection path	44
Figure 8: Competences distribution in France	46
Figure 9: ONGs working with unaccompanied children.....	50

“I suffered a lot at my age. I saw hell. I didn’t die.”

Loucény
(Young Guinean migrant who
arrived in France at the age of 15)¹

¹ Name changed to protect privacy. See <https://basta.media/Quand-des-lyceens-du-Nord-de-la-France-invitent-un-jeune-migrant-a-venir-leur>

1. Introduction

Although the topic of unaccompanied migrant children² has been increasingly researched over the last decade, some issues deserve attention, especially the treatment they receive once in the destination country and their perspective for the future when they turn eighteen. Consequently, this project's main goal is to analyse the legal framework and public policies set by Spain and France to address this issue, inquire to what extent they are efficient and adequate and whether they respond to the needs of the children who arrive in those countries alone. Moreover, the work explores the role of civil society in this process.

The first article of the Convention on the Rights of the Child (CRC) defines a child as “every human below the age of eighteen years, unless under the law applicable to the child, the majority is attained earlier.”³ It is crucial to define what a child is for this matter, since some countries may consider different ages for the majority, ranging between 15 and 21 years old. That determination may impact public policies toward unaccompanied children, although the CRC is clear when it determines that the applicable rule must be that of the child's nationality, not that of the hosting country. The Office of the United Nations High Commission for Refugees (UNHCR, 1997)⁴ as unaccompanied any child “who is separated from both parents and is not being cared for by an adult who by law or custom has the responsibility to do so.” The number of children arriving alone in Europe had increased significantly in the second decade of the 21st century, peaking in 2015, when 96,465 children sought asylum in the continent, most through Mediterranean countries such as Greece, Italy, and Spain (Eurostat, 2016). Apart from asylum seekers, who summed 25,130⁵ in 2021 (Eurostat,

² Even though the expression unaccompanied minor should not be used due to its derogatory meaning towards children, who until recently were perceived as incapable individuals who could not participate in decisions regarding their own lives and, in that sense, inferior citizens, it is often used in this study because it is the expression currently adopted in legal texts and public policy documents.

³ <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child>

⁴ The Guidelines of Policies and Procedures in dealing with Unaccompanied Children Seeking Asylum, from February 1997, sets the “best interest of the child” as a basic principle and defines who is to be considered as an unaccompanied minor.
<https://www.unhcr.org/publications/legal/3d4f91cf4/guidelines-policies-procedures-dealing-unaccompanied-children-seeking-asylum.html>

⁵ To check EU statistics on unaccompanied minors, go to
https://ec.europa.eu/eurostat/databrowser/view/migr_asyunaa/default/table?lang=en

2022), there is a more fluid child population who cross European borders searching for work and study opportunities or as part of the family project. For this work, it is vital to understand the differences between children who migrate alone as a life project and child refugees and asylum seekers obliged to flee their home countries to survive war and persecution. When migrants are recognized as refugees, they are entitled to protection and specific treatment, whether children or adults. However, children migrating alone must prove their age to receive protection. Moreover, refugees face more movement restrictions than migrants, making a significant difference in their mobility.

That phenomenon is not new in countries like Spain and France, which had a high influx of migrant children in the 1990s. For instance, in 1996, the first boat of unaccompanied children was detected in Spain in the Canary Islands, coming from Africa (Salmerón-Manzano & Manzano-Agugliano, 2018). In France, they first came from China and Romania (Sénat de France, 2017).

Most irregular border crossings into Europe occur along Mediterranean routes, with migrants from Africa and the Middle East to Greece, Italy, Spain, and France. Since 2017, the Western Mediterranean route, stretching between Spain and Morocco, has seen significant increases in its flows (Frontex, 2022).⁶ Additionally, Spain receives numerous foreign children in the Canary Islands annually on the Atlantic African coast. According to the Fiscal General del Estado (2022), the number of “localized” unaccompanied minors who arrived in Spain by sea in small boats jumped from 223 in 2016 to 3,048 in 2021. On December 31, 2021, the Spanish protection services had 9,294 unaccompanied foreign minors (Fiscal General del Estado, 2022). Regarding the children’s distribution within the Spanish European territory, most are hosted in the Canarias (2,399), Andalusia (1,980), Catalunya (1,192), and Ceuta (921). Some children also cross the border in Ceuta and Melilla, hidden under trucks and buses. They endure a life-endangering trip to pursue a new life on the European continent. Those children escape the authorities’ radar, and their number is unknown. They come from developing and less-developed countries, such as Morocco and Algeria, and some want to escape conflict, such as those from Mali.

⁶ For more information on the Frontex Migratory Map, see <https://frontex.europa.eu/we-know/migratory-map/>

In France, the panorama is similar. According to the Ministry of Justice's Mission Mineurs non-Accompagnés, the number of children declared unaccompanied from January 1 to December 31, 2021, was 11,315, a significant increase from 2016, when the number was 8,054. As in Spain, French statistics do not necessarily reflect the number of unaccompanied minors that reached France. The statistics represent the number of aliens considered a child under French law after an age-assessment procedure that includes bone scans and interviews that frequently simulate a police interrogation, representing extra anxiety after a dangerous journey. The number of children who test negative is unknown since they receive no aid from the French government. Many are left on the streets of big cities like Paris and its suburbs. Again, children arriving in France comprise a background of poverty and violence, coming from countries such as Mali, Guinea, and the Ivory Coast.

The present work critically assesses the mechanisms (legislation and public policies) available to migrant children in Europe, focusing on Spain and France⁷. The first session summarizes the legal framework covering immigration in the European space, especially the rules applicable to reception, hosting, and transition to adulthood of children migrating alone. The second section analyses the public policies Spain and France adopted to address the increasing number of children arriving alone in their territories. The third section discusses civil society's role in increasing effectiveness in advocacy and technical activities. The work concludes with suggestions for improvement in receiving and hosting unaccompanied children, primarily to fulfil the most crucial issue when children are involved: protecting their best interests.

⁷ The reason behind the choice of Spain and France lies in the evidence of a migration route from Western Africa to France passing through Spain. In France, 67% of the unaccompanied children come from Guinea, Ivory Coast, Mali, Morocco, and Algeria; in Spain, they are 80%. Along with other findings, it suggests that those populations deliberately navigate the two countries in a fluid and sometimes invisible way.

2. Legal Framework

Like other aspects of human life, migration is subject to rules, laws, treaties, and conventions. Law is intimately linked not only to space and time but also to individuals. Modern states have constitutions and infra-constitutional laws regulating parenthood, marital status, inheritance, property, crimes, citizenship, and immigration. As much as some conceive of law as universal, created within a specific social context, it is a powerful instrument for shaping society and implementing policy agendas. Law may distinguish between men and women, adults and children, and citizens and foreigners. The treatment given to immigrants differs among countries and even among regions or cities. This treatment largely depends on local public policies adopted at a particular time and place. When addressing child migration, the number of legal dispositions increases given the peculiarities of this population, the level of protection and assistance they require, and their vulnerabilities. Today, children comprise one of the few categories of tolerated and protected migrants in Europe, benefitting from special protection measures in host countries. If one analyses the transcontinental migration of children, especially to a highly institutionalized and regulated space such as the European Union, one must address considerable legal documents.

Within the European Union's communitarian space, the legal framework regulating migration is vast, hierarchized, complex, and conflicted, especially regarding irregular migration, asylum, and child migration. European regulations are inadequate and fail to provide sufficient protection measures for foreign children (Kanics, *et al.*, 2010). The national legal apparatus for reception, hosting, transition, and integration differs significantly not only between countries but also between regions and municipalities within countries. Notably, where a child is transferred can make an enormous difference in their future.

2.1. International and European legislation

2.1.1. Children's rights

One cannot dissociate children's rights today from the outcome of World War II. The war ended in 1945 with numerous dead children, orphans, and refugees. The social impacts of the conflict on children were so evident that the United Nations decided to elaborate a Declaration of the Rights of the Child, which the General Assembly proclaimed on November 20, 1959 (Resolution 1386/XVI)⁸. The Declaration resulted in ten main principles, and non-discrimination was the first. This principle was a clear indicator from the international community that discrimination of any kind, such as those adopted by the Nazi regime, would no longer be tolerated.

The Declaration of the Rights of the Child was not the first time the international community demonstrated concern about protecting children. In the aftermath of World War I, in 1919, the League of Nations established a Child Welfare Committee (CWC) to examine issues related to children's rights and make recommendations. As in any war, children comprise one of the most impacted populations; they must process abrupt changes in their lives, such as school interruption, distance from friends and family, and the lack of essential items, besides being faced with death in the family, violence, and noise. The international community was not indifferent to the sufferance of children affected by the conflict. The CWC's outcome was the Declaration of the Rights of the Child⁹, issued on September 26, 1924. That concise instrument was the first international treaty to address children's rights, serving as the basis for more robust documents later adopted by the international community. The Declaration urged men and women worldwide to accept the duty of protecting children regardless of race, nationality, or creed. People were encouraged to recognise fundamental rights, such as food, medical assistance, and shelter, and prioritise children as the first individuals to receive relief during times of distress. The international community acknowledged that human societies' future depends on children; therefore, they must be protected.

⁸ <https://digitallibrary.un.org/record/195831>

⁹ <http://www.un-documents.net/gdrc1924.htm>

In 1926, the Second Session of the Advisory Commission for the Protection and Welfare of Children and Young People, in the Child Welfare Committee, discussed many childhood-related themes. Among the items discussed, “juvenile immigrants unaccompanied by parents or relatives”¹⁰ deserves attention here. The principle of the child’s best interest was already central, as a convention on foreign children’s assistance or repatriation was discussed.

At the end of World War II, Europe and the world had to address thousands of refugee children. UNICEF, the United Nations Children’s Fund, was first created to send relief to conflict victims, as the International Children’s Emergency Fund¹¹. After the atrocity of a conflict not sparing children from torture and death, leaving thousands alone, the United Nations decided to create a structure fully dedicated to protecting these children and granting them some future.

In addition, the Geneva Convention Relative to the Protection of Civilian Persons in Time of War (IV Geneva Convention)¹², from 1949, imposed upon the parties of future conflicts the establishment of “hospital and safety zones and localities (...) to protect from the effects of war, wounded, sick and aged persons, children under fifteen” (article 14). The Convention also urges conflict states to “take the necessary measures to ensure that children under fifteen, who are orphaned or are separated from their families as a result of the war, are not left to their own resources” (article 24). However, it is in Article 50 that the Convention obliges parties in a conflict not only to respect children but also to provide preferential treatment and fulfil their essential needs, including education.

On November 20, 1989, the United Nations General Assembly approved Resolution 44/25, which adopted the Convention on the Rights of the Child (CRC)¹³, the most crucial improvement in respecting children’s protection. Unlike the IV Geneva Convention, the CRC defines a child as “every human being below the age of eighteen years”. However, it leaves states the prerogative of setting the age of majority earlier. The CRC also sets basic principles that every country must observe when handling children, such as non-discrimination (article 2), the child’s

¹⁰ <https://archives.ungeneva.org/lontad>

¹¹ <https://www.unicef.org/history>

¹² https://www.un.org/en/genocideprevention/documents/atrocities-crimes/Doc.33_GC-IV-EN.pdf

¹³ <https://www.unicef.org/child-rights-convention>

best interest (article 3), the right to life and development (article 6), and the right to protection and family reunification. Unfortunately, the CRC does not address those unaccompanied migrant children who do not meet refugee requirements. Nevertheless, the “best interest” principle is clearly expressed and constitutes the main guiding principle when handling children and teenagers above any other.

Article 2

1. State Parties shall respect and ensure the rights to 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, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.

(...)

Article 3

1. 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**.

(...)

3. States Parties shall ensure that the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision.

(...)

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**. (My emphasis)

At a regional level, the European Union has legal dispositions on child’s rights as part of the human rights legal framework. The Treaty on the European Union¹⁴, in article 3(3), establishes that the Union “shall combat social exclusion and discrimination, and shall promote social justice and protection, equality between women and men, solidarity between generations and protection of the rights of the child.” Moreover, the Charter of Fundamental Rights of the European Union dedicates an article to the rights of the child:

¹⁴ https://eur-lex.europa.eu/resource.html?uri=cellar:2bf140bf-a3f8-4ab2-b506-fd71826e6da6.0023.02/DOC_1&format=PDF

“Children shall have the right to such protection and care as is necessary for their well-being. They may express their views freely. Such views shall be taken into consideration on matters which concern them in accordance with their age and maturity.

2. In all actions relating to children, whether taken by public authorities or private institutions, the child's best interests must be a primary consideration.

3. Every child shall have the right to maintain on a regular basis a personal relationship and direct contact with both his or her parents, unless that is contrary to his or her interests.”

The role of Commission Coordinator for The Rights of the Child was created in 2007 to ensure children’s rights in relevant European Union policies and actions. In 2013, an Expert Group on the Rights of the Child was set up “to establish closer cooperation between the Commission and Member States on various issues relating to the protection and promotion of child’s rights. To support Member States’ efforts to ensure the respect of the rights of the child by facilitating the exchange of information, experience and good practice with and among national authorities responsible for protecting and promoting the rights of the child” (European Commission)¹⁵. Moreover, a network for children’s rights shall be implemented to monitor and evaluate the New European Union’s Strategy on the Rights of the Child. The network will gather “children, international organizations, NGOs, representatives of local and regional authorities and other relevant stakeholders”.

Unlike the CRC, the European framework on child rights dedicates specific documents to address unaccompanied migrant children. The emergence of unaccompanied children, aggravated in the second decade of the 20th century, drew European authorities’ attention. Refugees or not, the principle of the child’s best interest and international treaties on children’s and human rights did not allow authorities to deport those immigrants to their countries. The repatriation had to respect the children’s will, and the European countries had to ensure repatriation was best for the child.

To address the issue, the European Union launched the Action Plan on Unaccompanied Minors in 2010 (2010–2014), foreseeing the implementation of many things: comprehensive data and statistics on unaccompanied children; the

¹⁵ <https://ec.europa.eu/transparency/expert-groups-register/screen/expert-groups/consult?lang=en&do=groupDetail.groupDetail&groupID=2884>

use of Frontex, the European Border and Coast Guard Agency to provide risk analysis on unaccompanied children arriving in Europe; the identification of vulnerable groups and threats faced by unaccompanied children; collecting data on countries of origin for assessing protection needs; monitoring the issue of asylum seekers; and preventing human trafficking. According to the Action Plan:

“Reception measures and access to relevant procedural guarantees should apply from the moment an unaccompanied minor is detected at external borders or on EU territory, until a durable solution is found. Specialised civil society organisations should be invited to play a more active role throughout the entire process. Appropriate measures need to be taken to ensure a smooth transition period for those children who – due to turning 18 and becoming adults – may be in the danger of losing protection and support.”¹⁶

Furthermore, the European Union Strategy on the Rights of the Child (March 14, 2021), in the aftermath of the 13th European Forum on the Rights of the Child, mentions the concern of the Union regarding the vulnerability of unaccompanied children and the risks they face. One key action is to “promote national strategies and programs to speed up de-institutionalization and the transition towards quality, family and community-based care services including with an adequate focus on preparing children to leave care, including for unaccompanied migrant children.” Regarding the Justice System, the Strategy provides for “speed up the appointment of representatives for unaccompanied children and will ensure the resources to support their special needs, including their transition to adulthood and independent living. Throughout the procedures, children will always be offered adequate accommodation and assistance, including legal assistance. The new rules will also strengthen solidarity between Member States in ensuring full protection for unaccompanied children.”¹⁷ The document also mentions strengthening guardianship systems, reinforced protection, and financial support for accommodation and other special needs.

¹⁶ <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2010:0213:FIN:en:PDF>

¹⁷ https://commission.europa.eu/strategy-and-policy/policies/justice-and-fundamental-rights/rights-child/eu-strategy-rights-child-and-european-child-guarantee_en

Figure 1: Children’s Rights Main Legal Texts

Declaration of the Rights of the Child	UNGA Resolution 1386/XVI	11/20/1959
Convention on the Rights of the Child (CRC)	UNGA Resolution 44/25	11/20/1989
Treaty on European Union (TEU)	92/C 191/01	02/07/1992
EU Charter of Fundamental Rights	2000/C 364/01	12/07/2000
EU Strategy on the Rights of the Child	CM(2021)168	03/14/2021

Source: Created by the author based on UN and EU websites.

From the Convention on the Rights of the Child (CRC), one observes that, when faced with an unaccompanied minor, authorities should provide protection, food, clothing, and shelter before assessing their age and citizenship or interrogating them. Authorities should follow steps to grant immediate assistance while not ignoring what is needed for a durable solution, as the scheme below illustrates. However, that consideration is far from being adopted by most European countries – the first contact of unaccompanied children remains with the migratory police.

Figure 2: Map of the reception according to the CRC

Parcours d'accueil des mineurs isolés étrangers conforme à la CIDE



Source: Senovilla-Hernandez (2010)

2.1.2. Border control and European legislation and policies

The Treaty of Rome¹⁸, was the first text to mention the free movement of people in Europe, with Article 51 establishing the “free movement of workers”. At that time, about ten years after World War II, the objective was to reconstruct Europe by creating a zone allowing the free movement of goods, services, capital, and workers. With the success of the European Community, more countries adhered, and the project evolved a deeper degree of integration with the creation of the European Union (Maastricht Treaty), held together by its three fundamental

¹⁸ <https://www.europarl.europa.eu/about-parliament/en/in-the-past/the-parliament-and-the-treaties/treaty-of-rome>

pillars: the European Community; the common foreign and security policy; and cooperation in justice and home affairs. This third pillar, justice and home affairs, includes the free movement of persons and unified border control:

Article K.1

For the purposes of achieving the objectives of the Union, *in particular the free movement of persons*, and without prejudice to the powers of the European Community, Member States shall regard the following areas as matters of common interest:

1. asylum policy;
2. **rules governing the crossing by persons of the external borders of the Member States and the exercise of controls thereon;**
3. **immigration policy and policy regarding nationals of third countries:**
 - (a) conditions of entry and movement by nationals of third countries on the territory of Member States;
 - (b) conditions of residence by nationals of third countries on the territory of Member States, including family reunion and access to employment;
 - (c) combatting unauthorized immigration, residence and work by nationals of third countries on the territory of Member States.(...) (My emphasis.)

In 1995, the Schengen Convention, adopted by most European Union states, came into force and created a zone free of internal borders. Border controls between contracting parties were abolished, while the citizens of non-Schengen countries faced stricter requirements. More than a mere economic and monetary union, since the Convention, the European space became fluid regarding the movement of people by fully eliminating internal borders. However, as European mobility deepened, border control and selecting the third-country nationals allowed in the Schengen space became stricter. New rules were created to manage European migration, such as mandatory travel insurance covering at least 30,000 euros, the impossibility of staying more than 180 days a year in the Schengen zone, and the non-admittance of travellers without a ticket.

The Treaty of Amsterdam (1997)¹⁹ amended the Maastricht Treaty, transferred the immigration to the first pillar, and specified how the common immigration policy would be managed. Besides the unified policy regarding

¹⁹ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:11997D/TXT>

asylum and subsidiary protection, the document determined that, in five years, the European Council should adopt “measures with respect to external borders controls, asylum and immigration (...) safeguarding the rights of nationals of third countries”, rules on short-stay visas, waiver visa programs, conditions of entry and residence, illegal immigration, illegal residence, and repatriation (article 73).

The free movement of people and the common immigration policy are so paramount for perpetuating the European project that member states agreed to transfer their sovereignty to the EU. The laxity within internal European borders aimed to increase integration, create a European identity, and promote prosperity (Van Selm, 2005). However, the free movement came accompanied by strengthening the external borders’ control and selecting third-country nationals who could be part of the European project by contributing their work and knowledge to the zone’s prosperity. In that sense, the Union facilitates the immigration of university students, researchers, and highly skilled professionals who can benefit from a privileged residence permit called EU Bluecard²⁰. Consequently, the European migration policy is founded on two axes that go in opposite directions – the absence of internal border control and managing external borders – that can only be viable in the light of a common immigration policy, as established by Article 79 of the Treaty on the Functioning of the European Union (TFEU)²¹:

“1. The Union shall develop a common immigration policy aimed at ensuring, at all stages, the efficient management of migration flows, fair treatment of third-country nationals residing legally in Member States, and the prevention of, and enhanced measures to combat, illegal immigration and trafficking in human beings.

2. For the purposes of paragraph 1, the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall adopt measures in the following areas:

(a) the conditions of entry and residence, and standards on the issue by Member States of long-term visas and residence permits, including those for the purpose of family reunification;

²⁰ The holder of an EU Bluecard can live and work in any EU country besides Ireland and Denmark after the first year. It is one of the main European instruments of attraction of highly skill workers and contribute to the brain drain faced by developing countries.

²¹ <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:12012E/TXT:en:PDF>

(b) the definition of the rights of third-country nationals residing legally in a Member State, including the conditions governing freedom of movement and of residence in other Member States;

(c) illegal immigration and unauthorized residence, including removal and repatriation of persons residing without authorization;

(d) combating trafficking in persons, in particular women and children.

3. The Union may conclude agreements with third countries for the readmission to their countries of origin or provenance of third-country nationals who do not or who no longer fulfil the conditions for entry, presence or residence in the territory of one of the Member States.

4. The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, may establish measures to provide incentives and support for the action of Member States with a view to promoting the integration of third-country nationals residing legally in their territories, excluding any harmonization of the laws and regulations of the Member States.

5. This Article shall not affect the right of Member States to determine volumes of admission of third-country nationals coming from third countries to their territory in order to seek work, whether employed or self-employed.”

Complementary legislation was created to deepen the common immigration policy, such as Regulation 2016/399²² of the European Parliament and of the Council, which established the Schengen Borders Code, with the admission rules for aliens and the absence of control regarding internal borders. Any foreigner entering the European Union must pass through one of several crossing points located in airports, ports, or land borders in the east. Those who enter passing through other entrance points are deemed “illegal”²³ migrants and are subjected to immediate deportation.

²² <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32016R0399>

²³ International and local legislation often uses the adjective “illegal” to refer to undocumented immigrants. The word “illegal” is detrimental and implies violating law and crime. Some countries indeed criminalize migration, but crime presupposes the intention to cause harm to individuals, society, or their properties. Migration, in its turn, only presupposes the search for better living, better conditions, or protecting one’s life and family. Hence, a migrant cannot be called “illegal” since no person is illegal. The mere exitance is not unlawful. Only deliberate acts of harm can be illegal. Migration is often violent, but only for migrants who lose their homes, references, friends, and family.

In addition to the Schengen Borders Code, European directives were adopted to fight irregular migration, highlighting the Directive 2002/90/EC²⁴ and Framework Decision 2002/946/JHA²⁵, which defined facilitating unauthorised entry, transiting, and residing in the European Union as a crime. The Directive 2008/115/EC²⁶, known as the “Returns Directive”, set returning irregular third-country nationals as common procedure. The objective of the cooperation of intra-EU migration has been a free movement across borders, while migration from without focuses on restriction (Koslowski, 1998) and common asylum management.

The Treaty of Lisbon (2007)²⁷ also addresses migration and border control, and the Stockholm Program for 2009–2014, signed in its aftermath, seeks solutions for the great afflux of migrants by identifying partnerships and cooperation with third countries, recognizing the link between development and migration. Regarding unaccompanied children, the plan proposed better solutions for their repatriation, measures to assure their rights, and creating an action plan. Repatriation is one of the preferred measures of European countries when handling migrant children, even though it is not always in their best interest.

To operationalize its legal apparatus and control the arrival of immigrants, the European Union has created agencies dedicated to surveilling its borders, detecting illegal crossings and irregular migrants, and implementing the Returns Directive’s assisted-return program in alliance with the International Organization for Migration (UN; IOM). One of the joint projects implemented by the EU and the IOM is voluntary return and reintegration. Immigrants receive socio-psychological support, tickets to their origin countries, and money to help them establish themselves there. In return, they are not allowed in Europe for three years. In 2005, Frontex, the European Border and Coast Guard Agency, became operational to manage external borders and restrain irregular immigration. Since its creation, Frontex has seen an increase in its annual budget, especially for the Joint Operations at Sea Border. The maritime border is one of the main access routes for African immigrants. The agency has high-end equipment, such as

²⁴ <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=celex%3A32002L0090>

²⁵ <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A32002F0946>

²⁶ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32008L0115>

²⁷ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A12007L%2FTXT>

planes, drones, vessels, and satellite images, and invests in research to develop new means to manage and control European borders²⁸. Other agencies working on immigration control are the European Asylum Support Office (EASO), which was created to implement the Common European Asylum System, the Schengen Information System (SIS), and the European Border Surveillance System (EUROSUR). The former two were partially created to share data on immigrants (e.g., names, document numbers, photos, and fingerprints) and to improve Europe's response to irregular immigration. Once a third-country national enters Schengen space, their information is registered in the SIS database.

In 2011, the EU Parliament and the European Council launched Directive 2011/95/EU²⁹, setting European standards to grant international protection to third-state citizens. Unaccompanied minors are considered vulnerable under Article 20 and entitled to a legal guardian or an organization responsible for their care and well-being (Article 31, 1). According to the Directive, “the ‘best interest of the children’ should be a primary consideration of Member States” (whereas clause 18); unaccompanied minors shall receive appropriate care and custodial arrangements in their best interest (whereas clause 27); the authorities must follow the minors regularly (Article 31, 2); changes of residence shall be limited to a minimum (Article 31, 4); the child's view must be taken into account (Article 31, 3); and the family shall be traced (Article 31, 5).

The European common migration legal and policy frameworks give the general path that each member State must follow when dealing with migrants, whether adults or children. The Union has the exclusive competence to rule about external border control, standards for issuing long-term visas, residence permits, family reunification, asylum policy, irregular immigration, removal, and repatriation of third-country nationals. Nevertheless, understanding that each country has its own needs regarding employment and social policies, they are free to define internal rules on long-term and residence visas, the stocks of immigrants they believe they need, and integration policies. It applies to both adults and

²⁸ Frontex and ESA (European Space Agency) launched a research project aiming to use high altitude pseudo satellites to fill gaps in the manage and control of the borders. <https://digit.site36.net/2022/10/04/border-surveillance-frontex-installs-cameras-in-the-stratosphere/>

²⁹ <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:337:0009:0026:en:PDF>

children, especially unaccompanied, who need special treatment (European Parliament, 2016).³⁰

2.1.3. Main European rules on foreign unaccompanied minors and their main objectives

Distinctive Resolution on June 26, 1997

Article 2: admits the refusal to accept a child at the border if they do not hold the required documents and authorizations.

Article 3: lists minimum guarantees for unaccompanied children, such as establishing their identity and granting care, protection, family reunification, medical treatment, education, and legal, social, and psychological assistance.

Article 5: specifies when and how a member State can return an unaccompanied child. They can only be sent to their country of origin, or a country prepared to receive them. If that is not possible, member states must keep them and give them the proper reception.

Resolution 1810 (2011) from the European Parliament

Sets fifteen principles for the member states to deal with the reception and return of unaccompanied children.

Launches the alarming estimate of 100,000 unaccompanied children in Europe that year.

Determines that member states must treat children first and foremost as children, not as migrants.

The best interest must be prioritized.

Summary entrance denials should not be adopted.

Every child should receive shelter, a legal guardian and medical, legal, and psychological assistance in a language they can understand, as well as education and training.

³⁰ Division of competences between the European Union and its Member States concerning immigration. <https://op.europa.eu/en/publication-detail/-/publication/f0e07f04-ce2e-11e5-a4b5-01aa75ed71a1/language-en>

No child can be subject to detention.

Age assessment exams cannot be used indiscriminately.

The ultimate goal is to find durable solutions.

Action Plan on Unaccompanied Minors for 2010-2014 (2010)

Focuses on practical solutions and cooperation between member States and European institutions.

Urges member states to transmit annual statistics on all unaccompanied children, not only those seeking international protection.

Encourages the exchange of information between the States, the European Migration Network, the European Asylum Support Office, Frontex, and Europol to prevent unsafe immigration and trafficking of children and to create protection programs in third countries.

Stresses the link between development and migration.

Defines policies of reception and protection, age assessment, family unification, return and reintegration in the country of origin, and, most importantly, the commitment to aiming for durable solutions.

Resolution (2012/2263(INI))

Urges member states to uniformize procedures and recommends that the states treat children first and furthermore are children, not migrants, prioritizing their best interest.

Denounces bad conditions of protection in some places and deplors the lack of reliable statistics on unaccompanied children.

Recalls member states to cooperate with third countries.

New Pact on Migration and Asylum (2020)

In the aftermath of the so-called “refugee crisis” of 2015, the European Commission proposed a reform in the Common European Asylum System, but the Member States did not approve it. In 2020, the European Commission proposed a

New Pact on Migration and Asylum (COM(2020) 609 final) to strengthen the border control and the Dublin regulations on refugees and implement a faster asylum procedure and better integrated border management with an improved Eurodac (European Asylum Dactyloscopy Database). The Member States agreed to approve the reform by 2024.

Action Plan on Integration and Inclusion (2021)

States must develop programs for unaccompanied children transitioning to adulthood and adopt vocational education and professional training.

Figure 3: Border Control, Free Movement of People, and Immigration

Treaty of Rome	Articles 51 and K1
Treaty of Amsterdam	Article 73
Treaty of The Functioning of the EU (TFEU)	Articles 79 and 80
Schengen Borders Code	Full document
Directive 2002/90/EC	Full document
Framework Decision 2002/946/JHA	Full document
Directive 2008/115/EC	Full document
Directive 2011/98/EU	Full document
Directive 2011/95/EU	Full document
Resolution 97/C 221/03	Unaccompanied minors
COM(2010) 213 final	Action Plan on Unaccompanied Minors
Resolution 1810 (2011) European Parliament	Unaccompanied Minors
Resolution 2012/2263(INI) European Parliament	Unaccompanied minors
COM(2020) 758 final	Action Plan on Integration and Inclusion

Source: Created by the author based on the EU website.

2.2. Spanish legal dispositions

Several legal dispositions govern the rights of migrants and children in Spain. The Civil Code (Real Decreto de 24 de Julio de 1889)³¹, defines in Libro I, Título I, that foreigners in Spain have the same civil rights as the Spanish, except for what is established in special laws. The same law, in Article 172, discusses the protection of children. The Ley Orgánica 1/1996³² is the main document governing children's rights and aims to bring the dispositions of international and European Conventions and Treaties on the matter to the Spanish legal framework. Article 10, 3 states that:

“3. Los menores extranjeros que se encuentren en España tienen derecho a la educación, asistencia sanitaria y servicios y prestaciones sociales básicas, en las mismas condiciones que los menores españoles. **Las Administraciones Públicas velarán por los grupos especialmente vulnerables como los menores extranjeros no acompañados**, los que presenten necesidades de protección internacional, los menores con discapacidad y los que sean víctimas de abusos sexuales, explotación sexual, pornografía infantil, de trata o de tráfico de seres humanos, garantizando el cumplimiento de los derechos previstos en la ley.

Los poderes públicos, en el diseño y elaboración de las políticas públicas, tendrán como objetivo lograr la plena integración de los menores extranjeros en la sociedad española, mientras permanezcan en el territorio del Estado español, en los términos establecidos en la Ley Orgánica 4/2000, de 11 de enero, sobre derechos y libertades de los extranjeros en España y su integración social.

4. Cuando la Entidad Pública asuma la tutela de un menor extranjero que se encuentre en España, la Administración General del Estado le facilitará, si no la tuviere, a la mayor celeridad, y junto con la presentación del certificado de tutela expedido por dicha Entidad Pública, la documentación acreditativa de su situación y la **autorización de residencia, una vez que haya quedado acreditada la imposibilidad de retorno con su familia o al país de origen**, y según lo dispuesto en la normativa vigente en materia de extranjería e inmigración.

(...)

5. En el caso de los menores extranjeros no acompañados, se procurará la búsqueda de su familia y el restablecimiento de la convivencia familiar, iniciando el procedimiento correspondiente, siempre que se estime que dicha medida responde a su interés superior y no coloque al menor o a su familia en una situación que ponga en riesgo su seguridad.” (My emphasis)

³¹ <https://www.boe.es/buscar/act.php?id=BOE-A-1889-4763>

³² <https://www.boe.es/buscar/act.php?id=BOE-A-1996-1069>

References to the rights of unaccompanied minors can also be found in the Ley Orgánica 4/2000³³, describing foreigners' rights and liberties in Spain and their social integration. Article 2 ter., 3, about migrant integration, establishes that the state, in collaboration with autonomous communities, municipalities, Ceuta y Melilla, shall propose a pluriannual policy to integrate unaccompanied children into Spanish society. Article 9 grants education for children up to 18 under the same conditions as Spanish children, including access to grants and scholarships, if applicable. Article 14 grants access to the public health system.

Regarding legal residence, Article 32 establishes that every underaged migrant under Spanish authority protection is entitled to a residence permit. However, this same article also disposes, in number 2, that local administrations will decide on the repatriation of unaccompanied children but does not mention the circumstances by which this can happen nor the principle of the child's best interest. Most children who migrate alone come from developing countries and unstructured households, where they are victims of poverty, lack of opportunities, or domestic violence or abuse. According to the Spanish Ministry of Inclusion, Social Security and Migrations report published on October 4, 2022, unaccompanied minors in Spain originates mainly from Morocco (8,781), Gambia (725), Algeria (549), Guinea (308), and Senegal (306). Most were boys (93%) from 16–18 (Observatorio Permanente de la Inmigración, 2022).

More recently, on October 19, 2021, Royal Decree number 903/2021³⁴ brought some advancements to Royal Decree 557/2011, instituting the Regulations to the Ley Orgánica 4/2000. The original text established that authorities had nine months to grant unaccompanied children a residence permit once the impossibility of repatriation was declared. However, the new text reduces the time to 90 days. The new regulations also give the child the right to work, stating at number 3 that the residence permit must bring the expression “*habilita para trabajar de conformidad con el 36.1 y el 41.1 de la Ley Orgánica 4/2000*”. Notably, a new disposition allows teenagers and youngsters to enter the labour world at 16 and build a career for their future when they leave the protection system. In addition, the validity of the first and subsequent permits

³³ <https://www.boe.es/buscar/act.php?id=BOE-A-2000-544>

³⁴ <https://www.boe.es/buscar/doc.php?id=BOE-A-2021-17048>

changed from one to two years for the first permit and one to three years for the second permit.

Another significant change the new decree implemented is the status of unaccompanied children who turn 18. The original text established that the residence permit could be extended as a temporary non-lucrative permit (not allowing the holder to work) if the holder could prove a monthly revenue of at least 100% of the IPREM (Public Index of Revenue), that is, 579,02³⁵ €, which was virtually impossible. In addition, the authority would evaluate the individual's integration into the local community, analysing aspects such as knowledge of the Spanish language, length of residence and studies, job offers, or professional courses. Currently, the law requires a monthly revenue above the Minimum Living Allowance (491,63 €)³⁶, which the guarantee of financial support offered by a public or private development program can replace. Furthermore, young migrants who arrived in Spain unaccompanied or separated can now be entitled to a minimum revenue or subsidies from social security, which count for Article 197, number 2. a) of the Royal Decree 557/2011³⁷. The same dispositions apply to those who never had a residence permit after arriving in Spain unaccompanied. At 18, they can receive a permit valid for two years whenever they apply for one (Royal Decree 557/2011, modified by Royal Decree 903/2021).

Despite the legal guarantees for unaccompanied migrant children in Spain, the immigration law establishes that the government will sign agreements with other countries to prevent irregular immigration and assure the return of those children to their countries of origin. Article 18 also sets rules for the legal process of repatriation and issuing residence permits, which only happen if staying in Spain is considered in the child's best interest. However, the article does not explain how to determine the best interest. Also, a residence permit does not represent any guarantee – repatriation can happen if it is deemed in the minor's best interest and when they reach the age of 18 if the requisites of permanence set by the autonomous communities are not present.

³⁵ The amount of the Public Index of Revenue – IPREM – is established in the State budget. The amount for 2022 can be retrieved at <https://www.boe.es/buscar/doc.php?id=BOE-A-2021-21653>

³⁶ Available at <https://www.seg-social.es/wps/portal/wss/internet/Trabajadores/PrestacionesPensionesTrabajadores/65850d68-8d06-4645-bde7-05374ee42ac7>

³⁷ <https://www.boe.es/buscar/act.php?id=BOE-A-2011-7703>

2.3. French legal dispositions

In France, the main texts governing children's protection and receiving unaccompanied children comply with the international and European legal framework, even though the same cannot be said about their public policies.

The Foreigners' Entrance and Permanence and Asylum Rights Code (Code de l'entrée et du séjour des étrangers et du droit d'asile)³⁸ is the most comprehensive text addressing the reception and protection of underaged immigrants. The document has not only several articles on children seeking asylum but also specific dispositions about unaccompanied immigrant children. Article L741-5 forbids border authorities from placing underaged immigrants in detention. The law also prohibits expelling alien children (article L631-4) and issuing an order to leave the country (article L722-5). Moreover, article L342-16 ensures free legal assistance to unaccompanied minors from a lawyer.

Regarding the procedures of receiving and protecting unaccompanied children, the Code determines that unaccompanied children can only be placed in *zone d'attente* during their asylum-request evaluation by local authorities (article L351-2). Nevertheless, the Code does not have a similar dispositive for immigrant children who do not qualify as refugees. Furthermore, article L142-3 authorizes the state to collect and gather fingerprints and photographs of unaccompanied children "afin de mieux garantir la protection de l'enfance e de lutter contre l'entrée et le séjour irregulier". However, if the border authority refuses an unaccompanied minor entrance, article L343-2 specifies that the state attorney must be notified without further delay to ensure legal assistance.

The Social Action and Family Code (CASF)³⁹ is also an essential text for immigrants since it reflects the country's integration policy, drawn by each region according to their needs and particularities (articles L117-1 to L117-3) and implemented by local social security agencies. CASF also establishes living conditions for children whose parents cannot be determined or found and assures fulfilling every endangered child's fundamental physical, affective, intellectual, and social needs (article L112-3). Immigrant treatment's regionalization is crucial for unaccompanied children since each French region will bear responsibility for

³⁸ <https://www.legifrance.gouv.fr/codes/id/LEGITEXT000006070158/>

³⁹ https://www.legifrance.gouv.fr/codes/id/LEGITEXT000006074069

setting the applicable policies, such as their living conditions in shelters, families, or even hotel rooms. The State Council decree number 2016-840 specifies that the number of children set under the protection of the governmental authorities will follow a proportional distribution within the national territory, calculated by the Ministry of Justice annually.⁴⁰ This decision aims to equally distribute the financial, economic, and social burden of addressing unaccompanied foreign children.

Regarding regular residence, the Foreigners' Entrance and the Permanence and Asylum Rights Code differ for children under 16 and teenagers from 16–18. A child under 16 is exempted from having a *titre de séjour*. If placed under the ASE's (Aide Sociale à l'Enfance) protection before turning 16, they can request a *titre de séjour* when they reach 16 (to be allowed to work) or at the age of 18. However, a child who arrived in France at 16 or 17 is not entitled to a residence permit, which can be granted if they want to pursue their studies in the country or have finished a qualifying school (articles L423 and L425).⁴¹

The major problem in France for unaccompanied children is determining their age and the time in “*zone d'attente*”. Several children are subject to bone-age tests, which are inaccurate and can exclude teenagers from the protection system. Children can also be sent to a kind of detention area called *zone d'attente*, where they wait up to 20 days⁴² for a decision on their future; or 26 days, if they request asylum after 14 days. If they are not deemed underage, they can be deported to their country of origin, often going against the child's desire and not following the principle of the best interest established in the international text on children's rights (Senovilla-Hernandez, 2010).

In Spain, especially in Ceuta, unaccompanied children can become stuck in shelters with poor conditions waiting to be accepted by the protection system⁴³, or be deported to their origin country. In 2021, hundreds of children were returned

⁴⁰ The numbers for 2022 can be consulted at <https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000045582555>

⁴¹ <https://www.service-public.fr/particuliers/vosdroits/F31037>

⁴² <https://www.service-public.fr/particuliers/vosdroits/F36508/0?idFicheParent=F11144#0>

⁴³ <https://www.infomigrants.net/fr/post/34372/ceuta-court-suspends-repatriations-of-migrant-minors>

to Morocco from Ceuta⁴⁴ due to an agreement with the Moroccan government. The repatriations were done without due diligence to check the children's family situation, nor if it was in their best interest.

In Spain and France, the legal texts comply with the main international framework of protecting migrants and children. However, public policies and daily practices can often harm this doubly vulnerable population. Apart from being irregular immigrants without the same rights as regular children, they should be protected and receive the proper assistance, health, education, and shelter needed to thrive. Unaccompanied children often come from challenging environments and seek a better future. Moreover, in any democratic legal system, individuals only face prison after being found guilty in a fair trial or with a judicial order. In Europe and other countries, immigrants are sent to detention centres or highly surveilled shelters without arrest warrants or criminal court decisions. Accordingly, immigrants are being deprived of liberty despite a UN deliberation against such practices⁴⁵. The case is even worse regarding migrant children, who can be detained for several days waiting for their fate in inappropriate shelters or in immigrant detention centres. The French *zone d'attente* is another word for detention since migrants cannot leave the place. The French government acknowledges it is a detention facility when it says that the general controller for liberty deprivation facilities can visit the *zones d'attente* anytime⁴⁶ – the same individual checks prisons in France. Maintaining children in detention is illegal. Article 5.9 of the European Resolution 1810 (2011) expressly states that “no detention of unaccompanied children on migration grounds should be allowed”. The French Asylum Rights Code does not allow detaining migrant children. One may argue that they stay there while the authorities verify their minority. However, they are children and cannot be detained for one day, let alone 20.

⁴⁴ <https://www.infomigrants.net/en/post/34351/spain-stands-by-return-of-unaccompanied-children-to-morocco>

https://www.ohchr.org/sites/default/files/Documents/Issues/Detention/RevisedDeliberation_Advan ceEditedVersion.pdf

⁴⁶ <https://www.service-public.fr/particuliers/vosdroits/F36508/0?idFicheParent=F11144#0>

3. Public policies: an overview

3.1. The European Union and third-country immigrants

The European Union represents a unique model of integration in the world. Countries agree to delegate sovereignty to a supranational entity in matters beyond economic, financial, and monetary cooperation, covering areas such as foreign policy, security, and migration control. The convergence of political and economic interests and the high level of physical and transport integration enabled a common market for goods and services where internal production and national labour have free transit (Malamud & Gardini, 2014). However, the European Union's supranationalism coexists with national sovereignties in a "governance mix" that gives certain European institutions authority and autonomy to act in parallel with national bodies (Börzel, 2012) in a division of competencies whereby local country laws sometimes cooperate but sometimes compete. Therefore, the European Union does not adopt a governance that defines the policies each member adopts but rather creates structures that allow the countries that participate to create and adopt standard procedures (Kooiman, 2003, p. 171, apud Tömmel, 2016, p. 409). The European Union has created a common border-control legal architecture to prevent irregular immigrants from entering and staying in the common space, to fight human trafficking, and to uniformize the reception and partition of asylum seekers in the common territory. However, each state independently establishes policies regarding immigrants' reception, such as access to housing, education, health, work, and social security, allowing sovereign states to pursue their national interests. In this sense, each EU member state can establish bilateral agreements that facilitate or hinder immigration.⁴⁷

The EU created a space where its nationals' migration is accepted and stimulated. Recognizing professional licenses grants professional mobility, provided the holder is a national of a member state. In 1999, the Bologna Process uniformized university degrees to facilitate recognizing academic titles. The ERASMUS program facilitates the exchange of European students among Union

⁴⁷ Spain and Morocco signed, in 2019, an agreement on cooperation on fight against crime and illegal immigration. Available at: https://www.boe.es/diario_boe/txt.php?id=BOE-A-2022-5595. In 2017, Italy and Libya signed an agreement on development, illegal immigration, human trafficking, smuggling, security in the Mediterranean Sea border. Available at: <https://www.governo.it/sites/governo.it/files/Libia.pdf>

universities. Several actions created a space of uniformization, free movement, and true European identity. However, along with facilitating intra-Europe mobility, the European Union created a sound and robust border-control apparatus. If citizens can move freely through the common space, third-country nationals are subject to control that increases in rigidity, managed by specialized agents from the local immigration police, Frontex, and even NATO. From 2024, citizens of countries benefiting from visa waivers will be subject to stricter control and must file an electronic travel authorization called ETIAS.

3.2. Effectiveness of the European migration policy

In 2015, Europe faced what they termed “a major crisis” caused by an unprecedented number of refugees and migrants (Wagner, 2015). Over one million people arrived in the European Union, many undocumented, causing a considerable humanitarian crisis; host countries could not handle such an influx of immigrants (Gutierrez, 2022). The world watched thousands of immigrants die in boat disasters as the European Union contended with the ineffectiveness of the Dublin Regulations to process hundreds of thousands of asylum applications. Countries such as Italy, Greece, and Hungary received significantly more migrants than they could manage. They had to marshal efforts to identify people and give shelter, food, and medical assistance to those arriving from Syria and the African continent. Simultaneously, they waited for refugees to transfer to other European countries, which can take years. Some refugees may refuse to be identified in the first country, afraid of being stuck there. They simply flee from the authorities and migrate north, to Germany or Sweden, if they believe they will have more opportunities. Furthermore, some economic migrants mingle with refugees, creating extra problems. Since economic migrants are not entitled to asylum, they seldom leave the protection system and are left alone trying to survive in a country where they do not know the language or have acquaintances who could help them.

Since the so-called migrant crisis, migrants arriving by sea in the European Union have decreased but are still significant, as the Union has increased its investment in border-control surveillance and instruments to stop undesirable

migration while attracting qualified professionals⁴⁸ and young workers⁴⁹ to overcome the ageing populational problem most member states face. From 2020–2022, Frontex’s budget more than doubled (see Figure 4). Furthermore, in 2023, the EU’s contribution to the agency will increase to € 839 million.⁵⁰ The agency has been used as a “wall” to impede migrants’ arrival and select those entitled to enter European territory. More than merely managing migration, Frontex’s role has been to control it. The EU has also signed agreements with Mediterranean countries such as Morocco⁵¹ and Egypt⁵² to capacitate and finance border control operations. In some ways, the Union has externalized its borders, relying on air companies to control and check the admissibility of travellers and migrants in their home countries and punishing them if this job is poorly done. Even NATO has been used to handle the region’s consequences of migration (Gutierrez, 2022).

Figure 4: Frontex budget from 2020 to 2022

Title A-9 REVENUE			Budget 2020 N4	Amended Budget 2021 N2	Budget 2022
Chapter	Article	Description			
	A-900	EU Contribution	339 240 654	499 610 042	704 703 142
	A-901	Contribution from Schengen Associated Countries	25 192 000	35 635 000	49 672 000
	A-902	Contribution from the United Kingdom and Ireland	0	0	0
A-90	Subsidies and contributions		364 432 654	535 245 042	754 375 142
A-91	Other Revenue		p.m.	p.m.	p.m.
A-94	Earmarked Revenue		p.m.	p.m.	p.m.
A-9	TOTAL REVENUE		364 432 654	535 245 042	754 375 142

Source: Frontex

Despite all efforts, the European region receives vast numbers of immigrants annually. The mechanisms adopted in the Schengen area to control and select who enters and leaves are highly effective at airports and official cruise ports. However, many immigrants arrive illegally after crossing the Mediterranean

⁴⁸ The Blue Card is a residence permit aimed at skilled and educated migrants. <https://www.apply.eu/BlueCard/>

⁴⁹ In 2022, the Portuguese government launched a new visa for those looking for jobs in the country. <https://vistos.mne.gov.pt/pt/vistos-nacionais/documentacao-instrutoria/procura-de-trabalho>

⁵⁰ https://ec.europa.eu/commission/presscorner/detail/en/ip_22_3473

⁵¹ https://ec.europa.eu/commission/presscorner/detail/en/IP_22_4388

⁵² <https://www.schengenvisa.info.com/news/eu-egypt-sign-agreement-to-launch-new-border-management-programme/>

Sea in small boats that can easily go unnoticed. In 2017, a video of immigrants arriving at a Spanish tourist beach during summer vacation went viral worldwide⁵³. In 2022, Europe registered the highest number of irregular border crossings since 2016⁵⁴, a 64% increase from 2021. Frontex agents detected around 330,000 irregular immigrants, including an unknown number of unaccompanied children, since most states only have statistics on refugee children, excluding other immigrants.

European policies not only failed in managing migration but also encouraged various human rights violations, including the emergence of xenophobic political parties that took power due to their discourses and actions to refrain from migration, sometimes contravening the Refugee Convention and several other human rights dispositions. In 2019, Italian Interior Minister Matteo Salvini banned a Sea Watch vessel that rescued immigrants from approaching Lampedusa's shores and arrested its captain, Carola Rackete⁵⁵, when she refused to follow his orders. On another occasion, Salvini prevented the Spanish ship *Open Arms*, holding 147 immigrants, from docking in Sicily⁵⁶. In Hungary, parliament approved a bill that criminalizes aiding illegal immigrants, even after the European Court of Justice said this practice contravenes EU rules⁵⁷. In 2022, Georgia Meloni was elected Italy's prime minister with a government platform of xenophobia, homophobia, and Euroscepticism.

Even in countries ruled by centre or left-wing parties, migrants face problems obtaining regular employment. After enduring degrading and dangerous experiences en route and paying large amounts of money to smugglers and moneylenders, those arriving in Europe illegally must live clandestine lives. For

⁵³ <https://www.youtube.com/watch?v=KK-0DbOG3zk>

⁵⁴ <https://frontex.europa.eu/media-centre/news/news-release/eu-s-external-borders-in-2022-number-of-irregular-border-crossings-highest-since-2016-YsAZ29>

⁵⁵ <https://www.theguardian.com/world/2019/jun/26/ngo-boat-carrying-migrants-defies-matteo-salvini-veto-lampedusa-italy>

⁵⁶ It is important to remember that, in 2022, Matteo Salvini declared that Italy's doors were open to Ukrainian refugees. See <https://www.today.it/attualita/salvini-profughi-ucraina-porte-aperte.html>. As Etienne Balibar stated in *Race, Nation, Classe*, nationalism is often used to mask racism. White European refugees are welcome, while black or Arabic are rejected in Italy, showing that racism is at the core of the Italian far-right acts against immigrants.

⁵⁷ <https://www.euronews.com/2021/12/21/orban-says-hungary-will-defy-eu-court-ruling-on-asylum-policy>

instance, in Spain, the *arraigo social*⁵⁸ and *arraigo laboral*⁵⁹, the instruments that regularize migrants who live in the country without a visa, require a minimum of two years of residence. In France, it is almost impossible to regularize migrants who arrive without a visa.

3.3. Spain, France, and unaccompanied minors

Most foreign children arriving alone in Spain come from Morocco through the Western Mediterranean Sea Route⁶⁰. The first contact with the Spanish migratory authorities often happens in Ceuta and Melilla, Spanish enclaves in Moroccan territory. The Spanish government created shelters in those two locations to prevent thousands of African children from arriving in Europe. In December 2021, Ceuta had 921 foreign children under protection (Fiscal General del Estado, 2022). That number does not consider children living on the enclave's streets waiting for an opportunity to cross the Strait of Gibraltar hidden under trucks or in containers (Kanics *et al.*, 2010).

Foreign children arriving in Spain without a responsible adult are subject to the same rules as Spanish children regarding legal guardianship: the state assumes the responsibility. The law on the so-called MENAS (*Menores Extranjeros No Acompañados*) determines that access to protection measures is automatic once age is established⁶¹. However, the issue is that the burden of protecting and paying for unaccompanied children in Spain relies upon the autonomous communities where the children stay after the local authorities identify them as vulnerable children and communicate this fact to the public prosecutor (Fiscalía). Since there is an uneven distribution of children in the continental territory, most are identified in the border communities of Andalucía, Cataluña, Melilla, Ceuta, Valencia, and the Basque Country⁶². As the table below shows, the authorities in these locations often avoid the declaration of

⁵⁸<https://extranjeros.inclusion.gob.es/es/InformacionInteres/InformacionProcedimientos/Ciudadanos/osnocomunitarios/hoja036/index.html>

⁵⁹<https://extranjeros.inclusion.gob.es/es/InformacionInteres/InformacionProcedimientos/Ciudadanos/osnocomunitarios/hoja035/index.html>

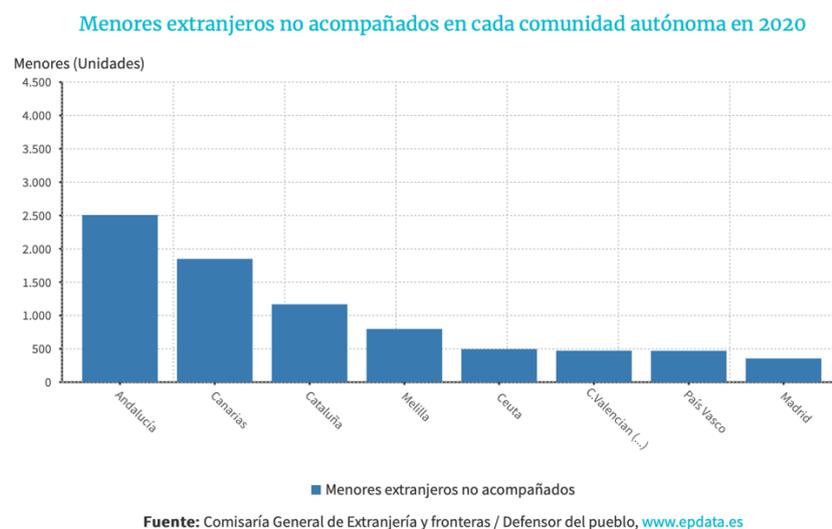
⁶⁰ <https://frontex.europa.eu/we-know/migratory-routes/western-mediterranean-route/>

⁶¹ Civil Code, article 172; Organic Law 4/2000, article 35.

⁶² <https://www.20minutos.es/noticia/4706768/0/cuantos-menores-no-acompanados-espana-comunidad-autonoma/>

vulnerability to avoid incurring the costs of their protection (Domingo & Palenzuela, 2021). Without a formal document stating that a specific community service protects a child, statistics on the number of unaccompanied children in Spain are rare and unreliable. Moreover, children are often transferred from one community's protection and travel across the country or even to France. Consequently, many are in Catalunya and the Basque Country⁶³.

Figure 5: Unaccompanied children in Spain per community



Source: Immigration and Borders General Department / Public Defender

Another problem is that a non-neglectable number of children travel undocumented, leading law enforcement agents and migration authorities to notify the public prosecutor's office to request an age-assessment medical test consisting of teeth, hands, and wrist radiography⁶⁴. For some teenagers, it seems unattractive to be recognized as a minor since they will stay in a centre until becoming of age and may face deportation. In 2021, Spain identified the arrival of 3,048 unaccompanied children, and the number of children under protection was 9,294. The authorities performed 6,677 age-assessment tests, an increase of almost 35% from the 4,981 tests performed in 2020 (Fiscalía General del Estado, 2022). One issue is that bone tests do not accurately determine a teenager's age since bone maturity varies depending on nutrition, ethnic groups, sex, and pathological

⁶³ <https://www.abogacia.es/wp-content/uploads/2012/07/Informe-ni-ilegales-ni-invisibles.pdf>

⁶⁴ Organic Law 4/2000, article 35.3.

conditions (Cavallo *et al.*, 2021). The case of Y.B., mentioned in a report by the public defender’s officer, illustrates the problem⁶⁵.

Y. B. llegó a Almería el día **19 de agosto de 2009**, al existir dudas sobre su minoría de edad le fue realizada una radiografía de la mano izquierda en el Servicio de Urgencias del Hospital Torre Cárdenas de Almería que fijó una **edad ósea “de aproximadamente 16 años**.

El menor abandonó el centro de protección donde se encontraba sin que conste en el expediente interposición de denuncia alguna por parte de la entidad de protección. Volvió a ser detectado por funcionarios de policía cinco días después, el día **24 de agosto de 2009**, en Valencia, donde se le realizó una segunda prueba radiológica que concluyó “parece evidenciar que el varón explorado tiene una **edad ósea aproximada de 18 años**”.

Finalmente, el ahora presunto menor, aparece en la ciudad de San Sebastián, donde se le realiza una tercera prueba radiológica el día **6 de septiembre de 2009**, que establece que “el grado de madurez ósea... **corresponde a 17 años de edad aproximadamente**”. (My emphasis.)

The UN Committee on the Rights of the Child has repeatedly condemned⁶⁶ the Spanish practice of submitting foreign children to age-assessment procedures for violating migrant children’s rights (UNHCR, 2020).⁶⁷ The NGO Fundación Raíces, dedicated to integrating and defending Spain’s vulnerable children, represented several children⁶⁸.

To add additional vulnerability to the lives of unaccompanied children in Spain, they require documentation to apply for a residence permit. According to the report *Creecer en España sin papeles*, released by the NGO Save the Children in 2021, 20.4% of the foreign children and teenagers in Spain do not have documents. Integrating those children into the local community presents one of the biggest challenges they and the Spanish government face. When asked about foreign children, an advisor of the Junta de Andalucía answered:

⁶⁵ <https://www.defensordelpueblo.es/wp-content/uploads/2015/05/2011-09-Menores-o-Adultos-Procedimientos-para-la-determinación-de-la-edad1.pdf>

⁶⁶ <https://juris.ohchr.org/casedetails/2598/en-US>
<https://juris.ohchr.org/casedetails/2633/en-US>
<https://juris.ohchr.org/casedetails/2749/en-US>
<https://juris.ohchr.org/casedetails/2750/en-US>
<https://juris.ohchr.org/casedetails/2920/en-US>

⁶⁷ <https://www.ohchr.org/en/press-releases/2020/10/spains-age-assessment-procedures-violate-migrant-childrens-rights-un>

⁶⁸ <https://www.fundacionraices.org>

“Estas personas menores tienen muchas dificultades para tener la documentación preceptiva, y ello por diversas causas tales como retrasos para la determinación de su identidad, para determinación de su edad, problemas en su familia de origen, dificultades en sus embajadas para proporcionar la documentación que se requiere, retrasos en la Gestión que tiene lugar en la Administración General del Estado, que es la administración competente en materia de extranjería.”⁶⁹

In France, most migrant children come from land, from the Liguria region in Italy and the Catalunya or Basque Country in Spain. The Schengen Code allows member states to re-establish border control in the case of foreseen or concrete threats or deficiencies in external border control (Article 25). Under the pretext of a terrorist threat, France has invoked Article 25 systematically since 2017, experiencing random controls throughout the country’s borders (Bossong & Etzold, 2022). More than once, the country has tightened border controls in the Savoian region to block African and Asian migrants’ arrival.⁷⁰ On the other side of the Hexagon, in Catalunya, in 2021 alone, France intercepted about 13,000 migrants crossing its border from Spain. Some migrants were unaccompanied children⁷¹. Efforts to contain migration seem to be in vain regarding children migrating alone to France, as the number of foreigners declared minors has increased yearly since 2020. However, unlike Spain, France has more structured policies to handle them and strict procedures to evaluate the minority and the situation.

⁶⁹ <https://www.europapress.es/andalucia/sevilla/noticia-andalucia-presto-proteccion-mas-1000-menores-migrantes-2022-tutelo-42-20230129100951.html>

⁷⁰ https://home-affairs.ec.europa.eu/system/files/2023-01/Full%20list%20of%20MS%20notifications%20of%20the%20temporary%20reintroduction%20of%20border%20control%20at%20internal%20borders_en_1.pdf

⁷¹ <https://www.infomigrants.net/en/post/38346/france-eastern-pyrenees-is-the-new-crossing-point-for-migrants-arriving-from-spain>

Figure 6: Statistics on unaccompanied children in France



Source: Mission Mineurs Non Accompagnés, French Ministry of Justice

The country has largely sound public policies towards unaccompanied children, stipulating actions public officials must take and granting almost the same rights as citizen children. However, a barrier to the protection that system children face is the illegal detention in “*zone d’attente*” and the age-assessment tests. Social workers must interview the children to determine their country of origin, family situation, psychological conditions, migration determinants, goals, and projects for the future and inform them of their rights and duties⁷². However, often these interviews can be traumatic, resembling a police interrogation. MSF accounts indicate that interviews generate stress and fear. Often, after experiencing trauma on the move, interviewers challenge the children’s stories and their documents. Decisions are made based on subjective evaluations (Médecins du Monde). However, after that phase, being placed under the protection of the state, the Civil Code ensures the children full access to the healthcare system, physical and psychological monitoring, housing, education, and legal aid. The image below (see Figure 7) shows the ideal path of an unaccompanied child arriving in France⁷³.

⁷² <https://www.vie-publique.fr/eclairage/286639-mineurs-etrangers-isole-un-dispositif-de-prise-en-charge-sature>

⁷³ <https://www.actionenfance.org/publications/les-mineurs-non-accompagnes-mna/>

social worker handling the age assessment of migrant children declared that, in his service, they do not refer to bone tests but rather a completely subjective analysis based on children's appearance⁷⁵. His colleagues sometimes act like policemen and say, "Tell the truth! I know you are lying!" Further, this social worker complains about how challenging it is, barely sleeping when he sends a youngster away⁷⁶.

The French system aims to work closely with associations, NGOs, and foster parents to grant children good services. However, laws and policies do not always translate into actions. Several media and NGOs denounced the precarious situation of unaccompanied children found in France's crowded departments. Children are sometimes placed alone in precarious hotel rooms for days, weeks, and months⁷⁷. That was Hassan's case, who left his home country of Guinea and arrived in Europe through the Western Mediterranean Route, travelling from Morocco to Spain. In his first attempt to reach France at 16, he was returned to Spain. In his second attempt, he succeeded, arriving at a Red Cross shelter, where he escaped to Paris. After sleeping on the streets for days, he was finally hosted by a member of the NGO Les Midi du MIE, which distributes food to unaccompanied children living on the streets of Paris. The judge finally considered him a minor. Nevertheless, instead of being placed in a public shelter, an association, or a foster family, he was sent to a hotel and "left to his own devices."⁷⁸ Regarding education, children can find overwhelmed, disrespectful, and abusive teachers, and the children are often beaten or violated by other unaccompanied children.

Like Spain, the central state has the competence of defining policies and rules regarding admission and documentation. However, the "*prise en charge*" remains the responsibility of different departments, with the help of a legal tutor appointed by the state to represent them before public administration and the judge, if necessary (Réseau Européen des Migrations, 2014). The number of

⁷⁵ To Didier Fassin, the moral of social workers, their questionings, emotions, and values affect their work and help shape the response of their institutions.

⁷⁶ <https://guitinews.fr/cest-leur-histoire/je-nen-dors-pas-le-temoignage-dun-travailleur-social-qui-evalue-lage-des-migrants/>

⁷⁷ https://www.huffingtonpost.fr/politique/article/les-mineurs-non-accompagnes-oublies-de-la-protection-de-l-enfance_183687.html

⁷⁸ <https://www.infomigrants.net/fr/post/22468/hassan-guineen-de-16-ans--ma-premiere-nuit-a-paris-je-lai-passee-sous-un-abribus>

children in each department follows demographic criteria (Children Protection Act, article 48)⁷⁹.

Figure 8: Competences distribution in France

Authority	Mission
Departmental Councils (Child Protection Services)	Reception, housing, and protection of unaccompanied children, following their competence in child protection matters.
State services	The interministerial circular of January 25, 2016 delegated to the police chiefs the role of mobilizing and coordinating the decentralized State services (National Education, health, professional training) to support the departments in evaluating and protecting unaccompanied children.
Associations	Guardianship of unaccompanied children appointed by the Departmental Councils to qualified associations. Benefits that vary according to the association and the departments: housing, educational and school support, help with professional integration, medical and social monitoring, administrative and legal support.

Source: European Migration Network (2018)

In 2013, the French government established the Mission Mineurs Non-Accompagnés under the youth protection department, a division of the Ministry of Justice. The objective was to standardize policies and procedures across different departments and distribute children equitably throughout the country (Réseau Européen des Migrations, 2018). However, vulnerable and violent experiences continue to affect the children, and their integration into French society remains an ongoing challenge. According to the *Huffington Post*, 25% of the homeless in France are formerly institutionalized children, not all of whom are immigrants. Nevertheless, unlike Spain, migrant children in France are granted citizenship faster, which may attract them and help them overcome difficulties.

⁷⁹ <https://www.legifrance.gouv.fr/loda/id/JORFTEXT000032205234>

Spain and France both have a long road ahead regarding the rights of unaccompanied children. Both countries rely on bone tests and interviews to determine a child's age, which can lead to errors and leave children unprotected and on the street. To ensure that the principle of a child's best interest principle is upheld, a migrant's age should raise no doubts when the state protection system refuses them assistance. This can only be achieved with the aid of identity documents or testimonies from those who know the child.

In France, the NGO Médecins Sans Frontières manages the Passerelle program, which helps children aged 15 to 17 whom the judicial system refused because they failed to prove their minority and grant them a house, food, education, medical, psychological, and legal support.⁸⁰ Rejecting a child based on appearance, behaviour, and/or the bone test is significant and illegal, violating international law. Moreover, it is illegal under the international framework of human and children's rights to house children in inadequate conditions without the presence of a responsible adult, such as in hotel rooms.

Unaccompanied children face difficulties that should not be part of their journey. Regardless of circumstances, children must always be protected, and their best interests should always come first. Nevertheless, after enduring the perils of the journey, including a dangerous trip through the Mediterranean Sea in overcrowded boats, they arrive in the European Union. Instead of having their essential needs fulfilled, they are sent to a detention center where their minority is questioned. If a judge determines they are under 18, they may be placed in a hotel by themselves, while those over 18 are sent to the streets. In addition, these children often have to learn a new language, work hard in an educational system utterly different from what they are used to, and build a support network and a social circle. The European Union is failing these children and is not complying with its duty of protecting entire generations of migrants seeking a better life. States prioritize their interests over human rights and, worse, children's rights. States also instrumentalize the misery of thousands in need to justify their increasingly stricter immigration policies and investments in security. States prioritize their interests to the detriment of human and children's rights.

⁸⁰ <https://www.infomigrants.net/fr/post/20498/lhotel-passerelle-un-moment-de-repit-pour-des-jeunes-dont-la-france-ne-reconnait-pas-la-minorite>

4. The role of the civil society

The concept of civil society is not new, dating back to ancient Greece. Aristotle defined man as a political being and civil society as a “political association that improved its citizens, but it was founded on respect for the different spheres and multiple associations in which life is lived” (Ehrenberg, 2017). In contrast, Plato believed civil society required individuals to renounce their private interests in favour of collectiveness. As nation-states emerged, several political philosophers discussed the meaning of civil society. Hegel viewed these as the natural and pre-political societies but also “the realm of difference, intermediate between the family and the State” (Kaldor, 2003). However, Rousseau and Locke identified civil society as represented by the state. In *Of the Social Contract*, Rousseau talks about a pact where individuals are willing to resign to their freedom to live under the law. Mary Kaldor (2003) explains that the expression “civil society” can be ambiguous and change according to the “content or coverage” in which it is used. For the 17th and 18th century philosophers, civil society was characterized as the rule of law opposing the state of nature. Marx associated civil society with bourgeois society since, at that time, it encompassed the division of labour, growth of the arts and sciences, moderation, rationality, liberty, gentle manners, development of commerce, and the rule of law. Marx did not view civil society as the state but as forming the basis upon which the state was built (Glasius *et al.*, 2004).

Gramsci argued that civil society belonged to the superstructure to protect private interests, especially from dominant groups (Bobbio, 1982). In *Prison Notebooks*, he refers to civil society as hegemonic social groups, including the Church and unions, which operated to protect the elites’ interests. Consequently, civil society is fundamental for class conflict. Habermas (1964) defined the “public sphere” as “all realm of our social life in which something approaching public opinion can be formed”, emphasizing the role of communication and discursive interaction in society. For Habermas, civil society comprises “non-governmental and non-economic connections and voluntary associations” and is composed of groups that “institutionalize problem-solving discourses of general interest inside the framework of organized public spheres” (Habermas, *apud* Kaldor, 2003). More recently, literature in the discipline of International Relations

has evolved, intending to discuss the existence and desirability of a “global” civil society beyond national states. For Mary Kaldor (2003), “it is possible to talk about global civil society in the sense of the global spread of fields of contestation” and “through different globally organized networks”. Many civil society organizations operate globally (Amnesty International, Human Rights Watch, MSF, and others). However, Dagnino (2004) argues that the term “civil society” has been used to designate non-governmental organizations, social movements, and the third sector due to the hegemony of neoliberalism.

Since the end of the 1980s, with globalization and the end of the Cold War, the number of non-governmental organizations dedicated to fighting environmental changes, fostering development, and relief and humanitarian action has significantly increased. In the years since, these civil society organizations have grown in professionalization (Cumming, 2008), employing highly skilled staff and adopting standardized procedures and organizational and managerial practices commonly found in the culture of private companies. Numerous organizations operate in the Global South or with individuals from this region, while their command structures are located in developed countries. They are financed by governments, international organizations, private companies, or individual donors. The degree of professionalization and the interests behind the existence of civil society organizations created a paradox in which their survival depends on perpetuating the *status quo* they try to change. That does not mean they do not operate ethically and efficiently. However, their need for survival makes them work closely with governments responsible for policies that run counter to the interests they defend. For example, civil societies in Spain and France are financed by local and central governments delivering services, such as housing, counselling, and education, to unaccompanied children.

Barbulescu and Grugel (2016) researched the extent to which civil society in Spain plays a role in addressing unaccompanied children, migration controls, and human rights. They distinguish three key modes of participation by civil society: filling the gaps the state has left, cooperating with the state, and acting against the state through action and engaging in advocacy campaigns (Barbulescu and Grugel, 2016). Contemporary civil society comprises a myriad of groups and organizations that include NGOs, lobby groups, local associations, churches, and

unions. If they are strong enough, they can effect change in public policy. However, their participation can also be more discreet, providing assistance to migrants and furnishing them with social capital that may be decisive in supporting or changing their migration project. Barbulescu and Grugel analyse a case in which local NGOs supported the Spanish Refugee Council's effort to legally contest the repatriation of children through legal advocacy and press campaigns. Although the tactic worked in the short term, the Spanish government eventually signed repatriation agreements with unaccompanied children's countries of origin to restrict their migration.

Both Spain and France boast a range of NGOs and associations that play an essential role regarding unaccompanied migrant children. These entities play a crucial role in influencing public debate and policy while supporting migrant children in all aspects of their lives, such as healthcare, education, legal assistance, and housing. They aim to participate in migration governance through bottom-up initiatives, seeking to put migrants' daily needs on the policy-making agenda and expose human rights violations. Advocacy organizations have been instrumental in making migrants more visible (Grugel and Piper, 2011).

Figure 9: NGOs working with unaccompanied children

Spain	France
<ul style="list-style-type: none"> • Aldeas Infantiles SOS • Asociación Española de Abogados Extranjeristas • Asociación Somos Acojida • Asociación Marroquí • Colectivo Caminando Fronteras • Colectivo ExMenas Madrid • Comisión Española de Ayuda al Refugiado • Federación Estatal de SOS Racismo • Fundación Raíces • Médicos del Mundo • Merced Migraciones • Pueblos Unidos • Red Migrantes con Derechos • Save the Children • Servicio Jesuíta a Migrantes • Voluntarios por Otro Mundo 	<ul style="list-style-type: none"> • Association les Quatre Chemins • Cimade • Croix Rouge • France Terre d'Asile • Foyer Amie • Human Rights Watch • InfoMIE • La Comede • La Voix de l'Enfant • Médecins du Monde • Médecins Sans Frontières • Midis du Mie • Migrations Santé • Observatoire National de l'Enfance en Danger • Parcours d'Exil • TIMMY • Utopia 56

Source: Compiled by the author

Fundación Raíces is an NGO in Spain that assists migrant children and advocates for their rights. Civil society in Spain has had significant victories, changing government policies and practices, such as avoiding repatriations through a dual strategy: naming and shaming and judicial activism (Barbulescu and Grugel, 2016). For example, in 2008, Human Rights Watch denounced the Spanish practice of repatriating migrant children without transparency or guarantees⁸¹, which was the case of Bilal El Meghraoui, who arrived in Spain at the age of 16 in 2005. In 2006, he received a phone call at school saying he would be deported back to Morocco. The authorities put him on a plane from Madrid to Tanger⁸². However, in 2009, a judge ordered the autonomous community of Madrid to bring him back to Spain⁸³. More recently, in 2021, a judge ordered Ceuta to halt the repatriation of unaccompanied children⁸⁴, and in 2022, a judge ordered the return of 14 minors who had been illegally repatriated from Ceuta⁸⁵.

In 2021, Spain implemented a major change in its immigration law, granting children over 16 years old not only a working permit but also allowing them to remain in the country after coming of age. The change in the RD 557/2011, the Immigration Regulation, was the outcome of the collaborative efforts of thirteen NGOs that advocated for a improved laws and policies concerning the transition to adulthood⁸⁶. National and international associations gathered around the project, leading to more than 13,000 youngsters between 16–23 years to regularize their situation⁸⁷. Among these is the case of the Moroccan Ismail El Majdoubi, 23, who arrived in Spain at 17. He now works at the Red Cross as a social mediator and founded the NGO Ex-Menas⁸⁸, which assists young migrants in their transition to adulthood⁸⁹.

⁸¹ <https://www.hrw.org/es/report/2008/10/17/retornos-cualquier-precio/espana-insiste-en-la-repatriacion-de-menores-extranjeros>

⁸² <https://www.youtube.com/watch?v=SwMAWnx5stw>, available at 23:28

⁸³ <https://www.elmundo.es/elmundo/2009/09/29/espana/1254245656.html>

⁸⁴ <https://www.noticiasdenavarra.com/politica/2021/08/24/juez-mantiene-paralizadas-repatriaciones-menores-2123112.html>

⁸⁵ <https://elpais.com/espana/2022-02-17/un-juez-ordena-el-retorno-a-espana-de-12-de-menores-marroquies-expulsados-de-ceuta.html>

⁸⁶ <https://www.europapress.es/epsocial/migracion/noticia-ong-proponen-gobierno-reformas-normativa-extranjeria-facilitar-integracion-menores-extranjeros-solos-20200602000244.html>

⁸⁷ https://public.tableau.com/views/Evaluacion_RD_Menores/Menores_opi?%3AshowVizHome=no&%3Aembed=true#2

⁸⁸ <https://www.instagram.com/exmenas/>

⁸⁹ <https://www.youtube.com/watch?v=SwMAWnx5stw>

In France, civil society plays a crucial role in protecting foreign minors. In 2020, five NGOs – Médecins Sans Frontières⁹⁰, Humans Rights Watch⁹¹, Midis du MIE, TIMMY, La Comede, and Utopia 56 – issued a joint petition signed by 94 other associations and citizens. The petition urged the government to establish effective policies to host and protect several unaccompanied children living in camping tents at République Square. In 2021, the Parisian municipal authorities announced the inauguration of their first centre for unaccompanied minors in vulnerable situations⁹². However, two years later, in 2022, more than 200 teenagers erected a new camp in front of the State Council, with the help of the NGOs Médecins Sans Frontières, Midis du MIE, Tara, TIMMY, and Utopia 56, to denounce the precarious situation in which more than 450 unaccompanied children live in Ivry-sur-Seine⁹³.

In France, several NGOs host unaccompanied children and provide them with support and education. The Malian Mamadou Niakate arrived in France in 2015, fleeing from war and poverty. Following a two-month stay in a state shelter in Carcassonne, Niakate was placed in an association that prepared him for the future, allowed him to learn a profession, and helped him integrate into employment⁹⁴.

Civil society plays an essential role in combating the disappearance of migrant children. A non-neglectable number of children simply disappear. Between January 2018 and December 2020, an investigation conducted by The Guardian (2021) newspaper and the NGO Lost in Europe, an international association of journalists investigating missing foreign children and bringing their problems and aspirations to light through graphic stories⁹⁵, revealed that 18,292 children were lost in Europe. Most of these children originated from Morocco⁹⁶, indicating that they used the Mediterranean Western Route to enter Spain. The

⁹⁰ <https://www.msf.fr/communiqués-presse/campement-de-mineurs-non-accompagnés-a-paris-nous-dénonçons-l-incompréhensible-inaction-des-responsables-politiques>

⁹¹ <https://www.hrw.org/fr/news/2020/07/30/france-campement-de-mineurs-non-accompagnés-paris>

⁹² <https://www.paris.fr/pages/un-centre-d-hebergement-d-urgence-pour-les-jeunes-migrants-isolés-16674>

⁹³ <https://www.konbini.com/news/a-paris-lespoir-de-migrants-mineurs-dans-leur-longue-attente-dune-aide-de-letat/>

⁹⁴ <https://www.infomie.net/spip.php?article6006&lang=fr>

⁹⁵ <https://lostineurope.eu/graphic-stories>

⁹⁶ Although coming from Morocco, their main nationalities were Algerian, Eritrean, Guinean and Afghanistan.

journalists reported that Spain only gave partial numbers (until 2019), while France did not provide any information on missing unaccompanied children. According to the Fiscalía (2022), in 2021, Spain failed to account for 1,778 children. Moreover, the French Ministry of Justice (2021) declared only 45 instances of missing foreign children in the country. However, the NGO Missing Children Europe launched a report in 2020 denouncing that the disappearance of unaccompanied children is underreported, making it difficult for the authorities to locate them. The lack of reliable numbers make it impossible to know the actual dimension of the disappearances, and it is inadmissible that missing children go unreported to police authorities. Failure to do so violates all the international legal frameworks of child protection and human rights. However, for some departments and regions, the disappearance of such children can represent a relief from the costs of maintaining those children in the protection system. It is equally essential to understand why children disappear. Many flee the protection system because the environment is not suitable or they have different plans and aspirations.

In Spain, in 2019, more than half of the disappeared children escaped. A Defensor del Pueblo de Andalusia report lists some reasons for this phenomenon: overcrowded shelters, age assessment tests, lack of interpreters, lack of a definitive solution, and lack of proper education and training programs. One social educator in the Basque Country says that some kids be motivated to flee to other countries where they believe they will have better employment opportunities (Jimenez, 2019).

Unaccompanied migrant children exhibit more independence and experience than children who permanently live in a balanced family environment. They are also courageous enough to leave their homes in pursuit of opportunities for their future. Their disappearances underscore the need for reception countries to build better hosting programs suitable to their aspirations and prepare them for when they come to age. These children are highly motivated to find a solution for their lives and will pursue it. However, they experience violence and live in rough environments when migrating to Europe and will not stop until they believe they have found what they seek. However, they are still vulnerable to human trafficking, exploitation, and violence. Without proper housing, education, and

assistance, they can finish by living a vagrant existence on the streets of big cities, which could increase their susceptibility to crime and drugs (Gerome et al., 2022).

5. Conclusions

The development of the international legal framework on human and child rights began following the two World Wars and has undergone improvement over the years. Although human rights standards cover children, they have a range of legal dispositions granting them the respect of their best interests. Children can flourish and be prepared for a dignified future. That hope applies to every child, including migrating and unaccompanied foreign children.

The European Union and the members of the Schengen Convention are signatories of all the international treaties concerning human and children's rights. However, from its inception, the European Community, and now the European Union, has developed and implemented dual and conflicting policies towards immigration. While intra-Union immigration is stimulated by a series of mechanisms that facilitate the mobility of professionals and students, the migration of third-countries nationals is subject to growing control. The EU seeks a stricter selection of immigrants who can contribute to develop the region, provide workers where they lack, and balance the social security system.

Despite increased investment in border control, local police, agencies such as Frontex, sea operations, and the externalization of borders, the Union continues to receive thousands of immigrants who have entered illegally by land or sea. The EU policies towards migrations have not achieved the desired result. They have failed to impede the arrival of third-country nationals, resulting in a considerable number of unaccompanied children arriving on the shores of Greece, Italy, and Spain after crossing the Mediterranean in boats.

The decision to migrate involves a series of factors, and it is the receiving countries' responsibility to manage immigration. Despite efforts to strengthen border control, investing in technologies to monitor the Mediterranean Sea, and impeding migrants from disembarking on European shores or ports, these measures have not worked so far, and neither has sending them back to their countries of origin. In the literature, several cases are reported of immigrants who attempted to settle in Europe many times before succeeding. Children who decide to migrate alone have plans and aspirations, including access to education, work, wealth, and a desire to be part of the developed world they see daily in television,

music, and social media. While some migrants seek the adventure of migrating to a different country, others are the pioneer who will set the grounds for the rest of the family. Regardless, most migrants entering Europe illegally come from developing or less developed countries, often former European colonies. To stop illegal migration, the EU should help those countries achieve development and fight social and economic inequalities, thereby enabling their citizens to explore their capacities fully without the need to migrate.

This work aimed to analyse the Spanish and French legislation and public policies concerning unaccompanied minors. The laws in both countries provide adequate protection for migrant sole children, which aligns with the international legal framework of human and child rights. Once admitted to the protection system, unaccompanied minors receive a residence permit, shelter, food, education, health, psychological and social support. The children also have the opportunity to stay and establish their lives in the host country they reach the majority. However, in practice, the state does not always follow the law. For example, in Spain, as in France, when an alleged foreign child arrives unaccompanied in the country and is 15, 16, or 17 without documents, they are often detained instead of being placed immediately under protection, which is illegal. Moreover, they are subject to unreliable age-assessment procedures ranging from interviews with social workers to X-rays and court hearings. When caught at the border, children are frequently repatriated, violating the non-refoulement principle. Children are sometimes returned following a judicial decision or under agreements between the countries of origin and destination, such as from Spain to Morocco. In Spain, unaccompanied children mainly stay in shelters overseen by autonomous communities, which resemble orphanages. Conversely, France relies on associations, NGOs, and foster homes to host unaccompanied children. Nevertheless, in major cities such as Paris, children are often placed in hotels, where they lack proper support and are left to their own devices, which is a blatant violation of the Convention on the Rights of the Child.

When the State fails with migrant children, NGOs assume an important role in not only fulfilling their essential needs but also advocating for their rights. That has happened frequently in Spain and France.

European and Schengen countries retain the right to control their borders and determine who can be admitted. However, immigration policies must respect human rights. As *jus cogens* rules, human and child rights shall be at the basis of any action. In this regard, both Spain and France should reassess their policies concerning unaccompanied minors to, first and foremost, stop age assessment procedures when an undocumented migrant claims to be under 18. If there is no proof of their majority or reasonable doubt of their minority, they should immediately be placed under protection. This practice would eliminate the illegal detention of those children in places like the French *zone d'attente*, which is illegal not only because these are children who should not be arrested but also because they were not judged or condemned for any crime. Migration should not be criminalized, as every human being has the right to seek a better life regardless of location. Governments should also train officials and social workers to conduct interviews without embarrassing children or making them fear the interviewer who acts like a police officer. Furthermore, several physicians contend that bone tests should be unreliable and should not be used as an age assessment instrument.

Finally, children must receive proper treatment. In particular, children must live in a house adequate to their needs. They are also entitled to education, psychological support, and guidance, which is especially important for children who come from a disadvantaged environment and have faced violence, peril, and undignified experiences. It is unacceptable to leave them alone in hotel rooms or in tents on streets. Additionally, it is imperative for governments to create efficient policies for hosting unaccompanied migrant children to prepare them for their future as adult citizens. A proper process should include a rapid analysis and decision regarding their legal status, psychological and health support, an education that prepares them to have autonomy when they come of age and must leave the protection system, follow-up of their situation once they leave the protection system, and intervention as needed.

The best interest of the child is the basis upon which every policy concerning children must be constructed. In that regard, Spain and France still have a long road ahead to properly address the unaccompanied children arriving and living within their borders.

6. References

ANESM – Agence Nationale de l’Evaluation et de la Qualité des Etablissements et Services Sociaux et Medico-sociaux. (2017). *L’accompagnement des mineurs non accompagnés dits “mineurs isolés étrangers”*. Available at: https://www.has-sante.fr/upload/docs/application/pdf/2018-03/rbpp_mna_web.pdf Accessed on 03/06/2023.

BALIBAR, Etienne; WALLERSTEIN, Immanuel. (1988). *Race, Nation, Classe*. Paris: La Découverte, 2018.

BARBULESCU, Roxana; GRUGEL, Jean. (2016) Unaccompanied minors, migration control and human rights at the EU’s southern border: The role and limits of civil society activism. *Migration Studies*, 4(2), 253–272. Available at: <https://doi.org/10.1093/migration/mnw001> Accessed on 03/06/2023

BOBBIO, Norberto. (1982). *O conceito de sociedade civil*. Trad. Carlos Nelson Coutinho. Rio de Janeiro: Edições Graal, 1982.

BÖRZEL, Tanja A. (2012) “Chapter 43: The European Union – a unique governance mix?”, in LEVI-FAUR, David. *The Oxford handbook of governance*. Ed. *The Oxford handbook of governance*. New York: Oxford University Press Inc., 2012. Pp. 567-784

CARAYON, Lisa; MATTIUSI, Julie; VUATTOUX, Arthur. (2018). “Soyez coherent, jeune homme !” Enjeux et non-dits de l’évaluation de la minorité chez les jeunes étrangers isolés à Paris. *Revue Française de Science Politique*, 68(1), 31-52. Available at: <https://doi.org/10.3917/rfsp.681.0031> Accessed on 03/06/2023.

CAVALLO, Federica; MOHN, Angelika; CHIARELLO, Francesco; GIANNINI, Cosimo. (2021). Evaluation of bone age in children: a mini-review. *Frontiers in Pediatrics*. Available at: <https://www.frontiersin.org/articles/10.3389/fped.2021.580314/full>. Accessed on 03/06/2023.

CORNELISSE, Galina. (2023) Border Control and the Right to Liberty in the Pact: A False Promise of ‘Certainty, Clarity and Decent Conditions’? *Reforming the common European asylum system*. Available at: <https://www.nomos-elibrary.de/10.5771/9783748931164-33/the-new-pact-on-migration-and-asylum-what-it-is-not-and-what-it-could-have-been?page=1> Accessed on 2/26/2023.

CUMMING, Gordon D. (2008) French NGOs in the Global Era: Professionalization “Without Borders”? *Voluntas* 19, 372–394. Available at: <https://doi.org/10.1007/s11266-008-9069-5> Accessed on 04/09/2023.

DAGNINO, E. (2004). Construção democrática, neoliberalismo e participação: os dilemas da confluência perversa. *Política & Sociedade*. 3(5), 139-164. Available at: <https://doi.org/10.5007/%25x> Accessed on 03/06/2023

DEFENSOR DEL PUEBLO. (2015). *¿Menores o adultos? Procedimientos para la determinación de la edad*. Retrieved from <https://www.defensordelpueblo.es/wp-content/uploads/2015/05/2011-09-Menores-o-Adultos-Procedimientos-para-la-determinación-de-la-edad1.pdf> Accessed on 03/06/2023

DOMINGO, Antonio Aznar; PALENZUELA, Lara González. (2021). *El acogimiento em España: especial consideración a los menores extranjeros no acompañados*. Available at: <https://elderecho.com/el-acogimiento-en-espana-especial-consideracion-a-los-menores-extranjeros-no-acompanados> Accessed on 03/06/2023

EHRENBERG, John. (2017). *Civil society: the critical history of an idea*. Second edition. New York: New York University Press, 2017.

EUROPEAN MIGRATION NETWORK. (2010). *Unaccompanied Minors – an EU comparative study*. European Commission. Retrieved from https://www.ab.gov.tr/files/ardb/evt/1_avrupa_birligi/1_9_politikalar/1_9_8_dis_politika/Policies_on_reception_return_and_integration_for_and_numbers_of_unaccompanied_minors.pdf Accessed on 03/06/2023.

EUROPEAN PARLIAMENT. *Regulation (EU) N° 604/2013*. Retrieved from <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:02013R0604-20130629> Accessed on 02/26/2023

EUROSTAT. (2016). Almost 90 000 unaccompanied minors among asylum seekers registered in the EU in 2015. *Eurostat press release*. Retrieved from <https://ec.europa.eu/eurostat/documents/2995521/7244677/3-02052016-AP-EN.pdf> Accessed on 03/06/2023.

_____. (2020). *Asylum applicants considered to be unaccompanied minors. Almost 14 000 unaccompanied minors among asylum seekers registered in the EU in 2019*. Available at: <https://ec.europa.eu/eurostat/documents/2995521/10774034/3-28042020-AP-EN.pdf/03c694ba-9a9b-1a50-c9f4-29db665221a8> Accessed on 03/06/2023.

_____. (2022). *Annual asylum statistics*. Available at: https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Annual_asylum_statistics#Main_destination_countries_.E2.80.93_Germany.2C_France_and_Spain Accessed on 03/06/2023.

FASSIN, Didier. (2012) Économies morales et justices locales. *Revue Française de Sociologie*. 4(53). Pp. 651-655. Available at https://www.cairn.info/revue-francaise-de-sociologie-1-2012-4-page-651.htm#xd_co_f=MzU1Yjk2MTYtNWYxNy00NjQ5LWJhN2EtOGFINDe4NzJmNTQ0~ Accessed on 04/12/2023.

FINE, Adam D; ROOIJ, Benjamin van. (2021) Legal socialization: understanding the obligation to obey the law. *Journal of Social Issues*. <https://doi.org/10.1111/josi.12440>. Accessed on 2/26/2023.

FISCAL GENERAL DEL ESTADO. (2019). *Memoria de la Fiscalía General del Estado 2019*. Chapter III, 4.7 Retrieved from https://www.fiscal.es/memorias/memoria2019/FISCALIA_SITE/index.html Accessed on 2/26/2023.

_____. (2020). *Memoria de la Fiscalía General del Estado 2019*. Chapter III, 4.7. Retrieved from https://www.fiscal.es/memorias/memoria2020/FISCALIA_SITE/index.html Accessed on 2/26/2023.

_____. (2022). *Memoria de la Fiscalía General del Estado 2021*. Chapter III, 4.7. Retrieved from https://www.fiscal.es/memorias/memoria2022/FISCALIA_SITE/index.html Accessed on 2/26/2023.

FRONTEX. Budget 2022. Available at https://frontex.europa.eu/assets/Key_Documents/Budget/Frontex_VOBU_2022.pdf. Accessed on 2/26/2023.

_____. (2022). Detections of illegal border-crossing; monthly statistics. Available at: http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr_pop1ctz Accessed on 03/06/2023.

GEROME, Clément; PROTAIS, Caroline; GUILBAULD, Fabrice. (2022) Usage de drogues et conditions de vie des “mineurs non accompagnés”. Observatoire français des drogues et des tendances addictives. Available at <http://www.ofdt.fr/BDD/publications/docs/eisxgcg2ca.pdf>. Accessed on 03/14/2023.

GLASIUS, Marlies; LEWIS, David; SECKINELGIN, Hakan. (2004). *Exploring civil society: political and cultural contexts*. Oxon: Routledge, 2004. Pp. 16-23

GRUGEL, Jean; PIPER, Nicola. (2011). Global governance, economic migration and the difficulties of social activism. *International Sociology*. 26(4), 435-454. <https://doi.org/10.1177/0268580910393043> Accessed on 2/26/2023.

GUTIERREZ, Fernando. (2022). Shared migration challenges: the transatlantic community and the MENA region. NATO Parliamentary Assembly. 2022. Available at: <https://www.nato-pa.int/document/2022-shared-migration-challenges-transatlantic-community-and-mena-region-report-frusone>. Accessed on 2/26/2023.

HABERMAS, Jürgen; LENNOX, Sara; LENNOX, Frank. (1974) The Public Sphere: An Encyclopedia Article (1964). *New German Critique*, 3, 49–55. <https://doi.org/10.2307/487737>. Accessed on 2/26/2023.

JIMENEZ, Mercedes A. (2019). Desapariciones de menores extranjeros no acompañados (MENA) en España: una primera aproximación a sus significados. *Anuario CIDOB de la Inmigración 2019* (noviembre de 2019), p. 168-188.

Available at:

https://www.cidob.org/es/articulos/anuario_cidob_de_la_inmigracion/2019/desapariciones_de_menores_extranjeros_no_acompanados_en_espana_una_primera_aproximacion_a_sus_significados. Accessed on 03/14/2023

KALDOR, Mary Kaldor. (2003) *Global Civil Society: An Answer to War*. Cambridge: Polity Press, 2003.

KANICS, Jyothi; SENOVILLA-HERNANDEZ, Daniel; TOUZENIS, Kristina. (2010). *Migrating Alone: Unaccompanied and Separated Children's Migration to Europe*. 187. Available at: <https://unesdoc.unesco.org/ark:/48223/pf0000190796> Accessed on 03/06/2023

KOSLOWSKI, Rey. (1998) European Union Migration Regimes, Established and Emergent. In: Joppke, C., Ed., *Challenge to the Nation-State: Immigration in Western Europe and the United State*, Oxford University Press, Oxford. <https://doi.org/10.1093/0198292295.003.0006> Accessed on 03/06/2023

MALAMUD, Andrés, e GARDINI, Gian Luca (2013). “Has regionalism peaked? The Latin American quagmire and its lessons”. In FIORAMONTI, Lorenzo. *Regionalism in a changing world*. Londres: Routledge, 2013. Pp. 118-133

MÉDECINS DU MONDE. <https://www.medecinsdumonde.org/sur-le-terrain/mineurs-non-accompagnes-mna/> Accessed on 2/26/2023.

MISSION MINEURS NON ACCOMPAGNÉS. (2020) Direction de la Protection Judiciaire de la Jeunesse. Ministère de la Justice. Rapport annuel d'activité 2019. Available at: http://www.justice.gouv.fr/_telechargement/MMNA_RAA2019.pdf Accessed on 02/26/2023

_____. Direction de la Protection Judiciaire de la Jeunesse. Ministère de la Justice. *Plaquette presentation MNA*. Available at:

http://www.justice.gouv.fr/art_pix/plaquette_presentation_mna.pdf Accessed on 02/26/2023

NEFRAMI, Eleftheria. (2016). European Parliament, Directorate-General for Internal Policies of the Union. *Division of competences between the European Union and its Member States concerning immigration*, European Parliament. Available at: <https://op.europa.eu/en/publication-detail/-/publication/f0e07f04-ce2e-11e5-a4b5-01aa75ed71a1/language-en>. Accessed on 2/26/2023.

OBSERVATORIO PERMANENTE DE LA INMIGRACIÓN. (2022). *Menores no acompañados y jóvenes extutelados con autorización de residencia*. Retrieved from

https://public.tableau.com/views/Evaluacion_RD_Menores/Menores_opi?%3AshowVizHome=no&%3Aembed=true#2 Accessed on 2/26/2023.

OFFICE OF THE UNITED NATIONS. HIGH COMMISSIONER FOR HUMAN RIGHTS. (2007). A brief history of children's rights. *In Legislative history of the Convention of the Rights of the Child*. Available at: <https://www.ohchr.org/sites/default/files/Documents/Publications/LegislativeHistoryrc1en.pdf> Accessed on 03/06/2023.

RÉSEAU EUROPÉEN DES MIGRATIONS. (2014). Available at: https://www.immigration.interieur.gouv.fr/content/download/81890/601450/file/1-FR_EMN_Study_on_Policies_Practices_and_Data_on_Unaccompanied_Minors_in_2014_FR_Version.pdf Accessed on 2/26/2023

_____. (2018). https://www.infomie.net/IMG/pdf/etude_du_rem_mna_version_finale_maquettee.pdf Accessed on 2/26/2023

SALMERÓN-MANZANO, Esther; MANZANO-AGUGLIARO, Francisco. (2018). Unaccompanied Minors: Worldwide Research Perspectives. Available at: <https://www.mdpi.com/2304-6775/7/1/2> Accessed on 2/26/2023.

SAVE THE CHILDREN. (2021). *Crecer sin papeles* https://www.savethechildren.es/sites/default/files/2021-02/Crecer_sin_papeles_en_Espana_SC_PC.pdf Accessed on 2/26/2023.

SENAT DE FRANCE. (2017). Available at: <https://www.senat.fr/rap/r16-598/r16-5981.pdf> Accessed on 03/06/2023.

SENOVILLA-HERNANDEZ, Daniel. (2010). Mineurs étrangers non accompagnés et séparés en europe. Une analyse comparative de l'application de la Convention Internationale des Droits de l'Enfant dans six pays. Dossier - mineur isolé étranger : une nouvelle figure d'alterité ? *Migrations Société*. 129-130, 99-114. Available at: <https://www.cairn.info/revue-migrations-societe-2010-3.htm> Accessed on 03/06/2023.

EINASHE, Ismail; HOMOLOVA, Adriana . (2021). Nearly 17 child migrants a day vanished in Europe since 2018. *The Guardian*. Available at <https://www.theguardian.com/global-development/2021/apr/21/nearly-17-child-migrants-a-day-vanished-in-europe-since-2018>. Accessed on 03/10/2023.

TÖMMEL, Ingeborg. (2016) "EU governance of governance: political steering in a non-hierarchical multilevel system". *In Journal of Contemporary European Research*. 12(1): Pp. 406-423.

UNHCR. (1997). *Guidelines on policies and procedures in dealing with unaccompanied children seeking asylum*. Retrieved from <https://www.unhcr.org/3d4f91cf4.pdf> Accessed on 03/06/2023

_____. (2020). *Spain's age assessment procedures violate migrants children's rights, UN committee finds*. Available at: <https://www.ohchr.org/en/press-releases/2020/10/spains-age-assessment-procedures-violate-migrant-childrens-rights-un> Accessed on 03/06/2023

VAN SELM, Joanne. Immigration and regional security. (2005). *International migration and security*. Oxon: Routledge, 2005.

WAGNER, Martin. (2015) 2015 in review: how Europe reacted to the refugee crisis. Commentary. International Centre for Migration Policy Development.

Available at:

<https://www.icmpd.org/file/download/52075/file/2015%20in%20review%2020->

[%20how%20Europe%20reacted%20to%20the%20refugee%20crisis.pdf](https://www.icmpd.org/file/download/52075/file/2015%20in%20review%2020-%20how%20Europe%20reacted%20to%20the%20refugee%20crisis.pdf). Accessed on 2/26/2023.