

MARIA IRENE DE CARVALHO, ISABELA PAOLETTI

Protection of Unaccompanied Migrant Minors in Two European Union Countries: (Re)Acting or Being (In)Different?

Although the European Union is a region of democratic values and social justice, with respect to the topic of unaccompanied migrant minors it remains an area of symbolic walls and borders between countries. Unaccompanied migrant minors and separated children are a risk group who enjoy recognised rights allowing for special protection, but such rights are not always acknowledged in practice. This article explores and analyses some of the main policies and national programmes for the protection of these minors in Italy and Portugal. Based on the relevant literature and legislation existing in these countries, this exploratory study critically highlights the pathways of protection and integration of unaccompanied migrant minors. Whereas the legal framework appears to focus mainly on the immediate basic needs, it is important to activate inclusive, consistent and durable policies that guarantee actual and holistic special protection to unaccompanied migrant minors.

Keywords: Italy; political migration; Portugal; protection of minors; unaccompanied foreign minors.

Introduction

In the Eurostat glossary,¹ the term “ unaccompanied minor” is defined as:

[...] a minor (aged less than 18) who arrives on the territory of the Member States unaccompanied by an adult responsible for him or her whether by law or by the practice of the Member State concerned, and for as long as he or she is not effectively taken into the care of such a person. It includes a minor who is left unaccompanied after he or she has entered the territory of the Member States.

In the last decade, there has been a noticeable increase in the number of unaccompanied migrant minors in Europe: in 2010, about 10,600 asylum

¹ Accessed on 30.03.2023, at https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Glossary:Unaccompanied_minor.

applications were filed, which increased remarkably to over 96,000 in 2015, but later declined in 2020 to 13,550 (Eurostat, 2021).

In 2021, Italy registered a significant number of unaccompanied foreign minors: the Italian Ministry of Labour and Social Policies (Ministero del Lavoro e delle Politiche Sociali, 2021) affirms that by 30 June 2021, a total of 7,802 unaccompanied foreign minors were registered, a 55.5% more than in the same period in the year prior. Most of them were male (96.7%) and 17 years old (64.2%), coming mainly from Bangladesh (1,974 minors), Tunisia (1,170) and Egypt (710). According to data retrieved from that same ministry (Ministero del Lavoro e delle Politiche Sociali, 2018), the vast majority of unaccompanied minors were between 16 and 17 years of age, and of 12,112 minors registered, 5178 were untraceable (*ibidem*); in other words, institutions have lost contact with them.

In 2020, there were 95 children identified as unaccompanied applying for asylum in Portugal (Eurostat, 2021). A year later, in 2021, political aims sought to receive 500 unaccompanied minors from Greece with the intention of resettling them.² As part of Portugal's commitment to the European Commission to relocate up to 500 unaccompanied minors, 72 children and young people were already in the country by December 2020. The 72 minors were given homes in the districts of Braga, Lisbon, Castelo Branco, and Porto. Comprising 14 nationalities and speaking 18 different languages, these individuals were from 10 to 18 years of age, with 28% from 16 to 17 years old, with no schooling or only having the equivalent of four years of schooling.³

Following the growing trend of international mobility in the last decade, these two countries have registered an exponential increase in requests for asylum, thus creating the need to find ways of responding to this new reality. There are organisations that are already working with migrants, but dealing with unaccompanied minors is a special matter.

European Union (EU) directives protecting refugees and asylum seekers do exist and have been often transposed into national laws. The European Migration Network (EMN, 2017) points out several measures and directives protecting refugees and unaccompanied minors. Directive 2004/83/EC of 29 April focuses on establishing a Common European Asylum System based

² Demony, Catarina (2020), "Portugal to Take in 500 Unaccompanied Migrant Children from Greek Camps", *Reuters*, May 12. Accessed on 30.03.2023, at <https://www.reuters.com/article/us-health-coronavirus-portugal-migrants-idUSKBN22O30D>.

³ Silva, Rosário (2020), "Portugal já acolheu 72 refugiados menores não acompanhados", *Rádio Renascença*, December 21. Accessed on 24.04.2023, at <https://rr.sapo.pt/noticia/politica/2020/12/21/portugal-ja-acolheu-72-refugiados-menores-nao-acompanhados/219523/>.

on the full and inclusive application of the Geneva Convention. Directive 2005/85/EC of 1 December focuses on the minimum standards of procedure in member states for granting and withdrawing refugee status.

Additional directives include: Directive 2011/95/EU of 13 December that defines standards for the qualification of beneficiaries of international protection or for persons eligible for subsidiary protection, Directive 2013/32 EU of the European Parliament and of the Council of 26 June that establishes common procedures for granting and withdrawing international protection, and Directive 2013/33 which states that suitable and safe reception conditions must be provided to unaccompanied children seeking to obtain international protection in the EU. This kind of reception includes placement with a foster family, or accommodation in centres with special provision for children.

Moreover, in 2017, the Council of Europe sanctioned an Action Plan on Protecting Refugee and Migrant Children in Europe 2017-2019 (CoE, 2017). This plan has three major tenets: ensuring access to rights and child-friendly procedures, providing effective protection and enhancing the integration of children who remain in Europe. The plan was approved by European countries with the intent to protect these children. Despite the above undertaking by the European Union, the EU countries themselves nevertheless retain autonomy to create laws, norms and rules at a national level on immigration. Indeed, both “front line” and “back line” EU countries often disagree on how to solve this complex issue. For the present article, however, the focus will be directed at the asylum system for unaccompanied minors in two European countries, discerning how heterogeneous procedures can coexist in the EU. It critically describes the main policies and national programmes for the protection of unaccompanied migrant minors in Italy and Portugal.

These two countries were selected given that both authors have a proven background of intervention in the reception of refugees and asylum seekers. Based on their experiences, they discuss and reflect on how to improve the conditions of these minors, taking into account the best interests of children and their transition to active life. They presuppose that, although there are laws in both countries that safeguard the rights of these children and young people, there is need for improvement in the actual reception procedures. It is important to act on several fronts to demolish the walls of restrictions that are built to prevent foreigners and migrants from entering these territories or the general laws that do not consider the distinctiveness of each minor.

Bruno (2016) distinguishes real and symbolic borders by referring to images of migrants in the media. This process can produce digital borders understood as a set of mediations between digital technologies and symbolic resources, allowing for the drawing of limits between the territorial border and

the symbolic border (Chouliaraki, 2017; Chouliaraki and Georgiou, 2019). The authors argue that the way migrants are treated by the media can generate either solidarity and empathy, or discrimination and denial of entry into symbolic borders. Real, symbolic and digital borders transform a geographical space into a political space, regulating exchange (Velasco, 2019).

Walls have a different function: to prevent exchange. The creation of walls is seen as in opposition to human rights, as Velasco (*ibidem*: 162) points out “States can no longer ignore the difficulty of reconciling authority that each sovereign country has to protect its borders and the undeniable duty to respect human rights”.⁴ The walls are not only the physical borders being constructed across many countries in Europe but also bureaucratic barriers enacted at various levels through asylum procedures (Gülzau *et al.*, 2021; Ioannidis *et al.*, 2021). This article thus describes that such types of walls and borders inform asylum laws and procedures of unaccompanied migrant minors in the two European countries, making these barriers particularly regrettable in the case of children. Providing migrant minors with the conditions and tools for actual social integration, and taking into account their realities, experiences, and cultural differences, is a far more important endeavour.

1. Studies Related with Unaccompanied Migrant Minors

Since the 1990s, there has been an increase in studies on unaccompanied migrant minors (Gimeno-Monterde and Gutiérrez-Sánchez, 2019; Sandermann and Zeller, 2017), some of which describe the limitations of the main policies protecting children at international and national levels (Allsopp and Chase, 2019; Ataiants *et al.*, 2018; Gimeno-Monterde and Gutiérrez-Sánchez, 2019; Rodriguez *et al.*, 2019; Valtolina and D’Odorico, 2017). Different authors describe the integration process and the challenges involved especially in accessing mental health services. They also discern the experiences and obstacles involved in growing up as a displaced person (Bryan and Denov, 2011; Buchanan and Kallinikaki, 2020; Curtis *et al.*, 2018; Derluyn and Broekaert, 2007, 2008; Keles *et al.*, 2018; Kutscher and Kreß, 2018; Luster *et al.*, 2010; Raghallaigh and Gilligan, 2010; Rodriguez *et al.*, 2019; Valtolina and D’Odorico, 2017; Wernesjö, 2011).

Other authors point out the need for special protection for unaccompanied migrant children (Cardoso *et al.*, 2019, Derluyn and Broekaert, 2007, 2008; Valtolina and D’Odorico, 2017) and the importance of treating them not only as refugees, but as children. The principle of the child’s best interest, article 3 paragraph 1 of the Convention on the Rights of the Child

⁴ All quotes from languages other than English in the present article were translated by the authors.

adopted in 1989 by the United Nations General Assembly⁵ underscores the need for protective, welcoming and supporting systems that are inclusive and durable (Allsopp and Chase, 2019).

Sandermann *et al.* (2017) observed three types of protection systems in several European countries: 1) specific facilities for unaccompanied minors, 2) communal facilities for children and adults; 3) a youth protection system which may include foster families and specific reception centres or independent living arrangements. These typologies are dependent on the type of welfare state in each country, on the type of integration policy for refugees and vulnerable children, and lastly on the trend of asylum law in Europe, which is focused on temporary and short-term protection rather than long-term protection and the integration of refugees in the host country (Salomon, 2022).

It is critically important for children to participate in their social integration, according to Keles *et al.* (2018) and Wernesjö (2011). In their view, it is crucial that these children receive support from the initial phases of their asylum application by services and professionals with specific training. At this level, research reveals the central role performed by professionals in the protection of unaccompanied migrant minors, and their roles are particularly underpinned by the rights-based approaches of social work (Jones, 2001). Wright (2014) also postulates the ethical dilemmas faced by these professionals in supporting unaccompanied asylum-seeking children, particularly when these children face deportation, and highlights the central role these professionals play in providing support to them.

Further, Saglietti and Zucchermaglio (2010) explore the complexities of the relationship between these professionals, unaccompanied minors and the presence, at a distance, of their biological families. Although studies have explored this aspect, it is important to understand the level of bureaucracy, that is to say, to shed light on the barriers that the agencies and professionals face in their day-to-day work and what strategies they adopt within the legal framework of restrictive or very general policies on the integration of unaccompanied minors in EU countries. It is useful to describe the different types of integration procedures for minors placed, for example, in foster care or in residential care communities, and develop academic and political debates on social services for unaccompanied migrant minors (Rania *et al.*, 2018; Sandermann and Zeller, 2017).

This exploratory study examines the laws and policies that exist in these two countries to promote the integration of unaccompanied minors.

⁵ United Nations (1989), “Convention on the Rights of the Child. Resolution 44/25 of 20 November 1989”. Accessed on 30.03.2023, at <https://www.ohchr.org/sites/default/files/crc.pdf>.

It provides a general picture of the reception procedures in the two countries and critically discusses the difficulties children may encounter when remaining in those countries and accessing the welfare system.

2. Methodology

This study presents two case studies in which the same phenomena have different proportions and impact. Italy and Portugal are both southern European countries, but the phenomena of migration is very different. One country, being on the Mediterranean (Italy), is near the front line of migration in Europe while the other is on the periphery (Portugal). Through a detailed critical policy analysis, we examine the main relevant legislation and programmes in the two countries discussing and focusing on how the legislation conceptualises and defines protection responsibilities towards the unaccompanied migrant minors and the interventions to be developed. By doing this, the authors wanted to highlight the main stakeholders who have responsibilities regarding the protection of unaccompanied migrant minors, and the process required of minors to have access to the protection mechanisms identified by these legislations. These analyses reveal the main weaknesses at the legislative level and how they impact the lives of these unaccompanied minors. Below we list the legislation and main protection procedures in Italy and in Portugal.

The main legislation and programs in Italy are:

- SPRAR⁶ – Protection System for Asylum Seekers and Refugees, Law no. 189/2002: voluntary nature of local authorities' participation in the network and the focus on decentralisation.
- Law no. 47/2017 (known as Zampa's Law), national law integrating all relevant legislation on unaccompanied migrant minors: to provide free access to all the social, educational and health services (including mental health services) as Italian minors do. This Law encompasses the National Information System for Unaccompanied Minors (SIM), which mandates the tracking of all the movements of minors during the integration process.
- The Decree-Law no. 113/2018 (known as "Salvini's Decree") which introduced the following main changes: humanitarian protection and hospitality is reserved exclusively for refugees, that is, those who hold or enjoy international protection. Asylum seekers can only access Emergency Reception Centres (CAS). Minors just coming of age lose their chance at documentation if they obtain humanitarian protection instead of acquiring refugee status.

⁶ The authors translated the name of the entities but maintained the original acronyms.

- SIPROIMI – Protection System for Beneficiaries of International Protection and for Unaccompanied Minors, in 2020 it was renamed Reception and Integration System (SAI).⁷ It is directed by the Ministry of the Interior and local authorities, and participation is on a voluntary basis.

The main policies related to unaccompanied migrant minors in Portugal are:

- Law no. 26/2014 – Conditions for the execution and granting of asylum loans or subsidiary protection. The Ministry of Internal Administration and local authorities reserves the mandate to implement this act, implemented at a multilevel governance. The Platform for Refugee Support (PAR), a national collaborative network with more than 350 organisations, offers support to this Ministry in the execution of its mandate.
- Law on the protection of children and young people at risk (Law no. 147/99 and the amendment to Law no. 26/2018). This is under the responsibility from Ministry of Labour, Solidarity and Social Security.

The authors chose to analyse these programmes in both countries given how they stipulate the conditions for granting asylum or subsidiary protection in both countries. For Portugal, it is the Law no. 26/2014 and the national Law on the protection of children and young people at risk, and in Italy, the focus is on SPRAR Programme and Zampa’s Law because they are the most important policies to protect young refugees. Further on Italy, there are some noticeable changes in the protection framework because of Salvini’s Decree and SIPROIMI system, this often leaves these children in a limbo and creates some restrictions at this level.

3. Unaccompanied Migrant Minors in Italy – General, Specific, and Restrictive Laws

In Italy, unaccompanied migrant minors were initially supported through the general SPRAR programme. In 2017, Zampa’s Law created a regulatory framework specifically for unaccompanied migrant minors. At present, the Law no. 132/18 substantially modified the norms on asylum and the refugee reception system, and this is referred to as SIPROIMI. In 2020, this Law was redesigned and named SAI. This programme guarantees immediate access

⁷ Cf. ASGI – Associazione per gli Studi Giuridici sull’Immigrazione (2022), “Country Report: Short Overview of the Reception System. Italy”. Accessed on 30.03.2023, at <https://asylumineurope.org/reports/country/italy/reception-conditions/short-overview-italian-reception-system/> (last update: 20/05/2022); Ministero dell’Interno (2022), “Vademecum operativo per la presa in carico e l’accoglienza di minori stranieri non accompagnati”. Accessed on 30.03.2023, at https://www.interno.gov.it/sites/default/files/2022-08/24._vademecum_per_la_presa_in_carico_dei_minori_stranieri_non_accompagnati.pdf.

to support and protection by unaccompanied children while adults can only access the protection system after international protection has been granted.

3.1. The SPRAR Programme

In 1999 and 2000, local level experiences on refugee reception and networks amongst associations and non-governmental organisations created the basis for the establishment of a memorandum of understanding between the Ministry of the Interior, the National Association of Italian Municipalities (ANCI) and the United Nations High Commissioner for Refugees (UNHCR), which later gave rise to the 2001 National Asylum Program. This was the first time the reception of asylum seekers and refugees was publicly systematised in Italy.

The Law no. 189/2002 has subsequently institutionalised these organised reception measures, providing for the establishment of the SPRAR programme. Through the same Law, the Ministry of the Interior created a coordination structure that handles the central information service and offers consultancy, monitoring and technical support to local authorities. The management of the structure is entrusted to the ANCI. The institutions politically responsible for the reception of asylum seekers and refugees are the Ministry of the Interior and the local authorities, which demonstrates a multilevel governance logic.

The SPRAR programme has access to the National Fund for Asylum Policies and Services, which is publicly funded. With the support of the third sector, local authorities guarantee integrated reception that goes beyond the distribution of food and accommodation to providing complementary interventions (education, training, sport, etc.) and this ignites the construction of individual paths for socioeconomic integration.

Important features of the Protection System are the voluntary nature of local authorities' participation in the network and the focus on decentralised responsibilities. The actual network is mainly organised and run by organisations in the third sector, consequently promoting the development of local networks.

Professionals on the frontline act as coordinators and mediators of various services. They are responsible for the individualised integration plans and coordinate the professionals working with the minors, especially if problems arise. Barberis and Boccagni (2014) point out the commitment and the skills of these professionals. At the same time, they highlight the inconsistency of the overall system: generally, it grants formal rights, but at the local level there is varied and uneven implementation. Further, they state that, "the system has a poorly defined national vision and standards and there's a pervading fragmentation in welfare provision" (*ibidem*: 76),

and some of the professionals are often unable to offer the same services to everyone because they lack formal training to navigate inconsistent laws.

The protection system is comprised of two types of communities hosting unaccompanied migrant minors (Saglietti, 2012): communities of first reception and of second reception. The first reception communities are large residential structures with up to 40 beds and have a low ratio with respect to the number of minors and operators. They represent emergency accommodations, and therefore the duration of stay is relatively short, for a time that is strictly necessary, to identify a more suitable location (not more than 90 days).

The second reception communities are based in houses or apartments (with no more than 12 beds) where a small group of minors is hosted. They constitute family-type communities characterised by educational and long-term care that is provided by a team of professional operators in cooperation with local institutional networks (social workers, psychologists and other professionals). They are the same type of communities that would ordinarily host Italian orphans or Italian children who had to be separated from their families, because their parents were in prison, or unfit to care for them. In 2017, specific legislation focusing on unaccompanied migrant minors, Zampa's Law was enacted, under which Law no. 47/2017 established the SIM, which monitors the situation of unaccompanied migrant minors, their placement and also manages the data related to their registry.

3.2. Zampa's Law

Zampa's Law represents an important step towards reorganizing and integrating the relevant legislation on unaccompanied migrant minors. The Law recognises unaccompanied migrant minors as a vulnerable group entitled to rights; in addition, it equates migrant minors to Italian minors, according them the same rights and access to services. Unaccompanied migrant minors have free access to the same social, educational and health services (including mental health services) that Italian minors do. The operators of the hosting community or the foster family, together with the local social workers, define an integration plan that includes education and training programmes, access to sports facilities, and at times, inclusion in the network of association in which the minors are invited to provide voluntary work.

The Law defines procedures for age identification and verification, providing for the presence of cultural mediators throughout the process. Specifically, it simplifies the procedure for obtaining a residency permit. A migrant minor can directly apply for a residency permit; there is no need for a guardian to do so.

Zampa's Law established the position of volunteer guardians, which were appointed mainly by lawyers and mostly chosen from the public and trained on courses organised by the Regional Defenders of Children Rights. Guardians are appointed to protect the minors' rights, but they also serve as mentors, that is to say, they provide advice and support. The right to be listened to is explicitly stated in Zampa's Law: minors have the right to express their point of view in the administrative and judicial proceedings where they are concerned. The right to legal assistance is also recognised and provided by the State.

3.3. Salvini's Decree

In 2018, Salvini's Decree drastically changed the Italy's immigration legislation: Decree-Law no. 113/2018, converted into the Law no. 132/18, introduced a series of regulatory changes that have fundamental impacts on unaccompanied migrant minors, namely after they have come of age. Law no. 132/18 repeals humanitarian protection and the recognition of the status of refugee, making the benefit of international or special protection much more difficult to obtain. In 2018, many unaccompanied minor asylum seekers applied to obtain residence permits on humanitarian grounds; in fact, they represented 74% of the decisions of the Commission's territorial applications in the first six months of that year.⁸ Unfortunately, many of them received a rejection of their asylum application from the Territorial Commission due to the rules established under Salvini's Decree.

The minors coming of age lost their chance to regularise their situation. They could have obtained an official permit for study, work or waiting for employment if they had applied for such a status before reaching the age of 18, instead of applying for international protection. Therefore, many 18-year-olds were left out in the cold because of Salvini's Decree. Because they had to search for jobs immediately, they gave up on the courses they were attending.

With this Decree-Law, the protection system for asylum seekers and refugees managed by and under the Municipalities (SPRAR programme) was substantially dismantled. The SPRAR programme represented an inclusive reception model with small centres spread around the country. Hospitality is reserved exclusively for international protection holders and unaccompanied migrant minors, while asylum seekers can find shelter only in the first reception

⁸ ASGI – Associazione per gli Studi Giuridici sull'Immigrazione (2018), "Quali percorsi per I minori non accompagnati in seguito all'abrogazione del permesso per motivi umanitari? Scheda per I tutori e gli operatori che seguono minori non accompagnati (aggiornata al 12.12.18)". Accessed on 30.03.2023, at <https://www.asgi.it/wp-content/uploads/2018/12/Scheda-Percorsi-dei-MSNA-in-seguito-allabrogazione-del-permesso-per-motivi-umanitari.pdf>.

centres and in the special reception centres (SRC). If their request is rejected, they must leave the country immediately. The new reception system represents an attack on those organisations that have pursued the path of specialised, integrated and decentralised reception, which had promoted actual inclusion. The present reform is clearly framed by a logic of creating walls and impediments instead of providing protection and integration.

4. Unaccompanied Migrant Minors in Portugal: General and Undefined Laws

Portugal is a country on the periphery of Europe; the Mediterranean migrant crises are therefore not as felt as it might be in other countries. The Portuguese response has focused mainly on collaboration and support for the management of inflows in the countries concerned while other countries like Greece and Italy took on the responsibility of accepting applicants for international protection in the context of resettlement and relocation. The principal Law in Portugal is the 26/2014, which establishes the procedures in all cases of asylum seekers, including unaccompanied minors.

4.1. Conditions and Procedures for Granting Asylum or Subsidiary Protection

The Asylum Law 26/2014 aligns with two key EU Directives relating to asylum, namely the Qualification Directive 1 and the Asylum Procedures Directive 2. This Law outlines the conditions to be met by third-country nationals or stateless persons in order to qualify for international protection, a uniform refugee status process and persons eligible for subsidiary protection and the content of the protection granted.

This Law defines the conditions for the design and attribution of asylum, refugee or stateless status. It also defines the entire process of reception and integration in the country and the definition of the status of refugee and asylum seeker, that is, as categories eligible for subsidiary protection.

Asylum seekers entering Portuguese territory can apply for asylum at any Immigration and Borders Service office (SEF), a public safety police station, or Republican National Guard, via maritime policy. In the first stage of application, a request is made, the case is heard, and the applicant is given a statement of the claim. The individual is subsequently called upon to give statements after which a residence permit is issued until the facts and evidence presented are established. If the application is ultimately denied, the migrant is expelled from the country. If the application is accepted, it moves to the next stage.

In the second stage, temporary residence is granted for four months, and the applicant is integrated in a reception process where he/she receives benefits such as accommodation, health services, education, social security, legal

support and Portuguese language classes. The applicant is also granted access to the labour market. This provisional residence permit is renewable until additional facts of the applicant's claim are established and a decision is taken.

One of three possible decisions may occur in the third stage: a positive ruling is made regarding the designation of asylum by the Ministry of Internal Administration; the applicant is awarded a subsidiary protection status on humanitarian grounds (for being a particularly vulnerable victim), or a negative decision, with subsequent refusal of asylum and subsidiary protection. In the latter case the applicant could still appeal to the courts of law.

The second and the third phases of the process are hosted by the Portuguese Refugee Council (PCR), a non-governmental organisation which has protocol with UNHCR, and which manages shelters for both refugees and unaccompanied minors. The PCR works with specialised professionals (social workers, psychologists, jurists, teachers) and collaborates with other social welfare institutions such as Social Security, the Santa Casa da Misericórdia de Lisboa, the Lisbon City Council, and other non-governmental organizations such as the Jesuit Refugee Service.

These organisations help develop social protection interventions and are instrumental in their advocacy for the rights of refugees. They assist refugees with access to resources, training and employment. Further, they participate in the previously mentioned PAR, a collaborative network of public and private institutions, which operates in all regions of Portugal. Comprising more than 350 strong, well-organised and well-informed civil society associations, the PAR promotes a culture of welcoming and integration of refugees into Portuguese society by working in collaboration with partner institutions in the communities.

The legislative framework in place stipulates that unaccompanied minors must be represented by a non-governmental entity or by another legally acceptable form of representation, and is subjected to a fair/just legal process that considers Law no. 147/99 and Law no. 26/2018. It is incumbent upon the SEF,⁹ to communicate the petition submitted by the minor to the Family Court. The SEF must arrange an opportunity for the representative person to inform the unaccompanied minor of their rights. This entity is also responsible for initiating a process to find family members.

The Portuguese Refugee Council (CPR) has a specialised residence to welcome young people up to the age of 18, with accommodations to

⁹ SEF will be extinguished in 2023 and renamed the Portuguese Agency for Migration and Asylum (APMA), an administrative service with specific duties, to be created by decree-law. This change aims to remove the police dimension from this service making it more humanised according to the international referential for refugees who ask for asylum.

receive up to 13 children. Children are also welcomed under a children's resettlement programme. In both cases, there are unaccompanied migrant minors who arrive in Portuguese territory without the parents or an adult responsible for them.

The *Statement of Good Practice* (Separated Children in Europe Programme, 2009) and the *Implementation Handbook of the Convention on the Rights of the Child* (UNICEF, 2007) outline several rules of the Convention on the Rights of the Child, in which they state that if the parents or other family members of unaccompanied children are not located, the separated refugee child shall enjoy the same protection granted to any Portuguese child deprived of his or her family. Such migrant children should be referred to committees for their protection. These Committees also participate in the asylum process for the unaccompanied child. The Juvenile Court takes measures to protect and promote the best interest of children and appoints a legal guardian. The CPR does not have the capacity to supervise and accompany these children and young people, so they are supported by the Santa Casa da Misericórdia de Lisboa to help integrate them into society (CPR, 2017).

4.2. The Asylum Processes

In terms of the law, unaccompanied children are granted the same social rights as national children (Law 26/2014, article 65 to article 76). They are provided with means of subsistence, medical care and medicines, access to education, vocational training and work, the latter for those who are 16 years of age and older. For the case of unaccompanied minors, accommodation in a communal residential setting is the most common solution, but host families and/or foster families are considered as the most appropriate intervention.

Financial support is allocated for each minor to help them obtain food, clothing, hygiene and transport. Unaccompanied minors also receive regular education in relation to their age and abilities. In terms of health services, they obtain medical services from the local health units or hospitals under the National Health Service. Unaccompanied minors also have access to mental health services. Special attention is paid to children who have been victims of abuse, neglect, exploitation, torture, cruelty, and inhumane or degrading treatment.

Regarding the protection of particularly vulnerable persons (Articles 77 to 79), the Law demands that the best interests of minors should be respected. For example, unaccompanied minors placed in foster family or residential care cannot be separated from their brothers and sisters, and the changes of residences are limited to a minimum number. When allocating them

residences, their origin, ethnicity and race are considered, and these children are involved in decision making, depending on their age and maturity.

The CPR, which collects data for the Asylum Information Database (CPR, 2018), cites some of the challenges encountered during interventions with unaccompanied minors. For example, in 2017, five unaccompanied minors from Afghanistan who came through Greece to Portugal were institutionalised by the Family Court in the child protection system without professional or institutional support appropriate to their culture. In 2019, a report from the Portuguese Court of Auditors indicated that Portugal received financial support from the European Union to integrate refugees, and this was not totally spent. Besides, studies on unaccompanied minors remain scarce in Portugal; it is only public and private organisations that tend to produce reports (CPR, 2017, 2018). Ideally, it is important to understand the actual integration practices of unaccompanied minors conducted in the field and develop research in that direction.

5. Discussions, Limitations and Opportunities

Europe had not faced mass movements of refugees since the Second World War. In the early 2000s, based on a set of European directives, EU countries reformulated and reconfigured their asylum laws. However, these laws remain generalist in nature, and thus they need to be more specific with respect to unaccompanied minors, similar to how Zampa's Law was able to focus on unaccompanied minors in Italy. Portugal has the generalist Law 26/2014 that redefines international protection for all groups, including unaccompanied minors, but does not have any law that focuses specifically on the protection of that target group.

In the analysis of the two countries, it shows that their laws comply with international standards and rules, but when it comes to social protection, they focus on the provision of basic services, particularly, access to food, housing, health and education, without emphasising or providing specific solutions for these young people. In Portugal, these young people are considered in the Law on the protection of children and young people at risk, which generally underscores the rights of all children until the age of maturity.

The models developed in these two countries are different: one centred on the institutionalisation of children in foster homes (Portugal) and another centred on residential homes or foster families, and with the support of voluntary guardians (Italy). Even though law enforcement professionals are crucial for the protection of children, in both systems, the role of the professionals accompanying these young people is not highlighted.

In both countries, there are serious cases of unaccompanied minors disappearing from these fragile protection systems, and in many cases,

they go their own way and consequently live without concrete and specific support (EPRS, 2017). These minors leave for other countries in the EU where they think their cultural communities are more expressive and have more opportunities for social integration. In addition, populist politics and negative public opinion continue to demonise refugees who arrive in the EU, especially those coming from other continents. This type of policy practice both restricts and puts at risk human rights, and in particular, the rights of children to be protected and to have a dignified life.

This exploratory study on the protection laws for children and young people (specifically unaccompanied migrant minors) in both countries has limitations and strengths. In terms of limitations, it mainly focused on two countries in Europe and therefore cannot be generalised to other countries and contexts. In terms of strengths, the study engenders the national and international debate on the intervention with unaccompanied migrant minors, and further stimulates the involvement of academics, professionals and public and private entities in research and in questioning social interventions for unaccompanied migrant minors. Therefore, more attention and consideration should be afforded the subject. It would be important to encourage systematic implementation and coordination of interventions at the European level, for instance, through monitoring legislation, promoting the exchange of good practices, and using trained professionals. This would be one of the ways to ensure the rights of children to live a life with dignity are respected and compatible with the principles embodied in the Convention on the Rights of the Child, regardless of the country receiving them.

Conclusion

This article discussed legislation and pathways of integration in relation to unaccompanied migrant minors, a risk group that needs special protection, in two EU countries. The study describes the main laws, policies and national programmes for the protection of unaccompanied migrant minors in Italy and Portugal. It also highlights the inconsistency of the overall system in the two countries, in which formal rights are granted to unaccompanied migrant minors, but the actual implementation lacks well-defined national standards and shows fragmentation in welfare provisions.

The European Union is an open territory, without borders for those who live there, but with walls for those who want to enter, often called “violent borders” (Carastathis and Tsilimpounidi, 2021). Even within the EU, there are symbolic and real walls between countries. This is visible in the two cases discussed in this article in relation to unaccompanied migrant minors. Although the legislation promotes the best interests of children and young

people, the eventual processes often do not manage to guarantee actual protection of their rights. Education, health and other social services do not reach all unaccompanied migrant minors; additionally, some of them are not protected because they are prone to sexual abuse and exploitation (Digidiki and Bhabha, 2018). Therefore, and conclusively, these two EU countries are challenged to protect unaccompanied minors.

As Allsopp and Chase (2019) argued, a protective, welcoming, and accompanying system is needed alongside inclusive and durable policies. The legislative framework comprising all relevant laws and policies on unaccompanied migrant minors instituted by Zampa's Law in Italy and the PAR in Portugal constitute good practices and could represent a step forward. There is a need to increasingly promote exchanges at the international level and organise professional training at the national level. Further studies are necessary to critically discuss and illuminate the crucial role of professions (street level of bureaucracy) with unaccompanied migrant minors. Additionally, it is significant to encourage training that focuses on migrants' clients, and particularly in the direction of de-ethicizing (Dahinden, 2016) such clients. At this level, professionals guided by specific laws that promote the rights of unaccompanied minors could take a critical stand and commit themselves to the respect for human rights and social justice. The European Economic and Social Committee recommends: "the best interests of the child' should take precedence over all other national and international law", and argues that policies at this level must be coherent and harmonised in Europe (Yildirim, 2020: 3).

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Conflicts of Interest

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Maria Irene de Carvalho

Instituto Superior de Ciências Sociais e Políticas da Universidade de Lisboa (ISCSP-ULisboa) |
Centro de Administração e Políticas Públicas, ISCSP-ULisboa
Campus Universitário do Alto da Ajuda, Rua Almerindo Lessa, 1300-663, Lisboa, Portugal
Contact: mcarvalho@iscsp.ulisboa.pt
ORCID: <https://orcid.org/0000-0002-1921-3212>

Contributions: Conceptualization, Data curation, Formal analysis, Investigation, Methodology, Project administration, Supervision, Validation, Writing – original draft, Writing – review and editing.

Isabela Paoletti

Centro di Ricerche e Intervento Sociale
Largo Cacciatori delle Alpi 22, 06121 Perugia, Italia
Contact: paoletti@crisaps.it
ORCID: <https://orcid.org/0000-0003-3230-5207>

Contributions: Conceptualization, Data curation, Formal analysis, Investigation, Methodology, Validation, Writing – original draft, Writing – review and editing.

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Proteção de migrantes menores não acompanhados em dois países da União Europeia: (re)agir ou ser (in)diferente?

Apesar da União Europeia ser um espaço de valores democráticos e de justiça social, continua a ser um espaço simbólico de muros e fronteiras entre os países no que diz respeito aos menores não acompanhados. Menores migrantes não acompanhados e crianças separadas são um grupo de risco que tem direitos reconhecidos a proteção especial, mas esses direitos nem sempre são reconhecidos na prática. Este artigo descreve criticamente algumas das principais políticas de proteção de menores migrantes não acompanhados e programas nacionais em dois países europeus: Itália e Portugal. Com base na literatura e em legislação pertinente, este estudo exploratório destaca criticamente as vias de proteção e integração de menores migrantes não acompanhados. É importante ativar políticas inclusivas, consistentes e duradouras que garantam proteção especial real aos menores migrantes não acompanhados.

Palavras-chave: Itália; menores estrangeiros desacompanhados; política migratória; Portugal; proteção de menores.

La protection des migrants mineurs non accompagnés dans deux pays de l'Union européenne : (ré)agir ou être (in)différent ?

Bien que l'Union européenne soit un espace de valeurs démocratiques et de justice sociale, elle continue d'être un espace symbolique de murs et de frontières entre les pays, en ce qui concerne les mineurs non accompagnés. Ces migrants non accompagnés et les enfants séparés sont un groupe à risque qui ont des droits reconnus à une protection spéciale, mais ces droits ne sont pas toujours reconnus dans la pratique. Cet article décrit de manière critique certaines des principales politiques de protection des mineurs migrants non accompagnés et des programmes nationaux dans deux pays européens : l'Italie et le Portugal. Sur la base de la littérature et de la législation pertinente, cette étude exploratoire met en lumière de manière critique les moyens de protéger et d'intégrer les mineurs migrants non accompagnés. Il est important d'activer des politiques inclusives, cohérentes et durables qui garantissent une réelle protection spéciale aux mineurs migrants non accompagnés.

Mots-clés: Italie; mineurs étrangers non accompagnés; politique migratoire; Portugal; protection de mineurs.