

Preventing and supporting all children against crime, regardless of residence status

PICUM submission to the European
Commission's call for evidence for the upcoming
Action plan on the protection of children against
crime

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[PICUM](#), the Platform for International Cooperation on Undocumented Migrants, was founded in 2001 as an initiative of grassroots organisations, and now represents a network of around 155 organisations working with and for undocumented migrants in 35 countries. With twenty-five years of evidence, experience and expertise on issues affecting undocumented migrants, PICUM promotes recognition of their fundamental rights, providing an essential link between local realities and the debates at the policy level.

PICUM welcomes the opportunity to contribute to the European Commission's [call for evidence](#) for an action plan on the protection of children against crime. The submission is intended to ensure that the plan explicitly applies to all children regardless of their residence status. In other words, it should address the situation of children with irregular and precarious residence statuses: a group that is among the most exposed to violence, abuse and exploitation in the EU, and yet also one of the least protected by existing systems.

The submission builds on existing evidence and resources, notably submission prepared in advance of the European Commission's recommendations on integrated child protection systems "[Key aspects of child protection systems that help protect all children from harm](#)" (2023).

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Background and context

Combating violence against children and ensuring child protection constitute one of the priorities of the EU Strategy on the Rights of the Child.¹ Among others, the Strategy places emphasis on the need for additional and targeted protection and support to children in migration, who are often exposed to risks of abuse and having suffered extreme forms of violence, including going missing or become separated from their families.

The recently adopted revised Victim Rights Directive provides renewed opportunity to strengthen the protection of all children victims of crime, regardless of residence status. This includes ensuring that *"the most vulnerable child victims, in accordance with their individual needs, benefit from the targeted and integrated support and protection services that include coordinated and cooperative approach of judicial authorities and social services"* (recital 8).²

This submission argues that **undocumented children - a group that includes both children in families and unaccompanied children - are among those most at risk, and that more needs to be done to ensure their rights are upheld.**

Who are we talking about?

Undocumented children are children who do not currently have a residence permit for the country they live in.³ They may be undocumented for many different reasons: they may have been born to undocumented parents who were already living in the country, they may have migrated with their parents or joined their parents who had already settled in the country regularly, but later lost their residence status/permit. Children can be undocumented and unaccompanied, meaning that they live in the country without their parents or caregiver.⁴ Other children do have a residence permit, but an insecure one. They are at risk of becoming undocumented when, for example,

their or their parents' residence permit cannot be renewed or transposed into another one.⁵

There is **no reliable estimate of the number of undocumented children in Europe.** Some national-level attempts exist, for instance in the UK⁶ and Spain. Save the Children and Por Causa estimated that 146,773 undocumented zero-to-nineteen-year-olds lived in Spain in 2019.⁷ EU-wide data shows that at least 112,315 undocumented children interacted with police or border guards in 2024.⁸

1 Communication from the Commission to the European Parliament, the Council and the European Economic and Social Committee and the Committee of the Regions EU strategy on the rights of the child, [COM/2021/142 final](#)

2 On 8 June 2026 the Council gave the [final approval](#) of the Revised Victim Rights Directive. Pending final linguistic changes applied in the upcoming publication in the EU journal, the wording cited is taken from the political agreement available [here](#).

3 For more on undocumented children, read the 2026 update of PICUM, [FAQ Undocumented Children](#)

4 See for instance, PICUM, 2022, [Turning 18 and undocumented: Supporting children in their transition into adulthood](#)

5 Not all residence permits can be renewed or extended or changed into a durable permit on the same or other grounds.

6 Greater London Authority, 2020, [London's children and young people who are not British citizens: A profile](#)

7 Save the Children Spain & Por Causa, 2021, [Crecer sin papeles en España](#)

8 Eurostat, [Third country nationals found to be illegally present - annual data](#) (rounded) [checked on 23 June 2026]

Exposure to harm, violence and abuse

All children with an irregular or insecure residence status risk harm, including violence and abuse, because of their residence status. They are often **exposed to complex forms of violence**, including psychological, physical violence, sexual violence⁹, deportations, immigration detention, psychological violence, racism and discrimination, neglect and deprivation from basic needs.¹⁰ Moreover, *Lost in Europe*, an investigative journalism project, reported that between 2021 and 2023, at least 51,433 unaccompanied children were reported as missing across Europe.¹¹ The number of missing children may be even higher because the data is often inconsistent and incomplete, and many countries in Europe do not even collect data on missing unaccompanied children.

Undocumented children may experience and witness mental, physical and sexual violence from border guards, institutional actors, and others in and at external and internal¹² borders, camps, reception centres and shelters.¹³ What is more, children can feel like they have no other choice than to bear the harm in order to stay in the country. The conditions in which they live can also lead to drug (ab)use and self-harming behaviours.¹⁴

Undocumented status should be recognised as a specific driver of harm, distinct from poverty or displacement alone. This is because the lack of a secure residence status means undocumented children and their families cannot seek help from the police or access services without risking arrest, detention or deportation. Perpetrators know this. Adults who wish to exploit or abuse undocumented children do so with near-total impunity, because their victims are, in effect, unable to report.

Linked to this, is the **harm done to children by government officials**. This includes, but is not limited to, harm and violence experienced at the hands of police or border guards. For example, all 48 children interviewed by the University of Sarajevo and Save the Children in a 2022 study *"had personally experienced violent, even cruel behaviour by the border police."*¹⁵ In another study, 18 out of 31 victims of trafficking interviewed in Italy reported sexual and physical violence after arriving in Italy. This includes two experiences of attempted rape and one experience of physical brutality by male staff of the organizations whose care the girls and women were under.¹⁶ No Name Kitchen's recent study on border violence found that three children died in Bulgaria while authorities

9 Both outside, at border crossings and in Europe. For example, 18 out of 31 identified Nigerian teenage and young adult victims of trafficking interviewed in Italy reported sexual and physical violence after arriving in the country. And, although the perpetrators were mostly traffickers and local men, two of the women described experiences of attempted rape and one experienced physical brutality by male staff of the organizations whose care they were under. Source: Adeyinka S, Lietart I, Derluyn I, 2023, [It Happened in the Desert, in Libya and in Italy: Physical and Sexual Violence Experienced by Female Nigerian Victims of Trafficking in Italy](#). International Journal of Environment Research and Public Health. 28;20(5):4309, p. 9

10 List adapted from Derluyn, I, Orsini, G., Adeyinka, S., Berhrendt, M., Rota, M., Uzureau, O., Verhaeghe, F., & Lietart, I., 2022, [Impact of flight experiences on the mental health of unaccompanied minors on the move. The ChildMove Project](#). Ghent University

11 Previously, in 2021, *Lost in Europe* found that at least 18,000 unaccompanied minors had disappeared after arriving in Europe between 2018 and 2020. Their latest data in 2024 shows that the numbers have substantially increased. More information can be found on the [data: explained page](#) on their website [accessed on 24 June 2026].

12 Uzureau O, Lietart I, Senovilla Hernandez D, Derluyn I, 2022, [Unaccompanied Adolescent Minors' Experiences of Exception and Abandonment in the Ventimiglia Border Space](#), Politics and Governance, Volume 10, Issue 2

13 See for instance Derluyn, I, Orsini, G., Adeyinka, S., Berhrendt, M., Rota, M., Uzureau, O., Verhaeghe, F., & Lietart, I., 2022, [Impact of flight experiences on the mental health of unaccompanied minors on the move. The ChildMove Project](#). Ghent University

14 See for example: No Name Kitchen (NNK), 2026, [Surviving Limbo: A research study on drug \(ab\)use and self-harming behaviours among unaccompanied minors in Ceuta](#). The study found that during their research period, one out of every three minors encountered by NNK showed visible signs of active substance use at the moment of contact.

15 University of Sarajevo and Save the Children, 2022, ["Wherever we go, someone does us harm." Violence against refugee and migrant children arriving in Europe through the Balkans](#)

16 Adeyinka S, Lietart I, Derluyn I, 2023, [It Happened in the Desert, in Libya and in Italy: Physical and Sexual Violence Experienced by Female Nigerian Victims of Trafficking in Italy](#). International Journal of Environment Research and Public Health. 28;20(5):4309, p. 9

blocked the activists trying to reach them.¹⁷ These examples not only illustrate how certain government personnel prioritises enforcement over child protection, but also **explains why migrant children victims of crime or abuse are very likely to distrust government personnel** who do not take their child protection mission seriously.¹⁸ It also causes chronic under-reporting that keeps the full scale of harm invisible.

Mobility adds a further layer of complexity. Some undocumented children, in particular those that are unaccompanied, undertake complex trajectories

across multiple Member States,¹⁹ making it very difficult for any single actor to provide continuity of support or protection, particularly where cross-border collaboration is absent. One of the drivers behind this mobility is Member States' approaches to migration and asylum management. Complex, lengthy procedures, (asylum) permit refusals and the inability to regularise one's stay push unaccompanied children to seek solutions elsewhere.²⁰ **The mobility is a symptom of system failure, not a characteristic of the children themselves.**

Intersecting factors that compound risk of victimisation

Undocumented and insecure residence status do not operate in isolation. Several intersecting characteristics shape how individual children experience risk, harm, and barriers to protection:

- Often victims of **racial profiling**,²¹ racial discrimination compounds undocumented status by creating distrust of the very institutional actors whose help children would need to seek, directly suppressing victim identification, reporting of crime and access to services²²
- **Gender** shapes both the nature of harm and the capacity to seek protection: girls face heightened risks of sexual violence and trafficking;²³ women in violent domestic situations cannot leave without risking deportation;²⁴ boys face sexual violence that remains largely invisible²⁵;
- **LGBTIQ+** children face compounding risks in the very services meant to protect them.²⁶

17 No Name Kitchen, 2026, [Blocked from care: the weaponisation of health as border violence](#). The study is based on based on first hand testimonies of border violence collected between January 2022 and December 2025 and an internal record of healthcare interventions documenting medical needs observed directly in the field over approximately 1,500 days of field operations.

18 Ibid. found this too (pp. 18-19).

19 See figure 4.1 and 4.2, Derluyn, I, Orsini, G., Adeyinka, S., Berhrendt, M., Rota, M., Uzureau, O., Verhaeghe, F., & Lietart, I., 2022, [Impact of flight experiences on the mental health of unaccompanied minors on the move](#). The ChildMove Project. Ghent University, p. 26

20 Derluyn, I, Orsini, G., Adeyinka, S., Berhrendt, M., Rota, M., Uzureau, O., Verhaeghe, F., & Lietart, I., 2022, [Impact of flight experiences on the mental health of unaccompanied minors on the move. The ChildMove Project](#). Ghent University

21 European Union Agency for Fundamental Rights (FRA), 2023, [Being Black in the EU – Experiences of People of African Descent](#), Luxembourg: Publications Office of the European Union

22 ENAR, 2026, [Raceless in name only: whiteness and the racial governance of mobility in the EU](#); PICUM, 2024, [Exclusion by design: Unveiling unequal treatment and racial inequalities in migration policies](#)

23 University of Sarajevo and Save the Children, 2022. ["Wherever we go, someone does us harm." Violence against refugee and migrant children arriving in Europe through the Balkans](#). See also International Federation of Red Cross and Red Crescent Societies, 2018, *Alone and Unsafe: Children, migration and sexual and gender-based violence*.

24 PICUM, 2025, [Guaranteeing justice for undocumented migrant women in the EU facing violence: Actions to end exclusion and ensure protection](#)

25 Linthout L, Derluyn I, Desombre C, Benbouriche M, Keygnaert I., 2025, [Lived experiences of migrant men witnessing and surviving sexual violence in European transit spaces](#). *Global Health*. 1;21(1):38; UNICEF and Women's Refugee Commission, 2021, [Supporting young male refugees and migrants who are survivors or at risk of sexual violence: a filed guide for frontline workers in Europe](#)

26 International Federation of Red Cross and Red Crescent Societies, 2018, [Alone and Unsafe: Children, migration and sexual and gender-based violence](#). Documents that LGBTIQ+ migrant children encounter threats of extortion and sexual exploitation on arrival, and that services are rarely designed to support them.

- **Disability** creates additional barriers, and yet migration policies do not integrate well their needs;²⁷
- **Family composition impacts all aspects of the child's life**, including whether are they with their parent(s), or separated from them. Being unaccompanied can exacerbate the risk of harm if the child is left to fend for themselves, but can also trigger the intervention of child protection actors and guardians, which may offer additional protection depending on the quality and availability of support in the Member State concerned;²⁸
- **Religion or belief** can both create community and cause social isolation;
- **Being homeless or living in unstable housing** undermines children's health, access to education, healthcare, social inclusion, social services and, for parents, work. When people are undocumented, they must also often rely on slum landlords or informal housing, as well-meaning landlords are criminalised.²⁹

The action plan must recognise these dimensions explicitly; measures designed without them in mind will not reach the children most at risk.

27 European Disability Forum, 2026, [A Pact that excludes: closing the protection gap for migrants and asylum seekers with disabilities in the European Union](#); PICUM, 2024, [Navigating disability and irregular status in Europe](#)

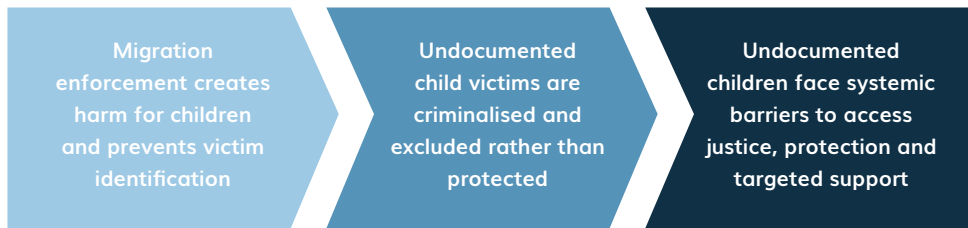
28 In several Member States, child protection actors have a formal role when it comes to unaccompanied children, for example through placement under child protection care (Ireland, Germany) or mandatory guardian appointment (Germany, Lithuania), though the quality and availability of such support varies significantly across and within Member States. However, guardianship systems across the EU face significant gaps in availability and quality, including high caseloads, delays in appointment, and shortage of trained guardians in several Member States. See for example, Fundamental Rights Agency, 2024, [Mapping Child Protection Systems in the EU – Update 2023](#) [accessed on 23 June 2026]; Fundamental Rights Agency, 2022, [Guardianship Systems for Unaccompanied Children in the EU](#);

29 PICUM & FEANTSA, 2025, [Housing and homelessness of undocumented migrants across Europe: patterns, barriers, and ways forward](#)

Key aspects to protect *all* children against crime

This section sets out three structural gaps that the action plan must address if it is to protect undocumented children against crime, whether in families or unaccompanied. Each gap identifies the

problem, presents the key evidence, and closes with concrete recommendations for the action plan. The gaps are interconnected:



Migration enforcement undermines child protection

Across the EU, **child protection consistently takes second place to migration management and enforcement**. This is a structural failure, built into the design of EU and Member States' migration policy.

The various files of the EU Pact on Migration and Asylum illustrate this very clearly, with few child rights safeguards integrated.³⁰ The recently adopted deportation law ('Return Regulation') further demonstrates this, as the co-legislators deleted the requirement that persons designated to safeguard the best interests of an unaccompanied child should be adequately trained.³¹ Civil society organisations raised the alarm throughout the negotiations³² and a joint statement to EU leaders by nearly 50 UN and regional human rights experts

warns that the EU deportation law is incompatible with child rights as guaranteed in international law.³³

The consequences for undocumented children are direct and severe:

- **Violence by institutional actors:** A very visible expression of migration enforcement taking precedence over child rights is violence by the very actors who should provide safety. All 48 children interviewed in the 2022 University of Sarajevo and Save the Children study had personally experienced violent or cruel behaviour by border police.³⁴ Such violence has a specific consequence beyond the immediate harm: it destroys the foundation of trust that

30 PICUM, 2024, [Children's rights in the 2024 Migration and Asylum Pact. Analysis of the Screening Regulation, the Asylum Procedures Regulation, the Return Border Procedure Regulation and Eurodac](#)

31 This requirement was foreseen under Article 20(2) of the European Commission [proposal](#) for a regulation establishing a common system for the return of third-country nationals staying irregularly in the Union, and repealing Directive 2008/115/EC of the European Parliament and the Council, Council Directive 2001/40/EC and Council Decision 2004/191/EC.

32 Joint statement from September 2025 [Over 250 Organisations: Inhumane Deportation Rules Should be Rejected](#)

33 [Joint statement](#) by independent experts from human rights systems warn that the proposed European Union (EU) Return Regulation is incompatible with children's rights, based on legal obligations under International Human Rights Law (IHL)

34 University of Sarajevo and Save the Children, 2022. ["Wherever we go, someone does us harm." Violence against refugee and migrant children arriving in Europe through the Balkans.](#)

child protection depends on. A child who has experienced violence at the hands of a state official will not easily seek help from another public authorities, even if that authority is a social worker, child protection official, etc.

- **Immigration detention:** Immigration detention of children is a further expression of the same logic. Immigration detention causes documented harm to children's physical and mental health and development regardless of the duration or conditions and is never in the best interests of a child. The UN Committee on the Rights of the Child and the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families deem child immigration detention to be in violation of the UN Convention on the Rights of the Child.³⁵ Still, EU law allows for it and the deportation law even sought to increase it.
- **Criminalisation of caregivers under EU counter smuggling rules:** Children are also harmed when their parents or caregivers are prosecuted. The Court of Justice of the European Union (CJEU) KINSA case illustrates this directly: a Congolese woman who arrived at Bologna airport in 2019 with her daughter and niece, using false passports to seek protection, was arrested, charged with facilitating unauthorised entry, and separated from both children. In June 2025, the CJEU issued a landmark ruling recognising that the Facilitation Directive must not conflict with fundamental rights enshrined in the Charter.³⁶ In other words, the court declared that helping children under one's care to enter the EU to apply for asylum does not constitute "facilitation of unauthorised entry" under EU law when it protects children and ensures family unity, two rights enshrined in the EU Charter of Fundamental Rights.³⁷ The

ongoing revision of the Facilitation Directive must reflect this ruling and include explicit protections for migrants who facilitate their own journey or that of their family members.³⁸ Until it does, parents who act to protect their children risk criminal prosecution, and their children risk losing their caregiver.

- **Lack of involvement of child protection actors in migration spaces:** The Migration and Asylum Pact and the deportation law were an opportunity to strengthen the involvement of child protection actors in migration procedures and spaces. However, despite the fact that the Common Implementation Plan and its Operational Checklist call EU Member States to put in place the necessary workflows to ensure individual best interests assessments and an integrated case management system "in synergy with national child protection services", PICUM's internal analysis of the available national implementation plans on the Pact shows few Member States have actually done this.³⁹

Prioritising migration managing over child rights has direct consequences for child protection systems: children and their families are left to manage the harm that migration enforcement has caused them, either directly or indirectly, by pushing them in harm's way. People who traffic in human beings or who exploit vulnerable migrants, children and adults alike, know this and exploit it further, as undocumented and vulnerable migrants can rarely protest.

While an action plan may not resolve the structural drivers of harm and social isolation that are caused by EU and Member State laws, it is crucial that it recognizes this broader context.

35 Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and Committee on the Rights of the Child, 2017, [Joint General Comment No. 3 of the CMW and No. 22 of the CRC in the context of International Migration: General principles](#)

36 Court of Justice of the European Union, Case C-460/23 [Kinsa], [ECLI:EU:C:2025:392](#)

37 See also the press release (3 June 2025) of the Kinsa case team [EU's top court rules: Anti-smuggling laws must not violate fundamental rights](#)

38 PICUM, 2024, [How the New EU Facilitation Directive furthers the criminalisation of migrants and human rights defenders](#)

39 Of the 11 plans reviewed by PICUM in December 2025, only three plans (Bulgaria, Estonia and Ireland) explicitly referred to involving child protection actors, or their involvement in best interests assessments.

The action plan should:

- Refer explicitly to migration policies and children's precarious or irregular residence status and intersecting grounds of discrimination including race/ethnicity, disability, and gender.
- Strengthen the centrality of child protection in the implementation of the Migration and Asylum pact, and by extension the implementation of the deportation law, in line with the [Common Implementation Plan](#) of the Pact on Migration and Asylum.⁴⁰ This means, amongst others:
 - Requiring Member States to take concrete steps towards developing an integrated case management system that involves both migration management and child protection services, international and civil society organisations by the date when the deportation law would come into full force;
 - Tasking the EU Fundamental Rights Agency with a mapping of gaps and good practices when it comes to the integration of asylum, migration, border and return procedures in integrated child protection systems for all children in migration, both those in families and those who are unaccompanied.
- Call on Member States to have their child protection systems develop protocols for identifying and supporting children affected by the criminal prosecution, detention or deportation of their parent(s) or caregivers.

Undocumented child victims are criminalised and excluded rather than protected

A significant number of undocumented children, predominantly but not exclusively unaccompanied, fall through the gaps between child protection systems and migration systems, ending up with no support. This is a direct and foreseeable consequence of how both systems are designed, and it sets in motion a chain of consequences that ends, too often, in criminalisation of the child. Key challenges include:

- **Criminalisation of children:** Undocumented children, and then especially teenagers, have been framed as perpetrators rather than as children in need of protection in both media

and migration enforcement practice. PICUM's 2023 criminalisation monitoring documented at least seven cases of children facing charges of people smuggling after having themselves made dangerous journeys to reach the EU – a minimum figure based on media monitoring that cannot capture all incidents across Member States.⁴¹

- **Presumption of minority:** Unaccompanied children regularly see their age put into question and treated as adults.⁴² This results in children being placed in harm's way, either because they are placed in spaces

40 Communication from the Commission to the European parliament, the Council, the European Economic and Social Committee and the Committee of the Regions [Common Implementation Plan for the Pact on Migration and Asylum COM\(2024\) 251 final](#)

41 PICUM, 2024, [Cases of criminalisation of migration and solidarity in the EU in 2023](#).

42 For example: people's age has been determined solely on a person's appearance in Germany and Greece and the Belgian Immigration Office has been accused of systematically casting doubts on young people of certain nationalities. Sources: ECRE, 2019, [Country Report: Germany](#); HIAS Greece, Refugee Support Aegean [RSA], Greek Council for Refugees, DIOTIMA, Legal Centre Lesbos, European Lawyers in Lesbos [ELIL], FENIX Humanitarian Legal Aid and PRAKSIS, May 2020, [Observations on the Implementation of Law 4636/2019 "on International Protection and other Provisions" at the "Hotspot" of Lesbos](#); Platform Kinderen op de Vlucht, 2017, [Leeftijdsschatting van niet-begeleide minderjarigen \(NBMV\) in vraag: Probleemstelling, analyse en aanbevelingen](#)

with unrelated adults and without the proper safeguards in place, or because (in some Member States) they are pushed into homelessness while they appeal the decision.⁴³ That is why any child whose age is unclear, or cannot be proven through documents, should be presumed to be a child. They should be given the necessary protection and support – at least until their age can be assessed, the appeal process ended or there are no longer any doubts. In line with UN General Comment no 6 on unaccompanied children⁴⁴ and EASO (now EUAA) guidance on age assessments⁴⁵, the benefit of the doubt also applies to age assessments themselves. This is because age assessment methods have been notoriously inaccurate. For example, determining a person's exact chronological age through medical means such as X-rays is impossible. Children grow and age at widely different rates, influenced by their genetics, the environment, and their experiences,⁴⁶ and skeletal maturity doesn't necessarily match chronological age. "Teenagers can have adult bone structure as early as 15 or later than 20," according to scientists, with dental or wrist scans giving the wrong answer about whether someone is under or over 18 up to a third of the time.⁴⁷ The [European Academy of Paediatricians](#) opposes medical age assessments and recommends all paediatricians to refuse to participate, citing

children's increased radiosensitivity and the risk of long-term cellular damage from ionizing radiation.⁴⁸

- **Higher risk of poverty and subsequent survival crime:** Many, if not all, undocumented people live in severe poverty as a consequence of their irregular residence status.⁴⁹ When children are outside both systems, survival becomes their primary concern - and survival crime likely follows. Sometimes this is by necessity and the child's own choice. Sometimes children are coerced into it by others, including traffickers and criminal networks that actively recruit from the pool of children who have no other support because child protection has failed them. The Belgian federal police urged policy makers to prioritise this in 2024, as they were seeing increasing numbers of children in these situations, and being kept under control with violence and even threatened with rape videos.⁵⁰ Whatever the situation, the child-first principle must apply without hesitation. And where a child has been pushed or coerced into criminal activity, the question must always be asked: is this child a victim of exploitation or trafficking? That question is not being asked systematically, and the failure to ask it means children are entering criminal proceedings while they should (also) be entering protection systems.

43 This is the case in France, for example.

44 UN Committee on the rights of the child, 2005, *General comment no 6. Treatment of unaccompanied and separated children outside their country of origin*

45 EASO, 2022, [EASO Practical Guide on age assessment \(2nd edition\)](#)

46 Z. Solomon, A. Ohry, 2010, [The Toll of War Captivity: Vulnerability, Resilience and Premature Aging](#), in E. Martz (eds.), *Trauma Rehabilitation After War and Conflict*, Springer; K-H. Ladwig, AC. Brockhaus, J. Baumert, K. Lukaschek, RT. Emeny, et al., 2013, [Posttraumatic Stress Disorder and Not Depression Is Associated with Shorter Leukocyte Telomere Length. Findings from 3,000 participants in the Population-Based KORA F4 Study](#)

47 New Scientist, 9 May 2012, [With no paper trail, can science determine age?](#)

48 Sauer, P.J.J., Nicholson, A., Neubauer, D. et al. 2016, [Age determination in asylum seekers: physicians should not be implicated](#). *Eur J Pediatr* 175, 299–303. See also: Refugee Law Initiative Blog, 2026, [The EU's new age assessment legislation: a persistent threat to the Fundamental Rights of the Child?](#)

49 PICUM, 2025, [Why inclusive, needs-based social policies matter](#)

50 EMN Belgium, 17 June 2024, [North African and Afghan underage boys are forced into crime in Belgium and throughout Europe](#)

The action plan should:

- Remind Member States to apply the presumption of minority and the benefit of the doubt consistently as required by the International Convention on the Rights of the Child, treating any person whose age cannot be established with certainty as a child until a reliable determination can be made.
- Where age assessments are conducted, recommend Member States to align national laws with the provisions in article 25 of the Asylum Procedures Regulation (APR) and use a holistic, multidisciplinary approach based on a psychosocial assessment taking into account the person's background, development, and life circumstances in all age assessments, regardless of the (residence) procedure the child is in.⁵¹ The action plan should remind Member States of the EU guidance not to use AI tools⁵² to assess age, and their reminder that it is not allowed under the APR.⁵³
- Require that whenever a child is identified in the context of criminal activity, an individual assessment is systematically done in order to identify whether that child is the victim of violence, abuse, exploitation or trafficking, and whether they are unaccompanied. If they are unaccompanied, the child must be referred to the relevant services, ideally child protection, and given an adequately trained guardian, regardless of whether the child applies for asylum or not.
- Establish and provide funding for early intervention mechanisms specifically designed to reach children outside both child protection and migration systems, including outreach in areas where these children are known to be present.
- Ensure child protection services are present and operational in border areas, hotspots, reception centres, and (de facto) immigration detention, with a mandate to identify and refer children with protection needs.
- Ensure police is adequately trained to identify victims of trafficking and exploitation and refer them to the appropriate procedures, including child protection in the case of children, regardless of their residence status.

51 Council of Europe, Committee of Ministers, 2022, [Recommendation CM/Rec\(2022\)22 on human rights principles and guidelines on age assessment in the context of migration](#); Committee on the Rights of the Child [General comment No. 24 \(2019\) on children's rights in the child justice system](#)

52 The recent development of AI tools has caused some Immigration Offices to adopt them in age assessments, despite risks, error rates and well-established methods. The UK Home Office, for example, announced in July 2025 the deployment of facial age estimation (FAE) technology to assess asylum seekers at the border. A leaked internal evaluation and independent analysis by the US National Institute of Standards and Technology found the system produces error rates averaging 4.6 years for Sub-Saharan African girls, the demographic most commonly subjected to age assessments in the UK, and that the technology performs worst on the groups it is most likely to be used against. The Home Office also disbanded its independent scientific advisory committee days before announcing the policy. See: Lighthouse Reports, 2026, [Asylum by Algorithm](#); Human Rights Watch statement, 2025, [UK Plans AI Experiment on Children Seeking Asylum](#)

53 EUAA, 2026, [Practical guide on age assessments](#)

Undocumented children face systemic barriers to access justice, protection and targeted support

The revised Victims' Rights Directive establishes that all victims, including child victims, have the right to targeted and integrated support based on an individual assessment of their needs.

Table 1 Relevant provisions under the revised Victim Rights Directive for undocumented children (non-exhaustive list)⁵⁴

Scope of application	<p>Article 1(1) explicitly states that the scope of application of the rights enshrined under the directive are applicable without discrimination, including based on residence status.</p> <p>Article 1(2) requires member states to apply the best interest principle when the victim is a child.</p>
Reporting of crime	<p>Article 5a requires that victims can access free, accessible, easy to use, safe, and readily available reporting channels, including from settings of deprivation of liberty or where liberty is restricted. Moreover, the provision recalls that undocumented victims should not be discouraged from reporting a crime, and that "Member States may, at any moment, decide to grant an autonomous residence permit or other authorisation offering a right to stay to a third-country national staying illegally on their territory in accordance with national law".</p>
Access to services for children	<p>Article 9a addresses targeted and integrated support services for children. Among the services listed, administrative assistance must be ensured.</p>
Individual assessment	<p>Article 22 addresses individual assessment of victims to identify specific support and protection needs. Among the characteristics to be taking into account, "resident status" has been included.</p>

For undocumented children, however, the several barriers prevent access to justice and to the targeted support the Directive envisages:

- **Lack of safe reporting of crime:** Reaching out to the police for help usually means violence and harm in the form of arrests and

immigration detention.⁵⁵ A 2024 qualitative evidence synthesis drawing on 31 studies found robust evidence that people who have an insecure residence status are trapped in violent situations by fear of immigration consequences if they seek help.⁵⁶

54 This table includes the relevant provisions from the Victim Rights Directive ([Directive 2012/29/EU](#)) as well as the Revised Directive). Pending final linguistic changes applied in the upcoming publication in the EU journal, the wording cited from the revised Directive cited is taken from the political agreement available [here](#).

55 PICUM, 2015, [Guide to the EU Victims' Directive: Advancing access to protection, services and justice for undocumented migrants](#); PICUM, 2021, [Preventing harm, promoting rights: Achieving safety, protection and justice for people with insecure residence status in the EU](#).

56 Innes A, Bunce A, Manzur H, Lewis NV. [Experiences of violence while in insecure migration status: a qualitative evidence synthesis](#). Global Health. 2024 Nov 23;20(1)

- Complexity of migration systems:** An additional barrier to protection is the complexity of the migration systems that children and their caretakers, families and protection specialists must navigate. While both professionals and migrants themselves may know the basic principles of an asylum procedure, few may know much about the many other residence permits that member states have. These include residence permits for victims of crime, labour exploitation or trafficking, for school-going children and their families, for children and young people enrolled in training, for unaccompanied and former unaccompanied children specifically, for children under a protection order, etc.⁵⁷ All of these have different requirements, procedures, costs,⁵⁸ decision-making mechanisms, appeals procedures, and renewal systems. What's more, every EU member state has developed their own specific set, and no two migration systems are alike. The child protection actors assisting children in migration need a thorough understanding of these different permits to do their job.
- Child protection systems fail to adequately address lack of residence status:** Even though the child's residence status may be the cause of many of the issues they face, prevent them from receiving the help they need,⁵⁹ or may cause them harm down the line. Some member states have provisions that enable children placed in care or placed under a child protection order to access to a residence permit (e.g., Germany, Latvia, Luxembourg, Portugal), although it is usually a permit on humanitarian grounds rather than a child protection-specific permit.⁶⁰ The permit is not usually issued automatically, but requires a separate application by the child or their guardian or representative. Three member states ensure that the children placed under a child protection order reside regularly until the child ages out or the protection order is lifted (Bulgaria, Finland, Latvia).⁶¹ This does not mean the child's long-term residence permit is secure, but rather increases the risk of the child becoming undocumented on their 18th birthday.⁶² This also means that several member states do not have the necessary provisions in place to ensure children placed under a protection order also have a secure, independent residence permit (e.g., Austria, Croatia, Cyprus, Estonia, Lithuania, Slovakia, Slovenia).⁶³ Without the security of a regular residence, the children remain highly vulnerable to harm.⁶⁴ However, **a secure residence status should be part of a child-centred approach to child protection.** This includes ensuring the child has a regular residence status while in child protection but does not end there. It also means **identifying a durable solution for that child if they are undocumented or at risk of becoming undocumented** (before or when turning 18). That durable solution "protects the long-term best interests and welfare of the child and is sustainable and secure from that perspective."⁶⁵
- Support in the transition to adulthood:** Vulnerability does not end on a child's 18th birthday, nor does their status as a victim. Hard cut-offs and forced care-leaving at 18 cause harm and increase the risk of young

57 See PICUM's [publications page > 'Regularisation'](#) for our publications listing many of these residence permits.

58 Application, renewal, and incidental costs. For more on this, see PICUM, 2023, [The use of fees in residence procedures in Europe: Pricing people out of a residence status?](#)

59 For instance, if services are only available for regularly residing people.

60 European Migration Network (ENM), 2023, [Ad Hoc Query on granting a residence permit on the basis of a child protection order](#)

61 ENM, 2023, [Ad Hoc Query on granting a residence permit on the basis of a child protection order](#)

62 For more on the importance of children accessing a secure residence status that lasts into adulthood, see PICUM, 2022, [Turning 18 and undocumented: supporting children in their transition into adulthood](#).

63 ENM, 2023, [Ad Hoc Query on granting a residence permit on the basis of a child protection order](#)

64 For more on the impact of being undocumented on children in general, see PICUM, 2021, [Navigating irregularity: the impact of growing up undocumented in Europe](#)

65 Drawn from the definition of a 'comprehensive, secure and sustainable solution' as defined by the Committee on the Rights of the Child in Joint General Comment No. 22 (para 32(j)), here quoted from UNICEF, IOM, UN Human Rights, Save the Children, ECRE, PICUM and Child Circle, 2019, [Guidance to respect children's rights in return policies and practices: Focus on the EU legal framework](#), p. 5.

people becoming victims of crime, exploitation and trafficking,⁶⁶ particularly for those whose residence status was never resolved during their time in care, who turn 18 undocumented,

without support and without recourse. The moment of turning 18 should trigger intensified support and the identification of a durable solution, not the end of both.

The action plan should:

- Call on Member States that child protection case management and targeted support to child victims explicitly includes, from the outset, an assessment of the child's residence status, and that where a child is undocumented, resolution of that status and identification of a durable solution are treated as integral parts of case planning and targeted victim support.
- Call on Member States to ensure that all child victims have access to free legal representation in criminal proceedings, irrespective of the child's residence status, and that such representation explicitly encompasses assistance on residence status if the child is undocumented, including the identification of and application for applicable residence permits.
- Call on Member States to establish a firewall ensuring that undocumented children and their families can access health, education, child protection and victim support, and report crime without fear of immigration consequences, giving effect to the commitment the revised Victims' Rights Directive.
- Commit the European Commission to develop EU guidance on implementing the individual assessment requirement of the revised Victim Rights Directive for undocumented child victims, including how to identify and act on residence status and intersectional discrimination as compounding factors in victimisation.
- Call on Member States to review and abolish application and renewal fees for residence permits for undocumented child victims and young people in or leaving care, recognising that cost is a structural barrier to accessing secure residence statuses in some countries.
- Call on Member States to end hard cut-offs at age 18, extend child protection and care support into young adulthood for a minimum of two years beyond majority, where the young person is not yet able to live independently irrespective of residence status, and treat residence status resolution and the identification of a durable solution as integral parts of transition planning.
- Urge Member States to decouple residence permits for victims of trafficking and exploitation from participating in criminal proceedings against the perpetrator(s), as currently being carried out in Italy and Spain which do not require victims of trafficking to participate in criminal proceedings in order to receive a residence permit.⁶⁷

66 See Lumos, 2020, [Cracks in the system: child trafficking in the context of institutional care in Europe](#). Moreover, Council of Europe Group of Experts on Action against Trafficking in Human Beings (GRETA) fourth evaluation reports on [Latvia](#) and the [United Kingdom](#) identify young adults transitioning out of institutional care as being at increased risk of trafficking and exploitation.

67 PICUM, 2020, [Insecure justice? Residence permits for victims of crime in Europe](#)

Further reading

- [Why inclusive, needs-based social policies matter](#) (2025)
- [Children's rights in the 2024 Migration and Asylum Pact. Analysis of the Screening Regulation, the Asylum Procedures Regulation, the Return Border Procedure Regulation and Eurodac](#) (2024)
- [Cases of criminalisation of migration and solidarity in the EU in 2023](#) (2024)
- [Key aspects of child protection systems that help protect all children from harm: PICUM submission on integration child protection systems to the European Commission consultation](#) (2023)
- [Turning 18 and undocumented: Supporting children in their transition into adulthood](#) (2022)
- [Preventing harm, promoting rights: Achieving safety, protection and justice for people with insecure residence status in the EU](#) (2021)
- [Insecure justice? Residence permits for victims of crime in Europe](#) (2020)

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