

Approaches to Unaccompanied Minors Following Status Determination: Ireland in an EU Context

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Aim and scope of the study

- To explore the situation of UAMs who have been granted a residence permit or issued a return decision



EU and Norway



2014 – 2017

- Definition of unaccompanied minor:
a third-country national or stateless person below the age of 18 years, who arrives on the territory of the Member States unaccompanied by the adult responsible for them by law or by the practice of the Member State concerned

International and EU policy and legislative context

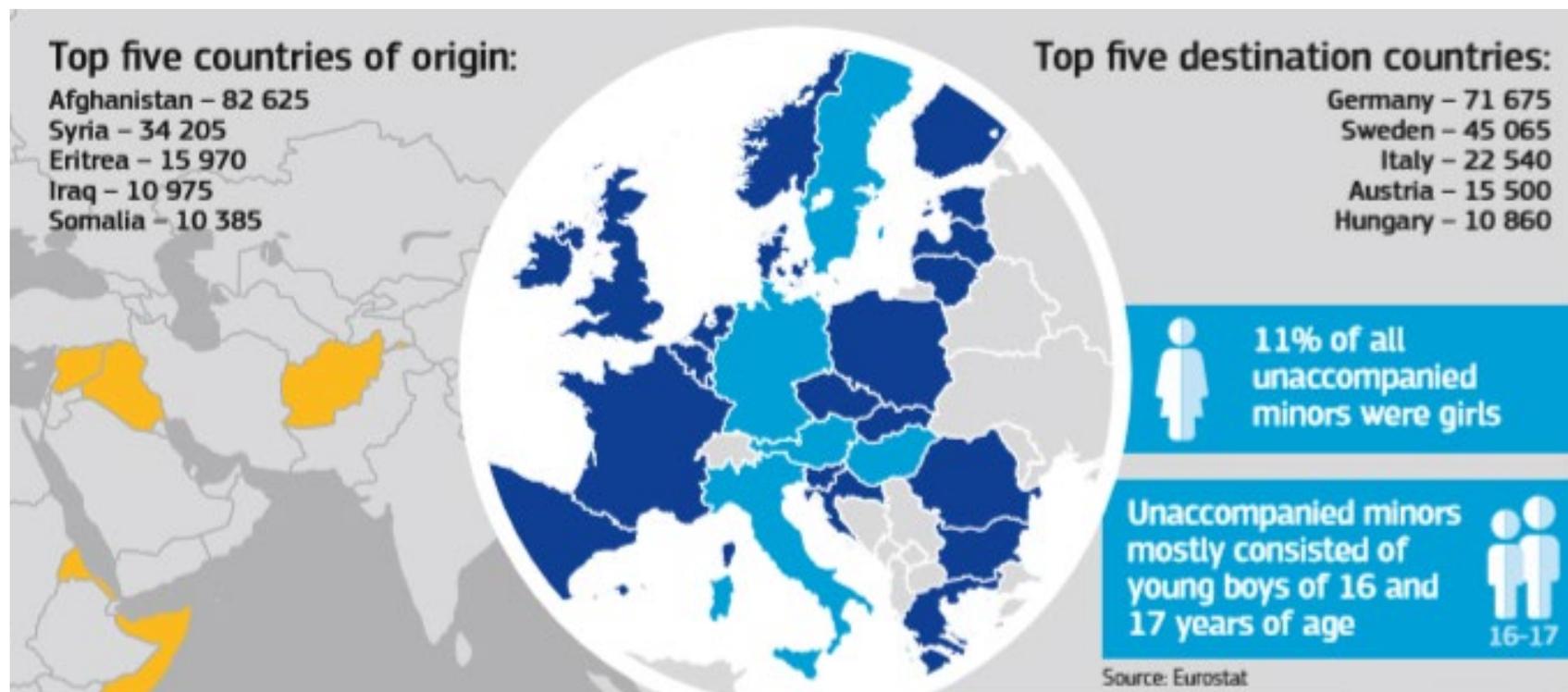
- 1951 UN Convention Relating to the Status of Refugees (the Refugee Convention)
- 1989 UN Convention on the Rights of the Child (CRC)

- Qualification Directive
- Asylum Procedure Directive (Recast)
- Reception Conditions Directive
- Return Directive

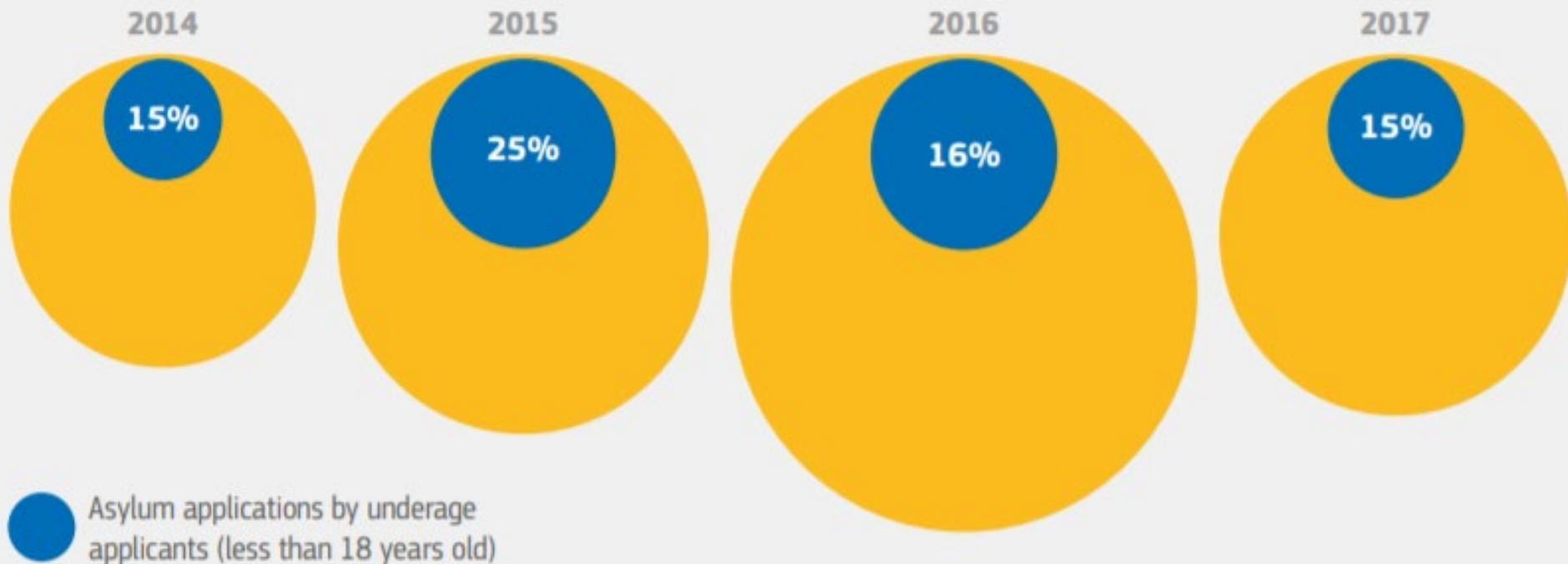
- EU Agenda on the Rights of the Child 2011
- EU Action Plan on Unaccompanied Minors (2010-2014)
- EU Action Plan on Integration of TCNs 2016
- EU Action Plan on Return 2017
- Conclusions of the Council and Commission Communication on the protection of children in migration 2017

UAM asylum applicants in the EU and Norway

- The number of UAMs who came to the EU and Norway to seek asylum reached unprecedented levels between 2014 and 2017, at almost 220,000
- Total number increased by 315% between 2014 and 2015, reaching a total of 99,995 minors, before returning to 31,570 in 2017



Percentage of protection applications lodged by UAM out of total applications made by children in the EU + Norway (2014-2017)



- 84% of decisions issued during this period were positive
- 16% were negative

Data needs

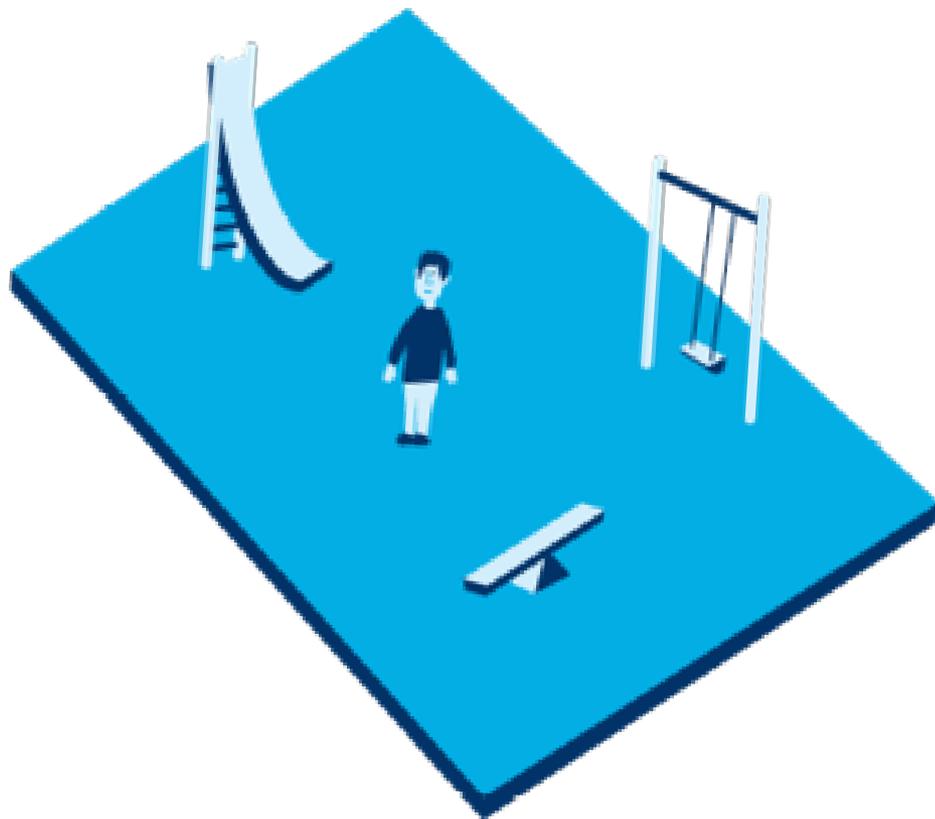


There is a lack of comprehensive and comparable data on the number of UAMs and outcomes

- 2017 Commission communication on children in migration: while MS are required by Eurostat to report data on residence permits issued to UAMs not seeking asylum, many do not report it / information is not available in all MS
- Limited data based on estimates in six MS suggests their number is at least 48,591 over the 2014-2017 period
- Definition of an unaccompanied minor adopted by EU Member States may lead to inconsistencies in data reported at EU level, such as in the context of relocation (European Commission, 2016b)

Unaccompanied minors in Ireland

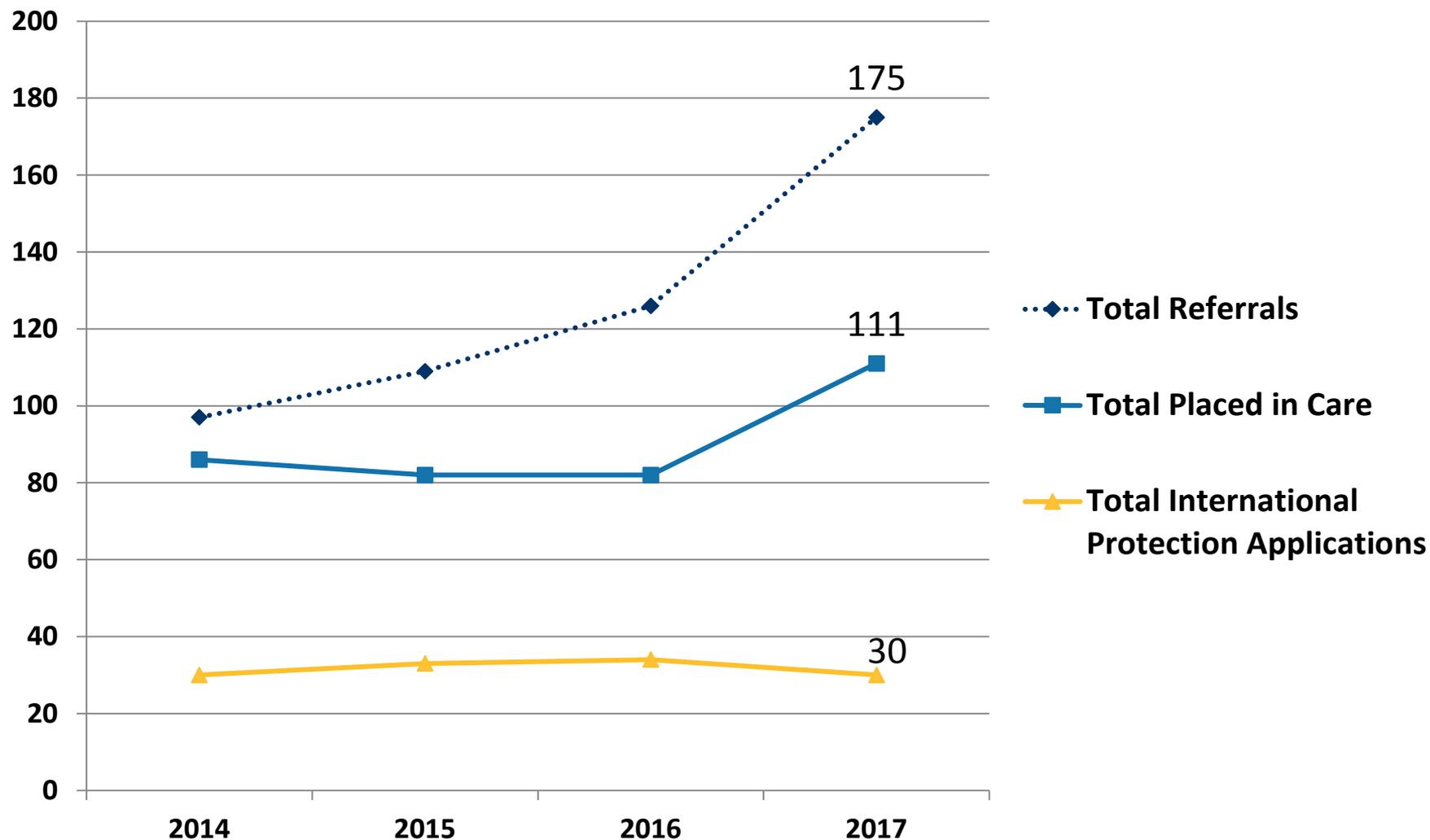
1. Data and trends
2. Pathways to status
3. Care and aftercare
4. Access to education
5. Family reunification
6. Return



Data and trends

(Chapter 2 p 17)

Referrals to the Social Work Team for Separated Children Seeking Asylum (SWTSCSA), placement & protection applications made by UAM, 2014–2017



Unaccompanied minors referred to the SWTSCSA

- Top five countries of origin 2010 – 2015: Nigeria, Democratic Republic of the Congo, Zimbabwe, Afghanistan and South Africa
- Top five countries of origin 2017: Afghanistan, Eritrea, Iraq, Syria and Ethiopia
- Unaccompanied minors from Nigeria, Libya, Morocco, Georgia, Iran, Sudan and Democratic Republic of the Congo were also referred to Tusla in 2017
- In 2017, 52 female and 123 male unaccompanied minors referred
- More than 50 per cent referrals aged between 16 and 17

Pathways to status

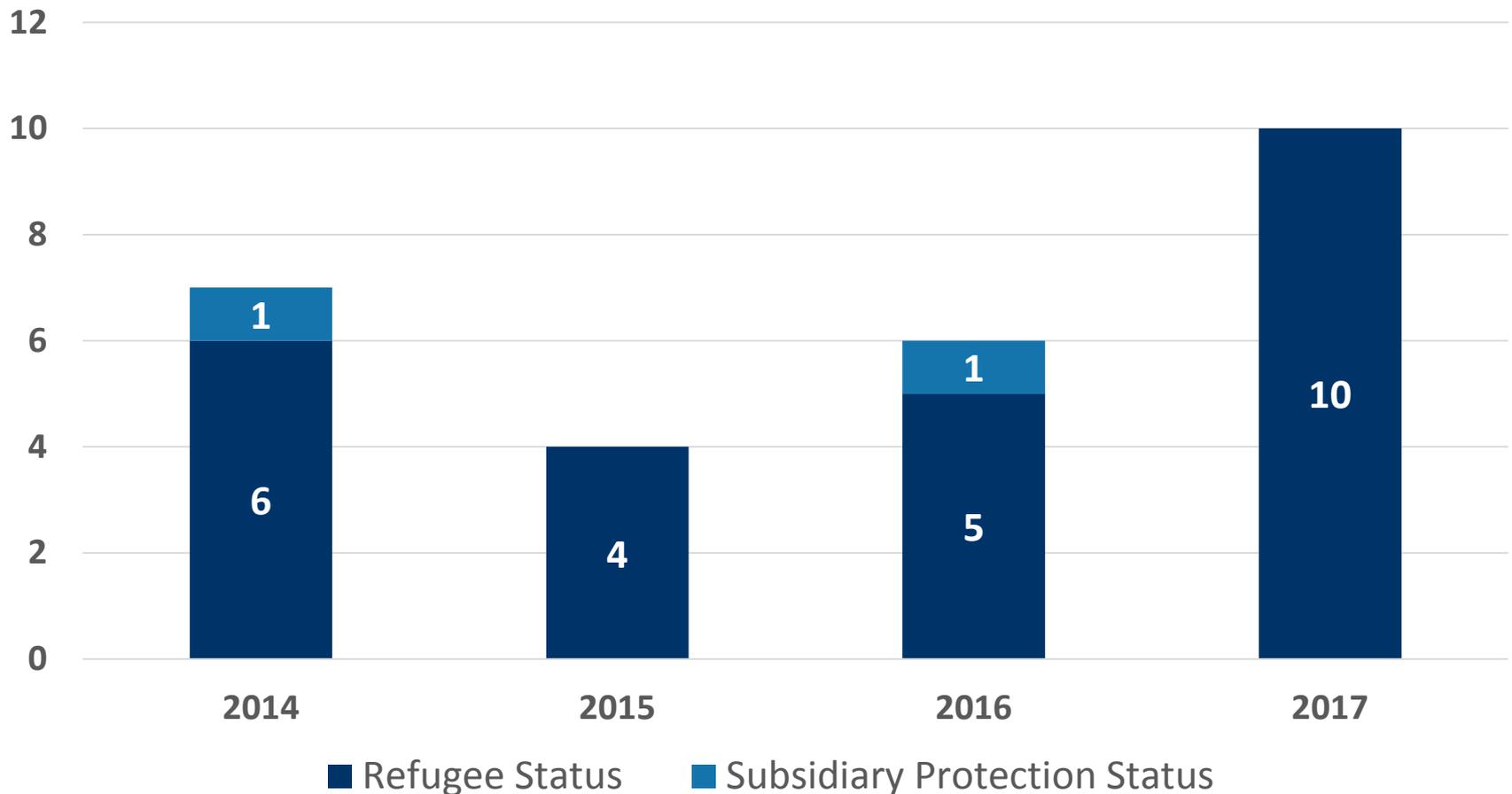
(Chapter 3 p 31)

Pathways to status

1. Irish Refugee Protection Programme
2. International protection application
 - Tusla social worker responsible for making application on UAMs behalf (International Protection Act 2015, s 15(4))
 - Most do not submit application until approaching age of 18
3. Immigration registration
 - All non-EEA nationals aged 16 and over must register with INIS (Immigration Act 2004, s 9)
 - Rarely done in practice; SWTSCSA does not view registration as necessary or in minors' best interests as the child is under care and protection of the Child Care Act 1991

CRC Committee recommended Ireland ensure clear and accessible formal procedures for granting immigration status to children in irregular migration situations (Committee, 2016)

Number of unaccompanied minors granted international protection 2014-2017



Care

(Chapter 4 p 41)

Care and representation

- Care provided to all unaccompanied minors on the basis of an ‘equity of care’ principle
- Placed in residential care, foster care or supported lodgings
 - Most EU MS use UAM-specific accommodation centres; 11 EU MS provide UAM accommodation in designated areas in general reception facilities
- Social worker appointed as representative:
 - “to assist and represent an unaccompanied minor in procedures ... with a view to ensuring the best interests of the child and exercising legal capacity for the minor where necessary” (RCD Regulations 2018)
- Less than 1/3 MS (BE, DE, CZ, FI, FR, LV, NL) have a specific best interests of the child assessment procedure or guidance for professionals working with UAM
- Lack of guidance and training for professionals identified as a challenge in several MS (BG, DE, IE, LV, PL)

Aftercare

- No guidance at EU level
 - Specific measures for children transitioning out of care in place in Ireland and 8 other EUMS (CZ, FI, FR, NL, PL, SI, SE, SK) + Norway
 - Governed by Child Care Acts and National Aftercare Policy for Alternative Care
 - Applies up to age of 21; can be extended to 23 in education/training
 - Remain in care arrangement; independent accommodation
 - Aftercare Allowance if in education/training
 - HIQA reported aftercare planning in residential centres inconsistent and varied understanding among care staff of minors' eligibility for aftercare support (HIQA, 2018a, 2018b)
- **Unaccompanied minors without status:**
 - Move to Direct Provision asylum-seeker reception centres
 - HIQA reported in some cases parallel planning absent for children awaiting clarification on immigration status. Children were therefore uncertain about their future and preparation for adulthood (HIQA, 2018b)

Education

(Chapter 5 p59)

Access to education

- All unaccompanied minors entitled to access mainstream primary and secondary education in Ireland irrespective of status
- Ireland, 10 other EU MS (AT, CZ, DE, HU, IE, IT, MT, NL, SE, SI, SK) and NO provide preparatory language classes
- Placement in the City of Dublin Education and Training Board's Youth and Education Service for Refugees and Migrants (YES) Migrant Access Programme
- English-language tuition support available to children in Irish schools

Access to third-level education

- UAM not automatically entitled to free third-level education
- Financial barriers a challenge in many EU MS and Ireland
- May be eligible for Free Fees or SUSI grant, however residency requirements apply
- Universities and NGOs provide some financial support to protection beneficiaries and applicants, including UAM
- Aftercare support:
 - Aftercare Allowance in education/training
 - PLC course fees funded by Tusla
- **Unaccompanied minors without status:**
 - Ineligible for Free Fees, SUSI grant & Aftercare Allowance
 - May apply for Department of Education and Skills Pilot Student Support Scheme, however conditions apply

Family reunification

(Chapter 6 p 77)

Family reunification

- Protection beneficiary entitled to apply within one year for reunification with family members (2015 Act, ss 56-57)
 - Eligible family members: Parents & siblings under 18 (2015 Act, s 56(9)(c))
 - More limited than EU Family Reunification Directive; half of EU MS provide for broader definition in case of UAM (EMN, 2017)
 - Post-arrival: Social workers may face difficulties supporting families of unaccompanied minors post-arrival due to resource constraints
- **Minors granted protection status after 18 years:**
 - Eligible family members: Spouse/civil partner, children under 18
 - May be granted reunification with parents & siblings:
 - Vulnerability provision (2015 Act, s 58)
 - *A and S* judgment (CJEU C-550/16)
 - Some EU MS, such as Sweden, prioritise applications from sponsors who are nearing the age of majority

Voluntary return & deportation

(Chapter 6 p 79 & 87)

Voluntary return & deportation

- Option to voluntarily return to country of origin (2015 Act, s 48)
- Provided by Department of Justice and Equality in conjunction with the IOM Voluntary Assisted Return and Reintegration Programme (VARRP)

Year	2014	2015	2016	2017
UAM availing of VARRP	1	2	1	0

Source: IOM Ireland

- If negative decision received, may be subject to a deportation order (2015 Act, s 51; Immigration Act 1999, s 3)
- Deportations do not normally take place in practice (also case in 11 other EU MS + NO)
- Minister may delay issuing a negative decision until minor turns 18

Conclusions



UAMs receive the **same care** as children with national and EU citizenship



Lack of clarity on status a challenge for many UAM arriving outside of government-led programmes



Those **aging out without status** transferred to Direct Provision, face potential deportation and restricted access to aftercare



Alternative routes to regularise status not utilised in practice; lack of guidance and data on facilitating registration of UAM



Increased focus of SWTSCSA on **family reunification** in Ireland; ensuring UAM and families access housing and services a challenge

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Thanks for your attention!

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