

## A Shared Vision on Alternative Care for Unaccompanied Minors

### Introduction

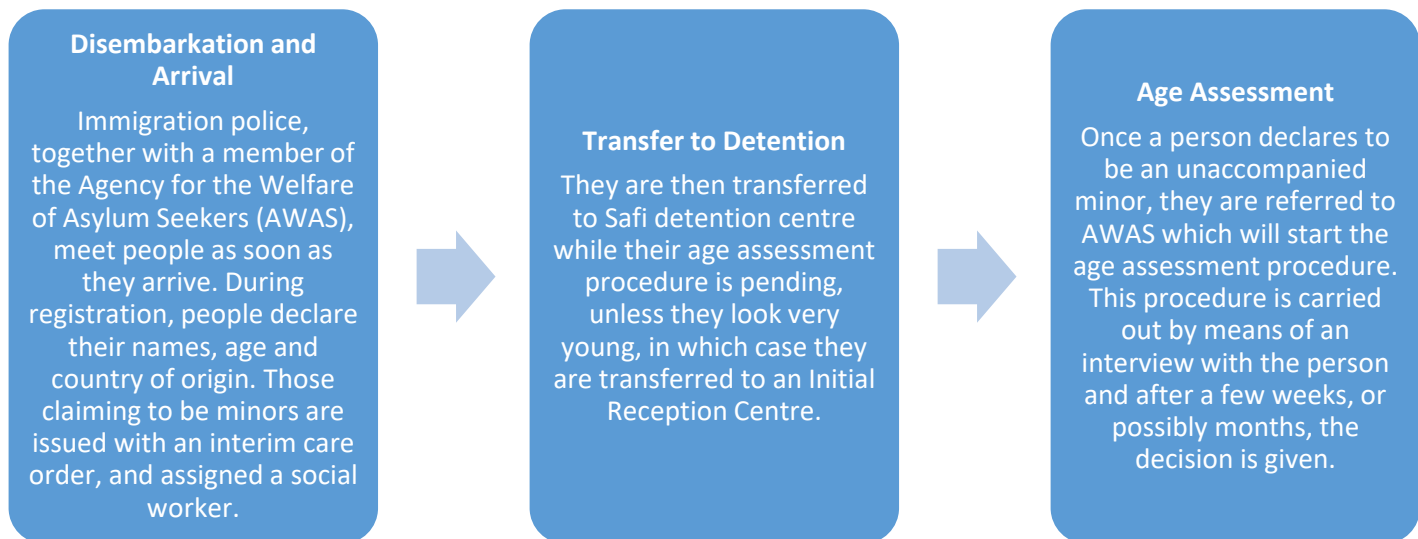
The Project F.AB Together (Family Based Care for Children in Migration) aimed to support the improvement and expansion of alternative family-based care systems for unaccompanied migrant children. The project was implemented in 5 Mediterranean front line countries: Italy, Greece, Spain, Cyprus and Malta. However, at present there are no unaccompanied minors in Malta who reside in family-based care, owing largely to shortcomings in existing legislation, as well as policies which treat forced migration as an issue of national security, rather than as a children's rights issue guaranteeing quality care and protection. This necessitated that we approach the project with a greater emphasis on advocacy, and bringing together relevant stakeholders in the field of social care and migration. In parallel to this project, research was conducted on the transition into adulthood for unaccompanied minors, funded through Fondation Assistance Internationale (FAI), in which interviews were carried out with young adults who shared their experiences of detention as minors, and who spoke of the general lack of support and guidance, amongst other struggles, as they transitioned to adulthood while still within Malta's reception system.

This document aims to outline the lessons learnt through this project, and for these lessons to inform our vision for alternative care for unaccompanied children in Malta. It is hoped that the key messages shared here can guide future work and advocacy in this area, with the support of stakeholders who are currently working on the ground in the field of social care and migration, and who therefore have a meaningful understanding of the current needs of their service users. These stakeholders, representing organisations that are providing essential services in the field of children's rights and migration, have come together through this exercise in order to endorse the key messages being put forward, and which are outlined below.

### Background and Context

A key challenge when looking at numbers of unaccompanied minors (UAMs) in Malta is that the exact numbers are not known. Although approximately 25% of boat arrivals claim to be unaccompanied upon arrival (783 in 2019, 547 in 2020, 205 in 2021, and 31 in 2022), those who are formally recognised as minors after the age assessment process is actually less. This decision may be appealed, and in addition to this, some unaccompanied minors (whether formally recognised as such or not) often go missing from centres – possibly taking their chance to move on to another European country, however this is impossible to know for certain. The lack of adequate safeguards in place for their care and attention leave unaccompanied children particularly vulnerable to significant risk, trafficking, and exploitation.

At present, unaccompanied children arriving in Malta experience the following:



Following the age assessment process, the person is either recognised as a minor or not. If recognised as a minor, their file is passed on to the Director of Child Protection. The Director of Child Protection will bring their case to court where a care order is issued. Following this, the Agency for the Welfare of Asylum Seekers (AWAS) is responsible for both the care and custody of the minor and the appointment of a legal representative. In practice, AWAS then delegates the role of legal representative to a social worker. This person would be in charge of drafting a care plan together with the child that is reviewed every 6 months. As an Agency, AWAS are involved in every step of the process, including age assessment, and the provision of accommodation and care.

In case the person is *not* recognised as a minor, then they are kept in detention if they are deemed to be from a 'safe' country of origin, however they will have the right to appeal the outcome of their age assessment. The appeals process is lengthy and complicated, and appellants may be detained throughout the procedure with no clear rules on release.

Throughout the entire process, it is clear that unaccompanied children are seen as migrants first, and children second. This is evidenced by the fact that their care is not provided by the Ministry for Social Policy and Children's Rights, but rather by the Ministry for Home Affairs, Security, Reforms and Equality. They are seen as a national security issue first and foremost, with considerations of them as children (and thus with the special care and protection that is due to them as children) coming later. Their status as asylum seekers automatically determines the forms of alternative care that are available to them, and which are markedly different from other children who need to be cared for by the State.

### Challenges for Unaccompanied Children in Malta

This clear distinction gives rise to a number of challenges that are unique to unaccompanied children in the Maltese context, including (but not limited to) the following:

- Being held in detention upon arrival, in conditions and circumstances which have long been criticised by human rights bodies such as the Council of Europe's Committee for the Prevention of Torture and Inhuman or Degrading Treatment (CPT).

- They are sent to reside at the Minors section at Hal Far Tent Village (HTV), which is an open centre consisting of large containers, each housing four to six people. If they are under the age of 16, then they are sent to reside at Dar Liedna instead, which is a residence that overall offers better living conditions to minors, and a more supportive holistic relationship with the residence team. Staff at the latter are better able to build relationships with the residents within a home-like environment, and follow up their cases in a more holistic way. However, since spaces are limited, a large number of unaccompanied children are made to reside at HTV instead.
- There are clear language barriers which fail to be addressed with adequate support, hindering unaccompanied children from accessing further education and employment, and making it more difficult to take steps to rebuild their lives and navigate day to day life in general.
- The fact that they are still children in such a formative period of their life underscores the importance of appropriate care, guidance, and protection, having a key person they can turn to, whether for advice and encouragement, or in case of difficulties. Unaccompanied children often do not have this.
- They are more likely to go missing from open centres, with some taking it upon themselves to leave the country, having lost hope while waiting in the reception system. In doing so they are particularly susceptible to risk, trafficking, and exploitation, and there is no way of knowing for certain what has happened to them once they have disappeared from the centre.

The way that these challenges manifested themselves became clearer by means of research which JRS Malta conducted in 2022, funded by Fondation Assistance Internationale (FAI), on the experience of young asylum seekers transitioning to adulthood. The research highlighted a number of themes relevant to the experience of young asylum seekers, including:

- The instability and lack of control which they felt in relation to their own lives, having decisions which directly impact their lives being made for them, and without their participation.
- Feeling abandoned, unsafe, and uncared for, particularly during their time in detention. The fear of being returned to detention loomed over their experience, even after their release.
- Feeling unacknowledged and not understood, with no one they could turn to for guidance, or who could act like a parent figure in helping them to make their own decisions on how to navigate their lives.
- Not having a sense of belonging, or feeling included or connected to the local context.
- Fearing the transition to adulthood, not knowing what this would mean in terms of their protection and the safety or support that they may be entitled to.

In the words of one of the young adults quoted in the above research, what was needed was:

***"...not support with money, support with how you live the life, like "Not like this, you make it like this, this is good." Someone to lead me a little bit...Sometimes it might be motherly, sometimes it might be fatherly. Somebody a little bit older than you that can sincerely lead your way."***

## What have we learnt through our advocacy work with F.A.B?

Several meetings took place over the course of this project, and particularly in 2022, with stakeholders working in the field of alternative care and migration, enhancing our understanding of how each area operates locally. Through this process, we got a clearer understanding of how an unaccompanied minor would move through the process of alternative care in Malta, as opposed to a child who was in need of alternative care, but who had not experienced forced migration. We wished to understand if and how procedures may differ with respect to unaccompanied children having experienced forced migration, and, if so, establish a common ground upon which to advocate for their improved care and protection.

The following core messages, or ‘red lines’, have strongly emerged as a result of this discussion:

- **CHILDREN FIRST, MIGRANTS SECOND:** The procedures followed in the case of unaccompanied children are directly related to their experience of forced migration, as they are first treated as a migrant (and implicitly as an issue of national security), and not as a child. Their status as children, and the fundamental rights that are afforded to them in that regard, is what should be regarded first and foremost.
- **NO TO DETENTION:** Unaccompanied children should not be held in detention, under any circumstances. Viable alternatives have been proposed by many human rights organisations, and should be explored.
- **ZERO CONFLICT OF INTEREST:** It was identified as problematic that AWAS are primarily responsible in all stages of the process for unaccompanied minors. The structures and procedures themselves give rise to potential conflicts of interest, given that the body that is responsible for providing care to unaccompanied minors is also responsible for determining whether somebody is an unaccompanied minor or not.
- **NEED TO ENSURE QUALITY AND STANDARDS OF CARE:** The living conditions inside the closed and open centres are unacceptable, particularly in providing adequate care and protection to children. The fact that they are not licensed by the Social Care Standards Authority is particularly concerning, in that care providers remain unaccountable and unmonitored in the process of offering social welfare services to children.

In addition to the ‘red lines’ highlighted above, we also wished to identify possible ‘green lights’ – in other words, areas where we see the potential to build on existing goodwill and concern for the wellbeing of unaccompanied children. These are:

- **CONSENSUS ON MAINSTREAMING OF ALTERNATIVE CARE FOR MINORS:** There was a consensus among stakeholders that unaccompanied children should be cared for as part of the same framework as children without a background in forced migration. This should meaningfully and realistically include the possibility of residing in family-based care, but as a minimum, it should place the care and protection of unaccompanied children under the sole responsibility of the Ministry for Social Policy and Children’s Rights, in the same way as other children in need of alternative care in Malta, who are unable to live with their parents for whatever reason. While acknowledging that there are challenges in meeting the specific needs of unaccompanied minors, and highlighting the importance for them to have adequate resources with which to address these needs, the necessity of this mainstreaming was widely agreed upon.
- **POSITIVE FEEDBACK FROM FOSTER CARERS:** Conversations with both current, previous, and potential foster carers have indicated that there would be interest in opening up their homes to unaccompanied children, as part of a foster care placement. Although the necessary structure for this is not currently in place, the willingness among some foster carers to offer this service is.

## Conclusions and Way Forward

While the issue of alternative care for unaccompanied children is currently fraught with challenges, it is crucial to build upon whatever positive foundations may already exist, such that we may ensure that all children in Malta are given the love, care and protection which is so crucial to their development and wellbeing. To this end, the stakeholders (comprised of non-governmental organisations working with both local and migrant children), that we worked with in the process of this project and who have contributed to our policy discussions to date, have endorsed the core messages which have been shared in this document, and have expressed willingness to build upon existing opportunities, with the right support from the State. We remain committed to continue working together to work towards the realisation of the aims included within this vision document.