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The rise and fall of the ERPUM pilot

Tracing the European policy drive to deport unaccompanied minors

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List of abbreviations

ANSF	Afghan National Security Forces
BID	Best Interest Determination
CRC	UN Convention on the Rights of the Child
EC	European Commission
EU	European Union
EU Charter	The EU Charter of Fundamental Rights
ERPUM	European Return Platform for Unaccompanied Minors
IOM	International Organization for Migration
ISAF	International Security Assistance Forces
ISS	International Social Service
JHA Council	Justice and Home Affairs Council
MoU	Memorandum of Understanding
MoRR	Ministry of Refugees and Repatriation (Afghan)
MoSLA	Ministry of Labour and Social Affairs (Afghan)
SRS/CAAC	Secretary-General for Children and Armed Conflict
UMA	Unaccompanied minor asylum seeker
UNAMA	United Nations Assistance Mission in Afghanistan
UNHCR	United Nations High Commissioner for Refugees

Glossary

<i>Migrationsverket</i>	Swedish Immigration Board
<i>Utlendingsdirektoratet</i> (UDI)	Norwegian Directorate of Immigration
<i>Utlendingsnemnda</i> (UNE)	Immigration Appeals Board (Norway)

1 Introduction

This working paper traces the institutional dynamics surrounding the European Return Platform for Unaccompanied Minors (ERPUM), the first ever EU pilot attempting to organize the administrative deportation of unaccompanied minors. The first phase of ERPUM was initiated in January 2011, and its second stage began in December 2012 and was then discontinued in June 2014. Its core members were Sweden, Norway, the United Kingdom, and the Netherlands, and its observers were Denmark and Belgium.¹ The pilot illustrates how bureaucratic networks in the European landscape of asylum policy interpreted the need to find “durable solutions” for unaccompanied minors as providing justification for institutionalizing their mass deportations.

Iraq, Afghanistan, and Morocco were the prime targets of ERPUM, but the pilot’s goals, derived from the Returns Directive, were formulated in general terms and could therefore be applied to any country. Even though ERPUM’s second stage was formally concluded in June 2014, it is part of a larger deportation trend and thus a highly relevant object of analysis, from which both specific and general dynamics concerning European deportation policies for unaccompanied minors can be discussed.

The public debates and humanitarian critique surrounding ERPUM indicate that the legitimacy of deportation powers is contested in general. Thus, even if ERPUM targeted a specific group of asylum seekers, its controversy also stems from normative questions concerning the illiberality of deportation powers as such, even if these enforce the credibility of asylum systems (Gibney 2008). It also connects to discussions about the potential for time-generated amnesty in host countries (Carens 2009). ERPUM’s idea of reception facilities for children in countries of origin is moreover linked to the conditions of just, dignified repatriation and appropriate redress of deportees (Bradley 2008; Long 2008). Thus, while the analyses of this working paper primarily concern the political and administrative processes and do not engage directly with these normative discussions, the analyses have important normative implications.

At a fundamental level, the following analyses are also based on a general normative outlook, namely that states are bound by special responsibilities to protect the dignity and autonomy of children living in the shadow of deportation, and to avoid exposing them to irreparable harm by returning them to conditions of conflict, exploitation, and destitution. This outlook is not controversial in so far as it is shared by humanitarian actors and the crucial legal and political instruments guiding European asylum policies involving children, such as the UN Convention on Rights of the Child (CRC), the Returns Directive, and the Action Plan on Unaccompanied Minors and by actors such as Amnesty International, Human Rights Watch, UNICEF, and Save the Children.

2 Methodology

Analyzing ERPUM is a complicated task for several reasons. First, the pilot was both a supranational project funded by the EU Commission, an intergovernmental platform of communication and strategy as well as a nexus point between European governments and third countries. Second, the pilot is also linked to a longer-running political agenda. A comprehensive

¹ Throughout the working paper I use the descriptions “ERPUM states” to refer to all six states who at one point or another have been involved in the pilot – core members and so-called observers alike. This differs from official ERPUM documents, which only concern themselves with the core members Sweden, Norway, the United Kingdom, and the Netherlands, but the following analyses of the roles of Denmark and Belgium will make clear why this expansion is relevant.

analysis of ERPUM must therefore connect these levels of sovereignty, but also, thirdly, contextualize them within larger dynamics in European asylum policy.

More specifically, the analysis is grounded on a particular kind of multidisciplinary combining critical discourse analysis, process tracing, and legal and political economic analyses: examining the assembly of statements and policy documents surrounding ERPUM thus requires a “critical discourse analysis” (Fairclough, Mulderrig and Wodak 2011; van Dijk 2000), here understood as examining the relation of discourses to power structures by explicating who produces them, how they do so, by whom they are consumed, as well as their implications (Wodak 1996). These discourses include ERPUM policy documents and reports, parliamentary inquiries and testimonies, national media reports, NGO reports, as well as relevant EU instruments, such as the EC’s Returns Directive (2008), its *Action Plan on Unaccompanied Minors* (2010), and its *Mid-Term Report on the Implementation of the Action Plan on Unaccompanied Minors* (2012). Notably, this method must also include analyses of discourses blocked or redacted by authorities.

However, this discourse analysis must not stand alone; while they are informative, purely discursive analyses often fail to take into account the communication analyzed in relation to the actors and networks producing them. As such they do not say anything specific about how to “theorize the power of language in relation to specific political processes” (Huysmans 2006: 91). Yet, since awareness of the bureaucratic, political and economic underpinnings of ERPUM is crucial, the critical discourse analysis is complemented with the analytics of “process tracing”, that is, the drawing of descriptive and causal inferences from diagnostic pieces of evidence, focusing on the unfolding of events over time (Collier 2011; Bennet 2005).

Causal-process observation is thus used to analyze trajectories of change and causation, thereby offering a systematic and chronological description of the political economy underpinning ERPUM and its discourses. This complements the “processual shift” in border studies, which emphasize that borders are not fixed in space and time, but are rather bordering processes, that is, ongoing social and strategic practices aiming at spatially differentiating the movements of people, money or products (van Houtum and Naerssen 2002: 126). Process-tracing thus develops this conceptual point by adding a level of case-based analysis capable of stratifying processes in terms of the interests, actors, and practices, tracing their causal impact on particular instances of border control.

3 Theoretical frameworks

The main objective of the working paper is to provide an in-depth tracing and survey of the ERPUM process, yet its findings also accord with certain theoretical frameworks developed in the study of migration and border control. Firstly, it is argued that the transnational processes involved in implementing ERPUM exemplify the strategy of “venue shopping”. According to Virginie Guiraudon, the use of venue shopping is a strategy through which actors can complement pre-existing national border control policies by developing new, transnational venues where these policy objectives can be pursued. Her argument is that

...governments have circumvented national constraints on migration control by creating transnational co-operation mechanisms dominated by law and order officials, with EU institutions playing a minor role. European transgovernmental working groups have avoided judicial scrutiny, eliminated other national adversaries and enlisted the help of transnational actors. (Guiraudon 2000: 251)

The rise of venue shopping occurred in a context when decision-making on European asylum policy, previously located horizontally at national levels, was increasingly shifted vertically to the EU level from the 1980s onwards (*Ibid*: 252). This maneuver allowed governments to bolster controversial policy agendas, which faced domestic resistance, by “escaping to Europe” (Lavenex and Wagner 2007).

When it comes to policies on the deportation of unaccompanied minors, the Returns Directive from 2008, the activities of the coordination group between 2009 and 2010, and the ERPUM pilot itself can be seen as apt examples of the logic of venue shopping. Notably, besides offering routes through which civil servant networks can transfer policy drives to public European venues, this political strategy may also be pursued by public-private partnerships. Here, too, the ERPUM agenda can provide examples, such as government tenders for project components and attempts to involve, respectively, the International Organization for Migration (IOM), the Identity Checking Unit (IDCU), and the Association Générales de Etudiants de Fribourg (AGEF), illustrating that actors may also seek to shield nascent or controversial policy agendas by outsourcing processes (Nyberg Sørensen and Gammeltoft-Hansen 2012; Lemberg-Pedersen 2012a). ERPUM’s idea of reception centers in countries of origin also illustrates another way for European governments to negotiate the issue of their humanitarian responsibility for migrants. More specifically, this paper argues that this envisioned outsourcing of accommodation and detention capacity constitutes a child-specific form of externalization, that is, processes whereby nation states and intergovernmental or supranational actors enact policies to control migration across their territorial borders, with transnational and multi-local initiatives realizing this control beyond their own territories (Lemberg-Pedersen 2012b; Gammeltoft-Hansen 2011). An important point which follows from the externalization framework is that such practices increasingly produce a specific form of displacement experienced by unaccompanied minors in the EU’s border-regions, which is termed “border-induced displacement”. Finally, the externalizing component of ERPUM is connected to the more general framework of the repatriation and deportation turns, which is often used to theorize states’ increased reliance on the technology of deportation. Connected to this, the analysis also seeks to embed the discursive dimension of the ERPUM pilot, and the national media debates accompanying it, in the framework of “new humanitarianism”, which, it is argued, is capable of dismantling the rights-based framing of ERPUM’s policy priorities.

The working paper is structured in the following manner. It begins by introducing the ERPUM pilot, its main components, and its processes. Next, it traces the pilot’s connections to the national legal contexts of the six countries involved and identifies the key debates in the national media of the countries involved. Then follow two empirical sections detailing, respectively, immigration trends to the ERPUM countries and the conditions faced by unaccompanied minors in Afghanistan and the European border regions. The working paper then proceeds to analyze the discourses of the pilot, before conceptualizing aspects of the policy drive in terms of privatization and outsourcing. Finally, important implications of and perspectives on ERPUM are brought forward.

4 The ERPUM pilot

During the spring of 2010, a transnational “coordinating group” consisting of the UK, Netherlands, Norway, Sweden, and Denmark, submitted the ERPUM I grant application to the EU Commission, timed to coincide with the EU’s first ever Action Plan for Unaccompanied Minors in June 2010 (Lemberg-Pedersen 2013). The Action Plan urged member states to “systematically examine the possibility of introducing, in agreements with third countries, specific provisions addressing the migration of unaccompanied minors and enabling cooperation on issues such as

prevention, family tracing, return or reintegration” (European Commission 2010: 7). In 2012 a Grant Application for ERPUM II was prepared and also accepted by the Commission.

The “observer” status ascribed to Belgium and Denmark indicates a loose affiliation with the project, but this seems inaccurate with respect to their actual involvement: while Belgium only joined the pilot sometime during 2012, Denmark had participated at the bureaucratic level since late 2009, thus predating both the ERPUM pilot and the Danish 2010 legal reforms on returns. The different interpretations of the observer status are further illustrated by the activities of Finland, which had been invited by the coordination group to join a Geneva meeting in September 2010. Shortly after this meeting, however, the Finns returned with the message that further participation in the pilot was impossible for financial reasons. By comparison, Denmark retained its observer status throughout ERPUM, and internal mail correspondence between the Danish Ministry of Justice to the Danish Ministry of Foreign Affairs acknowledged that “while Denmark, formally speaking, is an observer in the project group, we are, in fact, involved in the development of the project.”²

Financially, ERPUM I was given funds of €692,775 by the European Commission and ERPUM II was given €596,356, with €143,280 coming from the participating countries and the Swedish Migration Board functioning as the coordinating actor. The overall goal was to “develop new methods for organizing family reunification and return for unaccompanied minors that need to return after receiving a final rejection of their asylum application” (ERPUM 2014: 6). In other words: the pilot targeted for deportation those migrants below the age of 18, whose asylum applications had been rejected, and who had arrived in an ERPUM country without being accompanied by adult family members, or others occupying a similar role of responsibility.³ More specifically, the pilot worked to return these children to countries of transit or origin, singling out first Iraq, Afghanistan, and later on, Morocco. This was justified by an alleged “massive influx” of unaccompanied minors to ERPUM countries (Norwegian Government 2009: 8).

The pilot had three different teams: the Project Management and Administration (PMA) team, the Third Country Relations (TCR) Team, and the Tracing Contact Points (TCP) team. Moreover, a Log Book was established and Local Facilitation Teams were hired and trained in order to organize reintegration support. While the PMA team coordinated activities, ERPUM also launched a civil servant Steering Group – continuing the work of the coordination group – which communicated about meetings, technical missions to and negotiations with third countries, workshops and media, or academic scrutiny of ERPUM.

5 Family tracing, reception facilities, and motivating child-returns

In the original 2010 ERPUM I grant application to the European Commission, the main focus was placed on carrying out deportations to Iraq and Afghanistan. In the ERPUM II application, granted in late 2012, the pilot was expanded to include a third unnamed country later identified as

² Mail from the Danish Ministry of Justice’s International Foreigners Office to the Danish Ministry of Foreign Affairs, February 2012.

³ In recent years, most unaccompanied minors arriving to Europe have been between 14-17 years old, although a trend of somewhat younger applicants now seems to be occurring. Thus, Sweden received 780 asylum applications from Afghan unaccompanied and separated children during 2009. Out of these, 672 were found to be 15-17 years old, while 108 were found to be 0-14 years old (UNHCR 2010a: Annex 3: 48).

Morocco. These efforts would face numerous difficulties, including how the ERPUM governments unsuccessfully tried to shift the policy drive to private venues.

Key to carrying out deportations to countries of origin was the practice of family tracing, a political priority for many European governments since the mid-2000s. To understand the context of this ERPUM component, it is useful to consider previous European tracing experiences. In 2006, the Norwegian Immigration Service, UDI, commissioned a report comparing the tracing experiences of nine European countries, including all the later ERPUM countries, except Belgium. The result was a fragmented overview, revealing not only that no countries had developed successful tracing methods, but also the existence of very different practices and levels of data collection: Finland had launched a tracing pilot in 2006, but was unable to provide any information about its success rate; Denmark had no successful examples of family tracing since having commenced registration in 2003; and the Netherlands complained of lacking common European collaboration on tracing.⁴ Between 2001 and 2005, the Norwegian UDI claimed to have traced the family members of “either 10 or 12” unaccompanied minors, and to have returned “between one and five” unaccompanied minors to families or caretakers. Similarly, the Swedish authorities were unable to tell exactly how many tracings had been initiated in 2006, settling on a number “between 10 and 15” (Danielsen and Seeberg 2006: 26-39). The British authorities provided no information at all about successful family tracings, highlighting instead an IOM-driven initiative on voluntary return in place since 1999. This, it was said, had led to the voluntary return of 16 unaccompanied minors to countries of origin or transit. However, no information was provided on the total number of attempted voluntary returns (*Ibid*). The 2006 Norwegian report thus illustrates how family tracing was emerging as a political priority that countries were eager to portray as successful, but that it also revealed problems, such as the feasibility of tracing efforts in war-torn countries, the absence of best practices for tracing, and the complete lack of independent monitoring of deportees’ conditions after return.

While ERPUM’s TCP teams held workshops in Stockholm, London, Utrecht, and Oslo in 2013 and 2014, offering the common European platform requested by the Dutch government, the aforementioned difficulties quickly re-emerged. Moreover, the Afghan security situation deteriorated and the country’s bureaucracy had only sparsely functioning postal and communication networks. This left the ERPUM governments’ embassies in Afghanistan as the only viable tracing option, but their activities too were hampered by limited resources and logistical difficulties.

Internal ERPUM communication shows that these difficulties did not dissuade the participating countries from their policy goals. High hopes were placed on a potential collaboration with the IOM, which was already managing a return and reintegration project in Kabul. However, the IOM project did not concern unaccompanied minors, and the organization expressed serious reservations concerning ERPUM’s lack of child-specific safeguards. The organization therefore settled on an offer to “coordinate” efforts between the European countries and Afghanistan, and to provide “post-return support” to deported minors. The ERPUM countries then turned to the IDCU, which was founded in 2004 and later received funds from Denmark and Belgium.

In May 2013, ERPUM officials announced that the IDCU had initiated the tracing efforts. This, however, only meant that unaccompanied minors were being interviewed in Europe concerning the whereabouts of their family. Thus, during the spring of 2013, the IDCU travelled to Denmark and interviewed families and unaccompanied minors alongside the Danish police, the Afghan Ministry of Refugees and Repatriation (MoRR), and the Danish Refugee Council. Controversy

⁴ Denmark would later, in 2009, launch another pilot for family tracing in Afghanistan. However, only 3 out of 12 families were located, and it yielded no cases of family reunification.

ensued when the IDCU failed to inform the interviewees, the Danish police, and the Danish Refugee Council, that it not only recorded the interviews with the asylum seekers, but also sent the information back to the Afghan authorities (Lemberg-Pedersen 2013).⁵ The tracing efforts took another turn for the worse when the Taliban attacked the IOM Mission compound in Kabul in June 2013, killing several security guards and seriously wounding an Italian staff member. After an internal review the IOM decided to withdraw from all ERPUM activities and in January 2014 the IDCU also ceased its activities for security reasons.⁶ While ERPUM itself describes its tracing efforts as “reasonably successful”, the fact remains that only 34 out of 148 Afghan families were eventually traced and that no children were returned to their families. Out of the 34 cases, one family was deceased; 14 families had their identity confirmed, but could not be traced; the unaccompanied minors provided false information in 24 cases; and in 75 cases, the tracing efforts yielded no results whatsoever (ERPUM 2014: 41).

The focus on family tracing had the effect of downplaying another, more controversial, pilot component, namely reception facilities in countries of origin. Tracing difficulties highlight the risk that children can be forced into longer stays in reception facilities, since the existence of such facilities increase the likelihood that European states initiate deportations even when children’s families have not been found.

In order to justify the reception component of ERPUM, officials and politicians made several references to successful Dutch experiences with third country reception facilities for unaccompanied minors (ECRE 2011; Danish L37 Proposal 2010). Thus, ERPUM (2012) claimed that “Dutch experiences from Angola ... show that there is almost always a family or close relative in the country of origin who is willing and able to welcome the minor once contact has been established and a decision for return is settled.” The Netherlands had in fact operated two orphanages in Angola and the Democratic Republic of Congo (DRC), named Mulemba and Don Bosco, but the hopeful ERPUM claims did not reflect the actual lessons learned: UNICEF Netherlands has documented that no children were in fact returned to the Don Bosco facility and that only one child was returned to Mulemba, remaining there only for a few days, while five others were picked up at the airport by alleged family members (UNICEF Netherlands 2012: 47-9).

This notwithstanding, ERPUM delegations travelled to Kabul in order to identify buildings which could be as reception centers. Their sights fell on Jangalak, the IOM’s Refugee Reception Center, where voluntary returnees were housed for up to two weeks. The ERPUM plan was apparently simply to devote the second floor of the building to child deportees, while the first floor would continue to receive adult and family deportees. However, part of a larger industrial complex originally built by the Soviets, the building had recently been squatted in by IDPs and then functioned as a mental health facility for drug addicts (Schuster, 2013: 16). For these and other reasons, the UNHCR and UNICEF found the site unsuitable for children.

ERPUM thereafter tried to tone down the reception component, claiming that it would merely function as a temporary facility where unaccompanied minors could be placed for short periods of time until their families were found. This framing, though, simply reverted to the assumption of successful tracing, despite ample evidence to the contrary. Thus, when no tracing is possible (represented by more than three-quarters of ERPUM’s own test cases), the facilities would turn into quasi-permanent detention centers for unaccompanied minors until they became adults.

⁵ This happened during the first two days of interviews, whereafter interviewees were asked for consent to share their information. By then, however, it was too late for those already interviewed.

⁶ Family tracing efforts in Iraq were much more limited, but before this component was discontinued, 5 families were confirmed as no longer living in the region, 3 out of 9 relatives were traced, and no children were successfully reunited with their families.

These prospects generate pressing questions, none of which have been addressed by the pilot, such as host countries' responsibility for the facilities, independent post-return monitoring, the availability of welfare and support, the lack of individual assessment of children's cases, the transition from childhood to so-called aged-out minors and associated safeguards, and security arrangements for the facilities.⁷

A further and fundamental problem was that individual European countries seemed to interpret the function of the reception component differently. While officials and ministers from the ERPUM countries repeatedly emphasized the importance of reception facilities, in 2012 an ERPUM spokeswoman assured British media that "We are not discussing care centers" and that unaccompanied minors would only be sent back if "a welcoming family" could be traced (Brothers 2012). Yet, 11 months later, during a parliamentary consultation about ERPUM, the Danish Minister of Justice, Morten Bødskov, not only gave the clear impression that reception facilities were still being pursued, he also indicated that Denmark was considering sending children back to them, even if tracing efforts had not been concluded.

Confusion increased, when Migrationsverket issued a Circular Letter in December 2013 (Rättsligt ställningstagande) concerning the effectuation of decisions concerning unaccompanied minors, stating: "During the examination of reception conditions [in the country of origin], the possibility of institutional placement or the like [of the child], must not be addressed until the option of tracing the child's parents have been exhausted" (Migrationsverket 2013: 2).⁸ Not providing any condition that tracing had to be successfully exhausted, these guidelines, however, both differed from the Danish line, and contradicted the previous assurances made by ERPUM, coordinated by Sweden, that returns would require "a welcoming family".

ERPUM's difficulties with its tracing and detention components connect to a fundamental problem also underscored in the Norwegian 2006 report, namely that:

UMAs [unaccompanied minor asylum seekers] have reason to believe that a positive result of the family tracing work is likely to cause a negative result for the asylum claim. This may also lead to suspicion, or confirm existing suspicion, that offers from the immigration authorities to help trace the parents or caregivers form part of the asylum case.

Unsurprisingly, unaccompanied minors turn out to be unwilling to provide information leading to their own deportation, perceiving a 'grey zone' between caseworkers' efforts to trace families and their assessment of asylum cases (Danielsen and Seeberg, 2006: 40).⁹ ERPUM also noted inherent difficulties with countering minors' negative perceptions, but found this to be "unavoidable", given the pilot's fundamental goal of enforcing effective immigration controls (ERPUM 2014).

The problematic implications of this ERPUM goal were also evident in another project component called "Returned children tell their story", featured in the 2010 Grant Application: child deportees

⁷ The plight of aged-out minors is a pressing issue of great importance, which this working paper is unable to engage with due to space constraints. It is intimately connected with states' policies on temporary stay, the problems with age assessment procedures and legal guardianship as well as the practice increasingly deployed by states, whereby forced deportation procedures to countries such as Afghanistan are begun as soon as minors become adults. For an overview and discussion of the future and wellbeing of young migrants in Europe, see Chase and Allsopp, 2013.

⁸ Author's translation.

⁹ This dilemma is one reason why the International Social Services (ISS) or the International Committee of the Red Cross (ICRC) offer tracing to asylum seekers independently of governments, on the grounds that tracing has to be voluntary on the part of the asylum seeker.

were to be recorded on camera telling their stories of having been successfully reunited with their families and reintegrated in Afghanistan via ERPUM. In the 2010 Application, these video clips were explicitly framed as “motivational tools” to be used by ERPUM caseworkers to persuade other children to return voluntarily. This component raised serious questions about the intended use of already-deported children as a means to the end of persuading yet more children to return. But the video component did not fare well: the 2010 Grant Application envisioned that these video clips would be put into production in April 2011 and be completed by September 2011, but as it turned out ERPUM failed to produce a single clip.¹⁰

The ERPUM countries then turned to other ways of counteracting the children’s non-compliance. This included giving “regular and persistent encouragement” to the unaccompanied minor to “make the right choice” and leave Europe, and the placement of “return counselors” in reception centers, in order to motivate unaccompanied minors to accept assisted voluntarily return. A similar tool used by Norwegian and Swedish immigration officials was dubbed ‘Motivational Interviewing’ (MI). It emphasizes how caseworkers must make the child realize that remaining in the ERPUM country is not an option, that tracing is in his/her best interest, and that the negative implications of non-compliance with the authorities must be made clear (ERPUM 2014: 38). ERPUM’s use of MI, however, did not yield any results.

6 National legal reforms and the return agenda

Even if unsuccessful in several ways, ERPUM did have the effect of boosting the return agenda in several of the involved countries, indirectly facilitating national legal reforms aligned with the Returns Directive. However, important precedents to ERPUM also existed. Predating ERPUM, the 2000 legal reform of the Dutch Aliens Act’s Article 3.56(1)(c) introduced a reference to the concept of return to reception facilities in countries of origin:

The residence permit for unaccompanied minors may only be granted to aliens who are unaccompanied and who are underage. The unaccompanied minor must furthermore meet the conditions that (a) he or she cannot support himself or herself independently in the country of origin or (b) in another country where he or she could reasonably go to and that (c) adequate reception, by local standards, is absent in the country of origin or another country where he or she could reasonably go to.¹¹

This reform paved the way for the aforementioned Dutch attempts to deport unaccompanied minors to reception facilities in Angola and Congo from 2004 and onwards. This Dutch policy attracted interest and arguably inspired the EU’s 2008 Returns Directive.

Thus, the Directive’s Article 10.2, states that “Before removing an unaccompanied minor from the territory of a Member State, the authorities of that Member State shall be satisfied that he or she will be returned to a member of his or her family, a nominated guardian or adequate reception facilities in the State of return.” The Returns Directive was crucial in lifting the UMA return agenda to the supranational level, since it granted individual member states a valuable instrument for facilitating legal reforms. Sure enough, its introduction spurred similar developments across Europe.

¹⁰ The video component was abandoned for the ERPUM Grant Application in 2012, and completely left out of ERPUM’s May 2014 report.

¹¹ Author’s translation.

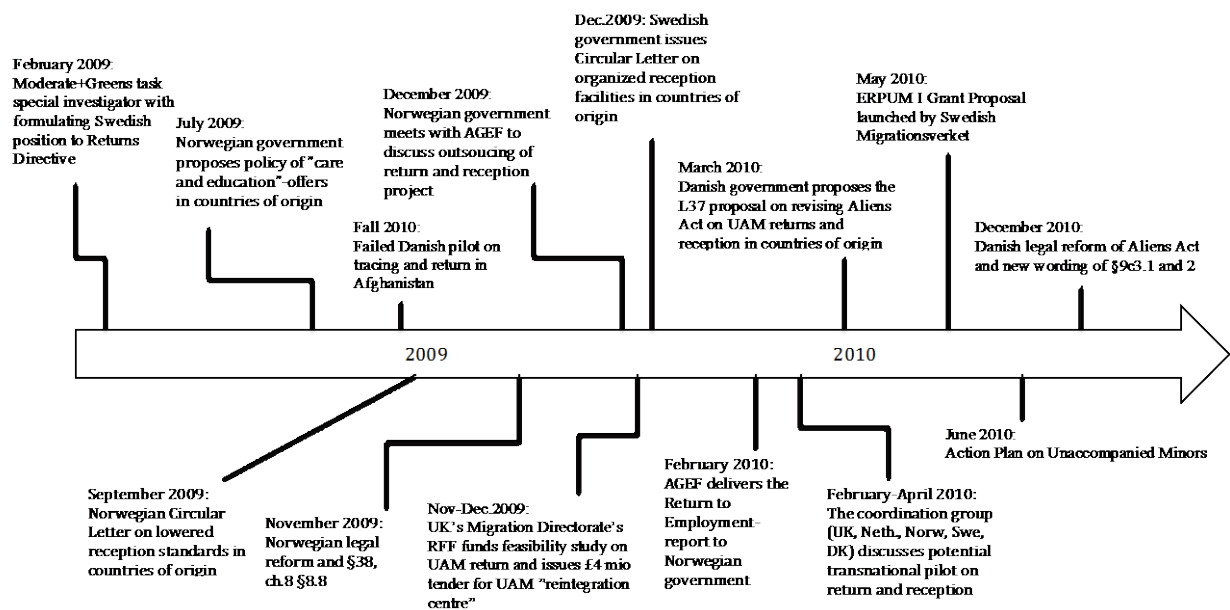


Figure 1: Timeline of developments relating to ERPUM, 2009-2010

On February 5, 2009, the Swedish Moderate Party-led government, together with the Green Party, gave a special investigator the task of formulating a Swedish position to how the EU's Returns Directive could be implemented. This resulted in Proposition 2011/12:60, which added a new clause – §3a – to the Swedish Aliens Act (2005:716), the main components of which had been clarified through a governmental Circular Letter to Migrationsverket on December 17, 2009. The Letter instructed Migrationsverket to “work towards setting up an organized reception in the countries of origin of unaccompanied minors, who must return due to a legally binding decision on rejection and return” (Swedish Department of Justice, December 17, 2009). At this point, the tale of Dutch return experiences in Africa was, although misrepresenting the facts, circulating within the Swedish bureaucracy.

It was not until 2012 that the legal reform 2012:219 finally transposed the much-debated Returns Directive into the Swedish Aliens Act. Notably, this occurred more than a year after ERPUM had been launched. After the revision the Swedish §3a stated:

A decision on the expulsion of an unaccompanied minor may not be enforced unless the executive authority is satisfied that the child will be received by a family member, an appointed guardian or a reception unit well suited for taking care of children. (Swedish Aliens Act, Chapter 12, §3a)

The new §3a mirrored the agenda promoted by the Returns Directive by introducing the aforementioned family/guardian/reception disjunction. Swedish debate quickly turned to the prospect that this revision would legitimize the forced return of children. While ERPUM had made ambiguous statements regarding this, British, Danish, and Norwegian politicians had publicly supported such a practice. Apparently unaware of the political controversy surrounding the question, Swedish police also interpreted the legal reform as mandating forced returns to reception facilities. Thus, current educational material for police recruits states that: “It is primarily the parents which must receive the child [but in] those cases where this is not possible, grandparents or adult siblings can act in their place. If there are no relatives available, the child can be forced to go to an orphanage” (Ghazinour et al. 2014).

In Norway, in July 2009, the Stoltenberg government launched a policy proposal aimed at reducing the arrivals of unaccompanied minors and achieving “faster, more and longer lasting returns” by constructing “care and educational” offers in countries of origin (Norwegian Government, October 13, 2009). UDI asked the Ministry of Work and Inclusion to lower the threshold for “satisfying and justifiable care situations” and in September 2009, the Ministry issued a Circular Letter with the new and lowered standards, including the forced return of children to extended family even if they had not been in a caretaker position before the child had emigrated.

The Ministry also suggested that “returns to ‘care facilities’ under the control of the authorities in the country of origin should be evaluated systematically” (Norwegian Department for Work and Inclusion, September 3, 2009), signifying an intention that facilities could be an administrative option available for cases deemed equivalent by UDI. The Circular Letter, however, still stated, that “the question of what can be considered justifiable care in the applicants’ country of origin must rely on a best interests determination in each concrete case.” Shortly after, a legal reform of the Norwegian Aliens Act introduced § 38, ch.8 §8.8, which states:

Unaccompanied minor asylum seekers, who have turned 16 years old at the time of the final decision, and who have no other reason to stay other than the fact that Norwegian authorities consider the applicant to be without proper care in the case of return, can be granted stay...until they turn 18 years of age. (Norwegian Aliens Act 2009)¹²

The reform signaled a radical break with Norwegian policies on unaccompanied minors. The previous 1988 Norwegian Aliens Act’s §27 on expulsion and deportation did not explicitly deal with returns of unaccompanied minors, but Chapter 3, §§8,3 and 15 stated that “strong humanitarian considerations” could justify residence permits and protection against *refoulement* to areas where aliens might fear persecution or inhumane treatment (Norwegian Aliens Act 1988). In the preliminary works to the legislation, the *Fremmedlovutvalget* only considered the case of unaccompanied minors in the context of Vietnamese boat refugees arriving in Norway, but still stated that while foreigners on the one hand had no legal claim to enter Norway, on the other hand, Norway had a moral responsibility to help those children actually in the country.

Treading carefully, the Commission had said that deportation procedures for children could therefore be launched, but that decisions made by child protection authorities should form part of the deliberative basis concerning whether deportation procedures should be initiated (Preliminary works to the Norwegian Aliens Act 1988: 36, 66). While the 1988 Aliens Act therefore had gaps concerning explicit provisions on unaccompanied minors, remedied by the legal revision in 2009 and Norway’s subsequent participation in the ERPUM pilot, these events also facilitated new, lowered safeguards allowing administrative deportation procedures targeting unaccompanied minors. Then, in August 2010, a Memorandum of Understanding (MoU) was signed between Norway, Afghanistan and the UNHCR, which would be highlighted by ERPUM as a model for the pilot’s own negotiations. Norway quickly began to deport adults, families and so-called ‘aged out minors’ to the Janga Lak shelter in Kabul, which was under the jurisdiction of the MoRR.

In the UK the return agenda was also gaining pace. In late 2009, the UKBA, alongside the Department for International Development (DFID), the Ministry of Justice (MoJ) and the Foreign and Commonwealth Office’s (FCO) Migration Directorate worked to establish reception facilities for unaccompanied minor deportees, focusing on Afghanistan in particular. In December 2009, the Migration Directorate released a redacted document stating that its Returns and Reintegration Fund (RFF) was funding a so-called “feasibility study” concerned with the “the viabilities and options for the return” of unaccompanied asylum-seeking children “to a small number of Asian

¹² Author’s translation.

countries” (FCO, December 12, 2009). As part of this study, the RFF had issued a contract tender worth £4 million in order to attract bids from to build a “reintegration center” in Kabul to which 12 Afghan children could be deported every month (Channel 4 News 2010). The existence of adequate reception facilities in countries of origin was assumed to be in line with the Returns Directive and Section 55 in the UK’s Borders, Citizenship and Immigration Act, so that unaccompanied Afghan minors would be unable to extend their stay through discretionary leave.

In Denmark in the spring of 2010, the Liberal-Conservative government, supported by the Danish Peoples Party, agreed on proposing L37, a reform of the Aliens Act inspired by the Returns Directive. In the fall, a public hearing process was launched, but despite unanimous criticism from child protection, humanitarian, and refugee organizations, the government did not change the proposed revision (Danish Committee for Aliens and Integration Policy 2011).

Before the legal reform, the Danish Aliens Act stated that a residence permit could be issued to an unaccompanied alien, “if there is reason to assume that in cases other than [persecution and *refoulement*] the alien will in fact be placed in an emergency upon a return to his country of origin” (Danish Aliens Act 2009). This wording therefore acknowledged the possibility that returned minors could experience emergencies beyond those of persecution and *refoulement*, barring Denmark from forcibly returning them. By comparison, the 2010 reform altered the wording of §9c3.2 to say that a residence permit could be issued to:

An unaccompanied alien under the age of 18 whose application for a residence permit under section 7 has been refused if there is no reason to assume that the alien will be without any family network or without any possibility of staying at a reception and care centre and will in fact be placed in an emergency situation upon a return to his country of origin or former country of residence. The residence permit cannot be renewed beyond the alien’s 18th birthday. (Danish Aliens Act 2013)

As in the other ERPUM countries, the new Danish amendment emulated the Returns Directive with the carefully phrased disjunction stating that even if neither family networks nor legal guardianship existed, unaccompanied minors could still be deported – to reception facilities. Crucially, this rewording canceled out the previous legislation’s acknowledgment that potential child emergency situations beyond those of persecution and *refoulement* could justify granting extended stay to unaccompanied minors: now, all unaccompanied minors returned to reception facilities could, simply by virtue of having arrived at them, be barred from meeting the new, lowered threshold for emergencies.

In Belgium, during a July 2012 interview with a newspaper, the State Secretary for Migration and Asylum, Maggie De Block, from the Flemish liberal party Open VLD,¹³ stated that the Belgian Foreigner’s Office, the reception centers and the Guardianship Service had been observing ERPUM for a while, with a view to joining the pilot (De Standaard, July 9, 2012). There were also reports that Belgium had received €1 million from the EC to prepare the country for full participation in ERPUM (European Parliamentary Question, July 10, 2012). Notably, the Belgian process of observing ERPUM coincided with the legal reform of the Belgian Aliens Act on January 19, 2012, which replaced the Aliens Act from November 15, 1980. Hereafter, the new Article 74/16 §2 stated that the responsible Minister must ensure that children will benefit from being returned, based on assessments of the child’s needs, age, and autonomy. The new law stipulated that this requires:

1. That there is no risk of human trafficking and trafficking in human beings, and;

¹³ Open VLD was part of the Di Rupo government, alongside the Social Democrats (sp.a/PS) and the Christian Democrats (CD&V/cdh).

2. That the family situation is likely to enable the welcoming back of the minor and that a return to a parent or family member is desirable and appropriate based on the ability of the family to assist, educate, and to protect the child;
3. That the accommodation is suitable and that it is in the best interests of the child to be placed in this structure on his return to his country of origin or the country where he is allowed to stay (Belgian Aliens Act, Revision of January 17, 2012 Art. 74/16 §2).

While it is clear that the various national legal reforms represent attempts to transpose the Returns Directive, the national interpretations of these priorities remain unclear. At different times, ERPUM has argued that children could be forcibly returned, and at other times denied this. And while the Belgian authorities provided public assurances against forced returns of unaccompanied minors, the Swedish police and UK, Danish, Dutch, and Norwegian officials have, by contrast, condoned such deportation procedures.

Three points can be derived from these inconsistent statements. Firstly, that the ERPUM pilot was much less of a unifying platform than indicated by its own discourses since the participating countries used it for national policy promotion. Secondly, the ERPUM-induced legal reforms took place within different national legal frameworks and resulted in different provisions concerning the best interest of the child. And thirdly, despite repeated criticism from the CRC Committee, humanitarian, and child protection organizations, the ERPUM governments seemed to pay little attention to issues around determining the best interests of the children.

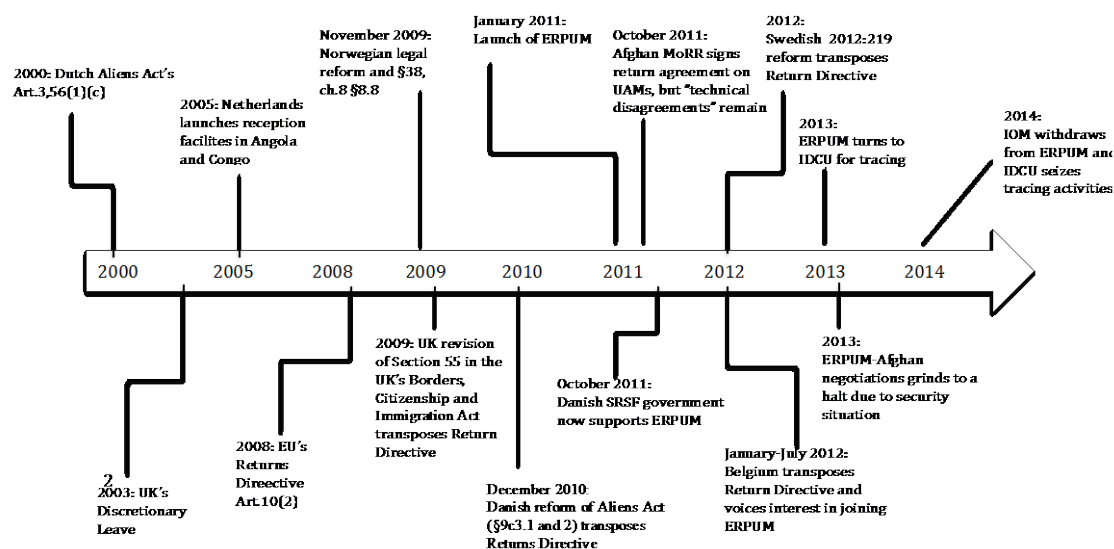


Figure 2: Timeline of ERPUM-related events 2000-2014

7 Political debates and public scrutiny of ERPUM

Public discussion of ERPUM has been fragmented, suffering from missing communication and flawed assumptions. Oftentimes, there seems to have been little coordination between the various ERPUM governments, leading to confusion about key components of the pilot, the actors involved, and future policy perspectives. The resulting informational gap between authorities and civil society has, however, had the effect of immunizing ERPUM from critique. A closer look at the media discourses in the ERPUM countries is therefore warranted.

Compared to the other ERPUM countries, it is remarkable that almost all of public debate about the pilot has taken place in Sweden, especially given *Migrationsverket's* role as ERPUM coordinator, and the sweeping reform of §3a in 2012. While several NGOs such as Save the Children and SOS against Racism picked up on the developments during 2012, major news outlets still produced virtually no items on the pilot, and the few that mentioned it did not refer to critique leveled against it.

By contrast, debate arose much earlier in the UK, when, in June 2010, a television network obtained FCO documents outlining the UK plans to fund a “reintegration centre” in Kabul. The news sparked protests from child protection organizations, Human Rights Watch, and Amnesty International, leading to headlines such as “Britain to deport 12 child asylum seekers a month to Afghanistan” (The Telegraph, June 8, 2010). The Minister of Immigration, Damian Green, then entered the fray to calm the troubled waters. Yet, unable to deny the existence of these plans, he ended up all but confirming the existence of a transnational bureaucratic network, predating ERPUM, working to carry out child deportations to Afghanistan:

No-one should be encouraging children to make dangerous journeys across the world. Therefore we are looking to work with other European countries, such as Norway, and valued international partners, such as UNICEF, as well as the Afghan government, to find ways to help these young men in their home countries and to return those who are in the UK safely to their home nations with appropriate support once they arrive. (Channel 4 News, June 8, 2010)

Presumably, Green’s statement was an attempt to legitimize the return agenda, but unfortunately, UNICEF immediately denied any involvement with the project, instead urging the authorities to factor in the best interests of each child and the fragile security situation in Afghanistan.

Despite Green’s unfortunate reference to UNICEF, and the fierce criticism leveled against the government, the UK government not only continued the FCO’s feasibility study, but only a few months later, increased its efforts to conclude a child readmission agreement with the Afghan authorities. This went undetected by the British media until almost one year later, when, under the headline “UK ‘may return Afghan asylum children next year’”, the BBC reported that the government was now working alongside Sweden, Norway and the Netherlands in the ERPUM pilot. The level of ambitions had also increased: deportations would be operational by 2012, and it was hoped that by 2014, a hundred children would be administratively deported annually (BBC Online November 24, 2011).

Questioned by British reporters in November 2011, an ERPUM official defended the project by claiming that the IOM would conduct the returns. In a repeat performance, though, this claim was immediately denied by a spokesperson, who stressed that the “IOM is not and will not be involved with the return of unaccompanied minors under the ERPUM project” (BBC Online 24 November 2011). Worse still, from the ERPUM perspective, the same news item also featured an Afghan MoRR official who opposed the plans even more categorically: “We don’t support the repatriation of children because a lot of them left at an early age so we are not sure we can find their parents or relatives... They could fall into the hands of drug addicts, Taliban or criminal gangs.”

In 2011, debates also surfaced in Norway when a radio station informed its listeners that “Norway is negotiating on [*sic*] return of asylum children to Afghanistan” alongside Sweden, Denmark, the United Kingdom, and the Netherlands (NRK 20 November 2011). State Secretary Lønseth then announced an agreement with the Afghan authorities “on the establishment of a center, which will receive minor asylum seekers, who do not have a need for protection, and who will be met by caretakers they do not already know” (Rb.no 20 November 2011). Although he was uncertain of

the launch date, Lønseth projected that 200 unaccompanied minors could be accommodated there, and even saw possibilities for expanding this number.

But Lønseth's announcement was contested by Save the Children Norway, who stated that the plans had nothing to do with the best interests of children, and everything to do with the government's concerns over regulating immigration. Lønseth tried to counter their arguments, first by referencing the erroneous tale of positive Dutch experiences from Congo and Angola, and second by saying that potential deportees would be safe in Afghanistan, with the qualification that "it is not such [*sic*] that asylum seekers cannot be returned to a place, just because it is not as safe as Norway." In January 2012 Save the Children reiterated their position that "Children are sent back to the world's most dangerous country" adding that ERPUM constituted "experimenting with children's lives" (Save the Children Norway, 5 January 2012).

In Denmark, the first public discussion of the return of unaccompanied minors to Afghanistan occurred in 2010 in response to L37. The idea of "orphanages" for Afghan refugee children was launched in a media campaign, but no reference was made to ERPUM. Instead, the idea was framed as having been fostered by the Danish government itself, and media outlets even described then-Minister of Integration, Birthe Rønn Hornbech, as its "chief architect" (Berlingske Tidende, 10 November 2010). The Danish government argued that Denmark could save up to DKR 75 million per year on expenses associated with housing the children in Danish asylum centres; that the Afghan orphanages would have decent and defensible standards and offer educational internships; and even that a prolonged stay in the facilities could be good for children by helping them to find their footing after deportation.

A further argument voiced by Rønn Hornbech was that plans for reception facilities could be modelled on existing Red Cross/Red Half Crescent orphanages in Afghanistan. However, in a situation remarkably similar to the British debate, Danish Red Cross immediately denied operating any such orphanages and even claimed to have informed the Minister of this the day before she used the claim to push the new law through parliament. This created media headlines such as "Birthe Rønn caught in misinformation about asylum children" and "Rønn expedites investigation into own lie" (Politiken, 17 December 2010). Opposition politicians argued that the legal reform had been voted through on flawed presumptions, while government politicians anonymously told reporters that the ministerial error was caused by civil servant misinformation. The legal revision, however, remained.

After the 2011 elections, the former opposition then formed a new government, consisting of a coalition of socialists, social democrats, and social liberals. In opposition, these parties had been extremely critical of ERPUM and the processes leading up to the Danish legal reform, so it seemed only a matter of time before Denmark would withdraw from ERPUM altogether. Reaffirming this, civil servants gave Danish NGOs the impression that Denmark was no longer involved in the plans. The surprise was therefore great when, during an early 2012 Parliamentary Committee session, the new Minister of Justice, Morten Bødskov (S), said that Denmark was considering joining ERPUM as a core member. He also said that IOM had offered its expertise on deportations to the pilot, apparently unaware of IOM's rejection of this during the British controversy a full year earlier (Danish Committee for Aliens and Integration Policy 2012). During the session Bødskov also explicated the rationale behind the narrowed scope of emergency in the new §9c3.2:

Let there be no doubt that unaccompanied minors is a particularly vulnerable group. This is also why the Aliens Act contains a particular set of rules designed for those, who might be placed in a real emergency, if they return to their country of origin... But children, who are given the opportunity of staying in a reception and care center, will not be placed in such an actual emergency exactly because they can stay in the center with access to care and reintegration-support. (Ibid: 2)

In the fall of 2012, the new Danish government, now unable to claim that its involvement in ERPUM was about to be discontinued, therefore faced severe criticism. The major newspaper *Politiken* printed a series of articles on the pilot and the Children’s Council and Save the Children asked the Minister 25 critical questions on ERPUM (Børnerådet & Red Barnet 2012). Accompanied by headlines such as “Denmark wants to deport Afghan children”, “Council of Europe Commissioner: Bødskov is neglecting responsibility for deported children”, and “Refugee children have no safe future in Afghanistan”, the debate led to another Parliamentary Committee session. Here Bødskov further infuriated civil society actors by stating that Danish responsibility for unaccompanied minors would come to a halt once they were deported outside Danish borders, transferring responsibility to the Afghan authorities, and that Denmark would only be responsible for the reception facility, but not for the deported children. Moreover, he said that only an Afghan signature on the project draft was lacking, but when asked to disclose this draft, he refused to do so until it had been approved. As Amnesty International Denmark (2012) pointed out, public scrutiny would then in all likelihood be too late. After weeks of media debates, voices from two of the three government parties, the Socialist People’s Party and the Social Liberals, expressed serious concerns about the project.

In Belgium, debates started after State Secretary Maggie De Block’s proposal that Belgium should join ERPUM as a core member. This announcement came in the midst of public debates about Belgian deportation policy. Under massive public protests, Parwais Sangari, a 20-year-old rejected asylum seeker had been forcibly deported to Afghanistan despite having lived four years in Belgium following the assassination of his father in Afghanistan. De Block argued that full participation in ERPUM would solve such heated debates: if authorities could deport people like Sangari much earlier, while they were still children, the issue of their close affinity to Belgian life and culture could be pre-empted.

De Block’s ideas met with massive critique from refugee NGOs and children’s rights organizations: Youth’s Right Service, Defence for Children International, and Minors in Exile issued a joint press release, which was picked up by many major news outlets. They warned against forced returns, stating also that voluntary return could only be an option if the minors could return to a family capable of and willing to provide them with safety, something they found unlikely in Afghanistan. They also voiced concerns that it was the Belgian Foreign Office which was tasked with identifying durable solutions for child deportees, and argued that this office was likely to prioritize immigration control over the best interests of the children, and that it lacked basic competences for dealing with children. During the summer of 2012, this critique generated media headlines such as “Proposed expulsion of foreign minors denounced by three associations”, and “Returning children to open conflict is a human rights violation” (7Sur7, 13 July 2012; DMorgen, 23 July 2013). Amnesty International Belgium chimed in, pointing out that De Block’s ideas seemed to run counter to the Belgian ratification of the CRC, since the idea of ERPUM ignored the possibility that a case-by-case assessment of the durable solutions for children could mean that they should be allowed to remain in Belgium (Amnesty International Belgium, 13 July 2012).

In parliament De Block responded to several questions on Belgium’s role in ERPUM. Offering a different interpretation of the pilot than UK, Norwegian, and Danish officials, she stated that the returns would only be voluntary, and that Belgium was particularly interested in extending ERPUM’s expertise on family tracing to two Belgian pilot projects on returns of unaccompanied minors conducted in Guinea and Morocco. De Block, therefore, portrayed ERPUM as a stepping-stone for further Belgian deportation policies and, testifying to this approach, Belgium contracted the IOM in January 2013 for the pilot “An Enhanced Reintegration Approach as Durable Solution

for Unaccompanied Minors and Former Unaccompanied Minors from Afghanistan and Democratic Republic Congo (DRC) Identified in Belgium.”¹⁴

In the Netherlands, public discussions of ERPUM were scarcer than in the other pilot countries. Despite the multiple references made by the other countries to the Dutch experiences in Congo and Angola, the Dutch media focused mostly on the deportation of adults and aged-out minors to countries such as Afghanistan. And while the UNICEF Netherlands report provided crucial information about the ERPUM plans, and a critique of the positive framing of the Angolan/Congolese orphanages, this was not picked up by any major news outlets.

During the summer of 2013, however, the issue of family tracing became a topic of debate. In parliament, State Secretary Fred Teeven (VVD) was asked about the Dutch tracing practices and their connection to deportation and reception facilities (Dutch Parliamentary Question 25 June 2013). Although not explicitly referring to ERPUM, his answers illustrate how the Dutch authorities too worked with their own policy interpretations, departing from those of ERPUM. Thus, Teeven explained that the starting point of Dutch return policies for unaccompanied minors is reunification with family, including fourth degree relatives. On the link between family tracing and forced returns, he said: “If the unaccompanied minor does not return voluntarily, the Dutch government will work to ensure the forced departure of the unaccompanied minor. This includes tracing the family in the country of origin” (Teeven’s Answer to Dutch Parliamentary Question 2 August 2013). For Dutch authorities, then, family tracing was part of deportation procedures.

Asked if authorities sought the consent from unaccompanied minors to family tracing, Teeven replied that when unaccompanied minors were being asked questions about their family, they should simply deduce from such questions that a trace “is going to be undertaken” (Teeven’s Answer to Dutch Parliamentary Question 2 August 2013). In saying this, he indirectly confirmed cases reported by Dutch NGOs where the return services had barred minors’ or their guardians’ access to the tracing results used by authorities to justify the deportation of the minor. Teeven also argued that deportations were necessary, even if the existing family were unable or unwilling to take care of children, because this could

...lead to more parents sending their children to Europe, in the hope that they get a better future, even though no asylum protection is possible for them. This violates the UN Convention on the Rights of the Child (CRC), which states that, as a starting point, parents are to be appointed care-takers of their children. Forced return is only possible to a situation of adequate care and where such care is guaranteed. Preferably, these are the parents, but this could also be other family members or adults or reception facilities (Ibid).

The answers provided by Teeven seemed to confirm that the Dutch interpretation of the ERPUM-agenda was one where unaccompanied minors did not have to know or give consent for family tracing, and where such tracing was part and parcel of potential deportations to distant relatives even if these were not actually willing to receive the child. If all else failed, the Dutch authorities seemed willing to deport children to reception facilities.

Tracing the ERPUM agenda through the media debates yields important knowledge about the different national interpretations of the ERPUM goals and reveals how governments and civil servants have misrepresented crucial facts on several occasions. For instance, experiences from the Dutch orphanages in Africa were much more limited than conveyed in ERPUM and national policy circles. Similarly, the British claims of UNICEF involvement, the Danish claims of a Red

¹⁴ The pilot was operated by the Belgian Immigration Office, managed from Brussels, and was set to stop on June 30, 2014.

Cross predecessor in Afghanistan and the ERPUM claims of IOM involvement all turned out to be false. Given the amount of conflicting statements, it is no wonder that confusion about ERPUM arose in the civil societies of the countries involved.

These governmental maneuvers between national and supranational venues accords to the strategy of venue shopping since the governments involved have used the ERPUM cooperation selectively for domestic policy purposes. Another reason for the informational gap further underscores this strategy of shifting venues, namely the Scandinavian governments' refusal of public oversight of the pilot.

Reacting to the governments' conflicting accounts of the pilot, two Danish journalists tried to obtain more accurate information about ERPUM by filing freedom-of-information requests with the Danish, Swedish, and Norwegian authorities (Quass and McGhie 2012). The authorities, however, repeatedly blocked access to ERPUM policy documents, or released only heavily redacted files, referencing clauses of exception in their Public Information Acts. In 2012, Denmark only granted access to 53 out of 73 requested documents, Sweden only to 40 out of 52 requested documents, and Norway blocked insight into 50 documents (*Ibid*). The justifications for this included foreign political or economic interests (Norway), relations to other states (Denmark), and concerns of foreign political interests (Sweden).¹⁵



I hope that we can now proceed on the basis we have set out.

Best regards

Picture 1: Redacted ERPUM-document released to the press.

¹⁵ This blocking of requests was done with reference to §13, stk.1, nr.2 – on foreign political or foreign economic interests, including foreign powers or international organizations (Denmark), chapter 15, §1 on relations to other states, international organizations (Sweden), and §20 – concerns of foreign political interests (Norway).

The Scandinavian governments, then, blocked critical scrutiny into ERPUM by invoking the very transnational collaboration to which the policy agenda had been lifted. In Denmark, however, this blocking-via-venue-shopping was highly informative. The authorities claimed that the documents could not be released since of crucial importance to *ongoing negotiations* with foreign powers, even though this contradicted the narrative disseminated to the public that Denmark was no longer involved in the ERPUM pilot.

In this way, civil servants' appeals to other ERPUM countries as well as countries of origin, allowed the Scandinavian authorities to refuse public scrutiny of the pilot. This exacerbated the informational gap between civil society and authorities and prevented informed debates. Besides facilitating the controversial policy, the stratagem of venue shopping thus also allowed governments to generate "fail-safe" options through which public scrutiny of the policy agenda could be blocked.

In terms of venue shopping analytics, Guiraudon (2000: 268) has pointed out that civil servants are not simply representing the aggregate domestic political interests in transnational venues. Instead, venue shopping can be seen as offering domestic actors the opportunity to bypass the representative democratic process of interest aggregation, thereby creating more autonomous policy-making in bureaucratic networks. Accordingly, one explanation for the oscillation of the ERPUM actors could be that the engine of the pilot was in fact located more at the bureaucratic level, than at the political. For instance, ERPUM negotiations with the Afghan authorities were conducted by teams comprised of civil servants from the countries involved, and not by politicians. Similarly, the incumbent Danish government's reversed stance on ERPUM can also be explained by the fact that while the political actors had changed, the civil servants who had worked on the return of unaccompanied Afghan minors since 2009 remained in place. Focusing on the power of civil servant networks through venue shopping analytics therefore helps make sense of the lack of public oversight of ERPUM, the differences between national interpretations, and the discrepancies in the statements from the countries involved.

8 Immigration trends of unaccompanied minors to the ERPUM countries

Both the legal reforms induced by the Returns Directive, and even more so the national political discourses on ERPUM, have been premised on two key background assumptions: first, the existence of a dramatic increase in the number of unaccompanied asylum seeking minors, and second, that harsh EU return policies will deter children from migrating to Europe (Webber 2006; Gibney 2004). Both of these assumptions, however, become problematic when considering the actual immigration trends of unaccompanied minors to the ERPUM countries before and during the pilot.

Countries such as Afghanistan, Somalia, Iraq, Eritrea, and Syria are among the top producers of unaccompanied minor refugees to the EU, but there are significant differences as to which ERPUM countries they migrate to. Angolan unaccompanied minors tend to travel to the Netherlands; Congolese and Guinean minors apply in Belgium; Greece and Italy traditionally receive many minors of Albanian descent; and Sweden, Denmark and Norway receive many unaccompanied minors from Afghanistan, and more recently also from Somalia, Eritrea, and Morocco.

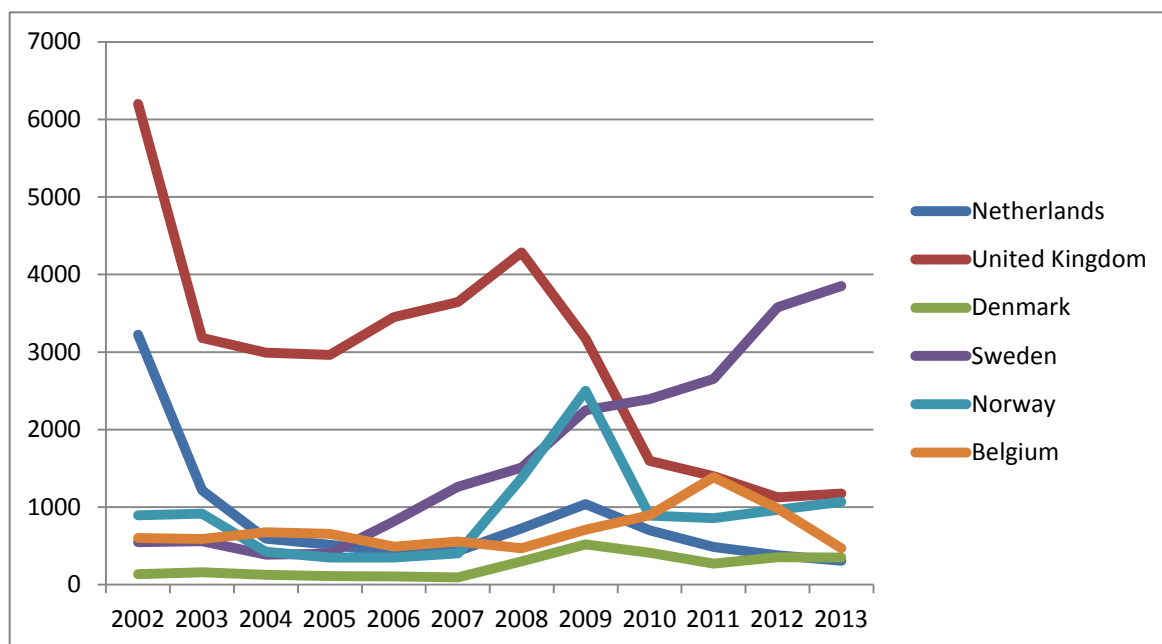


Table 1: Asylum applications from unaccompanied minors to ERPUM-affiliated countries between 2002 and 2013 (see Appendix A)

In recent years unaccompanied minors from both Iraq and Afghanistan have dropped in numbers, while the volume of minors coming from Somalia, Eritrea, Morocco, and Syria has increased. For instance, in 2011, 5,655 out of a total of 12,225 EU asylum applications from unaccompanied minors were made by Afghans, while 645 were made by Somalis and 155 were made by Syrians. In 2013, 3,295 applications out of a total of 12,685 applications were from Afghans, while 1,580 came from Somalis and 1,020 from Syrians (Eurostat 2013). Thus, while the number of annual arrivals of unaccompanied minors in Europe has remained between 10,000–12,000, the national composition changes according to regional dynamics of conflict, disasters and displacement, and collapses in infrastructure. The volume of unaccompanied minor asylum seekers also differs between the ERPUM countries, as illustrated by Table 1.

Arrivals to the ERPUM countries have changed significantly between 2002 and 2013: in 2002, the United Kingdom and the Netherlands received by far the most asylum applications (6,200 and 3,224, respectively), while in 2013 Sweden had the biggest intake (3,850 applications, followed by the UK with 1,175 and Norway with 1,070). By comparison, Denmark has consistently received the fewest such asylum applications than any other ERPUM country.

Table 1 indicates that the total 2013 volume of all arrivals to ERPUM countries is actually lower than 2002 levels. Moreover, the influx has fluctuated several times between 2002 and 2013 with variations between the ERPUM countries. Between 2002 and 2004, applications dropped or remained stable across all six countries, and while this trend continued between 2004 and 2007 in Norway, Denmark, Belgium, and the Netherlands, the opposite was true of Sweden and especially the United Kingdom. Then, as applications to the UK decreased drastically from 2008 to 2009, the reverse occurred in Norway and the Netherlands, and a further drop set in between 2011 and 2013 (see Appendix A). These trends are, in other words, a far cry from the sudden and massive influx referenced by several ERPUM countries.

As to the claim of a deterrent effect generated by ERPUM, Table 1 highlights that a trend of decreasing numbers of unaccompanied asylum applications was already visible in all ERPUM

countries (except Belgium and Sweden) from around 2009, thus predating the pilot. And while arrivals to Belgium followed this trend from 2011, the increase to Sweden continued, despite the country's central role in ERPUM.

ERPUM (2014: 23-25), however, focuses on the numbers of arriving Afghan, Iraqi, and Moroccan unaccompanied minors between 2011-2013 stating that “All the ERPUM countries see a decrease of arrivals from Afghanistan” and that “numbers of Iraqi unaccompanied minors arriving to the four ERPUM countries have decreased each year since 2011...even though since three years back the security situation in Iraq is worsening” (*Ibid*: 25). These statements seem to imply that ERPUM was somehow responsible for the lowered influx of Afghan and Iraqi unaccompanied minors. In order to assess the validity of these ERPUM claims, we may turn to Tables 2 and 3, visualizing the arrival of unaccompanied minors from Afghanistan and Iraq between 2005 and 2013.¹⁶

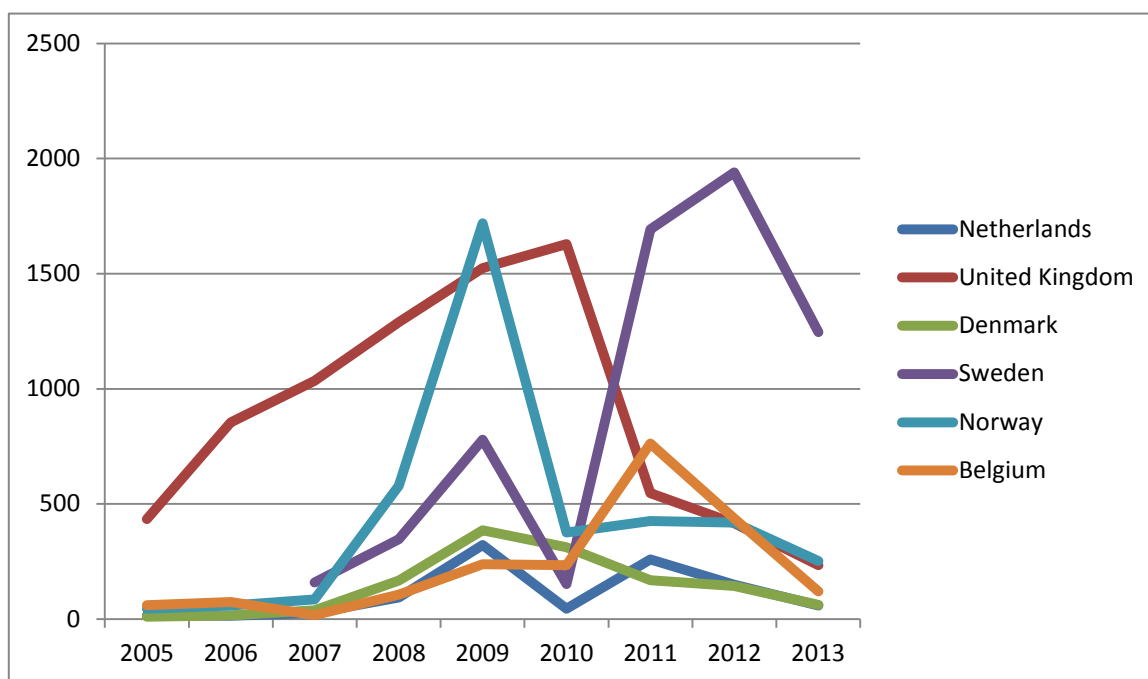


Table 2: Comparative overview of unaccompanied Afghan asylum applicants to each of the ERPUM-affiliated countries (see Appendix B)

When it comes to unaccompanied Afghan minors, Table 2 indicates that the ERPUM countries have indeed experienced an increase in unaccompanied Afghan asylum applications: while the total number was around 500 in 2005, it was around 1,500 in 2013. Moreover, a decrease in applications did set in after 2011. However, if we expand ERPUM's narrow focus on 2011-2013 it becomes clear that there have in fact been several decreases since 2005 predating ERPUM. For instance, Sweden, the UK, and Norway witnessed a trend of falling numbers in, respectively, 2008, 2009, and 2010, a trend exhibited in the remaining countries from 2011. Conversely, from 2010 to 2012, and thus during the first years of ERPUM, Sweden experienced a significant increase, before another drop set in during 2012. Thus, while the number of Afghan claimants did decrease since the pilot's launch, this trend seems to have been independent of ERPUM's launch.

¹⁶ Since the volume of unaccompanied Moroccan minors is very small, it is difficult to collect data from the Immigration Services of all the ERPUM states. Often these applicants have not been registered dating back to 2005. Denmark received 35 asylum applications in 2012 and 67 in 2013, Sweden 145 in 2012 and 315 in 2013, and the Belgian Guardianship Service recorded the presence of 200 unaccompanied Moroccan minors in 2011 and 298 in 2012, most of whom did not apply for asylum.

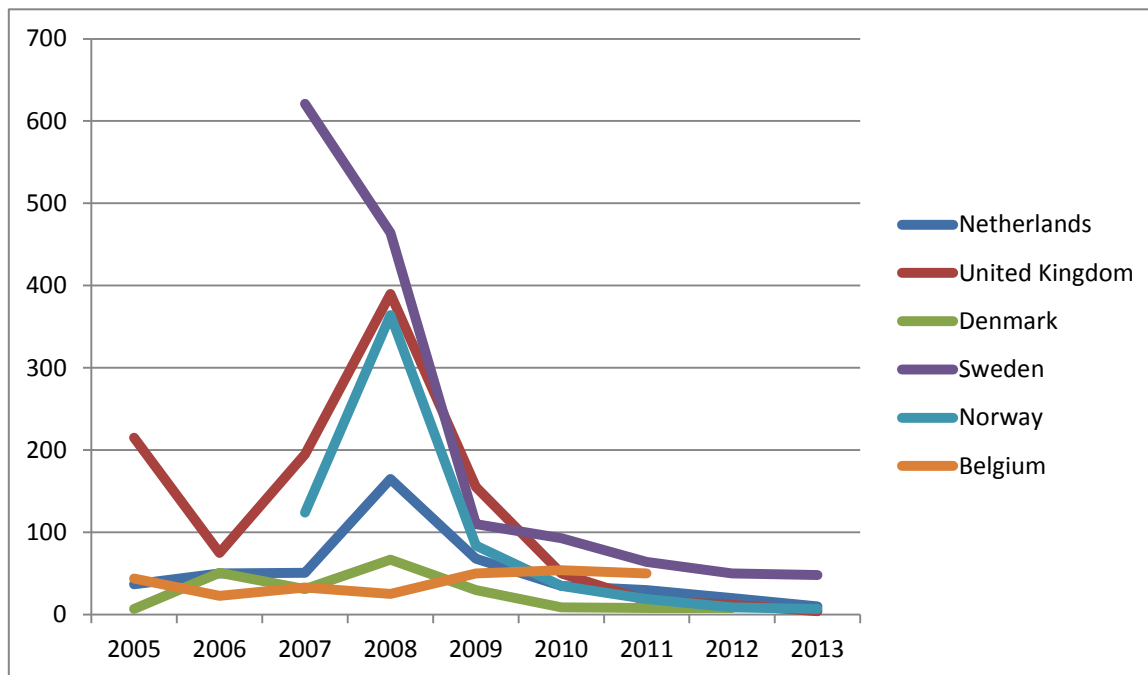


Table 3: Comparative overview of unaccompanied Iraqi asylum applicants to each of the ERPUM-affiliated countries (see Appendix C)¹⁷

The number of unaccompanied Iraqi minors is much lower than that of Afghans. Even the highest intake of 621 minors observed by Sweden in 2007 is far from the highest number of 1,940 Afghan claimants, noted in 2012, also by Sweden. When it comes to the claims of a dramatic increase in unaccompanied minor’s asylum claims, Table 3 illustrates that the intake of Iraqi unaccompanied minors had in fact undergone a steep drop several years before the pilot. For instance, before and during the ERPUM I pilot, Denmark received asylum applications from, respectively, 30 (2009), 9 (2010), 8 (2011), and 8 (2012) unaccompanied Iraqi minors. ERPUM’s focus only on the period between 2011-2013 therefore fails to place the declining trend in its proper context.

Consequently, the transnational efforts to establish ERPUM during 2010 did not correspond to any dramatic increase in asylum applications from either Afghan or Iraqi unaccompanied minors. Even if the number of Afghan applicants rose significantly from 2005 to 2013, significant fluctuations have occurred within that period. Similarly, the idea of an ERPUM deterrence effect seems to be without merit. Even though the numbers of Afghan and Iraqi applicants dropped during the span of ERPUM, this followed general trends predating the launch of the pilot. As the rise and fall in the immigration numbers thus seem more connected to the original factors of conflict and displacement than to deterrence policies, the two central assumptions guiding ERPUM are problematic.

9 Child refugees from a broken country

Designed to promote the deportation of unaccompanied minors, ERPUM occupied a special position, located between national asylum systems and the home countries of unaccompanied minors. This position carried with it two further pilot assumptions: namely, the inherent correctness of authorities’ assessments of asylum claims and the safety of unaccompanied minors

¹⁷ The Swedish and Norwegian numbers for 2005 and 2006 are lacking, as are the Belgian numbers for 2012 and the Belgian and Danish numbers for 2013. See Appendix C.

in their country of origin. However, even though ERPUM focused most of its efforts on returning children who had fled Afghanistan, virtually no analyses were made of the conditions experienced by children there or the psychosocial consequences of their displacement in the border regions of Europe.

These are glaring omissions, considering that the Afghan population has paid an immense price due to war and displacement since the 1980s, including the 2001 invasion by the US-led “Coalition of the Willing”, which, notably, led to troop deployment to Afghanistan from all the ERPUM countries. In the 2012 UN Human Development Index, Afghanistan ranked 175 out of 187 countries. In 2013 it hosted a population of 631,286 internally displaced persons (IDPs) while 2.6 million refugees remained outside the country (UNHCR 2013, 2014). The volume of IDPs is the highest in years, reflecting a recent spread of displacement to new provinces. This trend has, in other words, been observable throughout the ERPUM pilot.

	May 2008	October 2009	December 2010	October 2011	October 2012	January 2013	April 2014
Afghan IDPs	150,000	275,945	352,000	443,635	459,000	492,000	667,000

Table 4: Internally Displaced Persons in Afghanistan¹⁸

One of the most tragic results of the protracted conflict in Afghanistan is its impact on Afghan children. These tend to list generalized violence, starvation, or the death of family members among the prime reasons for their escape to Europe. According to the United Nations Assistance Mission to Afghanistan (UNAMA), there were reports of 1,302 casualties among Afghan boys and girls (488 deaths and 814 injured) during 2012, and 160 of 208 civil incidents with explosive remnants of war (ERW) happened to children carrying out daily activities. The majority of these casualties occurred through Improvised Explosive Devices (IEDs) and ground engagement between armed forces (UNAMA Statistics 2012). Also, the number of women and girls killed and injured from incidents of drone strikes more than tripled between 2011 and 2012, rising from 16 to 51 casualties. Illustrating the massive difficulties of creating prospects of development for children, 2012 saw attacks on 74 education facilities, such as the burning of schools, intimidation and threats against teachers. ISAF and the Afghanistan National Security Forces (ANSF) were involved in 11 of these incidents. ERPUM has conducted no analyses whatsoever of these events.

Another reason for children to escape Afghanistan, overlooked by ERPUM, is their fear of recruitment as child soldiers. For instance, a 17-year old Hazara boy, who fled Afghanistan in 2008, told UNHCR-interviewers in Sweden: “The Taliban wanted us to conduct war together with them. We realized there was no way out... it was not only me, but children in my age living in this area. We did not want to join, so after the Taliban had threatened me twice, my father sent me to Iran” (UNHCR 2010b: 23).

During 2012, the Afghanistan Country Task Force on Children and Armed Conflict (CTFMR) reported 39 recruitment cases, involving 116 children. Yet, the number of reported cases is almost twice as high in a report from The Office of the Special Representative of the Secretary-General for Children and Armed Conflict (2013) which noted 66 cases of recruitment, in some cases of boys 8 years old. Children were used as guards, as scouts, and to carry out attacks. In November 2013, in the Zabul province, two boys were killed by an IED after a national Afghan police officer had

¹⁸ Sources: IDMC, UNHCR. The number of IDPs in Afghanistan is in all likelihood much higher, since the official registration lacks several provinces and more remote regions.

ordered them to inspect a suspicious bag, which exploded during their investigation (UNAMA Statistics 2012: 55).

Another reason for children to escape Afghanistan surrounded by more taboo are experiences of sexual abuse and exploitation. Such abuse is widespread also after their escape, during displacement in Europe's border regions.¹⁹ A 16-year-old boy told UNHCR interviewers that "children in Afghanistan are sometimes brought away by wealthy people who let them stay and dance for them. They use them sexually. They must dance for them if they are young and beautiful. And they use to decorate their feet and tie a bell around their wrists" (UNHCR, 2010b: 18). In 2014 the Afghanistan Independent Human Rights Commission (AIHRC) conducted an investigation into the causes and consequences of *Bacha Bazi* (literally "boy play").

Usually separated from their kin or being the sole breadwinners for poor families, these children are kept as dancers for ceremonies, or as bodyguards, apprentices and servants in homes, shops, bakeries, hotels, and restaurants. According to the AIHRC (2014: 1): "At the end of ceremonies, they are usually taken to private houses or hotels and raped; sometimes they are even gang raped. As sex slaves, these children continually suffer from sexual exploitation or other forms of sexual harassments [*sic*]." While 42 per cent of the victims of *Bacha Bazi* are between 13 and 15 years of age and 45 per cent between 16 and 18 years, the practice also targets youth who have just entered adulthood: 13 per cent of the victims are between 18 and 25 years old.

Impunity for these deeds vary locally, but the AIHRC notes that perpetrators are not being prosecuted since they are connected to corrupt security organs. In other cases, police officers themselves perpetrate sexual abuse. In November 2012, for instance, a local Afghan police officer from the Baghlan province was discovered to have detained five boys for two years, using them as both bodyguards and 'dancing boys' and reportedly abusing them sexually on several occasions. Remarkably, no ERPUM documents devoted any attention to the general security situation in Afghanistan, the reports of killed and injured children, the forced recruitment of child soldiers or to the issue of sexual exploitation.

The condition of children on the move outside Afghanistan is another issue completely overlooked by ERPUM. The pilot's discourse on return relied on a simple dichotomy of finding safety either home or abroad. Yet, this mischaracterizes the complexity of the migration process, repeat transnational mobility, connections to smugglers, life-threatening boat migration, and sometimes year-long situations of homelessness in several countries. These experiences can be even more traumatizing for children than conditions in their countries of origin.

Children on the move face grave risks, such as nighttime crossings of the Greek-Turkish Evros River, being traded as forced labor in Libya, being detained in "passenger houses" run by smugglers, or crossing mountains in eastern European countries (Brothers 2012). In April 2014 alone, 1,521 unaccompanied minors were rescued as part of the Italian Mare Nostrum Operation.²⁰ This trend continued the following month: in one day, 133 children and 62 women were rescued

¹⁹ A further risk, specific to child deportees, is when unaccompanied minors who have lived for years in Europe are accused by elements in their local community of having been "contaminated", or Westernized, through their encounter with European culture. See also Schuster, L. and Majidi, N. (2013) "What happens post-deportation? The experience of deported Afghans", *Migration Studies*, Vol.1, No. 2: 1-19.

²⁰ Data from the Italian Ministry of the Interior, 30 April 2014. See also Save the Children, Italy (2014) *'The boat is safe and other lies.'* Why Syrian families are risking everything to reach Europe.

from the waters off Sicily (BBC Online, 21 May 2014). Between January and May 2014, UNHCR recorded the arrival by sea of 4,598 unaccompanied minors to Italy alone (UNHCR 2014).²¹

The EU policy efforts to minimize asylum applications seem to have spurred the growth of the smuggling industry. However, the closure of legal migration routes has not addressed the underlying reasons why people seek to enter Europe. It has instead pushed migrants into illegality, and thus into the hands of smuggling networks. Accordingly, a self-reinforcing cycle has been created in which it is the Dublin System's "first countries of arrival" and the EU's neighboring countries which receive the vast majority of irregular migrants, with detrimental effects for both the migrants and the asylum systems. Even though the EU often portrays the Dublin system as facilitating inter-state solidarity, a more accurate picture appears to be that the system abandons vulnerable migrants, such as unaccompanied minors, to states at the union's external borders (Gil-Bazo 2006). Moreover, the fact that desperate migrants often attempt to re-migrate after having been deported means that the increase in European border control effectively generates re-migration, and thus "repeat business", for smugglers (Schuster and Majidi 2013). We can therefore say that many unaccompanied minors caught in the flux of border control and irregular networks characterizing the EU border regions experience a different kind of displacement than their original cause of flight, namely "border-induced displacement" (Lemberg-Pedersen 2012b). This highlights how at the structural level, national and supranational control and deportation policies can be seen not only as responses to already-displaced persons, but also as engines, which themselves produce and reproduce displacement (see also Gibney 2013).

The displacement of unaccompanied minors in the margins of Europe is an extremely precarious situation. If the children have not already relied on traffickers in order to enter countries such as Greece and Italy, the fear of control, combined with gaps in asylum systems and national safeguards mean there is a high likelihood that they will fall into their hands after arrival. Thus, according to the CRC Committee (General Comment 6: 16), unaccompanied minors are particularly vulnerable to trafficking, sexual exploitation, and abuse. The risk of "re-trafficking" is a particular worry, as are states' penalising of child victims of trafficking, a crime which has already resulted in them being unaccompanied. Moreover, the Dublin System has brought about a situation in which unaccompanied minors who do not wish to apply for protection in countries such as Greece or Italy, where they first arrived, are forced into an irregular existence until they travel onwards. Often unable to obtain official work permits, they therefore struggle daily, accepting underpaid and exploitative work in order to pay for food, shelter, and debts to smugglers or family. In 2009, Italian police discovered more than 100 migrants, including 24 Afghan children, living in a sewer system beneath a train station in Rome (BBC Online, 4 April 2009). In 2013, 8,461 unaccompanied minors resided in Italy without applying for asylum (Eurostat 2014).

In Greece, authorities reported carrying out 1,153 child deportations during 2008 (European Migration Network 2009), reinforcing the motivation of others to avoid the authorities and legal registration.²² Many unaccompanied minors gravitate towards the Omonia Square in Athens and sleep in parks around Athens, surviving on the charity of strangers. This increases the risk of exploitation. For instance, an International Aid Services researcher recounted how she, during only a few hours in the Athenian Alexandra Park in 2012, observed how scores of older men approached unaccompanied minors trying to buy sex for €5. Even though the children were unable

²¹ Out of these, 1,709 were Eritrean, 679 Somali, 516 Egyptian, 360 Gambian, 364 Syrian, 208 from Sub-Saharan Africa, 196 Malian, 126 Nigerian, 99 Senegalese, 78 Palestinian, 48 Afghan, 39 Ghanaian, 35 Sudanese, 29 from Bangladesh, 24 Guinean, 17 Ethiopian, 15 Pakistani, and 56 from other countries.

²² Out of these 2,502 were from Afghanistan, 1,515 from Albania, 1,071 from Somalia, 591 from Iraq, 97 from Palestine, and 255 from other countries.

to afford HIV-tests, many still obliged the men because they were trying to earn money for food and clothes (Kirk 2012).

Upon the arrival of unaccompanied minors in Europe, these experiences are often seen as taboo and many unaccompanied minors accordingly find it difficult to explain their ordeal during asylum interviews and trauma screening processes. This difficulty is exacerbated by the risk that the political priority given to increasing the volume of voluntary returns can make case officers more focused on facilitating the child's return than on screening for trauma. However, as noted by the UNHCR (2010b: 18):

When asking the children for the reasons why they left Afghanistan, initial reference was commonly made to the lack of security and the dire economic situation in the country...However, once the researcher posed questions relating to potential protection concerns in Afghanistan, many children revealed additional reasons underlying their departure relating to security problems of a more individual character. It became apparent that while many children did not volunteer to talk about sensitive issues, once they felt comfortable and the questions were formulated in a comprehensible way, they spoke out more freely.

The authorities' aggressive pursuit of returns is then likely to discourage unaccompanied minors from revealing personal and intimate details of abuse, let alone cooperate with authorities on tracing the family. This point applies in particular to ERPUM's use of special motivational tools, "return counselors", or the aforementioned "Returned children tell their story" video. ERPUM's role as an engine to realize more returns meant that the pilot offered no reflection on the plight of traumatized unaccompanied minors, nor on how its singular focus on deportation risked reinforcing processes of child re-migration, displacement, and exploitation in the margins of Europe. The pilot did, however, employ the language of children's rights and humanitarianism on multiple occasions.

10 ERPUM as 'new humanitarianism' in the context of EU externalization

ERPUM policy documents repeatedly invoke references to concepts of "family tracing", "family reunification", "humane and safe return", "reintegration", and "care and education facilities". And while virtually no explicit references were made to the best interest of the child during the pilot's early stages, this changed following critique from child protection and humanitarian organizations.

The only reference to the best interest of the child in the cooperation group's 2010 grant proposal was an assurance that cooperation with third countries would be based on the best interest of the child (ERPUM 2010: 13). The proposal focused more on a desirable "long-term impact" of the pilot, namely that "those minors who are not in need of protection will not make the long and risky journey to Europe since the risk of being returned is higher". The ambition was that ERPUM should lead "to a lowering influx of unaccompanied minors to Europe that are not in need of protection" (*Ibid*: 15). The original ERPUM discourse therefore showed how Migrationsverket viewed the pilot as a deterrence tool, increasing the volume of returned unaccompanied minors. Although the 2010 grant application was designed to align with the Commission's Action Plan, this was difficult in terms of one fundamental aspect, namely the Action Plan's emphasis on the principle that "return is only one of the options and the best interests of the child must always be a primary consideration". This emphasis constitutes a significant rift between ERPUM and the Action Plan, highlighting the fact that the pilot was at heart a "return platform" and not a "child

protection platform”, despite its framing of deportation in terms of family unity and the best interest of the child. The Action Plan was therefore able to contemplate alternative provisions for unaccompanied minors that ERPUM was not, including that it might be in the child’s best interest not to be returned to its country of origin.

In the later stages ERPUM made more references to the EU Charter of Fundamental Rights and the CRC. For instance, ERPUM (2014: 14) states that “The collaboration in ERPUM between Sweden, the Netherlands, Norway and the United Kingdom together, promotes child rights dialogue in the EU”, adding that the “multilateral cooperation undertaken by ERPUM with the involved governments, international organizations and NGOs in Afghanistan, Iraq and Morocco, is a vital pillar for the protection of minors”.

In an attempt to bridge the conflict between policies of child protection and child deportation, ERPUM attempted to appeal to the CRC’s §§9-10, where the latter states that “a child shall not be separated from his or her parents against their will”. This, for ERPUM, meant that family tracing is “a key element to ensure family reunification and unity” (*Ibid*: 19). Further, ERPUM also noted that “the broken and lost ties with the family and other relatives are a major cause of emotional ailment...For that reason different stakeholders should do their utmost to find out about the family of the minor” (*Ibid*: 20). As such, the ERPUM discourses therefore evolved into making the case for child deportations through the argument that family tracing and reunification can solve the emotional ailment suffered by unaccompanied minors staying in Europe.

The humanitarian framing of deportation policies predates the ERPUM pilot and can be seen as a general “repatriation turn” (Chimni 1999) – that is, an era beginning in the early 1980s when Western countries started focusing on repatriating asylum seekers through readmission agreements. Within policy circles, voluntary repatriation was increasingly seen as a primary and durable solution to refugee situations, which allowed Western governments to minimize the presence of refugees on their territories. In recent years, this policy drive has further transformed into a “deportation turn”, where governments increasingly rely on the technology of forced removals of asylum seekers in attempts to avoid domestic political controversy (Gibney 2008: 148). Accordingly, the number of readmission agreements between European and third countries has increased drastically: while 33 bilateral readmission agreements existed in 1986, there were 156 in 1995, 186 in 2004, and 216 in 2010 (Cassarino 2010: 11).

According to Chimni (2000: 255), the focus on returning asylum seekers and refugees illustrates how human rights discourses can be co-opted and “placed in the service of a policy of containment”. This discursive co-option, he says, has created a political environment where repatriation is not questioned, and where states make the denial of deportations synonymous with the violation of refugees’ human rights. Even though his analysis is concerned with the general relationship between international refugee law and humanitarianism in a globalized world, it is also apt for understanding the ERPUM discourses.

ERPUM invokes the concept of family reunification and the best interest of the child in order to argue that the reunification of unaccompanied Afghan minors with family in their country of origin is the best durable solution. This, it is said, requires deportation, which simultaneously has a deterrence effect, so would-be migrants do not attempt the dangerous journey to Europe. In this manner, we can say that children’s rights discourses are co-opted and placed in the service of the ERPUM countries’ domestic asylum priorities, used to justify the practice of child deportations, and to argue that any critique of such a deportation policy means denying emotionally suffering children the chance to be reunited with their families. As such, ERPUM’s discursive strategy recasts controversial practices in the light of humanitarian care. This is true even when it comes to

the pilot's title, which used the "return" concept preferred by states, rather than the "deportation" concept, despite the fact that the pilot's envisioned practices fall under the definition of deportation in international migrant law, namely "The act of a state in the exercise of its sovereignty in removing an alien from its territory to a certain place after refusal of admission or termination of permission to remain" (IOM 2004). Given this, ERPUM's discourses lend themselves to the concept of "new humanitarianism", which "uses the language of rights to justify a range of questionable practices" and to "obscure the fact that the Northern commitment to humanitarianism coexists with a range of practices which have for their objective its violation" (Chimni 2000: 251).

However, while the CRC's §§9-10 do stress the importance of family reunification, the paragraphs do not have the overriding character straightforwardly assumed by ERPUM. Thus, in General Comment 6 §§81-83, the CRC Committee underscores that family reunification in the country of origin is not in the child's best interests if it risks abuse or neglect by the parents or legal guardians or if there is a "reasonable risk" that a return will violate the child's fundamental human rights. In effect then, the CRC Committee voices two crucial concerns, downplayed by the ERPUM discourse: firstly, that prospects of family reunification cannot be used to preempt the child's own wishes to remain in the country of reception, and secondly, the illegitimacy of sanctioning child-specific *refoulement*, that is, of conducting deportations "where there are substantial grounds for believing that there is a real risk of irreparable harm to the child" (UN Committee on the Rights of the Child 2005).

During its course, then, ERPUM's preferred discourse changed from highlighting the goals of asylum minimization and deterrence policy to appeals to the best interest of the child and the unity of the family. Yet, underneath this discursive shift, the pilot's goals and envisioned functionality remained the same.

The transnational processes and implications of ERPUM makes the pilot suited for an analysis along the lines of externalization (Lemberg-Pedersen 2012b; Gammeltoft-Hansen 2011) and governments often portray this strategy as a way of avoiding demanding humanitarian responsibilities for refugees. For instance, the Blair government's New Vision for Refugees (2003) argued that the export of asylum seekers to processing camps outside British territory could relieve the UK from the legal responsibility not to conduct *refoulement*. The Danish argument that the existence of reception facilities transfers the responsibility for unaccompanied minors from Denmark to Afghanistan follows this state logic of externalization.

Externalization can be seen as occurring through a continuum of international negotiations, remote control and extraterritorialization (Balzacq 2009: 2-3). First, externalization can be facilitated through international negotiations where the externalizing actor then seeks to gain influence over of the asylum policies of a host country. These processes may involve "tactical issue linkage" (Haas 1990; Betts 2008), where issues like asylum policy are linked conditionally with issues like trade and development policy. In processes of tactical issue linkage, one party may use its political and economic power to ensure the transfer of its political priorities to the host country, thereby gaining remote control over its policies. The bigger the power asymmetry between the negotiating countries, the higher the likelihood that this control can take the form of extraterritorialized components placed in the host country. Put differently, the more fractured the sovereignty of the host country, the higher the likelihood that externalization succeeds.

These points about externalization and issue linkage are illustrated when tracing the process of ERPUM Afghanistan negotiations. Thus, in 2011, the Afghan Ministerial Council tasked three ministries with the ERPUM negotiations: the Ministry for Refugees and Repatriation (MoRR), the

Ministry for Foreign Affairs (MoFA), and the Ministry for Labour and Social Affairs (MoSLA), with MoRR taking the leading role. The ERPUM negotiation team quickly encountered resistance from the MoRR, or as one ERPUM representative put it: “Mr Anwari of MoRR has no interest in the project. They don’t like it. But they seem to be unaware that there is no other solution.” (Schuster 2013: 13).

The ERPUM countries’ political economic power vis-à-vis Afghanistan is clear: in 2011, Afghanistan ranked as the fourth largest recipient of official humanitarian aid in the world, receiving the equivalent of 35% of its gross national income (Global Humanitarian Assistance website). Moreover, from 2008 to 2011, when the ERPUM plans gained pace, both the EU and most of the ERPUM countries were among the top donor countries. In 2008 all ERPUM countries were among the top 17 donors out of 115 countries; in 2009 they were all in the top 18 out of 180 countries; in 2010 they were all in the top 18 out of 139 countries; and in 2011 they were all in the top 17 out of 114 countries.

	2008	2009	2010	2011
EU	1.956,505	1.583,700	1.749,489	1.832,050
Norway	438,588	375,470	398,481	394,880
United Kingdom	905,095	1.025,44	911,388	1.116,880
Netherlands	573,649	469,440	369,870	327,560
Denmark	248,430	204,220	219,314	240,150
Sweden	529,829	565,700	594,734	661,950
Belgium	210,905	193,160	217,693	228,150

Table 5: ERPUM countries’ development donations to Afghanistan 2008-2011 in \$ million²³

In 2011, the prime channels of development aid to Afghanistan were multilateral organisations (57.4%); NGOs and contractors (25.9%); other venues, including public private partnerships (3.2%); the public sector (10.6%); and the Red Cross (2.6%). While multilateral organizations, NGOs, and contractors therefore received around 83% of all donations, financial support to the Afghan public sector, including the ministries, only constituted 10.6%. Moreover, international donations to the public sector were cut in half between 2008 and 2011. While the Afghan public sector had received international donations worth \$554.4 million in 2008, this decreased to \$405.8 million in 2009, \$400.4 million in 2010 and, finally, to \$265.3 million in 2011 (*Ibid*). Ministries were therefore left competing for funds, paving the way for international policy transfer.

During its field visits to Afghanistan, the ERPUM negotiation team conducted discussions on the reception facilities separately with the MoRR, MoFA, and MoSLA, using promises of budgetary discretion over ERPUM funds to pit each ministry against the other. But even though the Afghan and the ERPUM negotiation teams reached a political agreement on a model for the return project in the fall of 2012, technical disagreements persisted. Another clash between ERPUM and the MoRR occurred in March 2013. While the MoRR wanted full control of the €2.5 million of ERPUM funds, the negotiation team refused, threatening instead to cut the funds down to \$1.5 million and transfer all control to the IOM. The IOM, in return, viewed this threat as a way to further force the hand of the MoRR. Eventually, the deteriorating Afghan security situation ground the negotiations to a halt by preventing ERPUM delegates from travelling to Afghanistan.

²³ Source: Global Humanitarian Assistance’s Development Initiatives (based on UNOCHA FTS data and OECD DAC member governments (constant 2011 prices) and non-OECD DAC member governments (current prices)).

While concerns of corruption and nepotism often constitute legitimate reasons for channelling development aid around public sector bodies, a development predating ERPUM illustrates that such risks also exist with private European actors. In 2009, after unsuccessfully attempting to involve the IOM in its plans for a return project for unaccompanied minors, the Norwegian government turned to the German Association of Experts in the Field of Migration and Development Cooperation (AGEF). Funded chiefly by the German BMZ Ministry and the British Home Office, AGEF had been running the “Return to Employment in Afghanistan (REA)” programmes for migrants repatriated from Germany, Great Britain, and France. The REAs offered small payments and courses to individuals deported from Europe, promoting small businesses, but had been unable to sustain the required infrastructure and had consequently not dissuaded individuals from re-migration (Majidi 2009).

The first contact between the Norwegian embassy in Kabul and AGEF happened on December 14, 2009 when the potential tender was discussed. AGEF admitted having no prior experience in working with unaccompanied minors, but still voiced interest in the project, and the Norwegian government decided to contract the Association for the production of a preliminary project plan. In February 2010, AGEF returned with a brief report entitled “AGEF Return to Employment (REA) Initiative in Afghanistan”, which proposed a 12-month project and listed a range of different expenses: two social workers (€9,600), two cleaning people (€4,800), a cook (€3,000), food allowance for 12 minors (€43,200), rent (€24,000). The actual deportation of 12 children was estimated to cost €200 “per unit”, amounting to €28,800 over 12 months. The total AGEF estimate was €261,470,072. On security issues, the report simply noted that since “the situation of accommodation is currently unclear, additional guards might be necessary” (AGEF 2010: 6).

However, the Norwegian government became concerned because AGEF’s proposal lacked any references to the best interests of the child, legal guardians, the issue of aged-out minors, and the complicated question of Norwegian-Afghan legal responsibility for the children returned to the facilities. AGEF had instead settled with noting the existence of a strong political will to establish a center for unaccompanied minors, and the addition that since “there have not been any programs which were successfully implemented without concerns, so there are hardly any possibilities for a best practice approach, which we could implement in Afghanistan” (AGEF 2010: 3). In the end, the Norwegian authorities opted not to continue the collaboration with AGEF.

This decision turned out to be prudent as AGEF a few months later was engulfed in scandal. In December 2010, the German government launched an embezzlement investigation on the suspicion that the Association had deliberately diverted federal German subsidies away from their original purposes. While the audit did not yield any charges, an internal report from the German Ministry of Development concluded that the audit had been hampered by the disappearance of key AGEF receipts and original documents. Then, in January 2011, the Afghan Attorney General also opened an official investigation into claims that AGEF had not been paying its Afghan employees for months, and that the German managers had all left Kabul after draining the bank accounts.

This scandal was not the first such problem faced by Scandinavian countries after contracting AGEF. Previously, in 2008, both the Danish and Swedish governments had severed links with AGEF after reports of unusual book keeping methods during return projects to Erbil, Northern Iraq (Deutsche Welle, 21 January 2011). It is surprising, then, that the Norwegian government outsourced its political goal of a deportation and reception project for unaccompanied minors, despite advance knowledge that the actor in question was mired in reports of unusual accounting methods. The case of AGEF, therefore, also illustrates that governments may use outsourcing as another form of venue shopping, where governments attempt to insulate a policy agenda from domestic resistance by transferring it from public to private venues (Nyberg Sørensen and

Gammeltoft-Hansen 2012; Lemberg-Pedersen 2012a). Although unsuccessful, the AGEF process also shows that smaller private actors contracted to realize pre-determined political goals may be less likely to voice critical questions, compared to larger or public state actors. Furthermore, the outsourcing strategy can also be used to skirt public critique, either by directing potential critique towards the private actor rather than the general policy, or by removing controversial activities one step further from public scrutiny via subcontracting.

11 Perspectives for a post-ERPUM future

After years of intense negotiations and fierce debates with humanitarian and child protection organizations, ERPUM was discontinued in June 2014 without achieving its stated goals.

However, the pilot did bring about change, as its common European and intergovernmental policy venue proved instrumental for facilitating transpositions of the Returns Directive in Norway, the United Kingdom, Denmark, Sweden, and Belgium along the restrictive lines of the pilot. While these legal reforms in some cases revised outdated legislation, they also introduced a generalized model for child deportations, which lowered the threshold for deporting unaccompanied minors.

The end of ERPUM does not signal the end of this policy drive, and even greater challenges to the best interest of unaccompanied minors will emerge after the former ERPUM countries have now “escaped *from* Europe”. The agenda is likely to proliferate across a European landscape of vastly different policies and safeguards concerning unaccompanied minors, illustrated by the ERPUM countries’ different interpretations of the pilot and of the Returns Directive’s provisions on reception facilities, family networks, and tracing efforts.

This poses the further question of how the EU member states which did not participate in ERPUM will transpose the Returns Directive. For instance, in 2013, the UNHCR, Helsinki Citizen Assembly, and the Hungarian National Police Headquarters concluded that Hungarian police continued to routinely deport unaccompanied minors to Serbia and that a range of other European countries continue to deport the children to Hungary, effectively exposing them to Dublin sanctioned chain deportations (Helsinki Citizens’ Assembly 2014). Similarly, the Belgian pilot on unaccompanied returns to Afghanistan and Angola, which expired in the summer of 2014, is likely to be only one among a range of similar efforts across Europe, involving a wide range of different countries of origin. The United Kingdom pursues returns of unaccompanied minors to Albania, Sweden is continuing its efforts regarding Morocco, while Belgium, in a parallel to ERPUM, turned its attention to Afghanistan and Angola with its 2013-14 pilot.

The vast differences concerning child protection in countries of origin underscore the risk that a generalized model based on the family/guardian/reception disjunction may not assess local situations for unaccompanied minors, monitor deportees independently, or follow child-specific safeguards. Also, the proliferation of the policy drive across Europe could mean that information about these national developments will be even more inaccessible than the bureaucratic opacity exhibited by the Scandinavian authorities in response to freedom of information requests. As the restrictive policy-making seems relatively independent from the actual immigration trends, both countries, which receive many unaccompanied minors, such as Sweden and Norway, and those receiving the fewest, such as the Netherlands and Denmark, seem to increasingly rely on deportations.

Instead of alternatives to deportations, countries now promote return policies to regions of displacement, arguing in favour of the existence of so-called “internal flight options” (see f.i. Migrationsverket, RCI 08/2014: 4). The idea that rejected asylum seekers could be returned to Afghanistan *because* their families are among the hundreds of thousands internally displaced indicate European attempts to instrumentalize the phenomenon of displacement for domestic immigration policy purposes. This instrumentalization of displacement is in fact already occurring at the transnational level, as detailed by the border-induced displacement of vulnerable unaccompanied minors on the margins of Europe. In this context, the idea that children can be returned to countries of transit is a particular risk as it exacerbates the risk that they, once more, will end up in the hands of smuggler networks and be re-exposed to exploitation, slave labor, or sexual abuse. The political proliferation of the restrictive border control agenda, including child deportations, increases the urgent need to construct independent monitoring mechanisms in order to assess the conditions of deportees after their return and of those children displaced in transit throughout Europe’s border regions.

While ERPUM and the countries involved failed to examine policy alternatives to deportation, humanitarian and child protection organizations have repeatedly offered such alternatives. These include the harmonization of EU member states’ implementation of the CRC, systematic best interest determination and child-specific safeguards, more accurate processes of age assessment, and high quality training of interpreters and legal guardians. Moreover, the ECtHR’s verdict in *MA and others v UK* effectively undermined the legitimacy of the Dublin system with regards to unaccompanied minors. Arguably, such harmonization policies constitute another path through which European countries could offset the existing asymmetry in migrant influxes. Sweden and Denmark are a good case in point: in 2013, Sweden received 1,247 unaccompanied Afghan minors while Denmark received only 62. As of now, however, European countries still shy away from engaging in these crucial discussions as well as from addressing the fundamental question plaguing the Dublin Regulation, namely of finding a mechanism whereby the responsibility for asylum seekers and vulnerable individuals can be distributed in a manner which is fair and legitimate for both vulnerable migrants, European countries, and countries of origin.

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14 Appendix A: Asylum applications from unaccompanied minors to ERPUM-affiliated countries between 2002-2013²⁴

United Kingdom

2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
6200	3180	2990	2965	3450	3645	4285	3175	1595	1400	1125	1175

Sweden

2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
550	561	388	398	816	1264	1510	2250	2395	2655	3580	3850

Denmark

2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
137	159	128	109	107	93	300	520	410	270	355	350

Belgium

2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
603	589	675	654	491	555	470	711	896	1385	981	468

Netherlands

2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
3224	1216	594	515	410	433	725	1040	700	485	380	310

Norway

2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
894	916	424	322	349	403	1374	2500	892	858	964	1070

²⁴ Sources: UDI, Migrationsverket, Udlændingestyrelsen, UK Border Agency, CGRA, IND.

15 Appendix B: Asylum applications from Afghanistan and Iraq between 2005 and 2013 to all countries affiliated with ERPUM²⁵

Netherlands

	2005	2006	2007	2008	2009	2010	2011	2012	2013
Afghanistan	17	15	27	94	322	246	260	150	60
Iraq	37	50	51	165	68	35	30	20	10

Denmark

	2005	2006	2007	2008	2009	2010	2011	2012	2013
Afghanistan	11	17	39	168	386	313	169	114	62
Iraq	7	51	31	67	30	9	8	8	-

United Kingdom

	2005	2006	2007	2008	2009	2010	2011	2012	2013
Afghanistan	435	855	1035	1290	1525	1629	547	417	235
Iraq	215	75	195	390	155	50	17	12	4

Sweden

	2005	2006	2007	2008	2009	2010	2011	2012	2013
Afghanistan	-	-	160	347	780	1153	1693	1940	1247
Iraq	-	-	621	464	110	93	64	50	48

Norway

	2005	2006	2007	2008	2009	2010	2011	2012	2013
Afghanistan	46	60	86	579	1719	376	426	419	252
Iraq	-	-	124	364	84	35	19	9	7

Belgium

	2005	2006	2007	2008	2009	2010	2011	2012	2013
Afghanistan	61	74	118	106	239	234	762	438	120
Iraq	44	23	33	25	50	54	50	-	-

²⁵ Sources: IND, Udlændingestyrelsen, Home Office, Migrationsverket, UDI, CGRA.