

## **Migrant Children: an all-encompassing term\***

According to UNICEF, more than 241,930 children sought asylum in Europe in 2016. These children were fleeing from war and hardship in their countries of origin ([UNICEF, Humanitarian Situation Report n°16, 14 October 2016](#)).

**Article 1 of the Convention on the Rights of the Child defines a child as “every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier”.**

Since the beginning of this major displacement, back in the summer of 2015, different terms have been used in daily conversations, official documents, the media or on the internet, in relation to these children: “migrant children”, “migrating children”, “children on the move”, “refugee children”, and “asylum-seeking children”.

### ***What is the exact meaning of these terms?***

The terms “migrant children”, “migrating children”, “children on the move” are all-encompassing terms referring to all children who are outside their country of origin for whatever reason; the terms “refugee children” and “asylum-seeking children”, which are as well included in the three above-mentioned terms, have a specificity of their own and require further explanation.

### ***The protection of refugees***

In July 1951, the United Nations Conference of Plenipotentiaries adopted in Geneva [the Convention relating to the Status of Refugees](#), widely known as the Refugee Convention. Some years later, in 1967, the Convention was amended by the Protocol relating to the Status of Refugees or the 1967 Protocol, as it is commonly called.

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The initial objective of the 1951 Refugee Convention was to protect the European refugees of the Second World War. However, the 1967 Protocol abolished geographical and temporal restrictions to the implementation of the Convention.

**Article 1 A(2) of the Refugee Convention defines refugees as those individuals who have a well-founded fear of being persecuted in their country of origin or habitual residence, because of their race, religion, nationality, membership of a particular social group or political opinion. For these reasons, they are unable or, owing to such fear, they are unwilling to seek the protection of that country**

### *Refugee children and asylum-seeking children*

The definition given by the Refugee Convention does not impose age restrictions and, consequently, it includes children as well. Therefore, **the standards set by the 1951 Refugee Convention and the 1967 Protocol apply to children in the same way as to adults** ([UNHCR, Refugee Children: Guidelines on Protection and Care](#)).

**Refugee children are children who have a well-founded fear of being persecuted in their country of origin or habitual residence, because of their race, religion, nationality, membership of a particular social group or political opinion, and, thus, they flee this country.**

Moreover, the keystone principle of the Refugee Convention, the principle of non-refoulement (article 33), equally applies to refugee children; therefore, refugee children cannot be forced to return to a country where their life or freedom would be threatened.

Additionally, refugee children shall enjoy the **right to freedom of religion (article 4, Refugee Convention)**, the **right to access the courts (article 16, Refugee Convention)**, the **right to housing (article 21, Refugee Convention)**, the **right to education (article 22, Refugee Convention)**.

**When a child is in the process of seeking asylum according to the legislation of a specific country so as to be recognized as a refugee, this child is an asylum-seeker enjoying a certain status of protection under this legislation for as long as his or her claim is being processed.**

The asylum-seeker status is not equivalent to the refugee status; however, it provides the asylum-seeker with the necessary protection during the assessment of his or her asylum claim. In the European Union (EU), the domestic legislation on asylum of each Member State is determined in light of the [Common European Asylum System](#) (see list of key International and European instruments).

### ***Non-Refugee Children***

The protection afforded by the Refugee Convention relates only to refugee children. Accordingly, children who choose to leave their country of origin or residence for different reasons that are unrelated to a fear of persecution cannot be recognized as refugees.

Common reasons for migration include the willingness to find education or work opportunities in other countries or the willingness to be reunited with family members that have been already living abroad.

**All migrant children, whether refugees or not, need to be treated with respect and dignity; their rights must be fully protected. The [Convention on the Rights of the Child](#) applies to every child without discrimination of any kind (article 2).**

According to the European Network of Ombudspersons for Children (ENOC), there are no available statistics on children entering the EU not applying for asylum, which makes it difficult to know how many they are. Many of these children are at risk of abuse and exploitation, due to their vulnerability ([ENOC, Safety and fundamental rights at stake for children on the move, 2016](#)).