
The migration of unaccompanied and separated Senegalese children to Spain

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This chapter aims to analyse from a South/North point of view, first, the real scope of the migration of supposed unaccompanied or separated children on the Senegalese maritime route to the Canary Islands, as well as the migratory and social context where this migration is being conceived; second, the place and role of Senegalese teenagers as active participants in this migration adventure and the linked notions of family relations in this West African region – realities that could be in contradiction with the definition of these children as unaccompanied or separated; and third, the lack of coherence of the legal and policy responses to this new phenomenon in both countries.

SUB-SAHARAN CHILDREN: SIGNS OF THE DIVERSIFICATION OF RECENT CHILD MIGRATION INTO SPAIN

Today, Spain is one of the principal destinations of migrant workers. Although they come from all parts of the world, they mainly hail from South America, Africa and Eastern Europe. Two main factors lie behind this phenomenon: Spain's geographical location in south-west Europe, close to the African continent; and the dramatic economic growth the country has experienced since it entered the European Union (EU) in 1986.¹ The phenomenon is recent – the first use of the term 'immigration' in an official Spanish document dates from 1991, the year of the first regularization of illegal immigrants.² In a period of fifteen years, the number of aliens with residence

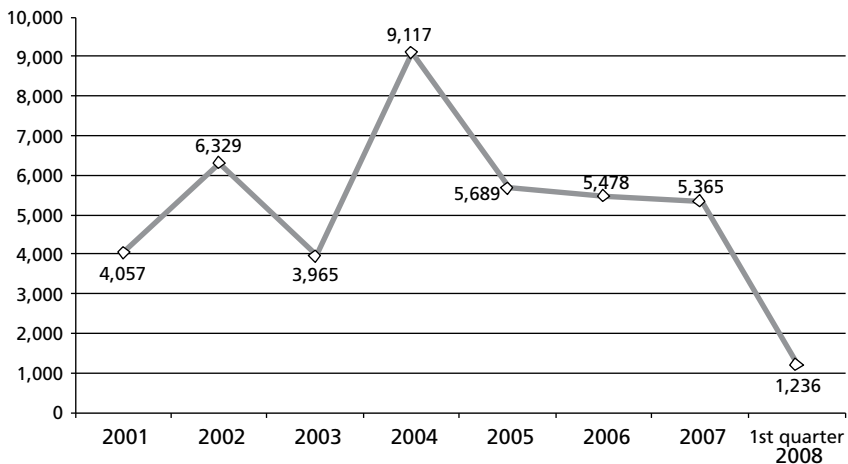
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1. Along with these two official factors, many experts see the importance of Spain's informal economy as the main factor behind the 'magnet effect' that favours the increasing arrival of the immigrants who settle there. A survey by the European Commission (2007) shows that migrants are considered by 33 per cent of the interviewees as the group that is the most involved in the informal job market.
 2. This refers to a *Proposición no de ley*, adopted by the Congress of Deputies on 9 April 1991; under para. 1 of the Bill, the government is asked to develop an active immigration policy, so that the authorities have the initiative to control and organize the flows of legal immigration according to the labour needs of the national economy and the capacity of the society to assimilate them. According to Domingo i Valls (2003), the regularization of 1991 was required by the EU, which wanted control over migratory flows following the signing of the Schengen

permits rose from about 400,000 in 1990 (three-quarters of these residents came from Europe and other developed countries) to over 4.7 million at the end of 2009 (Observatorio Permanente de la Inmigración, 2010). Spain, which used to be a land of emigration, is now the second destination of international migration in the world, just behind the United States of America (Pereda, 2007).

At the same time, the independent and spontaneous immigration of children aged under 18 into Spain was first seen in the second half of the 1990s, i.e. a little after other European countries. And, unlike most countries, which only regulated that form of migration after several years, a specific regulation was prepared in Spain in 1996, in spite of the small number of migrant children who arrived independently in that period. But the new type of immigration had major social repercussions and was the subject of much media attention in the late 1990s and above all in the early 2000s.

The latest official figures in Spain relating to unaccompanied and separated migrant children³ who are taken into care by the protection systems of the various autonomous communities (former regions) date from the end of 2008 (Figure 8.1).

Figure 8.1: Unaccompanied and separated children received in Spain (2001–2008)



Sources: 2001–2003, Third and Fourth Reports of 30 May 2008 to the United Nations Committee on the Rights of the Child; 2004–2007: *Boletín Oficial de las Cortes Generales*, 2 July 2008, Series D, No. 45, p. 130; 2008: *Boletín Oficial de las Cortes Generales*, 6 October 2009, Series D, No. 266, p. 27.

Convention of June 1990. Over 125,000 applications for regularization were registered and approximately 108,000 foreign nationals were given documents in Spain. The figures continued to rise over the following two decades.

3. The 'official' term in Spain is *menores extranjeros no acompañados*, as reflected in Section 35 of the Aliens Law and Section 92 of the Aliens Decree. The present chapter uses the terms 'unaccompanied' and 'separated'. For further details, see the section below on 'Unaccompanied children or separated children?'

These figures show the broad trends but must be interpreted with caution, as the same child may be counted several times under the same identity or different identities by different regional authorities, and thus be registered more than once.

The autonomous communities that experience the most immigration by children are Andalusia and those with large conurbations such as Barcelona, Madrid and Valencia. At the start of the 2000s, 90 per cent of the unaccompanied and separated children received in Spain (Senovilla Hernández, 2005, pp. 10, 11) were of Moroccan origin and came directly from Morocco. They arrived from the north or from rural areas of the hinterland, near the towns of Beni Mellal and Khouribga. These children hid in the underside of lorries or crossed the Strait of Gibraltar from Tangier as stowaways in boats. Yet others took a small boat (called *patera*) from Nador or Al Hoceima to reach the east coast of Andalusia and, to a lesser extent, from the south-west coast (port of Tarfaya) to the Canary Islands (Serifi Villar and Jiménez Álvarez, 2005, pp. 12–13). In 2004 children of Moroccan origin only accounted for 49 per cent of the children looked after by all the social services of Spain (Dirección General de Inmigración, 2006).

From 2006, the movement of children from West Africa to the Canary Islands became stronger, along with an increasing flow of adult clandestine migrants. That year, out of a total of 931 children in the care of the islands' protection services, almost half (453, or 48.7 per cent) claimed to be of Senegalese origin. Moroccan children, who mainly came from the south of the country, made up the second nationality (290, or 31.1 per cent), followed by Malians (115, or 12.3 per cent). The others (73) were from West Africa – they were principally Mauritanian, Gambian or Guinean (Conakry). Most of them were aged 16 and 17 (62 per cent) and a little over a third (32 per cent) were 14 and 15 (Parliament of the Canaries, 2007, pp. 24ff).

Even though the official detailed data by country of origin at the national level are not available for the period 2006–2009, the immigration of children of African origin into the Canary Islands continued during 2007 and 2008 (over 750 arrivals each year according to the data provided by the authorities of the region) and started decreasing in 2009. This new presence of unaccompanied or separated children from West Africa has made it necessary for the Spanish authorities (who are used to taking care of children from Morocco) to address the increasing heterogeneity of migrant children's origins.

THE EMIGRATION OF SENEGALESE CHILDREN TO SPAIN: INCREASING SOCIAL DEMAND AND THE NEW POSSIBILITY OF TRANSPORT BY SEA

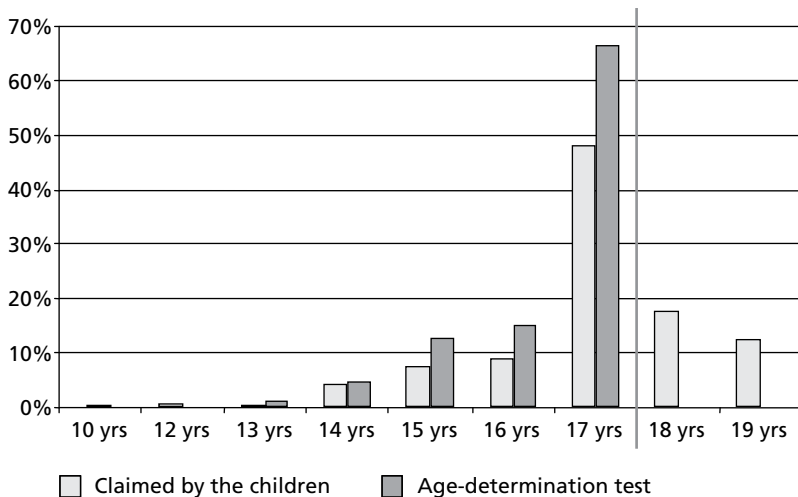
There has so far been very little detailed research on the determinants of these new maritime migrations between West Africa and the Canary Islands. Our analysis is based in part on a survey carried out in 2007 of 312 Senegalese children who

arrived in the Canary Islands between January 2006 and June 2007.⁴ The results obtained are sometimes compared with another study of potential migrants intercepted on or off the coast of Senegal during 2006.⁵

According to official data produced by the Parliament of the Canary Islands (2007, pp. 24ff), the children arrived mostly between April and September 2006; the majority preferred the months of August and September and landed on the island of Tenerife.

Under Spanish regulations, all unaccompanied foreign children who are identified at the borders or within the country are required to undergo a bone X-ray to determine their age. The sample of children studied makes it possible to compare the age reported by the child upon arrival with the result of the X-ray. Most of the Senegalese children were aged 16 or 17 – this represents 74 per cent of the total according to the age-determination test and 52 per cent according to the claims made by the children. The same trend was apparent in children aged 15: that is, 26 per cent and 12 per cent respectively (Figure 8.2).

Figure 8.2: Age structure of Senegalese children received in Spain (2006) (%)



Source: Proyecto Alondra survey (2007).

A comparison between these two variables shows that a large number of migrants who initially claimed to be adults were assessed as children following the results of bone-age testing (113 cases, or 36 per cent of the total). Two hypotheses may be put forward: these were indeed children claiming to be adults in order to be able

4. Unreleased survey carried out as part of the 'Proyecto Alondra' programme for transferring unaccompanied children of sub-Saharan origin from the Canary Islands to other continental Spanish regions. We should like to thank the directors of the Nuevo Sol Foundation for permission to use the data.
5. These are people arrested by the competent authorities in Senegal and brought before the Senegalese courts.

to work; or the age estimated by means of the test is incorrect.⁶ Interestingly, the trend goes against the hypothesis generally put forward by the Spanish authorities that a large number of young adult migrants claim to be under age in order to take advantage of child protection systems.

The children studied mainly hail from the regions of Thiès, Dakar and St Louis. These are the three major fishing regions of Senegal, in addition to Casamance with sea fishing (Ziguinchor area) or river fishing (Kolda area). Then come the groundnut-growing areas and to a lesser extent eastern Senegal. Basically, the children come from areas that are not only experiencing a crisis in the farming and fishing sectors, but have also been the main regions of emigration over the past ten years. The population is more urban than rural.

The distribution of the children according to their place of residence may be compared to that of their place of origin. Only five of them reported that they lived outside Senegal, in Gambia, Guinea-Bissau or Mauritania. Overall, ten out of eleven Senegalese regions were affected by child emigration, so it is clear that this is a national phenomenon.

The geographical distribution of the points of departure concerns five regions: Thiès, Ziguinchor, Dakar, St Louis and Fatick. These departure areas, spread from the north to the south of the Senegalese coast, are supplemented by other places located on the coast of Mauritania. The places of origin and residence are near the points of departure along the coast. If we consider Thiès, the main region for child migration in our sample, 75 per cent of those who left from this area (specifically from the ports of Kayar or Mbour) actually lived there. In general, there is a close correlation between the fishing ports and the centres of emigration by sea.

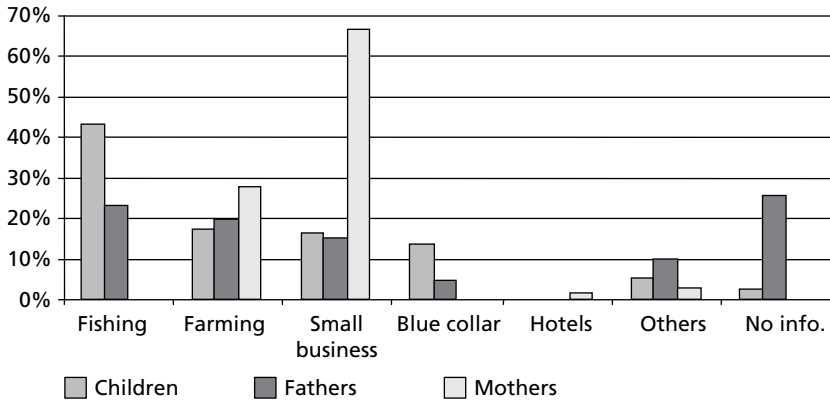
As with adults, the navigational skills of fishermen provide a new technical facility for migration, and meet a social demand that is extending spatially, diversifying socially and thus increasing numerically. The close link with the fishing sector raises three questions: first, the social origins of the children; second, the conditions of departure; and third, their status as *unaccompanied or separated*.

In order to try and answer these questions, we shall look at the places of origin, residence or boarding of the children and the areas of activity of the children themselves, their fathers and their mothers. For the purposes of this study, five areas of activity have been selected: fishing, farming, small businesses, the blue-collar sector and the hotel industry. An 'others' category has been added to these (Figure 8.3). This classification applies only to the gainfully employed, or 82 per cent of the children, 79 per cent of the fathers and only 50 per cent of the mothers. Most of the children in the sample had an occupation, for which they received a small monthly wage that was usually less than €50, but could in

6. The reliability of age-determination tests, particularly the Greulich and Pyle method used in Spain, is widely disputed by many experts. Among others, the report of 16 January 2007 of the French National Academy of Medicine, 'about the reliability of medical examinations aimed at determining age for judiciary purposes and the possibility of improvement in the area for unaccompanied foreign children', concludes that these tests make it possible only to 'appreciate the development age of adolescents below the age of 15 fairly correctly'.

some cases even reach €200, and which came chiefly from the fishing industry. The emigrating children were thus not necessarily unemployed, nor were they from the poorest families. That is a consistent finding in the area of migration: the cost of travel in particular requires some degree of financial resources. The areas in which most of the children, fathers and mothers worked, however, have been seriously affected by Senegal's recent economic and urban crises. Forty-four per cent of the children worked in fishing, although the overall rate varied according to their place of origin or residence and the area of work of the father. For example, 62 per cent of the children who left from Thiès were residents of that region and worked in fishing, which was also the main activity of their fathers.

Figure 8.3: Occupation of Senegalese children received in Spain, compared with that of their fathers and mothers (%)



Source: Proyecto Alondra survey (2007).

That spatial and occupational closeness, also observed in the regions of Dakar, Fatick and Ziguinchor, leads to the following hypothesis: these children did not necessarily leave alone and sometimes travelled with other members or friends of their family, neighbours or members of crews with which they usually went on fishing trips, and their parents had elected to entrust them to the care of responsible persons. Several testimonies collected in Senegal in the areas of departure confirm that supposition. It seems all the more valid as it bears out:

a major characteristic of African family systems – the movement of children between families through the so-called practice of ‘*confiage*’ [traditional fosterage]. While the phenomenon is observed elsewhere in the world, it seems to be of particular importance in sub-Saharan Africa, especially in West Africa where it is extremely prevalent ... The reasons for entrusting a child to somebody's care are very diverse – the reinforcement of bonds within kinship groups, socio-economic solidarities, the need for labour, investment in human capital, etc. (Pilon and Vignikin, 1996).

Further, the practice is particularly widespread in Senegal in the social groups to which the children studied belong. In the Murid community, which comes from the groundnut-growing regions, it is customary to entrust boys from the age of 6 to a traditional religious leader called a marabout, to whom the parents delegate all their authority. To learn a trade, children may also be entrusted to a craftsman or a fisherman, for example, who takes care of their entire upbringing. In the sample, a third of the children did not pay for their journey and it is very likely that they had special occupational or family relations with the crew of the pirogue⁷ that took them on board. This mode of social organization raises new questions about the relevance of the terms 'unaccompanied children' and 'separated children' in this context. Nevertheless, we should not ignore the testimonies of some mothers who said their children left without the knowledge of their families (though this does not rule out the possibility that they migrated with known and trusted adults).

Whatever the conditions of such migration, it reflects a growing social demand. Against that background, children play a part at an ever younger age in the survival strategies developed by their families. For 60 per cent of the children studied, the funds for the journey by pirogue came from one or more members of their family (father, brother, uncle or cousin).

The participation of children in international migration is a new phenomenon to Senegal. That change is related to the development of economic precariousness, which now affects social categories that were previously spared. Approximately 70 per cent of the mothers of the children in the sample work as street vendors or hawkers. Most of them have tiny stalls and sell a few vegetables, pieces of fish, groundnuts or fritters, which they hope will pay for their daily expenditure and put food on the table.

As a result, any approach to the modalities for resettling the children that may be initiated by the destination countries in Europe must take account of the different factors that play a role in their migration process. Otherwise returning the children is bound to fail and will simply be followed by other attempts to emigrate, including the recourse to trafficking networks (which is not currently the case in Senegal).

UNACCOMPANIED CHILDREN OR SEPARATED CHILDREN?

In the European context, different terms are used to designate the phenomenon of the independent migration of young people below the age of 18. These terms initially matched the different political traditions in each country and the different models based on the application of international standards governing the granting of asylum or the classical consideration of migrants as part of the labour force (Senovilla Hernández, 2007*b*).

At the same time, a distinction must be made between those children who, during their migratory process, are totally alone or accompanied by other adults

7. Long coloured boats used by fishermen in this African region.

who do not have parental authority over them, and those who are accompanied by a family member other than their parents or guardians. Even though most countries (Belgium, Germany, Italy, Spain) and the EU use the term ‘unaccompanied’,⁸ the United Nations High Commissioner for Refugees (UNHCR) and the international organization Save the Children – partners in the Separated Children in Europe Programme – support the concept of ‘separated children’, because they believe it provides a more accurate and broader definition of the situation of these children, who suffer socially and psychologically because they are separated from their parents or legal guardians.

Lastly, General Comment No. 6 of the Committee on the Rights of the Child has set out a dual definition that differentiates ‘unaccompanied children’ (those who are not accompanied by their parents or guardians or by any other responsible adult) from ‘separated children’ (who are effectively separated from their parents or legal guardians but may be accompanied by other members of their family).⁹

In the specific case of the migration of Senegalese children to the Canary Islands, the analysis above reveals that a significant number of these migrant children do not start out on their migratory route alone, but are often accompanied by other adults with whom they have family, occupational, friendship or neighbourly relations in particular. The question here is whether the *traditional fosterage* system followed in this part of Africa can and must, from a European standpoint, be *assimilated with a delegation of parental authority* and whether children entrusted in this way are neither separated nor unaccompanied. Only more in-depth research will make it possible to answer this fundamental question.

Nevertheless, a child arriving by pirogue in the Canary Islands, after a long and testing journey, is a child in need and must therefore benefit from the protection provided by the Spanish regulations covering children who are deprived of their family environment.

WHAT RESPONSE FROM THE AFFECTED STATES?

If the results of the age-determination test confirm that an individual is not of age, the child protection services (which are normally within the remit of the autonomous communities) must take care of the migrant child according to Spanish law. The regional protection institution certifies that the child is in a ‘situation of abandonment’ (*situación de desamparo*), as defined by the Civil Code.¹⁰ That administrative resolution (*declaración de desamparo*) determines the automatic

8. Council Directives 2005/85/EC of 1 December 2005, 2004/83/EC and 2004/81/EC of 29 April 2004, 2003/9/EC of 27 January 2003 and 2001/55/EC of 20 July 2001 all contain a definition of ‘unaccompanied minor’ that is equivalent to that stated in article 1 of the Council Resolution of 26 June 1997 relating to unaccompanied minors from non Member States (97/C 221/03).

9. General Comment No. 6, relating to the treatment of unaccompanied and separated children outside their country of origin (CRC/GC/2005/6, 1 September 2005), paras 7 and 8 (see Chapter 1, note 1, in the present book). This definition can also be found in ICRC (2004, p. 13).

10. See article 172 of the Spanish Civil Code, which defines the *situación de desamparo* (<http://www.ucm.es/info/civil/jgstorch/leyes/ccivil.htm>).

appointment of a public guardian. The public child protection institution becomes the guardian of the separated child.

Along with such access to protection and guardianship, the regulations under the immigration law applied to unaccompanied children in Spain very clearly provide for repatriation as the priority solution for those who are within its borders. Forced return, which implies that children are reunited with their families or go into the care of the protection authorities in the country of origin, is indeed the first pillar of Spanish policy in response to such migration. The integration of migrant children into Spain is only considered to be a secondary solution.

However, the repatriation policy is far from being effective in practice. According to the available figures, on average fewer than 1 per cent of the children received are finally repatriated.¹¹ The difficulties encountered in executing these forced returns (to date, they have mainly concerned children of Moroccan origin), and the criticism directed at the modalities of such repatriation,¹² have led the Spanish authorities to sign readmission agreements with the main countries of origin to facilitate these returns.¹³

The care of sub-Saharan children, including Senegalese children, who arrive in the Canary Islands has in recent years become a political issue, with the different authorities attempting to shift the responsibility for protection onto each other. The regional authorities of the Canaries (General Directorate for Child and Family Protection) state that they are unable to care for these migrant children on a long-term basis. In 2007 the region's care system provided for fewer than 300 places (Parliament of the Canaries, 2007, p. 23), a number that is far from sufficient for an annual inflow of children estimated to range between 500 and 1,000. A specialized emergency system with about 500 places was created in 2006 (p. 23), even though the quality of the care has been disputed.¹⁴

As a result, the Canary Islands authorities have put pressure on the central government to make it share the task of caring for the migrant children present in the islands. A few Spanish regions have agreed to receive migrant children from the Canaries (Cantabria, Extremadura, Navarre, etc.). Some associations have also received subsidies to set up ad hoc systems to care for these children. As a result, two Royal Decrees were approved in December 2006 and July 2007,¹⁵ in order to

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11. According to the National Prosecution Service (Fiscalía General del Estado, 2009, p. 737), in the 2004–2008 period only 270 unaccompanied children were repatriated to their country of origin. The annual number of forced repatriations peaked in 2006 (111 repatriations) and decreased significantly in 2007 (26) and 2008 (10).
 12. The criticism has come from (among others) the UN Committee on the Rights of the Child and the international organization Human Rights Watch in 2002, and also the Special Rapporteur of the UN Commission for Human Rights in 2004. At national level, the National People's Defence and its regional counterparts, not forgetting collective defence associations, have all expressed criticism.
 13. Apart from Senegal, Spain signed a memorandum of understanding with Morocco in 2003, which became a bilateral agreement in 2007. An agreement was also signed with Romania in 2006.
 14. See the Human Rights Watch report on the conditions of such care (Troller, 2007).
 15. See *Real Decreto 1515/2006*, 7 December, and *Real Decreto 868/2007*, 2 July, both issued by the Ministry for Employment and Social Affairs.

manage the transfer of about 1,000 children (500 per decree) from the Canaries to various territories of continental Spain. One peculiarity of these programmes is that they provide for assistance once the transferred child is on the continent, but *guardianship* continues to be exercised by the authorities of the Canaries, located thousands of kilometres away from the child's new domicile.

In respect of the return of Senegalese children following the arrivals in 2006, Spain hastily negotiated a repatriation agreement with Senegal, signed in Dakar on 5 December 2006.¹⁶ One article of that international instrument is devoted to the repatriation procedure. In short, the decision to repatriate is made by the Spanish authorities, and the organization of care for the child after being returned is taken charge of by the Senegalese authorities. Thus repatriation must comply with Spanish national laws, international standards and, in particular, the Convention on the Rights of the Child.¹⁷ The bilateral agreement came into force on 1 July 2008.¹⁸

CONCLUSION

Early analysis of available data on the migration of children of Senegalese origin allows us to formulate the following hypothesis: the factors that make these children leave are the same as those that make adults migrate, and adult migration to Spain has grown in recent years (approximately 33,000 arrivals in 2006, according to the Spanish Ministry of Interior).

These changes are indicative of a feeling of despair that is shared by adults and children from ever wider social categories in Senegal. The accelerated degradation of the economic and political situation is making rural and urban populations take the 'chance' of migration at the risk of their lives, in full knowledge of the facts.

The countries of origin and of destination cannot afford to ignore this background if they wish to find a relevant response to the migration crisis. The children who migrate have frequently been working for many years already, thus helping their families to survive. The policy for receiving children in Spain must take account of these circumstances and offer protection that makes young migrants more independent through occupational training and employment.

The policy of forced returns initiated by the Spanish authorities cannot in itself be a response to such crisis situations. Effective resettlement of the children in their country of origin must be associated with efficient development programmes that can offer all these young people suitable occupational opportunities so that they can enjoy a decent future with their families.

16. Acuerdo entre la República de Senegal y el Reino de España sobre cooperación en el ámbito de la prevención de la emigración ilegal de menores de edad senegaleses no acompañados, su protección, repatriación y reinserción, hecho en Dakar el 5 de diciembre de 2006, *Boletín Oficial de las Cortes Generales*, 20 April 2007.

17. See article 5 of the agreement between Senegal and Spain of 5 December 2006.

18. The agreement was published in the Spanish Official Journal [*Boletín Oficial del Estado*], 18 July 2008, No. 173, pp. 31413–31415 (<http://www.boe.es/boe/dias/2008/07/18/pdfs/A31413-31415.pdf>).

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MIGRATING ALONE

UNACCOMPANIED AND SEPARATED
CHILDREN'S MIGRATION TO EUROPE



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Migrating Alone: Unaccompanied and Separated Children's Migration to Europe

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