

Briefing
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The role of the EU in protecting unaccompanied migrant children from and in Central and Eastern Europe

Speaking points

Migration flows and the EU enlargement are posing new challenges to EU Member States. The protection of unaccompanied minors is a complex issue which has to be primarily approached from the "Child's rights perspective", whether it concerns legal or illegal immigrants, victims of trafficking, asylum seekers or street children. In implementing any action relating unaccompanied children the General comment nr. 6 of the CRC (Committee on the Rights of the Child) should be considered as the main reference and interpretative tool. The full respect to the principle of the "best interests of the child" must be a primary consideration in all actions related to unaccompanied children.

Every year a considerable number of third-country nationals or stateless persons below the age of eighteen arrive on the territory of the Member States, unaccompanied by an adult responsible for them or left unaccompanied after they have entered the territory of the Member States.

EU legislation on migration and asylum already contains the essential safeguards for these unaccompanied children. The EU and its Member States have to make sure that these essential safeguards have a real effect.

Relevant Community migration instruments already contain provisions on reinforced protection of children, which address directly or indirectly unaccompanied children. After specifying that the best interests of the child shall be a primary consideration for Member States when implementing relevant provisions that involve children, the "**asylum directives**" include specific provisions for unaccompanied children, like ensuring representation of the children, accommodation, access to health care and education, etc.

In the process of revision of the asylum package, the Commission adopted on 3 December 2008 **amending proposals** aiming at ensuring better and more equal standards of treatment for asylum seekers. The proposal aims *inter alia* to ensure an adequate standard of living for persons with special needs by for example requiring MSs to set up mechanisms for identifying such needs as soon as an application for international protection has been lodged and by ameliorating the conditions for accessing health care. Concerning the provisions aiming at increasing the level of protection afforded to minors, the proposal specifies that minors shall not be detained unless it is in their best interests, while unaccompanied minors shall never be detained. The proposals also contain important provisions to guarantee the right for family reunification to the child.

Secondly, we can witness the movement of number of separated children who are EU citizens and who are voluntarily or involuntarily leaving their countries to come to other MS. These children are often victims of poverty and social exclusion deprived of their rights and lacking

the basic protection, being often subject of exploitation. The fight against the social exclusion and poverty through the cooperation, exchange of best practices between Member States, and funding is therefore crucial in ensuring the access to basic services these children needs.

A particular and urgent challenge is the phenomenon of disappearance of unaccompanied children. Children often go missing from care of Member States Authorities. we do not know much but after escaping they most probably move within the EU territory without being monitored and are at high risk of becoming victims of organized crime (smuggling, human trafficking, prostitution, sexual abuse, illegal human organ trafficking, crime).

The Commission has recently adopted two proposals revising the Council Framework Decision on combating trafficking in human beings and Framework Decision on combating the sexual exploitation of children and child pornography. The proposals should address in a more effective way: the protection of victims, the prevention of trafficking as well as the penal prosecution of perpetrators. Discussions on this proposal are currently taking place at the Council. The Commission hopes that this initiative will lead to a coherent policy on trafficking and fight against sexual exploitation of children consisting of appropriate sanctions, usage of effective investigations and preventive measures as well as protection of victims.

Separated children can easily become "invisible" for the state authorities and therefore their right to protection from harm, abuse, exploitation, violence and neglect in accordance with the UN Convention of the Rights of the Child are at risk of being prevented. They have little or no means of complaint about the violations or abuse they experience and their well-being is insufficiently monitored. As a result, they suffer from a lack of access to their basic rights: health care, education and other basic services and are exposed to neglect and various forms of abuse and violence which endanger their mental and physical health, well-being and life.

We believe that a particular attention should be given to how to reach children who "get lost in the system" and are thus excluded from protection.

In addition to the ongoing discussions at MSs' level, the Commission is planning to organise meetings of expert with the aim of identifying protection gaps, to fill in gaps in information, figures, and providing knowledge pertaining to "invisible" children, including unaccompanied and separated children. Possible approaches to prevent exploitation and abuse as a consequence of lack of protection as well as possible solutions for a better inclusion of these children in the society should be considered.

Role of the civil society and non-governmental organisations: active contribution is essential. The Commission will continue to consult civil society for example in the existing structures such as the European Forum on the Rights of the Child. Children in particularly vulnerable situations will continue to receive special attention, notably in the context of immigration (unaccompanied minors, victims of trafficking, etc.) as well as in the context of the fight against poverty. The Commission has recently proposed the further development of the EU strategy on the rights of the child as one of the priority issues for the so called "Stockholm programme" which will set the priorities of the Commission in the area of freedom, security and justice.

It is clear that an EU common approach is needed to address the various aspects of the phenomenon of unaccompanied children. Such an approach should be based on the respect of the rights of the child in particular the principle of "the best interests of the child". It must also be based on solidarity and sharing of responsibilities between Member States and with the countries of origin.