

**EUROPEAN FORUM ON THE RIGHTS OF THE CHILD
(BRUSSELS, 13 AND 14 NOVEMBER)**

BACKGROUND PAPER FOR WORKSHOP No 3 – 14 NOVEMBER 2012

**THE ROLE OF CHILD PROTECTION SYSTEMS IN
PROTECTING CHILDREN ON THE MOVE**

1. OBJECTIVE OF THE WORKSHOP

The [EU Agenda for the rights of the child](#) recognises that children on the move are often in circumstances where they are vulnerable to harm and require and deserve special protection. Child protection systems can play an important role in responding to the situation of children on the move, by ensuring that their protection needs *as children* are addressed, regardless of their nationality or immigration status.

This workshop will look at the role of child protection systems (CPS)¹ in addressing the situation of children on the move, across the different phases of their journey. The workshop will explore how the CPS can prevent and respond to the protection risks faced by these children and will reflect on common issues and challenges. The workshop will focus on the following three main axes of child protection interaction:

- the prevention, and reduction of the risks, of unsafe unnecessary migration
- reception of children on the move and assistance provided to them
- the identification and implementation of durable solutions for children on the move

While Member States retain overall responsibility for general national child protection systems, the EU has a clear role in relation to addressing the protection needs of children on the move, in particular, through its competence in the fields of asylum, irregular migration and trafficking as well as in the field of external relations and development cooperation. The EU has taken a wide range of actions which can contribute to and support the work of national child protection systems in their regard, for example:

- the development of strategy at EU level (e.g. action plan on unaccompanied minors and the EU Strategy towards the eradication of trafficking in human beings 2012-2016) which place their rights as children at the heart of any response to their situation;
- adopting legislation at EU level with provisions aimed at providing safeguards to protect children on the move from harm;
- Working through EU agencies to ensure practical support for Member States, including the provision of training to actors engaged in the situation of children (e.g. by FRONTEX to border guards or EASO European Asylum Curriculum module on interviewing techniques as well as research undertaken by FRA on the perspectives of unaccompanied asylum seeking children on their situation)

¹ Please read the Forum general background paper on child protection systems: http://ec.europa.eu/justice/fundamental-rights/files/general_background_paper_en.pdf

- the provision of funding to a range of stakeholders for projects that respond to the situation of these children across Europe and outside the EU (see page 65 ff of the staff working document at Link No 3 below)
- providing a regional forum to exchange national experience and information (expert groups on guardianship, family tracing, EU Presidency discussions on the situation of these children)
- the provision of guidance (EASO future guidance on age assessment, future guidelines on CPS, good practice models)

Taking due account of the role of the **EU and its competences**², some of the envisaged workshop outcomes are:

- an exchange of experience and information among experts and stakeholders on the role of child protection systems in responding to the situation of children on the move
- discussion on the role of guardianship and other actors engaged in the situation of children
- discussion on the frameworks for national and transnational coordination and cooperation
- an exchange of views on practical steps that can be taken by all workshop participants to better protect children on the move, including consideration of the development of guidelines on child protection systems by 2014 as per the EU Strategy towards the eradication of trafficking in human beings.

A number of cross-cutting principles and themes identified in the EU Agenda, such as the best interests of the child, child poverty, child participation and the need for better data will be addressed in each of the workshops. Each workshop will also consider the role of the EU, with due regard to its competences.

2. STRUCTURE OF THE WORKSHOP

The three-hour workshop will be chaired by the Commission and co-chaired by an expert working with Save the Children on EU child migration and protection policies. The workshop will be introduced by a panel of 2-4 experts, who play a key role in this area, which will provide insight into the situation and highlight specific challenges in respect of the role of child protection systems in protecting children on the move.

² Some examples of where the EU contributes to child protection system approach: **Legislation and strategy:** in the [EU action plan on unaccompanied minors \(2010-2014\)](#) a CPS approach in the country of origin is expressly articulated. [The EU Strategy towards the eradication of trafficking in human beings 2012-2016](#) provides for development of guidelines for child protection systems by 2014 and [Directive 2011/36 on preventing and combating trafficking](#) in human beings, and protecting its victims, includes provisions on assistance, support and protection measures (incl. durable solutions and presumption of childhood) for child victims (Article 13), assistance, support and protection for unaccompanied child victims (Article 16), the child's right to be heard and to have her/his views taken into account (Article 14). The recast EU asylum instruments addressing asylum reception conditions, asylum procedures and qualification, as well as Dublin II transfers of asylum seekers between EU Member States, recently adopted or currently in negotiation, include specific provisions on child protection, including provision on the best interests of the child, family unity and tracing, guardians/representation, the right to be heard, special safeguards in relation to detention as well as age assessment procedures. [Directive 2008/115 \(the Return Directive\)](#) obliges the Member States to take due account of the best interests of the child and has a number of specific safeguards with regard to children (Article 5, 10, 14 and 17). Finally, the [Schengen Borders Code \(Regulation 562/2006\)](#) requires that border guards pay particular attention to minors (Article 6 of Annex VII). Insofar as **EU citizens** are concerned, [Directive 2004/38 on free movement](#) specifically refers to the best interests of the child.

A maximum of 30 participants from all EU Member States and Croatia will be invited to take part in the workshop. The intention is for participants to represent a varied range of practitioners and stakeholders, to include

- Representatives of government responsible for migration, asylum and for CPS
- Representatives of judges, guardians, lawyers, child protection actors and police authorities
- International organisations working in the area of migration and children's rights
- European/International NGOs addressing migration issues for children
- Professionals and academics with expertise on the functioning of the CPS and children on the move

3. CONTEXT

"Children on the move" covers the broad range of children who migrate from their country of origin to and within the territory of the EU in search of survival, security, improved standards of living, education, economic opportunities, protection from exploitation and abuse, family reunification or a combination of these factors. They may travel with their family or independently or with non-family members. They may be seeking asylum, victims of trafficking, or undocumented migrants. The status of children on the move may differ at various stages on their journey and they may encounter many differing situations of vulnerability.

They may be in vulnerable circumstances because of their nationality or migration status and may face particular protection issues while on the move, for example:

- Recognition as a child in the absence of proper documentation
- vulnerability to trafficking³ or re-trafficking
- living on the street
- detention as an irregular migrant
- difficulties in restoring family links or maintaining family unity
- lack of access to essential services, including health and accommodation services
- refusal of entry at border crossings
- sending back and return issues, where a child is transferred to another EU country or a third country

4. DATA COLLECTION

Comparable and reliable data collection is vital for evidence-based policy development. The Office of the EU Anti-Trafficking Coordinator, in cooperation with Eurostat, is in the process of finalising a data collection exercise on victims of trafficking in human beings, police investigations, prosecutions and convictions by the end of 2012. Preliminary results for 2008-2010 demonstrate that three quarters of registered victims were trafficked for sexual exploitation, and the rest for labour exploitation (a decrease from 24% in 2008 to 14% in 2010), forced begging (3%) and domestic servitude (1%). Women and girls are the main victims of trafficking in human beings; female victims accounted for 79% (of whom 12% were girls) and male victims for 21% (of whom 3% were boys). Most Member States reported that most victims come from within the EU, mainly from Romania and Bulgaria.

³ "Trafficking in human beings is a complex transnational phenomenon rooted in vulnerability to poverty, lack of democratic cultures, gender inequality and violence against women, conflict and post-conflict situations, lack of social integration, lack of opportunities and employment, lack of access to education, child labour and discrimination". [EU Strategy towards the Eradication of Trafficking in Human Beings 2012-2016, COM\(2012\) 286 final, p.3.](#)

As noted in the Action Plan on unaccompanied minors, statistics about this group of migrants are limited and, despite some recent improvements in data collection, this continues to be the case. In several Member States, different level administrations are in charge of minors' reception and care, which complicates the collection of data. The most reliable statistics relate to unaccompanied children applying for asylum, but this does not allow one to assess the full extent of the phenomenon. In 2011, there were 12,225 asylum applications by minors across the EU27 – a number comparable to previous years. The revised Guidelines on data collection under Article 6 of the Migration Statistics Regulation 862/2007, finalised on 11 January 2011, enabled Eurostat to collect data on an additional category of permits, namely residence permits issued to unaccompanied minors others than these applying for asylum. Unfortunately, fewer than half of the EU Member States report any unaccompanied minors through this category.

5. THE WAY AHEAD

Forum participants are invited to exchange views on practical measures that can be taken to promote interagency cooperation and a multidisciplinary approach to ensure the best possible outcomes for children on the move. Participants should also explore how the EU and other actors can support Member States in this field. Participants are also invited to reflect on how to achieve the maximum benefit from EU funding opportunities and platforms for exchange of experience.

Useful references and resources/tools – (see also Footnote 1 above)

1. [EU action plan on unaccompanied minors \(2010-2014\);](#)
2. [EU action plan on unaccompanied minors mid-term report 28.09.2012](#)
3. [EU Action plan on unaccompanied minors mid-term report 28.09.2012 – staff working document](#)
4. [The EU Strategy towards the eradication of trafficking in human beings 2012-2016](#)
5. [Directive 2011/36 on preventing and combating trafficking](#) in human beings, and protecting its victims
6. [21 June 2011 Commission report of the EU expert group on unaccompanied minors in the migration process on the subject of 'guardianship'](#)
7. [Comparative study on practices in the field of the return of minors \(report and checklist for MS\), ECRE and Save the Children on behalf of DG HOME, December 2011,](#)
8. [Report on separated asylum-seeking children in EU Member States, 2011, EU Fundamental Rights Agency](#)
9. [General Comment No 6 of the UN Committee on the rights of the child](#) (2005) on the treatment of unaccompanied and separated children outside their country of origin
10. [UNICEF and OHCHR: Judicial implementation of Article 3 on the convention on the rights of the child in Europe – the case of migrant children including unaccompanied children, June 2012:](#)
11. [European Migration Network \(EMN\) comparative study: policies on reception, return and integration arrangements for unaccompanied minors, May 2010](#)
12. [Separated Children in Europe Programme, SCEP Statement of Good Practice, March 2010, Fourth edition, March 2010](#)
13. [Undocumented children in Europe: invisible victims of immigration restrictions, Platform for International Cooperation on Undocumented Migrants \(PICUM\), 2009](#)
14. [Towards a European Network of Guardianship Institutions, ENGI Report, 2010](#) - see also www.epim.info
15. [UN High Commissioner for Refugees, 26 June 2012, A framework for the protection of children](#)
16. [UNICEF Guidelines on Protection of the Rights of Child Victims of Trafficking](#)
17. [Child Trafficking in the Nordic Countries: rethinking strategies and national responses, UNICEF, 2012](#)