

## EU ACTIONS ON CHILDREN IN MIGRATION

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### Abstract

*The subject of this paper is centered on the migrant children rights in the context of huge waves of migrants to the European Union. The principles outlined in the international human rights framework apply both to children and adults. Children are mentioned explicitly in many of the human rights instruments; standards are specifically modified or adapted where the needs and concerns surrounding a right are distinct for children. All children have the same rights; all rights are interconnected and of equal importance. Having this regard, there are 50 million children in migration worldwide - 28 million of them fled violence and insecurity; one in 200 children is a refugee; one in three children living outside country of birth is a refugee; children constitute half the refugee population; one in eight migrants is a child. There are approximative 5.4 million children migrants in Europe (about 7% of region's migrants) and is fundamental to ensure that any child needing protection receives it and that, regardless of their immigration status, all children are treated as children first and foremost.*

**Keywords:** *migration, children, human rights, asylum, European Union*

The reality of the past years has revealed that a growing number of children in migration have arrived in the EU area; the reports show that unfortunately many of them are without their families for many reasons, for example: to escape from wars and conflicts, poverty or natural catastrophes, discrimination or persecution, they are sent by their family in the expectation of a better life or in order to access education and welfare, including medical attention, to join family members, or they are victims of trafficking destined for exploitation etc.; the massive waves of immigrants come to Europe from different Middle East countries and Africa.

In January 2017, in Europe, 27% of asylum applicants were children (501 per day) registered as at 12.04.2017. In 2016, 362.376 people arrived in Europe by sea; 25.800 unaccompanied or separated children arrived in Italy, by sea, in 2016; more than quarter of a million children arrived by sea to Europe, in 2015 (314.873 children).<sup>1</sup>

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<sup>1</sup> European Commission, Justice, “Children in migration”, [http://ec.europa.eu/justice/fundamental-rights/rights-child/protection-systems/index\\_en.htm](http://ec.europa.eu/justice/fundamental-rights/rights-child/protection-systems/index_en.htm). Accessed: 19.09.17.

As at 12 April 2017, 32.750 people had arrived by sea since 1 January 2017, of whom 26% were children, 17% were women and 58% were men. Thirty percent (30%) of those who arrived in Greece were children (as at 9 April 2017). Thirteen percent (13%) of those arrived in Italy were children (as at 9 April 2017, 91% percent of children arrived in Italy were unaccompanied).<sup>2</sup>

The majority of these unaccompanied children are boys; 13% are younger than 14 and a half are aged 16-17. In some cases, children entered the EU unaccompanied by an adult and they travel to Europe to escape from war, conflict, persecution, serious harm or extreme poverty. Often they travel to Europe with the assistance of smugglers, sometimes having to work along the way to earn the necessary money. Children risk, and will continue risking, their lives to get to Europe by taking dangerous, sometimes fatal routes, most of the time crossing the Aegean Sea by boat but also from Northern Africa to Italy. International Organisation for Migration offer some statistics and they show that of 30% recorded deaths in the Aegean Sea were children.<sup>3</sup>

More than 10,000 unaccompanied children were reported as missing in Europe (in 2015) and nobody knows the whereabouts of these children, probably some may have found their way to their destination and have been reunified with families and friends; unfortunately, others may have become victims of human trafficking.

In this regard, the EU has to face new challenges, we all know that in this moment the organisation is passing a hard period, as we have seen the Greek economic crisis or concerning the Brexit, these being just two of the regional major issues.

Nowadays, this challenge is a premiere if we take into consideration the massive impact of the migrants' wave assault on Europe, both in institutional and human terms.<sup>4</sup>

In the last years, around thirty per cent of asylum applicants in the European Union were children; having this respect there has been a six-fold increase in the total number of child asylum applicants in the last six years.<sup>5</sup>

The EU has a moral duty as well as a legal responsibility for managing the flood of migrants and refugees which is the largest movement of people Europe has seen since the World War II.

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<sup>2</sup> *Idem.*

<sup>3</sup> Eurochild, "Turning the tide for children on the move", p. 2, [http://www.eurochild.org/fileadmin/public/05\\_Library/Turning\\_the\\_tide\\_children\\_on\\_the\\_move.pdf](http://www.eurochild.org/fileadmin/public/05_Library/Turning_the_tide_children_on_the_move.pdf). Accessed: 19.09.2017.

<sup>4</sup> Bolborici Ana-Maria, 2016, "The immigration crisis - reflections concerning the crisis of European identity", Bulletin of the Transilvania University of Brasov, Vol. 9 (58), No 1, Series VII: Social Sciences · Law, p. 2.

<sup>5</sup> European Commission, "Communication from the Commission to the European Parliament and the Council the Protection of children in migration", Brussels, 12.4.2017, [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/20170412\\_communication\\_on\\_the\\_protection\\_of\\_children\\_in\\_migration\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/20170412_communication_on_the_protection_of_children_in_migration_en.pdf). Accessed: 14.09.2017.

Since 2015, the EU has taken several measures to manage the migration crisis as well as to improve the asylum system. In this moment the European Union is obliged to manage the refugee crisis but also numerous issues that arise, such as human trafficking, the problem of immigrants, the status of this migrants (including the children's), setting up procedures concerning their assimilation or expulsion, the status of asylum seekers etc.

Generally speaking, the state of law does not impose a separation between its citizens from other non-EU citizens, not prevent them from having a family life; democratic state gives its citizens the option of living a proper family life, parents to live near their children; the EU not discriminate between its citizens with regard to the realisation of their family life and non-EU citizens but impose a number of general rules.

The EU Directive on Family Reunification the right to family reunification should be practiced in accordance with the values and principles that prevail in the Member States; in particular, must be considered and respected the rights of women and children, as well.

The waves of migration have influenced such a serious indirect violation of the family life and equality of many thousands of European citizens but also a disproportionate illegal presence of non-EU citizens in this zone.

As said the first Vice-President Frans Timmermans<sup>6</sup>, children should be the top priority as they are the most vulnerable, especially when they have nobody to guide them. In this regard, the European Commission develop concrete actions to better protect, support and take care of the best interests of all children who are arriving in the European Union.

"When speaking about child migrants, we should never forget that first and foremost they are children. Their best interests must be taken into consideration at all stages of the migration process. Child migrants, especially those who are unaccompanied, should be supported by guardians or foster families, as early as possible. The integration of these children into our societies depends on how fast they can go back to a more stable life. We will continue to support Member States to give these children the childhood they deserve", considers Věra Jourová, the Commissioner for Justice, Consumers and Gender Equality.<sup>7</sup>

The migrant children live a range of experiences, many of them traumatic, they are in a state of vulnerability, on the one hand, because of their age, the distance from home, and on the other hand, because of their separation from parents or extended family.

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<sup>6</sup> European Commission - Press release, "Protecting all children in migration: Commission outlines priority actions", Brussels, 12 April 2017, [http://europa.eu/rapid/press-release\\_IP-17-906\\_en.htm](http://europa.eu/rapid/press-release_IP-17-906_en.htm). Accessed: 14.09.2017.

<sup>7</sup> *Idem.*

Children in migration are exposed to different forms of risks like violence, exploitation, trafficking in human beings, physical or sexual abuse after arrival on EU territory. If these children are not protected, by the European states, they may risk being marginalised and drawn into criminal activity or radicalization.

Both girls and boys are exposed and vulnerable, but girls are particularly at risk of forced marriages for avoiding the sexual abuse. All these children require specific, appropriate and immediate protection from the authorities.

Protecting the people (not only the children) in migration it means about upholding European values of respect for human rights, dignity, and other positive rights. The present problem of migration imposes respecting the Charter of Fundamental Rights of the European Union and international human rights law on the rights of the child. In this context, the protection of the children in migration is a priority for reinforcing EU law.

The Treaty on the Functioning of the European Union (known as the Treaty of Lisbon, signed on 13 December 2007) stressed that the Union shall accede to the European Convention for the Protection of Human Rights and Fundamental Freedoms. Fundamental rights, as guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms and as they result from the constitutional traditions common to the Member States, shall constitute general principles of the Union's law.

The Member States has been active, in the last years, regarding these problems and the existing EU policies and legislation provide a solid framework for the protection of the rights of the child in migration covering multiple aspects such as integration, education, health measures etc.

The EU coordinate an agency named the European Asylum Support Office (EASO) which provides tools to help Member States prepare for an influx of asylum applicants and to implement EU legislation in the field.

EASO was established in 2010 by a Parliament and Council Regulation and became fully operational in mid-2011. The key objectives of EASO are: to develop practical cooperation among the Member States on asylum through facilitating exchanges of information on countries of origin, providing support for translation/interpretation and for training of asylum officials, and assisting in the relocation of beneficiaries of international protection; to support the Member States under particular pressure, in particular through the Mechanism for Early Warning, Preparedness and Crisis Management, and the coordination of Asylum Support Teams.<sup>8</sup>

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<sup>8</sup> For more details see European Parliament, "European Asylum Support Office (EASO)" 5 February 2015, [http://www.europarl.europa.eu/RegData/etudes/ATAG/2015/548973/EPRS\\_ATA%282015%29548973\\_REV1\\_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/ATAG/2015/548973/EPRS_ATA%282015%29548973_REV1_EN.pdf). Accessed: 18.09.17

One European framework for the protection of the rights of the child in migration is offered by the Action<sup>9</sup> Plan on Unaccompanied Minors (2010-2014). This document highlights the prevention of unsafe migration and trafficking of children as the first step in effectively tackling the issue of unaccompanied minors. The actions and policies must be differentiated according to the group the unaccompanied minors belongs to (e.g. asylum seekers, victims of trafficking in human beings, minors illegally entering the EU territory for the purpose of work or other) and/or the country or region of origin.<sup>10</sup>

The Action Plan had identified and stresses that the main axes of intervention are, as follows;<sup>11</sup> the EU and the Member States need to continue their efforts to integrate migration and in particular the migration of unaccompanied minors, in development cooperation, in key areas such as poverty reduction, education, health, labour policy, human rights and democratisation and post-conflict reconstruction.

The document argues that some actions could be directed, on the one side, at the children and, at the other side, at those who are in direct contact with them.

The Action Plan mentions that can be targeted awareness-raising activities and training should be promoted in countries of origin and transit to improve early identification and protection of potential victims of trafficking in human beings. These activities should imply the potential victims and their communities, but also the law enforcement officers, border guards and other relevant actors.

Other activities should focus on informing children and their families about the risks associated with irregular migration to the EU, about alternative possibilities of studying, training and working in the country of origin and about the legal paths to study in the EU.

It is also important to involve diasporas in the EU in these awareness-raising activities in their countries of origin, as well as to use informal channels of communication with the communities of origin to dispel false myths about life in Europe.

Even if this Action Plan is thought for prevention the future massive waves of migrant people (also children), actually the EU continue to promote the development of child protection systems, to prevent and respond to risks of violence, abuse, exploitation and neglect of children, to support children who are not in the care of their families and to provide protection to children in special institutions.<sup>12</sup>

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<sup>9</sup> For more details see Communication from the Commission to the European Parliament and the Council Action Plan on Unaccompanied Minors (2010 - 2014), Brussels 6.5.2010. <http://eur-lex.europa.eu/LexUriServ/LexUri>

Serv. do?uri=COM:2010:0213:FIN:en:PDF. Accessed: 18.09.17

<sup>10</sup> *Idem.*

<sup>11</sup> *Idem*, p. 7.

<sup>12</sup> *Idem.*

The EU considers that it is important to continue the supporting of the birth registration systems which, through ensuring that all children have a legal identity (even if the parents of those children haven't European citizenship) and thus access to their legal rights, playing an important role in child protection.

In April 2017 some members of the European Parliament had stressed that detention or any confinement of children, whether unaccompanied or within families, should be prohibited.<sup>13</sup> They also say that the Member states must ensure that every unaccompanied minor gets a guardian from the moment of their arrival in the EU, as well as immediate access to health care and education under the same conditions as national minors.

The European Commission outlined (in April 2017) a few priority actions<sup>14</sup> to improve the protection of children in migration and ensure a close link between the asylum and child protection services.

The Commission agrees that it is important to assure a swift identification and protection upon arrival; a person responsible for child protection should be present at an early stage of the registration phase and in all reception facilities hosting children and child protection officers should be appointed in each hotspot. Also, the Commission stressed that it is necessary that the Member States should put in place the necessary procedures to systematically report and exchange information on all missing children.

The Commission has to ensure adequate reception conditions for children; the needs of each child must be assessed as early as possible upon arrival and all children need to have access to legal assistance, healthcare, psychosocial support and education without delay and regardless of their status. For unaccompanied minors, the possibility of foster or family-based care should be provided.

Foster care is a way of providing a family life for children who cannot live with their own parents for different reasons. Foster care is often used to provide temporary care while parents get help sorting out problems, or to help children or young people through a difficult period in their lives. Separated children arrive into foster care managing difficult experiences and multiple pressures in their journey toward settlement. These include displacement, loss of family, abuse and persecution. They then have to manage the multiple and sometimes conflicting ways they are processed by the state where immigration concerns can take precedence over access to welfare.<sup>15</sup>

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<sup>13</sup>European Parliament, "Ease access to labour market for asylum-seekers to boost integration, MEPs say", 25.04.2017. <http://www.europarl.europa.eu/news/en/press-room/20170425IPR72302/ease-access-to-labour-market-for-asylum-seekers-to-boost-integration-meps-say>. Accessed: 18.09.17

<sup>14</sup> *Idem.* European Commission - Press release, "Protecting all children in migration: Commission outlines priority actions", Brussels, 12 April 2017, [http://europa.eu/rapid/press-release\\_IP-17-906\\_en.htm](http://europa.eu/rapid/press-release_IP-17-906_en.htm). Accessed: 19.09.2017.

<sup>15</sup> University of Oxford, Research in Fostering and Education, "Key Points-Migrant children in foster care", <http://reescentre.education.ox.ac.uk/research/teenagers-in-foster-care/migrant-children-in-foster-care/key-points-migrant-children-in-foster-care/>. Accessed: 19.09.17

Another imperative issues stressed by the Commission is the swift status determination and effective guardianship for migrant children and regarding this, the role of guardians for unaccompanied minors should be strengthened. To this end, the Commission is decided to establish a European guardianship network to exchange good practices. In all procedures related to the migration process, cases with children should always be given priority. Concerted efforts should also be made to speed up family tracing and family reunification procedures, within or outside the EU.

The Commission considers that must be found durable solutions and early integration measures and having this regard will further promote the integration of children through funding and the exchange of good practices. Member States are called upon to step up resettlement of children in need of protection and to ensure that family tracing and reintegration measures are put in place for those children who are to be returned.

The EU has stepped up its work with partner countries on mainstreaming child protection in migration under the Migration Partnership Framework. The European Commission realizes that further efforts are needed to support partner countries in strengthening national child protection systems and in preventing child trafficking.

According to the latest Eurobarometer<sup>16</sup> poll, 73% of Europeans still want the EU to do more to manage the situation. However, 58% of respondents think the EU's actions regarding migration are inadequate, 8% points less than last year.

As we often seen on the daily news, children in migration are often placed in detention centres, in big camps with adults, having no possibility to grow up in a family environment, to interact with the community, or follow mainstream education. Unaccompanied children feel insecure and threatened and often run away from shelters because they want to get to their destination and family reunification may take up to a year. Adding to this insecurity, children are rarely informed of their rights and face very uncertain futures.

Under this circumstances, the Member States should ensure that migrant children's rights are respected and that they are respected alongside the rights of all other children. All children have the right to grow up in a family environment in the community, free from violence, have access to education, to healthcare and leisure time as they are enshrined in the UN Convention on the Rights of the Child. For these reasons children's needs should be examined in an individualized way and children should participate in the decisions that affect their lives.

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<sup>16</sup> The Eurobarometer survey was conducted among 27,901 people from all EU countries on 18-27 March and was set up to be representative of the population as a whole. For more details see "Migration crisis: 73% of Europeans wants EU to do more". <http://www.europarl.europa.eu/news/en/headlines/priorities/20170904TST83006/20170505STO73515/migration-crisis-73-of-europeans-wants-eu-to-do-more>. Accessed: 18.09.17

The EU and the Members states are necessary to respect the ratified agreements and Conventions and open the borders for the people that are fleeing their war-torn homes. The EU institutions should lead the creation of a European system for the identification and protection of the unaccompanied children. The failure of the EU politics in this regard often serves as an excuse not to do very much for the protection of the unaccompanied children which experience migration.

As a final conclusion, is determined, concerted and coordinated follow-up to the key actions set out is required at the EU, national, regional and local level, also in cooperation with civil society and international organizations.

And as we stressed up, in all procedures related to the migration process, cases with children should always be given top priority because they are sensitive, vulnerable and they need special treatment. Children have the right to be protected, in line with relevant provisions of EU law, including the EU Charter of Fundamental Rights, and with international law on the rights of the child. The child's best interests must be the primary consideration in all actions or decisions concerning children.<sup>17</sup>

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<sup>17</sup> *Idem.* European Commission - Press release, "Protecting all children in migration: Commission outlines priority actions", Brussels, 12 April 2017, [http://europa.eu/rapid/press-release\\_IP-17-906\\_en.htm](http://europa.eu/rapid/press-release_IP-17-906_en.htm). Accessed: 19.09.2017.