



**European Committee
of the Regions**

CIVEX-VI/025

125th plenary session, 9-11 October 2017

OPINION

The protection of children in migration

THE EUROPEAN COMMITTEE OF THE REGIONS

- welcomes the Commission's acknowledgement of some deficiencies in the EU and its Member States with respect to protection of children in different types of migration situation and the fact that the Commission has identified ways of improving implementation so as to enable timely, coordinated and more targeted action in this area;
- notes that children's fundamental rights are clearly set out in Article 24 of the EU Charter of Fundamental Rights and must therefore be incorporated into all relevant European and national policies;
- opposes any form of detention of children based on their migrant status and stresses that this option should only be used as a last resort and in exceptional cases, e.g. when a child's life or health is at risk, and should be for as short a time as possible and never under prison-like conditions. Detention must be supervised at all stages by the competent authority and/or the relevant public services for children;
- points out that both the EU and its Member States have a duty to ensure the right conditions for local and regional authorities to receive migrants;
- believes that the principle of children's best interests must guide decisions and measures; points to the lack of criteria for identifying and assessing the child's best interests, and therefore welcomes the prospect of the Commission and EU agencies providing guidance, training and tools for this task;
- believes it is important for guardians to receive appropriate training from a competent institution or public authority or be able to demonstrate that they have obtained this. They should have responsibility for a limited number of children. Guardians must be employed and paid by, and be able to work autonomously of, the Member States;
- emphasises that a good reception and integration process is therefore a long-term investment in welfare, democracy and human rights.

Rapporteur

Yoomi Renström (SE/PES), Member of Ovanåker Municipal Council

Reference document

Communication from the Commission to the European Parliament and the Council – The protection of children in migration, COM(2017) 211 final

Opinion of the European Committee of the Regions - The protection of children in migration

I. POLICY RECOMMENDATIONS

Background

Children in migration are a particularly vulnerable group. The number of children arriving in the EU in various types of migration situation has increased dramatically. Many of these children are unaccompanied, i.e. without adult guardians. They represented around 30% of all asylum-seeking children in 2015 and 2016, and their number has increased six-fold over the last few years.

The Commission communication looks at areas where the protection of children in migration could be improved. Its recommendations are based on existing legislation, processes and initiatives. The increase in the number of children in migration has put pressure on reception and in child protection systems. By proposing a number of key measures that the European Union and its Member States, supported by the relevant EU bodies (EASO, FRA and Frontex), should either introduce or should implement better, the Commission aims to address the most acute shortcomings in the protection of migrant children and to meet children's needs and uphold their rights in migration situations.

THE EUROPEAN COMMITTEE OF THE REGIONS

1. welcomes the Commission's communication in light of the deficiencies in the EU and its Member States with respect to protection of children in different types of migration situation. It is positive that the Commission has identified ways of improving implementation so as to enable timely, coordinated and more targeted action in this area;
2. shares the Commission's view about the importance of a comprehensive approach that includes both unaccompanied children and children arriving with their families, regardless of their status and at all stages of migration. Another welcome aspect is that the Commission's proposed measures extend from addressing the underlying reasons for children's dangerous journeys to the EU and strengthening the child protection system along migration routes to measures that would improve reception in the EU, integration, and return and family reunification mechanisms;
3. notes that children's fundamental rights are clearly set out in Article 24 of the EU Charter of Fundamental Rights. The fundamental rights of the child are a cross-cutting, multifaceted issue, and must therefore be incorporated into all relevant European and national policies¹;
4. points out that children's rights are universal, indivisible and interrelated. The EU and its Member States have all ratified the UN Convention on the Rights of the Child (UNCRC), and they are urged to ensure compliance with the provisions set out in that convention. The UNCRC

¹ CoR own-initiative opinion on *Local and regional cooperation to protect the rights of the child in the European Union* (CdR 54/2010).

should be used as a framework, not just when rights are violated, but also to improve development and opportunities for all children and young people²;

5. notes that there is an institutional and legal framework for protecting children's rights in the EU, e.g. through the UNCRC, the European Convention on Human Rights, and other key international agreements entered into by the Member States. The challenge is to actually apply these legal instruments in the current situation in Europe where there has been a dramatic increase in migrating children who need protection;
6. highlights the link between the present opinion and other CoR opinions on proposals for reform of the asylum system that were adopted in 2016³, and repeats its call for a comprehensive, sustainable EU migration strategy based on solidarity and respect for human rights, including measures to provide effective protection for the most vulnerable migrants, namely children;
7. considers the communication under discussion to be an important complementary contribution to the new Common European Asylum System (CEAS) and urges the EU institutions involved in negotiations about the future asylum system to ensure that children's rights feature clearly in every aspect of it;
8. commends the Commission's proposals for specific key actions that highlight the responsibility of the EU and its Member States for protecting children in migration. It is important to safeguard children's rights throughout the whole migration process;
9. welcomes the Commission's concern to ensure uniformity and better reception conditions for children and young people in all the Member States, but points out that both the EU and its Member States have a duty to ensure the right conditions for local and regional authorities to receive migrants;
10. points out that protection of children in migration cannot be assured without a broad partnership between all those concerned: the EU institutions, the Member States, and local and regional authorities, as well as civil society. Local and regional authorities now help to determine the practical conditions in which vulnerable migrant children live, and they play a key role in coordination with other relevant players;
11. is concerned that the communication fails to consider the circumstances and conditions faced by local and regional authorities, and emphasises that their experiences and situations must guide the proposals put forward. If new ways of working are to be put into effect, then local and regional authorities must be involved at an early stage and throughout the whole process. The EU and the Member States must develop targeted and locally adapted support in the form of funding, legislative and regulatory systems, and skills;

² See footnote 1.

³ COR-2016-05807-00-00-AC and COR-2016-03267-00-00-AC.

12. sees migration and development policy as closely linked: cooperation at international, national, regional and local level is critical to achieving uniform protection for children in migration in line with the Sustainable Development Goals of Agenda 2030;

Children's best interests must be the guiding principle

13. believes that the principle of children's best interests, as defined in the provisions of the UNCRC, must guide decisions and measures throughout the whole asylum process, as well as for children who are not seeking asylum. A child is defined as any person aged 18 or under. To determine a child's best interests their opinions must be ascertained, and for this the child needs access to all relevant information about both their rights and the asylum process. Information must also be appropriate to the child's age and other circumstances. All of this should be guaranteed by appointing a legal representative for the child or, as the case may be, a guardian ad litem;
14. points to the lack of criteria for identifying and assessing the child's best interests, and therefore welcomes the prospect of the Commission and EU agencies providing guidance, training and tools for this task;
15. believes that children's particular vulnerability should be a concern and that cases involving children must therefore be given priority. An investigation should be carried out for every child precisely to establish that child's specific protection needs. There is reason to welcome the specific guidelines on operational standards and material reception conditions for unaccompanied children being drawn up by the European Asylum Support Office (EASO) in 2017;
16. believes the Commission is right to call on the Member States to ensure that people working with migrant children in any situation have appropriate training. As well as training, there is a need to fund and provide support for the sharing of experience and best practice;

Migrant children need protection

17. agrees that the first step in strengthening support for migrating children is to address the underlying reasons for which children embark on perilous journeys in Europe. This means successfully combating poverty and privation, as well as inequalities in living standards, and addressing prolonged and violent conflicts. It is also important to develop integrated child protection systems in third countries;
18. notes that children who are fleeing or in migration represent a particularly vulnerable and exposed group, and have often been victims of extreme forms of violence, exploitation, trafficking and criminality, as well as physical, psychological and sexual abuse. The type of vulnerability of girls and boys may differ: girls are more susceptible to sexual and gender-based violence, and are particularly at risk of forced marriage, whereas boys are at risk of being drawn into criminal activity. A gender dimension must therefore always be applied when planning, implementing and assessing efforts to protect children;

19. notes that particular attention should be paid to children arriving with adults where the adult-child relationship is unclear, so as to guarantee protection of the child's health and rights;
20. observes that the past few months have seen record fatality levels among refugees and migrants, many of them children, in the central Mediterranean. The Committee refers here to its previously stated position⁴ and echoes Unicef's call on the EU and its Member States to take measures to protect children forced to leave their homes, by preventing exploitation and trafficking of children, and by stepping up the child protection programmes in Libya;
21. underlines the importance of providing a child protection ombudsman at every reception centre where children are to be registered and identified, with that person serving as a contact point in all questions concerning children and children's rights;
22. believes that information collected must be comparable between Member States and broken down by gender. When biometric data and fingerprints are collected, the methods should be based on the child's best interests and appropriate to each child's gender and particular circumstances. This requires the presence of a child protection ombudsman;
23. believes that there must be a functioning and legally watertight age assessment system in the EU. It is important from a children's rights and legal certainty perspective that an applicant's age be assessed early on in the process. It is a welcome step that the EASO is updating its age assessment guidance in 2017 so that the procedure treats children more equally;
24. stresses the need to improve cooperation, monitoring and measures in relation to children who go missing within the EU. An increasing proportion of children are going missing with only a few being found again. Missing migrant children have the same rights as other children. To counter the disappearance of children, a legally watertight and systematic method is needed of reporting and responding each time a child goes missing;
25. welcomes the plan for the Commission's Knowledge Centre on Migration and Demography to compile a data repository with information on children in migration;

Types of accommodation for children in migration

26. encourages the EU and the Member States to promote the development of different types of accommodation for unaccompanied children. These could be placement with a family, various facilities hosting children, or accommodation with adult relatives. The child's best interest should be assessed before such placements;
27. opposes any form of detention of children based on their migrant status. The negative effects on children of detaining them means that this option should only be used as a last resort and in exceptional cases, e.g. when a child's life or health is at risk, and should be for as short a time as possible and never under prison-like conditions. In any case, this must be supervised at all stages by the competent authority and/or the relevant public services for children. The detention

⁴ Draft opinion on *Migration on the Central Mediterranean route*, CIVEX-VI/023.

facilities must be specially adapted for children and have properly trained staff. The Committee notes with satisfaction that the promotion of alternatives to detention is one of the key issues debated at the European Forum on the Rights of the Child on 6-8 November 2017;

Children's right to a guardian

28. notes that guardianship systems vary between the Member States, which reduces the chances of equal conditions obtaining for children who are assigned a guardian within the EU. Every unaccompanied child entering a country has the right to a professional guardian who can speak on behalf of the child in legal matters and protect their interests, regardless of whether or not the child is seeking asylum. The guardian is an important figure who should build trust with the child and protect them from various types of exploitation. A good relationship between child and guardian makes integration easier. A guardian can also help to prevent the child from going missing. The Committee is pleased to note that, in line with the Commission Communication on the state of play of the European Agenda on Migration, swift progress has been made at EU level in setting up a European network of guardianship institutions;
29. believes it is important for guardians to receive appropriate training from a competent institution or public authority or be able to demonstrate that they have obtained this. They should have responsibility for a limited number of children. Guardians must be employed and paid by, and be able to work autonomously of, the Member States;
30. welcomes the setting up of a European guardianship network where experiences can be shared and guidelines drawn up;

Children's integration into society and the need for education

31. points in particular to the close link between reception conditions for children and opportunities for integration, notes that procedures and reception conditions should not be allowed to hold up or compromise the integration process, and highlights how important it is to promptly launch the process of acquiring a legalised administrative status;
32. believes that early integration of children is critically important in supporting their development into adulthood. Children's integration into the new country is a social investment that helps to minimise the risk of them falling into criminal activity and their susceptibility to radicalisation. A child's development can be encouraged by ensuring access to education, healthcare, leisure activities and psychosocial support at an early stage;
33. emphasises that prompt and reliable access to inclusive formal education – including early education – and to childcare is one of the most important and powerful ways of integrating children because it promotes language skills, social cohesion and mutual understanding;
34. stresses how important it is for traumatised children to receive adequate psychosocial support to make the integration process easier. Specific services are also needed, and access to sexual and reproductive healthcare, for children who may have been the victims of sexual and gender-related violence;

35. highlights the importance of ongoing efforts to encourage a positive attitude to diversity and to combat racism, xenophobia and above all hate-mongering against children in migration;
36. notes that the Commission highlights the problems arising when unaccompanied minors reach the age of 18 and are no longer regarded as children, even though they still have substantial protection needs. Children must be prepared for this phase of transition to adult life by receiving counselling, support and opportunities for further education and vocational training;
37. underlines the importance of finding lasting solutions to give children normality and stability over the long term. All possible approaches should be considered: integration, return, resettlement or reunification with family members. The most important thing is to carefully assess the child's best interest in every case;

The European, national, regional and local perspectives

38. observes that local and regional authorities should be seen as key partners in implementing and delivering the EU's strategy for protecting children in migration. The Commission is urged to consider the consequences for the local and regional level in all its proposals, since the reception of asylum-seeking children takes place locally and it is here that access is given to various welfare services and that early integration into society begins;
39. calls on the Commission to make clear in its communication with the Member States that they should draw on the experience and knowledge of local and regional authorities, which can provide many good examples and have considerable experience with the protection and reception of children in migration;
40. notes that various types of EU funding and support can facilitate and contribute to protection and integration of children in migration, and urges the Commission to improve the information available about existing support and funding options for local and regional authorities;
41. agrees with the Commission that determined, concerted and coordinated follow-up to the key short-term actions set out in its communication is required at the EU and national, regional and local levels, also in cooperation with civil society and international organisations. All the relevant aspects of EU law should be carefully monitored, in particular compliance with obligations in respect of fundamental rights and safeguards relating to the rights of the child;
42. believes that a coherent system with common objectives for the reception of children in migration at EU and national level will ensure that the right action can be taken at the earliest possible stage. This is crucial in terms of ensuring children's opportunities for rapid integration, successful schooling and good preparation for the employment market. To ensure that these goals can be achieved, all the Member States should support each other and share responsibility for the reception of children in need of protection;
43. points out that children are Europe's future: demographic change means that the proportion of older people in the population is increasing while demand for labour among the working-age

population is rising. An intake of young people is needed for our society to grow and thrive. If reception conditions are right and if an effective integration process is introduced, migrant children and young people can be given good life and development opportunities in our society. A good reception and integration process is therefore a long-term investment in welfare, democracy and human rights.

Brussels, 11 October 2017

The President
of the European Committee of the Regions

Karl-Heinz Lambertz

The Secretary-General
of the European Committee of the Regions

Jiří Buriánek

II. PROCEDURE

Title	Protection of children in migration
Reference(s)	COM(2017) 211 final
Legal basis	Art. 307(4) TFEU
Procedural basis	Rule 41(b)(i) RoP
Date of Council/EP referral/Date of Commission letter	5 May 2017
Date of Bureau/President's decision	11 May 2017
Commission responsible	Commission for Citizenship, Governance, Institutional and External Affairs
Rapporteur	Yoomi Renström (SE/PES)
Analysis	3 May 2017
Discussed in commission	6 July 2017
Date adopted by commission	6 July 2017
Result of the vote in commission (majority, unanimity)	Adopted by majority vote
Date adopted in plenary	9-11 October 2017
Previous Committee opinions	<p><i>On rights of the child</i></p> <ul style="list-style-type: none"> – Local and regional cooperation to protect the rights of the child in the European Union, rapporteur Arnoldas Abramavičius (LT/EPP), CdR 54/2010 – Combating the sexual abuse, sexual exploitation of children and child pornography and Combating trafficking in human beings, and protecting victims, rapporteur Ján Oravec (SK/EPP), CdR 200/2009 <p><i>On migration and asylum</i></p> <ul style="list-style-type: none"> – Reform of the Common European Asylum System Package II and a Union Resettlement Framework, rapporteur Vincenzo Bianco (IT/PES), COR-2016-05807-00-00-AC – Reform of the Common European Asylum System, rapporteur Vincenzo Bianco (IT/PES), COR-2016-03267-00-00-AC – Partnership Framework with third countries on Migration, rapporteur Peter Bossman (SL/PES), COR-2016-04555-00-00-AC – Legal Migration, rapporteur Olgierd Geblewicz (PL/EPP), COR-2016-03699-00-00-AC – The Action Plan on Integration, rapporteur Karl Vanlouwe (BE/EA), COR-2016-04438-00-00-AC – Protection of refugees in their areas of origin: a new perspective 2016, rapporteur Hans Janssen (NL/EPP), COR-2015-06328-00-00-AC
Date of subsidiarity monitoring consultation	N/A