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Missing refugee and migrant children in Europe

Committee Opinion¹

Committee on Social Affairs, Health and Sustainable Development

Rapporteur: Lord Don TOUHIG, United Kingdom, Socialists, Democrats and Greens Group

A. Conclusions of the committee

1. The Committee on Social Affairs, Health and Sustainable Development (“the committee” hereafter) welcomes the timely report prepared by Ms Serap Yaşar (Turkey, NR) for the Committee on Migration, Refugees and Displaced Persons. It fully supports the report’s recommendation that “National parliaments and governments of member States must do whatever is necessary and required in the best interests of the child to avoid the disappearance of child refugees and migrants, thereby reducing risks to their lives and their physical and mental integrity”.

2. I hope that this report will remind us of the gravity of the present situation. I also hope that it will encourage public debate and stronger parliamentary action to prevent the disappearances of child refugees and migrants in Council of Europe member States. With this in mind, the committee wishes to propose a few specific amendments to reinforce the text.

B. Proposed amendments

Amendment A (to the draft resolution)

Add the following new paragraph before paragraph 4.1.:

“the highest standard of protection is provided to all refugee and migrant children, regardless of their status.”

Amendment B (to the draft resolution)

In paragraph 4.2., replace the words “in accordance with each child’s right to live with their parents as enshrined in” with the following words:

“in line with”

Amendment C (to the draft resolution)

After paragraph 4.5., add the following new paragraph:

“feedback from refugees and migrants, including children, on the responses to the problem of missing refugee and migrant children is taken into consideration, in ways that are appropriate, useful and safe, in particular with the help of national human rights institutions and civil society organisations active in this area. This should not delay, impede or prejudice migration and refugee status procedures;”

1. Reference to committee: [Doc. 14417](#), Reference 4343 of 24 November 2017. Reporting committee: Committee on Migration, Refugees and Displaced Persons. See [Doc. 15026](#). Opinion approved by the committee on 3 December 2019.



Amendment D (to the draft resolution)

After paragraph 4.8., add the following new paragraph:

“adequate financial resources are made available for the prevention of disappearances of refugee and migrant children.”

Amendment E (to the draft resolution)

In paragraph 5.1., replace the words “during registration and identification” with the following words:

“during registration, capturing of biometric data and identification”

Amendment F (to the draft resolution)

In paragraph 5.1., add the following sentences at the end of the paragraph:

“The children concerned should be duly informed on how this data will be used. On no account physical or psychological force should be used to obtain fingerprints.”

Amendment G (to the draft resolution)

In paragraph 5.4., replace the words “with special needs” with the following words:

“, in particular those with special needs”

Amendment H (to the draft resolution)

In paragraph 6, after the word “Unaccompanied” add the words “and separated”

Amendment I (to the draft resolution)

In paragraph 6.1., after the words “parents” add the following words:

“or other members of the family”

Amendment J (to the draft resolution)

Replace paragraph 6.2. with the following paragraphs:

“– an adequately trained, individual guardian is appointed on reception of children as early as possible;

– migration status procedures are undertaken for refugee and migrant children within the shortest possible time-frame, and with due respect to the right to a fair procedure and right to an effective remedy;”

Amendment K (to the draft resolution)

After paragraph 7.2., add the following new paragraph:

“gender sensitive policies are developed, and gender sensitive facilities, such as separate and secure housing, are made available to child refugees and migrants.”

C. Explanatory memorandum by Lord Don Touhig, rapporteur for opinion

1. First of all, allow me to congratulate Ms Serap Yaşar (Turkey, NR) on the timely report she has prepared for the Committee on Migration, Refugees and Displaced Persons. While a lot has been achieved in Europe in recent years to address the situation of missing migrant and refugee children, the situation remains very serious, and the Council of Europe member States need to take note and to step up their action.

2. All Council of Europe member States have ratified the UN Convention on the Rights of the Child (UNCRC) and have committed themselves to “respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status”. Not only do children need special protection,

they are entitled to it, regardless of whether they are accompanied or not, have legal documents or none at all, and are duly registered or not (**Amendment A**). The UNCRC also makes it an obligation for States to “trace the parents or other members of the family of any refugee child in order to obtain information necessary for reunification with his or her family”. Such efforts should, of course, also be extended to migrant children (**Amendment B**).

3. In order to address the issue of disappearances of refugee and migrant children, in particular from host families, guardianship, schools, accommodation facilities or other structures, it is important to understand the reasons for such disappearances and to tackle relevant issues according to their urgency and pertinence. It is important to take note of the feedback from the people concerned. While these people are in a position of extreme vulnerability such feedback should be collected with the help of NGOs, associations and other actors in direct contact with migrants and refugees, duly trained on relevant approaches and safeguards (**Amendment C**).

4. Disappearances of refugee and migrant children are a human tragedy. Lack of action to address such disappearances is not compatible with the Council of Europe member States’ commitment to uphold the values of democracy and human rights. Furthermore, such lack of action is also a threat to the well-being and security of our societies. Inhumane conditions of reception result in broken lives and waste of “social capital”. It is a lost opportunity to contribute positively to the well-being of the countries of origin as well as that of the countries of destination. Instead of nurturing a sense of belonging and loyalty, it breeds frustration and resentment. Investing sufficient resources in addressing this issue is not an act of charity. It is common sense, and a necessity. If we are seriously committed to addressing this issue, sufficient resources must be made available urgently (**Amendment D**).

5. While biometric data can be useful for identifying undocumented child migrants, its use also raises serious concerns. Children are not always informed about the fingerprinting process and what it is needed for and they might fear expulsion. Furthermore, some children have damaged fingerprints, either through the work that they have done, the perilous journey undertaken, or as a result of deliberate self-harm, in order to avoid identification.² Coercive measures or threats have been reported to be used during the fingerprinting process. The EU Fundamental Rights Agency points out that “Biometrics must be taken from children in a manner that respects human dignity and is appropriate to their age, gender and maturity”. The Agency has developed relevant safeguards for children when capturing their biometric data, in addition to the Data Protection Convention (which does provide for such safeguards)³ (**Amendment E and F**).

6. All undocumented migrant children need to be given special, individualised medical and psychological care as appropriate, and not just those with special needs (**Amendment G**). However, particular attention should be paid to children with special needs, of course.

7. According to the UNHCR, “while some separated children appear to be “accompanied” when they arrive in Europe, the accompanying adults are not necessarily able or suitable to assume responsibility for their care.” “International protection” is necessary because separated children have left their home community”.⁴ It should be acknowledged that separated children are often considered to be facing similar challenges to those of unaccompanied child refugees and migrants (**Amendment H**).

8. Article 22 of the UNCRC makes it an obligation for States to “trace the parents or other members of the family of any refugee child in order to obtain information necessary for reunification with his or her family” (**Amendment I**).

9. The international legal standards refer to the appointment of a guardian as early as possible in the procedures, ideally once the child is identified as unaccompanied or separated (UNHCR advises even before age-assessment is conducted), not only at reception at the accommodation facilities or other structures. It is however possible later for a child to have another guardian depending on the location of the reception centre, due to geographical proximity rationales. While it is important to ensure that migration status procedures are undertaken promptly, such expediency should not amount to a denial of safeguards (insufficient time to prepare the case, to apply for legal aid, to lodge an appeal, etc.) (**Amendment J**).

10. While both girls and boys are exposed to risk of sexual violence, girls are particularly vulnerable, not least because of the risk of unwanted pregnancies and the physical and psychological damage that this entails. Most of sexual violence remains unreported, out of fear, shame, helplessness, concerns about

2. https://fra.europa.eu/sites/default/files/fra_uploads/fra-2018-biometrics-fundamental-rights-eu_en.pdf

3. https://fra.europa.eu/sites/default/files/fra_uploads/fra-2016-opinion-06-2016-eurodac-0_en.pdf

4. <https://www.unhcr.org/4d9474399.pdf>

discrimination and stigma. Separate facilities for unaccompanied child migrants and refugees are lacking. In many cases, premises are badly lit and basic sanitation facilities are often remote or do not have locks. Even bathing during day time can be dangerous.⁵ More generally, gender sensitive approaches are needed in relevant processes, including asylum procedures. There should be more female interviewers and interpreters involved in this context.⁶ All these issues should be taken into consideration when developing relevant policies and assigning accommodation (**Amendment K**).

5. <https://www.unhcr.org/news/briefing/2018/2/5a7d67c4b/refugee-women-children-face-heightened-risk-sexual-violence-amid-tensions.html>

6. <https://www.coe.int/en/web/commissioner/-/human-rights-of-refugee-and-migrant-women-and-girls-need-to-be-better-protected>