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Protection and alternative care for unaccompanied and separated migrant and refugee children

Committee Opinion¹

Committee on Social Affairs, Health and Sustainable Development

Rapporteur: Ms Sibel ARSLAN, Switzerland, Socialists, Democrats and Greens Group

A. Conclusions of the Committee

1. The Committee on Social Affairs, Health and Sustainable Development (“Committee on Social Affairs” hereafter) welcomes the timely report prepared by Ms Mariia Mezentseva (Ukraine, EPP/CD) for the Committee on Migration, Refugees and Displaced Persons (“Migration Committee” hereafter). The situation of unaccompanied and separated migrant children in Europe is indeed a growing concern for Council of Europe member States.

2. The Committee on Social Affairs fully supports the call to all member States to adopt a common approach, whereby unaccompanied and separated migrant and refugee children are, first and foremost, considered as children. More needs to be done to ensure that these children receive due protection, and that alternative care options are made available to them, in accordance with their needs.

3. In 2022, despite the unprecedented welcome that was given to Ukrainian refugees, including children, by many European governments, as well as by the general public, many concerns were raised with respect to their safety and protection. Lessons must be learned from this experience. Sustainable support to migrant and refugee children needs to be secured, regardless of volatile political agendas and social and economic upheavals in countries of destination. Application of good practices should be extended to migrant and refugee children from other parts of the world. Root causes of massive migration of unaccompanied and separated children need to be addressed. With this in mind, the committee proposes a few amendments to further reinforce the text.

B. Proposed amendments to the draft resolution

Amendment A (to the draft resolution)

After paragraph 1, add the following paragraph:

“The main reasons for the substantial number of children ending up in Europe alone, often without any identification, means of subsistence or support are poverty, armed conflicts, and the climate crisis. In recent years, most unaccompanied children came from Afghanistan, Syria, and Bangladesh. The Assembly stresses the need for sustained efforts to eradicate poverty and deprivation across the world; to invest massively in peace building, reconciliation and peaceful conflict resolution; and to prioritise tackling climate change and ensuring decent living standards for all, rather than economic growth and profit-maximising for the few.”

1. Reference to committee: [Doc. 15112](#), Reference 4520 of 26 June 2020. Reporting committee: Committee on Migration, Refugees and Displaced Persons. See [Doc. 15548](#). Opinion approved by the committee on 21 June 2022.]



Amendment B (to the draft resolution)

After paragraph 5.4 add the following paragraph:

“child-sensitive age-assessment procedures, which should only be carried out if there are serious doubts about a person’s age, and which should always be carried out in the best interests of the child, and be subject to independent monitoring; the development of a single model of age assessment in Europe, based on the presumption that the person is a minor; systematic application of the margin of error in favour of the person concerned, so that the lowest age in the margin determined by the assessment is recorded as the person’s age; and access to effective remedies.”

Amendment C (to the draft resolution)

Delete paragraph 7.

Amendment D (to the draft resolution)

After paragraph 8.7, add the following paragraph:

“build public support for child-friendly policies in the field of migration, by raising awareness of the plight of unaccompanied and separated migrant and refugee children, making full use of the wealth of witness accounts and advocacy;“

Amendment E (to the draft resolution)

At the end of paragraph 11, add the following phrase:

“, as well as enhanced opportunities for integration in the host country.”

C. Explanatory memorandum by Ms Sibel Arslan, rapporteur for opinion

1. I would like to welcome the excellent report by Ms Mariia Mezentseva (Ukraine, EPP/CD) for the Committee on Migration, Refugees and Displaced Persons (“Migration Committee” hereafter). Having an immigrant background myself, I feel strongly about the situation of migrant and refugee children, and I have already expressed my support for the work of the Migration Committee on this subject in my previous opinion on the report on “Effective guardianship for unaccompanied and separated migrant children” prepared by Ms Rósa Björk Brynjólfssdóttir (Iceland, UEL).²

2. When considering issues of migration, we need to bear in mind the circumstances which force people to flee their countries and put their lives and their children’s lives at risk in the process. In 2021, the European Union registered an increase in crossings on the Western Mediterranean, the Central Mediterranean, the Eastern Mediterranean, and the Eastern borders routes, and a 36% increase in deaths at sea.³ Most unaccompanied children came from countries that suffer from high levels of poverty, protracted armed conflicts, and the impact of climate crisis, such as Afghanistan, Syria, and Bangladesh.

3. Afghanistan is among the worst conflict-affected countries for children. Millions of Afghan children are growing up in high-intensity conflict zones, 38% of children suffer from stunting due to malnutrition, 42 % of children do not attend school, 21% of children are engaged in child labour, and 1 child in 16 dies before their 5th birthday.⁴ Poverty and famine are growing, without any prospect of improving living conditions. The human rights of women and girls, including to education, freedom of movement, and access to the labour market, have been severely curtailed under the new Taliban government. Young girls, often prepubescent, are forced into marriage with adult men.⁵ In Syria, more than 6.5 million children need assistance. In just the first three months of 2022, 213 children were killed or injured. Since the beginning of the crisis in 2011, over 13 000 children have been confirmed killed or injured.⁶ Children in Bangladesh, Afghanistan, and India face “extremely high” risks from climate change impacts. Droughts, floods, and river erosion across the region

2. Doc. 15166.

3. <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52017DC0211&from=en>.

4. <https://gdc.unicef.org/resource/challenges-children-afghanistan#:~:text=Afghanistan%20is%20among%20the%20worst%20conflict-affected%20countries%20to,countries%20%E2%80%93%20Afghanistan%20ranks%20second%2C%20at%202.7%20million.>

5. www.marianne.net/agora/tribunes-libres/defendre-les-afghans-est-pour-la-france-un-devoir-moral.

6. <https://reliefweb.int/report/syrian-arab-republic/number-syrian-children-need-hits-record-high-enar>.

have left millions of children homeless, hungry, lacking healthcare and safe water and out of school.⁷ In May 2022, over 1.5 million children were at increased risk of waterborne diseases, drowning and malnutrition due to extensive flooding in north-eastern Bangladesh.⁸

4. As pointed out by Ms Mezentseva, the Russian Federation's ongoing war of aggression in Ukraine has already resulted in the displacement of millions of children, many of them unaccompanied or separated. According to UNICEF, the first month of the war alone led to the displacement of 4.3 million children – more than half of the country's estimated 7.5 million child population. This includes more than 1.8 million children who have crossed into neighbouring countries as refugees and 2.5 million who are now internally displaced inside Ukraine.⁹

5. Clearly, the situation of children in the above-mentioned countries is not compatible with the standards enshrined in the United Nation's Convention on the Rights of the Child. Their very lives, their health, and their mental and physical well-being are under threat. Failure to protect them demonstrates a lack of compassion and humanity, but also of common sense. Regardless of whether these children are in danger due to wars, poverty, or climate change, we need to look for better ways of protecting them, rather than for ways of protecting ourselves from these children.

6. A Communication from the European Commission to the European Parliament and the Council from 2017 points out that the protection of child immigration “starts by addressing the root causes which lead so many of them to embarking on perilous journeys to Europe. This means addressing the persistence of violent and often protracted conflicts, forced displacements, inequalities in living standards, limited economic opportunities and access to basic services through sustained efforts to eradicate poverty and deprivation and to develop integrated child protection systems in third countries”³. I believe that it would be important to mention the need to address the root causes of child immigration in the present draft resolution (**Amendment A**).

7. I fully agree with the report's recommendation that all member States need to adopt a common approach whereby unaccompanied and separated migrant and refugee children are, first and foremost, considered as children. I believe that is important to acknowledge that age assessment procedures play a crucial role in determining whether someone is entitled to protection as a child and that ensuring that such procedures are human rights compliant is a very delicate and difficult task. The Assembly has considered this issue in depth in the report entitled “Child-friendly age assessment for unaccompanied migrant children”.¹⁰ Furthermore, Ms Mezentseva refers in her explanatory memorandum to the draft Recommendation relating to Human Rights Principles and Guidelines on age assessment for children, which should soon be discussed at the level of the Committee of Ministers of the Council of Europe for its adoption. It would be important to consider and build upon the Council of Europe guidance on this topic.

8. While acknowledging the importance of legal procedures and clear guidance, we should not lose sight of the approximative nature of age assessment procedures, the potential for errors, and the devastating consequences for the persons concerned. When Gulwali Passarlay, a dedicated advocate and spokesperson for refugees and asylum seekers,¹¹ arrived in the United Kingdom after a perilous journey that lasted over a year, he was 13 years old. The immigration centre officials estimated his age as 16-and-a-half. They said that he could not have travelled so far when he was still so young, and that he was too smart to be 13. Yet, he had travelled, all alone, so far. It is hardly surprising that this 13-year-old child did not look or behave like a child, after what he had been through. Children like him need protection and care, not inhumane and degrading “processing”. Furthermore, if Gulwali Passarlay had been found to be under 16, the Home Office would have had to put him in school and in foster care and given him the legal rights of a child. Instead, he was placed in an independent living centre with adult asylum seekers and told that in a year and a half he would be deported back to Afghanistan. Gulwali tried to kill himself twice in the months that followed. While there is no simple way to improve the treatment of migrant and refugee children, at the very minimum we need to ensure that basic human rights principles and safeguards are respected in the framework of age assessment, and that inhumane and degrading treatment is prevented (**Amendment B**).

7. www.unicef.org/rosa/press-releases/children-four-south-asian-countries-extremely-high-risk-impacts-climate-crisis.

8. www.unicef.org/press-releases/over-15-million-children-risk-devastating-floods-hit-bangladesh-unicef.

9. [More than half of Ukraine's children displaced after one month of war \(unicef.org\)](https://www.unicef.org/press-releases/more-than-half-of-ukraine-s-children-displaced-after-one-month-of-war).

10. <https://pace.coe.int/en/files/24273>.

11. Gulwali Passarlay has described his horrific experience in the book “The Lightless Sky: An Afghan Refugee Boy's Journey of Escape to A New Life in Britain”. Further information is available at:

www.goodreads.com/book/show/27215955-the-lightless-sky and at:

www.theguardian.com/world/2016/oct/21/when-i-fled-to-the-uk-no-one-believed-i-was-13-10-years-on-nothings-changed.

9. According to UNICEF, between January and June 2020, a total of 74 635 decisions were issued on child asylum claims by national authorities across Europe. Among those, 60% were positive, and rejections were received for 40% of applications, including 79% of applicants from Nigeria, 43% of applicants from Iraq, 25% of applicants from Afghanistan, and 8 % of applicants from Syria. This means that almost half of child asylum claims are being rejected in Europe. A significant number of these rejections concern children from countries that are impoverished and affected by armed conflicts and the climate crisis. In this context it might be worth recalling that Türkiye alone currently hosts a population of over 3,5 million refugees. In comparison, the total of 74 635 child asylum claims in Europe seems relatively modest. There is certainly a considerable margin for a more generous approach to asylum for children on our continent.

10. I welcome the reference to the transition out of care in the draft resolution. Indeed, turning 18 is a critical phase for migrant and refugee children. We need to prevent children from “ageing out” into undocumented adulthood, and to ensure that they can access support and services that they need during this crucial stage of their life, including housing, health care and education¹² (**Amendment E**).

11. With respect to the proposal to facilitate the creation of a European platform for the exchange of knowledge, practical know-how and best practices, it seems to me that there exist already relevant bodies and platforms that allow for such exchanges. In 2021, the Committee of Ministers of the Council of Europe adopted an Action Plan on Protecting Vulnerable Persons in the Context of Migration and Asylum in Europe (2021-2025).¹³ The Special Representative of the Secretary General on Migration and Refugees (whose mandate was established in 2016) provides advice on how the Council of Europe can support its member States facing current challenges in the field of migration.¹⁴ The Network of Focal Points on Migration was launched in 2019 with the aim of facilitating the exchange good practices and enhancing co-operation between the different stakeholders in the member States and the Council of Europe.¹⁵ Considering the limited amount of available resources, we might wish to focus on strengthening the existing platforms (**Amendment C**).

12. Finally, I am convinced that a lot can be learned from the experience with refugees from Ukraine. The general public in Europe is genuinely generous and compassionate. Raising awareness of the plight of unaccompanied and separated migrant and refugee children, as well as of the potential of their positive contribution to our societies, would help build support for more humane policies in this area. I hope that a proposal in this direction can be integrated into the present resolution (**Amendment D**).

13. To conclude, I would like to use this opportunity to call on all the members of the Assembly to actively promote child-friendly migration policies in their countries. Offering migrant and refugee children support and protection is a human rights obligation and a vital investment in the future well-being of our societies.

12. <https://picum.org/turning-18-undocumented/>.

13. https://search.coe.int/cm/pages/result_details.aspx?objectId=0900001680a25afd.

14. www.coe.int/en/web/special-representative-secretary-general-migration-refugees.

15. www.coe.int/en/web/special-representative-secretary-general-migration-refugees/focal-points-network.