

## Recommendations for improving the protection and social inclusion of children in migration in Europe

### Disclaimer:

*This paper has been adopted by the Partnership on the Inclusion of Migrants and Refugees in the framework of the Urban Agenda for the EU. It aims to contribute to the protection and inclusion of migrant-children in the EU. This paper may not reflect the official positions of individual members of the Partnership.*

### Introduction

The European Union is committed to the protection of the rights of the child by its establishing Treaty (Article 3 TEU). The rights of the child are also enshrined in the Charter of Fundamental Rights of the European Union (Article 24). In February 2011, the European Commission adopted an 'EU Agenda for the Rights of the Child', reaffirming that the standards and principles of the United Nations Convention on the Rights of the Child must continue to guide EU policies and actions. Such commitment affects EU legislation<sup>1</sup> and funding programmes, including those concerning migration.

Unaccompanied migrant children are subject to special provisions in asylum procedures. Children have the right to reunite with their families, and their education should not be stopped when they arrive in reception centers.

In 2010 the EU published the 'Action Plan on Unaccompanied Minors 2010-2014', adopting a series of actions for the better protection of children in migration. Nevertheless, as the European Commission acknowledges in its communication from 2017 'The Protection of Children in Migration', "the recent surge in the number of arriving migrant children has put national systems and administrations under pressure and exposed gaps and shortcomings in the protection of all categories of children in migration".

According to UNHCR, 35% of migrants entering the EU since 1 January 2016 are children. Many of them travel unaccompanied. In 2017 there were 31.8 thousand asylum applications in the EU-28 from unaccompanied minors. This was nearly half the number recorded in 2016 (63 200 unaccompanied minors registered) and almost one-third of the peak registered in 2015 (95 200), but

<sup>1</sup> For an overview of relevant EU acquis on rights of the child, see:

[https://ec.europa.eu/info/sites/info/files/euacquisandpolicydocumentsontherightsofthechild\\_update.pdf](https://ec.europa.eu/info/sites/info/files/euacquisandpolicydocumentsontherightsofthechild_update.pdf)

over two and a half times higher than the annual average during the period 2008-2013 (around 12 000 per year). In total in the EU, unaccompanied minors accounted for 15% of all asylum applicants aged less than 18<sup>2</sup>. In January 2016 Europol announced that more than 10,000 refugee children had gone missing since arriving in Europe. In later statements Europol indicated not knowing whether these children had actually disappeared or whether the figures were suggesting issues in data collection. In any case, the number reveals the magnitude of the issue, as well as the urgency to ensure a better European protection system for this vulnerable group.

The European Parliament Resolution of May 2018 on Children in Migration acknowledges the essential role played by local and regional authorities, which remain at the forefront of the reception and integration of migrant children. The European Parliament “calls on the Member States to build capacity and allocate adequate resources for the reception of migrant children, in particular unaccompanied children”. In addition, it encourages Member States to “allocate adequate and continued funding and support to local and regional authorities” and to “ensure access to European funding, such as the Asylum, Migration and Integration Fund (AMIF)”<sup>3</sup>.

Protecting the rights of children in migration and ensuring their integration is important for cities. Not only to be compliant to the universal rights of any child, but also to prevent the intergenerational transmission of disadvantage<sup>4</sup>, which increases the levels of poverty and social exclusion and undermines local social cohesion.

#### *Methodology and background of this paper*

The formulation of policy recommendations on how to improve the protection and inclusion of children with a refugee background was identified by the [Partnership on the Inclusion of Migrants and Refugees under the Urban Agenda for the EU](#) as one of its key actions. This paper was discussed in several occasions with the members of the Partnership.

The preparatory work to develop the recommendations included a series of case studies in 14 different European cities. In addition, a working group with city experts on inclusion and representatives from NGOs provided further guidance in formulating this paper.

The case studies focusing on the experiences of European cities provided valuable input to the conference ‘Lost in Migration’, organised in Brussels by Missing Children Europe on 11 and 12 of April 2018. Within this event that focused on the role of local authorities in the protection of children, the Partnership held two workshop discussions that helped drafting the recommendations.,

The Department of Child Law of the Leiden University was engaged by Missing Children Europe to produce research and recommendations on the position of migrant children in Europe: ‘Challenges and progress in implementing the European Commission Communication on the Protection of Children in Migration: Providing effective protection and enhancing integration’. The Leiden University used the previously mentioned 14 case studies in 14 European cities served as input to its research.

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<sup>2</sup> Eurostat, 2018.

<sup>3</sup> European Parliament resolution of 3 May 2018 on the protection of children in migration (2018/2666(RSP), 12. and 13

<sup>4</sup> Commission Recommendation of 20 February 2013 Investing in children: breaking the cycle of disadvantage (2013/112/EU)

## 1. What cities should do to protect and include children in migration

The action of local and regional authorities in dealing with children in migration should be driven by a number of principles as highlighted by a recent report from the Congress of Regional and Local Authorities of the Council of Europe<sup>5</sup>.

First, local authorities should **adopt a child rights-based approach towards every child for the duration of their stay in a country**, regardless of their legal status or position in the asylum process. Such approach is based on principles such as non-discrimination, best interests of the child, right to life, survival and development and the right to be heard.

Second, cities should **aim to facilitate rapid referral to, and absorption into, mainstream child and family services**. Too often parallel or alternative systems, structures or services are created thus maintaining a divide between host and refugee communities and consequently slowing down integration efforts.

Third, local authorities should be aware of useful and potentially transferable elements observed in successful local initiatives, especially when developing policies and implementing actions. Good practices exist in areas including **strong engagement with NGOs and civil society, close co-operation between the various levels of government, as well as across government departments**, provision of support services and removal of administrative and practical barriers to services.

Furthermore, three important good practice principles clearly emerged in the case studies carried out by the Partnership: **early integration, individualised approach and prolonged support**. Integration of children in migration should start from day one, even before it is determined whether they can stay in the city or country. It should include housing, education and empowerment activities. It is important to undertake individual assessments of competences, skills and professional experiences of all children in migration and help them establish their own goals and plans. The 18 years-old who are not yet self-sufficient should still receive the needed care and assistance (financial, (mental) health and social). Guardianship systems, systems of assisted living and support to finishing or continuing education, building up a social network and finding a job, should be extended after children have turned 18. This age gap in guardianship is an important and recurrent bottleneck. As indicated later in the paper, to address this issue the Partnership proposes to set-up a pilot project that surpasses the legal obstacles and explores ways to provide continuity in assisting the target group.

## 2. What Member States and EU institutions and agencies should do to support cities

Local and regional authorities, and cities in particular, have made considerable efforts to put in practice all the actions needed in order to protect children with a migrant background and to optimise their perspectives in our societies.

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<sup>5</sup> CoE, Congress of Regional and Local Authorities, Resolution 428 (2018)

However, cities' role in the reception and integration of children in migration should be enhanced and supported by national governments and the EU. For this reason, the following recommendations for Member States and EU institutions and Agencies have been endorsed by the Partnership.

## **A. Recommendations to Member States**

### **1. Make relevant funds (both national and EU) available to sustain local welfare services and integrated child protection systems**

In many Member States, local authorities have responsibilities in the delivery of social services. Child protection systems have been decentralised in a number of EU countries.<sup>6</sup> However, in many countries local government budgets are under pressure. This creates difficulties in delivering services to citizens, including those that are of importance to migrant children. Enabling local governments to deliver services is essential: this could be done by ensuring access to adequate resources through state transfers or via local taxation systems. The organisation of quality inclusive education services, including early childhood education and care, should be considered as an investment in local human capital and as a contribution to the achievement of Europe 2020 goals and Sustainable Development Goals<sup>7</sup>. Such services should, in addition, integrate services to cater for the social and health needs of children and young people, including those of immigrant origin,

Under the next Multi-Annual Financial Framework, the Asylum and Migration Fund, as well as the European Social Fund Plus, are meant to support emergency and long-term integration initiatives that are often implemented at the local level. It is thus essential that local authorities are consulted through their representative organisations at national or (whenever relevant) regional level, notably on the allocation of funding to different priorities during the preparation of Operational Programmes by Managing Authorities. In addition, child rights organisations and local authorities should be part of the partnership mentioned in Article 6 of the Common Provision Regulation. Furthermore, Managing Authorities should strengthen the capacity of local authorities to apply for EU funding. By doing so, cities could increase their local reception and integration capabilities and improve the quality of their services with a focus on children in migration. Children should be always considered a priority group when allocating funds.

### **2. Enhance EU cooperation favoring family reunification and strengthening the rights to remain**

Upon arrival in EU Member States children in migration should enjoy the right to be united with their family in Europe, when this is in their best interest. Family reunification is a crucial factor that can help avoiding that unaccompanied children go missing. Although family reunification for unaccompanied children should have the highest priority, it continues to be inefficiently managed by Member States. As it was underlined by the European Commission in its 2017 'Communication on the Protection of Children in Migration', "family tracing and family reunification procedures are often protracted or start too late".

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<sup>6</sup> See [FRA mapping](#) of child protection decentralization in MS

<sup>7</sup> See Commission Recommendation of 20 February 2013 Investing in children: breaking the cycle of disadvantage (2013/112/EU)

Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification Article 5(5) requires that the child's best interests must be a primary consideration in all actions relating to children. The European Court of Justice has underlined that Member States must apply the rules of the Directive in a manner consistent with the protection of fundamental rights, notably regarding the respect for family life and the principle of the best interests of the child. Member States should respect the child's best interests as a primary consideration in all actions relating to children.

The Dublin Regulation stipulates that "where the applicant is an unaccompanied minor who has a relative who is legally present in another Member State and where it is established, based on an individual examination, that the relative can take care of him or her, that Member State shall unite the minor with his or her relative and shall be the Member State responsible, provided that it is in the best interests of the minor" (Article 8(2)).

However, the reality is that often the 'best interests' are not a priority in decision-making on unaccompanied children. Children may even risk of being detained, or sent back to the first country of arrival. They may run away from reception centres, thus exposing themselves to unacceptable risks.

The 2016 opinion of the Fundamental Rights Agency 'on fundamental rights in the 'hotspots' set up in Greece and Italy' and the vulnerable position of migrant children seems relevant for both the EU as a whole as well as for its Member States. FRA's observations and recommendations on (temporary) guardianship seem important to follow-up, including the advice on registration of unaccompanied children and their (immediate) risk assessment, as well as their needs in terms of accommodation.

Furthermore, from the perspective of the rights and needs of the child, both the Member States and the EU should take more into consideration the rights to remain of young refugees, as well as the child's views should be taken into account in every decision taken on his future.

Children should be given the opportunity to solidify their residence permit by completing school and apprenticeships or other integration achievements, even if their asylum claim has been rejected.

Especially when children have been rooted over a longer period of time, arrangements to remain with a view to finish a school programme (and/or obtain a vocational qualification) would be important to create perspective and motivation. By doing so, children would benefit from the obtained qualifications even if they return to their country of origin. School attendance and vocational qualifications are powerful ways to improve their career prospects.

### **3. Establish nation-wide systems and bodies to ensure high standards for guardianship and reception centers**

Local and regional social services should not only be provided with adequate financial resources, but also assisted technically in the development of quality social protection systems. Member States should establish authorities or agencies to support the recruitment and training of professional guardians for unaccompanied migrant children. Furthermore, the quality of reception centers set up by either national or local authorities should be monitored according to national and international standards by an independent body, such as an independent national human rights institution.

#### 4. Involve and consult local authorities when reporting to the EC and UNCHR

Local authorities are crucial in the implementation of the rights of the child. When submitting periodic reports to the European Commission and to the United Nation Committee on Human Rights on the implementation of the United Nations Convention on the Rights of the Child, Member States should consult and involve local authorities. As front end providers of child protection services, local authorities' inputs would be most valuable and informative. From the interest of the child, the highest internationally agreed standards of child protection should always prevail and be the norm.

### B. Recommendations to EU institutions and agencies

#### 1. Prioritise children in migration in relevant EU funding

The EU should consider the protection and inclusion of migrant children as a key priority in all relevant programmes, both in the current mandate and when deciding on the new programme period. This includes assessing the strategic national policy frameworks on social inclusion and on education and training.

The **Asylum and Migration Fund** and **European Social Fund Plus** seem in particular apt to give the integration and inclusion of children in migration a high priority in programming.

Under the **Justice, Rights and Value Fund**, the EU should ensure that adequate funding is allocated to programmes and projects that combat trafficking and abuse. These represent a constant risk for children in migration, especially unaccompanied ones. There is a specific priority to combat trafficking of human beings, including children, in the current Internal Security Fund. This priority should be extended also to the JRV Fund.

The **European Regional Development Fund** is of primary importance to cities as it addresses the territorial dimension. One of its objectives is increasing the socio-economic integration of marginalised communities, migrants and disadvantaged groups, through integrated measures including housing and social service. The EU should ensure that the needs and rights of children in migration are duly considered when allocating funding to this objective and in the ERDF in general. For instance, projects should support small housing units alternative to residential care or co-housing, to promote the integration of young migrants with the help of native youth; or projects that facilitate the development of vocational and life skills of migrant children and refugees, and support those who have just come of age to become economically independent. Finally, it is important that also under the **External Borders Fund** the rights of the child are always taken in consideration when it comes to VISA procedures and the SIS and VIS systems. On the one hand, there should be firewalls and data protection measures that avoid that children's data is used for improper purposes. On the other hand, the opportunities for enhanced cross-border cooperation that are provided by more integrated ICT systems should be used to combat child trafficking and abuse.

#### 2. Collect more and better data at EU level on unaccompanied migrant children

Responding to the call 'A call to action: Protecting children on the move starts with better data', highlighting worrisome gaps in the availability, reliability, timeliness and accessibility of data and evidence on children in migration' from a number of international agencies (UNICEF, UNHCR, IOM, Eurostat and OECD), the EU and its Member States should ensure that data on migrants and

refugees is always disaggregated by age and sex, and that key issues related to children in migration are adequately covered.

The above should include administrative data on inclusion of migrant children in educational systems at local level and their access to preventive and curative health care, children in residential care and foster care, children in reception centers. Data collected by the police on missing children should enable to isolate unaccompanied migrant children data.

The EU and its Member States should make more efforts to coordinate data collection across borders. Besides national and regional level data, data and information at the municipal level should also be collected with a view to have a better grasp of the concentration of needs in particular urban areas or neighborhoods. Data and information on the attitudes of the local population in host communities should also be gathered, to inform more effective awareness-raising campaigns.

The Fundamental Rights Agency (FRA) has repeatedly underlined that IT systems – if accompanied by other measures – could help detect and protect child victims of trafficking as well as trace and better protect unaccompanied children who go missing, abscond or otherwise disappear. The Partnership recommends their observations in their advice published in 2018 ‘Interoperability and fundamental rights implications’.

### **3. Identify alternative solutions (with cities) on the age bottleneck in guardianship**

It is a well-known bottleneck: when migrant-children turn 18 years old, they are considered as adults and are thus subject to a different legal framework. In terms of guardianship support, this often means that their relationship with the guardian ends, regardless of how vulnerable and in need for coaching a person may be. The age bottleneck appears to be an increasingly relevant element in the growing numbers of children going missing in Europe.

The Partnership proposes that the European Commission supports a pilot project with some EU cities. The idea would be to ‘test’ modalities ensuring that guardianship continues over the age-barrier of 18-/18+. The test would involve a limited number of guardians and minors, who would take part on voluntary basis.

Although the legal basis of the relationship guardian-minor may change with the passing of the age barrier, the same coaching principle (with the same persons) would continue. The exact conditions of the pilot should be further defined in cooperation relevant expert organisations. The framework of the Partnership on Inclusion of Migrants and Refugees might be considered a useful structure to initiate and elaborate the proposal.

The cities of Amsterdam, Athens, Barcelona, Berlin and Helsinki are ready to cooperate in such a pilot project, and other cities will be invited to join in this learning programme as well. The NGO Missing Children Europe also confirmed an interest in participating. Evaluation and dissemination of the lessons learned are important elements of the pilot project, and should be further defined.

### **4. Support the exchange of good practices across the EU**

Building on the initiatives of cities and regions, the EU should strengthen instruments to support the identification, analysis, assessment, dissemination and transfer of local good practices of protection and integration of children in migration.

This could occur in the form of thematic learning networks on children in migration, the organisation of mutual learning events and peer reviews, the dissemination of good practice catalogues, etc. The European Migration Network could develop a thematic strand dedicated to local integration initiatives by local authorities and local stakeholders on children in migration. The European Platform on Investing in Children set up by DG EMPL to collect and disseminate evidence-based good practices should continue and expand its thematic strand on migrant children<sup>8</sup>.

A high number of migrant children arrive unaccompanied and without reliable documents, an element which might call their age into question. This is of great importance as there is a significant difference in conditions for the reception of persons below or above 18 years of age. However, there is a great variety of methods on age assessment applied across Europe. Stronger guidance and harmonization is needed in order to avoid arbitrariness and especially unfair treatment. In this respect the recommendations of the Fundamental Rights Agency (FRA) on children's age-assessment are of particular value<sup>9</sup>.

## **5. Promote research on protection and integration of children in migration**

The EU already supports research on the integration challenges of migrant children through a specific topic within the Horizon 2020 research programme. Attention to vulnerable groups such as unaccompanied children is given in broader integration-related topics<sup>10</sup>.

Such support should continue in the new programming period. Moreover, other topics related to child protection should be considered for research support, for instance the numbers and motivations behind the journeys of unaccompanied migrant minors, or methods for age assessment.

A consultation of key stakeholders should be undertaken in order to define the research gaps to translate into topics of the new research programme related to children in migration. One aspect might be to better assess the integration perspectives for unaccompanied children in smaller and medium-size cities as compared to their perspectives in larger cities.

Furthermore, due attention to the migrant child's perspective should be paid within research programmes focused on territorial analysis such as ESPON.

## **6. Ensure the Fundamental Rights Agency's advisory role for European cities on children in migration**

The legal framework that ensures the protection of children is not always easily accessible to city-policymakers. In turn, this may lead to challenges when ensuring that children's rights are duly taken into account, notably when developing and implementing city policies, services and projects.

The advisory and guidance work of the Fundamental Rights Agency should be more proactively made available to local authorities and tailored to their needs.

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<sup>8</sup> B. Janta, E. Harte, [Education of migrant children Education policy responses for the inclusion of migrant children in Europe](#)

<sup>9</sup> FRA 2018, "Under watchful eyes – biometrics, EU IT-systems and fundamental rights", chapter 7, Best Interests of the Child – risks and opportunities

<sup>10</sup> [MIGRATION-05-2018-2020: Mapping and overcoming integration challenges for migrant children](#) page 13 WP



These needs could be further assessed in consultation with European networks such as EUROCITIES and the Council of European Municipalities and Regions (CEMR).

A learning pilot project could be developed with some interested EU cities and the FRA. Their work would be aimed at producing a number of guidelines and practical tools, including trainings for policy-makers. Outputs should be published, presented and disseminated to cities and networks of cities.

### 3. In Conclusion

Local and regional authorities are often fully or partly responsible for the various intervention areas that are relevant to ensuring high standards for the protection in children in migration. Recent numbers on children going missing in Europe underline the need to raise our efforts and investments. There should be no principle discussion between local, national and European stakeholders on agreeing to set the European target to zero children in migration going missing: Europe should be a safe harbor for them.

Europe and its Member States urgently need to bridge the gaps and pitfalls in data and monitoring systems on children in migration.

Substantial investments are necessary to ensure the integration of children who arrive unaccompanied to Europe and in European cities. Needs include reception and accommodation facilities (physical infrastructure) as well as a wide range of targeted and highly specialised services (information and communication, health services, psychosocial assistance, education, and so forth). In addition, better and more cooperation between all levels of public authorities and agencies is urgently needed to ensure the prevention of child disappearances. All professionals working with children (reception centers staff, law enforcement, immigration and asylum authorities, health professionals, carers and school personnel) should be trained in the early identification of victims of trafficking, exploitation and abuse. Law enforcement should be trained to ensure that all cases of missing migrant children trigger appropriate responses.

Additional investments should also be made to bring the exchange of know-how and good practices to a higher level, on any professional activity that may be relevant: age assessment, guardianship, education, housing, health support, psycho-social assistance.

The Partnership on the Inclusion of Migrants and Refugees, with its multi-level governance framework, is ready to further assist where there is an opportunity to add value. For instance, for working together with relevant stakeholders to develop a proposal to test guardianship arrangements beyond the 18-/18+ bottleneck in some European cities. As indicated earlier, the sudden end of support mechanism at the time a child turns 18 has proven to be a vulnerable point in the protection-structure of children in migration.