



EUROPEAN PARLIAMENT

2009 - 2014

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*Plenary sitting*

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**A7-0251/2013**

26.8.2013

# REPORT

on the situation of unaccompanied minors in the EU  
(2012/2263(INI))

Committee on Civil Liberties, Justice and Home Affairs

Rapporteur: Nathalie Griesbeck

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## MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

### on the situation of unaccompanied minors in the EU (2012/2263(INI))

*The European Parliament,*

- having regard to the Treaty on European Union and in particular Article 3 thereof,
- having regard to the Treaty on the Functioning of the European Union, and in particular Article 67 and 79 thereof,
- having regard to the provisions of the Charter of Fundamental Rights of the European Union, particularly Article 24 thereof,
- having regard to the European Convention on Human Rights and the protocols thereto,
- having regard to the decisions and case law of the Court of Justice of the European Union and of the European Court of Human Rights,
- having regard to the Commission Communication to the European Parliament of 6 May 2010 on the ‘Action Plan on Unaccompanied Minors (2010-2014)’ (COM(2010)0213),
- having regard to the report of 28 September 2012 from the Commission to the European Parliament and the Council entitled ‘Mid-term report on the implementation of the Action Plan on Unaccompanied Minors’ (COM(2012)0554),
- having regard to the Commission Communication of 20 April 2010 to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on the ‘Action Plan implementing the Stockholm Programme’ (COM(2010)0171),
- having regard to its resolution of 25 November 2009 on the Commission communication to the European Parliament and the Council entitled ‘An area of freedom, security and justice serving the citizen – Stockholm programme’<sup>1</sup>,
- having regard to the EU guidelines on violence against women and girls and combating all forms of discrimination against them,
- having regard to the conclusions of the Justice and Home Affairs Council of 3 June 2010 on unaccompanied minors, adopted at its 3018th session,
- having regard to Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA<sup>2</sup>,

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<sup>1</sup> OJ C 285 E, 21.10.2010, p. 12.

<sup>2</sup> OJ L 315, 14.11.2012, p. 57.

- having regard to Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA<sup>1</sup>, and to the Commission Communication entitled ‘The EU Strategy towards the Eradication of Trafficking in Human Beings 2012–2016’,
- having regard to the directives on asylum, particularly Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted<sup>2</sup>, Council Directive 2003/9/EC of 27 January 2003 laying down minimum standards for the reception of asylum seekers<sup>3</sup> and Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals<sup>4</sup>,
- having regard to the Commission’s proposals for reform of the instruments of the common European asylum system (CEAS), particularly the amended proposal for a directive of the European Parliament and of the Council laying down standards for the reception of asylum seekers (recast) (COM(2011)0320), the amended proposal for a directive of the European Parliament and of the Council on common procedures for granting and withdrawing international protection status (recast) (COM(2011)0319), and the proposal for a regulation of the European Parliament and of the Council establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (recast) (COM(2008)0820),
- having regard to Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification<sup>5</sup>,
- having regard to Regulation (EC) No 862/2007 of the European Parliament and of the Council of 11 July 2007 on Community statistics on migration and international protection<sup>6</sup>,
- having regard to Decision No 779/2007/EC of the European Parliament and of the Council of 20 June 2007 establishing for the period 2007-2013 a specific programme to prevent and combat violence against children, young people and women and to protect victims and groups at risk (Daphne III programme) as part of the General Programme ‘Fundamental Rights and Justice’<sup>7</sup>,
- having regard to the Commission communication to the European Parliament and the

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<sup>1</sup> OJ L 101, 15.4.2011, p. 1.

<sup>2</sup> OJ L 337, 20.12.11, p. 9.

<sup>3</sup> L 31, 6.2.2003, p. 18.

<sup>4</sup> OJ L 348, 24.12.08, p. 98.

<sup>5</sup> OJ L 251, 3.10.2003, p. 12.

<sup>6</sup> OJ L 199, 31.7.2007, p. 23.

<sup>7</sup> OJ L 173, 3.7.2007, p. 19.

Council entitled 'Evaluation of EU Readmission Agreements' (COM(2011)0076),

- having regard to the contributions by the Council of Europe, particularly Resolution 1810 (2011) of its Parliamentary Assembly entitled 'Unaccompanied children in Europe: issues of arrival, stay and return', the recommendation of its Committee of Ministers to Member States on life projects for unaccompanied migrant minors (CM/Rec(2007)9) and the 'Twenty Guidelines on Forced Return' of its Committee of Ministers (CM(2005)40),
  - having regard to international instruments on children's rights, in particular the UN Convention on the Rights of the Child, especially Article 3 thereof, and the General Comments of the UN Committee on the Rights of the Child, in particular General Comment No 6 (2005) on the treatment of unaccompanied and separated children outside their country of origin,
  - having regard to the Guidelines on Policies and Procedures in dealing with Unaccompanied Minors Seeking Asylum published by the UN High Commissioner for Refugees in 1997,
  - having regard to General Recommendation No 19 of the UN Committee on the Elimination of Discrimination against Women, adopted in 1992,
  - having regard to the December 1993 UN General Assembly Declaration on the Elimination of Violence against Women, the first international human rights instrument relating solely to violence against women,
  - having regard to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organised Crime,
  - having regard to Rule 48 of its Rules of Procedure,
  - having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs and the opinions of the Committee on Development and the Committee on Women's Rights and Gender Equality (A7-0251/2013),
- A. whereas, every year, thousands of under-18-year-olds who are citizens of third countries or stateless persons arrive in the European Union alone or find themselves alone after arrival;
- B. whereas the continuing conflicts in various parts of the world and the ongoing global economic crisis have caused a surge in the number of unaccompanied minors;
- C. whereas the reasons behind the arrival of unaccompanied minors are diverse: war, violence, violations of their fundamental rights, a desire to be reunited with family members, natural disasters, poverty, trafficking, exploitation, etc.;
- D. whereas particular attention should be paid to unaccompanied child victims of trafficking in human beings, as they need specific assistance and support due to their situation of particular vulnerability,

- E. whereas many minors arrive in the EU because they are fleeing forced marriages, and whereas the EU must do more to combat this phenomenon;
- F. whereas these minors are by definition extremely vulnerable and whereas it is necessary to ensure that their fundamental rights are respected;
- G. whereas, pursuant to the Treaty on European Union, the EU Charter of Fundamental Rights and the UN Convention on the Rights of the Child, the European Union and the Member States have an obligation to protect the rights of children;
- H. whereas the Stockholm Programme assigned priority to protecting unaccompanied minors; whereas the reception and care of unaccompanied minors varies considerably from one country to another and there is no equivalent and effective level of protection;
- I. whereas gender equality and the equal protection of the human rights of unaccompanied migrant girls and boys must be ensured, and whereas special attention must be paid to the violation of the human rights of girls and the provision of adequate support and appropriate remedies;
- J. whereas there are numerous cases of child disappearance from lodging and reception centres for asylum seekers,

### ***General recommendations***

1. Recalls that an unaccompanied minor is above all a child who is potentially in danger and that child protection, rather than immigration policies, must be the leading principle for Member States and the European Union when dealing with them, thus respecting the core principle of the child's best interests; recalls that any person below the age of 18 years, without exception, is to be regarded as a child and thus as a minor; points out that unaccompanied minors, particularly girls, are twice as susceptible to problems and difficulties as other minors; observes that they are all the more vulnerable insofar as they have the same needs as both other minors and other refugees, with whom they share similar experiences; emphasises that girls and women are particularly vulnerable to violations of their rights throughout the migration process, and that unaccompanied girls are at particular risk as they are often the principal targets of sexual exploitation, abuse and violence; points out that unaccompanied minors in the EU are frequently treated by the authorities as delinquents who have infringed immigration laws rather than as individuals who have rights on account of their age and particular circumstances;
2. Recalls also that the best interests of the child, as enshrined in provisions and case-law, must take priority over any other consideration in any act taken with regard to them, whether by public authorities or by private institutions; calls on the Commission to encourage the proper implementation of EU legislative provisions on the best interests of the child and to propose strategic guidelines, based on best practice, case-law and on General Comment No 6 (2005) of the UN Committee on the Rights of the Child on the treatment of unaccompanied and separated children outside their country of origin, and to assess, on the basis of a set of indices and criteria, what constitutes the best interests of a

child; calls on the Commission to implement legislative and non-legislative measures to ensure adequate protection of children and unaccompanied minors, aimed, in particular, at improving methods of finding durable solutions;

3. Strongly condemns the existing lacunae in the protection of unaccompanied minors in the European Union and denounces the often deplorable conditions in which such minors are received and the numerous breaches of their fundamental rights in certain Member States;
4. Emphasises the pressing need for the EU and the Member States to come up with a coherent response to protect unaccompanied minors, with full respect for their fundamental rights; welcomes those Member States which have opted into the UN's Optional Protocol to the Convention on the Rights of the Child on providing legal protection for children against the worst forms of exploitation;
5. Welcomes the adoption by the Commission of an action plan on unaccompanied minors 2010-2014; deplores, however, the fact that the Commission's approach is not based more on protecting the fundamental rights of such minors and notes that the existing measures are not sufficient and the comprehensive protection of unaccompanied minors requires further measures; recalls that one of the objectives of the EU Action Plan on Unaccompanied Minors was for the EU and its Member States to address the root causes of migration and integrate the issue of unaccompanied minors into development cooperation, thus contributing to the creation of safe environments for children to grow up in their countries of origin; underlines the need to develop further the preventive dimension of EU policies concerning unaccompanied minors by focusing more on efforts relating to poverty eradication, health and labour policies, human rights and democratisation and post-conflict reconstruction; considers that the EU must go beyond the Action Plan proposed by the Commission so that the fundamental rights of unaccompanied minors are genuinely reinforced; stresses, in particular, the need to strengthen the status of 'legal guardian' in the EU and partner countries, and considers it extremely important to draw up a monitoring plan in cooperation with countries of origin and any transit countries in order to ensure that the child is properly protected after returning to and being reintegrated into the country of origin;
6. Deplores the fragmentation of the European provisions concerning unaccompanied minors and urges the Commission to compile a handbook drawing together these various legal bases, addressed to Member States and to all practitioners, in order to facilitate proper implementation by Member States and to strengthen the protection of unaccompanied minors;
7. Deplores the lack of reliable official statistics on unaccompanied minors; calls on the Member States and the Commission to improve the collection of statistics on unaccompanied minors, including age and gender statistics, to improve the comparability of statistics collection across Member States, to establish a coordinated method for gathering and sharing information in each Member State, while ensuring that personal data is protected, by means of platforms bringing together all parties involved in the issue of unaccompanied minors and of a list of national contact points and to make better use of the tools already available to collect statistics at EU level, such as Eurostat, Frontex, the European Asylum Support Office (EASO) and the European Migration Network; stresses

that the purpose of gathering such data is to achieve a better understanding of the situation, to improve the protection of unaccompanied minors and to better respond to their needs; calls on the Commission, the Member States, the European Institute for Gender Equality (EIGE) and international and non-governmental organisations to make additional efforts, in gathering, monitoring and exchanging accurate data broken down by gender, to have an exhaustive overview of the number of unaccompanied girls and to be able to examine the specific needs of this group with a view to providing them with support and implementing specific measures to address those needs, and to exchange best practices with a view to making improvements;

8. Recalls that the EU and the Member States should step up their cooperation with third countries of origin and transit concerning unaccompanied minors, respect for their fundamental rights and issues such as the identification of durable solutions, family tracing, monitored return and readmission when it is in the child's best interests, the restoration of family ties and reintegration; calls also for improved cooperation with third countries of origin and transit concerning the prevention of and fight against trafficking in human beings, particularly child trafficking and the exploitation of minors, the prevention of irregular immigration and other forms of violence against women such as forced marriages, including in the context of the regular dialogues conducted between the EU and these states and the European External Action Service (EEAS); calls on the Commission and the Member States to integrate child protection and the issue of unaccompanied minors into development and cooperation policies; underlines the importance of coherent development of EU policies on immigration, asylum and children's rights – with regard to minors in both the EU and third countries – taking due account of their impact on developing countries; recalls the Policy Coherence (PCD) obligation enshrined in the Lisbon Treaty; calls on the Commission, the Member States, and third countries to boost public awareness-raising campaigns in the countries of origin, transfer and destination of unaccompanied minors on the risks related to child migration, and particularly on the exploitation of minors and organised crime; stresses that investigations into personal and family history are very important in order to ascertain the backgrounds from which minors come and draw up tailored plans for their integration in the country of arrival or their reintegration in the country of origin;
9. Recalls that combating trafficking in human beings is a necessary and crucial step, as minors, especially girls, are particularly confronted with and vulnerable to this trafficking, gender-specific violence, and exploitation, in particular labour and sexual exploitation and abuses; highlights the fact that effective mechanisms must be put in place for the prevention, identification, reporting, referral, investigation, treatment and follow-up of incidents relating to trafficking and labour and sexual exploitation and abuses, and that action should also be taken in third countries to tackle the root causes of trafficking; calls, in this regard, on the Commission and the Member States to be very vigilant and to implement effectively Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims, Directive 2011/92/EU on combating the sexual abuse and sexual exploitation of children and child pornography and Directive 2012/29/UE establishing minimum standards on the rights, support and protection of victims of crime; calls also on the Member States and the EU to strengthen police and



judiciary cooperation and to cooperate with the EU-Anti-Trafficking Coordinator to detect potential victims, sensitise the public and combat trafficking in human beings; welcomes, finally, the adoption of the EU Strategy towards the Eradication of Trafficking in Human Beings (2012-2016), in particular the provisions on financing the elaboration of guidelines on child protection systems and the exchange of best practices; reminds the Member States of Article 11 of the UN Convention on the Rights of the Child, which calls on states to take measures to combat the illicit transfer of children; calls on the Member States to work collaboratively with third countries to address the growing problem of child smuggling; urges the Member States to prosecute smugglers, where possible with appropriate and commensurable sanctions; is concerned about the situation of many unaccompanied minors who live in hiding in the EU and who are particularly vulnerable to exploitation and abuse; calls on Member States' authorities and civil society organisations to work together and take all the necessary measures to ensure their protection and dignity;

10. Considers it regrettable that child protection is significantly and consistently underfunded in comparison with other humanitarian sectors; calls on the Commission to take specific account of unaccompanied minors in the European Asylum and Migration Fund in order to afford long-term guarantees concerning the protection of children, including in relation to the sections concerning refugees, asylum seekers, the external borders and return, and in the European Social Fund, in particular with a view to supporting the most affected regions; considers that adequate long-term funding should in particular be secured for programmes aiming at the identification of unaccompanied minors, adequate reception, protection, the appointment of legal guardians, family tracing, resettlement, reintegration and the training of border guards and authorities;

### ***Strategic guidelines***

11. Calls on the Commission to draw up strategic guidelines for Member States which should, based on best practices, take the form of common minimum standards and address each stage in the process, from the arrival of a minor in European territory until a durable solution has been found for him/her, in order to ensure his/her proper protection; calls on the Member States to adopt national strategies for unaccompanied minors, based on these strategic guidelines, and to designate a national contact point responsible for coordinating the implementation of these measures and actions; calls on the Commission to monitor the situation and actions taken in the Member States in cooperation with the existing group of experts and to submit an annual report to Parliament and the Council;
12. Recalls that no child may be denied access to the territory of the EU and insists that the Member States must comply with the international and European obligations which apply when a child is under their jurisdiction, without any arbitrary restrictions; recalls also that no child may be sent back by means of a summary procedure at the border of a Member State;
13. Calls on the Member States to comply strictly and without fail with the fundamental obligation never to place a minor in detention; deplores the fact that the amended proposal for a directive of the European Parliament and of the Council laying down standards for the reception of asylum seekers did not ban the detention of unaccompanied child asylum

seekers and urges the Member States to respect the exceptional circumstances benchmark set by the directive; calls on the Commission, in the light of the relevant case-law, to take great care when applying the provisions of EU law on the detention of minors; urges the Member States also to place minors in homes specifically for children, taking into consideration their age and gender;

14. Considers that each Member State has a responsibility to identify unaccompanied minors; calls on the Member States to direct them immediately upon their arrival to specialist services such as social and educational services, which must, on the one hand, assess the individual circumstances and specific protection needs of each minor, in particular his or her nationality, education, ethnic, cultural and linguistic background and degree of vulnerability and, on the other hand, immediately provide them, in a language and form they understand, when necessary via interpreters, with all the information they need about their rights, protection, legal and assistance opportunities, and procedures and their implications; calls on the Member States to share best practices on child-friendly tools in order to give the children a clear idea of the relevant procedures and their rights; calls on the Member States, in this connection, to pay particular attention and provide special arrangements in terms of identification, reception and protection to unaccompanied minors with specific protection needs, in particular unaccompanied minors who are victims of trafficking in human beings, providing them with the necessary assistance and protection under Directive 2011/36/EU;
15. Deplores the unsuitable and intrusive nature of the medical techniques used for age assessment in some Member States, which may cause trauma, and the controversial nature and large margins of error of some of the methods based on bone maturity or dental mineralisation; calls on the Commission to include, in the strategic guidelines, common standards based on best practices, concerning the age assessment method, which should consist of a multidimensional and multidisciplinary assessment, be conducted in a scientific, safe, child-sensitive, gender-sensitive and fair manner, with particular attention to girls, and be performed by independent, qualified practitioners and experts; recalls that age assessment must be conducted with due respect for the child's rights and physical integrity, and for human dignity, and that minors should always be given the benefit of the doubt; recalls also that medical examinations should only be conducted when other age assessment methods have been exhausted and that it should be possible to appeal against the results of this assessment; welcomes the work of EASO on this subject, which should be taken as a basis for dealing with all minors;
16. Calls on the Member States, as soon as a unaccompanied minor arrives within their territory and until a durable solution has been found, to ensure the appointment of a guardian or a person responsible for accompanying, assisting and representing the minor in all procedures and for enabling him/her to benefit from all his/her rights in all procedures, and calls for minors to be informed of the appointment of the person responsible for them without delay; calls, furthermore, for this person to have specific training in the challenges faced by unaccompanied minors, child protection and children's rights, and asylum and migration law, and to act with total independence; believes that these persons should receive continued and adequate training and undergo regular and independent monitoring; calls on the Commission to include in the strategic guidelines common standards, based on best practices, concerning the mandate, functions,

qualifications, skills and training of these persons;

17. Calls on the Member States to ensure that officials and staff working for the authorities who are likely to come into contact with unaccompanied minors, including those who are victims of human trafficking, are qualified and trained accordingly, so that they are able to identify and appropriately deal with such cases, and to provide them with adequate training on the specific needs of unaccompanied minors and on children's rights, children's behaviour and psychology, and asylum and migration law; calls on the Member States to set up compulsory gender-specific training for personnel receiving unaccompanied minors in shelters as well as for interviewers, decision-makers and legal representatives of unaccompanied minors, and to ensure that the police and the legal authorities in the Member States regularly undergo gender-specific training; stresses that the person responsible for the minor should inform and advise them, but can only supplement legal advice and cannot replace it; points out that, regardless of the nationality of the child, and of whether this nationality is recognised, the Member State in which the unaccompanied child finds him or herself must act as the child's guardian and provide him or her with the highest degree of protection;
18. Calls on the Member States, in order to ensure consistency and equal standards in the protection of unaccompanied minors within the EU, to provide unaccompanied minors with adequate protection, irrespective of their status and under the same conditions as children who are nationals of the host country:
  - access to appropriate accommodation: the accommodation should always include adequate sanitary conditions, accommodation in a 'centre' should never be in a closed centre and, during the initial days, should be in a specialised centre for the reception of unaccompanied minors; this first phase should be followed by more stable accommodation; unaccompanied minors should always be separated from adults; the centre should meet minors' needs and have suitable facilities; accommodation with host families and in 'living units' and the sharing of accommodation with related or close minors should be encouraged when it is appropriate and accords with the minor's wishes;
  - adequate material, legal and psychological support must be provided to them from the moment they are identified as unaccompanied minors;
  - the right to education, vocational training and socio-educational advice and immediate access thereto; the possibility to attend school in the host country should be ensured without delay; in addition, unaccompanied minors should where possible be given effective access to language courses, in the relevant language of the host country, immediately after their arrival on the territory of a Member State; Member States should facilitate the recognition of children's previous studies in order to allow them access to further education in Europe;
  - the right to health and effective access to adequate basic health care; Member States should, in addition, provide adequate medical and psychological care for minors who have been victims of torture, sexual abuse or other forms of violence; Member States should also provide special treatment when needed (i.e. access to rehabilitation services) for minors who have been victims of any form of abuse, exploitation or

- cruel, inhuman or degrading treatment or who have been affected by armed conflicts;
  - access to information and use of the media (radio, TV, internet) in order to satisfy their communication needs;
  - the right to leisure, including the right to engage in play and recreational activities;
  - the right of all unaccompanied minors to the continued use and development of their own identity and values, including their mother tongue;
  - the right to manifest and practise their religion;
19. Recalls that all procedures must be adapted to minors, with due regard for their age, degree of maturity and level of understanding, and be sensitive to the needs of children, in line with the Council of Europe Guidelines on Child-Friendly Justice, and welcomes the activities of the Commission in promoting these guidelines; the views of the minor should be listened to and taken into account in all steps of the procedures, in cooperation with skilled and trained persons, such as psychologists, social assistants and cultural mediators;
20. Welcomes the progress which has been made in asylum legislation and calls on Member States to make the necessary legislative and administrative reforms to effectively implement such provisions; recalls, however, that EU asylum policies must treat unaccompanied minors as children first and urges Member States, therefore, as far as possible to exempt unaccompanied minors from accelerated procedures and from procedures at the border; recalls also that the Member State responsible for an asylum application made in more than one Member State by an unaccompanied minor, with no member of his/her family legally present in the territory of the Member States, is the State in which the minor is present after having lodged an application there and calls on Member States to follow European Court of Justice rulings; stresses that it is crucial, given the specific needs of unaccompanied minors, that their asylum applications be given priority so that a fair decision can be taken as quickly as possible; calls on Member States to develop their asylum systems with a view to establishing a harmonised and child-sensitive institutional framework that takes into consideration the special needs and diverse difficulties of unaccompanied minors, especially victims of human trafficking;
21. Stresses that any decision concerning unaccompanied minors should be taken on the basis of an individual assessment and with due respect for the best interests of the child;
22. Condemns the very precarious circumstances with which these minors are suddenly confronted when they reach the age of majority; calls on the Member States to share best practices and institute procedures for assisting these minors in their transition to adulthood; welcomes the work of the Council of Europe on this subject and calls on the Commission to include in its strategic guidelines best practices for the planning of 'individualised life projects' for, and with, the minor;
23. Calls on the Member States to define the responsibilities of each partner, in particular national and local authorities, welfare services, youth workers, families and legal representatives, in implementing and monitoring life projects and ensuring their

coordination;

24. Stresses firmly that the ultimate aim, once an unaccompanied minor has arrived in EU territory, must be to seek a durable solution for him/her, which respects his/her best interests; recalls that efforts to achieve this must always begin with an examination of the possibilities of family reunification, in and outside the EU, provided that this is in the child's best interests; stresses that in principle the minor can be asked to help in searching for family members, but that there must not be any obligation to cooperate as a determining factor in the consideration of the application for international protection; recalls that, in cases where there is a risk to the life of the minor or of family members, in particular where family members remain in the country of origin, the gathering, processing and passing-on of information on these persons must be done on a confidential basis to ensure that the lives of those concerned are not endangered; calls on the Member States and all their competent authorities to improve cooperation, in particular by lifting all bureaucratic obstacles on family tracing and/or reunification and share best practices; asks the Commission to monitor the implementation of Directive 2003/86/CE on the right to family reunification, especially Article 10 (3) thereof;
25. Calls on the Commission to include, in the strategic guidelines, common standards, based on best practices, concerning conditions to be met before a minor can be returned, in a consistent manner, respecting the best interests of the child and based on the Comparative Study on Practices in the Field of Return of Minors, published by the Commission in 2011, which included a check list and collection of best practices; reiterates in the strongest terms that no decision to return a minor may be taken, if it is not in the child's best interests or endangers the minor's life, physical and mental health, and well-being, security or fundamental rights or those of his or her family, and that the individual circumstances of each minor (and of his or her family members in the case of family reunification) must be taken into account and fully evaluated; recalls that a decision to return may only be taken once it has been ascertained that the minor will benefit in the country of return from safe, concrete and adapted provisions respecting his/her rights and associated with reintegration measures in the country of return; urges the Member States, in order to guarantee the child's safe return, to establish cooperation and monitoring arrangements with countries of origin and transit and in cooperation with non-governmental, local and international organisations, and to ensure the protection and the reintegration of minors after their return; notes that such arrangements are a vital element of return; asks the Commission to insist, in the evaluation of Directive 2008/115/EC, on its impact on unaccompanied minors, in particular Articles 10, 14(1)(c) and 17 thereof; calls for the EU to commit to improving its response with a view to putting a stop to potential drivers of migration, including early and forced marriage, harmful traditional practices such as female genital mutilation, and sexual violence worldwide;
26. Stresses that the integration of unaccompanied minors in the host country must be centred around an individual life project drawn up for, and with, the minor with full respect of his/her ethnic, religious, cultural and linguistic background;
27. Calls on the Member States to introduce an obligation for public authorities to take action with regard to unaccompanied minors who are victims of begging; considers that the exploitation of minors in relation to begging should be prevented at all costs;

28. Instructs its President to forward this resolution to the Council, the Commission, the governments and parliaments of the Member States and the Council of Europe.

24.4.2013

## **OPINION OF THE COMMITTEE ON DEVELOPMENT**

for the Committee on Civil Liberties, Justice and Home Affairs

on the situation of unaccompanied minors in the EU  
(2012/2263(INI))

Rapporteur: Charles Goerens

### **SUGGESTIONS**

The Committee on Development calls on the Committee on Civil Liberties, Justice and Home Affairs, as the committee responsible, to incorporate the following suggestions in its motion for a resolution:

1. Underlines the importance of a coherent development of the EU policies on immigration, asylum and children's rights – concerning both minors in the EU and in third countries – taking due account of their impact on developing countries; recalls the obligation of Policy Coherence (PCD) enshrined in the Lisbon Treaty;
2. Recalls that one of the objectives of the EU Action Plan on Unaccompanied Minors was for the EU and its Member States to address the root causes of migration and integrate the issue of unaccompanied minors into development cooperation, thus contributing to the creation of safe environments for children to grow up in their countries of origin; underlines the need to develop further the preventive dimension of EU policies concerning unaccompanied minors by focusing more on efforts in poverty eradication, health and labour policies, human rights and democratisation, as well as post-conflict reconstruction;
3. Stresses that action to combat trafficking in human beings and to prevent illegal immigration by addressing its root causes is a vital prerequisite in addressing the issue of unaccompanied minors; takes the view that measures to protect unaccompanied minors should be extended to encompass international adoption procedures;
4. Recalls the need to consider children as particularly vulnerable and emphasises that the principle of 'the best interests of the child' must take precedence over all other considerations when dealing with unaccompanied minors;
5. Points to the obvious protection gap at EU level as regards the reception of and provision

of assistance to unaccompanied minors; recalls in this context that ensuring the security and health of unaccompanied minors, regardless of the length of their stay in the EU, is the responsibility of the respective Member States; considers that, in view of this, the EU should continue: (a) to provide increased resources to support full implementation of improvements in recent EU legislation and policies, including strengthened implementation of the current EU Action Plan on Unaccompanied Minors; (b) to plan for renewing efforts in this field by means of a further action plan post-2014, and (c) to introduce a common and binding regulatory framework, based on a common definition of unaccompanied minors, and with clear rules to address the challenge in its entirety, in order to correct the current shortcomings and the disparities existing between Member States, such as age assessment, guardianship, access to services and the identification and implementation of sustainable solutions;

6. Points out that, regardless of the nationality of the child, and of whether this nationality is recognised, the Member State in which the unaccompanied child finds him or herself must act as the child's guardian and provide him or her with the highest degree of protection;
7. Regrets that child protection is significantly and consistently underfunded in comparison with other humanitarian sectors; encourages all Member States to establish best practices to safeguard the protection of the human rights of unaccompanied minors, in particular, the right to health and the right to education, as established in the UN Convention on the Rights of the Child;
8. Calls for improved cooperation between the countries of origin, transit and destination on issues such as family tracing, monitored return – provided that the child's family circumstances make it possible or advisable – reintegration and identification of suitable solutions, with a view to advancing towards a common EU approach and establishing lasting solutions; encourages exchanges of information and good practices as well as special training of border staff and authorities on how to sensitively deal with children with traumatic backgrounds; considers that the EU must go beyond the Action Plan proposed by the Commission so that the fundamental rights of unaccompanied minors are genuinely reinforced; stresses, in particular, the need to strengthen the status of 'legal guardian' in the EU and partner countries, and considers it extremely important to draw up a monitoring plan in cooperation with countries of origin and any transit countries in order to ensure that the child is properly protected after returning to and being reintegrated into the country of origin;
9. Stresses that it is also important for the Action Plan to pay due account of the full integration of unaccompanied minors in host countries;
10. Stresses that preventing the need for, and reducing the risks of unsafe migration, identification, family tracing, assessing family circumstances, fostering opportunities for return and reintegration where this is in the best interests of a minor, combating trafficking in human beings and strengthening child protection systems are matters to be discussed in the EU's regular dialogues with partner countries and must form an integral part of the agenda of the European External Action Service and of the Commission delegations;



11. Considers it essential to introduce a coordinated EU-wide method of data collection, including both quantitative and qualitative data, by reinforcing the role of Frontex and Europol and with the involvement of the European Migration Network.

## RESULT OF FINAL VOTE IN COMMITTEE

<b>Date adopted</b>	23.4.2013
<b>Result of final vote</b>	+: 21 -: 0 0: 2
<b>Members present for the final vote</b>	Michael Cashman, Ricardo Cortés Lastra, Nirj Deva, Leonidas Donskis, Charles Goerens, Eva Joly, Filip Kaczmarek, Gay Mitchell, Norbert Neuser, Bill Newton Dunn, Andreas Pitsillides, Jean Roatta, Michèle Striffler, Alf Svensson, Keith Taylor, Patrice Tirolien, Ivo Vajgl, Anna Záborská, Iva Zanicchi
<b>Substitute(s) present for the final vote</b>	Enrique Guerrero Salom, Cristian Dan Preda, Judith Sargentini, Jan Zahradil

30.5.2013

## **OPINION OF THE COMMITTEE ON WOMEN'S RIGHTS AND GENDER EQUALITY**

for the Committee on Civil Liberties, Justice and Home Affairs

on the situation of unaccompanied minors in the EU  
(2012/2263(INI))

Rapporteur: Barbara Matera

### **SUGGESTIONS**

The Committee on Women's Rights and Gender Equality calls on the Committee on Civil Liberties, Justice and Home Affairs, as the committee responsible, to incorporate the following suggestions in its motion for a resolution:

- having regard to the 1989 UN Convention on the Rights of the Child,
- having regard to Directive 2011/95/EU on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted<sup>1</sup>,
- having regard to the 1979 UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW),
- having regard to General Recommendation No 19 of the UN Committee on the Elimination of Discrimination against Women, adopted in 1992,
- having regard to the December 1993 UN General Assembly Declaration on the Elimination of Violence against Women, the first international human rights instrument relating solely to violence against women,
- having regard to Decision No 779/2007/EC of the European Parliament and of the Council of 20 June 2007 establishing for the period 2007-2013 a specific programme to prevent and combat violence against children, young people and women and to protect victims and groups at risk (Daphne III programme) as part of the General Programme 'Fundamental Rights and Justice',

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<sup>1</sup> OJ L 337, 20.12.2011, p. 9.

- having regard to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organised Crime,
1. Calls on the Commission, the Member States, the European Institute for Gender Equality (EIGE) and international and non-governmental organisations to make additional efforts in gathering, monitoring and exchanging accurate data broken down by gender, so as to have an exhaustive overview of the number of unaccompanied girls and to be able to examine the specific needs of this group with a view to providing them with support and implementing specific measures to address those needs, and to exchange best practices with a view to making improvements;
  2. Calls on the Member States to guarantee the right of unaccompanied girls to receive adequate administrative guardianship, and to avoid their status being irregular, so as to protect children's rights; stresses that girls may become mothers and that their children must also be treated appropriately and enjoy full legal protection from the Member States;
  3. Calls for the Member States to follow age verification procedures in respect of unaccompanied minors, and for their details to be recorded following interviews with welfare services and kept on file for as long as they remain in the country concerned pending reunification with their families, where this is possible and desirable, or until they reach adulthood;
  4. Points out that unaccompanied minors, particularly girls, are twice as susceptible to problems and difficulties as other minors; observes that they are all the more vulnerable insofar as they have the same needs as both other minors and other refugees, with whom they share similar experiences;
  5. Recalls the various reasons and means by which unaccompanied minors arrive in Member States; recalls the recognition of the gender-specific phenomenon of trafficking in human beings and the fact that girls are often trafficked for the purpose of sexual exploitation and abuse, criminal exploitation, economic exploitation (for instance in the form of forced organ donation), modern slavery, illegal child labour, begging or child pornography, but above all for the purpose of sexual exploitation; calls on the Member States to recognise the rights of these girls to protection and residence permits, should they wish to stay in their country of destination; calls for all assistance and support measures for minors to be gender-specific;
  6. Points out that the first challenge is to overcome the invisibility of unaccompanied girls; stresses that this invisibility bears a close correlation to, and reinforces, social exclusion and the risk of social exclusion and vulnerability faced by such girls, who are victims of triple discrimination owing to their irregular legal status and the fact that they are underage as well as being girls or women;
  7. Stresses the importance of efforts to dismantle human trafficking rings, particularly those engaged in the trafficking of unaccompanied minors and the sexual exploitation of minors, and of setting up an aid and assistance programme for victims;

8. Calls on the Member States to follow established supervisory procedures, designating counsellors – preferably women, in the case of girls – to provide all minors with assistance and guidance in the exercise of their rights;
9. Invites the Member States, associations and NGOs to make use of the successor to the Daphne III programme, aimed at preventing and combating violence against children, young people and women; invites them to develop specific programmes to eradicate violence and discrimination against unaccompanied girls;
10. Points out that gender-based violence and having been a victim of trafficking in human beings are relevant to a claim for asylum and free legal advice and representation in respect of criminal investigations and proceedings;
11. Calls on the Member States to ensure that services for unaccompanied girls are based on a prior personal assessment which takes into account the individual situation and condition of each girl, including aspects such as place of origin, family strategy, personal network and relations, migration path, labour market situation, family obligations and access to social services in the country of arrival; emphasises that these details should enable Member States and guardianship services to determine the profile of the girls in question and to introduce specific policies; stresses that specific profiles should be considered for unaccompanied girls from sub-Saharan countries who are victims of sexual violence (rape, forced pregnancy, violence), unaccompanied girls from eastern Europe who are victims of human trafficking for the purpose of sexual exploitation, Roma girls who are sent out begging or are involved in minor crimes, and girls who have migrated to meet relatives whom they do not know;
12. Invites the Commission to gather best practices in reception and inclusion measures among the Member States when it comes to ensuring appropriate care and assistance for unaccompanied girls; calls on the Member States to guarantee access to adequate healthcare for all children without discrimination, irrespective of their legal or other status, and to incorporate mandatory professional interpretation and intercultural mediation support; stresses that girls in particular, but also boys, should, as far as possible, be provided with doctors of the same sex where this is their preferred option; emphasises that specific attention should be devoted to the emotional problems and mental health situation of separated, asylum-seeking children; calls on the Member States to develop specific health and physiological programmes for unaccompanied girls who are victims of female genital mutilation or any other kind of sexual violence;
13. Calls on the Member States to uphold girls' right to education and to prevent them from double stigmatisation;
14. Stresses the differences between Member States as regards the conditions and rules pertaining to the detention of foreigners in centres and invites the Commission and the Member States to uphold fundamental human rights in this field; calls on the Member States to ensure that women in detention are able to stay in separate cells away from men, so as to give them an appropriate level of privacy, unless the men in question are family members;
15. Points out that unaccompanied minors in the EU are frequently treated by the authorities

as delinquents who have infringed immigration laws rather than as individuals who have rights on account of their age and particular circumstances;

16. Invites the Member States to ensure adequate human supervision by providing a sufficient number of female employees, including interpreters, in shelters in order to offer young girls adequate, gender-sensitive surroundings and social, psychological and medical support; stresses the need for staff to receive ongoing training and regular updates regarding all legislation relating to minors;
17. Calls on the Member States to select mentors, advisers and assistants on the basis of gender, working on the assumption that female minors will communicate better with female staff on some issues;
18. Calls on the Member States to set up compulsory gender-specific training for personnel receiving unaccompanied minors in shelters as well as for interviewers, decision-makers and legal representatives of unaccompanied minors, and to ensure that the police and the legal authorities in the Member States regularly undergo gender-specific training;
19. Calls on the Commission and the Member States to develop and implement specific measures for pregnant minors or minors with young offspring, including psychological and medical support and day-care facilities; calls also for shelters to be adapted to their specific needs during and above all after the pregnancy;
20. Invites the Commission, in cooperation with the EIGE, to propose harmonised minimum standards of gender sensitivity, based on existing best practices, as part of its next action plan on unaccompanied minors;
21. Invites the Member States to produce gender- and child-sensitive brochures in several languages to inform minors about their rights and obligations as asylum applicants, including the different forms of gender-based persecution that are recognised as grounds for asylum;
22. Invites the Member States to consider prioritising gender-related asylum claims in order to offer protection to girls originating from third countries where the political situation is particularly unstable and in which girls are discriminated against and suffer from various forms of violence, such as forced marriages, sexual violence and female genital mutilation;
23. Points out that no country can be considered 'safe' when it comes to gender-based persecution and calls on the Member States to take this into account;
24. Invites the Commission to pay special attention to the situation of unaccompanied girls coming from North African countries; notes that Member States in southern Europe are facing a significant influx as a result of the events of the Arab Spring and must thus obtain the necessary support from the EU in order to deal with this situation properly;
25. Calls on the Commission to introduce preventive measures for potential vulnerable groups as part of enlargement assistance by financing protection programmes for unaccompanied child victims in the light of the risks they face.

## RESULT OF FINAL VOTE IN COMMITTEE

<b>Date adopted</b>	29.5.2013
<b>Result of final vote</b>	+: 25 -: 0 0: 5
<b>Members present for the final vote</b>	Regina Bastos, Edit Bauer, Marije Cornelissen, Edite Estrela, Iratxe García Pérez, Mikael Gustafsson, Mary Honeyball, Livia Járóka, Teresa Jiménez-Becerril Barrio, Constance Le Grip, Astrid Lulling, Barbara Matera, Elisabeth Morin-Chartier, Krisztina Morvai, Norica Nicolai, Siiri Oviir, Antonyia Parvanova, Joanna Senyszyn, Joanna Katarzyna Skrzydlewska, Marc Tarabella, Marina Yannakoudakis, Anna Záborská
<b>Substitute(s) present for the final vote</b>	Roberta Angelilli, Anne Delvaux, Rosa Estaràs Ferragut, Mariya Gabriel, Nicole Kiil-Nielsen, Katarína Neved'alová, Chrysoula Paliadeli, Antigoni Papadopoulou, Angelika Werthmann
<b>Substitute(s) under Rule 187(2) present for the final vote</b>	Martina Anderson

## RESULT OF FINAL VOTE IN COMMITTEE

<b>Date adopted</b>	19.6.2013
<b>Result of final vote</b>	+: 48 -: 4 0: 0
<b>Members present for the final vote</b>	Jan Philipp Albrecht, Edit Bauer, Rita Borsellino, Emine Bozkurt, Arkadiusz Tomasz Bratkowski, Salvatore Caronna, Philip Claeys, Carlos Coelho, Ioan Enciu, Tanja Fajon, H�el�ene Flautre, Kinga G�al, Kinga G�oncz, Nathalie Griesbeck, Sylvie Guillaume, �gnes Hankiss, Salvatore Iacolino, Sophia in 't Veld, Livia J�ar�oka, Teresa Jim�enez-Becerril Barrio, Timothy Kirkhope, Juan Fernando L�opez Aguilar, Baroness Sarah Ludford, Svetoslav Hristov Malinov, V�eronique Mathieu Houillon, Anthea McIntyre, Nuno Melo, Roberta Metsola, Antigoni Papadopoulou, Georgios Papanikolaou, Jacek Protasiewicz, Carmen Romero L�opez, Judith Sargentini, Birgit Sippel, Csaba S�ogor, Renate Sommer, Rui Tavares, Nils Torvalds, Kyriacos Triantaphyllides, Axel Voss, Renate Weber, Josef Weidenholzer, Tatjana �danoka, Auke Zijlstra
<b>Substitute(s) present for the final vote</b>	Elena Oana Antonescu, Anna Maria Corazza Bildt, Dimitrios Droutsas, Monika Hohlmeier, Jan Mulder
<b>Substitute(s) under Rule 187(2) present for the final vote</b>	J�urgen Creutzmann, Jelko Kacin, Olle Ludvigsson