

# Concrete actions to protect unaccompanied minors

The Commission has identified 10 principles and a number of measures for a common EU approach to deal with the challenges of the growing number of unaccompanied minors seeking a new life in the EU. The concrete measures are listed in an Action Plan and will be carried out in the coming years.

## What are the main challenges?

- lack of comparable data;
- age assessment of the persons who declare themselves to be children;
- return of unaccompanied minors to their country of origin. In this context, a particular challenge is the problem of the unaccompanied minor's identification and, in particular, of tracing his/her family;
- phenomenon of disappearance of unaccompanied minors. Children often go missing from care facilities of Member States;
- dangers of unaccompanied minors becoming victims of human trafficking and exploitation.

## How does the Commission propose to address this issue?

This common EU approach is based on:

- **respect for the rights of the child** as set out in the EU Charter of Fundamental Rights and the United Nations Convention on the Rights of the Child (UNCRC);
- **solidarity and sharing of responsibilities** between Member States and with the countries of origin and transit;
- **enhanced cooperation** with civil society organisations and international organisations.

The Action Plan **builds on the existing legislative and financial instruments**. It distinguishes **three main strands for action**: prevention, reception and identification of durable solutions. These actions are to be implemented by a **series of concrete measures**, which are outlined in the Action Plan. For example:

- **Prevention**: the root causes of migration must be addressed with the objective of creating an environment allowing children to grow up in their countries of origin with good prospects of personal development and decent standards of living; targeted awareness-raising activities and training should be promoted in countries of origin and transit to improve early identification and protection of potential victims of trafficking in human beings;
- **Reception and procedural guarantees**: the Commission will ensure that EU legislation is correctly implemented and evaluate whether it is necessary to introduce targeted amendments or a specific instrument setting down common standards on reception and assistance for all unaccompanied minors regarding guardianship, legal representation, access to accommodation and care, initial interviews, education, etc. Best Practice Guidelines on age assessment should be agreed through technical seminars;
- **Identification of durable solutions** which should be based on the individual assessment of the best interests of the child. These solutions shall consist of either return and reintegration in the country of origin, or granting of international protection status or other legal status allowing minors to successfully integrate in the Member State of residence or resettlement.

## In more detail, what concrete measures will be carried out?

### 1. Collecting comprehensive and comparable data

- The Commission will propose that Member States gather comprehensive data on unaccompanied minors by using existing agencies and networks, such as the European Migration Network, Frontex, Europol and the European Asylum Office and make the full use of the Migratory Statistics Regulation.
- Frontex is invited to develop annual assessments and tailored risk analysis on the nature of the threats faced by unaccompanied minors.
- The Commission will support increased comprehensiveness of the existing data as well as promote the inclusion of a section on unaccompanied minors in migration profiles of the main countries of origin and transit.

## **2. Prevention of unsafe migration and trafficking and increasing protection capacities in third countries**

- The EU and national authorities should fund projects in third countries to prevent unsafe migration and trafficking in human beings or children. For example, by helping to develop child protection and birth registration systems.
- The EU and Member States should reinforce actions regarding child victims of trafficking in human beings by supporting regional instruments as well as assisting and protecting these children at an early stage, by referring them to specific services in the country where they are found.
- Member States' consular services should thoroughly assess visa applications submitted on behalf of children.

The EU and Member States should continue to:

- Fund activities aiming to provide protection and assistance to minor asylum seekers and refugees, including activities against exploitation and forced recruitment, for example by criminal groups.
- Support third countries in improving their legislative and administrative capacity to identify minor asylum seekers and victims of trafficking in human beings, set up specific assistance programmes, and assist and protect children in the framework of Regional Protection Programmes.

## **3. Reception and procedural guarantees in the EU**

- Reception measures and access to relevant procedural guarantees should apply from the moment an unaccompanied minor is found at external borders or on EU territory, until a durable solution is found. Specialised civil society organisations should be invited to play a more active role throughout the entire process.
- Appropriate measures need to be taken to ensure a smooth transition period for those children who – due to turning 18 and becoming adults – may be in the danger of losing protection and support.
- The EU should adopt higher standards of protection for unaccompanied minors by completing negotiations on the revision of the asylum *acquis* and by adopting more comprehensive legislation on trafficking in human beings and sexual exploitation of children.
- The Commission will ensure that EU legislation is correctly implemented and evaluate whether it is necessary to introduce targeted amendments or a specific instrument setting down common standards on reception and assistance for all unaccompanied minors regarding guardianship, legal representation, access to accommodation and care, initial interviews, education, etc.
- EU agencies, as well as Member States, should assess different experiences to counter disappearances and promote best practices.

## **4. Finding durable solutions in the best interests of the child**

- In the framework of the Return Fund and the Thematic Programme, the Commission will prioritise funding of activities concerning unaccompanied minors, such as projects providing for post-return monitoring and follow-up; supporting families and communities for reintegration, and creating study and training opportunities for children in their countries of origin.
- The Commission will publish a study on existing Member States practices and legislation on the return of unaccompanied minors.
- The Commission and Member States should ensure that the specific needs of minors are taken into account when implementing the proposed Joint EU Resettlement Programme.

# Comparative EU Study on Unaccompanied Minors

To complement the Action Plan on Unaccompanied Minors, the European Commission presents an EU Comparative Study on Unaccompanied Minors which has been produced by the European Migration Network (EMN)<sup>1</sup>.

The purpose of the study is to fill a gap in information on policies concerning unaccompanied minors in the EU. These range from an assessment of identified reason(s) and circumstance(s) for entering the EU, to entry procedures, reception arrangements, including integration measures, detention, return and identified best practices. In addition, statistics on unaccompanied minors have also been compiled.

## Main findings of the study

**Several, varied and interconnected reasons and circumstances for entering the EU** have been identified. These range from fleeing persecution and seeking protection, family reunification, economic reasons, hope for a better life, to join the migrant/diaspora community, to transit to another (predominantly EU-15) Member State, as victims of trafficking or of smuggling, for medical reasons or abandonment, or as runaways or drifters.

It was also found that whilst entry procedures, including border controls for unaccompanied minors who lodge an application for asylum are well-established and more-or-less harmonised across the Member States, this is not to the same extent in other cases. A key component of the reception arrangements for unaccompanied minors who apply for asylum is **the appointment of a guardian**, or equivalent. Unaccompanied minors who are **victims of trafficking in human beings, most often are granted a specific residence permit** offering (short-term) protection.

Naturally, all Member States provide accommodation and other care facilities for unaccompanied minors. Often the Member States will also provide access to healthcare, education and, subject to national conditions being met, to employment. However, **a disturbing number of disappearances from some care facilities occurred in a number of Member States**. In the best-case scenario, this is because the unaccompanied minor left an open accommodation facility to join family already living in the Member State, whilst the worst case scenario is that these minors are then victims of trafficking and subjected to exploitation.

Accurate and consistent **methods for the determination of the age** of an unaccompanied minor in cases of doubt were found to be a challenge common to all Member States. The general practice, however, is for Member States to give the benefit of the doubt and to use the lower age determined.

The **detention of an unaccompanied minor in general occurs only as a last resort**, with some Member States not detaining an unaccompanied minor under any circumstances. Most often, an unaccompanied minor is detained with a view to his/her eventual removal or if they have committed a criminal offence. With regard to the provisions in the Return Directive concerning the detention of minors, almost all Member States report that these are already met in their current national legislation.

The return and reintegration of unaccompanied minors to their country of origin is first and foremost only undertaken if considered in the minor's best interest. In practice, as for detention, **the numbers of those returned are generally low**, with only assisted returns, often with a degree of reintegration and undertaken via programmes such as those conducted by the IOM.

## Figures and statistics

Statistics on unaccompanied minors are not widespread or consistent, with the most comprehensive and comparable data on those unaccompanied minors who lodge an application for asylum. According to the data presented in the report, **in 2008 there were a total of 11 292 applications for asylum lodged by unaccompanied minors in the 22 Member States** (exceptions are Bulgaria, Cyprus, Denmark, Luxembourg, Romania) participating in this study.

The distribution of applications across Member States varied widely, from less than 10 to up to 4 285, as did the country of nationality of the unaccompanied minors, although **overall nationals of Afghanistan**,

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<sup>1</sup> The [European Migration Network \(EMN\)](#) was established through [Council Decision 2008/381/EC](#) and serves to provide up-to-date, objective, reliable and comparable information on migration and asylum, with a view to supporting policymaking in the EU. It provides this information also to the wider public.

**Iraq and some African states** were prominent. In terms of the sex and age of the unaccompanied minors, generally the **most significant group were males aged 16 years or above**. An overall comparison with 2007 is possible for 21 of the participating Member States (the exception is Italy for which no data are available in 2007), when there were a total of 8 050 such applications, representing an increase of 33 percent in 2008 compared to 2007 for these 21 Member States.

**For 2009, Eurostat data gives a total of 10 960 unaccompanied minors** who lodged applications in 22 Member States (this time excluding Czech Republic, Denmark, France, Poland, Romania). This still represented **an increase of 13 percent from 2008** when a like-for-like comparison is made with the same 22 Member States, with 9 695 asylum applications lodged by unaccompanied minors in these 22 Member States during 2008.

Additional data, as far as possible, is also presented in the EMN Synthesis Report on those in the care of public authorities, in detention, assisted returns, refusals of entry, apprehensions, victims of trafficking, family reunification and Eurodac checks. However, these data are more limited, partly because the recorded numbers are low and not available in all Member States.

The EMN Synthesis Report, as well as the 22 National Reports upon which the synthesis is based, are available at:

<http://emn.sarenet.es/Downloads/prepareShowFiles.do?directoryID=115>