

UNHCR NEWSLETTER

Separated Children in Europe Programme

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News on Separated Children

Austria:

1. The Commission of the Austrian Minister of Interior allocating the resources provided by the European Refugee Fund, decided during its' second session to distribute two thirds of the total budget (34 million Austrian shillings: 2 178 328 \$) for the year 2001 to the establishing of three "Clearingstellen" (clearing places) for separated children in Austria. A final decision is forseen for the end of April.

2. A public awareness campaign entitled "Human Rights for Children Refugees" has been launched by the NGO "Kinderstimme" (child's voice) which is supported by UNHCR Austria, UNICEF and the Austrian Ludwig Boltzmann Institute for Human Rights. More information on the campaign is available at :

<http://www.no-racism.net/kinderfluechtlinge.htm>

Information from UNHCR Vienna

France: Of the 910 Kurds who arrived in France Saturday 17th February 2001 only one has been identified as a separated child. According to UNHCR Paris and the French Red Cross, between 400-500 children arrived that day. Many children are thought to be separated but most of them pretended to be with a family. Many children have already disappeared, leaving France to seek asylum elsewhere in Europe. No system of identification has been put in place. *Information from UNHCR Paris.*

Germany: NGO ASKING FOR THE IMPLEMENTATION OF THE CRC INTO GERMAN ALIEN LAW.

ProAsyl, a German NGO working for Refugees, circulated a petition asking the German Government to withdraw its' reservations to the Convention on the Rights of the Child (CRC) and to fully implement the CRC into its asylum law. *For more information on Pro Asyl's activities please contact Heiko Kauffmann, Postfach 15 27, 40 640 Meerbusch, Tel: 02132/76 04 87; Fax: 02132/76 04 88.*

The Netherlands: In 1999, the *Immigratie en Naturalisatie Dienst* (Immigration and Naturalisation Service) IND made an inventory of all the problems encountered by separated children in the Netherlands. *IND annual report 1999*, <http://www.immigraatiedienst.nl/>; info line: +31 70 370 31 24.

Norway: ACCOMMODATING SEPARATED CHILDREN.

The number of separated children who have applied for asylum in Norway has more than doubled in the last few years. In 1998, 215 separated children applied and 133 in 1997. In 1999, a total of 575 separated children arrived in Norway. A growing number of these have to stay in reception centres longer than is desirable, before going into longterm arrangements, particularly those without relatives or other persons of contact in the country. The average waiting time was more than five months in 1999.

The Norwegian Directorate of Immigration gives priority to more permanent accommodation for separated children, but has not succeeded in procuring an adequate number of spaces for 2000. Several municipalities also feel that state subsidies for receiving separated children are inadequate.

The media have lately focused on so-called "anchor children", who are believed to be sent to Norway by their parents in the hope that the rest of the family will have a right to family reunification. However, 1997-1999 statistics show that only a very few of these are granted family reunification.

Measures To Facilitate Speedy And Good Accommodation. In recent years a number of measures have been initiated by the state to solve the problems of accommodating separated children. Subsidies for settling separated children have increased and a number of development projects have been implemented. Six municipalities are participating in a project to develop models for municipal work with separated children, while the College of *Telemark* is carrying out a study of what has happened to persons who arrived as separated children in Norway ten years ago.

Guidelines. The Ministry of Children and Family Affairs will soon issue Guidelines on municipal assistance for separated children refugees. The intention of these Guidelines is to improve local expertise in the activities aimed at separated children and to strengthen co-operation between the central and local authorities.

Information from the Newsletter on Norwegian Refugee and Immigration Policy, August 2000.

Romania: AGE ASSESSMENT. Participation in the *SCEP* determined a task force to be established in Romania, consisting of UNHCR, Refugee Office of the Ministry of Interior, an independent judge and three refugee-assisting NGOs : Save the Children Romania, Romanian National Council for Refugees and Romanian Forum for Refugees and Migrants - ARCA. The task force was instrumental in initiating practice with respect to appointment of guardians and age assessment.

In the absence of valid identity documents, age assessment is based on the person's declaration. If the authorities however have doubts regarding the declared age, age assessment by experts is requested. In Romania, the only authorised institution to carry out expert age assessment is

the Forensic Institute based in Bucharest. The Institute will conduct physical measurements and issue a certificate indicating an age interval of one year for example *18-19 years of age*. The authorities will consider the minimum, meaning that whenever the certificate indicates *17-18 years of age*, it is accepted that the person is 17 i.e. a minor.

As of mid-February 2001, 16 age assessments had been conducted. In 14 cases, the age interval given by the Forensic Institute was approx. *21-22 years of age*. Only two were estimated to be *17-18* and registered by the authorities as unaccompanied minors. Fees amounting approx. 5\$ per case assessed had been borne from the UNHCR-assistance programme.

The task force is arguing that the age interval established by the Forensic Institute should be of two years rather than one and putting pressure for guarantees that age assessment is conducted in a child-friendly manner and asylum-seekers going through this assessment are properly informed in advance. *Information from UNHCR Romania.*

Sweden. REPORT ON REFUGEE CHILDREN AND CHILDREN OF ASYLUM-SEEKERS. On 21st February, the Migration Board presented a comprehensive report on children asylum-seekers who risk going into hiding. The report proposes that more time be spent putting together reliable statistics and doing follow-up work based on information that is gathered during the waiting period before the final decision. The report is making recommendations for the further training of staff who come in contact with children consistent with the principles of the UN Convention on the Rights of the Child. *From the Migration News Sheet, March 2001.*

Sweden. GUIDELINE DECISIONS SET CRITERIA FOR FAMILY REUNION. The Aliens Appeals Board has made three precedent-setting decisions to establish guidelines on how to decide on the right to family reunification when one separated child has a residence permit in Sweden. One case involved a Kurdish family of nine persons who sought family reunification in Sweden based on links to a 16 year old family member in possession of a permanent residence permit in Sweden since May 1999 on humanitarian grounds. Both the Migration Board and the Appeals Board were in agreement that he should be reunited with his family in his country of residence since he had only resided in Sweden for a short while. The second case concerned an Iraqi minor of young age who arrived in Sweden

with an uncle and was granted a permanent residence permit in December 1999. The parents, of Iraqi nationality, were residing in Jordan and had requested family reunification in Sweden. The Migration Board was of the opinion that reunification could take place either in Iraq or in Jordan whereas the Aliens Appeals Board disagreed on account of the family's precarious situation. The parents were therefore granted permission to reside in Sweden. The third case involved a 12-year old girl from Afghanistan who arrived in Sweden in 1994. Her mother and younger brother were still in the home country then but later fled to Pakistan. The Migration Board was of the opinion that family reunification could take place in Pakistan whereas the Aliens Appeals Board took into account the long period of residence in Sweden with foster parents and the uncertain situation of the mother in Pakistan. The Aliens Appeals Board, therefore, decided that it was not feasible to require family reunification in Pakistan or in Afghanistan and a permit was granted to the mother and son. The decisions in these cases show that more weight is given than previously to the actual circumstances in each individual case rather than strictly interpreting the basic rule that minor separated children should be reunited with their families in the country of origin or their country of residence. *From the Migration News Sheet, March 2001.*

Spain. MOROCCAN SEPARATED CHILDREN. The President of the regional parliament of Catalonia, Jordi Pujol visited Morocco to discuss issues concerning separated children and Moroccan irregular migration. Mr Pujol proposed to the Moroccan authorities to increase police surveillance of its' coastline to prevent the clandestine departure of small boats for Spain. Mr Pujol did not manage to obtain concession on the problem of Moroccan separated children living in Catalonia. The Moroccan Minister of Justice and the Foundation Hassan II have rejected proposals by the Government of Catalonia on the repatriation of separated children who number about 100 and who live in the streets of Barcelona, except for 10 dossiers, which they have undertaken to examine. *From the Migration News Sheet, March 2001.*

A Training Programme For Officials: CHILDREN FIRST – MINORS IN THE ASYLUM PROCESS, The Finnish Government and IOM, International Organisation for Migration, are responsible for the Children First – Minors in the Asylum Process, a Training Programme For Officials. This Programme aims to increase the understanding of the best interests

of the child principle by developing new working methods and best practices among government officials responsible for working with separated children seeking asylum in **Finland, Ireland, Lithuania and Poland** . The programme consists of five main components: training for encountering separated children in the asylum process; assessment of the child's situation and establishment of networks; support measures at the post-decision stage; exchange of staff; information dissemination, evaluation and reporting. The Programme started on 15 September 2000 and will finish on 15 September 2001. The Project is funded by the European Union Odysseus Programme and national co-funding. *For more information, please contact IOM Helsinki P. O. Box 851, 00101 Helsinki, Tel: +358 9 684 11 50, Fax: 358 9 684 11 511, E-mail: iomhelsinki@iom.int or visit the Programme web site : <http://www.uvi.fi/cfproj/>*

Refugee/Asylum Policy Update

Lithuania. LITHUANIAN AUTHORITIES PROPOSE LEGISLATIVE AMENDMENTS TO IMPROVE SITUATION OF SEPARATED CHILDREN. The Migration Department of the Ministry of Interior drafted amendments to the current Law on Refugee Status of 29 June 2000, some of which specifically deal with separated children. The amendments proposed mention that separated children should have a right to submit an asylum application on his/her own, which will later be approved by the guardian, once one is appointed. Currently, separated children do not have such a right and applications are submitted by the assigned representative of a child care institution. The proposal also mentions the establishment of guardianship for the purpose of asylum procedure. *Information from UNHCR Lithuania.*

The Netherlands – NEW POLICY. The Netherlands have a new policy regarding separated children as of January 4 2001. Following are the major changes :

- Regarding the **definition** of a separated child, previously: a child was considered as separated if not accompanied or cared for by one or both parents, a blood relative aged over 18 or a relative by marriage 18. Following the new policy, a child is no longer determined to be separated if he/she is accompanied by a person considered as a caretaker, but not necessarily one of the above-mentioned persons.

- Following the new policy, separated children who have not been granted an **Asylum residence¹ permit** can receive temporary protection. This ordinary permit to stay under the special policy for separated children is granted when no adequate care is available in the country of origin and the minor over 16 years old is not capable of taking care for himself. An order to return to their country of origin will be given when he/she reaches the age of 18. Only the ones who have been three years in the Netherlands with a temporary permit to stay when they reach the age of 18, can apply for a permanent permit to stay. Adequate care is considered to be available in the country of origin when there are caretakers, clan-members or reception facilities granted by governmental and non-governmental organisations. Previously, only a parent was seen as adequate care in the country of origin. Under the former law, separated children received a temporary permit to stay also when they reached the age of 18 in the meantime. After being in the Netherlands for three years, they received a permanent permit to stay.

- Under the new law, the **age assessment** method has not change. X-rays of collar bone, hand and wrist will still be carried out to determine the asylum seeker's age. Regarding Dutch Alien law, a separated child obtains permanent permission to stay if he/she lived in the country for three years. This will not change either. What is new is that an age assessment can be carried out if an asylum-seeker claims to be under the age of 15. Consequently, if he/she is considered to be 15 years old or older, an order to leave the territory will be delivered when he/she reaches the age of 18.

- Under the new policy, the **Dublin Convention** is applicable to separated children.

- **Reception** facilities will change with application of the new law. A new reception system is under development.

Slovakia: GUARDIANSHIP. The Migration Office, which has to date been responsible for appointing and undertaking a guardian role to separated children in the RSD procedure, has decided to fund an NGO Organisation for Aid to Refugees - OPU., which would be responsible for

¹ **Grounds for admission** An asylum residence permit may be granted on the grounds referred to in section 29 of The new Alien Act 2000 : on the grounds of the Geneva Convention, on the grounds of the European Convention on Human Rights, on humanitarian grounds, on the grounds of the overall situation in the country of origin and on the grounds of family reunification with an asylum-seeker or the holder of an asylum permit.

assisting separated children awaiting refugee status determination decisions in the refugee centres. *Information from UNHCR Slovakia.*

Spain: LAW AMENDMENT REGULATING THE CRIMINAL RESPONSIBILITY OF MINORS. In January 2001, a new law increasing the "criminal age" of minors from 16 to 18 years entered into force. Consequently, all children under 18 who were under preventive detention for a period longer than 6 months, were immediately released from prison while awaiting trial. In this regard, minors who have committed murders, after trial could be sentenced to a maximum of 8 years in specialized internment centres, plus 5 years of surveillance freedom. The review of the Law aims at reinforcing the re-education character of the internment centres. *Information from UNHCR Madrid*

USA: TOWARDS GUIDELINES ON THE TREATMENT OF SEPARATED CHILDREN. Draft legislation has been introduced in the US Senate. The proposed "Unaccompanied Alien Child Protection Act of 2001" makes provision for improved treatment of separated children by proposing the creation of an Office for Children's Services in the Department of Justice-independent of the Immigration and Naturalisation Service (INS). *For more information please visit the following web site:* <http://www.thomas.loc.gov>

European Asylum Harmonisation

Swedish Presidency. EU SEMINAR ON CHILDREN AFFECTED BY ARMED CONFLICT AND FORCED DISPLACEMENT. In his speech, EU Commissioner for Justice and Home Affairs, Mr. Antonio Vitorino, highlighted the need of best practice, making special reference to the Separated Children in Europe Programme. Ms. Erika Feller, Director of the UNHCR Division of International Protection, focussed her statement on the right to be heard for separated children seeking asylum in Europe and mentioned the importance of the Programme's Statement of Good Practice. *Norrköping 1-2 March 2001, Sweden.*

The Presidency conclusions and speeches can be found on the Swedish government's web site: <http://www.eu2001.se/eu2001/news>,

EU 2001 Work programme The complete Commission work programme for 2001 can be consulted at

http://europa.eu.int/comm/off/work_programme/index_en.htm.

Build Children's Europe! – Making Children's Rights Real In The Enlargement Process 3-4 May 2001 Nyköping Sweden. Save the Children Sweden in co-operation with Save the Children Alliance are organising the above conference. Its' objectives are to exchange experiences on present activities and future plans; to draft recommendations to improve the implementation of the rights of the child set out in the UNCRC; and to highlight the rights of the child and the child perspective at the political level within the EU and in the candidate countries from Central and Eastern Europe. For more information contact Laijla Sjölander, tel: +46 8 698 9111 or Kristina Ekelund, tel: + 46 8 698 6706. *From Save the Children Brussel's office Newsletter, February 2001.*

Publications and Web-sites

- **Migration News Sheets** is a monthly information bulletin on immigration, refugees and ethnic minorities. It is publication of the Migration Policy Group, Brussels. *Please contact Antonio Cruz, 172-174, rue Joseph II, B-1000 Brussels; tel & Fax: +32 2 646 55 95.*
- Save the Children Sweden published a **Documentation of the European Conference "Children First and Foremost – Policies towards Separated Children in Europe"**. This conference was held on 21-22 September 2001 in Sweden and is organised by the Separated Children in Europe Programme. This publication includes presentations and recommendations made during the event.
- UNHCR published a series of children's booklets on children's stories (in Africa) during war time. *All books are available in French and English and can be ordered from MacMillan education Ltd, ISBN: 0-333-76479-X*
- Gillian Mann, **Care and Protection of Separated Children in Emergencies**, Development Studies Oxford, 2000. The aim of this study is to step back and examine the appropriateness of family reunification, foster placements with local families or institutionalisation in group care facilities for the development and social integration of separated children. This study is funded by Save the Children Sweden and the Andrew W Mellon Foundation See: <http://www.qeh.ox.ac.uk/rsc/>
- **Independent Human Rights Institutions for Children – Ombudwork.** Innocenti Research Centre Publication, 28 pages, December 2000, code 253U. To order a copy, please contact UNICEF Innocenti Research Centre; tel: +39 055

20 33, fax: + 39 055 244 817, florence.orders@unicef.org
- **International Children's Rights Thesaurus**, Innocenti Research Centre, available in English (233U), French (236U) and Spanish (237U) for \$45. To order a copy, please contact UNICEF Innocenti Research Centre; tel: +39 055 20 33, fax: + 39 055 244 817, florence.orders@unicef.org
- **Children's Rights Glossary.** To order a copy, please contact UNICEF Innocenti Research Centre; tel: +39 055 20 33, fax: + 39 055 244 817, florence.orders@unicef.org

WEB SITES:

- Protection Project
<http://www.protectionproject.org/>
The purpose of the Project is to gather and disseminate information regarding the national and international legislation protecting women and children from commercial and sexual exploitation. The site offers access to national and international laws on trafficking in women and children, summaries of the trafficking situations in different countries ("human rights report"), maps, testimonies, resources, and more. Registration is required, but access is free.
 - Hague Conventions:
<http://www.hcch.net/e/conventions/>
 - "Child University". It is an international web-university dedicated to childhood protection. The site encourages its' users to contribute expert knowledge to and to learn from the site. The site has information on social development of children, child protection, a library of reference and information on conferences. Their address is: <http://www.childuniversity.org>
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Programme Update

- A workshop on the "Best Interests of the child and the asylum process" was planned to be held on **21-22 June** in Geneva. It has been postponed.
 - **February 21-23**, the Senior Policy Officer went on mission to Germany, Spain and Lithuania to discuss separated children issues and to present the Separated Children in Europe Programme to Government officials and NGOs. A presentation of the Lithuanian Country assessment was organised in Vilnius on 22 February.
 - **9 February**, a Steering Committee meeting was organised on 9 February.
 - Work on the Central and European Baltic States summary report has begun.
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Calendar

- The Senior Policy Officer will be on adoption leave from 5 March till 27 April and has been replaced by Tannis Gutnick, E-mail: Gutnick@unhcr.ch and same tel:+ 32 2 627 17 59; fax: + 32 2 627 17 32
- The first of the three regional Training of Trainers will be held on 21-23 May in Copenhagen. NGO, Government and UNHCR participants from Norway, Sweden, Finland, Denmark, UK, Ireland and the Benelux will attend.

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