



NEWSLETTER No. 38 Autumn 2012

In this issue:

- p. 1 Programme update
- p. 2 European Union & Council of Europe
- p. 3 Committee on the Rights of the Child
- p. 5 UNHCR
- p. 5 Changes and developments in law, policies and practice
- p. 10 Detention
- p. 12 Age assessment
- p. 14 Guardianship
- p. 16 Reception
- p. 19 Missing children
- p. 20 Dublin II practice
- p. 21 Procedures and recognition
- p. 24 Family tracing and reunification
- p. 26 Return and reintegration
- p. 27 Trafficking
- p. 29 Child and youth participation
- p. 31 Miscellaneous
- p. 32 Events
- p. 35 Publications
- p. 38 New useful websites
- p. 38 Reporting organizations
- p. 39 Statistics on arrivals of separated children seeking asylum
- p. 40 Arrivals of non-asylum seeking separated children

The content has been prepared from publicly available sources and information provided by the members of the Separated Children in Europe Programme's NGO Network and UNHCR SCEP Focal Points.

SCEP Programme Update

SCEP NGO network meetings

The first bi-annual NGO Network meeting was held in Budapest 5-6 June 2011 with the participation of the Save the Children EU Office's Senior Policy Adviser on Asylum, Migration & Trafficking and a consultant on age assessment.

At the meeting the network was informed about activities and initiatives since last meeting, informed and consulted on ongoing and upcoming topics on the EU agenda and had an exchange on national advocacy activities relevant to EU issues.

The network was informed about SCEP project applications and SCEP partnerships in project applications, and the new guidelines for SCEP endorsement were introduced.

Three thematic groups – on age assessment, guardianship and return & reintegration - had meetings and informed each other of ongoing and upcoming activities and a session was held for consultation with the network on the advocacy strategy priorities & presentation of the just finalized age assessment position paper.

Furthermore, the network addressed through a thematic discussion the situation of and concerns for separated children outside the national asylum/reception/protection systems.

The second 2012 bi-annual NGO Network meeting will take place in Lisbon on 13-14 November.

Joint SCEP-UNHCR meeting

Back to back to the network meeting, the SCEP NGO network had a joint meeting with the UNHCR SCEP Focal Points on 7 June.

This joint meeting focused solely on the drafting of the upcoming Guidance for determining the best interests of the child in industrialised countries with a focus on the European context and the preliminary plans for rolling it out.



With financial support from EC Daphne III

Age Assessment

In June 2012, SCEP launched its “Position Paper on Age Assessment in the Context of Separated Children in Europe”. Primarily based on a review of age assessment laws, policies and practices carried out by the Network in 16 European countries, the Paper aims to provide concrete recommendations to States and other relevant stakeholders on how to ensure full respect of the rights that separated children are entitled to, when doubts concerning their age may arise. The Paper is being widely disseminated among key institutions, NGOs and IGOs, as well as medical experts focusing on age assessment in Europe.

The Position Paper as well as translations of the document or summaries in national European languages will be available at <http://separated-children-europe-programme.org/publications/reports/index.html>

SCEP has been invited to contribute to the consultative process on age assessment set out by the European Asylum Support Office (EASO). In the above-framework, in July the SCEP Advisor attended a meeting on “interviewing children” and provided a presentation on the topic. The meeting was aimed to elaborate training activities on – among others – age assessment procedures in the context of interviews to children in migration situations.

On the 23rd October, SCEP’s consultant Maria Antonia Di Maio gave a presentation “From age disputed to aged-out: defending separated children’s rights to protection and care during age assessment procedures in Europe” at the International Conference ‘Unprotected Unaccompanied Children in Europe: What reasons lead to their lack of protection?’ organised within the frame of PUCAFREU by Migrinter at Université de Poitiers, France.

SCEP annual report 2011

The SCEP has recently published a brief Annual report for 2011 informing about the programme, the NGO network and activities undertaken. The Annual report will be made available on SCEP’s web site at <http://separated-children-europe-programme.org/publications/reports/index.html>

SCEP contact information

Updated contact information for the SCEP Programme management, Steering Committee, NGO Network and UNHCR SCEP Focal Points is available at

http://separated-children-europe-programme.org/separated_children/about_us/contacts/index.html

The European Union & the Council of Europe

New EU strategy against Trafficking in Human Beings (2012-2016)

A new European strategy was adopted on the Eradication of Trafficking in Human Beings (2012-2016), with a set of concrete and practical measures to be implemented. The strategy includes prevention, protection and support of the victims, as well as prosecution of the traffickers. It identifies five priorities and outlines a series of initiatives for each of them, such as:

- Supporting the establishment of national law enforcement units specialised in human trafficking.
 - Creating joint investigation teams and involving Europol and Eurojust in all cross border trafficking cases.
 - Providing clear information to victims on their rights under EU law and national legislation, in particular their right to assistance and health care, their right to a residence permit and their labour rights.
 - Creating an EU Mechanism to better identify, refer, protect and assist trafficked victims.
 - Establishing a European Business Coalition against trafficking in Human Beings to Improve cooperation between companies and stakeholders.
 - Establishing an EU platform of civil society organisations and service providers working on victim protection and assistance in Member States and third countries.
 - Supporting research projects examining the Internet and social networks as increasingly popular recruitment tools for traffickers.
- <http://ec.europa.eu/anti-trafficking/>

Save the Children and the Danish EU Presidency Conference

On June 18/19, Save the Children and the Danish EU Presidency hosted a conference on "Unaccompanied Minors arriving in Europe: Recent Developments & Practical Tools". Save the Children and the Danish EU Presidency brought regional actors together to discuss recent developments and practical tools in responding to the situation of unaccompanied children. 16 Member State authorities, the European Commission, Frontex, the European Asylum Support Office and the Fundamental Rights Agency, as well as key IGOs and NGOs regionally active on this issue, came together to reflect together on concrete actions for finding durable solutions that are in the best interests of these children, here in Europe or in countries of origin.

The conference was opened up by presentations on the situation of unaccompanied children in Europe and the challenges in responding to their situation by the Danish Minister of Justice and the CEO of Save the Children Denmark. The European Commission gave some insights into the implementation of the EU Action Plan on Unaccompanied Minors. Presentations followed on the upcoming UNHCR/UNICEF Guidance on best interests determination, the ICRC's Family Tracing services, IOM's reintegration programmes and the ECRE/Save the Children Checklist for States when considering the return of children. A panel discussion addressed national experiences in finding durable solutions from state actors in Belgium, Germany, Italy, the Netherlands and Norway.

A series of workshops followed on four key issues: (1) Guardianship; (2) Procedures for determining the best interests of the child; (3) Family tracing and (4) Cooperation with third countries in relation to return and reintegration. It is hoped that the reflections at the conference should contribute to the Commission's mid-term reporting on the implementation of the EU Action Plan and to future dialogue and cooperation between stakeholders on this complex and sensitive issue.

Save the Children presents at European Research Area (ERA) conference

Save the Children contributed to an ERA conference for judges and practitioners on the protection of minority rights in EU asylum procedures by addressing the interaction of child rights and child protection laws and asylum regimes and examining the current EU legislative and policy landscape on separated children and in particular how durable solutions might be found for them.

Save the Children meets UN Special Rapporteur on Migration

Save the Children met with the UN Special Rapporteur on Migration, Francois Crepeau, on his recent visit to Brussels to provide him with input on experiences of and responses to migrant children at the external borders of the EU in light of his preparation of a report on EU activities concerning migration before, in and around the borders. A range of issues were discussed, including identification of children and age assessment, family tracing, detention and guardianship issues, the need to find durable solutions, as well as the development of DG Home's policy (including funding orientations) on the external dimension of home affairs.

European Parliament calls for more humane conditions for asylum seekers.

The Civil Liberties Committee of the European Parliament endorsed a negotiating legislative text including provisions to improve the treatment of asylum seekers through limitations on grounds for detention, better detention conditions, swifter access to the labour market and an early assessment of possible medical or psychological needs. The draft law, which has been agreed provisionally with the Council, modifies the current directive dating from 2003.

Committee on the Rights of the Child

The United Nations create a complaints mechanism for children

In a landmark step for children's rights, the UN General Assembly has adopted a new Optional Protocol to the UN Convention on the Rights of the Child (CRC) establishing a complaints procedure for violations of children's rights.

The new treaty will enable children, or their representatives, claiming that their rights have been violated to bring a complaint to an international committee of children's rights experts if they have not been able to get remedies for these violations in their countries.

Until this treaty, the Committee on the Rights of the Child was the only UN treaty body that was denied the power to examine individual cases. Cases concerning any violation of children's rights – from children who cannot access primary education to children forced into sexual exploitation, for instance – could be brought before the UN Committee on the Rights of the Child.

In order for a complaint to be reviewed, a State must have accepted the procedure.

CRC Day of General Discussion on "The rights of all children in the context of international migration"

On September 28, 2012, the UN Committee on the Rights of the Child devoted a full day to discuss "The rights of all children in the context of international migration". 300 participants attended the meeting in Geneva. The section involving children during the plenary had a great impact. The video providing testimonies by children on the move, as well as the presentations to the Committee by Fatoumata (Mali, 15) and Sasima (Thailand, 16) provided a stark reminder to DGD participants of the reality faced by children on the move, including the violence and discrimination that they suffer from. For more on Save the Children's participation in the DGD, please see resourcecentre.savethechildren.se/node/6662

Austria

Activities in the context of the Austrian state examination process for the UN-Commission for children's rights: In February there was a hearing of the network for Children's Rights at the UN-Commission for children's rights in Geneva. In the period February to July, a response was made to the List of Issues through the Austrian Government: <http://www.kinderrechte.gv.at/home/service/downloads/monitoring/content.html>.

In the same period lobbying was undertaken through the network of children's rights in various ministries by means of the complementary report. On September 24 there was a governmental hearing at the UN Commission for Children's Rights in Geneva.

Cyprus

The Committee on the Rights of the Child, at its sixtieth session 29 May – 15 June 2012, adopted the following concluding observations on Cyprus, as regards children seeking asylum, reflecting UNHCR's relevant comments:

"The Committee remains deeply concerned about the situation of asylum-seeking and refugee children in the State party, particularly with regard to:

- a) Persisting and serious ambiguity on the interpretation and implementation of the provisions of Section 10 of the State party's Refugee Law relating to the representation of unaccompanied and separated children in the asylum process, resulting in unaccompanied asylum-seeking children remain without representation since 2009;
- b) Section 8 of the State party's Refugee Law limiting asylum-seekers' right to remain to the administrative examination stage of their claim, resulting in asylum-seeking children awaiting adjudication of their asylum claims by the Supreme Court being automatically considered illegal migrants, depriving them of access to reception conditions, including welfare assistance and medical care; and increasing their vulnerability to detention and deportation;
- c) Denial of sponsored specialized medical care abroad to refugee and asylum-seeking children, even in cases where permanent disability is a foreseen risk, and the frequent denial of special needs benefits"

Germany

The 3./4. Country Report will be discussed in June 2013, so the National Coalition for the Implementation of the CRC starts the preparation for the UN Dialogue.

Hungary

In 2012 the Hungarian Government and NGOs will report to the Committee on the Rights of the Child.

At the end of 2011 NGOs have had consultation meetings and discussed the main topics and draft of the shadow report.

Italy

On the 28 February 2012, Italy signed the third Optional Protocol to the Convention on the Rights of the Child on a communications procedure, allowing individuals to make complaints directly to the Committee.

Netherlands

A background paper on migrant children has been written by Defence for Children International - The Netherlands for the Committee on the Rights of the Child for the Day of General Discussion on September 28th 2012. The background paper has the support of the Platform Minors en Exile and Defence for Children International-Belgium. In the paper Defence for Children International expresses worries concerning child rights violations with regard to migrant children. Firstly it is argued that undocumented migrant children are excluded from socio economic rights and are therefore discriminated against on the basis of their migration status.

It is also argued that children's rights are made subordinate of migratory policies. The lodging of appeals against cases where the human rights of undocumented migrant children are recognized is a standard response of the Dutch government. A renewed attention for the BIC (best interest of the child) model of M.E. Kalverboer and E. Zijlstra is advocated in the paper. With regard to family reunification Defence for Children emphasizes that a child rights approach is required in family reunification procedures and advocates for an interpretative guideline to specify the interest of the child in family reunification procedures. Defence for Children International recommends the Committee to: 1. Develop specified and concrete guidelines on how to examine and balance the best interest of the child for State Authorities. 2. Develop guidelines for adequate, small-scale and child friendly, reception facilities. 3. Encourage State Parties to apply the Core Standards for guardians of separated children in Europe and guarantee that due weight is given to the views of the guardian of unaccompanied children. 4. Establish a maximum period to the uncertainty of migrant children and establish a right to residence after five years due to the integration of the child. 5. Continue to inspire State Authorities to pro-actively support and fulfil children's rights. The background paper is available at: <http://www.defenceforchildren.nl/images/69/2011.pdf>.

Spain

In May 2012, the Chairman of the Committee on the Rights of the Child, Jean Zermatten, and two members, Pilar Nores and Jorge Cardona, visited Spain to participate in a seminar organized by Save the Children. They also met with the government and with the regional directors of Children's Policies to raise their main concerns about children and their Final Observations to Spain.

UNHCR

UNHCR and UNICEF are developing Guidance for determining the best interests of the child in industrialised countries with a focus on the European context.

The Guidance is a response to the lack of BID procedures for industrialised countries and the need for establishing such procedures; a need that was identified in the 2010 study "Trees only move in the wind" on the situation of Afghan children in Europe.

The aim of the upcoming Guidance is twofold:

1. to provide an authoritative framework within which BID can be linked to existing national child protection and asylum and migration systems, and
2. to assist States to develop a formal BID procedure which will ensure a durable solution is found for each individual unaccompanied and separated child assisting the state to meet its obligations under international and regional human rights law.

Besides offering an authoritative framework reminding States of their international, regional and national obligations including case law, the Guidance offers practical tools to help states operationalize the best interests principle of article 3 CRC. Tools include a checklist for weighing different factors to decide which durable solution would best realise an individual child's rights, different models for decision making, and Standard Operating Procedures defining roles and responsibilities of the different actors in the best interest process which consists of Best Interest Assessments, a pathway planning process and the BID procedure.

The launch of the Guidance is foreseen for the 1st quarter of 2013 and will be followed by a roll out at national level.

Changes and Developments in Law, Policies and Practice

Croatia

Protocol signed between the Ministry of Interior and the Ministry of Health and Social Welfare (November 2009) regarding the treatment of

separated children *outside* the asylum process, is under review.

In 2012, after elections, the Ministry of Health and Social Welfare was divided to two new Ministries: Ministry of Health and Ministry of Social Policy and Youth (MSPY). The new Ministry, MSPY, initiated review of the current Protocol which, at the end, will be adopted by the Government and become legally binding.

In order to assist the Government in drafting the new Protocol which aims to improve cooperation between respective Ministries and other stakeholders, UNHCR, in cooperation with MSPY and Center for New Initiatives, organized three seminars for social workers and all those who come to contact with separated children. During the seminars, the Protocol was analyzed and suggestions for its improvement received.

The Ministry of Interior (MOI) submitted the draft proposal of National Migration Strategy and presented it on 26 September at the Asylum Coordination (non-formal group who gathers representatives of the Government and non-governmental organizations who work in the field of asylum). The MOI invited all to submit their comments. UNHCR provided them before hand. Regarding separated children, the Strategy only envisages building of a new semi-open center for separated children who are waiting for deportation/return. Other than that, there are no other measures aiming at improving the child protection system.

According to the Strategy, a new Commission for Integration will be formed to deal with integration of recognized refugees (among which there are separated children who were granted protection).

A majority of the separated children seeking asylum continue to leave the country very quickly and so do not fully benefit from certain rights granted to asylum seekers, especially regarding education, whereby the Croatian legislation allows for education of asylum seekers on the same basis as Croatian nationals.

With regard to separated children granted protection, UNHCR has seen difficulties with regard to:

- 1) Recognition of foreign educational qualifications
- 2) Adequate housing and possibility for integration
- 3) Language training (not available in all parts of Croatia)
- 4) Educational and vocational opportunities

Ireland

Several attempts at law reform have been made over the last ten years. The most recent, the Immigration,

Residence and Protection Bill 2010, was before the Justice Committee when the last Parliament fell at the beginning of 2011. Minister for Justice, Alan Shatter TD, has indicated that a revised IRP Bill will be brought before Parliament during the 2012.

The Thirty-First Amendment of the Constitution (Children) Bill 2012 sets out to amend the Irish Constitution to recognise and affirm 'the natural and imprescriptible rights of all children and shall, as far as practicable, by its laws protect and vindicate those rights'. The Amendment brings in a provision relating to the best interest of the child. See <http://www.childrensreferendum.ie/thirty-first-amendment-of-the-constitution>. Voting to take place 10 November 2012.

Italy

On 19 September 2012, Italy ratified the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (Lanzarote Convention).

Due to cuts arising from the Italian government's Spending Review, the Committee for Foreign Minors (*Comitato Minori Stranieri*) has ceased to operate. Some of the main responsibilities, being to record the numbers of unaccompanied and separated children in Italy and provide an opinion on the conversion of their permits of stay upon turning 18, have been taken on by the Ministry of Labour and Social Policy directly. (It is worth noting that up until this time, the Committee for Foreign Minors had expressed 651 positive opinions on conversions of permits of stay.) The Spending Review also instituted a fund for unaccompanied children with €5million dedicated to their reception. The implementing regulation which would detail how the Ministry of Labour and Social Policy is to spend the fund is yet to be published.

Furthermore, the Ministry of Labour and Social Policy guaranteed a total of €4.2 million for social and occupational integration projects targeting unaccompanied and separated children, by way of a call for applications in Sicily, Campania, Calabria and Apulia regions closing 2 July, then a further call for other regions to be closed on 5 October.

Netherlands

Revision of policy for separated children

The Minister of Immigration, Integration and Asylum published a letter about the revision of the policy for separated children June 22nd. The focus of the letter is on the return of the child to the country of origin. The possibility of receiving a residency permit on the ground of being a separated child will be abolished from the 1st of January 2013. Defence for Children International-the Netherlands and other NGO's expressed their strong concerns

about the new policy and the violation of children's rights it entails in practice. For more information about the new policy see the paragraph on procedures and recognition.

Internships

The Court in The Hague has given a landmark decision on the implementation of human rights for undocumented students. The Court decided on 2 May 2012 in favour of a 21-year old student who filed a complaint against the Dutch State concerning the law which prohibits undocumented children from following internships. This was seen by the Court as a violation of the right to education. Arguments of the Dutch State that the right to education is not absolute and may be restricted were argued to be only accepted with a legitimate aim and in a proportional way. The court decided that the core of the right to education may not be restricted. Undocumented migrants should be allowed to follow internships and organizations may not be fined when they offer internships to undocumented migrants. The minister of Social Affairs and Employment has filed an appeal against this judgement. Until a decision is made in the appeal case children are allowed to follow internships and no organization will be fined for offering an internship to an undocumented migrant.

Historic low inflow

Until the 1st of September 2012 only 289 separated children arrived in the Netherlands. It is scheduled to be a year with a historic low inflow of separated children. Compared to previous years the number of separated children has decreased (in 2009: 1.031; 2010: 869; 2011: 717). Explanations for this low inflow are speculative.

Campaign for integrated children without residence permits

Two weeks prior to the government elections DCI-NL started a campaign to call attention to a group of hundreds of integrated children that has been living in uncertainty in the Netherlands for more than 5 years without a residence permit. The aim of this campaign was to make people aware which political party wants to return these integrated children and which parties support the children in their quest to obtain a residence permit.

The original merchandise of the traditional parties were altered in a funny way and adapted to convince people to vote for integrated children. By provoking politicians and the public in general to articulate their positive (or negative) attitude with regard to these children, the debate was alive again. Also an online campaign was launched where people could upload their picture and choose a revised poster of their party of preference on a website 'vote for children'. After the elections

where the centre-right VVD party has emerged as winner and the centre-left Labour Party is in second place the Dutch Parliament has agreed to suspend all deportations of children who have resided in the Netherlands for 5 years until the new government takes office after which it will be clear if the proposed law that allows these children to stay in the Netherlands will be ratified.

In Dutch: <http://www.stemvoorkinderen.nl/>

Portugal

The fact that Santa Casa da Misericórdia de Lisboa (SCML) was not accepting any new referrals since last year, the increase in asylum requests presented in Portugal led to the collapse of the chain of support to asylum seekers and refugees. To avoid that these people pass from the reception centre to a homeless situation, CPR accommodated as many as possible, resulting in the CPR reception centre being overcrowded – built for 42 persons it hosted 109 persons in August. Having no funding available, CPR informed the adults eligible for SCML support that they had to move out the centre and that CPR would only provide housing (outside the centre) for one or two months maximum and food items 3 times a week. Separated children, families, and asylum seekers in the first asylum procedure stage were allowed to stay at the Reception Centre.

During that period CPR carried on constant diligence with SCML and Social Security.

The described circumstances led to a rebellion: the reception centre staff, the locals that came to the employment department as well as other asylum seekers were abducted by a group of asylum seekers in despair. Police intervention was required and 5 adults and 1 separated child were detained. CPR has been alerting constantly the proper governmental organizations since last year about the situation in which the asylum seekers and refugees were living. During this period CPR counted on UNHCR support and a financial reinforcement from the Internal Affairs Ministry. In April 2012 Social Security performed a study regarding refugee support in Portugal, the results are not yet disclosed, but led to the need to review the scope of intervention towards the reception and integration of refugees in Portugal.

Only in September, a protocol was signed between Social Security Ministry, Internal Affairs Ministry, CPR, SCML and two new governmental institutions, namely Instituto de Emprego e Formação Profissional (National Institute for Employment and Training), Alto Comissariado para a Imigração e Diálogo Intercultural (High Commissioner for the Immigration and Intercultural Dialogue). New procedures will be implemented in order to provide nationwide decentralized support to asylum seekers and refugees (presently they are mostly

concentrated in Lisbon district) and enlarge a range of opportunities. Up to now this protocol has not been implemented.

Romania

During the last months, 15 separated children granted a form of protection have been residing in specialized child-care facilities belonging to the General Directorates for Social Assistance and Child protection (Radauti, Giurgiu and Bucharest). These centres are better equipped for providing specialized child care services, able to respond to the particular needs of minors, and for facilitating integration within the Romanian society as well as the local community.

Nevertheless, some of the main issues that need to be addressed remain those relating to: the absence of a clear legal framework for determining the “best interest of the child” – which could be particularly relevant to the situation of separated children, the training of legal representatives appointed for such cases, and the implementation of an efficient monitoring process of the way in which the needs of these children have to be met.

The draft law proposal for the modification of Law no. 272/2004 on the rights of the child¹, which was initiated in 2011 by the Ministry of Labour, has been subject to a public debate on 12 December 2011, but the respective version² – that introduced a definition of the “best interest of the child”³ – has not been adopted by the Parliament during 2012.

¹ *Legea nr. 272 din 21 iunie 2004 privind protecția și promovarea drepturilor copilului (actualizată)*, available in Romanian at: <http://www.pasapoarte.mai.gov.ro/LEGI/LEGE%20nr%20272.pdf>.

² *Proiect din 11 noiembrie 2011 – Lege privind modificarea și completarea Legii nr. 272/2004 privind protecția și promovarea drepturilor copilului* [pg.1], available in Romanian at: <http://www.mmuncii.ro/pub/imagemanager/images/fil e/proiecte%20dezbateri%201/141111P%20lege%20modificarea%20%20272.pdf>

³ The inclusion of a definition for the “best interest determination” was motivated by the fact that the fundamental principle underlying all legislation relating to children takes into consideration “their best interest”, thus being necessary to introduce “a number of criteria to facilitate better interpretation of this concept in making decisions concerning the child” (according to the Explanatory Note - *Expunere de motive pentru Proiectul de Lege privind modificarea și completarea Legii nr. 272/2004 privind protecția și promovarea drepturilor copilului* [pages 1, 2], available in Romanian at:

<http://www.mmuncii.ro/pub/imagemanager/images/fil e/Proiecte%20legislative/141111EM%20Plege%20%20272.pdf>

Slovakia

Some changes of law are being prepared to be effective from 2013 onwards:

Act No. 586/2003 Coll. on Advocacy – at the moment an amendment is being prepared of the Act on Advocacy, and according to the proposal the asylum seekers and foreigners in the appellate detention procedures should be represented at the courts only by attorneys. This amendment will affect also the right to legal representation of separated children seeking asylum and separated children placed in detention (e.g. because of wrongly assessed age). At the moment these children can be represented in the appellate procedures at the courts also by lawyers of NGOs running the projects supported by European Funds, it means the legal representation is for free and these lawyers are qualified because they specialize only in refugee and/or immigration law. However, if only representation by an attorney is possible starting in 2013: 1) in Slovakia there are very few attorneys experienced in asylum and detention cases, and 2) guardians do not have a budget to pay attorneys for their legal services, which means they will most probably not opt for the possibility of legal representation and will represent separated children in appellate procedures themselves (which can affect the quality of legal representation as the guardians do not have any legal education). UNHCR, Human Rights League, and others are advocating in a way to change this proposed amendment so that NGOs will have the possibility to represent asylum seekers and detained foreigners in appellate procedures, however the outcome of all the advocacy efforts is unknown at this time.

Act No. 404/2011 Coll. on the Stay of Aliens – the amendment of the Act on the Stay of Aliens is in preparation. The proposal has not been published yet, although according to the unofficial information that we have there is proposed also an amendment to the provisions on age assessment, specifically they are adding that the result of the age assessment examination should be elaborated by a doctor (not specified which type of doctor) in the form of “expert statement”; another important amendment in relation to age assessment will be that the police department should have a right to order age assessment of the foreigner /child any time “it finds out new facts suggesting that the foreigner is not minor”, which basically gives competence to the police to initiate the age assessment procedure in relation to the child any time he/she is residing in Slovakia.

Another amendment which could have an effect on the stay of separated children and/ or former separated children granted subsidiary protection is

that the changes in the long-term residents’ directive should be transposed into Act on the Stay of Aliens which means that also subsidiary protection holders will have a right to apply for long-term residence permit (if fulfilling all the criteria set in the law).

Slovenia

The amendments to the International Protection Act have been confirmed by the Slovene government and are in the process of entering the parliamentary procedure. The proposed amendments cause a deterioration of the standards on treatment of asylum seekers, also separated children. The two most worrying articles abolish the right to free legal aid from the beginning of the asylum procedure and implement age assessment for asylum seeking separated children without necessary safeguards (no appeal option). Objections and proposals that were prepared by NGOs were not taken into consideration.

Spain

The new Alien's Implementing decree requires the implementation of a legal provision which foresees the adoption of an Action Protocol. This Action Protocol will coordinate the interventions of all institutions and sections of the administration involved with child protection at the different stages, (arrival/finding the child in Spain, identification, age determination, etc.).

On the basis of this requirement, UNHCR has written a document titled “The Best Interest of the Child in the Search of a Durable Solution” in collaboration with the Comillas University, with support from Save the Children Spain. The document provides recommendations to the Spanish authorities in the drafting of the National Action Protocol for separated children.

In designing the children’s path in Spain, we have followed the Spanish legal framework in order to offer a realistic and pragmatic option to the authorities and introduced the most relevant recommendations and suggestions of the UNHCR BID (May 2008) and on the UNHCR Guidelines on Assessment of Child Asylum Claims (Dec 2009), highlighting the importance of including the principle of the Best Interest of the child as a cross-cutting issue in every policy concerning children in Spain.

In June 2012 we shared this work with the Spanish Authorities who showed great interest and availability in continuing the collaboration with us. It was also proposed to the authorities to organize a round table to facilitate the exchange of experiences and knowledge among experts and Spanish authorities implied in the drafting of the above mentioned Protocol for Children and we hope to organize it in the coming months.

Switzerland

A revision of the guardianship legislation has been finalized and the new provisions will enter into force in Switzerland on 1 January 2013. The respective Swiss Federal Office for Justice commented on the revision that “At present, the Swiss system of guardianship is a confusion of different rules and regulations. In future, all decisions regarding the protection of children and vulnerable adults will be taken by a specialist authority, which the cantons may set up as administrative agency or a court. Ultimately, all of the key procedural principles governing the protection of children and vulnerable adults will be standardized on a national basis and laid down in the Swiss Civil Code”⁴.

This change in federal legislation will consequently be translated into new cantonal provisions or, as in the example of the canton of Berne, lead to a new law on the protection of children and adults.⁵

On 29 September 2012 “urgent measures” in the Swiss asylum system were adopted. Among other changes, the so called embassy procedure was abolished. This procedure provided for the possibility to lodge an asylum application at a Swiss representation abroad and was in practice also regularly used as a tool for family reunion for separated children. Since requirements for family reunification for persons holding an “admission provisoire”, a form of complementary protection, are high in Switzerland, they can regularly not be fulfilled. The conditions for family reunification stipulate, *inter alia*, a three-year waiting period, an adequate level of income and a suitable place of accommodation. In the regular procedure for family reunification for refugees being granted asylum, only members of the nuclear family may benefit from family reunification.

Consequently, this change in law, together with the narrow definition of “family member” could lead to considerable hardship for refugees granted asylum and persons in need of international protection where the family member in Switzerland is holding an “admission provisoire” only. It must therefore be seen as a major setback for the right to family unity for persons in need of international protection in Switzerland. While the possibility to ask for a humanitarian visa at Swiss embassies still exists, the

⁴ Federal Office of Justice, *Revision of guardianship legislation*, 04.07.2012, available at:

<http://www.bj.admin.ch/content/bj/en/home/themen/gesellschaft/gesetzgebung/vormundschaft.html>.

⁵ *Nouveau droit de la protection de l'enfant et de l'adulte*, available at

http://www.jgk.be.ch/jgk/fr/index/kinder_jugendliche/kinder_jugendliche/revision_vormundschaftsrecht.html.

practice with regards to such applications remains unclear.

The Swiss Criminal Code was amended in the sense that a new provision addressing female genital mutilation entered into force on 1 July 2012, aiming at preventing and punishing this harmful practice. A debate further arose relating to the physical integrity of children, linked in particular to circumcision and piercings of toddlers and young children unable to give consent⁶.

United Kingdom

In a case known as KA (Afghanistan) [KA (Afghanistan) & Ors v Secretary of State for the Home Department [2012] EWCA Civ 1014] reported in July, it has been found that the UK government has routinely failed over many years in its duties to trace the families of separated children, as detailed in Council Directive 2003/9/EC of 27 January 2003 (the Reception Directive), Article 19.3. The children were subsequently unable to rely on information that their parents were unable to help provide protection in their asylum claims. As a result, the court suggested that those children and former children who have been affected by the government's failure be given an extended period of leave. We await further cases to see how this will impact in practice.

A three-month trial of a new Screening process whereby the UKBA asks social services to collect bio data from a child prior to attendance at the screening unit has ended. Evaluation and results of trial remain outstanding.

Changes to the family migration Immigration Rules that came into effect on 9 July 2012 have implications for the way ‘Best Interests of the Child’ is understood by the government not only in respect of children in families but also separated children.

While the changes are intended to define the basis on which a person can enter or remain in the UK on the basis of their family or private life (unifying consideration under the rules and Article 8 of the European Convention on Human Rights), Appendix FM aims to reflect the duty on the SSHD under section 55 of the Borders Citizenship and Immigration Act 2009 which requires that in making immigration decisions, the welfare of children who are in the UK is safeguarded and promoted.

⁶ Häne Stefan, „Ist Ohrlochstechen Körperverletzung?“, in *Tages Anzeiger*, 04.09.2012, available at : <http://www.tagesanzeiger.ch/schweiz/standard/Ist-Ohrlochstechen-Koerperverletzung-/story/24739156>.

In assessing the best interests of the child, the question is whether it is reasonable to expect the child to live in another country and the “new Immigration Rules set out a clear framework for weighing the best interests of the child against the wider public interest in removal cases.” It is clarified that the best interests of the child will normally be met by remaining with their parents and returning with them to the country of origin, subject to considerations such as long residence in the UK and exceptional factors. The length of residence, subject to countervailing factors, is prescribed as at least the last seven years.

The UK Parliamentary Joint Committee on Human Rights has launched an inquiry looking into the human rights of migrant children and young people in the UK. The joint committee, chaired by Dr Hywel Francis MP, is seeking written evidence on any aspect of the human rights of migrant children in the UK, but with specific focus on unaccompanied and separated children.

The Committee has provided broad guiding questions that it seeks to be answered. These cover the UK’s national legislation for migrant children, as well as the situation in practice. Examples are whether the UK’s treatment of unaccompanied migrant children complies with its obligations under the UN Convention on the Rights of the Child, and what assessment has been made of forthcoming funding cuts on the care provision for unaccompanied migrant children.

Legal Aid, Sentencing and Punishment of Offenders Act 2012 – this Act, most of which will come into effect from April 2013, will result in any immigration issue, other than asylum and trafficking, being excluded from public funding.

Detention

Croatia

During the reporting period, all asylum-seeking separated children were transferred from the detention centre when they submitted their asylum application to the reception centre for asylum seekers. UNHCR is strongly against the detention of asylum seekers, especially vulnerable asylum seekers such as separated children.

Cyprus

The Refugee Law prohibits the detention of asylum seeking children⁷. However, detention can be prevented only when there is adequate evidence that the individual is a minor. Undocumented unaccompanied children may, in practice, risk

detention, as they may be declared /considered to be adults.

Out of the 15 children who so far applied for asylum in 2012, 2 children (1 from Pakistan and 1 from Namibia) were detected in detention. The child from Pakistan applied for asylum on 09.03.2012, while in detention, and was released upon the intervention of the Asylum Service. The child from Namibia was convicted to 6 months in prison, reportedly as a prohibited migrant, and is currently serving a 6 months sentence at the Central Prison since 1 August 2012. While in prison, he applied for asylum claiming to be 14 years old. However, his age is being disputed, as in the indictment he is declared to be 32 years old. There is, however, no official document attesting his age, pursuant to which he was indicted and convicted as being 32 years old. An age assessment has not been carried out. UNHCR is pursuing the resolution of this case with the Asylum Service and the Child Commissioner.

The Refugee Law does not foresee a right to remain during the judicial review process of asylum claims. Asylum seeking children, like adults, remain vulnerable to detention under deportation procedures at the stage of the judicial review of their asylum claim, as they remain without legal status and have no access to reception conditions. Despite the Supreme Court of Cyprus decision of 20 August 2010 (Case Number 493/2010), which declared as illegal the practice of automatically considering asylum seekers in the judicial review process as prohibited migrants, and found the relevant provisions of the Refugee Law to be in contravention of Article 39 of the EU Asylum Procedures Directive, no measures to rectify the Law or this practice have been taken. The right to remain was limited to only the administrative refugee status determination process, in November 2009, pursuant to the transposition of the Asylum Procedures Directive. Recently adopted legislation, the Law on the Detention of Prohibited Migrants, 83(I) of 2011, makes reference to the possibility of detention of children, families, and persons with disabilities, under deportation procedures. However, no detention of children / separated children has so far been pursued under this Law.

Finland

The detention of separated children will be prohibited. A governmental working group in the Ministry of Interior has made a draft, and a bill from the government is expected to be given any day now to the Parliament concerning an amendment to the Alien’s Act.

⁷ s7(4)(c) Refugee Law 2000

Greece

A Greek refugee aid group lashed out at the country's authorities for allowing unaccompanied underage migrants to live in "inhumane" conditions and hampering their asylum requests. Minors are being held in detention centres in violation of international laws banning such practice, said the Greek Council for Refugees (GCR). The minors are being held in the company of young adults who claim to be underage. "As a result the youngest are exposed to the violence exerted by other detainees".

Greece was the focus of the global Campaign to End Immigration Detention of Children in the month of June. The rudimentary conditions in which separated children who enter the Greek territory are held and the fact that asylum seeking children are detained were put at the forefront.

The Greek Council for Refugees (GCR) collaborated with the Campaign rigorously during the month of June when it:

Presented the issue of detained minors in Greece, publishing weekly reports and testimonies,

Actively campaigned through the web and social media,

Created and used various video spots: watch Abassi's and Abdi's stories, both detained in Greece: <http://vimeo.com/45297601>

Organized an event on the 22nd of June which included a photo exhibition, an open discussion with special guests and experts from the field as well as an interactive theatrical happening.

"One bedroom and one toilet for 200 and something people"

Abassi, 17, Nigerian. Detained in Greece for 25 days.

Watch his story: <http://vimeo.com/44316899>

"I was there 17 days, without taking a bath, without changing clothes and allowing me to go to the toilet 2 times {...}. After that, I hated my life".

Abdi, 17, Somali. Detained twice in Greece: Pagani Center and the airport.

Watch his story: <http://vimeo.com/45297601>

The recent pogroms in Greece where police indiscriminately pick up foreigners from the street and detains them do not exclude separated children.

Italy

While the Italian legislation does not allow for the detention of unaccompanied and separated children, it is worth noting that where a child is not correctly age assessed, thus is regarded as an adult, does not apply for international protection and is therefore

served with an expulsion order then s/he may be detained in Centres for Identification and Expulsion (CIE) until her/his case is reported to the immigration authorities. It is also usually necessary to provide proof of their real age such as a copy of a passport or birth certificate, which, in the case of separated children not seeking asylum, can be verified by consular authorities. This practice has been successfully applied by Save the Children within the framework of the Praesidium project with the effective collaboration of some authorities from countries of origin, such as the Tunisian and Egyptian consulates.

Latvia

In Latvia, unaccompanied children can be detained, whether they are asylum seekers or not. The Asylum Law of 2002 does not provide any particular regulation concerning the detention of separated children, but the "Procedures by which Alien Minors Enter and Reside in the Republic of Latvia Unaccompanied by Parents or Guardians" do. Article 9 of these procedures prescribes that if an alien minor, the identity of whom is not known, wishes to cross the border of the Republic of Latvia, the official of the State Border Guard shall immediately begin to ascertain the identity of the alien minor. Whilst the identity of the alien minor is being ascertained, the State Border Guard has the right to temporarily detain and accommodate him or her on the premises of the Territorial division of the State Border Guard, (separately from adult persons), providing him or her with the appropriate nutrition and medical assistance.

If, taking into account the age or physical and psychological development of an alien minor, it is not possible to provide appropriate conditions of accommodation for him or her at the Territorial division of the State Border Guard, according to paragraph 10 the alien minor shall be placed in the nearest Prevention Centre. The same happens if within a time period of 72 hours it is not possible to ascertain the identity of an alien minor (Article 12). If the State Border Guard in co-operation with the Consular Department of the Ministry of Foreign Affairs is not able to determine the identity of an alien minor, the State Border Guard shall inform thereof the Territorial Division of the State Police in the administrative territory of which the alien minor has been detained. An official of the relevant Territorial Division of the State Police shall issue an order regarding the placement of the alien minor at the instructional institution in that administrative territory in which he or she has been detained (paragraph 13). When separated children are detained, in general they are separated from adults.

Malta

'Times of Malta' reports that the 3.6 months spent in detention on average by child migrants interviewed by Human Rights Watch "absolutely does not reflect current statistics", the government said. On average, it takes 18 days to determine each request and secure the release of a person who has been positively identified as a minor, the ministry said. This includes the time taken for medical clearance from the health authorities. In its report, HRW called for the government to treat all migrants who claim to be under 18 as children until their age is verified.

Poland

A number of NGO's in Poland formed Coalition against detention of children, advocating for introducing an alternative to detention methods of control toward specific groups of foreigners, among others families with children and separated children.

Slovakia

The Human Rights League monitored cases of detained foreigners who claimed to be minors but were assessed as adults by X-ray examinations. However, there were fewer cases than in 2011/beginning of 2012.

United Kingdom

During this period the Refugee Council took up the cases of 19 young people detained as adults who we believed to be children. 11 detainees were released as children, other cases are ongoing. The Refugee Council also took up the cases of other 13 young people who were being treated as adults; during this period 8 were then accepted as children, with other cases ongoing.

We still ask for, but have not yet received, statistics on numbers of asylum seekers detained whose claim to be a child is disputed.

"Kent Online" reports that child asylum seekers could be put in detention-like facilities to stop them falling into the hands of criminal gangs and traffickers. These would be specialised centres – '*not another Yarlwood*' – where social workers would have a six-week window to build a relationship with the child and protect them from traffickers.

Age Assessment

Austria

According to a parliamentary query response of April 2012, 481 age determinations were commissioned by the Austrian Federal Asylum

Office in the year 2011. 254 of those had been declared as fully aged.

Belgium

In 2012 we see the confirmation of the tendency to increase the use of age assessment due to the high influx that continues in 2012. More than 850 assessments already took place.

Croatia

Age assessment is not carried out, except in special cases. It is conducted through X-ray examination and it is expensive. The authorities, so far, act *in favorem*.

Cyprus

There have been no amendments since the previous report, where the relevant provisions regarding the medical examinations for the purpose of age determination were analysed. Despite the adoption of such provisions, these were in practice not applied.

The provisions allow for the use of such measures, (with the consent of the minor and/or his representative⁸) during the examination of the application of an unaccompanied minor⁹, and oblige the Asylum Service to inform the minor, prior to the examination of his claim, in a language which he understands, of the possibility of such action being taken. The Law also specifies that the unaccompanied minor should be given information on the method that would be followed, the potential impact of the examination on the asylum claim, and the potential impact of the minor's refusal to undergo such an examination. However, the Law fails to foresee the potential types of medical examination that could be undertaken. In addition no provisions were adopted with regards to the screening process or the correct procedure by which the screening process should be performed.

Germany

The Bundesfachverband UMF will start a new project on age assessment in October 2012. The project is funded by UNHCR and Terre des Hommes and will focus on the legal background and the different aspects of current age assessment methods. The outcome will be a best-practice-model.

Ireland

A number of judicial review cases were taken against the Health Service Executive in respect of age assessments. In at least two cases reported back to the Irish Refugee Council, the applicant was

⁸ s10(1H) Refugee Law 2000

⁹ s10(1G) Refugee Law 2000

awarded an age re-assessment and in one case the young person was determined to be a minor after spending approximately one year in adult accommodation. These cases are unreported.

Italy

Further to the practice described under the section on *Detention*, where asylum-seeking children are erroneously identified as adults, they may happen to be placed with adults in Reception Centres for Asylum Seekers (CARA) instead of residential care facilities specifically for children. Such cases have arisen in the Apulia Region. Obviously those children find themselves in a particularly critical situation deriving from the necessity for undergoing further medical tests in order to contest and appeal against the first erroneous age assessment. This has occurred for those children arriving by boat on the island of Lampedusa as recently medical age assessment has resumed on the island itself (in recent years, indeed, this practice had stopped). Within the Praesidium project, Save the Children has been able to eventually identify children by the means of further checks resulting in children being transferred to residential care facilities.

It is worth noting that in Italy at the moment of age assessment, children have no legal representation or guardian as age determination is considered part of the initial identification of any new arrival, and until a child is identified as such, s/he is not accorded a guardian. Considering that Italy lacks a multidisciplinary age assessment mechanism, but mainly relies on medical examinations, the usual absence of a cultural linguistic mediator at the time of age assessment only adds to criticism regarding the insufficient accuracy (including lack of indication of a margin of error) and rudimentary character of the medical age assessment in Italy. In addition, recently in the Lazio region investigations have begun into some age assessments conducted there, that allegedly certified adults as children (see section on *Reception* for more information).

In August UNHCR submitted to the Italian border authorities the case of two alleged unaccompanied Afghan national children who had been returned to Greece, where, based on the information gathered by UNHCR Greece, they declared to be under-age and not to have received any information regarding the possibility of applying for asylum. The Italian authorities have consequently replied to UNHCR maintaining that they declared to be adult and did not apply for asylum.

Latvia

The procedure on age assessment is defined, but Latvian immigration officers (interviewers) do not, or very seldom, apply an age assessment because it is an expensive medical procedure.

Malta

There has been a larger than usual number of persons claiming to be unaccompanied minors upon arrival.

Netherlands

The Dutch Foundation Medical Advice Collective (I.D. Stichting Medisch Advies Kollektief, SMAK) organized an expert meeting to discuss the current age assessment methods in the Netherlands in May 2012. During the expert meeting the methods were strongly criticized and defined as being unreliable. They urged for an improved multidisciplinary assessment, arguing that examinations based on x-rays solely (as has been the usual method now) are unreliable. There is no valid research to prove that x-rays are a reliable tool for age assessments. The Committee on Age Assessment in the Netherlands (I.D. Commissie Leeftijdsonderzoek) however still believes the current age assessment is reliable. In comparison to previous years the number of children undergoing age assessment has dropped drastically. In 2009 there were 313 assessments, in 2010 there were 156 and in 2011 only 62. It is assumed that this decrease is caused by the low inflow of separated children and possibly less financial means to perform the test.

Slovakia

There were no improvements as to the examination applied to assess the age of separated children – as far as The Human Rights League (HRL) is informed. X-ray examination is still applied as the only form of age assessment.

In the beginning of July The Human Rights League distributed the SCEP Position Paper on Age Assessment with the summary in Slovak to the relevant authorities, organisations and judges deciding in asylum and detention cases.

In September The Slovak government approved a Human Rights League project focused on the problem of age assessment of separated children coming to Slovakia. The project is called „Child or Adult? Protection of the rights of foreigners in the procedures of age assessment and detention“. The Human Rights League included the problem of detention in the project because these two problems seem to be closely connected, the reason being that in the past, foreigners who were found „adults“ after the age assessment procedure were directly placed in detention.

Within the project the HRL will analyze the procedures on age assessment in Slovakia, compare it with the practice in other countries and with best practice recommendations by SCEP and others and

the result will be a study in Slovak including recommendations on how to improve Slovak practices.

The HRL will also organize a conference or round-table inviting all the stakeholders (including immigration authorities, foreign police and judges) with the participation of experts invited from abroad. The translation of SCEP Position Paper on Age Assessment is also going to be realised as one of the outcomes of the project. As an external evaluator of the study we have a member of the Committee on the Rights of the Child.

We believe this pilot project in Slovakia will be important at least in order to start a discussion in this regard in Slovakia and to make authorities think more about the child protection within age assessment procedures (as so far in Slovakia this problem has not been discussed officially, this is why we want to involve as many stakeholders as possible and also some Slovak radiologists who have been making the X-ray tests to assess the child's age). The duration of the project is October 2012 – March 2013.

United Kingdom

After announcing in March 2012 that the UK Border Agency would begin a three month trial using dental x-rays to assess age, in April the Director of Asylum announced that, after consulting with the National Research Ethics Service, the trial had been suspended pending the UKBA's application to a research ethics committee to have the trial – formally considered 'research' - approved as ethically appropriate. The application remains outstanding.

The British Association for Human Identification held a conference in April entitled 'Age estimation in the living', bringing together a range of professionals from different disciplines including dentists, doctors and forensic anthropologists to explore the possibilities in age estimation. The conference programme:

<http://www.bahid.org/index/conference-programme-april-2012>

The courts continue to make judgements regarding the age of a child.

Guardianship

Belgium

The waiting period for a guardian can sometimes now go up to 4 or 5 months due to the lack of guardians.

Croatia

All separated children were assigned with guardians for special purposes (asylum procedure). 80% of

separated children leave the country before the procedure is completed and, even before the first instance decision is passed.

Cyprus

The Social Welfare Director remains the legal guardian of unaccompanied children. Since March 2011, an effort was made by the Social Welfare Services to identify an increased number of foster families from the unaccompanied children's own communities.

Estonia

There are still loopholes regarding of the guardianship system. An unaccompanied child needs a guardian who would represent him or her in the asylum proceedings and later regardless of the decision, which might provide international protection or decide on the expulsion from the country. Therefore the only possibility is that an unaccompanied child be assigned a guardian by the court. Nevertheless it is currently unclear who is to submit and to which county court the application to appoint a guardian for an unaccompanied child. The court system is slow and if the guardianship process relied only on legal guardians it would prolong the (asylum) procedures and would also create extra workload for courts and the asylum officials. Voluntary guardians are difficult to find. Since Estonia has not been among destination countries for separated children, neither has it been a transit, the country is missing relevant and long-term experience in receiving separated children. Due to low numbers of proceedings with separated children guardianship has been practiced very little. The cases so far have been limited to representing a child during asylum proceedings. Since there have been no such cases during the time the new Family Law Act (2010) has been in force, there is no experience of how to address the civil court to appoint a guardian for the child. In June, Estonian Union for Child Welfare made specific amendment proposals to the new child protection law, which is now under the revision process.

Hungary

IOM has organized an international conference on June 15, 2012 in Budapest to discuss the training needs of guardians caring for separated children who seek asylum in Central Europe. The conference was part of the "Improving the Quality of Unaccompanied Minor Asylum Seekers' Guardianship and Care in Central European Countries" project. The project aims to contribute towards the enhancement of the quality of guardianship and overall care of separated children who seek asylum in the targeted countries (Bulgaria, Czech Republic, Hungary, Poland, Slovakia,

Slovenia) in line with the EU Action Plan on Unaccompanied Minors, EU directives and the Convention on the Rights of the Child. It seeks to monitor and improve the quality of guardianship and care in order to ensure that the best interests of the child are represented and adequate care and support provided to the child, facilitating in this way his/her integration into the host society. Not least, the project addresses the lack of established practices in the participating countries to offer higher standards of protection and assistance to separated children seeking asylum.

Ireland

Separated children no longer remain in care until the age of 23 while accessing third level education. On the whole, separated children are placed in adult accommodation as soon as they complete the current school year after their 18th birthday. Aftercare provision has been sparse and inconsistent.

The Child Care (Amendment) Act 2011 provides a definition for a 'guardian' in Irish legislation amending the Child Care Act 1991. According to the 2011 Amendment act a 'guardian' is explicitly defined as a person who is either 'a guardian of a child pursuant to the Guardianship of Infants Act 1964' or a person 'appointed to be a guardian of the child by- (i) deed or will, or (ii) order of a court in the State'. In order to appoint a legal guardian by 'order of a court in the State' on behalf of a separated child an application for a care order would have to be initiated by the HSE and a Care Order granted by the District Court.

The Irish Refugee Council launched an Independent Advocacy Pilot in April 2012. The Independent Advocacy Pilot centers on supporting separated children in finding their own voice by matching children with advocates who act as mentors. The objective of the project is to promote the young person's integration into Irish society and his/her understanding of the asylum process. The pilot project includes advocates in Dublin, Waterford, Limerick and Cork who will each act on behalf of two young people. We have recently secured further funding which will allow us to expand the project to include six advocates.
<http://www.irishrefugeecouncil.ie/children-and-young-people/independent-advocacy-pilot-project>

Italy

In Italy, Guardians are appointed only once a child has been formerly identified and placed in a residential care facility for children. This means that during the formal identification process upon arrival, or when a child expresses her/his intention to

access the official protection system in Italy and thus be placed in a residential care facility, no Guardian is present.

The waiting time for the appointment of a Guardian by the court remains frequently, with exceptions, quite long, and the procedure does not appear to be harmonised in the national territory, varying from location to location. Awaiting the official appointment of a guardian, often the managers of residential care facilities for children take on themselves *de facto* this responsibility.

Latvia

In Latvia legal representatives are not especially appointed for the asylum procedure. The legal representation is ensured by NGOs for all separated children. According to paragraph 15 of the "Procedures by which Alien Minors Enter and Reside in the Republic of Latvia Unaccompanied by Parents or Guardians" if an alien minor staying in the Republic of Latvia has been left without parental or guardian care, he or she shall be placed at the nearest instructional institution or an interim guardian shall be appointed temporarily for this alien minor by an Orphan's court (parish court), in accordance with the procedures specified by the Civil Law (Family law) of 1993, while he or she is staying in the Republic of Latvia. This law applies to all minors who are without parental custody. Further, citing paragraph 16, a manager of the relevant institution shall perform the duties of guardian to the alien minor placed in the Prevention Centre or instructional institution.

In the Asylum Law the term "guardian" or "guardianship" is not used, but this does not mean that it does not guarantee a representative for a separated child. This law states that if a minor is not accompanied by his or her parents and wants to submit an application himself or herself, his or her rights and lawful interests will be represented during the asylum procedure by an independent authorized representative appointed by the Board. The duty of such a representative is to act objectively in the interests of the minor. This is the only specification about his or her tasks.

Netherlands

GATE: Guardians Against child Trafficking and Exploitation

The GATE project has reached its finalizing phase. Various respondents were interviewed such as guardians, social workers, foster parents, regional managers of the guardianship organisation, people from the Refugee Council, and separated children (both potential victims and other separated children). One main finding is that the protection of separated children is arbitrary. Being assigned an ambitious lawyer and guardian and to be placed in a

foster family instead of a large-scale campus offers great advantages. As has also been identified in the Closing a Protection Gap¹⁰ project the interviews showed that small-scale reception facilities should be the norm. Large-scale reception facilities worsen or even initiate a precarious mental health of the children who reside there.

With regard to the closed reception facilities for (potential) victims of trafficking it is unclear why (potential) victims of trafficking and exploitation are placed in a certain facility: in the protected shelter, in a youth care facility or in a closed youth care facility.

Other worrisome received signals include the high number of disappearing children who become extra vulnerable for being exploited when they are out of sight; and the children that reach majority who lose all support that was given to them as a child. Especially this last group becomes highly vulnerable for being exploited if they become undocumented at the age of 18.

In a letter concerning the announcement of the new policy for separated children the Minister of Immigration, Integration and Asylum elaborated on the role of the guardian. Exchange of information between the guardian and migration authorities is listed as important factor. The aim is to return the child, implying that the best interest of the child has supposedly already been taken into account by the migration authorities and the judge in the migration procedure.

Defence for Children - the Netherlands and UNICEF the Netherlands have expressed concerns about the statements of the minister in relation to the role of the guardian and possibilities to advocate for the interests of the child. As reflected in the Core Standards for guardians of separated children in Europe, guardians are the advocates for all decisions to be taken in the best interest of the child, aimed at the protection and development of the child.

Romania

Within the project 'Improving the Quality of Unaccompanied Minor Asylum Seekers' Guardianship and care in Central European Countries', organized by the International Organization for Migration and Save the Children Romania was held a training of trainers for its partners from Romania, Bulgaria, Czech Republic, Hungary, Poland, Slovakia and Slovenia. The aim of the seminar was to improve the quality of services for minors seeking asylum by legal representatives and social workers who come into contact with

them, through the exchange of information, through activities involving teamwork, interactive exercises and case studies.

A synthesis report was drafted for providing an overview of the guardianship systems, concepts, practices and policies in the abovementioned countries. At the same time, a training manual was elaborated for guardians and caregivers in the project countries, which intends to raise the professional skills of legal representatives, counsellors and social workers who work and interact with unaccompanied minors seeking asylum, to improve the quality of legal representation and general assistance offered, to increase knowledge of practitioners in the field of advocacy and guardianship in Europe and to raise awareness of the need to improve and monitor continuous quality legal representation and guardianship of unaccompanied minors.

Slovakia

The Human Rights League states repeatedly that the role of the guardian in a child's life is underestimated and that one social worker appointed by the guardian – the Office of Labour, Social Affairs and Family - for all the separated children (working on this agenda only part-time) arriving to children's home for separated children in Horne Orechove (120 children from January – September 2012) is not sufficient.

United Kingdom

An amendment to the law was proposed in parliament but not voted upon as the government's response was to ask the Children's Commissioner to investigate the current arrangements for separated trafficked children.

Reception

Austria

Because of the increasing number of asylum-seeking separated children in Austria, the reception system for separated children is being challenged. More than 500 separated children were accommodated in the Initial Reception Centre East at the beginning of September 2012. The media reported about the dissatisfactory situation in the Initial Reception Centre several times. The main problem is that a majority of the separated children who sought asylum had already been admitted to the asylum procedure in Austria and thus, should be transferred to accommodation facilities in the provinces of Austria. However, aftercare facilities for separated children in the Austrian provinces are full and cannot receive the increased number of new arrivals. As a result, the asylum-seeking separated

¹⁰ See for more information:
<http://www.defenceforchildren.nl/images/69/1632.pdf>

children have to stay in the initial reception centre for prolonged periods of time. The denial of the federal and state governments to adjust the day-fees, leads to a lesser appropriation of after-care places for separated children.

Belgium

A reception crisis has been going on since end of 2009 that touches mainly separated children who do not ask for asylum. The current practice by the Federal reception authorities is to exclude them from reception, except the vulnerable cases (less than 13 years old, pregnant girls or with babies, potential victim of human trafficking and children with severe psychological problems. They live on the streets or in hotels. It's important to stress that the hotels are poorly equipped and that the children only have 6 € /day to buy food, clothing, hygiene products, transport, etc. No legal, psycho-social support is given to those children. Several legal procedures on national and European level (European Comity for Social Rights) are ongoing. A court in Belgium declared the situation to be "a violation of article 3: inhumane and degrading treatment".

Croatia

UNHCR funds Croatian Red Cross psycho-social and community services to all persons accommodated in the State Reception Centre. The security situation is satisfactory; however, there is a large variation of asylum seekers over the year because Croatia is still perceived as transit country. This constant flux can negatively impact on asylum seeking separated children. The majority leave before completion of the procedure.

Croatia still lacks appropriate accommodation for separated children, outside asylum seekers category. They are placed in the Institution for Youth with Behavioural Disorders in Zagreb. The space for accommodation is limited, there are not enough professional care givers, no medical pre-screening exists, no programmes for dealing with specific needs of alien minors, there are no translation services secured and freedom of movement is partially restricted. UNHCR visits the Institution and continues to raise those issues in every occasion, advocating with the authorities for an appropriate solution.

The Ministry of Interior announced in 2007 that they will build a facility for accommodation of minors and vulnerable groups (semi-open) on the grounds of the current Detention Centre for Illegal Migrants; however, construction has seen significant delays. The project is currently still at preparatory and planning stage.

In the asylum field, the Government and civil society are not ready to face increasing number of

asylum seekers. Reception capacities in general are severely strained and there is a distinctive lack of coordination between the stakeholders. There is a lack of comprehensive mechanism for protection of separated children outside the asylum procedure.

Cyprus

UNHCR has organised and conducted, along with the Council of Europe and the Child Commissioner, training of practitioners working with unaccompanied children seeking asylum. In this framework, training was also provided on the Best Interest Determination procedures.

On welfare and accommodation, since March 2011, the Social Welfare Services have changed their policy on the referral of children between the ages of 16 – 18 to shelters for children. While prior to that date only children below the age of 16 would be accommodated at such shelters, placement of children above the age of 16 at such shelters has since become possible.

France

Lassana B., an unaccompanied child in Paris, rejected from the ASE shelter because of a controversial age test indicating that he actually was 18 years old, was not recognized as having the legal capacity to defend his rights in French courts. This is not an exceptional case in France, as hundreds of unaccompanied children are confronted with administrative barriers to defending their rights. The case of Lassana B. has been forwarded to the State Council by GISTI, a French NGO and PICUM Member, and might lead to a ruling against France by the European Court of Human Rights.

Ireland

Although the Health Service Executive formally committed to ensuring separated children were permitted to remain with their foster carers until the age of 23 if they were in full-time education, they have since reneged and have begun to move separated children out of foster care after their 18th birthdays. This has yet to be successfully challenged, cf. *Enguye v. Health Services Executive* 2011, IEHC 507 High Court, Gilligan J, 26 October 2011: "High Court refuses judicial review of HSE's decision to cease care for unsuccessful asylum seeker on reaching age of 18.

<http://www.staredecisishibernia.com/2012/02/16/hse-not-obliged-to-continue-care-for-congolese-girl-who-reached-age-of-18/>

Italy

Following the latest school agreements within Milan municipality, kindergartens will open their doors to children of undocumented migrants. Having a permit of residence is no longer required to register

children for kindergarten, as was previously the case. The Italian Constitutional law protects children and ensures the right to an education for all, but the previous mayor refused to implement the law.

As a result of the monitoring of the system for reception of children in the Lazio region undertaken by the regional Child Ombudsman as reported in the previous newsletter and implemented by Save the Children, who routinely monitors the standards of such reception centres in other regions, it emerged not only the poor reception conditions in some of the temporary centres opened during the North African crisis, but also that a significant number of persons presumably adults had been placed in those centres along with children after perfunctory age assessments conducted in hospital. The situation has been reported to competent authorities who are conducting further investigations.

Latvia

Latvia does not have special reception centers for separated children. They can stay in orphanages together with Latvian minors. The Orphan's Court should represent separated children or a guardian appointed thereby, or the head of a child care institution. In practice, it is very difficult to find a legal guardian for a separated child seeking asylum.

Malta

The European Refugee Fund project has come to an end and it has ameliorated the reception conditions in one of the centres for unaccompanied minors. The project had employed an educator who had organised different socio-educational activities. She had to stop with the closure of the project and in order to continue the efforts different persons from the migrant community have been drafted in to act as mentors to the unaccompanied minors residing in the minors' centres. They have been tasked with organizing activities and being role models to the young persons.

It has proven to be a challenge addressing the needs of the minors due to the large number arriving in Malta. That is why different venues of support are being discussed both internally and with other stakeholders.

Netherlands

As has been touched upon within the section on guardianship, the Guardians Against child Trafficking and Exploitation (GATE) research explicitly showed that large-scale reception facilities are unfit to care for separated children. Many children explicated feelings of loneliness, boredom and felt that nobody cared for them. Living in these

facilities makes them vulnerable for using drugs, drinking alcohol, depression and suicidal tensions. In small-scale reception facilities the children experience fewer difficulties concerning their mental health. DCI-NL highly recommends small-scale reception facilities. In these facilities the number of children that disappear with unknown destination are also the lowest.

Poland

The Ministry of Labour issued an ordinance that interprets the new Law on family support and alternative care from 9 June 2011. The ordinance regulates, among others, issues related to placing separated children in child care institutions.

Slovakia

The main problem in relation to reception is that separated children are treated by authorities and also by society primarily as foreigners and only secondarily as children. This is visible also from the provisions of relevant legislation (e.g. on age assessment or on their placement into state facilities). There are hardly any durable solutions for these children that would provide them with safety in a long-term perspective, meaning after they turn 18. There are neither integration programmes available for them after they turn 18, nor "halfway homes". The separated children under 18 are placed in children's homes with typical institutional care, whereas Slovak children are treated differently both in the legislation and in practice. Slovak children are placed in foster families or family oriented parts of the children's homes.

Another important problem with placement of separated children that still persist is their placement during the asylum procedure. According to the law they should be placed in facilities of the Migration Office for adults, but as an exception a guardian can be appointed to take care of the children. In one case the guardianship was not granted, the consequence being that two Afghan siblings had to move to another part of the country, even though they had already attended a local school, and one of them had psychological problems and would not benefit from such a move according to The Human Rights League. The Head of the Migration Office only provided a meagre explanation, and the result remains: The guardian cannot rely on being granted the exception from the placement in every case.

The Human Rights League has observed conditions in the children's homes for separated children which in their opinion are not in accordance with basic standards of children's care. Separated children are placed in detention-like

parts of the homes with barred windows, isolated from the rest of the home. They have to stay in this closed part of the children's home until all the entrance examinations are finished (which can be around 3-4 days but also a week or longer if the child has an infectious disease). This for sure is not a friendly atmosphere for an arriving child. Furthermore some children reported to the Human Rights League that during their entire stay in the quarantine they were not allowed to go out to get fresh air, which is quite worrying. However the information provided from the children's home is that all the children in the quarantine part of the home are going out to get fresh air every day. The Human Rights League will closely monitor the situation in this regard during their regular visits at the children's home.

Slovenia

A lack of appropriate accommodation for separated children (for all categories – non-asylum seeker, asylum seekers, and refugees) still remains.

Switzerland

The Swiss Foundation of the International Social Service (ISS) is implementing a programme called "Building a future with separated children". This programme should "contribute to enhance the assistance of separated children in Switzerland, to harmonise the protection system and to find sustainable solutions". ISS aims to guarantee to separated children the right to grow up in adequate environment and to develop future prospects either by a sustainable return to their country of origin if it is possible, or by an alternative solution in Switzerland or in another country¹¹.

http://www.ssiss.ch/en/system/files/310/enfants_separes_201210_ld_e_pdf_18465.pdf

Missing children

A European initiative is putting pictures and biographical details of missing children on the well-known 404 Not Found pages. Hosting firms and media companies have signed up to put the information on these otherwise empty pages. The project has been created by Missing Children Europe and several other European organizations.

Austria

The European hotline for missing children started in Austria on 1 October 2012. It is being operated by the hotline for children and youth, "Rat auf

Draht", which has been providing counselling services to children for 25 years on the basis of a cooperation agreement with the Federal Ministry for Interior and The Federal Ministry for Economy, Family and Youth. The hotline 116 000 is available 24/7 at no costs.

The European Commission has launched a study to collect and analyse data on missing children in the EU. The study will run from July 2012 until June 2013 to collect and analyse data and to develop the basis to improve the mechanisms involved when children go missing in the 27 EU Member States. To achieve this it will use and build on existing data and indicators to obtain sustainable, comparable data on missing children in all 27 Member States covering the period 2008-2010 (and 2011 where available). Good practices and recommendations for the benefit of the Member States shall be identified and cooperation between Member States in cases of missing children optimised. The study is managed by ECORYS Nederland B.V. The Austrian partner is ECPAT Austria.

Belgium

93 missing separated children were signalled to Child Focus in 2011. Only a small part of separated children who go missing are signalled to Child Focus so this number is way below the reality.

Cyprus

According to the Child Commissioner, cases regarding missing children in Cyprus solely involve parental kidnapping following a divorce or separation.

The European hotline for missing children – 116 000 – was launched in Cyprus on September 14, 2012. The line is free and functions 24 hours a day. It aims at responding to cases involving children who have left home, children who have been kidnapped by a parent, criminal kidnappings, lost children, injured children, missing children or missing separated children.

Ireland

Where statistics were formally noted in the Health Service Executive's statistical reporting, they are no longer as visible. In the 2012, monthly statistics there is only one mention of a separated child going missing.

Italy

On 7 September a ship carrying migrants from Libya to Italy sank near the Italian coast. There are allegations of an unaccompanied Tunisian child missing since the incident.

¹¹ Swiss Foundation of the International Social Service, Separated children, URL: http://www.ssiss.ch/en/separated_children, consulted on 09.10.2012

Netherlands

Separated children who do not want to apply for asylum or register

In the last SCEP newsletter the phenomenon of separated children, mainly Afghan boys, who did not want to apply for asylum or register in the Netherlands because they were in transit to family in Sweden has been mentioned. Shortly after that, this phenomenon seems to have vanished. It is unknown why it does not occur anymore.

Separated children that have left with unknown destination

During the GATE research it became clear that many children (still) disappear from large-scale reception facilities. A guardian working at a large-scale facility stated that some of the guardians have 3 or 4 children in their caseload left with unknown destination. This is a relatively high number, especially when the caseload of some guardians has gone down (because of the low inflow) to 6 or 7 children at the same time. If half of them has disappeared this is of course a precarious situation.

Slovakia

‘The Slovak Spectator’ reports that Slovakia joined a campaign – initiated by ‘Missing Children Europe’ – across Europe to raise awareness about the 116 000 hotline for reporting missing children. The campaign was initiated on May 25, International Missing Children’s Day. The Slovak police reported that there were 661 missing children under age 15 in 2011 compared to only 395 in 2010, signifying a large increase. Part of it is due to the fact that children missing from care homes are now also reported.

The Human Rights League reports that the vast majority of separated children still “disappear” from the children’s’ homes very shortly after their arrival. As the main problem they see the fact that these “disappearances” are already seen as normal by the responsible authorities. They actually expect these children to move on and believe Slovakia is for them just a transit country and they will anyway continue on their way to the destination country in Western Europe. This is why they do not care and do not investigate the cases. It is also problematic that a child is not reported missing until 24 hours after their disappearance.

Slovenia

The trend of children going missing a few days after their arrival to the Asylum Home still remains.

United Kingdom

The All-Party Parliamentary Group (APPG) for Runaway and Missing Children and Adults, and the APPG for Looked After Children and Care Leavers,

launched a joint Inquiry into children missing from care. The Refugee Council gave evidence regarding trafficked children who go missing from care, and subsequently attended an expert roundtable to look at the evidence.

Dublin II practice

Save the Children inputs to EP report on Dublin II

Save the Children met with the office of Cecilia Wikstrom MEP who is the EP rapporteur on the recast proposal of the Dublin II Regulation to provide concrete suggestions on provisions relating to children who are under negotiation between the Council of the EU and the EP. They worked to provide precise formulations in relation to family tracing, as well as providing input on the definition of relatives and mechanisms for reunification.

Cyprus

There are no records of any unaccompanied minor returned under Dublin II.

Greece

Apart from the prolonged time it needs to finalize a family reunification procedure under Dublin II, the Greek state refuses to cover the cost of the transfer and passes it on to the family. The same applies in cases where a country requests a DNA exam for verifying the relationship.

Italy

‘EU Observer’ reports that the European Commission is looking into allegations Italy is abusing the rights of asylum seekers by sending separated children back to Greece. According to a joint-report by the Greek Refugee Council and the German-based Pro Asyl, Italy is returning undocumented migrants and asylum seekers to Greece without any proper checks. *“If appropriate the Commission will not hesitate to take action in conformity with the powers conferred to it in the treaties”*, said a spokesperson from the Commission.

Latvia

Latvia allows the transfer of separated children under the Dublin II regulation.

Malta

Malta got a number of Dublin returnees who have claimed to be minors abroad but they would not have been assessed as minors in Malta or they have never claimed to be minors in Malta.

Slovakia

The Human Rights League has monitored one interesting case of a separated child being returned to Slovakia under the Dublin II Regulation from Switzerland in May. Before escaping to Switzerland he was in Slovakia placed in the children's home, but later the police came for him, took him for X-ray tests, assessed him as adult and placed him in the detention centre. From there, after the court cancelled the decision on his detention he was placed in the reception centre for asylum seekers but was still treated as adult by the Migration Office in the asylum procedure. He submitted his Afghan ID card to the Migration Office proving he was underage. Migration Office did not believe the card was authentic and sent it to the experts. By that time he was so frustrated that he escaped. We received information about his return to Slovakia from a Swiss organization. We sent our lawyer to meet him at the airport because we expected problems. Swiss authorities sent him to Slovakia as a minor; however he was still treated as an adult by the Slovak police even though the experts had proved his Afghan ID to be original. We had to convince the police to send him to the children's home because they wanted to send him back to the reception centre for adult asylum seekers. In the meantime after he left, his asylum procedure was stopped in Slovakia so he had to apply for asylum again. However he refused to go back to the reception centre for adult asylum seekers and the guardian refused to apply in his case for an exception in his placement (so he could have stayed in the children's home) stating that the child was problematic (he had obvious serious psychological problems as he was cutting himself). Soon after, he left Slovakia again.

United Kingdom

The case referred by the Court of Appeal to the Court of Justice for the European Union is pending; in the meantime all applications to stay removal until this is resolved are successful.

[http://www.bailii.org/cgi-bin/markup.cgi?doc=/ew/cases/EWCA/Civ/2011/1446.html&query=2011\]+and+EWCA+and+Civ+and+1446&method=boolean](http://www.bailii.org/cgi-bin/markup.cgi?doc=/ew/cases/EWCA/Civ/2011/1446.html&query=2011]+and+EWCA+and+Civ+and+1446&method=boolean)

Procedures and Recognition

Austria

The UNHCR Office in Austria conducts the project UBAUM II (Further Supporting the Authorities Conducting Asylum Procedures for Unaccompanied and Separated Children) with co-funding from the ERF and the Austrian Ministry of the Interior:

In the first half of 2012 a child-friendly information brochure on the Austrian asylum procedure was developed in close collaboration with the Federal Asylum Agency and other experts in the field of asylum. In addition, linguists as well as children themselves, who participated in three workshops, were involved in the development. The brochure will be made available in German, English, Dari/Farsi and Pashto. Also, three workshops were organized for legal representatives of separated children seeking asylum.

Two training sessions for interpreters are planned for autumn 2012. Throughout the year, UNHCR also observes Asylum Court hearings concerning separated children.

There are no official statistics concerning recognition rates for separated child asylum-seekers. One of the Asylkoordination Österreich's surveys among NGO reception centres for separated child asylum-seekers concluded that the number of positive decisions (including subsidiary protection) concerning Afghan teenagers (they represent more than 70% of the applicants) has sharply declined. Regarding young Afghans, negative decisions are made by the Asylum Court, more frequently including expulsion orders to Afghanistan.

Belgium

Since the 8th of December 2011 a new law regarding the durable solution for non asylum-seeking children has been applied. The guardian makes a proposal of a durable solution. Other elements of proof to bring in the procedure are: the family situation of the minor, the proof of subscription in a school, the proof of the knowledge of one of the three national languages and all other elements that would be specific to the situation of the minor. One major concern for this law is that there is a possibility to modify the durable solution (from the legal stay to return or family reunification) if the minor would have given (some) false information at some point in the procedure. An evaluation is planned of the practice of the law.

We now see very worrisome practices: The Foreign Office does not decide on the durable solution before the 18th birthday and then declares that the person is a major so that they do not have the right to receive a permit that is foreseen for minors. There is currently no legal effective remedy and there is no legal way to oblige the foreign office to decide on the durable solution before the 18th birthday.

Croatia

Two separated children from Afghanistan were granted refugee status.

Compared to 2011, there is a decrease in number of asylum seeking separated children (2011: 197, 2012: 45). The majority of the separated children are of Afghan origin, male, ranging in age from 15-17.

Cyprus

As regards the practice, the refugee status determination procedures for unaccompanied children have been halted since the end of 2009, due to a disagreement between the government and the Child Commissioner on the interpretation and the implementation of the provisions of the Refugee Law¹² on representation of unaccompanied children.

With regards recognition as a refugee, the Refugee Law specifies that acts of a child-specific nature are among the non-exhaustive lists of acts which qualify as constituting acts of persecution¹³.

Asylum claims of separated children have remained without determination since November 2009. The persisting dispute over the interpretation and implementation of the provisions of Section 10 of the Cyprus Refugee Law relating to the representation of unaccompanied and separated children in the asylum process has so far deprived over 50 children from the timely identification of their international protection needs and their right to legal representation during the asylum procedures, since 2009.

UNHCR brought its concerns to the attention of the Ombudsman, who found that the delay constitutes a violation of the principle of the Best Interests of the Child and the principle of Non-Discrimination. This concern was also brought to the attention of the Committee on the Rights of the Child. The Committee urged Cyprus to take urgent measures to adequately address the situation of asylum-seeking children, including by expeditiously taking action to guarantee separated and unaccompanied children legal representation in the asylum process.

Finland

Until 30 September, there were 86 decisions made concerning separated children. 72 of them were positive: 5 children got asylum, 42 got secondary protection and 25 got a residence permit because of other grounds, and the process was ceased in 9 cases. There were only 5 negative decisions, among them 4 Dublin decisions (when compiling statistics, the Finnish Immigration Service considers Dublin decisions as negative decisions).

Germany

¹² s10(1B) Refugee Law 2000

¹³ s3C(2)(f) of Refugee Law 2000

In December 2011, Germany implemented Art. 10 (2) of the Return Directive which allows a return of a separated child only if the authorities are satisfied that he or she will be returned to a member of his or her family, a nominated guardian or adequate reception facilities in the state of return.

The German RSD-body, the Federal Office for Migration and Refugees (BAMF) now takes recourse to the newly implemented Art. 10 (2) of the Return Directive and has changed its decision practice: According to their internal instructions they do not grant any more national subsidiary protection for separated children which is based on specific risks related to their minor age. The BAMF bases its arguments on Section 60 Para 7 3rd sentence Residence Act according to which national subsidiary protection status (danger for life and limb) shall not be granted if a so-called deportation ban (mostly re a specific country) has been decided on federal state or national level by the Federal Ministries of the Interior.

According to the national higher jurisprudence only if no deportation ban is in place and a return would bring a person into extreme danger for life and limb, subsidiary protection based on general risks (e.g. bad living conditions) should be granted.

The BAMF argues that, with regard to separated children, no return into an uncertain situation is carried out due to Art. 10 (2) of the Return Directive, so that no subsidiary protection status has to be granted (which, however, would lead to a residence permit which might go beyond the 18th birthday and which would allow for access to work and other social rights).

It seems to be important to note that the new decision practice has so far not been confirmed by any higher administrative court (HACs), but that the HAC of Baden-Wuerttemberg (decision of 27.04.2012, A 11 S 3392/11) rejected the approach of the BAMF and granted national subsidiary protection to a separated child from Afghanistan who has no family network in Afghanistan. The case is now pending at the Federal Administrative Court. The BAMF decided to freeze all decisions regarding separated children where the question of granting national subsidiary protection is concerned (which means that positive decisions of refugee status and European subsidiary protection are not included) until the Federal Administrative Court had decided on that case (presumably in spring 2013).

Latvia

There are no specific procedures or guidelines in the legal framework pertaining to minors in Latvia. The provisions generally relate to the training of the interviewer and the need that interviews take place in a child friendly environment. It is not possible to

process an application without an interview, except in the cases where the applicant's file is closed for various reasons before the date of the interview. All children are interviewed, even the youngest.

Public authorities should take measures to ensure that all unaccompanied children are always informed about their right to seek asylum and the details of such a procedure in a child friendly manner tailored to the needs of children.

Netherlands

The revised policy for separated children has far-reaching consequences. When a child does not qualify for an asylum residence permit it will mean for many children that they do not receive an ID-card and end up in illegality. This is of course not in their best interest. Although these children residing in illegality still have the right to a shelter, education and medical care, on many occasions they have to identify themselves and they are unable to without an ID-card.

The Minister of Immigration, Integration and Asylum has developed a new 'out of guild' policy (In Dutch: Buitenschuld beleid) which entails that a child who entered the Netherlands before he or she was 15 years old receives a residence permit when he or she was not able to return to the country of origin within 3 years time (only if the child starts no new residence procedure again). The minister presents this policy as being revolutionary, but DCI-NL argues that the requirements for receiving this permit are very strict. Almost no child will meet the criteria. In reality more than half of the children entering the Netherlands are older than 15, meaning that most of the children are not helped with this policy. DCI-NL argues that the Minister unrightfully puts the restrictive migration policy before the interest of the child.

Slovakia

The vast majority of separated children arriving to Slovakia do not enter into the asylum procedure. Those entering the asylum procedure (mainly from Somalia and Afghanistan) are granted subsidiary protection only.

Slovenia

In 2012 (until the end of September) six separated children, all from Afghanistan, were granted subsidiary protection. They got protection for one year (four of them), one year and two months (one) and two years (one). All of them, with the exception of one, will come of age by that time.

Switzerland

In 2012, a total of 84 separated children received a decision by the Federal Office for Migration (FOM), although only 37 were decisions on the

merits of the respective case, i.e. to grant asylum, a rejection coupled with a provisional admission as well as rejections. Of the remainder, 30 were inadmissibility decisions and the remaining 17 were decisions that the applications were to be considered closed on formal grounds.

The FOM granted asylum (comparable to refugee status under the 1951 Convention) to 10 children, which represents a share of 27% - another 7 former separated children who turned 18 during the procedure were granted asylum. The FOM rejected the asylum application but accorded a provisional admission ("admission provisoire") to 16 separated children seeking asylum, which represents a share of 43.2 % - another 19 former separated children who turned 18 during the procedure were also granted a provisional admission. 11 applications of separated children (29.7%) were rejected - another 17 former separated children who reaching maturity during the procedure received a negative decision on the merits by the FOM.

Looking at the main countries of origin of the children, 8 girls aged between 0 and 14 years and 22 aged between 15 and 17 years originated from Eritrea, whereas all 26 applicants from Afghanistan were males (9 boys aged between 0 and 14 years and 17 boys aged between 15 and 17 years old).

During a special session of the Federal Assembly in May 2012 a reform of the asylum procedure for children was proposed, aiming at bringing together the first interview (essentially recording of personal data) and the main asylum interview¹⁴. While the intention of this proposal was aimed at accelerating the asylum procedures, such a step could be in the interest of children concerned as they are currently – as a rule - not represented during the first interview. Should such a change in procedure be introduced, representation by a legal guardian could be provided for right from the beginning of the asylum procedure.

Case study: The Swiss Foundation of the International Social Service has been mandated by the legal guardian of a separated female minor, orphan, from the Democratic Republic of the Congo to evaluate the situation of her grandmother in Kinshasa in order to determine whether the return would be in the girl's best interest. This mandate was submitted after a return decision from

¹⁴ Assemblée fédérale, *Résumé des délibérations*, Session spéciale mai 2012, 11.3809 n Mo. Conseil National. *Réduction de la bureaucratie dans le domaine de l'asile (Hiltbold)*; available at: <http://www.parlament.ch/f/dokumentation/berichte/uebersicht-ueber-verhandlungen/Documents/e-d-verhandlungen-2012-ss-2-f.pdf>, page 153.

the Federal Office for Migration was confirmed by the competent Federal Administration Court.

The evaluation in the country of origin by ISS showed that the investigations made by the authorities did not include a home visit at the grandmother's place but rather a confirmation that the girl concerned stayed at the grandmother's place before she made her way to Switzerland.

The child's lawyer submitted a request of reconsideration arguing that the child's high level of integration in Switzerland as well as the grandmother's difficult situation to offer to the child concerned an adequate support and environment.

The Federal Office for Migration accepted this request and decided that the girl shall obtain a provisional permit in Switzerland; they considered that under all those circumstances described in the request of reconsideration, the execution of the return of the girl concerned is inadmissible.

United Kingdom

A change in Immigration Rules has resulted in the maximum length of leave granted to children whose applications are refused but who cannot be returned. It is now 30 months; prior to July 9th it was 36 months.

Family Tracing and Reunification

Croatia

Despite provided for under the Asylum Act, Croatia is still a novice in the field and the Ministry does not systematically search for the parents of a minor. Wherever possible, UNHCR through its partners, the Croatian Red Cross, assist in the process of family tracing. There were no cases of successful family tracing of asylum seeking separated children in 2012. Tracing is further hindered due to the fact that the majority of asylum seeking separated children currently originates from Afghanistan and the security/lack of infrastructure issues in the country of origin.

Cyprus

Family tracing is carried out by the Social Welfare Service, with the assistance of the International Social Service.

Finland

Due to several amendments made in the law, family reunification has become difficult for people who get international protection. For example, from the beginning of 2012 it is no longer possible to submit an application in Finland on behalf of your family members. It has to be left to the embassies abroad. There are also new practices that together with law

changes have caused problems for people to submit their applications. People have to go to embassies several times. At the same time important embassies have been closed down in the name of cutting costs. All this has led to a dramatic cut down of applications for family reunification. Until the end of August there were only 385 applications made by family members of people who got international protection, compared to 1,479 made at the same period last year. The decisions to family reunification are also more often negative. 66% of the decisions of family members of people who got international protection got a negative decision last year – compared to 26 % with other groups.

Ireland

Out of the 174 cases initiated in 2011, the Irish Red Cross only received 4 referrals from minors in the care of the HSE. This number has decreased as compared to recent years. This may be due to the fostering of the children and the social workers in rural areas not knowing about the tracing/reunification services offered.

Italy

RRSE UNHCR office in Rome has been following some cases of children asylum seekers with relatives in other EU Member States. Based on the positive results of family tracing reports carried out by IOM, that confirmed their family links, UNHCR office supported the transfer of competence from Italy to the other concerned EU Member States under article 6 of the Dublin II Regulation. The procedure undertaken in order to carry out the transfer turned out to be quite long and difficult and raised some concerns regarding the general use of DNA testing by the Italian Dublin Unit in order to prove family ties even where other means of proof were available and even if the competent EU Member State did not ask for such tests. Considering that DNA testing should be considered as a measure of last resort, UNHCR has been working in cooperation with IOM and Save the Children in order to 1) identify and develop guidelines on the use of the DNA test, 2) to confirm the importance of involving the Judge in order to establish the best interests of the child in case of transfer of competence under Dublin II Regulation; and 3) to eliminate all the bureaucratic hurdles that delay the transfer.

Latvia

In Latvia, national law provides for family tracing. Red Cross is responsible for this research or at least is one of the services that can help tracing family. In Latvia separated children have the right to asylum. If a separated child receives refugee status, he/she can apply for family reunification immediately. But

he/she will have a guardian, and it is up to the guardian to decide if this separated child should apply for family reunification. In case the separated child has only subsidiary protection, he/she can apply for family reunification only after two years and the procedure of family reunification is the same as for adults: the separated child should confirm the family relationship and he/she should be able to ensure the ability to support a family and provide housing.

Malta

The Project “Supporting open and closed reception systems in Malta through Profiling, Action Research and Knowledge Transfer” (SPARKLET), which is a European Refugee Fund Project, incorporates family tracing exercises, which are coordinated by the International Office for Migration (IOM) Malta. Official statistics on family tracing will be presented later on this year in the closing conference of the project and the unaccompanied minors have benefitted from this option. It is to be noted that this is the first attempt in Malta to organise family tracing.

The family tracing is used as a tool to make contact with possible family members of the unaccompanied minor in view of further action such as possible later reunification or resettlement in the country.

Netherlands

Family tracing

In the revision of the policy for separated children the Minister of Immigration, Integration and Asylum states that with regard to return to the country of origin children should be reunited with their family. The minister will only deviate from this policy when it is likely that the reunion exposes the child to abuse or to a human rights violation that is that serious that the weight of family reunion is secondary to the protection of the child. This of course is an interesting choice of words by the Minister, since all human rights violations are serious and are therefore worth to reassess the family reunification.

Family reunification

Children applying for a family reunion with a parent that already received asylum in the Netherlands, have to prove their ‘factual’ kinship. This factual kinship became more important in 2009, when the Minister argued that many people deceive the authorities. Biological kinship alone was not sufficient to prove the factual kinship relation any more. ‘Identifying’ interviews were now held to investigate this, and only in some cases a DNA test was offered. In April 2012 a colleague of DCI-NL went, together with a lawyer and employee of the

Dutch Refugee Council, on a ‘fact finding mission’ to Addis Abeba. Reasons for this journey were the high numbers of Somali separated children living in the capital of Ethiopia waiting for news in their family reunification case and the high percentages of children that were denied to reunite with their parent in the Netherlands. (In Somalia there is no Dutch embassy, so Somali children have to travel to Ethiopia where the nearest Dutch embassy is located). The researchers were shocked by the hours long lasting identifying interviews in which the child was asked about details and painful events from a long time ago. Because of these interviews the percentages increased tremendously of children who are denied the right to family reunification. The Minister argues that this high percentage proves the assumed committee fraud. This is not based on any evidence and the high number of rejections because of often irrelevant inconsistencies.

On the 16th of July 2012 the Minister of Immigration, Integration and Asylum revised the policy and decided that DNA will be accepted as proof of a factual kinship relation for biological children. Identifying interviews however could still be held in exceptional cases for biological children. However, for foster children it remains hard to prove their factual kinship. They cannot prove a biological kinship relation, so identifying interviews will remain leading. Also they are denied the right to family reunification when they are part and are taken care of by a new family. For biological children this could only be a reason for being denied to reunite with a parent if the child is accepted in a sustainable way in a family. For foster children, being taken care of by any family means being denied family reunification. This remains a worrisome situation. Especially since many asylum seeking children come from war situations and grow up in foster families. These children also have a right to family life. They are still discriminated against.

Slovakia

Currently there are only two Afghan siblings in the process of family reunification with their parents being asylum seekers in Switzerland. However, the process is quite unclear and takes a long time (they have been in Slovakia since April). The problem seems to be that the parents should be currently in the Dublin II procedure in order to return them to Hungary and this is why the guardian of these children still has not initialized the process.

Switzerland

As mentioned above, with the suppression of the embassy procedure, it is no longer possible to apply at Swiss representations abroad for an entry visa in order to have access to the in country asylum

procedure in Switzerland. This may cause hardship for unaccompanied children when trying to reunite with their family in Switzerland. However, in practice, it needs to be verified whether it would be possible to successfully apply for a humanitarian visa, by prominently bringing into the discussion the best interests of the child.

United Kingdom

See case of KA (Afghanistan) in the section on “Changes and developments in law, policies and practice in general”, which is applicable to children from any country of origin.

The British Red Cross has changed its guidance on family tracing for separated children.

http://www.redcross.org.uk/~media/BritishRedCross/Documents/What%20we%20do/Finding%20missing%20family/Guidelines%20for%20Restoring%20Family%20Links%20for%20Unaccompanied%20and%20Separated%20Children_May%202012.pdf

Return and reintegration

Austria

The UNICEF study „Stilles Leid“ describes the alarming situation of children who were returned to Kosovo from Germany and Austria. Half of these children describe their return as the most terrible experience of their life. A third of the children suffer from post-traumatic stress disorder; nearly a half has depressions and a quarter has suicidal thoughts. In addition there are no institutions that could help the children. The Kosovan health care system is not able to satisfy the needs of the returned children and their parents. Furthermore, the children do not experience social support from their parents or friends. 70 percent of children from minority groups don't go to school after their return. The study is available under:

http://umf.asyl.at/files/DOK44UNICEF_Studie_-_Stilles_Leid-1.pdf

Belgium

The new secretary of State Maggie De Block has put a lot of energy on practice to promote voluntary return. Trainings have been organised for social workers and guardians. There are some concerns that voluntary return is not seen as a potential individual durable solution for a separated child but more as a migration management tool. She expressed interest in joining ERPUM. This has been very controversial in Belgium and was followed up in the parliament. Two pilot-projects have started in Morocco (IOM Belgium) and Guinea (Caritas) to

explore study and work opportunities in the case of voluntary return.

Germany

According to IOM in 2011 seven separated children voluntarily returned to their countries of origin, 6 of them were female separated children, one was a male.

Netherlands

Beyond Borders, a project aimed at supporting former minor asylum seekers, has started again providing these young people with the help they need. They focus on developing a future perspective by means of providing instructions, training and supervision. The project is also important to prevent former minor asylum seekers to end up in illegality. More information (unfortunately only in Dutch) can be found on <http://beyondborders.nu>

In May 2012 UNICEF the Netherlands has published the report ‘Return of separated children to return houses in countries of origin; Policy and practice in the Netherlands, European and international governing instruments, and recommendations for protecting the best interests of the child’. UNICEF the Netherlands is concerned about practices in this context. An area of particular concern is the policy of returning separated children who are ineligible to remain in the Netherlands (following a failed asylum application) to “reception houses” or “return houses”. Given current information gaps regarding how the policy of return of separated children to return houses is implemented and works in practice, especially in terms of to what extent and how the best interests of the child are taken into account and incorporated in the process, the research has sought to fill some of these pre-existing gaps. The report is available at:

http://www.unicef.nl/media/653747/rapport_pst_compleet_lr.pdf.

United Kingdom

England's children's commissioner Maggie Atkinson has revealed that under the 1995 secret "Gentleman's Agreement" with France, UK Border Agency staff returned unaccompanied children who did not claim asylum when they arrived at UK ports. The practice of returning children from the border in this manner conflicts with the UKBA's duty to safeguard children and promote their welfare. The UKBA ended the removals in 2011 after Commissioner Atkinson intervened. She is now seeking the details of how many children were affected.

Trafficking

Austria

On 5 October, the Austrian Taskforce on Combating Human Trafficking organized the conference "Joining Forces against Human Trafficking".

ECPAT Austria is chairing a workshop on "Protecting the rights of minor victims of human trafficking", aiming at discussing and elaborating measures and proposals to enhance the rights of minor victims and to ensure an effective implementation of these rights. The main challenge is still the division of competences for children and youth among the nine federal provinces in Austria and the fact that there is no standardized NRM (National Referral Mechanism) for trafficked children in Austria. This also includes the lack of a specialized NGO or other institution which is providing services to trafficked children including accommodation based on international safety standards for trafficked persons, including children.

With the support of Lexis Nexis, an international law firm specialized on providing online information for experts, and in cooperation with ECPAT Austria, two well-known and recognized Austrian law-experts are working on thematic expertises concerning 1) the Austrian anti-trafficking provision in the penal code and its implementation concerning trafficked children, as well as 2) on legal solutions for developing an Austrian-wide NRM for trafficked children. Another study called "Assisting and reintegrating children victims of trafficking: promotion and evaluation of best practices in source and destination countries" will be finished by end of 2012 and is also looking into the situation of trafficked children in Austria with a focus on return procedures (for instance to Bulgaria). In Austria, the Ludwig-Boltzmann-Institute for Human Rights, in cooperation with ECPAT Austria, conducted the research.

Cyprus

The current National Action Plan against Trafficking in Human Beings, which covers the period 2010-2012, does not cover children, as it was deemed that a separate Action Plan should be prepared by the Social Welfare Services. Although the issue of trafficking for the purpose of sexual exploitation or labour exploitation of adults has been identified as a serious problem in Cyprus, there is no data available to prove the extent of the problem as concerns children. The findings of a relevant survey conducted on behalf of the Child Commissioner show that a considerable number of

migrant children reside with persons other than their parents or guardians, a matter which should be further investigated in order to exclude that they may be victims of trafficking.

The GRETA (Group of Experts on Action against Trafficking in Human Beings), in its report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Cyprus, 12 September 2011, noted the identification of the first two child victims of human trafficking, in 2010. According to the same report, the Child Commissioner is reported as having indicated unaccompanied children seeking asylum in Cyprus as a "potentially high-risk vulnerable group for human trafficking". GRETA also reports the "procedural difficulties which prevent the Commissioner from hiring private lawyers in order to ensure the legal representation of unaccompanied minors". The full text of the report can be accessed on:

http://ec.europa.eu/anti-trafficking/download.action;jsessionid=p61DQ8CFBcm6GVhM8pb2LwSjFfDr8LNDCFwPpHR0nBGgYHhTqG9nG!-1807294630?nodeId=9e5164a0-06b9-4975-9f9a-d93e93703b24&fileName=GRETA+Report+Cyprus+2011_en.pdf&fileType=pdf

The case of six unaccompanied children, potentially victims of trafficking, who were deported from the occupied north in May 2012, despite UNHCR's efforts to facilitate their access to the asylum procedures of the Republic of Cyprus, prompted the strong reaction of UNHCR, Members of Parliament, the Child Commissioner and the NGOs in the field of asylum and anti-trafficking. Relevant newspaper reports can be accessed on:

<http://www.philenews.com/Digital/Default.aspx?d=20120612&pn=1>
<http://www.philenews.com/AssetService/Image.aspx?t=2&pg=55651&>

Ireland

Experts have warned that the sale and exploitation of minors is not confined to migrant children and called for the Government to step up efforts to tackle the crime. Chief executive Tanya Ward warned the findings revealed that much work is yet to be done in fighting the crime.

57 allegations of human trafficking were investigated by An Garda Síochána during 2011. In some of those cases no evidence of human trafficking was found. 13 of those cases related to minors, 6 of whom were Irish. Offences came under both the Criminal Law (Human Trafficking) Act, 2008 and the Child Trafficking & Pornography Act, 1998.

The Anti-Human Trafficking Unit of the Department of Justice and Equality published, 'Services for Victims of Child Trafficking' available at:

[http://www.blueblindfold.gov.ie/website/bbf/bbfweb.nsf/page/OACN-8XVHNX1421296-en/\\$File/Services%20for%20Victims%20of%20Child%20Trafficking.pdf](http://www.blueblindfold.gov.ie/website/bbf/bbfweb.nsf/page/OACN-8XVHNX1421296-en/$File/Services%20for%20Victims%20of%20Child%20Trafficking.pdf).

The Children's Rights Alliance and University College Cork published a report which focuses on developments in care for trafficked children in Ireland with a specific aim of outlining current practice in Ireland in relation to the provision of safe and appropriate accommodation, care, supports, and legal protection to trafficked children or those children suspected of being trafficked. The report is based on a series of interviews carried out by the research team between September and December 2011, on child trafficking, with professionals in the areas of child welfare, care, education, and advocacy. <http://www.childrensrights.ie/resources/safe-care-trafficked-children-ireland>.

Report available at:

http://www.childrensrights.ie/sites/default/files/submissions_reports/files/SafeCareForTraffickedChildrenInIrelandReport.pdf.

Malta

There is the "Malta Action Plan on Combating Trafficking in Persons – October 2011 – December 2012", which is dealing with the awareness and setting up of structures and procedures to deal with trafficking. Training seminars were also organised for different stakeholders in the field.

Netherlands

The new policy for separated children, as described in previous paragraphs, has devastating consequences with regard to receiving a residence permit and it is worrisome that children are likely to become more vulnerable for exploitation and trafficking because of this.

Regarding the B9 permit, a permit that is given to victims of trafficking while their case is being investigated, the Minister of Immigration, Integration and Asylum proposed to withdraw the permit when he assumes deceit. Because of this measure the protection of minor children is expected to worsen because victims are likely to become even more afraid to go to the police. The Minister also intends to abolish the reflection time for victims that have escaped their exploitative situation more than three months ago. The National Rapporteur on Trafficking of Human Beings advises the Minister to reconsider this. This measure is again an attempt of the Minister to deal with the assumed deceit of the B9 residence permit.

The Coordination Centre of Human Trafficking (I.D. Coördinatiecentrum Mensenhandel, CoMensha) has together with the Ministry of Safety and Justice developed a brochure with information for victims of human trafficking who already had a conversation with the police or are thinking about it. This brochure is available in several languages such as Dutch, English, Hungarian, Polish and Bulgarian. There is also a website which contains the same information: www.hoenuverder.info

Norway

A new law designed to combat child human trafficking in Norway took effect. The legislation allows authorities to detain minors in child welfare institutions for their own protection for a maximum of six months against their will, if necessary.

39 children in Norway were identified as victims of human trafficking in 2011, reports NRK.

Poland

The Ministry of Interior issued, on request of the Parliament, a government position concerning the EU anti trafficking strategy for 2012 – 2016. Thanks to Nobody's Children Foundation, lobbying the need for regulations concerning guardianship for foreign minor victims of trafficking and best interests determination in return of children were highlighted in the position.

Slovakia

'The Slovak Spectator' reports that while attending a session of the UN Committee on the Rights of the Child Council in Geneva on June 19 representatives of the Slovak organisation called 'Coalition for Children' presented a report about the country. The report deals with the level of awareness and implementation of the Optional Protocol to the CRC, on the sale of children, child prostitution and child pornography. The aim of the report was to provide additional information about Slovakia before the upcoming meeting between UN representatives and Slovak officials.

The Human Rights League reports that trafficking still isn't recognized as a problem in Slovakia. They want to deal more in the upcoming years with the question of human trafficking, including the trafficking of migrant children and have been partners to the trans-national project "Promotion of the Rights of Trafficked Persons in Bulgaria, Romania and Slovakia with Emphasis on Legal Support – A Human Rights-Based Approach" of the Netherlands Helsinki Committee. The project should start in January 2013 and its duration is 3 years. The project aims at: 1. Increasing the knowledge of Bulgarian, Slovakian and Romanian

lawyers and social workers on trafficking in human beings and the protection of the rights and interests of trafficked persons, while promoting a victim centered approach; 2. Enhancing victims' access to legal counseling, aid and representation during criminal and other legal proceedings, relevant to their specific needs; 3. Increasing the capacity and quality of victim support and counseling services provided by NGOs; 4. Enhancing the capacity of NGOs to effectively advocate for the protection and promotion of victims rights.

Slovenia

The lack of suitable accommodation for the minors who are victims of trafficking still remains.

Spain

In September 2012, the Spanish Ombudsman published a report "Trafficking in Spain, invisible victims". The report contains a chapter on minors which detects mainly three problems: the lack of reliable data to understand the phenomenon, the lack of an effective and coordinated response to the identification of child victims of trafficking and the lack of specific residential resources for them. http://www.defensordepueblo.es/es/Documentacion/Publicaciones/monografico/contenido_1348128571191.html

Switzerland

The "Trafficking in Persons Report" for the year 2012 was published on 19 June 2012 by the U.S. Department of State. This report classes 186 countries in 3 different categories regarding the degree of compliance with the criteria defined by the US congress in the "Victims of Trafficking and Violence Protection Act of 2000". Switzerland was classified as belonging to category 2 (together with 92 other countries). The main gap that was identified was that the provision in the criminal code which prohibits prostitution in Switzerland for minors aged between 16 and 17 has not come into force yet, although the current legislative revision of Article 187 of the Swiss Criminal Code aiming at prohibiting prostitution with minors is mentioned¹⁵. The report also recommends Switzerland to condemn more severely the actors of trafficking, to pronounce harsher sentences and to campaign for prevention. However, the report acknowledges Switzerland's progress in certain areas. For example, in the field of prevention, the report mentions the new Private Household Employees Ordinance of 6 June 2011, which regulates the conditions for admission to Switzerland, residence and working

¹⁵ *Trafficking in Persons Report 2012*; available at: <http://www.state.gov/j/tip/rls/tiprpt/2012/index.htm>.

conditions for private domestic employees of members of diplomatic missions, permanent missions, consular posts, and of international organisations. The report also takes note of the establishment of a bilateral working group with Romania on trafficking in persons and of the courses organised by the Swiss Coordination Unit against the Trafficking in Persons and Smuggling of Migrants (KSMM).¹⁶

In July 2012, the Federal Council submitted a legislative proposal to the Swiss Parliament, linked to the implementation of the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse. As Switzerland intends to ratify the Convention, there is a need to revise the provision of the Swiss Criminal Code mentioned above regarding prostitution of minors¹⁷. "The Federal Council decided to make these changes further to various Parliamentary discussions and a desire to ratify the European Convention for the Protection of Children against Sexual Exploitation and Sexual Abuse", said a spokeswoman for the Federal Office of Justice¹⁸ in this context.

Child and Youth Participation

Austria

Increasingly, young refugees are not only involved in projects as a target group, but as experts. Against this background, children themselves (participating in three workshops) were involved by UNHCR within the framework of the ERF-funded project UBAUM II in the development of a child-friendly information brochure designed to address asylum seeking separated children.

Another ERF-funded project, named „Cultrain“, implemented by IOM, enabled young people to provide feedback to a programme proposal and to enrich the project with their ideas and comments.

Germany

The Bundesfachverband UMF published a working concept on participation of minors for homes where separated children are placed. The booklet is

¹⁶ *Trafficking in Persons Report 2012*; available at: <http://www.state.gov/j/tip/rls/tiprpt/2012/index.htm>.

¹⁷ Humanrights.ch, *Protéger les mineur-e-s de l'exploitation sexuelle*, available at: http://www.humanrights.ch/fr/Suisse/interieure/Groupes/Enfants/idart_6903-content.html?zur=542.

¹⁸ Terre des hommes, *Swiss outlaw underage prostitution*, 5th July 2012, available at: <http://tdh-childprotection.org/news/swiss-outlaw-underage-prostitution>.

one of the outcomes of the three year project in which tools of participation are developed.

Ireland

Together with Unicef Ireland, the Irish Refugee Council have been facilitating after-school sessions at Crosscare's Youth Aftercare Support Service with the aim of supporting young people in identifying key issues or concerns, choosing and agreeing on priorities, identifying their target audience and deciding how to communicate their findings. The young people are now working to produce a book outlining their experiences as separated children seeking asylum in Ireland to include recommendations for policy makers and advice for newly arrived separated children in Ireland.

Italy

Following up from the video produced within the project "Providing alternatives to irregular migration for unaccompanied children in Egypt", special screenings have taken place in Italy to consult Egyptian children on the video's message for their peers.

A participation activity with children within the project Minor Rights - Access to justice for children at risk of social exclusion about access to child-friendly justice, gave unaccompanied and separated children and others the chance to voice their concerns through music:

<http://youtu.be/jhQ8FZ4HBy4>

Malta

Through the European Refugee Fund, the separated children residing in one of the centres in Malta were involved in the implementation of a project in one of the centres. The project organized socio-educational activities which are now being followed internally by AWAS through mentors from the migrant community, volunteers, and possibly other stakeholders.

Netherlands

During the campaign for integrated children who have been residing in the Netherlands for more than 5 years (see also the paragraph on changes and developments) children actively participated. They wore t-shirts with the text: "Do you vote for my return?" and spoke to people on the streets advising them to vote for a party that wants them to receive a residence permit and stay in the Netherlands. The activities were also picked up by Dutch television. One program, the well-known Youth Journal filmed one of the boys, and another item was made for a late-night news show.

Romania

Save the Children provides social counselling, emotional support, educational activities and material support for school integration for 21 separated children. They participated in counselling sessions about Romanian culture, about child rights and child protection regulations in Romania. The aim was to present issues about children's rights, to explain their importance, to encourage and increase awareness in taking initiatives for the implementation of their rights.

In May 2012, ARCA – Romanian Forum for Refugees and Migrants has facilitated, at UNHCR's request, the organizing of two focus group discussions with asylum seekers, refugees and third country nationals, children and parents. The group discussions were organized as part of an EU funded project titled "Assessing, recognizing competences and certifying knowledge acquisition valuing human capital of children of foreign origin in education and training in Europe" implemented in Romania by the PARADA Foundation.

The objective of the project was to promote integration measures targeting migrant youth in secondary education (11-18 years old students), addressing specific gender issues. Specifically, the project aimed to improve comparative knowledge on good practices of assessment and recognition of prior education, skills and competences of migrant students enrolling in and finalizing education in Romania, Italy, Germany, Spain, Belgium, and the Netherlands, in order to improve teaching skills, to avoid the placement of migrant children in age appropriate grades and to support new forms of prior learning certification increasing employability and access to jobs.

Additionally, parents' discussions focused on their involvement in actions to support their children's formal and non-formal education, school performance, and future careers.

PARADA foundation also conducted a series of interviews with ARCA volunteers.

United Kingdom

The Children's Society September 2012 report, "Into the unknown; children's journeys through the asylum process", was undertaken as a contribution to the UK Border Agency's current work on 'The Applicant's Journey', a process whereby the UKBA is looking to investigate and improve their systems of information, advice and support for asylum applicants. As acknowledged by the Children's Society "these are important in ensuring that the agency's duty to safeguard and promote the welfare of children is further integrated into the asylum process."

To inform this initiative, the Children's Society conducted a consultation with 33 young people aged 13 to 20 who were at different stages of the asylum process at the time of the consultation and came from a range of countries including Algeria, Afghanistan, Iran, Somalia, Sudan, and Syria. The outcomes of this consultation formed the foundation for the report.

Miscellaneous

Austria

On the 1st of October a project by the "Bildungsinitiative Österreich", called "PROSA" (Projekt Schule für alle – viel mehr für Alle! – [Project School for All, Much More for All!]) will start. It addresses young refugees, who are excluded from the Austrian school system and have not yet completed the compulsory secondary school. Within two years the youngsters will attend different modules, which resemble the comprehensive schooling system. In the summer of 2013 the students will be prepared for the ÖSD B1 (Austrian German Certificate level B1). For more detailed information check the website: <http://www.vielmehr.at>

Croatia

UNHCR proposed inclusion of Centre for New Initiatives (CNI) as Croatian member of the SCEP network. CNI in 2011 increased its activities in the field of migration and separated child care and assistance.

Latvia

According to the organization Shelter "Safe House", since 2010 Latvia had 6 asylum seeking separated children. All of them were male and from Afghanistan.

Malta

There is ongoing discussion between AWAS and UNHCR on developing a code of conduct and operating procedures related to Sexual and Gender Based Violence.

Switzerland

The Swiss Centre of Expertise in Human Rights (SCHR), which is the national human rights institution – although it does not have full status of a national human rights institute in line with the Paris principles - published an article in May 2012 with regards to the positive implications that the new strategy of the Council of Europe (Droits de l'enfant: nouvelle stratégie du Conseil de l'Europe

(CoE)) should have on Switzerland for 2012-2015¹⁹. It is mentioned that the global program inspires a more proactive children's rights policy at the national level in Switzerland. According to the report it should also provide for a better coordination between the different federal and cantonal government actors and the civil society, by setting clear objectives.²⁰

The Swiss Centre of Expertise in Human Rights (SCHR) also hosted an expert round table in view of an upcoming publication by the Center on the state of play of the implementation of the recommendations of different UN Treaty Bodies. One chapter of the study on child protection in Switzerland - which is part of the publication - is to be dedicated to "unaccompanied minor asylum seekers." In addition, there is a current debate on a possible ratification of the 3rd Protocol of the Convention on the Rights of the Child (CRC) by Switzerland.

Kinderanwaltschaft Schweiz and the Kinderschutz Schweiz Foundation translated into German the "General comment No.13"²¹ on Article 19 of the Convention on the Rights of the Child (CRC) of the UN Committee for Children Rights, and published a respective information flyer. The information was distributed to the relevant government actors in Switzerland in June 2012.²² The translation, together with the accompanying flyer, aim at supporting practitioners in their work and increasing comprehension and implementation of article 19 of the CRC as well as offering guidance in the development of necessary legislative, administrative, social and educational measures for the protection of children against violence.

On September 28, The Terre des Hommes International Federation (TDHIF) program "Destination Unknown" presented its recommendations on potential protection measures to the UN Committee on the Rights of the Child in Geneva.

¹⁹ CSDH, *Droits de l'enfant: nouvelle stratégie du Conseil de l'Europe (CoE)*, 02.05.2012, available at: <http://www.skmr.ch/frz/domaines/enfance/nouvelles/coe-strategie-droits-enfant.html>.

²⁰ CSDH, *Droits de l'enfant: nouvelle stratégie du Conseil de l'Europe (CoE)*, 02.05.2012, available at: <http://www.skmr.ch/frz/domaines/enfance/nouvelles/coe-strategie-droits-enfant.html>.

²¹ Kinderanwaltschaft Schweiz, *Das Recht des Kindes auf Schutz vor jeder Form von Gewalt*, Juni 2012, available at: http://kinderschutz.ch/cmsn/files/120521_GC_13_d_ligt.pdf.

²² Kinderanwaltschaft Schweiz, *Newletter Juni 2012*, available at: http://www.kinderanwaltschaft.ch/files/cms/tiny/newletter_juni_2012.pdf.

Key recommendations by the TDHIF were in particular:

The best interests of child migrants must be a primary consideration when deciding on a durable solution for the child and a child's detention cannot be justified solely on the basis of the child being unaccompanied or separated, or on their migratory or residence status, or lack thereof, or on account of a decision to detain one or both of the child's parents.

TDHIF also recommends emphasizing the authorities' obligation to carry out (and document) risk assessments prior to decisions on durable decisions, both with respect to the options of repatriation and family reunification and with respect to other options.²³

On 6 September 2012, the Swiss Project Fund for Child Protection published an international study analyzing and comparing the child protection system in five countries (Australia, Germany, Finland, Sweden, and United Kingdom). It identified good practices of child protection systems in countries with a similar socioeconomic level as Switzerland. It compares some known as "best-practice" on international level and analyzes its application in Switzerland. There are 14 recommendations for Switzerland that provide politicians and those active in the field with scientifically founded ideas as to how child protection in Switzerland can be more effectively advanced.²⁴ Recommendations concern educational aspects for professionals working with children as well as more political or legal aspects like a key recommendation concerning the establishment of a national standing committee, representing all Canton governments, to review Swiss Federal and Cantonal laws and policies with the objective of creating a National Framework for Child Protection²⁵.

²³ Terre des Hommes International Federation; *Submission for the Committee on the Rights of the Child Day of General Discussion on "The Rights of All Children in the Context of International Migration"*, Geneva 28 September 2012; available at:

http://www.terredeshommes.org/pdf/news/20120918_tdhif_submission_to_uncrday_child_migration.pdf.

²⁴ Fonds Suisse pour des projets de protection de l'enfance, *Child Protection Systems: An international comparison of "good practice examples" of five countries (Australia, Germany, Finland, Sweden, United Kingdom) with recommendations for Switzerland, August 2012*; available at:

<http://kinderschutzfonds.ch/wp-content/uploads/Medienmitteilung-englisch.pdf>.

²⁵ http://kinderschutzfonds.ch/wp-content/uploads/Executive-Summary_Nett_EN.pdf.

United Kingdom

The Migrant Children's Project (MCP) has compiled a directory of services available to young refugees and migrants. The directory is to assist practitioners and carers in identifying local and national organisations and projects that can offer support, advice and other assistance to refugee, asylum-seeking and migrant children and young people in England and Wales.

Events

Belgium

4 October, Brussels:

Pre-launch screening of www.undocumentary.org - The Reality of Undocumented Migrants in Europe, a web documentary by PICUM.

Organized by PICUM.

Croatia

14 June 2012, Zagreb:

Seminar for social workers.

Organized by UNHCR, Ministry of Social Policy and Youth, Centre for New Initiatives.

13 September 2012, Split:

Seminar for social workers.

Organized by UNHCR, Ministry of Social Policy and Youth, Centre for New Initiatives.

20 September 2012, Vukovar:

Seminar for social workers.

Organized by UNHCR, Ministry of Social Policy and Youth, Centre for New Initiatives.

Denmark

18-19 June, Copenhagen:

Save the Children/Danish EU Presidency Conference.

Save the Children organized a joint event with the Danish EU Presidency on unaccompanied children arriving in Europe: recent developments and practical tools.

Estonia

6.-11. August 2012, Tartu:

The Tartu Love Film Festival (<http://2012.tartuff.ee/>) focused also on the issues of refugees and asylum seekers. In cooperation with Estonian Human Rights Centre 7 thematic films were screened and a discussion on the influences of accepting asylum seekers in society was held. <http://humanrights.ee/en/2012/08/tartuff-focuses-on-issues-of-migration/>

France

September, 17, 2012, Paris:

First dissemination meeting: "Right to asylum for unaccompanied minors in the European Union". Project co-funded by the European Union's Fundamental Rights and Citizenship Programme. One-day event organized by France Terre d'Asile.

23.-24. October, 2012, Poitiers:

Conference: „Unprotected unaccompanied children in Europe: Which reasons lead to their lack of protection?". Organized by the research centre MIGRINTER, CNRS- University of Poitiers, within the framework of the European PUCAFREU project (Promoting unprotected unaccompanied children's access to their fundamental rights in the European Union) co-funded by the European Commission, Fundamental Rights and Citizenship programme.
<http://www.pucafreu.org/index.php/colloque-2012>.

Germany

12 November 2012, Hofheim/Taunus:

One day forum on pedagogical treatment of separated children.
Organized by Bundesfachverband UMF and Youth Welfare Office Hofheim.

21-23 November 2012, Hannover:

Three day conference on the perspectives of separated children in Germany.
Organized by Bundesfachverband UMF.

15 December 2012, Stuttgart:

One day training on legal background and pedagogical treatment of separated children.
Organized by Bundesfachverband UMF and Youth Welfare Office Stuttgart.

11-12 February 2013, Hofgeismar:

Two day seminar for guardians.
Organized by Bundesfachverband UMF.

Hungary

October 30, 2012, Budapest:

Second dissemination meeting: "Right to asylum for unaccompanied minors in the European Union". Project co-funded by the European Union's Fundamental Rights and Citizenship Programme. One-day event organized by France Terre d'Asile.

Ireland

17 September 2012, Dublin:

Launch of Wellington Centre (home of Youth Aftercare Support Service: offering supports to separated children leaving care).
Organised by Crosscare.

http://www.crosscare.ie/youth2/index.php?option=com_content&view=article&id=82&Itemid=96

26 September 2012, Dublin:

Stepping Stones, film screening and resource launch: film and teaching resource to help students make the transition to second level school.
Organized by Separated Children's Service.
<http://www.separatedchildrenservice.ie/news/view/stepping-stones-film-screening-and-resource-launch>.

Italy

5 April, Milan:

Minori migranti e di migranti (Migrant children and children of migrants).
Organised by IRFMN – Mario Negri Institute of Pharmacological Research (Istituto di Ricerche Farmacologiche Mario Negri).

27 June, Milan:

Faro II project press conference: Minori stranieri non accompagnati verso una protezione efficace e consapevole (Unaccompanied foreign children for more effective and conscious protection).
Organised by Terre des Hommes.

27-28 June, Rome:

Salut-Are Project Training course for health workers on asylum-seeking and refugee children's protection and rights.
Organised by Save the Children.

24 July 2012, Rome:

Final conference - Protecting Children on the Move project: "Unaccompanied and Separated Children on the move in need of international protection: addressing protection needs through reception, counselling and referral, and enhancing co-operation between concerned European Union Member States".
Organised by UNHCR.

Malta

21 June 2012:

One day training Seminar for care staff working with separated children.
Organised by the Agency for the Welfare of Asylum Seekers through European Refugee Funding.

27 June 2012:

One day seminar for separated children on their inclusion and feedback on the ERF Project "Implementing a Socio-Educational Program for Unaccompanied Minor Asylum Seekers under a Care Order".

Organised by Agency for the Welfare of Asylum Seekers through European Refugee Funding.

Norway

28 August 2012:

Save the Children's Child Rights Seminar, the Child Rights Award „Eglantyne Jebb-prisen.“

Organized by Save the Children Norway.

Poland

4 June 2012, Warsaw:

Press conference inaugurating the second stage of the “Don't lose!” campaign concerning commercial sexual exploitation of children. The campaign was organised in the occasion of the football world championship in Poland and Ukraine.

Organized by Nobody's Children Foundation.

27-28 August 2012, Warsaw:

International meeting in the frame of the project „Children exploited in begging and in criminality”. Exchange of good practices.

Organized by the Council of the Baltic Sea States.

Romania

7 - 8 June 2012, Bucharest:

Workshop for legal guardians, social workers, representatives of private bodies and General Department of Child Protection.

Organized by Save the Children and the International Organisation for Migration.

Slovenia

18 and 19 May 2012, Ljubljana:

National training for participants/practitioners that are providing assistance to separated children in Slovenia.

Organized by Slovene Philanthropy

Spain

23 May 2012, Madrid:

Seminar on the role of The Committee on the Rights of the Child as a fundamental mechanism to protect children rights

http://www.savethechildren.es/det_agenda.php?id=333

21 June 2012:

Workshop on Children and International Protection, addressed to lawyers of the Madrid Bar Association and organised in the Framework of the “Solidarity of Responsibilities Project” financed by the European Refugee Fund (ERF), lead by the Foundation la Merced Migraciones in collaboration with STCH, UNHCR Spain, UNICEF, Accem, Amaranta, Apramp, the Comillas University and Women's Link Worldwide.

27-28 September 2012, Madrid:

Seminar on Childhood without violence.

Organized by Save the Children.

http://www.savethechildren.es/Seminario_infancia_sin_vionecia_Programa_eng.pdf

Switzerland

22 October 2012 – 10 September 2013, Dübendorf:

Advanced training (Certificate of advanced studies) „Kinder- und Jugendhilfe”.

Addressed at experts from the social sector, in children and family support, youth advocacy, schools, etc.

Organized by the Zürcher Hochschule, Departement Soziale Arbeit.

January – December 2013, Luzern:

Advanced training (Certificate of advanced studies) Human rights formation.

Addressed at experts coming from different contexts who would like to engage in human rights education.

Organized by Zentrum für Menschenrechtsbildung an der Pädagogischen Hochschule Zentralschweiz.

2011 – 2013, Switzerland:

Service Civil International Schweizer Zweig (SCI) together with the youth cultural centre Dynamo initiated the project «théâtre, asile et migration». The participants are going to perform in 10 Swiss cities, between 2012 – 2013 with the aim to push for a better integration of refugee children and raise awareness among young people. Between 2012 and 2013, about 400 children shall be participating in the project.

End of the year 2012, Switzerland:

UNHCR Switzerland is planning to organize an expert meeting in order to discuss practical challenges in the reception of separated children in the Swiss asylum procedure.

United Kingdom

May:

The second children's conference: 'Working with Refugee Children: Best Interests of the Child'.

Organized by The Immigration Law Practitioners Association

10 October 2012 London:

Refugee Council Conference 2012 - Separated Children & Young People in the Asylum System.

Organized by British Refugee Council.

19 September, London:

Conference “Facing the Abyss: Exploring the challenges for separated children seeking asylum as they turn 18”, University of London:

<http://www.rhul.ac.uk/mediaarts/news/newsarticles/facingtheabyss.aspx>

21st November 2012, All Nations Centre, Cardiff, Wales.

International conference on human trafficking: Bringing Human Trafficking out of the Shadows. Organized by BAWSO (Black Association of Women Step Out Ltd.).

Publications

Age Assessment Practice Guidance for Social Workers in Scotland, June 2012. Published by Scottish Refugee Council and Glasgow City Council. http://www.scottishrefugeecouncil.org.uk/news_and_events/latest_news/1725_scottish_refugee_council_launches_guidance_to_help_social_workers_assess_age_of_young_people_seeking_asylum

All Change Preventing Trafficking in the UK. Published by Anti Trafficking Monitoring Group. Author: Edwards, Sarah. http://www.childtrafficking.com/Docs/the_anti_trafficking_12_changeuk_0812.pdf

Annual Report on the Situation of Asylum in the European Union and on the Activities of the European Asylum Support Office for 2011, July 2012. Published by EASO.

Anti-Trafficking Campaign in Kosovo 2012 Pre-Campaign Survey Report. Author: Kuneviciute Ieva.

Being Young and Out of Place, Forced Migration Review, August 2012. <http://www.fmreview.org/sites/fmr/files/FMRdownloads/en/young-and-out-of-place.pdf>

Boat ride to detention - Adult and child migrants in Malta. Published by Human Rights Watch. <http://www.hrw.org/sites/default/files/reports/malta0712webwcover.pdf>

Captured Childhood – Introducing a new model to ensure the rights and liberty of refugee, asylum seeker and irregular migrant children affected by immigration detention. Published by the International Detention Coalition 2012.

http://idcoalition.org/wp-content/uploads/2012/03/Captured_Childhood-report.pdf

Child Protection Systems: An international comparison of “good practice examples” of five countries (Australia, Germany, Finland, Sweden, United Kingdom) with recommendations for Switzerland, August 2012. Published by Fonds Suisse pour des projets de protection de l'enfance. <http://kinderschutzfonds.ch/wp-content/uploads/Medienmitteilung-englisch.pdf>.

Closing the protection gap for migrant children. Background paper by Defence for Children International (DCI)-the Netherlands with the support of Platform Minors en Exile and DCI Belgium, 2012 Day of General Discussion. <http://www.defenceforchildren.nl/images/69/2011.pdf>

The consolidated report by Switzerland on the implementation of the UN Convention on the Rights of the Child. Published by The Federal Council; Bern, 20 June 2012. <http://www.news.admin.ch/NSBSubscriber/message/attachments/27525.pdf>.

Detention Guidelines - Guidelines on the Applicable Criteria and Standards Relating to the Detention of Asylum-Seekers and Alternatives to Detention. Published by UNHCR. <http://www.unhcr.org/refworld/docid/50348953b8.html>

EU Youth Report, Commission Staff Working Document, September 2012. Published by the European Commission.

The fact of age - Review of case law and local authority practice since the Supreme Court judgement in R(A) v Croydon LBC (2009). Published by Children's Rights Commissioner UK. Authors: Brownlees Laura , Yazdani Zubier. http://s3.amazonaws.com/rcpp/assets/attachments/1483_FINAL_FACT_OF_AGE_REPORT-_17_07_12_original.pdf

Fifth updated monitoring report on Italy's respect and adherence to the CRC, CRC Group, June 2012

http://gruppocrc.net/IMG/pdf/5o_Rapporto_di_aggiornamento__Gruppo_CRC.pdf

Fostering Unaccompanied Asylum-Seeking Young People: Creating a family life across a “world of difference”. Author: Jim Wade et al, published by BAAF July 2012. (ISBN 978 1 907585 55 5)

FRA Annual Report 2011 - Fundamental rights: challenges and achievements in 2011. Published by the European Fundamental Rights Agency.

Fundamental rights of migrants in an irregular situation in the European Union – Comparative report. Published by the European Union Agency for Fundamental Rights (FRA), 2012
http://fra.europa.eu/sites/default/files/fra_uploads/1827-FRA_2011_Migrants_in_an_irregular_situation_EN.pdf

General Comment No. 6 – Revision of the German translation, Bundesfachverband UMF, August 2012.

Handlungskonzept Partizipation – [Working concept Participation], Bundesfachverband UMF, July 2012 (in German)

Human Cargo - Arbitrary Readmissions from the Italian sea ports to Greece. Published by PRO ASYL and the Greek Council for Refugees.
<http://www.gcr.gr/en/node/701>

Human Rights in Estonia 2011 - Annual Report of the Estonian Human Rights Centre. Published by Foundation Estonian Human Rights Centre, 2012.
http://humanrights.ee/wp-content/uploads/2012/05/EIKaruanne2011.eng_.pdf

I came here for peace – The systematic ill treatment of migrants and refugees by state agents in Patras. Published by PRO ASYL and the Greek Council for Refugees.
http://www.proasyl.de/fileadmin/proasyl/fm_redakteure/Presserkl_Anhaenge/Patras-Webversion04D-DS-k.pdf

I don't feel human; experiences of destitution among young refugees and migrants. Published by the Children's Society.
http://www.childrensociety.org.uk/sites/default/files/tcs/research_docs/thechildrensociety_idontfeelhuman_final.pdf

The importance of contact: children's attitudes toward refugees, Employability Forum August 2012

<http://www.employabilityforum.co.uk/documents/Theimportanceofcontact-children%27sattitudestorefugees.pdf>

Into the Unknown - Children's journeys through the asylum process. Published by The Children's Society, September 2012.

Irish Child Care Law and the Role of the Health Service Executive in Safeguarding Separated Children Seeking Asylum. Authors: S. Arnold & J. Kelly (2012). Published in Irish Law Times 30:178.

Judicial Implementation of Article 3 of the Convention on the Rights of the Child in Europe - The case of migrant children including unaccompanied children. Published by Unicef and the United Nations Office of the High Commissioner for Human Rights Europe Regional Office, June 2012.

Más allá de los golpes: ¿Porqué es necesaria una ley? May 2012. Save the Children Report about violence against children which highlights the need for a comprehensive law to combat violence against children and identify the different forms of violence and promote prevention policies (in Spanish).
http://www.savethechildren.es/ver_doc.php?id=133

Mid-term report on the implementation of the Action Plan on Unaccompanied Minors - Report from the Commission to the Council and the European Parliament.
http://s3.amazonaws.com/rcpp/assets/attachments/1513_uam_report_20120928_en_original.pdf

Migrants in an irregular situation: Access to healthcare in 10 European Union member states. Published by the European Union Agency for Fundamental Rights (FRA), 2011
http://fra.europa.eu/sites/default/files/fra_uploads/1771-FRA-2011-fundamental-rights-for-irregular-migrants-healthcare_EN.pdf

Minor Rights - Access to justice for children at risk of social exclusion, report from the project. Save the Children Italy and partners, September 2012
<http://legale.savethechildren.it/Report-Access-to-Justice-for>

Navigating the system: Advice provision for young refugees and migrants. Published by Coram Children's Legal Centre. 2012 http://www.seekingsupport.co.uk/images/navigating_the_system_final.pdf

Not a Minor Offence: Unaccompanied children locked up as part of the asylum system. Published by the British Refugee Council, May 2012 <http://www.refugeecouncil.org.uk/Resources/Refugee%20Council/downloads/Not%20a%20minor%20offence.pdf>

Overview of guardianship systems for unaccompanied minor asylum-seekers in Central Europe. Synthesis report 2012 – International Organization for Migration – Budapest and contributors from Bulgaria, Czech Republic, Hungary, Poland, Romania, Slovakia and Slovenia, June 2012. <http://www.iom.hu/PDF/Overview%20of%20Guardianship%20Systems%20for%20unaccompanied%20minor%20asylum-seekers%20in%20Central%20Europe.pdf>

Prostitution-related crimes and child trafficking in Poland. A report from case-file study. Nobody's Children Foundation, 2012. <http://fdn.pl/raporty-i-ekspertyzy>

Protecting Children on the Move – Addressing protection needs through reception, counselling and referral, and enhancing cooperation in Greece, Italy and France. July 2012. Final report of the project. Published by the UNHCR and the EU. <http://www.unhcr.it/cms/attach/editor/PDF/Protecting%20children%20on%20the%20move%202012.pdf>

A Report on Child Trafficking and Care Provision: Towards Better Survivor Care. Published by UK Department of Education. Authors: Rigby Paul, Malloch Margaret, Hamilton SmithNiall.

Return of separated children to return houses in countries of origin. Policy and practice in the Netherlands, European and international governing instruments, and recommendations for protecting the best interests of the child, Claire Achmad, et al. UNICEF-the Netherlands, May 2012 http://www.unicef.nl/media/653747/rapport_pst_compleet_lr.pdf

Right to Asylum for Unaccompanied Minors in the European Union - Comparative study in the

27 EU countries. Published by France Terre d'Asile. Authors: Laurent Delbos et al. <http://www.france-terre-asile.org/component/flexicontent/items/item/7567-le-droit-a-demander-lasile-des-mineurs-isoles-etrangers-dans-lunion-europeenne>

Roma from Romania, Bulgaria, Italy and Spain between Social Inclusion and Migration - Comparative Study. Published by Soros Foundation Romania. http://s3.amazonaws.com/rcpp/assets/attachments/1489_en_121_Comparative_Study_original.pdf

Safe Care for Trafficked Children in Ireland: Developing a Protective Environment. Authors: D. Horgan, J. O'Riordan, A. Christie & S. Martin (2012) Dublin. Published by Children's Rights Alliance & University College Cork.

Services for Victims of Child Trafficking Department of Justice and Equality (2012) Dublin: DJE.

The situation of separated children in Germany, documentation of the spring-conference 2012, October 2012 (in German).

The situation of separated children in Lower-Saxony. Evaluation-report by Bundesfachverband UMF and UNHCR, October 2012 (in German).

Standards für den Umgang mit unbegleiteten Minderjährigen [Statement of Good Practice – German Edition], Published by Bundesfachverband UMF et. al., October 2012.

Trafficking in Spain, invisible victims. Report published by the Spanish Ombudsman. September 2012. http://www.defensordelpueblo.es/es/Documentacion/Publicaciones/monografico/contenido_1348128571191.html

Unaccompanied Minors in the Greek-Turkish Borders: Evros Region, March 2011- March 2012 Report about the Special Holding Facility for Illegal Migrants “Fylakio” in the border area. Twelve months of monitoring show that the conditions are dire and Greece as a country needs to rethink the way it treats migrant children. Published by the Greek Council for Refugees' Permanent Mission in the Evros Region. <http://www.gcr.gr/en/node/689>

Unbegleitete minderjährige Flüchtlinge schutzlos gestellt [Separated Children left without protection], Position Paper by:

Bundesfachverband UMF / Pro Asyl, August 2012
(in German).

Under the radar and Under Protected – The Urgent Need to Address Stateless Children’s Rights.

Published by UNHCR and Plan International 2012.

UPR-Submission German National Coalition,
October 2012.

New useful websites

Italy

Ministry of Labour and Social Policy website’s specific page on unaccompanied children, including up to date data on their presence in Italy:

http://www.lavoro.gov.it/Lavoro/md/AreaSociale/Immigrazione/minori_stranieri/Minori_stranieri_non_accompagnati.htm

www.amicideibambini.it/default_gb.asp

Ireland

www.separatedchildrenservice.ie

The European Database of Asylum Law (EDAL) is an online database containing case law from 11 EU Member States interpreting refugee and asylum law. EDAL summaries relevant case law in English and the Member State’s national language and provides a link to, and/or pdf of, the full text of the original judgment where available.

<http://www.asylumlawdatabase.eu/en/content/about-edal-european-database-asylum-law>

Netherlands

Beyond Borders: <http://beyondborders.nu> (In Dutch).

Coordination Centre of Human Trafficking:
<http://www.hoenuverder.info>

Portugal

The National Commission for the Protection and Rights of the Children and Youngsters at Risk
<http://www.cnpjcr.pt>

United Kingdom

www.childrenslegalcentre.com/

Reporting organizations

ARCA – Romanian Forum for Refugees and Migrants

Asylkoordination Österreich

Agency for the Welfare of Asylum Seekers (AWAS), Malta

British Refugee Council

Bundesfachverband UMF, Germany

Central Union for Child Welfare Finland

Defence for Children - The Netherlands

ECPAT – The Netherlands

Estonian Union for Child Welfare

Greek Council for Refugees

Human Rights League, Slovakia

Irish Refugee Council

Plate-Forme Mineurs en Exil, Belgium

Nobody’s Children Foundation, Poland

Portuguese Refugee Council (CPR)

Save the Children Italy

Save the Children Romania

Save the Children Spain

Slovene Philanthropy

Shelter „Safe House”, Latvia

Swiss Foundation of the International Social Service

Terre des Hommes, Germany

UNHCR Austria

UNHCR Croatia

UNHCR Cyprus

UNHCR Germany

UNHCR Greece

UNHCR Italy

UNHCR Malta

UNHCR Spain

UNHCR Switzerland and Liechtenstein

UNHCR UK

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Statistics on arrivals of separated children seeking asylum in Europe

A = Actual; E = Estimated; P = Provisional; N/A = Not available

Receiving country	Preliminary number 2012	Males of total	Females of total	Age 15-17	Main countries of origin	Source
Austria	January – August 1,192 ²⁶	N/A	N/A	1,050	Afghanistan 736 Pakistan 95 Algeria 44 Somalia 34	Federal Ministry of Interior
Belgium	834	641	193	N/A	Afghanistan (47,2 %), Guinea (13,8 %), DR Congo (7,1 %), Somalia (2,8 %), Pakistan (2,5 %)	Office of the Commissioner General for Refugees and Stateless Persons (CGRS)
Croatia	45 (A)	45 (A)		45 (A)	Afghanistan, Pakistan, Somalia	Ministry of Interior
Cyprus	15	13	2	14	Syria 6 Mali – 2 Cameroon - 2 Somalia - 1 Pakistan - 1 Namibia 1 Comoros - 1 Congo – 1	Asylum Service
Estonia	1	1	0	1	Vietnam	Policy and Boarder Guard Board Citizenship and Migration Bureau
Finland	114 (actual) by September 30th				Afghanistan (26) Iraq (21) Somalia (18) Angola (10)	The Finnish Immigration Service
Germany	September: 1.392	N/A	N/A	N/A	Afghanistan 734 Iraq 115 Pakistan 69 Somali 62 Syria 61	Federal Office for Migration and Refugees
Ireland	23 (30 September 2012)	16	17	21	Nigeria 17 % DR Congo 17 %	Office of the Refugee Applications Commissioner
Latvia	1	1	0	1	Afghanistan	The Office of Citizenship and Migration Affairs of Latvia
Malta	310 (Claimed to be minors) 69 Actual Minors ²⁷	57 (A)	12 (A)	69	Somalia Eritrea Nigeria	Agency for the Welfare of Asylum Seekers

²⁶ In 83 cases asylum-seekers were declared adults. Hence, the official number of SC is 1109.

²⁷ There was an increase in persons claiming to be minors. There was also an increase in the amount of unaccompanied minors whose claim was accepted and there are still ones undergoing the age assessment process, therefore the number of minors can be higher by the end of year.

Receiving country	Preliminary number 2012	Males of total	Females of total	Age 15-17	Main countries of origin	Source
Netherlands	Until 1st September 2012: 289	N/A	:N/A	N/A	Afghanistan, Somalia, Guinea, Sierra Leone, Congo.	Website Central Agency for Reception of Asylum seekers: www.coa.nl
Portugal	25 (A)	16 (A)	9 (A)	3 (A)	Guinea Conakry (17) Sierra Leone (1) Nigéria (4) Congo – Kinshasha (2) Ivory Coast (1)	CPR
Slovakia	24 ²⁸	N/A	N/A	14 – 15: 9 16 – 17: 15	Somalia, Afghanistan, Sierra Leone, Eritrea	Ministry of the Interior
Slovenia	33 A	33 A	0 A	23 ²⁹	Afghanistan, Somalia, Syria, Algeria	Ministry of the Interior
Switzerland	219 (first six months)	162	57	41 F 130 M Total: 171	Eritrea: 56 Afghanistan: 26 Tunisia: 20 Somalia: 10 Gambia: 8 Democratic Republic of the Congo: 6	Federal Office for Migration FOM
UK	503 (first six months of 2012)				Albania Afghanistan	Home Office Statistics
Total arrivals in 16 countries in 2012	5,027					

Arrivals of non-asylum seeking separated children

Belgium

A rough estimate would be 1,700 based on the total number of arrival registered by the Guardianship Service

Croatia

Non-asylum seeking separated children in 2012: 173 (source: Ministry of Interior, from January to June)

Ireland

99 separated children were referred into the care of the Health Service Executive in 2011. 31 were reunited with family. It is unknown what number went on to apply for asylum.

Italy

From 1 January to 29 August 2012, 1086 unaccompanied and separated children were counted by Ministry of Interior on arrival in Italy (numbers gathered in Praesidium project). The largest group of arrivals were Afghani (307) arriving on the Apulian coasts, followed closely by Egyptians (301) arriving mainly on the Sicilian coast,

²⁸ January – August 2012 (January – March 2012: 0; April: 2; May: 7; June: 0; July: 14; August: 1)

²⁹ The numbers are of children aged 16 and 17 (15 years old children are not included).

then Somali (206) arriving on the island of Lampedusa. Smaller, but quite consistent numbers of Tunisian (77) and Syrian (59) unaccompanied children have also arrived by sea.

Furthermore, at 30 September 2012, the Ministry of Labour and Social Policy counted 7370 unaccompanied and separated children in Italy (1757 of whom reported as “irreperibili”, whereabouts unknown). Most of these children (5900) reported to be between 16 (1941) and 17 (3959) years of age. Most were placed in residential care facilities for children (6320). At that date, Egyptian children were the most numerous (1308) followed by Afghani children (1172) and those from Bangladesh (1010). Of those Afghani children counted, almost half (550) were reported as “irreperibili”.

Slovakia

Official statistics of the Bureau of Border and Alien Police for the first half of 2012 (Statistical Overview of Legal and Illegal Migration in the Slovak Republic -

www.minv.sk/swift_data/source/policia/hranicna_a_cudzinecka_policia/rocnky/rok_2012/2012_I_polrok%20UHCP-EN-REV.pdf).

According to the information we have from the Children’s Home for Unaccompanied Minors in Horne Orechove, 120 children were placed in the children’s home by 25th September 2012 (unofficial statistical data provided by Children’s Home for unaccompanied minors).