



NEWSLETTER No. 35

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



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SCEP Programme Update

SCEP NGO network meetings

The second bi-annual NGO Network meeting was held in Barcelona 17 - 19 November 2010, addressing thematic issues, EU political and legislative developments and Network business issues. Three representatives from the SCEP Youth Network participated in the meeting.

The first 2011 bi-annual NGO Network meeting will take place in Dublin on 8-10 June.

Statement of Good Practice translations

In a number of countries, NGO partners and UNHCR are – jointly or individually – undertaking translations and printing of the 4th revised edition of the Statement or planning to do so. The translations are made available on SCEP's web site.

SCEP Steering Committee

The Steering Committee held a two-day meeting in February and will have a half-day meeting in June back-to-back to the Network meeting

Funding

SCEP has been awarded an operating grant for 2011 from EC Daphne III.

Additional funding is secured through core funding contributions from Save the Children in Norway, Denmark and Italy and NGO membership fees.

EC study on best practices in the field of return of minors

SCEP is on the advisory panel and a number of SCEP NGOs are involved as experts and national contact points in the 'Study on best practices in the field of return of minors' that ECRE in partnership with Save the Children is undertaking for the EC.

UNHCR project to develop BID guidelines

The SCEP coordinator participates in the reference group for the UNHCR project to develop guidelines on determination of the best interests of the child in industrialised countries.

Participation in seminars and conferences

The coordinator gave a speech at the opening of a photo exhibition made by separated children in Denmark as part of the project 'Routeless', Copenhagen, 2 December

The coordinator participated in the conference 'Ensuring Justice and Protection for all Children', Brussels, 6-8 December and SCEP had a joint stall with Save the Children, UNHCR, UNICEF and Human Rights Watch with presentation & materials on separated children.

The coordinator participated in the expert meeting 'Unaccompanied Minors: children crossing the external borders of the EU in search of protection', organized by EU Belgium Presidency in Brussels, 9-10 December

SCEP contact information

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

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

The European Union & the Council of Europe

Recasting the EU Asylum Reception Conditions and Procedures Directive

Given the difficulties experienced in reaching consensus in discussions with and within Council, Home Affairs Commissioner Cecilia Malmström announced during the Justice and Home Affairs Council held in Brussels on 8 and 9 November that the Commission intended to withdraw the proposed recast asylum instruments concerning reception conditions and asylum procedures. They will instead submit amended proposals regarding these directives in 2011.

Belgian EU Presidency conference to address the situation of unaccompanied children at the external borders of the EU

The Belgian Presidency of the EU organised a conference on the situation of unaccompanied children at the external border of the EU in order to contribute to the implementation of the EU Action Plan on Unaccompanied Minors.

Save the Children gave a presentation at the Plenary Session of the Conference concerning the need to prioritize child protection when addressing unaccompanied children in which was identified how border authorities and other actors involved in first encountering a child must strive to identify

children at risk and refer them to child services for special protection and assistance.

The Conference included presentations from the Fundamental Rights Agency as well as the European Commission and the Belgian Task Force on Unaccompanied Children. The Belgian Presidency issued recommendations on key steps and on future transnational actions.

www.savethechildren.net/alliance/europegroup/newsletters/BE_presidency_recommendations.pdf

The European Parliament and the Council of EU Ministers agreement on the adoption of an EU Trafficking Directive

The European Parliament and the Council of EU Ministers have reached political agreement on the adoption of a new Directive on preventing and combating trafficking in human beings and protecting victims.

Save the Children has contributed to a series of consultations on the adoption of trafficking instruments, working closely with the Parliament on issues of particular importance to children, including unaccompanied children.

The Directive considerably enhances the support for such children and includes special provisions for assistance from guardians and recognition of the need to find durable solutions.

LIBE Committee vote on Qualification Directive Report

On 1 February, the European Parliament's Committee on Civil Liberties, Justice and Home Affairs (LIBE) voted on a draft report on the European Commission's proposal to review the Qualification Directive.

A central debate within LIBE concerned the definition of family members of refugees, with the LIBE committee essentially supporting the broader definition proposed by the Commission.

Jean Lambert MEP, rapporteur on the dossier, will take the positions reflected in the report into discussions with the Council and the Commission. The Plenary Assembly of the European Parliament will ultimately have to vote on the report before any formal agreement with the Council.

Human rights dimensions of migration in Europe

Save the Children EU Office participated in a seminar on the Human Rights Dimensions of Migration in Europe, organised by the Council of Europe Commissioner for Human Rights and the Turkish Chairmanship of the Council of Europe Committee of Ministers, in Istanbul on 17-18 February 2011.

As noted in the background document, "the protection of the human rights of immigrants,

asylum seekers and refugees is one of the greatest challenges currently facing Council of Europe member states and one of the major themes in the Commissioner's work. Migration laws and policies have long-term effects on democratic societies in Europe and go to the heart of the question of Europe's pluralistic identity. Over-restrictive, dissuasive migration laws and practices in many countries raise serious concerns about their compatibility with Council of Europe and international human rights standards, and foster xenophobic and discriminatory reactions in the societies of the member states."

Save the Children's presentation on the situation of unaccompanied children in Europe and under EU policy here

www.savethechildren.net/alliance/europegroup/newsletters/SC_presentation_unaccompanied.pdf

DG Justice adopts an EU Agenda for the Rights of the Child

On 15 February, the EC Directorate-General Justice set out an EU Agenda for the Rights of the Child. The Agenda lists out 11 key actions in areas such as prevention of violence against children, and enhancing child friendly justice and victim protection in the coming years. The EC has also committed to drafting a Directive on victims' rights including rights of the child in the course of 2011. In addition, the EC is going to set up a single entry point on Europa on the information on the rights of the child.

The Agenda is a continuation of the process started in 2006 when the Commission adopted a Communication "Towards an EU Strategy on the Rights of the Child".

An EU Agenda on the Rights of the Child:

ec.europa.eu/justice/policies/children/policies_children_intro_en.htm

Press release:

europa.eu/rapid/pressReleasesAction.do?reference=IP/11/156&format=HTML&aged=0&language=EN&guiLanguage=en

Save the Children welcomes the EU's commitment to the rights of the child, joining other children's rights NGOs in the recognition of the Agenda as "an important milestone in the EU's efforts to mainstream children's rights in EU policies. While welcoming the Agenda, the The Children's Rights Action Group (CRAG) note that it fails to live up to the ambition set out in the 2006 Communication "Towards an EU Strategy on the Rights of the Child" and the Stockholm Programme. CRAG states that the Agenda "appears to be a compilation of on-going actions rather than a coherent vision of how children's rights will be implemented across EU policies". While some of the actions proposed are highly relevant and welcome, children's rights

NGOs are concerned about the lack of overall vision and strategy. CRAG urges the European Commission to "build on this EU agenda and aim towards an ambitious, comprehensive child rights strategy offering a true reflection of the EU's reinforced commitment to children. A strategy on children's rights should be at least as ambitious as those adopted in the field of youth, gender equality and disability rights."

The CRAG also calls on the Commission to further develop a work programme and structures that support effective stakeholder involvement and coordination; and urges the European Commission to ensure that reporting mechanisms on fundamental rights give the necessary attention to children's rights at EU level. Finally, CRAG calls on all the EU institutions to ensure that there are increased human and financial resources allocated to children across policy areas. The communication

Save the Children EU Office Response to the crisis in Libya

Save the Children wrote to High Representative Ashton, Commissioner Georgieva, Commissioner Malmstrom and Council President Rompuy ahead of the extraordinary meeting of EU leaders in Brussels on 11 March, with a call to make negotiated access and the protection of children's and refugees' rights priorities in ongoing work on the Libya crisis. Read the full letter here: www.savethechildren.net/alliance/europegroup/newsletters/SC-EU_Libya_letter_March2011.pdf

CEOs of Save the Children national organizations in Europe call on the EU to establish a child protection agenda to respond to the South Mediterranean situation

Ahead of the EU Justice and Home Affairs (JHA) Council discussions on the situation in the South Mediterranean, the CEOs of Save the Children organizations in Europe called on the EU and its Member States to establish a "common child protection agenda with all actors in the region" to address the particularly vulnerable situation in which children are finding themselves at the North African borders and arriving on the shores of EU Member States. The letter urged the EU and Member States to take immediate action to provide the special protection and assistance that these children need.

The JHA Council discussions explicitly acknowledged the need for solidarity and attention to vulnerable groups. It also set out a time table for EU action, with a Commission communication planned in early May, followed by an extraordinary JHA Council, leading to the European Council in June. Based on the core messages from their CEOs, Save the Children will continue to work towards

ensuring that the EU and its Member States prioritise the rights and protection of children in this evolving crisis.

Key judgements on the rights of children in migrant families and travelling alone within Europe handed down from the European Court of Human Rights and the European Court of Justice

Judgements are now handed down by the European Court of Human Rights in the case of *Rahimi v Greece* (application no. 8687/08) and by the European Court of Justice in *Case C-34/09 Ruiz Zambrano vs. Office Nationale de l'Emploi*.

The *Rahimi* case concerned the conditions in which a child migrant from Afghanistan who entered Greece illegally was held in detention and subsequently scheduled for expulsion. The Court found Greece to have violated the rights of this child in several ways and ordered 15,000 euro payment in compensation.

The *Zambrano* case concerned the potential deportation of Colombian parents of Belgian citizen children. The Luxembourg court found that Article 20 TFEU precludes national measures which have the effect of depriving citizens of the Union of the genuine enjoyment of the substance of the rights conferred by virtue of their status as citizens of the Union. It determined that a refusal to grant a right of residence to a third country national with dependent minor children in the Member State where those children are nationals and reside, and also a refusal to grant such a person a work permit, has such an effect.

Committee on the Rights of the Child

Austria

The timeline for the planned Austrian NGO shadow report is the following:

- Until May 2011, individual contributions will be collected from National Coalition organisations.
- In summer 2011, an editorial team of the National Coalition will work on a summary report.
- In spring 2012, the shadow report and youth report will be sent to Geneva.

For the first time children and adolescents will also write a report by themselves. Therefore, postcards were already sent out to collect demands and ideas of children concerning their rights. At the moment an online survey on the Rights of the Child is conducted.

Czech Republic

In April 2010, the CRC published the joint third and fourth periodic report submitted by the Czech Republic under the Art 44 of the Convention.

On 14 March 2011, the Czech Republic issued the List of issues concerning additional and updated information related to the report (CRC/C/CZE/3-4). One of the issues deals directly with the separated children when the CRC requests the Czech Government to “provide details on whether the views of refugee or asylum-seeking children, including those who are unaccompanied, are taken into consideration during the determination process of their applications for refugee or asylum. Please also indicate if, in addition to legal counselling services provided by NGOs, the State party also provides legal assistance to refugee or asylum-seeking children.”

Denmark

Denmark was examined in January 2011. The concluding observations included comments on best interest assessment, disappearances, Dublin returns, age-assessments, durable solutions and trafficked children.

www2.ohchr.org/english/bodies/crc/crcs56.htm

Finland

The Government of Finland submitted its 4th periodic report in 2008. The CRC Committee will meet the government in June 2011. The NGO hearing was held in Geneva on 8 February 2011 during the 57th pre-session meeting of the CRC Committee. The Central Union for Child Welfare coordinated the NGO-delegation which included 4 NGOs as well as the Ombudsman for Children. Also the Parliamentary Ombudsman's Office was present at the hearing. Concerning separated children the delegation raised three issues at the meeting:

- 1) Finland should not return children as a routine in the frame of Dublin II and it should establish a monitoring mechanism for those minors who are returned to another member state,
- 2) The reception of separated children should be developed to be consistent with the Child Welfare Act and to take better care of traumatized children,
- 3) Finland should strengthen separated children's right to family and stop changing laws regulating family reunification according to current hardening attitudes and political atmosphere.

The introductory statement of the delegation that was given to the Committee is available at:

www.lskl.fi/files/490/Introductory_statement_by_Finnish_NGOs_final.pdf

The whole Supplementary NGO report to Finland's 4th periodic report is available at: www.lskl.fi/files/468/Final_NGO_Report_october_2010.pdf

Germany

The German National Coalition for the Implementation of the UN-CRC published its Supplementary Report relating to the Third and Fourth Periodic Report of Germany to the United Nations pursuant to Art. 44 para. 1 (b) of the CRC, www.national-coalition.de/pdf/26-01-2010/Ergaenzender_BerichtNC_final_eng.pdf

The report gives a broad picture on specific problems regarding the treatment of asylum seeking children in Germany.

The German Coalition Child Soldiers published a Supplementary Report with a focus on the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflicts,

www.kindersoldaten.info/kindersoldaten_mm/downloads/Schattenbericht+Kindersoldaten+2011-p-70.pdf - in German only

The Third and Fourth State Party Periodic Report is accessible at

www2.ohchr.org/english/bodies/crc/docs/AdvancesVersions/CRC-C-DEU-3_4.pdf

Greece

In November 2009, the Greek Ombudsman's Office took the initiative to call for the creation of an NGO Network to observe the upholding of the UN Convention on the Rights of the Child and to submit the supplementary comments (Alternative Report) on the implementation of the Convention in Greece to the UN Committee on the Rights of the Child.

The Network is finalizing the said Alternative Report which contains a section concerning unaccompanied and separated children and recommendations to the competent Greek stakeholders.

Norway

In January 2010, The Committee on the Rights of the Child, CRC, submitted its Concluding observations CRC/C/NOR/CO/4 to the Norwegian Government. Several of the Committees remarks, concerns and recommendations are related to the treatment of separated children in Norway. The report is available online.

Some of the committee's main remarks are as follows:

- The CRC is concerned that the principle of primary consideration of the best interests of the child is not yet applied in all areas affecting children, such as in immigration cases.

- The CRC expresses its concern a) at the cursory identification of children affected by armed conflict, b) at the length of time until asylum decisions are taken, c) at the fact that guardians are often overburdened and thus cannot adequately exercise their role, d) at the consideration by the State party of the possibility of using age-determination methods regarded as indecent, culturally insensitive and generally unreliable; e) at the fact that an increasing number of unaccompanied children have disappeared from reception centres; f) that unaccompanied asylum seeking children are not being adequately followed up by Child Welfare Services;

- The CRC is also concerned that the State party has limited the responsibility of the Child Welfare Services to children under the age of 15 leaving older children with reduced assistance and that, despite the State party's statement that emphasis will be placed on children's affiliation to Norway in decisions on residence permits on humanitarian grounds, there are reports that children who have spent many years in Norway may be deported despite sound documentation of affiliation to Norway. The CRC is further concerned about the State party's plan to establish care and education centres for unaccompanied asylum-seeking children in their countries of origin, since these children mostly come from war and conflict ridden countries where their protection cannot be guaranteed.

- The CRC recommends that the State party: a) carefully identify children affected by armed conflicts among asylum-seeking children and ensure rehabilitation and social reintegration of these children; b) expedite the assignment of a guardian to assist asylum-seeking children in understanding the procedures and clarify the role of the guardian through the initiated guardianship legislation; c) take measures to shorten the waiting period for determining the status of asylum seekers; d) ensure that age determination procedures are conducted in a scientific, safe, child and gender-sensitive and fair manner, avoiding any risk of violation of the physical integrity of the child; e) expand, as planned, the responsibility of the Child Welfare Services to children aged 15- 17; f) carefully follow up on these children during their stay in Norway; g) ensure that children do not disappear and fall into the clutches of trafficker and exploiters; h) investigate cases of disappearances and find ways to make access available to hidden children; i) avoid sending children back to unsafe places from which they have fled and use their stay in Norway to equip them with the competencies and skills they will need when they return under more peaceful conditions; j) ensure a primary consideration of the best interests of the child and his or her affiliation

to Norway whenever decisions about the child's future are under consideration; and k) take into account the CRC's General Comment no. 6 (2005) on the treatment of unaccompanied and separated children outside their country of origin.

Spain

On September 2010, the Committee of the Rights of the Child in the Concluding Observations on the Periodic Report submitted by the Spanish Government made very specific recommendations on the situation for Asylum seeking/refugee children and unaccompanied foreign children. These were:

57. The Committee welcomes the adoption in October 2009 of a new Asylum law (Ley 12/2009 reguladora del derecho de Asilo y de la Protección subsidiaria), which refers to the special circumstances of unaccompanied children in need of international protection and the need to assure them a differentiated treatment. It notes, however, that the new legislation foresees the right to request and enjoy international protection only to non-EU nationals and stateless children, thereby excluding EU citizens from the right to seek asylum.

58. The Committee recommends the State party to widen the personal scope of the new Asylum law, in line with international standards, in order to ensure that adequate protection is afforded to all children, irrespective of their nationality.

59. The Committee notes the measures taken by the State party, including creation of a registry of unaccompanied children in the Dirección General de la Policía (Real Decreto (RD) 2393/2004, de 30 de diciembre), as well as the protocol developed by the Observatory for Children concerning unaccompanied children. While noting that the repatriations of unaccompanied children have decreased in the last years, the Committee continues to be concerned about reports of:

(a) Different methods used for determining the age of unaccompanied children which may vary from region to region, not necessarily taking into account issues such as nutritional customs which may influence the physical and psychological evolution of the child;

(b) Ill-treatment of unaccompanied children by the police during forced or involuntary repatriations to the country of origin, where in some cases they are deported without the necessary guarantees (no access to a lawyer, no interpretation services, and not considering the best interests of the child, and without observance of the right of the child to be heard);

(c) Unaccompanied children (particularly Moroccan) being handed to border authorities and not to the social services of the country of origin, noting they may be victims of abuse and detention by security

forces and border authorities of the country of origin;

(d) Failure of authorities to provide unaccompanied children with the temporary legal residency status to which they are entitled under law because of the delays of the Department of Social Welfare in applying for it; and

(e) Substandard accommodation conditions and neglect in emergency centres in the Canary Islands, particularly in La Esperanza, on Tenerife Island and in Spanish enclaves, particularly Ceuta.

60. The Committee recommends the State party to:

(a) Take all necessary measures to prevent irregular procedures in the expulsion of unaccompanied children;

(b) Establish child friendly reception centres for children with effective mechanisms to receive and address complaints from children in care and investigate in an effective way reported cases of ill-treatment of children;

(c) Coordinate with Governments of countries of origin, especially Morocco, to ensure that when children are repatriated they are returned to family members willing to care for them or to an appropriate social service agency;

(d) Develop a uniformed protocol for age determination methods and ensure that age determination procedures are conducted in a scientific, safe, child and gender-sensitive and fair manner, avoiding any risk of violation of the physical integrity of the child;

(e) Guarantee that following the identification as an unaccompanied child, an analysis of his/her individual circumstances is done bearing in mind the best interest of the child and the right of the child to be heard;

(f) Provide unaccompanied children with information about their rights under Spanish and international law, including the right to apply for asylum;

(g) Ensure an adequate territorial coordination between central administration, regional and local as well as with security forces;

(h) Address the situation of the quality of conditions of emergency centres in the Canary Islands and in the Spanish enclaves;

(i) Provide training on asylum matters and on the specific needs of children for personnel dealing with unaccompanied children, including on the situation of unaccompanied and separated children to asylum officials, border police and civil servants who might be the first persons in contact with children in need of protection. Training should also include issues concerning human trafficking, and treatment of traumatized children; and

(j) Take into account the Committee's General Comment no. 6 (2005) on the treatment of

unaccompanied and separated children outside their country of origin.

Changes and Developments in Law, Policies and Practice

Austria

The UN Convention on the Rights of the Child was partially incorporated in the Federal Constitution. The respective Federal Constitutional Law on the Rights of the Child entered into force on 16 February 2011. However, Austria is not incorporating the whole Convention, but only parts of it. Also, the rights can be restricted under certain conditions e.g. in cases of measures under the Aliens Law. UNHCR as well as children's networks and NGOs criticized these restrictions.

Another amendment of the Aliens Police and Asylum Acts is in process and expected to enter into force as of 1 July and 1 December 2011 respectively: While at the moment the Aliens Police Act states the basic principle that more lenient measures have to be applied to minors, the Government proposes to reduce the scope of this provision to minors under the age of 16 in the future (Aliens Police Law §77 paragraph 1). As a result, minors between 16 and 18 years could be taken into detention for up to two months pending deportation. At the same time, the current practice of not detaining separated children below 14 years of age shall be incorporated into the Aliens Police Act (whereas accompanied children shall legally be able to "accompany" their parents to detention facilities).

Belgium

There are different proposals to revise legislation on separated children; a new version of a circular letter regulating the stay of non asylum seeking children has been submitted to the federal Parliament at the end of 2010. It hasn't been up for voting yet, as some revisions and amendments have been requested. It remains a proposal.

Croatia

UNHCR remains concerned that despite the protocol signed between the Ministry of Interior and the Ministry of Health and Social Welfare (November 2009) regarding the treatment of unaccompanied and separated children (USC) outside the asylum process in November 2009, cooperation between these ministries and all stakeholders remains problematic.

The asylum legislation was amended in 2010 (reported in last period), however, implementation of new provisions remains to be seen. With regards to USC seeking asylum, the majority 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.

Education of a minor asylum seeker, Article 32:

"An asylum seeker shall be entitled to elementary and secondary education under the same conditions as a Croatian national.

The right from Paragraph 1 of this Article shall be made available to an asylum seeker within three months from the day of submission of the application for asylum or within one year if it is established, by an individual evaluation, that an asylum seeker does not speak sufficiently Croatian language to be able to attend classes."

With regard to USCs granted protection, UNHCR has seen difficulties have been faced with regard to:

- recognition of foreign educational qualifications
- adequate housing and possibility for integration
- language training (not available in all parts of Croatia)
- educational and vocational possibilities

Czech Republic

As stated in the last issue, there was a new amendment of the Aliens and Asylum Act effective from the 1.1.2011. The Amendment was approved by the Parliament on 21st of December 2010.

According to the new legislation (Art. 119 and Art 124), the police is obliged to appoint a guardian with no delay to any separated child for the procedure on the administrative expulsion. The new procedure provides higher protection standards to separated children.

Under certain conditions, the police can detain a foreigner above 15 years of age for the purposes of administrative expulsion. Nevertheless, detention of a minor separated child is now only possible in cases of threatening the state security or serious public disorder. Nevertheless, in case of doubts, the police have the power to also detain a foreigner who claims to be a separated child until his/her age is assessed.

The children and their guardians respectively are now newly explicitly informed on their right to apply for a release from the detention as well as the possibility to lodge an administrative case against the decision on the detention or the decision on the prolongation of the detention.

The amendment also implements the EC Directive on common standards and procedures in Member States for returning illegally staying third-country nationals (2008/115/EC of 16 December 2008).

The Ombudsman's Office is now in charge of the "effective forced-return monitoring system" requested by Art 8 of the Directive.

The Ministry of Interior has been working on the legislative proposal of the new Act of Aliens that should replace the current legislation. The work started in 2010 and it is expected to be finalised on 31.8.2011 when the proposal should be transferred to the internal discussions.

Estonia

There have been made several amendments (which came into force 24.12.2010) in the Obligation to Leave and Prohibition on Entry Act. The amendments were made due to enactment of the Return Directive.

According to the Obligation to Leave and Prohibition of Entry Act and the Act of Granting International Protection to Aliens, an unaccompanied minor alien is an alien of less than 18 years of age who arrives or has arrived to Estonia without a parent or guardian or who loses a parent or guardian while staying in Estonia

Finland

It has been difficult to settle refugees into municipalities in Finland recently. The government makes an agreement with municipalities about how many refugees the municipality takes, on a voluntary basis. The situation has been problematic for at least 1-2 years now and there are most of the time hundreds of people in the reception centres who already have got a residence permit or a refugee status but have no place to go to live. There are also some separated children who are still living in reception facilities because municipalities do not want them. NGOs and guardians are worried because these kids e.g. are not going to school and their integration into society will be delayed.

Hungary

The amendments to the Act of Asylum and Aliens Policing Acts were accepted at the end of last year. The new regulation came in force on the 24th of December.

Due to the lobbying of local NGOs such as Hungarian Helsinki Committee, Menedék Association, as well as UNHCR regional representation for Central Europe detention of the unaccompanied children was not accepted by the Parliament. Families with children seeking asylum can be detained for a period of up to 30 days (from 24th of December the Act of Asylum is imposing detention as a rule to asylum seekers, it may run up to 12 months).

In accordance with the changes in the Asylum Act from 1st May unaccompanied children seeking asylum will also fall within the personal scope of the Child Care Act if the Refugee Authority proves that the child is a minor.

Italy

With the introduction of the law 94/2009, during 2010, the effects of the restrictive criteria for converting the permit of stay at 18 (which since 2002 were present in the law as alternative ones to be applied to children who were not appointed a guardian) were seen. Firstly, the criteria in order to obtain a permit of stay upon reaching adult age (that a child should have been in Italy for at least three years and involved in a social integration project for at least two years) have been applied differently in different regions, seemingly at the discretion of immigration police.

Given no transitional interpretation has been made, this has resulted in children being denied further permits of stay to remain in Italy, even where they had entered prior to the new law being enacted. However, several Administrative courts have overturned these provisions, creating precedents that contrast with the intent of the security package by allowing the conversion of permits of stay for any youth subject to child protection measures even where the two year project has not concluded prior to the youth turning 18, in light of principles previously upheld by the Constitutional Court (see Consiglio di Stato, sezione VI, sentence of 21.10.2009 n. 6450, TAR Lazio, sentence of 18.11.2010 n. 33581).

Furthermore, the Consiglio di Stato ("Council of State" – Administrative Appeals Court) has made a specific exception to the application of the new law for those children turning 18 years of age within 2 years of the law coming into force (so, up until 8 August 2011), to allow them to finish the two-year programme required by law for the conversion of their permit of stay (Consiglio di Stato, Section VI, court decrees handed down on 23.6.2010 n. 2919; and on 19.9.2010 n. 4232 and 4234).

Lithuania

During 2010 some changes have been made within the areas of return, reintegration and trafficking.

Norway

On the 1st of January 2010, the new Immigration Act came into force. This new Immigration Act was intended to improve asylum practice and specifies that the best interests of the child are to be a primary consideration and that the threshold for granting residence permits for children on humanitarian grounds should be lowered. Unfortunately this has not revealed itself in practice

yet, as decisions made by immigration authorities clearly state that domestic political concerns are placed above the consideration of children's interests and few children that have lived in Norway over a long period are granted residency despite their proven affiliation with Norway.

Norwegian asylum policies and practice are clearly influenced by a strict focus on immigration control. This is a continuation of the tightening measures from 2008. The aim is to limit the number of asylum seekers who are not in need of protection, and furthermore to prevent that Norway receives a disproportionate amount of the asylum seekers coming to Europe. This is based on an assumption (by the government) that Norway receives a disproportionate amount of the asylum seekers coming to Europe.

Following the implementation of temporary residency permits for separated children, 74 children have received this permit. Many of them were placed in a special reception centre where they participated in an educational scheme designed to motivate them to return home.

Save the Children and the Ombudsman for children visited this centre and found that the children living there suffered tremendously due to their temporary situation and status and that the conditions were unacceptable. These concerns were on several occasions presented to the immigration authorities and the responsible ministry and after several meetings and a report documenting the conditions at the centre, the authorities have decided to close it down.

Separated children with temporary residence permits will from now on be placed in regular facilities for separated children. Save the Children Norway will continue to put focus on temporary residence permits and other measures tightening asylum policies which were implemented solely for purposes of immigration control and which we as well as other NGOs believe is in conflict with the best interest of the child and do not present a durable and sustainable solution for children.

Poland

Currently, changes to the Law on Foreigners are under preparation that might also have an impact on the situation of foreign separated minors in Poland.

Romania

The Law on Education no. 1/2011 was adopted on 10 January 2011. The law reforms the education system and allows students from ethnic minority groups to be taught history and geography in their mother tongue while studying Romanian as a foreign language.

On 9 March 2011, the Government adopted the draft law amending the Law on Adoptions. The draft law was sent to the Parliament to be approved in an emergency procedure.

One of the amendments provides for any child who is drawn into the system and stays there for more than one year to be put up for adoption. Another very important amendment reduces the time when a child with disinterested parents can be put up for adoption. Children of unknown parents can become eligible for adoption within 30 days of obtaining their birth certificate. Children who are neglected by their parents for over a year can become eligible for adoption within a year. No amendment was made in relation to international adoption.

The specific terminology has also been revised concerning terms such as home or residence, while the legislation on child adoption has been brought in line with the new Civil Code.

Slovenia

The amendments to the International Protection Act came into force in December 2010. Slovene NGO's were also involved in preparing amendments. Amendments concerning treatment of separated children include a better guardianship system for separated children seeking asylum, obligatory trainings for guardians and officials dealing with separated children, free legal aid from the beginning of the asylum procedure and better health care for asylum seeking children.

Spain

After the adoption of the New Aliens Law December 2009, the Spanish Government published the draft of the Implementing Regulation in February 2011. UNHCR and Save the Children have reiterated the comments and recommendations issued when the law was being drafted in relation especially to age assessment, trafficking, safeguards related to the protection needs of unaccompanied children and best interests determination of the child.

On the other hand, the Spanish Government is also working on drafting of modifications to the Implementing Regulation to the former Asylum Law in order to adapt it to the New Asylum Law. UNHCR has made recommendations in the field of unaccompanied children to be taken into account in this process.

Switzerland

A total revision of the federal Law on Swiss Citizenship of 29 September 1952 has been proposed in part to align it further with revisions made to the Law on Foreigners. The proposal would have an impact on children, inasmuch as

procedures and requirements for federal citizenship could change. Facilitated naturalization of stateless children is to be maintained; stateless children born in Switzerland are, however, not assured Swiss citizenship whether at birth nor on subsequent application.

UK

A legal judgment that clarified the responsibility for former separated children once they become 18 gives all the responsibility to the local authority social work department i.e. the young people must not be transferred to the adult asylum support system. This is particularly relevant to those young people with no further permission to remain in the UK.

www.unhcr.org/refworld/publisher,GBR_CA_CIV,,,4d2b15d62,0.html

The Supreme Court of the UK in the case of ZH (Tanzania) clarified the great weight to be given to the best interests of children who are affected by decisions to remove or deport one or both of their parents. It is unlikely that the best interests of children who themselves are to be removed are to be treated of any less importance or significance in law. The guidance of the court in terms of the weight to be given to the principle of best interests can therefore be applied to cases involving separated and /or unaccompanied children.

www.supremecourt.gov.uk/decided-cases/docs/UKSC_2010_0002_Judgment.pdf

In November 2010, the UK Border Agency and Legal Services Commission began piloting a design of a new asylum process – the Early Legal Advice Project (ELAP) whereby legal advice is provided earlier and legal representatives engage more interactively and pro-actively with the UKBA decision-makers. This process is being piloted in the Midlands region of the UK and claims of unaccompanied minors are included in the pilot.

www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/asylumpolicyinstructions/apis/elap-midland-and-east?view=Binary

Detention

Austria

In the winter 2010, the family detention centre "Zinnergasse" was established in Vienna as a branch office of the detention facility Rossauer Lände. The detention facility shall be used for the detention of up to 12 families and separated children under 16 years of age in order to facilitate their removal in the context of charter deportations. According to the Ministry of the Interior, separated

children above the age of 16 shall not be detained in the facility as higher security standards would be needed for them.

Number of minors in detention pending deportation – Ministry of the Interior statistics:

	14 - 16 years	16 – 18 years	Total
2009	9	137	146
2010	18	154	172

Minors against whom more lenient measures to detention were applied – statistics MoI:

	14 - 16 years	16 – 18 years	Total
2008	384	91	475
2009	357	78	435

Although the Aliens Police Act states that only in exceptional cases detention pending deportation can be imposed on minors (e.g. if the Aliens Police has reason to assume that the objective of pre-deportation detention cannot be achieved by more lenient measures), in practice quite a few children have been detained. Especially older minors (about 2/3 of detention cases compared to more lenient measures) are detained, while more lenient measures normally only apply to minors between 14 and 16 years of age (in more than 90% of the cases).

Belgium

In Belgium children are not being detained unless there is a doubt about their age.

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 USC.

Czech Republic

See above, Changes and Developments in Law, Policies and Practice

Denmark

Separated children can according to new guidelines be criminalised for having false papers when entering Denmark if they receive subsidiary protection in Denmark.

Estonia

If it is impossible to enforce expulsion within the term of detention in an expulsion centre, an administrative court shall, at the request of a competent official of the Police and Border Guard

Board, extend the term of detention in the expulsion centre of a person to be expelled by up to two months at a time until expulsion is enforced or until the alien is released according to § 24 (11).

Subsection 24(11): “A person to be expelled shall be released of the expulsion centre or police detention house or their accommodation under supervision outside the expulsion centre shall be terminated if the decision has not been executed within 18 months of the day of making the decision to place the alien in the expulsion centre. The time of processing an application for international protection submitted by the alien shall not be considered part of the term of detainment of the alien in the expulsion centre.”

Finland

In 2010, there were 17 children – 4 of them separated children – registered in the Metsälä detention centre in Helsinki, which is the only detention centre in Finland. According to the Aliens’ Act separated children can only be detained in the Metsälä detention centre, not in ordinary police custody. NGOs have every now and then raised their concern whether separated children are placed in police cells, but there are no statistics on this.

Greece

The Greek Council for Refugees implements screening/legal aid missions in the border area of Greece. In this frame it has found extremely harsh conditions of detention for minors in all detention centres in the border area of Evros during its border missions, as well as through its lawyers working currently in the region. Harsh conditions include mixed detention with adult men and women, poor hygiene conditions, lack of space and beds in detention centres, poor medical treatment.

Minors are held against the law since their deportation is only possible in case of family reunification, in detention centres in the Evros area as well as in detention centres in the Attica region, without being referred to reception facilities.

The usual “excuse” by the authorities is the lack of space in the few reception facilities for minors that exist in Greece. Moreover, the poor conditions in those reception centres for minors should also be noted.

However, the Greek Council for Refugees insists on the immediate release of all minors from all detention centres in Greece and on their referral and transfer to proper reception facilities.

Another major problem is the lack of information and involvement of the competent Public Prosecutors who are responsible under the law for matters concerning unaccompanied minors.

Hungary

See section ‘Changes and developments in law’.

Ireland

The provisions relating to detention of children remain as follows, there is no detention per se for asylum seeking separated children or those in violation of immigration laws within the Irish system, however, separated children may be detained if they are on remand while awaiting trial or on conviction for criminal offences.

Lithuania

According to the guidelines of UNHCR of 1997 the children seeking asylum in Lithuania cannot be detained. If asylum seeking children are detained, Lithuania must follow in any case the article 37 of Convention on the Rights of the Child, the detention can be used only last resort and for as short time as possible. If children are detained at the airport, in the migration detention centres, they cannot be kept under conditions similar to prison. It must be sought to release the children and to accommodate them in an appropriate place. The basic view is “the protection” but not “the detention”. In the guidelines of UNHCR concerned with the detention of the asylum seekers, it is underlined, that children have right to the education during detention conditions for their amusement and games.

Poland

Foreign unaccompanied minors are being accommodated in detention centres for foreigners awaiting deportation from Poland. Statistics provided by the Border Guards show that in 2010 10 minors aged 16-17 have been accommodated in such places.

Portugal

The Portuguese Asylum Law makes no reference to permission or prohibition of detention. There are no records of detained minors in Portugal, except for those who are “retained” at international areas, namely, the airport. However, it is important to mention that the Portuguese authorities avoid this in cases of separated children.

Reference should be made to the positive fact that in 2008 all requests presented by unaccompanied minors or single women with children were admitted to procedures which is considered to be a practice responsive to issues of age and gender.

Slovenia

In 2010, there were 20 separated children who were deprived of liberty because they entered Slovenia illegally. They were held in detention from between a few days up to a few weeks.

Switzerland

Since 1 January 2011, the federal Law on Foreigners states that the maximum duration of administrative detention should be no longer than six months in total, regardless of the type of detention. The period may be exceptionally extended by a period of 12 months for adults and by a period of 6 months for children, as provided under Article 79 (2) (a) and (b) of the Law on Foreigners. These are the results of amendments to bring Swiss law into line with the EU Returns Directive.

UK

During 2010, the Refugee Council Children's Panel worked with 36 young people who had been detained as adults by UKBA but who we believed to be children. Of these, 31 (86%) were released as children following our intervention.

Age Assessment

Austria

The Aliens Police and Asylum Act as well as an internal decree of the Federal Asylum Agency (of 5 May 2010) clarify that age assessments should only be instructed in cases of doubt and only as “ultima ratio”. If minors present any kind of documents which show their age, these should be verified first. If a verification and age diagnosis do not lead to a clear result, the age should be decided “in dubio pro minore”.

In practice, these regulations are either not or insufficiently implemented. Minors are often sent to age assessment without taking their documents into account. Moreover, cases have become known where majority at the time of application was concluded even if an age assessment resulted in a minimum age of 18 only at the time of examination. In 2010, 934 persons who applied for asylum in Austria stated to be underage. 247 of those were declared adults after an age assessment through a final asylum decision. In 2009, 1,185 self-declared separated children had applied for asylum and only 123 had been finally declared adults.

Belgium

Due to the increase in the number of unaccompanied children and youth arriving in Belgium and claiming to be minors, the number of requests to conduct age assessment is also increasing. As a consequence of this increase, more time is needed to conduct the tests to assess the age and to obtain the results of the tests.

It is a sensitive problem for the minors who are not seeking asylum and those seeking asylum (mainly Afghans) who are hosted in hotels; these places are not adapted at all if it takes more time to identify

presumed separated children as minors, it means that the time they will be accommodated in hotels will also be longer (see about the reception crisis under ‘Reception’ and in previous newsletters).

The problem remains; since there is no deadline for identification, it is hard to put pressure. The law has to be changed (see ongoing qualitative research conducted by the Platform on the existing guardianship law).

Croatia

There is no age assessment mechanism in place.

Denmark

A majority of separated children are age assessed in Denmark and a majority of these are assessed to be above 18 years of age.

Estonia

According to § 121 of the Obligation to Leave and Prohibition on Entry Act:

(1) If the Police and Border Guard Board or the Security Police Board has a reasonable doubt about the correctness of the data concerning the age of an alien, medical examination for the purpose of determining the age of the alien may be carried out with the consent of the alien or their representative.

(2) If the alien refuses medical examination aimed at determining the age, the Police and Border Guard Board or the Security Police Board shall consider the person to be an adult, unless the person is clearly a minor.

(3) The Police and Border Guard Board or the Security Police Board shall inform the alien of the medical examination specified in subsection (1) of this section, the methods of carrying out the examination and the possible consequences, should the alien refuse the medical examination.

(4) The Police and Border Guard Board or the Security Police Board shall decide on whether to treat an alien as a minor or as an adult.

(5) A decision on determining the age can be challenged only along with an administrative decision or operation during the procedure of which the decision on determining the age was made.

Greece

Currently there is no formal way of assessing the age of a minor. In the majority of cases the aliens’ police accept the age declared by the minor in his asylum claim, while a medical examination stipulated by law is rarely administered.

The age stated in the initial asylum claim is following the claimant throughout the procedure. There is no formal procedure allowing for the change of personal details, including age, except in cases where the minor produces a birth certificate

or other relevant documents from his country of origin.

The Greek Council for Refugees has noted in many cases that minors are recorded as adults and in some cases that unaccompanied minors are recorded as accompanied. Moreover, GCR has noticed that FRONTEX has wrongly identified obviously Afghan children as Iranians.

Ireland

The Health Service Executive Social Work Team for Separated Children based in Dublin, has an internal procedure for age determination. It is neither a formalised nor a nation-wide procedure. Presently, however, the Asylum Seeker and Ethnic Minority Services of the Health Service Executive based in Donegal has developed an age assessment protocol to be piloted in the region with the hopes that it will become national protocol. The details of which are not yet available.

On a practice level, the NGO sector is concerned that the Health Service Executive is not present at age assessment interviews with the Office of the Refugee Applications Commissioner or the Garda National Immigration Bureau. Minors who are determined to be over the age of 18 by the aforementioned bodies of the Department of Justice, Equality and Defence are often placed in adult accommodation. When a young person presents to an NGO, community group or school it is very difficult to get the young person reassessed. The processes of appealing an age assessment determination with both the Health Service Executive and the Department of Justice, Equality and Defence are unclear, particularly where the young person is determined to be over 18, and is thus outside the care of the State. The Refugee Legal Service has noted, however, that they have had some successful cases in reviews of age assessments.

Italy

From Save the Children's experience, age assessment continues to be used as routine practice and not only when serious doubt arises, with a disproportionate resort to medical tests.

In Italy, the Ministry of the Interior's Circular Note of 9 July 2007, specifically applies the benefit of the doubt in favour of a child being underage where a margin of error is provided on an Age Assessment Report. However, a critical issue arises where the margin of error is not indicated, since the benefit of doubt may not be applied and children risk being detained in Centres for Identification and Expulsion (CIE).

A child's possibility to appeal against the results is limited. In 2010, Save the Children Italy worked on

40 cases of children erroneously identified as adults of which 17 were deported before the assessment could be overturned. Despite a Protocol on age assessment being commissioned by the government, for which Save the Children provided comments and recommendations, in which scientific methods of age assessment were criticized, this Protocol is under trial and has yet to be officially approved.

Lithuania

The following methods are mostly used for the age determination; medical examination, psychical measurement, tooth examination, psychical examination and interview.

Portugal

There is no legislation or specific measures towards the corroboration of asylum seekers' age when under the age of 18.

When necessary, tests are carried out by an external and independent entity, the National Institute of Forensic Medicine. This entity is responsible for the estimation of minor asylum seekers' age through X-rays of the dental plaque, the Haavikoos Method (evaluates male's teeth formation phase 18, 28, 38 e 48), the Kullman Method (assesses male's teeth roots formation phase 38 e 48), Harris & Nortjèn (with no gender discrimination, it evaluates teeth roots formation phase 38 e 48), Demirjian Method (the most powerful technique in teeth evaluation 41-47, only for the male gender).

Romania

Article 41 paragraph (2) of the Asylum Law stipulates that: "In the situation in which the unaccompanied minor cannot prove his/her age and there are serious doubts regarding his/her minority, the Romanian Office for Immigration will request a forensic examination to evaluate the age of the applicant, with the prior written approval of the minor and his/her legal representative".

In most cases, the asylum authorities applied the benefit of the doubt regarding the age. When there were serious doubts concerning the age, the Romanian Immigration Office, Directorate for Asylum, asked the Forensic Medical Institute or local Forensic Medical Services to evaluate the age of the applicant. According to the legal provisions, the minor can refuse to undergo the forensic examination for well founded reasons. A psychologist working for the Directorate for Asylum and Integration establishes if the unaccompanied minor has justified reasons to refuse the examination.

The age assessment consists of anthropological measurements, wrists X-rays, dental examination and physical examination (genitalia). The age assessment process should also include the

evaluation of the psychological development of the declared unaccompanied minor.

Spain

The Spanish Ombudsman expressed concern about the issue of age assessment among other issues affecting separated children in its 2009 annual report. The disparities in age assessment practices and the frequent claims about this issue presented to the Ombudsman's Office led to the organization of two one-day working seminars in October 2010. The first seminar gathered medical professionals from all over Spain taking part in age assessment. The findings of this first seminar were then presented in a second meeting to a wider public and stated that age assessment is a complex issue that has to be ordered and determined in compliance with the established legal and procedural requirements, undertaken by specialised professionals, with the adequate time allocation and preserving the person's dignity and security and following a technical procedure based on scientific evidence. In relation to the latter, the document "*Recommendations about age assessment methods on unaccompanied minors*" that was presented at the meeting was particularly supported.

As informed in the previous Newsletter, in a meeting held by UNHCR with Offices of the Public Prosecutors for Minors and for Aliens about the issue of age assessment in March, the representatives of the different Public Prosecutor Offices indicated that a common protocol on the issue was being worked on. At the end of 2010, new instructions to ensure nationwide compliance were being elaborated.

In October, the Concluding Observations of a Meeting of Public Prosecutors for Minors and for Aliens held in April were publicly distributed. These concluding observations are aimed at clarifying and harmonizing some practices related mainly to documentation procedures and age assessment in compliance with higher standards.

Switzerland

Although asylum seekers often arrive without any official documents, if the child does not have any official documents to prove his/her age, s/he still bears the burden of proof (JICRA 2001 no.22 p.180ss, JICRA 2001 no.23 consid.6c p.187ss). Bone analysis may constitute a kind of evidence, but is not considered a means of proof (Federal Administrative Court (FAC) D-3434 2006 consid.16.3).

UK

Case law continues to be the way in which practice is improved. A significant case referred to as FZ v Croydon outlined the way that courts should consider examining the age of a young person and clarified more about the process, including the requirement that everyone who receives a social work age assessment should be able to have an independent adult or advocate present at the interview.

www.bailii.org/ew/cases/EWCA/Civ/2011/59.html

An academic has produced a report into age assessment in the UK

repository.forcedmigration.org/show_metadata.jsp?pid=fmo:5939

Guardianship

Austria

In October 2011, a national seminar will be implemented within the trans-EU project "Better Integration of Separated Children" and will focus on forms of concrete support for separated children with subsidiary protection and asylum status respectively. The plan is to invite mainly youth welfare authority representatives who act as guardians for separated children. The seminar shall enable persons responsible of taking care of separated children to exchange experiences for the first time at national level.

Belgium

A proposal to modify the guardianship act has been introduced on the 2nd of March 2011. It aims at maintaining guardianship for youngsters who have received a permanent residence permit. In the actual legislation, guardianship stops when the child receives a permit or is recognised as a refugee.

Croatia

All unaccompanied and separated children, USC, were assigned with guardians for special purposes (asylum procedure). 90% of the USC leave the country before the procedure is completed and, even before the 1st instance decision is passed. Although all asylum seeking USC above 16 years were accommodated in the RCK, their increased number and inappropriate system of guardianship resulted in their inadequate reception conditions.

Czech Republic

As mentioned above, the new legislation (Art. 119 and Art 124) stipulates the obligation of the police to appoint a guardian with no delay to any separated child for the procedure on the administrative

expulsion. The procedure now provides higher protection standards to separated children.

Finland

Guardians of separated children have organized and formed an association called ETU ry. Guardians have traditionally worked independently in different parts of the country. ETU aims now at connecting guardians and improving the working conditions. ETU's goal is also to follow and improve the situation of separated asylum seeking and refugee children in Finland. ETU does lobbying, statements and is in cooperation with relevant authorities, NGOs and other actors. More information about - ETU and the guardianship system in Finland at www.edustajat.fi and by email info@edustajat.fi

The Central Union for Child Welfare has started a research project on the guardianship system in Finland. It will produce an assessment and suggestions on how to organize the system in Finland to be better in line with the best interests of the child. There will also be some training sessions and awareness raising activities during the project. More to be reported in the next newsletter.

Germany

There is a new guardianship law in Germany, coming into force in April 2011. The two main facts are: Every guardian should not have more than 50 wards, and there should be at least one contact a month.

Greece

Presidential Decree 220/2007 which transposes the reception directive stipulates that the Public Prosecutor for Minors or the First Instance Public Prosecutor will act as temporary guardian to facilitate by any means the legal representation of a minor by a legal guardian. Yet in practice the Public prosecutor transfers/assigns the temporary guardianship to someone else who in practice is involved only with the placement of a minor to a reception centre.

For example, the Competent Prosecutor acting as a guardian has never been informed on the actual asylum procedure of the minor nor has he been involved in any way in the set process.

Hungary

In accordance with the changes in the Asylum Act, from 1st May unaccompanied children seeking asylum will also fall within the personal scope of the Child Care Act if the Refugee Authority proves that the child is a minor.

They will have a guardian for all aspects of their life. Previously, guardians for those seeking asylum were appointed by the guardianship authority only for the

purposes of the asylum procedure which was problematic. These guardians are normally lawyers.

Ireland

The Office of the Minister for Children and Youth Affairs published the Implementation Plan of the Commission to Inquire into Child Abuse Report on 20 May 2009 following a 10 year inquiry into Irish institutions for children. The Implementation Plan states that all separated children must be allocated a social worker. Social workers, as agents of the Health Service Executive, are the legal guardians of separated children. However, in the Irish report, *Closing a Protection Gap*, social workers stated that in practice some separated children around the country were still being allocated social care workers, or care staff, where social workers were not available.

In 2009, the Health Service Executive began implementing an Equity of Care plan for separated children, which is discussed under the heading, 'Reception'. The plan resulted in separated children being regularly placed in foster care rather than placed in the hostel setting (discussed in further detail below). Separated children are still allocated social workers from the Dublin-based Social Work Team for Separated Children whilst being placed in foster care around the country. In instances where the allocated social worker is based in Dublin and the separated child is a three hour drive away and under the age of 16, identifying and accessing the person able to give consent for medical procedures, etc is difficult. Foster carers have reported that separated children's General Practitioners are requiring their social worker's consent rather than accepting that of their carer. However, this lack of clarity seems to be around the care order rather than the allocation of a Dublin-based social worker.

Separated children are typically taken into care utilising Section 4 and 5 of the Child Care Act 1991. It is not clear who is the legal guardian under these Sections as neither require a care order. Under Section 4, the child is taken into care 'voluntarily' and under Section 5, the child is taken into care as 'out-of-home. Under Section 5 the HSE is only obliged to provide accommodation for the child. Both Sections fail to provide adequate protective care. The person responsible for separated children under both sections is unclear.

The Department of Health and National Children's Strategy which ran up to the end of 2010 stated that all separated children should be appointed a guardian ad Litem (GAL). In practice, very few separated children have been appointed a GAL. The Children Acts Advisory Board reviewed the GAL service to assess: the role of GAL in family law

proceedings and the representation of a child; the guidelines on the appointment, role and function of the GAL; and the adequacy of the present service and funding management. Available at: www.caab.ie/getdoc/b11c63aa-361a-41d3-96eb-43c98db51a4a/Giving-a-voice-to-children-s.aspx
The new National Children's Strategy has not been published.

Italy

In 2001, the Veneto Region instituted a Register of Volunteer Guardians run by the Region's Child Ombudsman, which has become a best practice and model for other institutions in Italy. In particular, in 2010 the Prefecture of Agrigento in Sicily promoted the creation of a similar Register of Guardians in consultation with the judiciary (Public Prosecutor and Judges for Minors) and representatives of local institutions. Agrigento Municipality, who is responsible for the Register, has invited qualified lawyers and psychologists to apply.

Lithuania

Until the beginning of 2002 the Law on Refugee Status did not foresee the appointment of a guardian, but only the participation of a representative of the Child Rights Protection Service in the asylum procedure. On January 15, 2002 the changes brought requirement to appoint temporary guardianship. But in practice the guardians were never appointed, because the regulations to implement the mechanism were not prepared. Until 2002 the representative of The Child Rights Protection Service participated in the interviews related to the asylum of the separated children. But the work of such representatives was limited to this and the confirmation of necessary documents. According to the Law on the Legal Status of Aliens temporary guardians are appointed to the unaccompanied minors according to the national legislation. The care, education, creation and keeping of the circumstances for spiritual and physical growth, protection and representation of personal, legal and other interests of a child without parents is the responsibility of the natural or legal person according to the law.

The temporary guardianship is appointed by decision of the Child Rights Protection Service and the municipality of the Refugee Reception Centre, as an institution, which appoints the responsible social worker.

Norway

The Norwegian government is working on a new guardianship law which will outline representation of separated children.

Poland

The problem concerning lack of appointment of legal guardians with a high level of entitlements and competences to foreign unaccompanied minors is being discussed in different fora now in Poland.

Portugal

Article 79 of the Law 27/2008 (establishes the conditions and procedures for granting asylum and subsidiary protection and the status of asylum applicant, refugee and of subsidiary protection, transposing into internal juridical order Council Directives ns 2004/83/CE, of 29th April and 2005/85/CE, of 1st December) is dedicated to unaccompanied minors, and it states that 1) Without prejudice to the applicable guardianship measures in pursuance of minor guardianship legislation, minors who are asylum or subsidiary protection applicants or beneficiaries may be represented by an organisation or a non-governmental organisation, or by any other legally prescribed form of representation.

In fact, when an unaccompanied minor arrives to Portugal and applies for asylum, authorities immediately inform the Portuguese Refugee Council in order to receive this minor in our Reception Centre, also informing the Family and Minors Court about this. This court attributes the guardianship of this child to CPR.

Romania

A legal guardian for separated children is appointed shortly after identification (one to maximum two weeks from submission of an application). Upon request of the Romanian Immigration Office, Directorate for Asylum and Integration, the local Directorate for Child Protection appoints a legal counsellor or social worker as legal guardian for unaccompanied minors seeking asylum in Romania. The legal guardians complained that they were overburdened with many other tasks given by the Directorate for Child Protection, aside from being the legal guardian of an unaccompanied minor seeking asylum in Romania. Due to burnout as well as language and cultural barriers there is not much contact between the legal guardian and the separated child outside the formal framework of the refugee status determination procedure. Only in exceptional cases - when the legal guardian and the child speak the same language - the two go through a report building phase.

In order to enhance the role of the legal guardian in the protection and care of unaccompanied minors, interpretation services should be made available to facilitate the communication between the legal guardian and the unaccompanied minor outside the formal framework of the refugee status determination procedure. The training of the legal

guardians should include relevant information about the culture and traditions in the countries of origin of the minor applicants.

In 2010, the local Directorates for Child Protection appointed legal guardians for all 39 separated children.

Slovenia

Slovene Philanthropy (SP), the only (non-governmental) organisation that was providing guardians to separated children, decided to temporarily stop to provide guardians to asylum seeking children. The decision was made since the care system for separated children is unsuitable and does not enable guardians to act in the best interest of the child. Furthermore the state does not provide SP with any financial support for the function.

The guardianship for these children is now provided by the Centre for Social Work, which is a governmental institution within the Ministry of Labour, Family and Social Affairs.

SP is still providing guardianship to non-asylum seeking separated children and to separated children with refugee status and subsidiary protection.

Switzerland

In order to fully comply with EU law, especially the Returns Directive, an obligation to appoint a guardian for separated children has been introduced under Article 69 (4) of the Law on Foreigners, as required by Article 10 (2) of the Returns Directive. Since 1 January 2011, a “person of confidence” must be appointed for each separated child who seeks asylum. However, the law does not define further the role and obligations of the “person of confidence” and it therefore does not explicitly include the obligation to appoint an independent person of confidence as required by Article 10 (1) of the EU returns Directive (Directive 2008/115/EC) (cf. Article 64 (4) Law on Foreigners *a contrario*).

Reception

Austria

While in the winter 2009 up to 230 separated children were accommodated in the initial reception centre in Traiskirchen, at the beginning of March 2011 there were only 51. Because of the decrease in minors admitted to the asylum procedure (due to increased declarations of majority of age and lower numbers of applications) there are vacancies in the accommodation facilities for separated children in the Provinces. As a result, in the winter 2011 e.g. a reception facility in the city of Linz had to be closed.

Belgium

The reception crisis has been going on for more or less 2 years. Fedasil has decided not to provide reception to the minors who are not claiming for asylum. They live in the streets. Some lawyers make appeals to the Court; after a judicial decision, children are then hosted in hotels. These places are totally un-adapted, as nothing more than a roof is provided (no social, medical or judicial follow up).

For the asylum seekers, the situation remains problematic. Reception is often not adapted, due to lack of places in the different phases of reception.

For separated children who have been recognized as refugees or who have been granted subsidiary protection there are serious difficulties to find accommodation. In particular in Flanders, there is a lack of places to live in autonomy or in youth protection centres.

Croatia

UNHCR funds Croatian Red Cross psycho-social and community services to all persons accommodated in the State Reception Centre. The security situation is regarded 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 unaccompanied minors. The majority leave before completion of the procedure.

Croatia still lacks appropriate accommodation for unaccompanied/separated children (USC) 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 foreigners-minors, there are no translation services secured and freedom of movement is partially restricted. UNHCR visits the Institution and continues to raise those issues at 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 neither the increasing number of asylum seekers nor specifically the growing number of asylum seeking unaccompanied minors. 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 unaccompanied minors outside the asylum procedure.

Cyprus

The Reception Conditions Regulations should contain a large number of provisions to protect the best interests of unaccompanied minors based on current legislation. There are fundamental deficits on establishing official procedures to be in place and followed whenever a separated child arrives in Cyprus. Unaccompanied minors are only identified when they decide and manage to reach the Welfare Office.

Establishing functional cooperation channels and sustainable networks among governmental agencies, civil society and the public sector is a key component. Currently this cooperation is not accomplished with serious implications in terms of children's safety.

In the majority of cases, the short period after the arrival can embrace serious risks for the child. HFC came across cases of sexual exploitation of children during this period.

Placing a child with a foster family or arranging any kind of accommodation requires supervision and monitoring. This can be achieved through regular visits and information exchange. We came across cases of children being treated inappropriately and requiring immediate action for changing their accommodation arrangements.

Germany

In 2010, the B-UMF and UNHCR talked to various stakeholders, such as youth authorities, ministries and local NGOs in the two Federal States Hesse and Hamburg to gather information on the reception conditions and child-appropriate accommodation. Based on this information a report on Hamburg was published, see at www.b-umf.de/images/evaluation_hamburg_2010.pdf (in German only), the report on Hesse will be published soon.

For 2011, further evaluation missions are planned to the Federal States of Bremen and Baden-Wuerttemberg. The respective reports provide best practice models with respect to some aspects as well as recommendations adapted to the situation on the ground.

There are some new developments in the federal states: E.g. in North Rhine Westphalia, Rhineland-Palatinate and Saarland new child-appropriate homes are being set up.

Greece

The established reception system in Greece has many lapses ranging from an inefficient system of

identifying unaccompanied minors, establishing their age, provision of initial needs assessment, legal representation and a referral mechanism.

Children are detained for long periods of time due to the shortage of available reception facilities for minors. The official capacity of these reception centres according to official data is approximately 400, yet the Greek Council for Refugees has noted that the actual operational -at any given time or on an average – capacity of the centres is less than 300. The lack of funding in conjunction with the lack of minimum standard operating procedures, do not allow for a uniform set of services provided in the centres which apparently operate on a “shoe string”. Consequently, we note understaffed centres with inexperienced staff that often rely on volunteers to carry out their basic services. Apparently there is a high turnover rate in the centres.

The Greek Ministry of Health, responsible for reception issues, is utilizing ERF funds for the provision of reception services at the points of entry and in the mainland especially for accommodation purposes. Plans to increase the number of available places for minors in 2011 are incorporated in the Greek Action Plan for Migration.

Hungary

From May 2011, all unaccompanied children will fall under the scope of the Child Care Act. All separated children, regardless of whether they apply for asylum, will be accommodated in the mainstream child care institutions. Currently, all unaccompanied minors seeking asylum aged 14-17 are accommodated in a Shelter for Unaccompanied Minors. Currently, the centre is located in Bicske, within the territory of the refugee reception centre there (the reception centre itself houses those who have already been granted protection).

From 1st May 2011, the Shelter for Unaccompanied Children will be closed down. Unaccompanied children seeking asylum will be placed in a child home in another town (Fót) also near Budapest. The facility already houses 24 asylum seekers who were granted protection and who turned 18 (after care).

Ireland

The Health Service Executive began implementing their Equity of Care plan for separated children in 2009. All hostels for separated children were closed at the end of 2010. Separated children received into the care of the HSE are now placed in one of six residential units in Dublin. The units are registered and inspected by the Health Information and Quality Authority.

Initially, the plan stated that children would remain in the reception facilities, where they would be assessed, for six weeks and then placed with a foster

family (children under the age of 12 would be placed with foster carers as early as possible). Presently, separated children are spending between 12 and 16 weeks in the residential centres before being placed with a foster carer.

In line with the Equity of Care plan, separated children should be received into care by Local Health Offices where the children are placed. In practice, most separated children remain under the guardianship of the Social Work Team for Separated Children based in Dublin. Local Health Offices have reportedly refused to take separated children into their care due to their lack of preparedness. The HSE still considers this period to be a transition and the Equity of Care plan is still evolving.

The Equity of Care plan does not deal with the issue of 'after, or leaving, care'. The Health Service Executive is not required to provide after care for children, however, they may in cases where they deem it appropriate or necessary.

In practice, children recognised as refugees or beneficiaries of subsidiary protection or those with leave to remain are typically provided with after care support, which may include transitional housing.

Children without status typically leave HSE care and are subsequently transferred to Direct Provision accommodation, the government system for accommodating adult asylum seekers. Separated children tend to be relatively unsupported during this transition.

Italy

The monitoring activity of reception conditions and residential care facilities carried out by Save the Children in the framework of the Praesidium Project in Sicily, Apulia and the Marche regions has shown the presence of diversified standards, which appear, in general terms and despite the reduction of arrivals registered in Southern maritime borders in 2010, to be affected by some structural deficiencies and, above all, by the absence of a proper mechanism of monitoring (see Monitoring Report, Save the Children Italy).

In the worst cases, children are not properly identified as such and, therefore, their peculiar protection needs are not adequately verified and timely addressed. Due to that children do not always gain access to proper protection safeguards, such as the provision of exhaustive information with the support of cultural mediation and legal counselling, timely care and - especially due to inaccuracy in the age assessment - immediate shelter in facilities separated from adults.

Lithuania

According to legislation, separated children who apply for asylum in Lithuania are accommodated by decision of the Migration Department under the Ministry of the Interior in the Refugees Reception Centre, where the appropriate living conditions are created.

The children accommodated in the Refugees Reception Centre are supplied with all the means required for their needs (material, hygienic, domestic etc.). They are provided with social assistance, education, training, psychological assistance and medical aid. One social worker is responsible for the material supply of the unaccompanied minors. The other social worker, who is appointed as a temporary guardian for an unaccompanied alien minor, represents the interests of the minor in the legal procedures.

The unaccompanied minors are taught Lithuanian according to an individual program, attend the courses on the vocational training and get the desirable occupation after the graduation. The programs of education and assistance are available in the centre; programs on moral, social skills, work activities, mutual support groups, integration into the Lithuanian society, professional orientation and psychological assistance.

Norway

Separated children seeking asylum in Norway are placed in separate reception centres or sections. The Norwegian Directorate of Immigration (UDI) is responsible for separated children between 15 and 18 years old. Separated children under 15 years old live in special care centres, which are administered under the Child Welfare Services.

Portugal

In relation to reception, the article 26, no 2, of the law 27/2008 (Effects of application and decision), states that the temporary accommodation of unaccompanied or separated minors shall follow special conditions in accordance with international recommendations by the UNHCR, UNICEF and the International Committee of Red Cross.

Also, article 79, no 4, dedicated to unaccompanied minors, asseverates that an unaccompanied minor aged 16 years or over may be placed in accommodation centres for adult asylum seekers.

In fact, all the children that arrive unaccompanied in Portugal are lodged in CPR's Reception Centre.

Romania

In 2010, four out of the 39 separated children seeking asylum were accommodated in shelters under the administration of the local Directorates for Social Assistance and Child Protection. 35 separated children were accommodated in the open

Reception Centres of the Romanian Immigration Office.

In terms of reception/accommodation of unaccompanied minors, the asylum legislation makes a distinction between separated children under 16, who are to be accommodated in shelters of the local Directorates for Child Protection during the asylum procedure, and those over 16. According to the Law, the opinion of the unaccompanied minor in relation to the accommodation shall be taken into account and shall be granted due attention, having in mind his/her age and the degree of maturity.

The Government, in cooperation with Save the Children Romania, is striving to ensure that the reception facilities are generally adequate to the children's needs by organizing children's rooms and, where it is possible, playgrounds for children.

Slovakia

From 1 January 2011, the separated children are also placed in the Foster Home in Medzilaborce (eastern part of Slovakia) together with Slovak children, but the facility is also specialized for migrant girls. This foster home is also preparing to receive boys, so in very short time the boys can be placed there as well.

Switzerland

The reception of asylum seekers is only a federal competence in the initial phase and thereafter becomes a cantonal competence. Cantons may delegate this competence further (e.g. Fribourg State council has delegated this competence to the Fribourg Red Cross).

Children follow the same procedure as adults. Child rights organizations have noticed that, since implementation of the new asylum law, many separated children have chosen to live in clandestine rather than to risk expulsion. Specialized reception centres are provided for in only a number of Swiss Cantons. This lack of specific structures may expose children to a higher risk of exploitation (prostitution, drug trafficking, housework, etc.).

The Swiss Foundation of the International Social Service, with the participation of the International Institute for the Rights of the Child (IDE) and the Swiss National Youth Council (SNYC), consider implementing a pilot project to contribute to a better assistance for separated children in Switzerland. Separated asylum seeking children would be included but the pilot project would rather focus on undocumented separated children including domestic child workers. This project aims to develop and harmonise the protection system of separated children in general. Regardless of the legal

status, the partners would work on the identification of these children, the promotion of an appropriate protection and the determination of a sustainable solution.

UK

A report from the Children's Commissioner for England highlighted concerns about the treatment of some children on their arrival in the UK. Some experienced more positive treatment and care than others. The report also highlighted treatment of some children who appear to have been returned because they did not claim asylum.

www.childrenscommissioner.gov.uk/content/publications/content_465

Missing children

Belgium

Due to the reception crisis more and more children disappear. As they are not registered in a database it is very difficult to say how many children have already disappeared and under which circumstances.

Cyprus

Although there are no official statistics for missing children, there have been concerns relating to several incidents of unaccompanied minors leaving their accommodation arrangements without notification or any channels for future contact.

Greece

The actual number of missing children is unknown as there is not an initial recording mechanism of minors entering the country nor is there a central unit recording the number of children placed in a reception centre who eventually desert it.

Ireland

In 2010, the Health Service Executive reported 95 separated child referrals. 66 were placed in care and 26 were reunited with family. 12 went missing from care. 5 of the 12 were accounted for. The remaining 18 were either age assessed to be over the age of 18, subject to Dublin II transfer, returned, or the child had a valid visa or was accompanied by their mother. The numbers of missing children has decreased. This may be attributed to the changes in reception and long-term placement conditions and the Health Service Executive's and Garda National Immigration Bureau's Joint Protocol as part of the National Action Plan to Prevent and Combat Trafficking of Human Beings in Ireland, which was introduced in 2009. The National Action Plan available at:

www.inis.gov.ie/en/JELR/Final%20National%20Action%20Plan2.pdf/Files/Final%20National%20Action%20Plan2.pdf

Slovenia

The trend of children going missing a few days after their arrival to the Asylum Home still remains. In 2010, 26 out of 38 separated children, who applied for asylum, disappeared from the Asylum Home.

Switzerland

According to Articles 8 (3) and 32 (2) (c) of the Asylum Law, children who leave the reception centre violate their obligation to cooperate. This may lead to a decision to dismiss the asylum application without entering into the substance of the case (non-entrée en matière), although the asylum authority still has an obligation to assess whether the execution of the expulsion is legal, reasonable and possible.

Dublin II practice

Austria

Separated children for whom another Dublin II state (apart from Greece) is found to be responsible generally received negative admissibility decisions. Since the M.S.S. ruling, no decisions including an expulsion order to Greece have become known.

Belgium

In response to the letter from the European Court of Human Rights asking to suspend all transfers to Greece under Dublin II, the State Secretary for Migration and Asylum Policy announced on 20 October 2010 that ALL transfers of asylum-seekers to Greece would be temporarily suspended. Following the Grand Chamber judgment of the European Court of Human Rights in the case of M.S.S. v. Belgium and Greece, several countries confirmed their decision to suspend transfers to Greece and assume responsibility for processing claims at least for the time being. No separated children are thus being transferred to Greece.

Finland

NGOs have submitted a petition to the government concerning Dublin returns. The NGOs request that Finland should refrain from returning asylum seekers to Italy and Malta at present since those countries face a new flow of asylum seekers from North Africa due to the unstable situation in Libya and many other countries. While waiting for a common reaction or decision from EU, Finland could very well ease the situation on its own a little bit.

This might concern only some dozens of people at the moment who are waiting in a limbo, some of them having stayed several years in Finland already. Among them there are also people in vulnerable situations who have got a decision from the European Court that expulsion should not be executed. It would be an easy action to show some activity in burden sharing by not returning these people but handling their applications in Finland.

Germany

There is a new study, published by Pro Asyl, about the situation in Italy. The report was written because there is a growing debate in Germany on how to deal with refugees who have been in Italy before.

www.proasyl.de/fileadmin/fm-dam/q_PUBLIKATIONEN/2011/Italienbericht_FINAL_15MAERZ2011.pdf

Greece

The Greek Council for Refugees has not noted the return of a minor in the last 6 months.

Hungary

Dublin II transfers to Hungary took place from the following countries:

Austria (6), Germany (3), Netherlands (1), Norway (3), Switzerland (1)

4 separated children were transferred to France. (Source: Office of Immigration and Nationality)

Ireland

The total number of minors transferred under Dublin II in 2010 was 5. Of these, two female minors from Zimbabwe, aged 14-15 and 15-16, were transferred to the UK.

Italy

Despite the fact that the correct application of the Dublin II Regulation would not result in unaccompanied children being transferred to the first country of arrival in Europe, Save the Children Italy sometimes receives requests for information on reception conditions and the asylum procedure for children in Italy from some Northern European countries in light of Dublin II considerations there. In the final report of the European project "Dubliners" (Italian partners: CIR – Italian Council for Refugees, and the Italian Ministry of the Interior) the case of an unaccompanied Somali child transferred from Belgium to Italy was described. Even though reportedly he had family in the United Kingdom, the authorities did not take this into consideration as he also had a visa for Italy. (Progetto Dubliners, Rapporto Finale, April 2010, pg.55)

Norway

As a result of the increasing number of asylum seekers arriving in Norway the government introduced measures in the immigration policy that will ensure that the Norwegian practice in areas of importance differs as little as possible from other European countries. One of the measures is that the Dublin II regulation will be applied more widely, also to unaccompanied minors.

The measure was implemented in October 2008, and says: "Norway's assessment of cases under the Dublin II regulations will be harmonized with practices by other member states to the effect that Norway does not make general exceptions from the regulations unless there are particular reasons to do so. An individual assessment shall be carried out concerning applicants who are to be returned to Greece and unaccompanied minors".

Norway has since then stopped returning all applicants to Greece (this decision was made in 2010). Practice remains the same otherwise.

Romania

Based on provisions of the Dublin II Regulation, in March 2011 Austria transferred to Romania a Syrian applicant who was registered by the Austrian authorities as an adult, although the NGO which provided assistance to the applicant in Austria had some evidence that the applicant was a separated child. When transferred to Romania, the applicant was registered as a finally rejected asylum-seeker due to the fact that he absconded before the refugee status determination interview. After the transfer to Romania, the Jesuit Refugee Service assisted the young Syrian to submit an application for access to a new asylum procedure. The Directorate for Asylum and Integration declared the application admissible and granted access to a new asylum procedure in which the applicant was considered a separated child by the asylum authorities.

Switzerland

The Grand Chamber judgment by the European Court of Human rights in the case of *M.S.S. v Belgium and Greece* on 21 January 2011 had no specific impact on asylum seeking children, because Switzerland already earlier applied the sovereignty clause with respect to vulnerable persons, including unaccompanied children, who could have been returned to Greece under Dublin.

Switzerland, however, announced the official suspension of deportations to Greece on 26 January 2011, and currently applies the sovereignty clause to all claims where return to Greece could have been considered.

Reports in Switzerland from various sources that asylum seeking children – as well as recognized

refugees – have difficulties in being granted access to specialized accommodation centres and sometimes other basic services in Italy have given rise to debate in Switzerland, as more than half of the Dublin out cases from Switzerland concern Italy.

However, Switzerland has not suspended transfers of unaccompanied children to Italy, and a precedent setting case examining transfers to Italy of vulnerable persons is pending at the Federal administrative court. The court has suspended transfers to Italy in some cases but not systematically.

UK

A court case attempting to improve the safeguards under the Dublin II regulation was largely unsuccessful. The judge accepted the UK government's arguments that it was entitled to assume that a country receiving an unaccompanied child under this regulation would provide adequate reception conditions as it would be a signatory to the reception directive. Only in exceptional cases would the UK government be required to make its own enquiries.

Procedures and Recognition

Austria

In recent years, asylum procedures have been accelerated. More and more asylum proceedings of separated children are completed while they are still minors. The shorter duration of proceedings is in principle positive, but has in at least some cases been at the expense of the quality which is problematic because of the abolition of access to the Higher Administrative Court. Therefore, the topics of return and integration gain importance.

In 2011, UNHCR is conducting a quality assurance project focusing on asylum procedures for separated or unaccompanied children, which is co-funded by the European Refugee Fund and the Austrian Ministry of Interior.

The project UBAUM (Supporting Authorities Conducting Asylum Procedures of UASC) incorporates a comprehensive approach by looking at all stages in the asylum procedure as well as interviewing children about their respective experiences. The findings from the project shall contribute to the development of binding criteria for first instance asylum procedures regarding unaccompanied or separated children. They shall also lay the groundwork for the elaboration of child-friendly information leaflets for minor asylum-seekers.

Belgium

A new law proposal has been introduced on the 5th of October 2010 on the assessment of the durable solution for non asylum-seeking children. Discussions on amendments are still ongoing.

Croatia

One unaccompanied minor from Congo-Brazzaville was granted refugee status and two Afghan unaccompanied minors were granted subsidiary protection. However, the latter left the country following their decision.

The recent recognition of minors as refugees raises the important issue of successful integration of minors, which will need to be addressed by the government, especially given the difficulties with integration faced by this specific group.

Czech Republic

Thorough 2010, the Ministry of Interior (1st instance) decided to grant asylum in 3 cases of separated children while the subsidiary protection was also granted in 2 cases of separated children. The separated children granted asylum come from China (1) and DRC (2). The children granted subsidiary protection come from Afghanistan (1) and Congo (1).

Estonia

According to Ministry of Social Affairs, the agreed guidelines have not been implemented to a sufficient degree in practice, and procedural rules need be supplemented with regard to various agencies due to the lack of a specific description of the process, exchange of information and division of tasks between the agencies.

The analysis coordinated by the Ministry of Social Affairs within the framework of the Development Plan for Reducing Violence for 2011-2014 will show the weaknesses and plans for intervention for the purpose of identifying and assisting unaccompanied and trafficked minors and improving the efficiency of checks carried out at border crossings; furthermore, seminars for specialists will be organised (2011) and guidelines prepared (2012). Work is currently being carried out on a project involving all parties and entitled "Ensuring Immigration Management, Reception and Protection of Asylum Seekers – 5" (MINAS-5) where the main emphasis is on unaccompanied children.

Finland

For all the decisions made for separated children's asylum applications in 2010 (330), there were 262 positive decisions. These consisted of: convention status (6), humanitarian protection (68) subsidiary protection (120) and compassionate grounds (63).

Negative decisions were made to 42 children. They consisted of following different decisions: rejected (16), safe country of origin (5), Dublin (19), manifestly unfounded (2).

Annulment was recorded to happen in 26 cases.

See more statistics on the home page of the Finnish Immigration Service

www.migri.fi/netcomm/content.asp?path=2762

Greece

The Greek Council for Refugees receives a large number of unaccompanied minors every year and provides free legal aid to minor asylum seekers, with high priority. Due to the absence of protection to minors by the competent authorities, the GCR informs the police authorities and the competent Public Prosecutor on cases of unaccompanied minors and provides free legal aid throughout the entire asylum procedure.

Access to the asylum procedure is very difficult for everyone, including minors, who are not treated as vulnerable cases by the competent authorities, except in case of the GCR's intervention.

Hungary

Recognitions January - September 2010:

Nationality	Gender	Granted refugee status	Granted subsidiary status	Exile
Afghanistan	Male	1	14	2
Kosovo	Male			1
Somali	Male	2	2	
Somali	Female	1		
Summary		4	16	3

All aged 14-17

(Source: Office of Immigration and Nationality)

Lithuania

Separated children are taken to the Refugee Reception Centre and given residence permit with subsidiary protection until they turn 18. According to the law separated children they should then be interviewed and a new decision about protection be taken. But that procedure is not followed; usually when turning 18 separated children maintain the subsidiary protection status.

Portugal

The alien or stateless person who enters into Portuguese territory with the purpose of obtaining asylum shall lodge an application with the Portuguese Immigration Service or any police authority within 15 days, either orally (subsequently confirmed through a written official document) or in writing (Article 13, 27/2008 Law). Afterwards it

is remitted to the Immigration Service within 48 hours, who are obliged to inform the UNHCR representative and the Portuguese Refugee Council as soon as the request is lodged.

The applicant may request an extension of the asylum application to include the family members who accompany him or her, whether minors or adults, and the application shall, in this case, be preceded of a previous explicit consent of those persons, otherwise it shall be considered inadmissible. In the case of minors, family members may lodge an application on his or her behalf.

In relation to the statements present in the Portuguese asylum procedure, if the application is lodged by a minor, it shall be incumbent on the Portuguese Immigration Service to report the situation to the Portuguese Refugee Council for representative purposes.

The decision shall be notified to the applicant along with information on his or her rights of judicial review, and shall also be reported to the representative of the UNHCR and to the Portuguese Refugee Council.

Romania

The monitoring of the asylum procedure for unaccompanied minors during the implementation of the Projects ASQAEM and FDQ (co-funded by the European Commission and implemented by UNHCR) revealed that eligibility officers across the country need specialised training on child-friendly interviewing techniques to allow the child to testify at a comfortable speed and to help the child to overcome timidity or nervousness. The eligibility officers need to be trained on how to build a report with the child before proceeding to the in-merit interview (i.e. to discuss neutral topics such as general interests, future career goals, school, pets, hobbies).

Slovenia

Two minors, both from Afghanistan, were granted subsidiary protection.

Switzerland

Since 1 January 2011, decisions on expulsion must be issued in writing.

- Expulsion without formal decision: if the person has a right to stay in another Schengen State, he/she has to leave the territory within one day, then, if not, a decision of expulsion may be issued (art.64 al.2 LEtr).

- Expulsion without formal decision, based on a readmission agreement or when the person has already been refused at the Schengen border. In every other case, the person must leave the territory within 30 days (Art.64 (d) (1) and (2) of the Law on Foreigners). A shorter delay may be ordered in cases

as specified under Art.64 (d) (2) (a) and (b) of the Law on Foreigners.

The execution of expulsions is a cantonal competence.

UK

Two recent appeal hearings have resulted in better protection for the Afghan children concerned. A previous case had argued that reception arrangements can be assumed if the child cannot show that he tried unsuccessfully to trace his family. Recent cases have overturned this decision. There is now better evidence of the dangers facing some children in Afghanistan and the two cases both concerned father's political opinion and the risks that would ensue if the child was to be returned.

www.bailii.org/ew/cases/EWCA/Civ/2011/305.html

Family Tracing and Reunification

Austria

As the number of separated children with subsidiary protection and 1951 Convention refugee status is rising, family reunification has become more important. In 2010, e.g. six separated children in Upper Austria were reunited with their families. However, meeting the costs (e.g. DNA tests, age assessments of siblings and flight tickets) is difficult. The youth welfare in Upper Austria (Linz) advances the costs of DNA tests, but this is not the case in other provinces. Moreover, the arrival of the families in Austria sometimes is a challenge itself as the (former) separated child often has to take responsibility for the whole family. Hence, they sometimes drop out of education programmes. In addition, the child often loses the support of the responsible youth welfare office as it is assumed that the family can immediately after their arrival again take good care of the child.

Belgium

In Belgium there is an increased use of the European Tracing Database of the Red Cross to find family located within the European Union. See also under 'Publications'.

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 for asylum seeking unaccompanied minors in 2010. Tracing is further hindered due to the fact that the majority of asylum seeking

unaccompanied minors currently originates from Afghanistan and the security/lack of infrastructure issues in the country of origin.

Cyprus

Some of the children HFC have interviewed reported communication difficulties in regard to contacting their family members, mainly due to their financial situation. However, they stated that it is very important for them to maintain regular contact with their close relatives in their country of origin to enhance feelings of belonging and sense of safety. Tracing family should not be limited to the initial identification of the child's family members but needs to be expanded in ensuring regular contact with the child.

Denmark

A new law provides that Denmark is not obliged to trace family if separated children can be returned to reception facilities in countries of origin.

Finland

Family reunification has been subject to several restrictions through different legislation lately in Finland.

It is difficult for young separated children to get their family members to Finland because of the amendment to the Alien's Act (since 1 August 2010). It defines that issuing a residence permit to a family member of a minor applicant requires that the applicant is minor on the date when the Finnish Immigration Service makes the decision, not the date when the application was initiated (Aliens Act, Section 38, 549/2010).

Another problem came surprisingly through the Integration Act. When the new Act on Integration was presented to the Parliament late autumn 2010 there was a new amendment concerning the travel costs of the family members. So far the travel costs of the family members who get a residence permit have been paid by the government. According to the new amendment this is only done in case of resettlement cases, so called quota refugees. Family members of those who came as asylum seekers can get their costs covered by the state only in very exceptional cases. The fact that a family is poor is not a reason for getting your flight tickets from the government. This has caused a lot of discussion and uncertainty. Even if you are lucky to get a positive decision to the application before you turn 18, you still won't get your family members to Finland if your family has put all the money they had to your own trip to Europe. There is not any system to replace the old system which was based on the cooperation of the Finnish Government, IOM and the Finnish Red Cross.

Another example is an amendment to the Aliens Act concerning biometric data. According to the amendment, fingerprints are taken in the new procedure at the same time as the application is lodged. This means only the applicant himself can submit the application, not a family member in Finland. So far also a family member in Finland has been able to submit the application for his/her family members abroad. It is already very difficult for family members to travel long distances to embassies for the interviews. This extra travel to have fingerprints taken and submit the application will be too difficult for many families.

Greece

The Greek Council for Refugees conducts family tracing and reunification following a request by a governmental, a non-governmental or international organization in Europe. However, the process is rather lengthy due to bureaucratic obstacles posed by the relevant Ministries. Additionally, the State currently decided not to cover airfare tickets for family reunification purposes.

Ireland

The Irish report, Closing a Protection Gap, found that social workers had been engaged in informal family tracing both in country and internationally without consulting with the Irish Red Cross. There are no guidelines and there is no protocol for this process within the Health Service Executive.

Lithuania

When the Migration Department receives information about an unaccompanied alien minor, they have immediately to organize search for family members together with the particular organizations and the temporary guardian of the unaccompanied minor. The issue of the legal status of the unaccompanied minor is addressed while conducting the search for family members. The goal of the search is to ensure the respect of the family unity. The search for the parents and the family must be started immediately after the arrival of the child. The guardian of the child must participate in the process of the search. The search must be conducted not menacing to the other family members. The offices on the UN and the International Committee of the Red Cross figure as the most important organization conducting searches, so the department and other organizations taking care of search have to collaborate with these offices. It is necessary to inform the child about the search and to seek to ensure that there are created the possibilities to affect and to understand the making of the decisions and the actions.

Portugal

The Portuguese Immigration Service, in cooperation with other authorities involved in the procedure and the Ministry of Foreign Affairs, and with the purpose of protecting the best interests of the unaccompanied minor, makes an effort to trace the members of his or her family as soon as possible.

In cases where there may be a threat to the life or integrity of the minor or his or her close relatives, particularly if they have remained in the country of origin, care is taken to ensure that the collection, processing and circulation of information concerning those persons is undertaken on a confidential basis to avoid jeopardising their safety.

Slovakia

In 2010, 3 children (2 female, 1 male) from Chechnya, Russian Federation, were unified with the family in Denmark. (Statistic from IOM)

Switzerland

Children under twelve still have to apply for a family reunification within five years. Children between twelve and eighteen have to apply for it within one year (Article 47 (1) Foreigners Law).

According to a recent decision of the Federal Court, Article 42 (1) in the Foreigners Law introduces “partial family reunification” that provides that persons who acquired Swiss citizenship in a facilitated fashion following marriage to a Swiss citizen may request reunification with their foreign children abroad. In other words, the (Swiss) nationality of one parent satisfies the precondition for the invocation of Article 42 (1) or Article 43 of the Law on Foreigners and allows him/her to obtain a residence permit for his/her children (under 18), cf. Decisions of the Federal Court (ATF) 136 II 78 c.4.7.

Asylum seeking parents with a provisional admission to stay in Switzerland would normally need to wait for three years after having received this decision of provisional admission until they can at least request family reunification with their children in Switzerland. Exceptions are possible especially for very young children in case the request is well documented as the following example shows: Thanks to a social report showing that the left behind child lives under precarious conditions and does not even attend school and thanks to the well formulated request for family reunification by a specialized lawyer, the Swiss Federal Office for Migration granted admission to this child to be reunited with his mother in Switzerland. This example shows once more the importance of international child protection

cooperation in view of finding a solution in the best interests of a child, no matter whether the separated child stays in Europe or needs to be left behind in the country of origin or elsewhere.

Return and reintegration

Austria

In spring 2011, asylkoordination österreich conducted a survey and interviews within the scope of the EU study on return of minors, undertaken by ECRE and Save the Children, commissioned by the European Commission.

Voluntary return:

IOM Austria offers special voluntary return and reintegration programmes in some countries (Kosovo, Nigeria, Chechnya). Minors e.g. will be supported in the fields of health, education and vocational training, as well as psycho-social counselling. The support addresses both the minors as well as their close environment (nuclear or extended family members) to prevent future vulnerability and re-emigration. In 2009, IOM supported separated children in their voluntary return, while the organization “Drehscheibe” working mainly with child victims of trafficking originating from the Western Balkans supported 34 separated children.

Deportation:

Within the last years also separated children have been deported. According to the Ministry of Interior separated children are in general handed over from “contact officers” of the Austrian police to local youth welfare authorities. Yet, the independent human rights observer – who is involved in the deportation process – was not able not confirm this procedure.

Belgium

The Platform has taken part in the ECRE/Save the children lead EU study “Comparative study on best practices in the field of return of minors”.

This study will provide an overview of the legislation, guidelines and practices of the voluntary and enforced return of both separated children and children being part of a family unit.

This study includes all Members States, plus Iceland, Norway, Lichtenstein and Switzerland.

A key component of this study is the inclusion of a small number of countries to which children are returned.

A central goal of the study is to highlight good practices and deliver a check list of Member States for their return processes.

Cyprus

Regarding the return of unaccompanied minors, provisions can only be identified in the “Combating of Trafficking and Exploitation of Human Beings and the Protection of Victims Law” [L.87/(I)/2007]. This legislation indicates that the Immigration Officer, taking into consideration the Social Welfare Services’ Director’s judgments, has the authority to order the return of the unaccompanied minor to his country of origin or to another country in which he has the right to permanent residence or to a third country on the grounds of family reunification. The return of the unaccompanied minor should happen only when it is ensured that during his arrival proper care will be available.

However, in practice, no unaccompanied minor was ever returned under any of the above provisions and most of them are staying in Cyprus as asylum seekers even after they become adults. There have been cases where unaccompanied minors were returned to their country of origin when they reached age of majority without the above provisions being taken into consideration and being treated as adults.

Czech Republic

The Ministry of Labour and Social Affairs is working on the guidelines for the social workers involved in the process of returns of separated children. The two priority countries for the purposes of the guidelines are Slovakia and Bulgaria.

Denmark

A new law provides for return of separated children to reception facilities in countries of origin. Denmark is currently working on establishing a reception centre in Afghanistan and North Iraq has been mentioned as an option.

A new law provides that children who do not receive asylum and who are not returned to reception centres in countries of origin will be returned when turning 18.

Estonia

Special provisions apply to the expulsion of unaccompanied minors. Obligation to Leave and Prohibition of Entry Act, § 21: An unaccompanied minor alien may be expelled if the guardianship of the minor is organised and the protection of their rights and interests is ensured in the admitting country. The expulsion of an unaccompanied minor alien is organised in cooperation with the competent state authorities of the admitting country and, where necessary, transit country.

Greece

IOM’s Assisted Voluntary Return Project which runs in 2011 and is almost completed has actually included some minors. Reportedly, IOM Greece is involved in reintegration only if funding is available. Reintegration moreover is not envisaged in the new law (3907) that transposes the Return Directive.

Ireland

In 2010, four young people voluntarily returned using the IOM service.

Internal research following up on children who had been returned was conducted and completed by the Health Service Executive.

Lithuania

Return of the unaccompanied alien minor to the country of origin can be explored if it is decided that the child is not entitled to refugee status and does not need other forms of protection or the situation in the country of origin has changed essentially and for a long time.

From April 2008, Lithuania conducts return of foreign nationals by applying the provision of the Schengen code. The Code states that a state must ensure that all decisions on return of those individuals shall be taken following a comprehensive study of facts.

The Lithuanian law states that a foreign national, including minors below the age 18, who stay on the territory of Lithuania illegally, can be returned voluntarily or expelled to the country of origin or another state to which they have right to travel. Unaccompanied minors are returned only in the case when in the state, to which (s)he is being returned, (s)he will be properly cared for, taking into account his needs, age and level of independence.

In Lithuania the decisions on return of foreign nationals, including unaccompanied minors, are taken by the Aliens Affairs section of the Migration department.

The newest changes:

- From 2010, the support for voluntary return has been started to provide help of IOM (International Organization of Migration) but also of the annual program of the EGF (European Globalisation Adjustment Fund). The launch of the EGF has improved the voluntary return situation in Lithuania, because this program meets the requirements of the situation in Lithuania better, and more people fall into the target group. This program gave possibility to get support for voluntary return for third-country nationals who arrived to Lithuania legally, but whose lawful stay has expired and who have received or will receive an obligation to leave the country; the victims of human trafficking who

arrived to the country illegally and their stay is illegal. Before 2010, support for voluntary return for these target groups was not provided.

- Until 2010, the assisted voluntary return included counselling, paperwork, organization of travel and transit and coverage of initial costs upon arrival. In 2010, as part of the Return Fund's annual programme, pilot reintegration projects in Moldova and Georgia were launched. While most people wanted to return voluntarily to the Russian Federation (Chechnya), due to technical difficulties reintegration assistance to Chechnya was offered in 2010.

The following main obstacles can be distinguished in implementing voluntary return projects in Lithuania:

- Limitations of the financing of assisted voluntary return on project basis. Due to the project funding and programming there are periods when assisted voluntary return is not provided. To create a stable return system and win the confidence of migrants, it is necessary to ensure that assistance is provided without interruption. Interruptions should be covered by public funds. Project fragmentation adversely affected the entire process of voluntary return and prevented the creation of a long-term well-functioning system of voluntary return.
- Limitations of target groups. The target groups envisaged in the projects are not always in conformity to the specificity of certain countries. National resources should be used for the financing of voluntary return of migrants who are not covered by the framework of the European projects, but whose voluntary departure is a concern of the state.
- Lithuania has no voluntary return system. There is no legal framework that clearly regulates the voluntary return or defines the co-operation and competence of the state and organizations involved in the returns. Currently, such an agreement for cooperation is being drafted.
- Travel organization. Voluntarily returning migrants cannot return through other Schengen airports, because there is no unified form of obligation to depart which could serve as a document recognized by other states and allow a migrant to return through other Schengen airports, depending on such an arrangement.
- Specific cases (stateless persons, when no states want to accept them). In Lithuania, these deficiencies became evident before the launch of the long-term Return Fund program. It is likely that this long-term programme will solve some problems. However, it is also likely that other problems may develop.

Norway

The immigration authorities are putting resources into voluntary and forced return schemes with an aim to increase the number of asylum seekers that return to their home country. The Norwegian Directorate of Immigration has finalized its plans to establish pre-return centres in Norway, which will be built and implemented throughout 2011. These return centres will house all asylum seekers that have been denied asylum, also families with children. Separated children will not be placed in the pre-return centres, they will, however, receive information on 'repatriation' if their asylum application is turned down.

Slovakia

From the beginning of 2011, the Slovak Humanitarian Council cooperates on the ECRE lead European Commission comparative study on "best practices in the field of return of minors".

Slovakia is still a transit country for separated children. They do not want to return to the country of origin, their aim being to get to Europe. After having been informed about the possibilities or choosing one of them (apply for asylum, apply for tolerated residence or ask for voluntary return) the separated children usually leave the foster home and leave Slovakia.

In 2010 there was only 1 voluntary assisted return to the country of origin. a minor boy from Moldavia. (Statistics from IOM)

Slovenia

In December 2010, Slovenia started to implement the provision of returning asylum seekers to Croatia as a safe third country.

In March 2011, a minor from Bosnia and Herzegovina was, after being refused international protection in Slovenia, returned to his country of origin under the IOM program for return and reintegration. This is the first case of a separated child to be involved in the program. His reintegration is still being monitored.

Switzerland

In order to fully comply with EU law, especially the Returns Directive, Switzerland amended its legislation provide for an obligation for the competent authority to the effect that any unaccompanied child may be expelled only if there is a family member, a nominated guardian or a reception facility that can guarantee the protection of the child upon return.

Unfortunately, unlike the Returns Directive, the provision does not refer to the best interests of the

child. The wording of Article 64 (4) of the Law on Foreigners does not appear to meet the requirements of Article 3 CRC, which requires that in all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration. Furthermore, the provisions in the Law do not specify further the requirements with respect to any reception facilities, nor include any clear obligation on designating of an independent legal guardian for the child.

In addition, a recent parliamentary motion asked for more legal supervision when it comes to deportation of unaccompanied children, in particular that their age should be taken more careful into consideration. The Swiss Federal Council is of the opinion that this motion should be rejected, but the National Council, one of the two Chambers of the Swiss Parliament, has not delivered its opinion yet.

UK

The International Organisation for Migration (IOM) no longer holds the contract for administration of the UK government's voluntary return scheme. The IOM did this work in the UK from 1999. A refugee assisting organisation, Refugee Action will do this work from April 2011.

Trafficking

Albania

An initiative aims to bring together Albanian and Kosovo State representatives with a role in combating trafficking at a meeting in order to build sustainable solutions for collaboration and communication for the identification and implementation of protective and preventive responses for children and persons at risk or victims of trafficking. The initiative aims to develop collaboration mechanisms and actions aiming to liaise respective authorities, potentially producing a final protocol of collaboration to be used by professionals.

Objectives:

- To facilitate discussions on the possible tools, modalities and actions necessary for the collaboration between the two countries to protect children potential and actual victims of trafficking for begging, sexual exploitation and other purposes.
- To develop and agree on a common protocol of action between the two countries to engage parties to take concrete and timely measures.

- To propose concrete solutions, steps and procedures to be undertaken by each of the countries to ensure the realization of the protocol.
- To appoint points of contact for information exchange from both countries.
- To discuss the improvement of procedures of identification, referral and return of trafficked persons, with a special focus on minors.
- To exchange good practices and models for the identification and assistance of persons at risk or victims of trafficking.

Rationale:

Despite improvements and strong efforts conducted by both Governments to address the phenomenon of human trafficking, problems still exist regarding the identification and proper protection of presumed or actual victims, especially children.

According to the US State Department Trafficking in Persons (TIP) report 2010, Kosovo is considered as a source, transit and destination country for women and children who are subjected to trafficking in persons, specifically forced prostitution, and children in forced begging. Most victims of forced prostitution are young women from Eastern Europe including Albania. The TIP report quotes an NGO which states that more than 300 children, particularly from Roma communities, are forced to beg in Kosovo.

Albania is also considered a source country for men, women, and children subjected to trafficking in persons, specifically for forced prostitution and forced labour, including forced begging of children. "Albanian victims are subjected to conditions of forced labour and sex trafficking within Albania and Greece, Italy, Macedonia, Kosovo, and Western Europe."

In both Albania and Kosovo, the issue of unsafe child migration related to exploitation and trafficking persists. The cross-border migration of children from Albania to Kosovo is not a new phenomenon.

To better understand the trends of the phenomenon and the realities children face, an observation report has been conducted in the frame of the MARIO Project. The report found that around 91 Albanian children were found in Kosovo used for begging or collecting metal. They face challenging socio-economic situations that add to their marginalization, social exclusion and deprivation from proper child protection and access to social services. The children are exposed to various child rights violations, including neglect and maltreatment, which impedes their access to proper education, health, food and shelter and the right to development. These children are also likely to be exposed to the risk of exploitation by organized crime circles for sexual and forced labour purposes.

Both States are committed to combat trafficking in children and any form of exploitation of children and adult persons. They are guided by the will to cooperate and implement and respect the rights and obligations stemming from the applicable international instruments concerning the protection of the rights of children and persons, taking into consideration the relevant conventions ratified by both countries and more specifically the Convention on the Rights of the Child (1989), the Palermo Protocol (2001) and the ILO Convention Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour No. C182 (1999). Moreover, the meeting will be conducted on the basis of reciprocity and in a spirit of cooperation to deal with child and adult trafficking.

The meeting will be hosted in Albania organized by the MARIO project partners Save the Children in Albania and Terre des hommes in cooperation with respective representatives of the Offices of National Coordinators (ONAC) in both countries, supported by OSCE presence in Albania.

tdh-childprotection.org/news/the-albania-kosovo-observation-report-on-street-children-is-released

Austria

ECPAT Austria has started multi-stakeholder trainings on child trafficking in 3 federal provinces, targeting police, youth welfare authorities and NGOs. The trainings are aiming at raising awareness among the professionals on how to identify child victims of trafficking and on care and protection. Until mid 2012 trainings will be held in all nine federal provinces. Furthermore, local networks of trained experts will be established in the Austrian provinces which should coordinate referrals at local and regional level.

A new study, to be carried out in 15 European countries under the lead of ICMPD, is aiming at exploring the phenomenon of child begging in Europe and best practices in terms of national and local responses.

A nine year old child from a South American country, who was trafficked to Austria in 2009 by a relative who intended to exploit the girl in her household, was returned to the country of origin. The relative could not get prosecuted under the trafficking law but only for having faked the papers of the child.

Croatia

In 2010, the Ministry of Interior quoted 7 persons as victims of trafficking. None were identified as unaccompanied/separated children.

In 2011, of 6 victims of trafficking identified to date, UNHCR received information (provisional) that one is a separated child who has been identified as a victim of trafficking.

Estonia

The organisation Living for Tomorrow has an information web site on trafficking in English, Estonian and Russian,
www.lft.ee/?keel=eng&meny=3&menyy=1

Finland

4 separated children were directed to the assistance for victims of human trafficking (it was suggested in 8 cases, though). In certain conditions when there are doubts that a person might be a possible victim of human trafficking (s)he is directed to the system and receive special assistance including residential arrangements, social and health care services, legal advice and assistance, security arrangements and other support measures required by the victim. NGOs as well as the National Rapporteur on Trafficking have expressed some concerns that it is too difficult to get referred into the assistance system.

Minors who have been directed to the assistance have mainly been cases where suspects have aroused that they might end up as victims after transiting to another country.

The Ministry of the Interior set up a Steering Group to monitor the implementation of the Revised Plan of Action and to support its coordination. The Steering Group was to draw up recommendations for measures to further improve the legislation and actions to combat human trafficking. The Steering Group submitted its report containing recommendations to Ms Astrid Thors, Minister of Migration and European Affairs, on 6 April 2011.

As its main recommendation, the Steering Group proposes that a working group should be set up to draft a proposal on passing an inclusive special act on trafficking in human beings. As a key part of this legislative project, proposals on more careful regulation of the support system for victims of human trafficking should be drafted.

The working group should also draw up proposals on regulating the identification of victims of human trafficking and communication of information related to cases of human trafficking between various authorities, as well as between authorities and other actors taking part in supporting victims. English summary on page 93 in the report available at

[www.intermin.fi/intermin/biblio.nsf/6167B821E8A71DF4C225786A001E834F/\\$file/172011.pdf](http://www.intermin.fi/intermin/biblio.nsf/6167B821E8A71DF4C225786A001E834F/$file/172011.pdf)

Greece

The Protocol of Palermo has been ratified by the Law 3875/2010. No legal aid has been provided in 2010 for victims of trafficking.

Ireland

Officials from the Anti-Human Trafficking Unit in the Department of Justice, Equality and Defence continue to meet regularly with representatives from State agencies, NGOs, the IOM and UNHCR. One of the five interdisciplinary working groups is focussed on child trafficking. The Child Trafficking Working Group came to the conclusion that participants found the meetings useful and that it would continue into 2011. The Anti-Human Trafficking Unit has since circulated a draft version of the Priorities for the group into the new year. The working group has provided feedback and a final version is in progress.

Ireland's 'Progress Card' was published in August 2010 as part of the Body Shop and ECPAT campaign to 'Stop Sex Trafficking of Children and Young People' that began in August 2009. The report placed Ireland at the 'Some Progress' stop on their scale which ranged from 'Slow Progress' to 'Notable Efforts'. Available at: www.childrensrights.ie/files/IrelandProgressCard062010.pdf.

Lithuania

In 2010, the Customs Department under the Ministry of Finance, the State Border Guard Service under the Ministry of the Interior, the Police Department and the Financial Crime Investigation Service under the Ministry of the Interior have signed an agreement for cooperation which aims to foster cooperation, coordinate the fight against crime (including trafficking) and operations, forces and means of rational use of human and material resources.

In 2010, some municipalities also contributed to the prevention of human trafficking, in the field of victim assistance activities.

For six years in a row Lithuania has come in the group of countries that make the largest anti-trafficking efforts in implementation of national anti-trafficking measures.

Norway

In December 2010, the Ministry of Justice released a new plan of action against trafficking. The action plan sets out to strengthen and update measures to combat trafficking for the period from 2011-2014. The main measures mentioned in the report are:

- Strengthening international cooperation and frameworks

- Intensifying interdisciplinary cooperation and competencies
- Prevention of trafficking
- Increasing efforts to identify victims and provide adequate support

Combating trafficking is mentioned as a separate chapter with the following measures:

- Ensure better follow-up of separated children that are affiliated with criminal and drug dominated environments
- Continue efforts to prevent and solve cases where children disappear from child care facilities or reception centres.
- Continue to develop care services for children exposed to trafficking
- Participate in regional and international efforts to protect children against trafficking
- Obtain research-based knowledge on minors who are victims of trafficking

Save the Children has asked for a meeting with the Ministry to discuss the action plan and get them to elaborate on several points that we find unclear.

Poland

A definition of trafficking in human beings has been introduced in the Criminal Code and came into force in September 2010.

The Ministry of Interior is running a pilot programme with the aim of providing quality protection to child victims of trafficking and to increase identification of victims. Currently, staff of selected child care institutions is being trained and a pilot questionnaire for identification of victims of trafficking is being implemented.

Portugal

There are no data available regarding trafficking of minors. The Resolution no 81/2007 of the Council of Ministers establishes the first National Action Plan against the Trafficking of Human Beings, with specific policy areas for children, taking into account their vulnerability.

Also, a National Observatory to identify victims of trafficking has been created by the Portuguese government.

Switzerland

Switzerland is primarily a destination and to a lesser extent a transit country for children forced into begging and theft. Although making significant efforts, the Government of Switzerland does not fully comply with the minimum standards for the elimination of trafficking. Some officials raised concerns that Switzerland risks becoming a destination for child sex tourism because Swiss law

does not prohibit prostitution of children aged 16 and over, leaving these children potentially vulnerable to trafficking for commercial sexual exploitation (a change of the respective legal provisions is still pending with the Swiss parliament). NGOs expressed concern about reports of hundreds of unaccompanied foreign minors entering the country annually, claiming many have disappeared from state care soon after arrival. Officials countered that there are only a few isolated cases of missing unaccompanied children each year. Nevertheless, the Swiss government has, with the input of cantons, been evaluating a federal ban on prostitution for persons under 18. The canton of Geneva adopted a new law prohibiting prostitution for persons under 18.

The Federal government, in partnership with IOM, held a conference in March 2010 with experts from Austria and Romania to identify ways to most effectively address the problem of child begging and child trafficking, and Swiss authorities concluded an anti-trafficking partnership with Hungarian officials during a visit to Hungary in March 2010. The government provided \$ 4.9 million to contribute to the funding of anti-trafficking assistance programs in Eastern Europe, Asia, and the Middle East.

UK

A new report has been published by CEOP (Child Exploitation and Online Protection Centre), which highlights a significant trend in the trafficking of Vietnamese children during the period March 2009 to February 2010.

www.ceop.police.uk/Documents/ceopdocs/Child_Trafficking_Strategic_Threat_Assessment_2010_NPM_Final.pdf

The London Safeguarding Children Board have published new 'Safeguarding Trafficked Children Guidance' a toolkit and a monitoring report on local authorities' use of the guidance and toolkit.

www.londonscb.gov.uk/trafficking/

Child and Youth Participation

Austria

Following the July 2010 youth workshop, the Don Bosco Refugee Agency together with several former separated children tries to organize a meeting for separated children of several days duration in August or September 2011. This time Austrian as well as German adolescents shall be invited. Workshops on handling money, asylum procedures, work opportunities and vocational training as well as on family reunification are planned. Funding is not yet secured.

Furthermore, a group of separated children from Afghanistan took first steps to found an association (a meeting took place in January 2011), with the aim of supporting other Afghan separated children in their integration endeavours.

Belgium

Two youth organisations organised a photo exhibition and a debate with youngsters living in hotels. They made testimonies on their living conditions and met with a politician.

Germany

The Bundesfachverband UMF has finished a project on participation of young refugees in political processes. The report is published at www.b-umf.de/index.php?/Projekte/abgeschlossene-projekte.html

Now there is a new project dealing with the topic of participation in reception centres for separated children, see

www.b-umf.de/index.php?/Projekte/partizipation-in-der-stationaeren-kinder-und-jugendhilfe.html

Lithuania

Lithuanian Red Cross Society has in ten consecutive years been organizing summer camps for refugee children, including separated children. The aim is to encourage the rapid integration of refugee children and separated children into the Lithuanian society.

Norway

In November 2010, Save the Children Norway published a book called 'Mens vi Venter' (While we are waiting) which presents the voices of asylum seeking children. Children participated actively in the making of the book and the narrative is dominated by their opinions and views of their own situation in Norway. The book has received a lot of publicity and has been distributed to politicians, decision-makers, staff that work with asylum seeking children etc.

Portugal

Regarding participation, minors' needs are taken into consideration through the respective guardian or designated representative and shall be periodically assessed by the competent authorities, taking into account the minor's opinion in accordance with his or her age and maturity level – inscribed also in the asylum law.

Romania

Two separated children are volunteers in the programs implemented by Save the Children and are involved in activities for the assistance of

children in need of international protection. Four separated children have been involved in educational and recreational activities such as Romanian or English language training or vocational training.

Taking into account the findings of the 2009 Age, Gender and Diversity Mainstreaming exercise and recommendations of the ASQAEM project, UNHCR in 2010 provided support to the Romanian National Council for Refugees to draft and pilot a leaflet for separated children seeking asylum and to Save the Children Romania to draft a leaflet on the rights and obligations of separated children who obtained a form of protection. Separated children participated in the drafting of the respective leaflets, which were finalized towards the end of 2010.

Switzerland

Under the patronage of first Terre des Hommes and now the Conseil Suisse des Activités de Jeunesse (CSAJ) a pilot project called “Speak-Out!” for unaccompanied children started in 2009. It is especially aimed at capacity building. The participants regularly meet for internal workshops to develop joint statements on their situation which makes it easier for them to communicate their concerns to the public. The public part of the project consists *inter alia* of meetings with government officials and participation in different *fora* for public debate.

One of the *fora* was a working group on unaccompanied and separated children in the Swiss asylum system at the “Session des Jeunes”, a simulation of a parliamentary session. The aim of the working group was to formulate proposals to be presented in the plenary of the youth parliament on which a vote would take place. The following were the proposals that were eventually presented and accepted:

- Unaccompanied and separated children shall be treated favourably in the Swiss asylum procedure and their claims shall be assessed speedily, without having an impact on the quality of the procedure.
- Places in reception facilities specialized on unaccompanied and separated children shall be guaranteed by the Swiss government so as to ensure their physical and psychological well-being, as currently children are regularly placed together with adults.

In addition to this, three members of the “Speak-Out!” group took part in the 4th Swiss Asylum Symposium and presented their main concerns to the public. Their participation was very well received and much positive feedback was given.

UK

A new organisation has been established, led by young refugees and supported by other NGOs. Their first activities are arts performances and other awareness raising events during ‘young people seeking safety week’.

www.youngpeopleseekingsafety.co.uk/

Miscellaneous

Belgium

The Platform takes part to a European project called PUCAFREU, for “Promoting unprotected unaccompanied children’s access to their fundamental rights in the European Union”. This project will include 4 main actions:

- An exploratory research on the social situation and the access to fundamental rights of unprotected unaccompanied children in 4 Member States (Belgium, France, Italy, Spain) and 1 EU Member State as country of origin (Romania)
- Constitution and launching of an international, multidisciplinary and multilingual platform integrating mainly national practitioners and academics from different disciplines
- The conception of a series of mobile training seminars aimed at legal practitioners from different national contexts of the project in order to develop their knowledge on the protection needs of the target group and on the interpretation and adequate implementation of the international and national legislation asserting their fundamental rights
- To create and implement a pilot counselling system allowing unaccompanied Roma children to receive information and guidance in order to promote their access to their fundamental rights in each territory.

In relation to the UNHCR research to develop “UNHCR Guidance on determining the best interests of the child” for use in the context of complex asylum systems in industrialized countries, several meetings were held between 10 and 15 March with key counterparts in Belgium (Aliens Office, Guardianship Service and individual guardians, Commissioner General for Refugees, reception centres, NGOs, child commissioners) to identify good practices in Best Interests Determination. While the general legal framework (on reception and guardianship) can be considered very good, the present increase in separated children arriving in Belgium and the reception crisis do not allow for a proper application of the framework.

Croatia

In 2011, UNHCR will publish a study regarding the situation of unaccompanied minors in Croatia

assessing the strengths and weaknesses of the protection system in Croatia. The study should be published in the second quarter of 2011.

2010 saw an increase of asylum seeking unaccompanied minors of Afghan origin, male ranging in age from 15-17. Two were granted protection but left the country following the decision. The surge could also be linked to a wider increase of arrivals across Europe of Afghan asylum-seekers

There is currently no Croatian NGO member of the SCEP network. UNHCR intends in 2011 to identify and encourage local NGOs to apply to the network given increased activities and interest in the themes in Croatia.

Czech Republic

The Czech translation of the Statement of Good Practice (4th edition) as well as the UNHCR Guidelines on Determining the Best Interests of the Child in Czech will be disseminated by the Ministry of Labour and Social Affairs during their one-day seminars on Protection of the Child organised in April 2011 in Prague and Brno respectively.

Association for Integration and Migration's Inter-Disciplinary Working Group on Separated Children meets regularly on a bi-monthly basis. Next WG session is planned for May 2011.

Finland

An NGO called Yhteiset Lapsemme (All Our Children) has produced new materials on how to better assess the best interests of the child and the psychosocial situation of separated children in the asylum procedure. The project partners were the Finnish Immigration Service, the reception centre of the city of Espoo and the Federation of Special Welfare Organisations (EHJÄ). The project developed

- 1) A consultation model for the decision making authorities in order to support the evaluation of the best interests while assessing the grounds for asylum/residence permit
- 2) Interviewing tools for social workers working at the reception centres.

In addition, the project organised various trainings for professionals working with the unaccompanied asylum seeking minors and made a brochure designed for children of the asylum procedure, as well as published a report about separated children in Finland (see also publications).

The Centre for Torture Survivors in Finland manages a three year project, started in 2010, offering therapeutic services to tortured and

severely traumatized refugee and asylum-seeking children and adolescents. The European Refugee Fund co-funds this project. Specialized psychiatric services for these target groups are developed and provided by the project. Project personnel also offer consultations for professionals working with these children and adolescents.

During 2010, an assessment to discover the number of children and adolescents belonging to this target group in Finland was conducted. An evaluation about their needs for specialized psychiatric services was also conducted. The project's knowledge base will be made available online later in 2011.

According to the assessment report (see publications), almost one third (28-32 %) of the refugee and asylum-seeking children and youth (0-24 years of age) arriving in Finland were severely traumatized or displayed symptoms. In proportion to the number of arrivals in 2009, this means that annually as many as 900 traumatized children and youth in need of treatment arrive in Finland. Currently, approximately one third of these traumatized refugee and asylum-seeking children and youth receive psychiatric or psychotherapeutic treatment for their problems. This means that every year, hundreds of traumatized children and youth arriving in Finland do not receive treatment for their problems.

Portugal

On the 22nd November 2010 the first stone was laid for the construction of the first centre for separated children in Portugal, in partnership with the Portuguese government, Lisbon Municipality, Swatch and the Portuguese Refugee Council.

The stone was laid by the First Lady, Maria Cavaco Silva, the protector of this project, in a ceremony in which all the partners participated: the Ministry of Internal Affairs, the Mayor of Lisbon, the Borders and Aliens Service, the Luís Figo Foundation and others.

The Portuguese Refugee Council (CPR) has been invited to participate in a study that ECRE, in partnership with Save the Children, is carrying out for the European Commission on best practices in the field of **returns** of minors.

CPR will assist the "national contact point" in order to perform the research on national legislation and practices, as well as to perform the interviews with the national stakeholders.

The Portuguese Refugee Council (CPR) has also been invited to participate in the research of the project "Integrating Refugee and Asylum-seeking Children in the Educational Systems of EU Member States: Evaluation and Promotion of

Current Best Practices”, under the European Refugee Fund's Community Actions 2009 program. This project aims to describe and catalogue best practices in the integration of refugee and asylum-seeking children at schools, conduct program evaluations of select initiatives in EU Member States and implement a common methodology for the evaluation of social impact assessment for their implementation in new contexts.

Under this project, on the 17th March, the researcher Mario Battaglini visited Portugal and the CPR.

Spain

UNHCR and Save the Children are actively participating with the Comillas University and a network of child protection agents in an ERF funded project called “*Responsibility sharing*” aimed at involving all the competent authorities in child welfare to carry out their responsibilities with a protection sensitive focus.

A teaching method on specific international protection needs of children has been developed and a preparatory session of the training method was launched in March 2011. Several workshops will be carried out in 2011 with the participation of the said competent authorities in child welfare.

UK

A new project has been established to combine legal casework and wider refugee children's rights issues. www.childrenslegalcentre.com/Migrant+Childrens+Project/RCRP.htm

The Immigration Law Practitioners' Association has begun its training of legal representatives who want to work with refugee children. www.ilpa.org.uk/children.html

A case concerning the potential deportation of a parent whose children are UK citizens has implications for separated children; in particular the weight of best interests in immigration decisions. www.supremecourt.gov.uk/docs/UKSC_2010_0002_Judgment.pdf

An academic institution has received funding to look at the issue of undocumented child migrants including separated children. Their background paper is available here. www.compas.ox.ac.uk/fileadmin/files/pdfs/Working_Papers/WP1078%20Nando%20Sigona.pdf

Events

21 October 2010, Warsaw, Poland
V National Conference on Fighting and Preventing Trafficking in Human Beings
Organized by the Polish Ministry of Interior

4 November 2010, Valencia, Spain
Training seminar “Childhood and International Protection”
Organized by Save the Children

17 and 24 November 2010, Ljubljana, Slovenia
Training for future volunteers working in the field of migration, asylum and separated children.
Organised and implemented by Slovene Philanthropy.

20 November 2010, Bucharest, Romania
“For conquering our rights” - Celebration of the adoption of the UN Convention on the Rights of the Child at the Romanian Parliament
Organised by the Federation of the NGOs for the Child for children, professors, local and central authorities.

3 December, 2010, Bratislava, Slovakia
Conference on the separated children
Organised by the League of Human Rights and the Slovak Humanitarian Council.
Participants were lawyers and social workers from non-governmental organization, state authorities, representatives from the Migration office, courts, the Ombudsman's office, Centre of legal aid, special children's home Horné Orechové and also some participants were from the Czech Republic. Slovak professionals were asked for cooperation and to build up a network of professionals.

7-8 December, Brussels, Belgium
Ensuring Justice and Protection for all Children
Organized by the Fundamental Rights Agency, FRA, in cooperation with the Belgian Presidency of the EU
fra.europa.eu/fundamentalrightsconference/index.html

9 - 10 December 2010, Brussels, Belgium
Expert Meeting on Unaccompanied Minors: "Unaccompanied minors: children crossing the external borders of the EU in search of protection" organised by the Belgian EU Presidency.
The meeting brought together participants from law enforcement, child protection and immigration services, IGOs, NGOs and a few representatives of airlines. FRONTEX also participated.

Apart from Plenary presentations, three working groups looked at 1) "detecting vulnerabilities of children crossing the border", 2) "identification of unaccompanied children at the border: exploring age assessment challenges" and 3) "protection from the first encounter: establishing links between actors". In the last working group, UNHCR presented some of its work with partners in the context of responses to mixed migration through the Praesidium project in the south of Italy. Interestingly, one of the recommendations shared by all working groups was the importance of having NGOs (not civil servants) present at or immediately after the first encounter with a child at the border. Another shared conclusion was the importance of limiting border processes, i.e. the early referral of a child to services removed from the border. In his closing words, State Secretary Wathélet explicitly requested the next EU Presidency, Hungary, to take forward the work on this issue, by presenting the recommendations to the JHA Council.

15 December 2010, Rome, Italy

Final Web Conference for AGIRE project (Acting for stronger private-public partnerships in the field of identification and support of child victims and at risk of trafficking in Europe)

Organised by Save the Children Italy, project co-financed by the European Commission

17 December 2010, Rome, Italy

Quali politiche europee per i minori non accompagnati? (What European policies for unaccompanied minors?)

Organised by Terre d'Asile, in conjunction with the Council of Europe and the Italian Council for Refugees

19 December 2010, Madrid, Spain

Training session "Unaccompanied minors and International Protection"

Organized by Save the Children and UNHCR

19-20 January 2011, Bern, Switzerland

4th Swiss Asylum Symposium on Migration

Organized by the Swiss Refugee Council and UNHCR

2 March 2011,- European Parliament, Brussels

The impact of economic migration on children left behind and their families

A stakeholder and expert conference co-organised by Eurochild and Italian member Allbero della Vita

3 March 2011, Motril, Spain

"Children victims of trafficking: challenges and judicial solutions"

Organised by Save the Children and the Bar Associations in Motril and Málaga.

26 March 2010, Vilnius, Lithuania

One day round table discussion on unaccompanied minors in the Schengen Area and trafficking on human beings

Organized by Caritas Lithuania

30 March 2011, Warsaw, Poland

Conference "Rights of foreign separated minors in practice"

Organised by IOM and Mazovia Voivodship Office

04 - 06 April 2011, Hofgeismar, Germany

Spring Conference on Unaccompanied Minors, organized by Bundesfachverband UMF e.V.

www.b-umf.de/images/einladung-hofgeismar-2011.pdf

5 April 2011, Fredericia, Denmark,

National seminar on good practices for unaccompanied minors, organized by Save the Children Denmark and The Danish Refugee Council

"It is so nice to get more knowledge. In the past we didn't know where to turn to". These were the words from a newly graduated social worker from Kolding Municipality. Along with 64 other employees in various Danish municipalities, she attended the seminar.

Among many other things the program included an interview with Manzour Nouri who came to Denmark 6-7 years ago and represents the SCEP Youth Network. His account on being received in Denmark and his life here caught everyone's attention because it is highly relevant to the future efforts of ameliorating the conditions of unaccompanied minors. The seminar was a result of the Daphne funded project „Better integration of separated children“.

7-8 April 2011, Cork, Ireland

Early Childhood in Developing World Contexts

Organised by University College Cork

Paper: Mainstream Social Workers as Guardians for Separated Children in Ireland: youth perspectives on the social worker's role in navigating the asylum system and integration.

06 May 2011, Nicosia, Cyprus

Appointment of the first Cypriot Goodwill Ambassador for Children's Rights, Mr. George Theofanous, and the ONE in FIVE Council of Europe Campaign

Organized by "Hope For Children" UNCRC Policy Centre as Cooperating Partner of the Council of Europe

10 May 2011, Bern, Switzerland
Continuing training on Children's rights in the field of asylum
Organized by the Swiss Refugee Council

19-20 May 2010, Balatonvilágos, Hungary
Two days forum - discussion on the actual situation of the court's of guardians
Organized by the Ministry of Social Affairs and Labour

26-27 May, Copenhagen, Denmark
Nordic Asylum Law Seminar
Organized by The Danish Institute for International Studies (DIIS), the Danish Institute for Human Rights (DIHR), the Danish Ministry of Refugee, Immigration and Integration Affairs, the Danish Refugee Council (DRC), and Aarhus University School of Law

Publications

L'accoglienza dei minori in arrive via mare – Rapporto di monitoraggio delle Comunità alloggio per minori in Sicilia, Puglia e Marche, Progetto Praesidium V [Reception of children arriving in Sicily, Apulia and the Marche by sea and 3rd Monitoring report of residential care facilities for unaccompanied minors]. Save the Children Italy, November 2010
images.savethechildren.it/IT/f/img_pubblicazioni/img130_b.pdf

Administrative detention of children: a global report. Discussion paper by UNICEF, February 2011
www.unicef.org/protection/files/Administrative_detention_discussion_paper_April2011.pdf

Age assessment practices: a literature review & annotated bibliography. Discussion paper by UNICEF, April 2011
www.unicef.org/protection/files/Age_Assessment_Practices_2010.pdf

Asylum Levels and Trends in Industrialized Countries 2010 - Statistical overview of asylum applications lodged in Europe and selected non-European countries. UNHCR, 2011
www.unhcr.se/Pdf/statistics/EMBARGOED-UNHCR-2010-AsylumTrendsReport.pdf
and:
www.unhcr.se/Pdf/statistics/EMBARGOED-2010-asylumtrends-graphs.pdf

Children Without a State - A Global Human Rights Challenge. Edited by Jacqueline Bhabha

mitpress.mit.edu/catalog/item/default.asp?tttype=2&tid=12530

Closing the Protection Gap, national report Belgium. December 2010
www.defenceforchildren.nl/images/20/1267.pdf

Closing the Protection Gap, national report Denmark. December 2010
www.defenceforchildren.nl/images/20/1268.pdf

Closing the Protection Gap, national report Germany. Bundesfachverband UMF, Barbara Noske, December 2010
www.defenceforchildren.nl/images/20/1261.pdf

Closing a Protection Gap, national report Ireland. Irish Refugee Council, January 2011. Available at:
www.irishrefugeecouncil.ie/media/Closing_a_Protection_Gap_-_Final_report.pdf
Also available together with 7 other national reports at
www.defenceforchildren.nl/p/43/522/mo89-mc97/adults-%28eng%29

Closing the Protection Gap, national report Italy. Defence for Children International-Italy, Annalisa Furia & Gabriella Gallizia, December 2010
www.defenceforchildren.nl/images/20/1258.pdf

Closing the Protection Gap, national report the Netherlands. Defence for Children International-ECPAT the Netherlands, Martine Goeman & Carla van Os, December 2010
www.defenceforchildren.nl/images/20/1275.pdf

Closing a Protection Gap for Separated Children in Europe, National Report Slovenia. Slovene Philanthropy, Ziva Gabaj, 2010.
www.defenceforchildren.nl/images/20/1263.pdf

Closing the Protection Gap, national report Sweden. Save the Children Sweden, December 2010
www.defenceforchildren.nl/images/20/1276.pdf

A colorful brochure for separated children explaining the asylum process. Yhteiset Lapsemme – All Our Children, 2011. Available in Finnish, Somali, Dari, Sorani and English.
www.yhteisetlapsemme.fi/documents/englanti_esite.pdf

Committee on the Rights of the Child, CRC/C/NOR/CO/4, Concluding Observations: Norway. 29 January 2010.

www.crin.org/resources/find.asp?country=164&categoryID=Any6

Det sværeste var at være ensom - Udfordringer for uledsagede flygtningebørn i Danmark [The most difficult was to be lonely – challenges for separated children in Denmark]. Save the Children Denmark

www.redbarnet.dk/Nyhed.aspx?ID=25&Action=1&NewsId=145&PID=54

Ireland Progress Card. Children's Rights Alliance, ECPAT and The Body Shop, August 2010. Available at:
www.childrensrights.ie/files/IrelandProgressCard062010.pdf

Isola dei tesori – Atlante dei minori a rischio in Italia [“Treasure Island” – Atlas of children at risk in Italy]. Save the Children Italy, December 2010
images.savethechildren.it/IT/f/img_publicazioni/img129_b.pdf

Lapsen etu ensin. Yksintulleet alaikäiset turvapaikanhakijat Suomessa [The best interests of the child comes first. Unaccompanied minors in Finland]. Yhteiset Lapsemme – All Our Children, 2011. Available in Finnish at
www.yhteisetlapsemme.fi/documents/lapsen_etu_ensin_web.pdf

Lives in the Balance: The quality of immigration legal advice given to separated children seeking asylum. The Refugee Council, February 2011.
A report of research commissioned to assess the quality of immigration legal advice available to separated children in the asylum system.
www.refugeecouncil.org.uk/policy/position/2011/livesinthebalance

Make it Work! : a training manual. International Centre for Reproductive Health at the University of Ghent / "Senperforto" project
Within the European reception facilities, asylum seekers, separated children as well as professionals revealed to be vulnerable to sexual and gender-based violence (SGBV). The International Centre for Reproductive Health at the University of Ghent coordinated the "Senperforto" project to tackle SGBV in reception centres for asylum-seekers in Europe. The project, partially funded by DAPHNE, has developed a Frame of Reference for Prevention of SGBV in the European Reception & Asylum Sector including a training manual called "Make it Work!", which is a tool to raise awareness of what

constitutes SGBV and how to tackle it. At a seminar on 10 December 2010, the Senperforto Frame of Reference was presented. The frame of reference is available on DVD.

www.icrh.org/publications/sgbv-prevention-training-manual

Mens vi venter – en hilsen fra barn som søker asyl i Norge [While we are waiting]. Save the Children Norway, November 2010.

www.reddbarna.no/soek?q=mens+vi+venter

Migrating alone – Unaccompanied and separated children's migration to Europe. Edited by Jyothi Kanics, Daniel Senovilla Hernández & Kristina Touzenis, UNESCO, 2010. Chapter 3, Ensuring that every separated child is heard and protected : the role of an independent, professional guardian. By Lise Bruun & Jyothi Kanics.
www.unesco.org/new/en/social-and-human-sciences/themes/social-transformations/international-migration/sv11/news/unesco_to_publish_book_on_the_independent_migration_of_children_in_december/

Misguided Kindness - Making the right decisions for children in emergencies. Save the Children, 2010
Report that demonstrates what action is needed to keep families together during crises and to bring separated children back into a safe and nurturing family life.
www.savethechildren.net/alliance/europegroup/newsletters/Misguided_Kindness.pdf

Missing Separated Children in Ireland, Barnardos, February 2011. Available at:
www.barnardos.ie/assets/files/Advocacy/Separated%20Children/Barnardos%20Briefing%20Note%20on%20Missing%20Separated%20Children.pdf

No refuge – Migrants in Greece. Human Rights Watch, November 2009
www.hrw.org/en/reports/2009/11/02/no-refugees

No way in, no way out? : a study of living conditions of irregular migrants in Norway. FAFO, Cecilie Øien; Silje Sønsterudbråten, 2011.
www.faf.no/pub/rapp/20194/index.html
‘Often they fall through the cracks’: Separated children in Ireland and the role of guardians. Martin, Christie, Horgan and O’Riordan, (2011)
Child Abuse Review, forthcoming.

Problem of child trafficking in Poland – views and experiences of the professionals. Gabriela Zawadzka, Nobody's Children Foundation, 2010
fdn.pl/raporty-i-ekspertyzy

Rights on the Line. Human Rights Watch, December 2010
www.hrw.org/en/reports/2010/12/12/rights-line-0

Sammen mot menneskehandel [Together Against Trafficking]. Regjeringens handlingsplan mot menneskehandel (2011-2014), Justis- og Politidepartementet (Ministry of Justice and Police), December 2010.
www.regjeringen.no/en/dep/jd/dok/rapporter_planner/planer/2010/sammen-mot-menneskehandel.html?id=629869

Scotland: a safe place for child traffickers? A scoping study into the nature and extent of child trafficking in Scotland. Undertaken by the Centre for Rural Childhood, Perth College UHI, for the Scottish Children's Commissioner March 2011
www.sccyp.org.uk/publications/adults

Selvitys kidutettujen ja vaikeasti traumatisoituneiden turvapaikanhakija- ja pakolaislasten ja -nuorten määrystä sekä heidän psykiatristen palvelujen tarpeestaan. [An assessment about the number of tortured and severely traumatized asylum seeking and refugee children and young people and their needs for services.] Helsingin Diakonissalaitos [The Helsinki Deaconess Institute], 2010.
English summary on page 9 at
www.hdl.fi/images/stories/liitteet/101459_HDL-raportti_LR.pdf

Separated, asylum-seeking children in European Union Member States : Comparative Report. FRA, November 2010
www.fra.europa.eu/fraWebsite/research/publications/publications_per_year/pub_sep_asylum_en.htm

Separated Children in Foster Care, Barnardos, October 2010. Available at:
www.barnardos.ie/what-we-do/campaign-and-lobby/separated-children.html.

Something to smile about. The Refugee Council's education programme, SMILE, is coming to an end. The report describes the project's approach and achievements., including the support of separated children in the UK.
www.refugeecouncil.org.uk/policy/position/2011/smilereport

The Future of Migration: Building Capacities for Change : World Migration Report (WMR) 2010 by the International Organization for Migration (IOM).
www.iom.int/jahia/jsp/index.jsp

The need to know: restoring links between dispersed family members. ICRC
www.icrc.org/eng/resources/documents/publication/p4037.htm

The Reception and Care of Unaccompanied Minors in Eight Countries of the European Union. France terre d'asile, Consiglio Italiano per i Rifugiati and Institute for Rights, Equality and Diversity, October 2010

Towards a European Network of Guardianship Institutions. ENGI, NIDOS, European Programme for Integration and Migration, Refugium e.V, February 2010
www.epim.info/wp-content/uploads/2011/02/ENGI-Report-Towards-a-European-Network-of-Guardianship-Institutions.pdf

Uledsagede mindreårige flygtninge – modtagelse og indsats i kommunerne [Separated Children – reception and efforts in the municipalities], Ankestyrelsen, December 2010
In Danish only
www.ast.dk/artikler/default.asp?page=1428

Wie politisch kann eine Fachkraft sein? Zur politischen Dimension in der Arbeit mit jungen Flüchtlingen [The political dimension of working with young refugees], Conference Reader, Bundesfachverband UMF, Hamburg 2010
www.bumf.de/images/doku%20herbsttagung2010%20web.pdf - in German only

Web sites

www.betterintegration.eu - web site for the the Daphne funded project „Better integration of separated children“, lead by Save the Children Denmark.

www.emn.at – The European Migration Network NCP Website has been re-launched in a new and more user-friendly design

Belgium
www.intact-association.org - INTACT site on female genital mutilation. In French, English and Dutch

Estonia

www.vihjeliin.ee - Vihjeliin is a free online service of the Estonian Union for Child Welfare which enables Internet users to provide information about material being distributed online which depicts illegal content – the sexual abuse or exploitation of minors and child trafficking. Information can be submitted anonymously; your personal details are not investigated or recorded. The project www.targaltinternetis.ee was launched on 1 September 2010 and will last for 20 months. 75% of the project is being co-financed by the European Commission's Safer Internet Programme.

Ireland

www.facebook.com/profile.php?id=100001839252594 - Separated Children Ireland

Italy

www.dirittiainmargini.it – a Save the Children Italy site 'RIGHTS AT THE EDGE' collecting free useful materials for effectively handling issues regarding the legal position of children in Italy and Europe. In Italian, French and English.

Lithuania

livingin.lt/en/ - 'Living in Lithuania', a website for foreign nationals residing in Lithuania in five languages; English, French, Spanish, Russian and Lithuanian.

Portugal

www.cpr.pt/cacr - website on the construction of the new Centre for Separated Children

www.refugiados.net/_novosite/diario_em_construcao.html - diary of the construction of the new Centre for Separated Children:

Romania

www.copii.ro - the new website launched by the General Directorate for Child Protection. The Rights of the Family and the Children was reorganised into the General Directorate for Child Protection within the Ministry of Labour, Family and Social Protection.

UK

www.aberlour.org.uk/scottishguardianshipservice.aspx - Website of The Scottish Guardianship

Reporting organizations

ARSIS Greece
Association for Integration and Migration, Czech Republic
Asylkoordination Österreich, Austria
British Refugee council
Bundesfachverband UMF, Germany
Central Union for Child Welfare Finland
Estonian Union for Child Welfare
Greek Council for Refugees
HFC "Hope For Children" UNCRC Policy Center, Cyprus
International Social Service Switzerland
Irish Refugee Council
Lithuanian Red Cross Society
Menedék – Hungarian Association for Migrants
Plate-forme Mineurs en exil, Belgium
Nobody's Children Foundation, Poland
Portuguese Refugee Council (CPR)
Save the Children Albania
Save the Children Denmark
Save the Children Italy
Save the Children Norway
Save the Children Romania
Save the Children Spain
Slovak Humanitarian Council
Slovene Philanthropy
Terre des Hommes, Germany
UNHCR Austria
UNHCR Brussels
UNHCR Czech Republic
UNHCR Croatia
UNHCR Greece
UNHCR Ireland
UNHCR Italy
UNHCR Romania
UNHCR Spain
UNHCR Sub-Office Nuremberg, Germany
UNHCR Switzerland
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	Total number 2010	Males of total	Females of total	Age 15-17	Main countries of origin	Source
Austria	934 ¹	N/A	N/A	N/A ²	Afghanistan 297 Nigeria 62 Moldova 42 Algeria 41	Federal Ministry of Interior
Belgium	896 ³	653	243	14-15:219 16-17: 532	Afghanistan ⁴ Guinea Iraq DR Congo Somalia	Foreigners Office
Croatia	41	All	0	35 (16-17) 6 (14-15)	Afghanistan Palestine Somalia	Ministry of Interior
Czech Republic	4	3	1	4	DR Congo Nigeria Somalia - 2	Ministry of Interior
Denmark	432	N/A	N/A	90%	Afghanistan 72 % Iran 7 % Syria 4 %	The Danish Immigration Services
Estonia	0 ⁵					
Finland	329	237 (72 %) ⁶	88	222 ⁷	Somalia 117 Iraq 64 Afghanistan 43	Finnish Immigration Service

¹ In 247 cases asylum-seekers were declared adults. Hence, the official number is 687

² 34 separated children were younger than 14 years at the time of application

³ During the first 3 months of 2011 the number of unaccompanied asylum seeking children arriving in Belgium has increased significantly. For example and comparison:
- January 2010-2011: 59 – 138; increase of 133.9 %
- February 2010-2011: 56 – 149; increase of 166.07 %
- March 2010-2011: 47 – 196; increase of 317.02 %

The increase in asylum applications in Belgium is general and thus not merely restricted to separated children, although the number in relation to the overall increase is slightly higher. With respect to separated children, it concerns mainly an increase of Afghan asylum seekers and to a lesser extent of Guinean asylum seekers. In itself this is not a new phenomenon, for both nationalities there has been an increase since last year.

⁴ Top 2 of the nationalities remains the same: Afghanistan and Guinea. For the moment, there is no specific explanation; experts think to the fact that migration roads are now well implemented. Maybe some rumours also play a role, as well as the presence, in Belgium, of friends and/or relatives.

The increase in asylum applications from Afghan separated children is currently a phenomenon that many countries in Europe and especially Scandinavia face. The high profile discussions in Norway and the UK Border Agency (UKBA) plans to set up a 'reintegration centre' in Kabul for unaccompanied minors (cf. <http://www.irr.org.uk/2010/june/ha000026.html> and http://www.ecre.org/files/ECRE_Weekly_Bulletin_11_June_2010.pdf) may have had some deterrent effect on young Afghans - who are apparently the majority of increased arrivals in Sweden. The increase in the number of Guinean separated children remains limited mainly to France and Belgium. In both countries there is already a large Guinean diaspora.

⁵ According to the Policy and Border Guard Board Citizenship and Migration Bureau (former Citizenship and Migration Board) statistics, officially between 01.01.2006-23.03.2011 there have not been any unaccompanied minor asylum seekers in Estonia. Year 2009 there were two Afgan boys who claimed that they were minors, but age assessment procedures revealed that they were adults. The number of children in families who have sought asylum during above mentioned time is 13.

⁶ For 4 minors the sex was not recorded.

⁷ 62 of the applicants were considered as adults, but since they submitted their applications as minors, they are recorded as minors. (However, in the statistics of decisions they are not recorded as minors any longer.)

Receiving country	Total number 2010	Males of total	Females of total	Age 15-17	Main countries of origin	Source
Germany	1,948	80%	20%	1,709	Afghanistan Somalia Iraq Syria Ethiopia	FedOff
Greece	147 ⁸ A	N/A	N/A	N/A	Pakistan 68 Afghanistan 22 Bangladesh 9 Guinea 7	Greek Ministry of Citizens Protection
Hungary	150	144	6	144	Afghanistan, Algeria, Georgia, Iraq, Iran, Kazakhstan, Kosovo, China, Morocco, Moldavia, West Bank and Gaza, Russia, Pakistan, Sierra Leone, Serbia, Somalia, Tunisia, Vietnam	Office of Immigration and Nationality
Ireland	37 ⁹	12	25	36	Nigeria DR Congo Somalia	Office of the Refugee Applications Commissioner
Lithuania	9 A	8	1	9	Afghanistan Vietnam Georgia	Statistics of Refugee Reception Centre
Norway	892 ¹⁰ A	638 A	155 A	627 A	Afghanistan Somalia Iraq Eritrea Palestine Algeria	Norwegian Directorate of Immigration
Poland	120	74	46	114	N/A	Border Guard
Portugal	6	4	2		Guinea Conakry	Portuguese Refugee Council
Romania	39 (A)	37 (A)	2 (A)	39 (A)	Afghanistan Iraq Morocco Moldova Bangladesh	Government

⁸ The number of separated children who applied for asylum. Yet, the actual number of arrivals is estimated to be much higher but there are no available figures.

⁹ 48 separated children were referred to the Health Service Executive from the Office of the Refugee Applications Commissioner (ORAC) in 2010. 37 separated children submitted an application for protection in 2010 with the ORAC.

¹⁰ 99 of these were assessed to be over 18 and therefore do not appear on the gender desegregated statistics

Receiving country	Total number 2010	Males of total	Females of total	Age 15-17	Main countries of origin	Source
Slovakia	160	132	28	134	Somalia Afghanistan Moldova	Bureau of Border and Alien Police
Slovenia	38 A	34	4	34	Afghanistan Palestine Nigeria	Slovene Philanthropy
Spain	18	16	2	18	Guinea Conakry 4 Nigeria 3 Somalia 3 S. Leone, Haiti, Colombia, Cameroon, DRC, Bangladesh, Equatorial Guinea, Western Sahara all 1 each	UNHCR, BO Madrid ¹¹
Sweden	2,393	1,929	464	13-15: 830 16-17: 1,362		Swedish Migration Board
Switzerland	202 (197 first applications)	149 (144)	53 (53)	152 (148)	Afghanistan 45 Sri Lanka 23 Eritrea 18 Guinea 18	Government statistics
UK	CP: 1,261 HO: 1,595	CP: 1051	CP: 210	CP: 803	CP: Afghanistan 424 CP: Iran 128 CP: Vietnam 87 CP: Eritrea 83 CP: Algeria 45 CP: Somalia 45	CP: Refugee Council Children's Panel HO: Home Office Asylum Statistics
Total arrivals in 22 countries in 2010	10,390					

Arrivals of non-asylum seeking separated children

Belgium: Estimate: 1,600

Croatia: 172 (source Ministry of Interior)

Estonia: There was one 17 years old unaccompanied minor (Turkish), who was expelled within 48 hours from the state.

Germany: There are no official figures but the Bundesfachverband UMF is counting the numbers of all unaccompanied minors/separated children who arrive in Germany, the figures include the children seeking asylum. In total there were more than 4,000 unaccompanied minors/separated children coming to Germany in 2010. In 2009 the number was 3,000.

¹¹ Please note that these figures are estimates due to the lack of official numbers. UNHCR BO Madrid is able to provide information only on the asylum applications communicated by the government

Hungary:

In 2010, the number of the foreign children taken into interim care :

Male	139
Female	7
TOTAL	146

(source: Guardianship Office of the 5th District of Budapest)

Legal framework: (Act 31 of 1997 on the protection of children and guardianship)

Unaccompanied minors who do not apply for asylum are appointed a guardian by the Guardianship Office of the 5th District of Budapest. The guardians appointed for the legal representation of children during their stay in Hungary are not recruited on the basis of special conditions; they are attached to the ordinary child protection services and can be appointed for either a Hungarian child or a foreign isolated minor. They therefore do not necessarily have expertise or experience in the law pertaining to foreigners, and these shortcomings can be harmful to the performance of their mandate. Also, they can be responsible for a high number of youths at the same time.

Italy: According to the Comitato per Minori Stranieri (CMS), the official body responsible for monitoring foreign unaccompanied children in Italy, there are 4,481 such children as of 15 March 2011, the largest number of whom are Afghan nationals, 933.

Save the Children Italy, in partnership with the United Nations High Commissioner for Refugees, UNHCR, the International Organisation for Migration, IOM, and the Italian Red Cross, and under the coordination of the Ministry of the Interior, is involved in the Praesidium project whose aim is to strengthen and improve the system for the provision of information and legal advice to migrants and asylum-seekers arriving by sea. On the basis of this mandate, now in its 5th year of implementation, the project partners have been working at Italy's southern maritime border, including on Lampedusa during the current humanitarian crisis. According to statistics provided by the Ministry of Interior, between 1 January and 31 March 2011, 21,985 migrants have landed in Sicily, including on the islands of Lampedusa, Linosa and Lampione (20,781), with peaks of over 6,000 migrants present on the island of Lampedusa at any one time and of up to 350 children between 26 and 30 March. The majority were single Tunisian men, however the number of separated children who have arrived and transited through Lampedusa are 730, of a total of 807 unaccompanied children landing in Sicily since the beginning of the year. As of 6 April 2011, all children have been transferred from the island, however up to 100 unaccompanied children are unaccounted for. It is assumed that these children joined those boarding the boats used to transfer adults to Sicily, which left before the children's transfer was arranged. This is likely due to the harsh living conditions and lack of information regarding their transfer, which also led to tensions and protests by the children. As yet no official plan for the reception and care of children has been announced.

Slovenia: The number of separated children who were detained in Centre for Foreigners (detention centre) and not claiming asylum, for whom the Slovene Philanthropy provided guardianship in the year 2010, is five.