



NEWSLETTER No. 34 Autumn 2010

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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

Translations of the new rev. Statement of Good Practice

In a number of countries, initiatives have been taken by NGOs, UNHCR and UNICEF, jointly or individually, to undertake translations and printing of the new revised SGP.

In the pipeline are translations into Czech, Finnish, French, Greek, Hungarian, Italian, Norwegian, Slovak and Spanish.

Guidelines for use of the child & youth friendly leaflet 'Good Practice for Separated Children'

A set of guidelines has been elaborated on the use and dissemination of the leaflet 'Good Practice for Separated Children' and is distributed together with the leaflet, which is available in 22 language versions.

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

SCEP NGO network meetings

5-7 May 2010, the SCEP NGO Network had its first biannual meeting in Bucharest. The whole meeting was dedicated to develop the work of the four thematic groups on age assessment, guardianship, return & reintegration and trafficking. 17-19 November 2010, the second biannual meeting will take place in Barcelona, addressing thematic issues, EU political and legislative developments and Network business issues. The meeting will also have the participation of three SCEP Youth Network participants.

SCEP Youth Network

On July 10-11 in Vienna, a participant in the SCEP Youth Network had initiated organising a workshop 'Raise up your voice' for the participation of young refugees in Austria, with the support of Austrian NGOs and UNHCR.

SCEP was able to support the participation of 3 Youth Network members from Denmark, the Netherlands and Poland.

Daphne funding for 2010

In August, a grant agreement was signed with the EC Daphne III fund for an operating grant for SCEP for 2010.

Participation in seminars and conferences

On 15 June, the coordinator was gave a presentation at a seminar in Copenhagen on 'Child trafficking: children in migration – children in the asylum system – information and intelligence management', organised by the Council of Baltic Sea States in cooperation with SCD and others.

On 24 August, the coordinator participated in the seminar 'Participation: a means of empowerment or a tool to produce compliance?' conducted by Jason Hart in Copenhagen

On 25 September, SCEP was invited to give a presentation by Terry Smith at the seminar on 'Children's participation in decision making', organised by "Hope For Children" - UNCRC Policy Center in Nicosia.

On 5-7 October, the coordinator attended the conference 'Children on the Move' organised in Barcelona by Global Movement for Children

SCEP Steering Committee

In September, Marianne Hagen, Save the Children Norway, stepped in as new Chair to act during leave of Thale Skybak.

The Steering Committee had a meeting 16-17 September.

SCEP participation in Greece

SCEP has for a while been looking for a new NGO partner in Greece and in November the coordinator will be visiting to have meetings with interested organisations.

SCEP web site

The information about SCEP's aims, activities and organisation has been updated in the English language version of the SCEP web site. The other language versions will follow.

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

European Union

EU Action Plan for Unaccompanied Minors

On May 6, the European Commission published its Communication on an EU Action Plan for Unaccompanied Minors (2010 - 2014). The Action Plan "aims to provide concrete responses to the challenges posed by the arrival of significant numbers of unaccompanied minors in the EU territory, while fully respecting the rights of the child". The Commission Communication recognizes that the EU has a significant role in responding to the situation of these children. It identifies a range of actions, including achieving "higher standards of protection for unaccompanied children" in EU law and evaluating "whether it is necessary to introduce targeted amendments or a specific instrument setting down common standards on reception and assistance for all unaccompanied minors regarding guardianship, legal representation, access to accommodation and care, initial interviews, education, etc". It lists the need for best practice guidelines on issues such as age assessment and family tracing, encourages the introduction of mechanisms to review the quality of guardianship and speaks of funding European networks of guardians. It identifies the need to ensure the availability of better data on the situation of these children as well as finance projects for the integration of unaccompanied minors who are granted legal status.

The Communication calls for cooperation with third countries to prevent unsafe migration and trafficking, inter alia, through funding projects that provide "alternatives in the country/region of origin that aim to benefit children" and promoting "the development of child protection systems". Responding to the call in the European Council's Stockholm Programme to facilitate the return of children, the Communication explicitly acknowledges that "the solution cannot be limited to return" and emphasizes that "durable solutions should be based on the individual assessment of the best interests of the child," whether this is integration within an EU Member State, relocation to another country or return and reintegration to the country of origin. Where return is in the best interests of the child, the Communication identifies the need to fund support for authorities and families and communities in countries of origin and post-return and reintegration monitoring.

On June 3, the EU Justice and Home Affairs Ministers adopted conclusions essentially welcoming the Commission Communication outlining actions and measures which they considered important in the field. Save the Children and SCEP has been consistently calling for a horizontal rights based approach to unaccompanied and separated children in EU asylum, migration and trafficking policies. Although the Council

Conclusions endorse much of what was said in the Commission Communication, unfortunately they omit specific reference to the need to improve representation of such children and they emphasise the return option, mentioning the possibility of facilitating return via centres in countries of origin. These conclusions have a political, rather than binding effect. Save the Children, SCEP and Human Rights Watch subsequently together called on the European Parliament to adopt a resolution on the EU Action Plan.

http://s3.amazonaws.com/rcpp/assets/attachments/1026_council_on_unaccompanied_minors_origin.pdf

Fundamental Rights Agency Report on Separated, Asylum-seeking Children in European Union Member States

On April 30, the EU Fundamental Rights Agency published a summary report entitled "Separated, asylum-seeking children in European Union Member States" concerning research into their living conditions and legal issues and procedures in 12 EU Member States.

The research was primarily conducted through interviews with over 300 separated and asylum seeking children and the adults responsible for their care. Although the experience, views and perception of the children varied within countries and between countries, corresponding to the very different settings and experiences which these children live, the summary report revealed a range of deficiencies in the care provided to asylum-seeking children in the European Union.

http://www.fra.europa.eu/fraWebsite/news_and_events/infocus10_3004_en.htm

European Migration Network Study on Unaccompanied Minors

On May 6 the Commission presented an EU Comparative Study on Unaccompanied Minors, produced by The European Migration network (EMN). The purpose of the study was to provide missing information on policies concerning unaccompanied minors in the EU. The study focuses on assessment of identified reason(s) and circumstance(s) for entering the EU, entry procedures, reception arrangements, detention, and return.

<http://emn.sarenet.es/Downloads/prepareShowFile.do;jsessionid=16C5F1A91BB81610AF59CA4C85E72CAA?directoryID=115>

European Parliament LIBE Committee Position on Proposed Trafficking Directive

In June a European Parliament hearing on trafficking in Europe took place, addressing the situation of children under the proposed trafficking

directive, Save the Children participated. Save the Children joined other members in the HRDN trafficking working group in a letter to the European Parliament on key elements of the Trafficking Directive proposal. Save the Children and SCEP also submitted written submissions to the EP LIBE Committee on the child specific elements of the Proposal.

On September 2, the LIBE Committee of the European Parliament agreed on a report on the Commission's proposal on a directive on trafficking. The European Parliament now enters into informal negotiations with the Council on the Directive which will be adopted by the co-decision procedure.

Comments for the European Parliament on the Qualification Directive

In June, Save the Children met with Jean Lambert MEP, rapporteur for the European Parliament, on the proposed recast of the EU Asylum Qualifications Directive and also submitted written submissions on the issue. In September, written submissions were provided to Sylvie Guillaume MEP, rapporteur of the European Parliament.

Commission Consultation on Invisible Children

On March 11, 2010, the fundamental rights and rights of the child unit of the European Commission hosted an expert consultation on the topic of "Invisible Children" which it described as encompassing a wide range of children in vulnerable situations. Amongst others, the Commission identified unregistered children, homeless children, street children, refugees and asylum seekers, unaccompanied children, trafficked children, children in institutions, children disappearing from public institutions, children in conflict with the law or in detention and child victims of violence. The Commission consultation sought to solicit data and understandings on the issues with a discussion on how the EU might respond.

Consultation on the European Union Child Rights Strategy

On August 19 Save the Children EU Office submitted a joint Save the Children response of the consultation on the European Union Child Rights Strategy (2011-2014). The consultation, circulated by the DG Justice, is the first step to revive the drafting process of the European Union Child Rights Strategy. The EU intends to adopt the Strategy at the end of 2010.

UNHCR

UNHCR Information Note on National Practice in the Application of Article 3(2) of the

Dublin II Regulation in particular in the context of intended transfers to Greece

UNHCR published an information note that contains information gathered by UNHCR on the practice of some Member States as regards their exercise of Article 3(2) of the Dublin II Regulation in relation to intended transfers to Greece. The survey does not include information on situations where Member States have freely assumed responsibility for assessing claims. Rather, it is based on caselaw in Member States where proposed transfers have been contested in the courts, which have then ruled on the legitimacy of such transfers.

The note is available at:

<http://www.unhcr.org/refworld/docid/4c18e6f92.html>

Committee on the Rights of the Child

Belgium

In June 2010 the UN Committee on the Rights of the Child published its Concluding Observations on Belgium:

<http://www2.ohchr.org/english/bodies/crc/crcs54.htm>)

The Committee expressed particular concern about the consequences of the reception crisis on separated children in point 74 of their final considerations.

With regard to the protection of “unaccompanied children” (CO 75-77), the Committee welcomes the initiatives taken to address the current reception crisis in Belgium, in particular the establishment of a multidisciplinary Task Force “Minors Travelling Alone” and the opening of two centres for the reception of asylum seeking unaccompanied and separated children in April 2007.

The Committee is however concerned that Unaccompanied Asylum seeking Separated Children older than 13 years who do not file an asylum claim are denied access to reception centres and find themselves in the streets; Due to a lack of available places in reception centres, unaccompanied children may be housed in asylum centres for adults and in some cases excluded from any type of assistance;

The Guardianship Act of May 2004 excludes European unaccompanied children from receiving the assistance of a guardian; Family reunification is hampered by lengthy and expensive procedures; and recognized stateless children are not entitled to the right to residence in the State party. The Committee welcomes the alternatives to detention but denounces the lack of a legal prohibition to detain families with children.

Nevertheless, the CRC has pointed out that Belgium has progressed at different levels and is

one of the countries that is the most advanced with respect to human rights, including the rights of children.

In its point 81 §b, the Committee also recommends that the State party “Comply with its obligation to provide protection to all children victims of trafficking and grant them residence permits regardless of their nationality, willingness or ability to cooperate in legal proceeding” and in § c “Create more residential structures to provide assistance to child trafficking victims and enhance child rights knowledge and skills of professionals in reception centers and shelters dealing with child victims to ensure that children entered into care of social services receive adequate assistance and are not exposed to the risk of being trafficked or re-trafficked.”

Bulgaria

The Committee on the Right of the Child (CRC) recommended that Bulgaria “develop a systematic awareness-raising, education and training programmes on the provisions of the Optional Protocol addressed to al relevant groups working with children including asylum-seeking and refugee children that may have been recruited or used in hostilities.” Given the geographic proximity of the State party to regions experiencing armed conflict, the Committee regretted “that no measures with regard to the recovery and social integration of unaccompanied asylum-seeking children and migrant children coming to Bulgaria from areas affected by armed conflict”, were available.

Denmark

The pre-Session took place October 4th 2010. There are 4 supplementary reports from Denmark. The reports can be found at the following sites:

The NGO-report: www.redbarnet.dk

Report from the National Council for Children - based on 40 interviews with children: <http://www.boerneraadet.dk/files/Brd.dk%20Filbibliotek/PDF%20FILER/EKSTERNE%20RAPPORTER/Ideally%20you%20need%20a%20good%20childhood.pdf>

Report from the National Council for Children <http://www.boerneraadet.dk/files/Brd.dk%20Filbibliotek/PDF%20FILER/EKSTERNE%20RAPPORTER/BRD%204.%20Suppl.%20Rapp.%20til%20FN%20-%202009%20-%20UKversion.pdf>

Report from the Danish Institute for Human Rights: <http://humanrights.dk/>

Finland

4th Periodic Report was lodged on 26 May 2010. The NGO report will be given to the Committee in November 2010. The Central Union for Child

Welfare is responsible in gathering the comments from various NGO's and preparing the NGO report.

Germany

The third and fourth periodic report of the German federal government was published on 22 April 2010. After the release all German SCEP network partners will take part in preparing a supplementary report in cooperation with Forum Menschenrechte and the National Coalition for the Implementation of the CRC. An additional supplementary report with a focus on the situation of Separated Children will be prepared by the Bundesfachverband UMF.

On 3 May 2010 the German government announced its decision to lift its interpretative reservation on the UN CRC after the 16 Federal States agreed on this step on 26 March 2010. The reservation retained the right to apply own national immigration legislation and impeded the direct application of the CRC. The lifting of the reservation is the result of a tedious advocacy and the point in time might have been in connection with the publication of the 3rd and 4th periodic report where this step was already announced. The lifting of the reservation is an important step for the full implementation of rights of children. However, legal and practical consequences, as the adaptation of the Asylum and Residence Act, e.g. re the special treatment of asylum seeking children above age 16, remain to be done. The German government is of the opinion that the lifting of the reservation does not have any legal impact, but perhaps practical consequences in single cases.

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. From this initial meeting, in which representatives from 47 NGOs and other agencies participated, a 9-member Coordinating Committee was elected. The Network is currently working on the said Alternative Report to the State Periodic Reports of Greece (2nd and 3rd Periodic Reports), which were submitted to the Committee, with great delays, in July 2009.

Ireland

A consolidated 3rd and 4th report was due to be submitted by Ireland on 27 April 2009 but has not yet been submitted (as of 24 September 2010).

Spain

The Spanish Platform of NGOs for the Childhood (Plataforma de la Infancia) has finalised its alternative report to the Committee on the Rights of the Child and it has been distributed between all minors' institutions and NGO in April 2010. The document contains a section about separated children which includes all recommendations to be taken into account in the drafting of the new Implementing Regulation to the Aliens' Law.

On 15th September 2010 in Geneva, the Committee on the Rights of the Child undertook the examination of the report on Spain. Spain was asked about the measures that have been adopted to improve the protection of separated children in its territory. The Spanish delegation answered for several hours to the questions of the international experts of the Committee related to the fulfilment of Spain's obligations on the Convention of the Child; a great part of these questions were related to the situation of separated children in Spain and the legislation referred to them.

Sweden

Latest concluding observations were issued 12 June 2009. 4th Periodic Report was lodged on 26 May 2010. Concluding Observations are not yet available.

Changes and Developments in Law, Policies and Practice

Austria

A draft amendment of the Austrian Asylum Act 2005 aiming at introducing a stricter duty to cooperate for asylum-seekers is currently undergoing the formal consultation procedure. According to the draft, asylum-seekers will have to be constantly available in the initial reception centre during the first 120 hours after the submission of their asylum application. UNHCR concludes in its position paper that the blanket obligation to stay within the reception centre constituted detention and is not in line with the EU asylum directives. The new law is expected to enter into force on 1 January 2011.

Belgium

On 3 September 2010, two Royal Decrees of 18 August 2010 modifying the Royal Decree of 11 July 2003 establishing the asylum procedure before the Aliens Office and the Office of the Commissioner General for Refugees (CGRA). These new Royal decrees fix certain elements of the asylum procedure. With regard to unaccompanied asylum seeking separated children, the European

“Procedures” Directive 2005/85/CE has been implemented by expressly stipulating that the Aliens Office and CGRA are invited to consider that “the best interest of the child” is a primordial consideration during the examination of the refugee claim (there is however no formal BID procedure with clear criteria, nor a control committee) and that unaccompanied asylum seeking separated children should always be assisted by a guardian during asylum interviews. In accordance with aforementioned EU Directive, it is now also provided that the interview must be conducted at the Aliens Office and the CGRA by a person possessing the necessary knowledge regarding the particular needs of minors. This knowledge should correspond to specific instructions in this matter at the respective services; the Coordinator for minors and the Learning & Training Centre in the case of the CGRA.

Another new article stipulates that in case of an unaccompanied asylum seeking separated child the asylum declaration and questionnaire completed during the asylum registration and interview should also be signed (or not, with mention why there is refusal to sign) by the person with parental authority or guardian according to the national law of the minor or by the guardian specifically provided by Belgian law (with reference to the Guardianship Act).

Some new articles provide that for the interview of a minor at CGRA (as for adults), the case manager can oppose to the presence of a person of trust (defined by law) for reasons proper to the examination of the claim, to preserve the serenity of the interview or for reasons of confidentiality.

Denmark

The government announced end of August 2010 a new proposal to the Aliens Act, which will abolish the current possibilities for extension of temporary residence granted to minors, who upon arrival were too immature to undergo asylum procedures. While this group will still have the opportunity to have their protection needs assessed prior to being returned at the age of 18, the rules are being tightened for a group who are already considered vulnerable. The amendments if agreed upon will put this group of minors in a situation of uncertainty for several years, which could have a negative impact on their local integration prospects. The return to care centres in the country of origin or former place of residence is also part of the current proposal.

Estonia

Estonia has very little experience in dealing with unaccompanied minors seeking asylum. Since 1997 there has been only four minor asylum-seekers in

Estonia - in 2001 (1) and in 2009 (3). These children were from Armenia and Afghanistan.

In May 2009, the European Migration Network published a study “Unaccompanied minors in Estonia”. The report provides an overview of the legal acts regulating this area and the organisations working on these issues.

Furthermore, the Institute of Human Rights published a report on the situation of trafficked children in Estonia in 2009. The report was compiled in cooperation with the Agency for Fundamental Rights (FRA). By the initiative of the Ministry of Social Affairs, the guidelines for identifying and assisting victims of trafficking were prepared in 2009. The guidelines are not intended for public use.

On 1 January 2009 a help line 116 111 for children has started to function. The aim of the help line is to create a possibility for notifying of a child in need (including unaccompanied children) and operative assistance for a child in distress. The national children’s helpline was introduced in order to improve feeling of security as well as possibilities for assistance and support for children.

Finland

The number of unaccompanied children has declined significantly: from 331 applications in the first half of 2009 to 141 as of 30 June 2010. In spite of the decline in the numbers, the countries of origin remained the same: Iraq, Somalia and Afghanistan. Since the situation in those countries has not changed dramatically, Finnish authorities assume that stricter age assessment has been the reason for the lower numbers of arrivals.

There are some amendments to the Aliens’ Act that came into force 1st of Aug 2010. There are provisions regulating age assessment by medical experts, family reunification of children, issuing residence permits to family members of beneficiaries of international protection and access to employment by asylum-seekers. The adopted amendments have incorporated a definition of a “foster child” into the Aliens Act, as well as, introduced a legislative framework regulating the age determination process, performance of medical tests, legal consequences of such a test and the rights and duties of the involved parties.

In summer 2010, the Ministry of the Interior prepared drafts of the new Integration Act and Act on Reception of Asylum-Seekers. The major aim of adoption of both laws is to differentiate integration from reception and draft two separate legal acts. The changes introduce new system of payment of allowances to asylum-seekers, specify standards for accommodation of an unaccompanied children, and

establish additional conditions for appointment as a guardian of unaccompanied child. In addition, the proposed draft-law aims to specify the rules regarding the responsibilities of different actors involved into the national reception system. The proposal shall be submitted to Parliament in autumn 2010.

NGOs have expressed some concerns on both drafts. In its comment to the Ministry of Interior The Central Union for Child Welfare was emphasizing the Child Welfare Act to be incorporated more precisely in the paragraphs concerning separated children. Central Union for Child Welfare among other NGOs suggested the text to be clarified in a way that would guarantee the so called “after care” for separated children until the age of 21. Central Union for Child Welfare expressed also its concern on the treatment of minors at the age of 16-17: they should be treated as minors in the reception.

The draft proposes significantly lower standards in accommodation for them than for minors aged 15 or younger. Central Union for Child Welfare also suggested that the Ministry of Interior would begin to prepare an overall reform on the reception of separated children (together with the Ministry of Social Affairs and Health): the reception of minors should be separated from the reception of adults and transferred closer to social sector, maybe even to be part of the child protection system like in Norway.

Greece

Severe delays, resulting, inter alia, from the recent government reshuffle, are noted in the legislative process referred to below. UNHCR has made public statements to this end, highlighting that the conditions for asylum-seekers in Greece are notoriously difficult. UNHCR called on Greece to urgently accelerate implementation of its planned asylum reform, in light of the continued absence in Greece of a functioning asylum system, an issue which has important implications for the wider EU.

As reported in the previous newsletter, an Experts’ Committee on the overall reform of the Greek asylum procedure was called by the Secretary General of the Ministry of Citizen’s Protection in November 2009. The committee completed its proposal and submitted it to the attention of the Minister of Citizen’s Protection in December 2009. The proposal suggested the setting up of an Asylum Service manned exclusively by civilian staff trained on asylum issues; it also asked for the reinstating of the administrative second instance appeals procedure, while it also proposed measures for the tackling of the backlog of pending cases on appeal

(reaching a total of some 46,000 cases). A government-led law drafting committee to prepare the legislative adoption of the said reforms was set up and has deliberated on these issues in the course of 2010; a draft Presidential Decree amending the current asylum system (as interim period until the adoption of the law setting up an independent asylum service) was concluded but has not yet been adopted.

In December 2009 the Greek Ministry of Citizen’s Protection called also for the creation of an Experts’ Committee (with the participation of involved ministries, UNHCR, the Greek Ombudsman’s Office, the National Committee for Human Rights, selected Greek NGOs), to deliberate on the drawing up of a proposal for the transformation of the existing detention centres at border areas into ‘screening and identification centres’, with a view to establishing appropriate protection-sensitive entry mechanisms. The proposal suggests that these centres accommodate newly arriving persons for a limited period of time, where civilian staff will identify international protection needs and refer relevant categories of people (including, primarily, separated children) to appropriate structures. The said Committee finalised its deliberations and submitted its proposal to the Deputy Minister of Citizen’s Protection in March 2010. A law drafting committee was set up in this respect also in 2010, but no legislative adoption has yet taken place.

Hungary

Draft amendments to the Asylum Act and Aliens Policing Acts (Proposal) have been circulated by the Ministry of Interior. Local NGOs such as Menedek Association and Hungarian Helsinki Committee, as well as UNHCR Regional Representation for Central Europe provided extensive comments. The amendment is generally very restrictive as it seeks to impose detention as a rule to asylum-seekers (and detention may run until 12 months). Families with children as well as separated children could be detained for a period of up to 30 days. Detention conditions have been appalling.

Ireland

New proposed legislation re-published

On 29 June 2010 the Immigration Residence and Protection Bill 2010 was published, replacing the 2008 Bill which was withdrawn by the Government earlier in the year due to the large number of amendments proposed to the Bill. Concern was expressed regarding certain provisions in the 2008 Bill by a large number of organisations including the Irish Refugee Council, additional NGO’s, State agencies and the UNHCR.

The new Bill draws together the law on immigration into Ireland and the law on refugee protection and other forms of protection and proposes a single procedure for the assessment of refugee status and subsidiary protection and as such specifically defines persecution as including acts of a child-specific nature. However, the Bill also allows a fast-tracking of asylum procedures and appeals. The Bill specifically defines trafficking to include trafficking a child for the purposes of the exploitation of the child. The Bill also extends the period of time allowed for victims of trafficking to recover from 45 to 60 days.

The Bill replaces the current Refugee Act 1996 (as amended) and makes provision for the continuance of the current practice of referral of separated children to the Health Safety Executive upon identification. However, there is no statutory provision placing an obligation on the State to provide aftercare for separated children.

The section dealing with the arrival of separated children it requires an immigration officer as soon as practicable to notify the HSE where it appears that a foreign national under the age of 18 years who has arrived at a frontier of the State is not accompanied by an adult who is taking responsibility for their care and protection. The immigration official is also required if not satisfied that an adult accompanying a child is not taking responsibility for a child or is not authorised to do so to refer that child to the HSE. This duty also applies to a immigration officer during a protection interview and also at the second instance body which is to be known as the Protection Review Tribunal.

There is also provision that an interview or an oral hearing does not have to take place if it appears, where the applicant is a minor that he or she is of such an age and maturity that an interview or an oral hearing would not be usefully advance the investigation.

There is a legal presumption in section 28 (4) of the new Bill, that those separated children identified and brought to the attention of the HSE are children in need of care and protection and the relevant domestic child protection laws apply to them. The decision as to whether a separated child will make an application for protection rests with the HSE.

The new Bill has very extensive powers for arrest and detention of non nationals in order to effect their removal from the State. However these provisions do not apply to under those under the age of 18 and in addition if the parent or guardian

of a person under 18 is taken into custody under this power in the Bill then the child goes into the care of the HSE.

It is noted that provision is not made for the best interests of the child to be considered in relation to all aspects of the Bill.

Inter-agency training conducted by UNHCR

On 5 – 7 July 2010 Inter-Agency Training on Separated Children which was organised by UNHCR Ireland in conjunction with UNHCR Geneva was delivered over the course of three days to practically all persons in all the agencies in Ireland with a formal role in the refugee status determination system for separated children. The training was a continuation and follow-up to previous inter-agency training sessions conducted by UNHCR over previous years.

The aim was to train those members of the attending organisations seeking to work in the area of separated children seeking asylum and allow those members from different agencies who had previously attended training to refresh their skills and knowledge and allow informal links between members of each organisation to be built up. In particular UNHCR wanted to bring to the attention the new UNHCR Guidelines on International Protection: Child Asylum Claims under Articles 1(A)2 and 1(F) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees, dated 22 December 2009 and the latest version of the Statement of Good Practice produced by SCEP (4th edition).

The training allowed different agencies in the area of refugee status determination of separated children to interact in a training setting. In terms of outputs from the training, a need to clarify respective roles and practices amongst the agencies, to enhance knowledge of the most recent standards and guidelines for the RSD process and to undertake additional periodic training was identified. These elements will be followed up on by UNHCR and the agencies concerned.

Latvia

On 15 June 2009 the Latvian Parliament has adopted the new Asylum Law. The law came into force on 14 July 2009. The aim of the new law was to transpose relevant EU Council Directives adopted on the 1st phase of the harmonization process on establishing a Common European Asylum System. In addition to the new law, a set of governmental regulations has been drafted in Latvia during 2009:

- Regulations on the allowed expenditures on food, hygiene products and other basic necessities for asylum seekers, and the procedures of reimbursing those expenses;
- Regulations on allowances to refugees and persons who have been granted alternative status;
- Internal rules of the asylum seekers' accommodation centre;
- Procedure on family reunification of beneficiaries of international protection;
- Regulations on the transfer document template for a person who has been granted temporary protection, procedure of issuance of the transfer document and amount of information necessary for exchange among Member States;
- Regulations regarding a personal document form of an asylum seeker and the procedure for issue thereof;
- Standards for accommodation of asylum-seekers at the accommodation premises of the State Border Guard, as well as on the amount of hygiene and basic necessities items.

In accordance with the Asylum law the Ministry of Education and Science has also developed a draft of the Cabinet Regulations "Procedure by which possibility to acquire education is ensured to minor asylum-seekers". So far, acquisition of education by minor asylum-seekers has been ensured on the basis of the Cabinet Regulations of August 9, 2005 No.586 "Procedure by which Education is to be Ensured for Minor Children of Asylum Seekers or Minor Asylum-Seekers".

During the period from January 2008 till December 2009, 7 minor asylum-seekers have used a possibility to study at the Latvian secondary schools.

On 22 December 2009, the Government adopted a regulation defining procedures for reimbursement of expenses on reception of unaccompanied children at the municipal day-care centres. The regulation came into force on 1 January 2010 (Cabinet Regulations No.1580)

The Netherlands

At the time of reporting there is still a caretaker government in place. It is expected that it will take a couple more weeks before a new government is installed. Until then the review of the policy on separated children has been declared controversial. The minister of Justice sent a letter on June 18, 2010 to the House of Representatives to introduce some interim measures in the meantime but this letter has been declared controversial as well. In the letter of the Minister the effects of the adjustments on the Aliens Act 2000 (Vreemdelingenwet 2000) for separated children are highlighted. The

adjustments on the procedure for asylum seekers are also applicable to separated children. The revised asylum procedure involves a wider time to rest and prepare for the separated child. The Minister points out that he wants to continue the protected reception (for separated children who run the risk of being trafficked or exploited) but he is looking at alternatives for the current protected reception. The minister also points out that he wants to guarantee responsible protective measures. He indicates that the problem of disappearances and abuse of separated children can only be tackled effectively through a combination of measures, increased supervision and support. In the letter he also points out that he wants to come up with alternatives for the detention of separated children. He finds it in the interest of separated children to reconsider a lighter supervisory mechanism. Because the letter of the minister of Justice has been declared controversial the future of separated children in detention remains insecure.

Norway

Several of the measures taken by the Government to tighten the rules are aimed at unaccompanied minor asylum seekers. Two important changes in the regulations entered into force in 2009. Separated children are no longer generally exempt from being returned to another country that participates in the Dublin Regulation cooperation, and young people over the age of 16 who are only granted residence because care providers cannot be located can be granted a preliminary permit that means they will have to return to their home country when they reach the age of 18.

The Ministry of Justice has announced that the Norwegian Government wants to work on a green paper about children who migrate to Norway. Save the Children Norway wish the paper very welcome, and will together with other NGO's be involved in this work. This paper/report will be finalized in 2011.

Romania

UNHCR Representation in Romania initiated two working groups with the aim to make proposals for the amendments of the Asylum Law and Aliens Law. The proposed amendments target also areas covering children, among others on issues related to family reunification, access to education, repatriation of separated children, modification of the definition of the family members, including married children, a clarification of the legal guardian duties and rights.

Slovakia

Since 5 April 2010 minor changes of the Act on

Stay of Foreigners related to issuance of Schengen and national visa have come into force, but it contained no changes in law or practice relevant to separated children.

Slovenia

The new Aliens Act is in the phase of preparation. Slovene Philanthropy prepared amendments concerning treatment of separated children, which include possibility to get temporary residence and appointment of the guardian in all cases of separated children

Spain

During Spain's EU presidency the Spanish authorities have been promoting the adoption of agreements with the countries of origin of separated children, as part of the Action plan on Separated Children (2010 – 2014), of 6th May 2010, with the objective of increasing the protection of separated children entering the EU. A month later, this Action Plan was presented in the European Parliament by the Spanish State secretary for immigration and emigration (SEIE); as a result of this session, a conclusions document was drafted representing the Member States' joint response to the Action Plan and defining further EU action in this area. At present, Spain has formal agreements with Morocco and Senegal and verbal agreements with Mali and Algeria.

Related to this, the Spanish State secretary for Immigration and Emigration declared in June that the central Government will start, with the agreement of the Autonomous Communities a specific national plan to adopt a common approach to the treatment given to separated children in Spain who are under the regional government's guardianship. The project will have three objectives: to promote family reunification; to support preventive action in the countries of origin, creating opportunities there; and to guarantee their full protection during their time in Spain; all within the framework of the European Action Plan on Separated Children.

The Government Council of the Autonomous Community of Asturias adopted at the end of May 2010, a protocol of collaboration with the Office of the Public Prosecutor for Minors and the Government Delegation in Asturias for the intervention with separated children. For its elaboration, meetings have been held already for more than two years between the Government Delegation, police Forces, Health Institutions and the Asturian Council for Social services, among others. The protocol has been adopted in order to regulate the first phase of the intervention of the

affected institutions: from the location of the minor up to his/her at least provisional identification, age assessment, and the handing over of the child's care to the of Child Protection services.

As the final text of the Spanish Foreign law was adopted on December 2009, the Spanish Labour and Immigration Ministry is working on the drafting of the Implementing Regulation. Save the Children and UNICEF have made recommendations regarding those aspects of the new Implementing Regulation that affect separated children. Related to this, in July, Save the Children and UNICEF had a meeting with the State Secretariat for immigration and emigration, with the aim of taking part in the review of the draft paper.

After the adoption of the New Asylum Law, the Spanish Government is now working on the drafting of the modifications to the Implementing Regulation to the former Law in order to adapt it to the New Asylum Law. UNHCR has made recommendations to be taken into account in this process.

Some institutions in The Basque Country, asked the Central Government to set up a quota of unaccompanied minors for every autonomous community depending on its population, and in some cases, depending on "other parameters". Related to this issue, the Basque Ombudsman, at the presentation on 30th march of his annual activity report (in which one of the most important sections is dedicated to the separated children as there are between 650 and 700 foreign minors under the basque protection system), added that the institution that he represents is not going to declare anything about the convenience or inconvenience of implementing this quota system, and he has insisted that the most important concern to the regional administration is the protection of all separated children. The Basque Country Ombudsman affirmed that the central government should coordinate better these policies, and promote the collaboration between the autonomous communities.

The Council of Ministries, according to the suggestion of the Minister of Labour and Immigration Celestino Corbacho, has approved in June a Royal decree granting 15 million euros to the Autonomous Community of Canarias for the reception and eventual transfer of separated children, charged to the 2010 general budget of the Ministry of Labour and Immigration.

At the beginning of August there was a dispute between the regional Government of Andalusia, and the regional Government of Canary Islands.

Apparently, some separated children under the Canarian guardianship had been sent from protection centres in the Canary Islands to Andalusia, with the approval of the Canarian Administration. The Andalusian government informed the State Secretariat for Immigration and the Ministry of Health and Social Politics about this situation, in order for them to study 4 cases of minors in this situation.

United Kingdom

The government has issued new guidance to its decision makers on 'processing an asylum application from a child'. It includes provision for refusing asylum claims on the basis that reception arrangements will exist in the main country of origin for separated children i.e. Afghanistan. There will be a best interests assessment prior to return but it will be balanced against immigration control.

Detention

Austria

A working group of the Human Rights Advisory Board is currently dealing with minor aliens subject to procedures under the Aliens Police Act. Some of the points criticized by asylkoordination Österreich in this context are the following:

a) Police practice when arresting asylum-seekers:

In the initial reception centre (Traiskirchen, Lower Austria) arrests are mostly conducted at nighttimes or early in the morning (11 pm, 4 am or 6 am are common times). Normally, four police agents come to the accommodation facility of separated children minor without prior notice. The children are then given between 10 and 20 minutes to pack their things and to say goodbye.

Normally no interpreter assists in this official act; only sometimes staff of the operating company of the facility "Menschen.Leben" can help out with interpretation services. Police does not inform the children of the official act. This practice is thus a clear violation of CRC, Art. 37 (c).

b) Unlawful extension of detention pending deportation:

Even the respective sections of the Alien Police Act are worded very restrictively; they appear problematic in the light of UNHCR Guidelines stating that children shall not be detained as well as in the light of the Convention on the Rights of the Child. Furthermore, detention pending deportation of children often turns out to be unlawful. Research at different NGOs and lawyers conducted by asylkoordination Österreich has shown that six out of seven complaints against detention pending deportation before the Independent Administrative Senate concerning children have been successful.

c) Lack of or insufficient legal representation of children in procedures under the Aliens Police Act: Contrary to legal provisions thereto, separated children younger than 16 years of age have sometimes not been represented by the responsible Youth Welfare Office in procedures under the Aliens Police Act. If older children are concerned, the Youth Welfare Office is not being informed in several Austrian provinces.

Belgium

The initiatives taken by the Belgian Government to create alternatives to detention for asylum-seeking children are continuing (see abovementioned Royal Decree of 22 April 2010). Separated Children are de facto not detained in closed centres, although there is no specific legal prohibition to do so. In some cases, youngsters are kept in closed centres for a short period during which an age assessment is conducted.

Bulgaria

Separated asylum seeking children are usually not placed in the Special Place for temporary accommodation of Foreigners run by Directorate Migration within the Ministry of Interior.

The Ordinance for the Responsibilities and Coordination between the State Agency for Refugees, Directorate of Migration and Border Police for the Implementation of EC Regulations on Dublin II, and on EURODAC is allowing the State Agency for Refugees to conduct the asylum procedure under the Dublin II procedure and following fingerprinting under EURODAC in the SCTAF in Busmantzi

The provision of Article 16 of the Ordinance is of serious concern to UNHCR as it introduced as a rule that all asylum-seekers who lodged an application for protection at the borders and who appeared to have entered Bulgaria illegally, should be transferred by the border guards to the SCTAF, but not to the SAR's RRCs. Exception from this rule is made only in respect of vulnerable asylum-seekers such as separated children, pregnant women, and physically or mentally disabled individuals.

Denmark

The Minister of Justice reported in December 2009 that he guaranteed that no more asylum seeking separated children would be imprisoned for having used false documents. The statement came as a respond to members of the parliament, who based on finding by Safe the Children Denmark on detention of up to 18-19 minors had requested the minister to address the issue. UNHCR has no information on any concrete instructions made by the Minister of Justice.

Estonia

In 2009, two Afghani nationals claiming to be minors were accommodated at the expulsion centre (Väljasaatmiskeskus) in Harku. The age assessment has however concluded that both persons are adults.

Germany

The Bundesfachverband UMF and Terre des Hommes will publish a case study on detention of separated children next year.

Greece

Separated children continue to remain for considerably long periods of time in detention in lack of identification of available places in reception centres for their appropriate referral. Several children are subsequently released from detention without referral to specialised structures. Many children remain in detention because of the absence of any official procedure on age assessment, which results in many children being recorded as adults.

A three times up increase, this year, in irregular arrival in Greece / the EU from the North-Eastern region of Evros (bordering Turkey) involves also a considerable number of separated minors. Minors, along with other irregularly entering persons, are detained in the detention facilities of the region of Evros, in abominable conditions. Due to overcrowding, the situation in most detention facilities and cells is far below acceptable standards. In some police cells women and children are not kept separately from other detainees, while a series of basic human rights such as access to telephone, are not respected.

Ireland

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.

Latvia

While the identity of the unaccompanied minor is being clarified, the State Border Guard (SBG) places children in the nearest structural unit of the State Police that is meant for minors. Currently there is only one place in Latvia, where unaccompanied minors could be accommodated - the Minor Prevention Division of the Public Order Police Department of the Riga Region Board of the State Police. The minimum age of detention is 14 years, as stated in the Immigration Law Section 51: (1). An official of the State Border Guard has the right to detain a third-country national, except minors who have not reached the age of 14 years.

Lithuania

Authorities started to implement alternative to detention measure, such as accommodation of separated children in the Refugee Reception Centre in Rukla instead of taking unaccompanied minors to detention facilities.

Malta

The process of the release of minors from detention has been improved, to the extent that identified separated children spend less time in detention. Efforts are constantly being made so that there is better communication between referring entities and AWAS.

The Netherlands

There were plans to create alternatives for the separated children in detention but these are declared controversial. A decision on the alternatives will need to wait until the new government is installed. The annual report on children's rights in the Netherlands of UNICEF and Defence for Children International-ECPAT shows that 300 separated children were deprived of their freedom in a juvenile justice centre called de Maasberg in 2009. The figures almost doubled compared to 2008 (160 separated children in detention). This is contrary to the Convention on the Rights of the Child and contrary to the criticism on national and international level. It is also contrary to the commitment of the Ministry of Justice to implement alternatives for the detention of separated children. The research for these alternatives is still in progress but the suggestions for a new policy are declared controversial. The upcoming review of the policy regarding separated children offers the opportunity to end the policy to detain separated children.

See also: www.geenkindindecel.nl (only available in Dutch).

Slovakia

In general, according to law, an unaccompanied minor cannot be detained in Slovakia. Any other minor can be detained only for the shortest time possible and only in exceptional circumstances; they are provided by higher protection in comparison to adult detained person (regarding health care, access to education, feeding and nutrition).

A recent Iranian case however shows that in cases of disputed age, a separated child might end up in detention. This IC during his stay in Slovakia stated that his real date of birth is different to the one written in his documents issued by the Slovak Alien police. He tried to substantiate his claim with the photocopies of his Iranian ID, Iranian birth

certificate, and his passport. Slovak authorities declared these photocopies to be insufficient evidence, failed to make any investigation on his real age and declared him adult. It followed that the Slovak Alien police decided on his administrative expulsion and the prohibition on entry to Slovakia for 5 years, and detained him. He was moved to the detention centre directly from the specialised foster home for separated children. His lawyer appealed against both decisions claiming that he was minor at the time of his placement to detention facility arguing that police failed in investigating his age properly. In August 2010 the court cancelled the decision of the Alien police because of the lack of evidence on the real age. In mid September he is still in detention, because the police is waiting for the court decision to be delivered and to become final.

Slovenia

In 2010 there were 15 separated children who were deprived of liberty because they illegally entered Slovenia. They were held in detention between a few days up to few weeks.

Sweden

According to recent information received from detention staff in Märsta and Gävle detention centers, they rarely, if ever, place children without custodians in detention. A child may not be detained for more than 72 hours or, if there are exceptional grounds, for a further 72 hours. Only four Separated Children have been placed in Märsta, the largest detention centre for asylum-seekers, since 2001. In Märsta, there is normally 6-8 children (in families) per year. In principle, for a child to be taken into custody, the travel shall be effectuated within three days.

Switzerland

In order to fully comply with EU law, Switzerland is about to revise its legislation and reduce the maximum detention for rejected asylum-seekers from 24 to 18 months. The maximum duration for the detention of children is to remain, however, at 12 months.

Age Assessment

Austria

In September 2010 the procedure to assess the minimum age was again amended: If asylum-seekers are found to be older than 19 years on the basis of the x-ray of the wrists, an additional x-ray or CT examination of the collar bone needs to be done in order to decide whether an individual has completed his or her 21st year of life. This takes

into account the asylkoordination Österreich's criticism that X-raying the hands is not suitable to determine whether a person is of full age.

However, this new approach is highly problematic for two reasons:

1. Computed tomography of the shoulder is linked to a high exposure to radiation.
2. Available reference data is not sufficient to derive reliable and backed results from them.

Belgium

At the contact meeting of 14 September 2010 between Governmental counterparts, UNHCR and NGO's (including our implementing partner CBAR), the representative of the Guardianship Service (Ministry of Justice) stated that the national medical association pointed out that the age assessment test which is currently applied in Belgium, can find out the "maturity" of a person but cannot establish the precise date of birth. It is questioned whether the intervention of the Guardianship Service should be better aligned with the existence of a "need" for the young asylum-seeker to be assisted by a guardian rather than only on the basis of age; in that case a legal initiative is necessary. It regularly happens that someone with a young appearance is found to be an adult according to the test. A study on the subject is ongoing at the University of Leuven (KUL).

Estonia

Age assessment tests are carried out by the Estonian Forensic Science Institute, which is a state agency established on 1 January 2008 and administered by the Ministry of Justice.

Unaccompanied minors are identified on the basis of their own statements, appearance, behavior etc. In case of doubt medical tests may also be used. If a medical examination is conducted in order to establish the age of the applicant, he or she will be placed in the initial reception centre for the time of the examination. It is possible that, if the applicant does not give his/her consent to a medical examination, this may have an impact on the outcome of the procedure. The national asylum law provides that refusal to consent to a medical examination may result in a rejection of the asylum claim (see Articles 20(8) and 21 (2) of the Act on Granting International Protection to Aliens).

Finland

A significant increase in the number of minor asylum-seekers in 2008 has caused a decision of the government to amend the Aliens Act in 2010. The process of age determination requires now written consents of the asylum applicant and his or her guardian or other representative. A refusal to undergo the examination shall not be a sole ground

for rejecting asylum. The law also stipulates that the Police, the Border Guard or Immigration Service may request an examination to determine age, though not the applicants themselves. The Act does not allow appeal of the results of the age determination.

The determination of age is carried out by means of x-ray and a clinical examination mainly of the teeth and skeleton. The procedure is as follows. The Department of Forensic Medicine asks a forensic dentist in the applicant's place of domicile or the nearest health care district to interview the applicant and take x-rays of the teeth and bones in the hand. The forensic dentist makes his/her own evaluation of the applicant's age. This plus the results of the examination are sent to the Department of Forensic Medicine at the University of Helsinki, where another forensic dentist estimates the applicant's age separately by going over the results of the examination, though without seeing the first dentist's opinion. The two separate opinions are compared and one joint age determination statement is issued. The Department of Forensic Medicine is the only institution in Finland that has the right to carry out procedures requiring the use of radiation technology where the case is not one of medical treatment. Nevertheless, individual age determination tests have actually been conducted by bodies other than the Department of Forensic Medicine.

Although an age determination is an estimate of the person's age, the medical opinion that is issued is normally treated by the other authorities as complete proof of the applicant's age. There are no official channels through which an asylum-seeker may appeal against an age determination test or its interpretation. In the absence of legislation and proper guidelines, practices regarding how an applicant's date of birth is recorded following age determination also vary from one police department to another.

Germany

Due to the fact that the number of separated children increases, age assessment is on the rise. However, there are no general changes in the practice, until now, every Federal State or sometimes local authorities operate in their own way.

Hungary

On May 2010 the Ombudsman issued a complementary report to a previous one (AJB 7120/2009, 29 January 2010 (English translation shared with SCEP, reference is made to it in the previous Newsletter) which is dealing with the

issues of age assessment and guardianship of separated children asylum-seekers in Hungary. The complementary report focuses exclusively on the issue of age assessment and clearly states that the age is an essential element of the integrity of the child (Article 8 of CRC) and refers in this context to General Comment no.6 of the Committee on the Rights of the Child. It states that current Hungarian practice is not acceptable as it only applies physical examination. The report calls for age assessment that not only takes into account the physical appearance of the individual, but also his or her psychological maturity. The assessment must be conducted in a scientific, safe, child and gender-sensitive and fair manner, avoiding any risk of violation of the physical integrity of the child; giving due respect to human dignity; and, in the event of remaining uncertainty, the decision should be made to the benefit of the person examined. The Report also states that in order to have due guarantees, the Asylum Act must stipulate that the assessment is to cover the psychological maturity of the child (i.e. not the enabling legislation). UNHCR also called for the same in its comments made to the Proposal.

Malta

The age assessment procedure has continued to be refined. When there are further doubts about the age, to give benefit of the doubt to the alleged minor, they are released under an interim care order and further age verification assessment is carried out while they are in the centres for unaccompanied minors.

The Netherlands

A new act has been introduced which requires that age assessments should occur in a closed setting. An adjustment is made in the closed prolonged asylum procedure. Since the first of July 2010 the reasons why an individual can be placed in a closed care centre are exhaustively listed in the new paragraph of the Aliens Regulations (C12/2.3 Vc). The age assessment is one of this limited grounds.

Norway

In 2009 the Immigration Authorities announced that they wanted new methods for age assessment, supplementing the dental test and the x-ray now carried out. They wanted to implement a clinical test. This suggestion met enormous criticism. In June the government decided not to implement this kind of age assessment.

Romania

Romanian asylum legislation (Law no. 122/2006 on the asylum in Romania) provides for the application of the benefit of the doubt in case of declared underage asylum seekers, who cannot prove their

age with documents; only when there are serious doubts regarding the asylum seeker's minority an age assessment is requested.

The asylum seeker and his/her legal guardian are informed about the possibility for a forensic medicine examination for age assessment, the methods possible consequences of its result and effects of an eventual refuse to be subject to it.

In order to carry out the examination it is necessary to have an written consent of the asylum seeker and his/her legal guardian.

When the asylum seeker refuses to undergo the forensic medicine examination, a psychologist within Asylum and Integration Directorate will make an evaluation in order to establish if the refusal is based on serious reasons. Where it was established after the evaluation that the refusal is not based on serious reasons, the asylum seeker is considered an adult.

The asylum seeker will be considered a minor if the age assessed after the age assessment is between 17 and 18 years old.

The asylum seeker and his/her legal guardian are informed by Asylum and Integration Directorate in writing regarding the performing of the forensic medicine examination. Also, the legal guardian has the obligation to discuss with the asylum seeker and to explain the elements regarding forensic medicine examination for age assessment.

Forensic medicine anthropological expertise for age assessment consists in measurements (height, weight, length of the arms etc.), radiological and examination of the teeth.

Age assessment was conducted in Suceava centre in one case and the child was assessed as over 18 years. However, Romanian National Council for Refugees continued to assist him as a child, as he declared.

Slovakia

The legal possibility of age assessment is rarely applied in the Slovak Republic. There are legal provisions in both Asylum Act and Aliens Act on the medical examinations to be made in case of doubts of the age of the foreigner, but the Migration Office has not applied this in the asylum procedure recently. According to UNHCR, it has detected at least one case when police at the Ukrainian border have used the age assessment to refuse the claims of intercepted migrants that they are minors within the context of the readmission procedure to Ukraine. The border police has utilised the method of the medical examination of their secondary sexual features by a physician. Physician concluded their real age is much higher than 18 and all 6 cases were returned to Ukraine based on readmission agreement.

In general foreigners without documents are registered in the Slovak Republic with the date of birth they allege, which is usually accepted by the authorities. An Iranian case described above however suggests the practice of the Slovak authorities according to which they are unwilling to change the date of birth which has already been registered unless there is sufficient evidence to change to the one newly submitted by a foreigner. Oral statements and photocopies of personal documents are not considered to be sufficient evidence to change the date of birth. At the same time, in case a foreigner challenges the age already registered with the type of evidence, Slovak authorities do not investigate the age themselves (neither by means of medical examination nor by contacting the authorities of the country of origin, nor any other means). This practice presents an increased risk to separated children whose date of birth was wrongly registered at the beginning (after arrival to Slovakia) and whose real age is different so that they can be placed in detention while they are still underage.

Spain

Spain does not have a common nation wide approach to the issue of unaccompanied children. Each Public Prosecutor and each regional government interprets the law in different ways to decide if the person is an adult or a minor: sometimes the date of birth of the passport is accepted and in others the age assessment test is carried out in all cases. Sometimes the Public Health System carries out this test, in other occasions the authorities, like the regional government of Madrid, chose private centres. Sometimes the results (always estimated) give a range of age; in others they say directly "around 18", not taking into account a margin of error (2 years).

In response to this situation, some institutions of the Autonomous Community of the Basque Country, called for the establishment of a unique and reliable procedure on age assessment for separated children by the central Government.

The Spanish Ombudsman, Enrique Múgica, in the presentation of the institution's annual report (2009), urged the General Public Prosecutor's Office to establish a common protocol for the identification, age assessment, documentation, repatriation and the transfer from The Canary Islands to the Peninsula of all separated children in situation of abandonment in Spain, because of the "disparity of criteria" that he has found in these practices depending on the regions and the competent administration. This annual report includes a specific chapter dedicated to the unaccompanied minors' administrative problems.

On 24th March, the UNHCR held a meeting about the issue of age assessment with Offices of the Public Prosecutors for Minors and for Aliens. The representatives of the different Public Prosecutor Office's indicated that the establishment of the said common protocol was being worked on.

Sweden

Age assessments carried out for the Swedish Migration Board are not open for appeal. However, the handling officer may ex officio change the assessment and hence the age of the applicant. According to a study carried out by Save the Children it is noticed that many youngsters passing through Greece on their way to Sweden have been given the same date of birth. Without questioning the methodology for age assessments used by the Greek authorities, the SMB has accepted it

Medical staff in Sweden prefer to carry out age assessments one year after an asylum-seeker has arrived in Sweden, while the SMB's aim is to finalize the status determination of separated children within three months. This has, according to several NGOs, resulted in a tendency on the part of the SMB not to carry out age assessments save in the most needed cases. Hence, as a general rule, the SMB accepts the age stated by the child during the initial phase of the asylum procedure.

United Kingdom

A new court ruling clarifies the position in cases where an immigration judge, in deciding the asylum appeal of an age disputed young person, makes a decision on the age of that applicant. Local authorities are not bound by this decision as they were not party to the asylum appeal hearing. They must take into account the judge's reasoning in their assessments.

NGOs remain concerned at the consequences for children and young people if full age assessment reports are shared between social workers and asylum decision makers.

Switzerland

As part of a proposal for a more extensive revision of the asylum legislation, it has been proposed that the Federal Office for Migration be granted competence to initiate the age assessment for minors not only in the Federal Reception and Processing Centres but also at airports and once the claimant has been transferred to the Cantons. Currently, such age assessments can only take place in the Federal Reception and Processing Centres.

Guardianship

Austria

In the state of Carinthia the question of guardianship concerning separated children is still not being resolved; throughout the whole asylum procedure children are not provided with the assistance of a guardian. In the city of Hollabrunn in Lower Austria, where a living community for unaccompanied minor girls exists, the Youth Welfare Office becomes the guardian of separated children. However, in this particular case, this might be a disadvantage for the girls since the district administrative authority repeatedly refuses to lodge appeals against negative decisions in the asylum procedure.

Belgium

Following information provided by the Guardianship Service (Ministry of Justice) at the contact meeting of 14 September 2010, it registered a total of 2.415 separated children during the first 8 months of 2010, including 1.511 separated children who presented themselves for the first time. The most common nationalities are from Afghanistan, Algeria, Guinea, Morocco, DR Congo, Vietnam, Iraq, India, Palestina and Serbia. A guardian is assigned for circa 80% of the new arrivals, which is a constant number. With regard to the group of persons declaring to be a separated child, 30 to 35 age tests are conducted per month.

Remark that Algerian and Moroccan separated children generally do not apply for asylum. Many separated children seeking asylum are Afghan, although circa 20% of Afghan separated children do not request asylum as Belgium is not their country of final destination.

Currently a qualitative evaluation of the application of the 2004 Guardianship Act and the guardianship system is ongoing by the Platform Minors in exile. The results will lead to recommendations in view of improving the current system.

Bulgaria

The national legislation contains important provisions to provide protection of the rights of and care for unaccompanied asylum-seeking and refugee children but major challenges still remain, particularly with regard to appointment of guardians. The issue of guardianship is regulated by the Family Code, which stipulates that when a child is placed in institutional care, the director of the respective institution becomes a legal guardian to the child (art. 173 of the Family Code). In case the child is not in institutional care, the mayor of the municipality where the child resides should appoint a guardian from among the adult relatives of the child (art. 156

and art. 157 of the Family Code). The guardian is responsible for ensuring the physical, emotional and mental wellbeing of the child. S/he should also safeguard the interests of the child during refugee status determination. When no guardian is appointed, the asylum-seeking or refugee child is legally represented by the Bulgarian child protection services in all administrative procedures related to status determination (art. 25, p.5 of the Law on Asylum and Refugees and the Law on Child Protection).

Appointment of guardians however, is seriously constrained in cases where children live outside specialized child care institutions due to serious inconsistency between the two legal acts - the Law on Asylum and Refugees and the Family Code, which regulate the issue of guardianship with regard to unaccompanied asylum-seeking and refugee children. Lack of a mechanism for establishing guardianship over unaccompanied asylum-seeking and refugee children involves serious risks for violations of the children's rights and wellbeing.

The following inconsistencies considerably constrain the appointment of a guardian for an asylum-seeking or refugee child:

- 1) The Family Code requires the guardian to be designated from among the relatives of the child, which in the case of an unaccompanied child who, per the definition provided by the Law on Asylum and Refugees, is staying on the territory of Bulgaria without being accompanied by his/her parent or other adult, responsible for him/her by virtue of a law or a custom, is not possible. Other adults who are not relatives of the child can be appointed as legal guardians only if a separate legal provision allowing this is introduced.
- 2) The national legislation does not confer on relatives of the child or other adults who are not parents or guardians the legal authority to represent the interests of the child and act for or on behalf of the child. Therefore, relatives or other adults accompanying the child cannot represent the interests of the child during the status determination procedure. The same holds true for representatives of child protection services.

Denmark

Separated Children are provided with guardians to assist them in personal matters as well as a guardian to assist them in the legal procedures concerning their application for asylum. However the separated children are not provided with a lawyer at the first instance unless the case is processed under accelerated procedures.

Save the Children Denmark is also participating in a project 'Closing a Protection Gap for Separated Children in Europe'. For this project we have

interviewed 10 separated children and 8 guardians in order to among other issues to identify the separated children and guardians view on the guardian system and what is needed.

The project is managed by DCI Netherlands and supported by funds from the EC-Daphne III Program.

Estonia

In accordance with the national legislation a guardian shall be provided immediately after the submission of an application.

Finland

Currently pending draft of the Act on Reception of Asylum-Seekers provides a number of changes as regards the status, qualifications and role of guardians of separated or unaccompanied children. It is planned that the appointment of guardians for unaccompanied children will become mandatory as recommended by the Finnish Ombudsman for Minorities in its recent report. (Currently, according to the law, a guardian may be assigned to a separated asylum-seeking or refugee child.) The draft-law stipulates a limited number of prerequisites for appointment as a guardian of separated or unaccompanied child. The CUCW, however, has pointed out in its comment to the Ministry of Interior that the role of guardians should be strengthened and the qualifications spelled more clearly.

Germany

The guardianship law is under revision right now, a new legislation is expected for summer 2011.

In the current proposal, the number of wards per guardian will be limited up to 50 wards and there shall be strict rules how often guardians have to have personal contact with their wards. This would be a fundamental change, until now guardians of the Youth Welfare Office often are responsible for about more than hundred separated children. German law states that a guardian of the Youth Welfare Office should only get in charge, if there is no volunteer or NGO that can take over the guardianship. In some cities exist projects that look for volunteer legal guardians, train them and offer them advice. In some cities are NGOs that takeover legal guardianship.

Hungary

In its comment to the Proposal, UNHCR called for proper guardianship arrangements for asylum-seeking children as currently only legal representation limited to the refugee status determination procedure is available for separated children seeking asylum in Hungary. Guardianship arrangements are only established for recognized

refugees who are separated or unaccompanied. In its comments on the Proposal, UNHCR referred to the report issued by the Ombudsman (AJB 7120/2009) in January 2010, (reference is made in the previous Newsletter).

Ireland

In accordance with the “Implementation Plan of the Commission to Inquire into Child Abuse, 2009”, the Health Service Executive ‘will ensure that all children in care will have an allocated social worker’. This will be discussed in more detail below.

A review of the guardian ad litem service has been undertaken as part of the Department of Health and Children’s National Children’s Strategy which runs up to the end of 2010. The guardian ad litem service, which was established under Section 26 of the Child Care Act 1991, is being reviewed to assess: the role of guardian ad litem in family law proceedings and the representation of a child; the guidelines on the appointment, role and function of the guardian ad litem; and the adequacy of the present service and funding management. See: http://www.dohc.ie/publications/pdf/childstrat_report.pdf?direct=1.

There is no provision for a guardian for separated children in the Immigration Residence and Protection Bill 2010 and Ireland has opted out of Council Directive 2003/9/EC of 27 January 2003 Laying Down Minimum Standards for the Reception of Asylum Seekers in Member States (the Reception Directive), which places an obligation on the State to ensure the appointment of legal guardians to separated children under Article 19.

The Netherlands

The project ‘Closing a protection gap: core standards for guardians of separated children in Europe’ is still running. In the Netherlands interviews with more than ten separated children and ten guardians gave a lot of input and suggestions for standards for guardians working with separated children. The national reports of the eight participating countries are almost completed. These eight national reports will be combined into one international report and the core standards for guardians working with separated children will be developed. The core standards will be based on the participation of separated children and guardians and will focus on the rights of the children according to the Convention on the Rights of the Child.

Poland

Legal guardians are appointed for all categories of unaccompanied minors. In the case of separated

children applying for asylum, the legal guardian takes care of the RSD procedure; in case of other separated children, a legal guardian is appointed by court to undertake all legal steps on behalf of the minor.

Romania

After registering the unaccompanied minor as asylum applicant, Romanian Immigration Office shall immediately notice the competent authority for child protection whose territorial jurisdiction includes the accommodation centre, where the asylum application shall be lodged, in order to start the procedure of appointing a legal representative.

The asylum procedure is suspended until the appointment of a legal guardian, but the unaccompanied minor has the right of asylum applicants during this time. According to the Law on Child Protection appointed guardians are staff members of the local Directorate for Child Protection (graduates of Law Faculty or of the Faculty for Social Assistance). The local Directorates for Child Protection are affiliated with the National Authority on Child Protection, which is under the authority of the Ministry of Labour, Family and Equality of Chances.

The legal guardian assists the child throughout the asylum procedure and during the age assessment process.

Separated children from two reception centres (Bucharest and Suceava) complained about the relation with their legal guardians, which was limited to the presence at the interviews with asylum-authorities. There is still room for improvement in relation to the legal guardians’ involvement in the asylum procedure, an issue that is planned to be addressed by UNHCR in cooperation with its partners within a roundtable that is to be organised by the end of October.

Slovakia

As the majority of separated children coming to Slovakia are placed in specialised foster home near Trenčín, the Office of Labour, Social Affairs and Family in Trenčín is most often appointed by the court as the guardian of separated children due to its geographical closeness.

NGOs providing legal counselling to asylum seekers and other foreigners in the Slovak Republic have currently encountered disagreement with the guardian over the need of legal counselling of separated children in general and their legal representation in the asylum procedure. NGOs claim that it is the right of every asylum seeker or potential asylum seeker including minors to have access to legal counselling. Office of Labour, Social Affairs and Family in Trenčín believes that any type

of counselling and representation of separated children shall be done by guardian.

The guardianship is performed by appointed employee of the office who does not have the legal education and is not trained sufficiently in the field of asylum and alien law to be able to defend all the rights of an asylum seeking child properly. With the lack of legal knowledge and experiences he/she is unable to examine the asylum case from the legal point of view. According to the opinion of guardian separated children do not need access to the lawyer due to the fact that the guardian is able to defend their rights on sufficient level globally observing the principle of the best interest of a child.

It should be also explained that there are two different types of guardians in the Slovak Republic. One is the guardian who is, or should be, appointed only for a limited period of time and/or for concrete purpose. Another one is the long-term guardian, who should execute more or less the role of the parents, which means to guarantee and control the well-being of a child, his education and proper social, physical and psychological development. In Slovakia generally only the first type of guardian is being appointed in order to execute all the necessary legal acts in the name and in favour of the child. The long-term guardian is not appointed - not even to those separated children who are residing for a long time in Slovakia (e.g. because they have been granted asylum or subsidiary protection).

Sweden

Several NGOs as well as UNHCR, has raised the need to evaluate existing regulations concerning appointment and responsibilities of guardians in order to identify criteria and mechanisms for recruitment of guardians. The roles and duties of social guardians are not clearly defined and guardians appointed to separated children are assuming responsibilities which may not always be proportional to the expertise of some guardians. No specific knowledge or experience is required in order to be appointed as a social guardian. Some municipalities were reported to suffer from a lack of guardians, resulting in some of the guardians taking on too many cases. There is furthermore lack of written information, guidelines and systematic training provided; concluding that the type of involvement and quality of the support provided to separated children varies considerably.

Switzerland

Asylum claimants are initially received at Federal Reception and Processing Centres, and, if the procedure takes longer than 60 days, then transferred to Cantons, where they may be placed in

transit facilities before being finally placed in municipal reception facilities. Following transfer to the Cantons, the issue of guardianship is within the competence of the 26 Cantons. This has led to huge variations in policy and practice. Various cases have been reported, where guardians de facto are hardly available, even if clearly assigned by law. Information is currently being collected on how guardianship is regulated and on standard procedures in the different Cantons to allow for a better overview and follow-up. Separately, a parliamentary motion had been filed calling on the Federal Government to monitor and ensure quality standards of guardians in Cantons. The Federal Government noted that this was within the competence of the Cantons, although it had issued some instructions to this effect. It therefore recommended rejection of the motion, which has not yet been discussed.

United Kingdom

The Scottish guardianship pilot became operational in August 2010 and has begun to receive referrals.

Reception

Austria

Due to decreasing numbers of asylum-seekers but especially due to numerous cases of asylum-seekers who are declared being of majority age, capacities of reception facilities for separated children are not fully used. On 1st June 2010 only 368 of the available 438 places for separated children in reception facilities provided by NGOs outside the initial reception centre were occupied.

Apart from occupancy rates the reception facilities for separated children face the problem that daily rates under the basic welfare system granted for child asylum-seekers are far lower as the daily rates for the care of other children e.g. placed in facilities operated by the Youth Welfare. The situation will become even worse at the turn of the year when numerous children (those who do not know their exact date of birth) turn 18 years. The closure of several facilities is to be expected.

Bulgaria

In general, the reception conditions for all asylum seekers in the Registration Reception Centres of the State Agency for refugees need serious improvement. Although some refurbishment has already taken place in 2009 and 2010 under the European Refugee Fund (ERF), the living conditions are still inadequate, which also reflects in the reception provided for asylum seeking children.

Belgium

The reception crisis is still ongoing in Belgium. Separated children are considered a category of priority, also with respect to reception. Currently, 548 separated children are accommodated in specially adapted reception structures like "Orientation and Observation Centres", but due to the saturation of reception structures 64 separated children are currently accommodated (although separately) in structures for adults and 23 separated children stay in hotels as an emergency measure (Statistics forwarded by the federal reception agency Fedasil at the contact meeting of 14 September 2010). Particularly problematic for separated children in hotels, is the fact that their asylum procedure is often suspended and that they have no easy access to social, medical and legal assistance. Separated children who are not asylum-seekers, can also become victim of the saturation of reception structures.

Alerted by NGO's, the government of current affairs decided in September 2010 to take additional and preventive measures in view of accommodating asylum-seekers and other persons of concern during the coming winter. NGO's are also actively involved in local reception initiatives, including for separated children.

The Belgian online newspaper "Levif.be" reports on August 20th the difficulties of Fedasil – the Belgian agency responsible for the reception of asylum seekers- to cope with the challenge of accommodating foreign unaccompanied minors.

The increase of the number of unaccompanied minors forced the Belgian authorities to accommodate a significant number of them in hotels, residential facilities not adapted to their situation. However, this situation is not new according to "Levif.be" as the problem dates back to 2008. The authorities are currently trying to address the situation: the 2010 budget foresees the creation of 5.000 places in special reception facilities for asylum seekers, while 3.500 were already created in the first semester of 2010. The Belgian newspaper points out that the reception of unaccompanied minors is likely to raise a wide range of problematic situations, be they social, legal or medical, in contradiction with the Convention on the Rights of the Child.

Denmark

Separated Children are referred to special care centres. Currently there are 6 centres.

Estonia

Unaccompanied children are to be placed in a reception centre or a social welfare institution or

entrusted to foster families, or are subject to another reception arrangement that serves the child's special needs for the duration of the asylum proceedings. The only reception centre for asylum-seekers in Estonia (in Illuka) does not provide special services for unaccompanied minors, but these are available in a social welfare institution (orphanage). In some cases a child may be placed in the temporary accommodation centre for the time of examination. This center is situated in the premises of the Citizenship and Migration Affairs in Tallinn.

Greece

According to government data of August 2009, the number of available places in reception for separated children (whether seeking asylum or not) lies at approximately 400 places country-wide. This number remains insufficient in comparison to actual needs, and therefore the vast majority of separated children remain in conditions of homelessness and destitution. In parallel, due to dire delays in releasing government or EU funds for the running of the existing centres for minors, it was observed by UNHCR that most centres operated marginally in the course of 2010. In the first half, staff employed in these centres under ERF funds were unpaid for several months, and remained in the centres on a voluntary basis. In one of the largest such centres, Agiassos (on Lesbos island), most staff employment contracts were finally ceased in July 2010, thus leaving the centre with only two employees (Agiassos accommodates a total number of 90 minors). The general reduction and/or downgrading of staff and services have resulted in significant numbers of separated children deserting the centres.

The expected release of the ERF funds (for 2009) is hoped to reinforce the existing structures and potentially open a number of additional places. No official numbers of these additional structures are yet available.

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 Report is divided into 5 volumes which deal with inter alia; individual industrial and reformatory schools run by the religious orders and the Department of Education. The Implementation Plan requires the following from the Health Service Executive in relation to separated children:

30. All organisations with a statutory function in relation to children at risk, in care and in detention have a duty to ensure regulations are applied and

any breaches reported to the relevant authority (ongoing).

31. The HSE will end the use of separately run hostels for separated children seeking asylum and accommodate children in mainstream care, on a par with other children in the care system (by December 2010).

32. In the interim, the HSE will inspect and register residential centres and hostels where separated children seeking asylum in the care of the HSE are placed, in accordance with the Child Care Act 1991, pending the commencement of the Health Act 2007 for children's residential services (ongoing).

33. The HSE will ensure that all children in care will have an allocated social worker and a care plan, in accordance with the regulations (by December 2010).

34. The HSE will ensure that all relatives as carers and foster carers are assessed, in accordance with the regulations (by December 2011).

At present, the Health Service Executive is continuing with their work to close privately operated hostels for separated children by the end of 2010. Two hostels remain open with 24 hour care staff now placed in each hostel. Both hostels are now registered and are subject to inspection.

In accordance with the HSE's Equity of care plan (which is in the process of implementation) separated children over the age of 12 are placed in a residential centre in Dublin for a 6 week assessment. Children under 12 are placed in foster care immediately. During the initial 6 week assessment, all children will be placed in foster homes where it is appropriate and all children will have a social worker allocated to them.

Latvia

The February 23, 2010 Regulations of the Cabinet of Ministers "Procedures by which Minor Asylum-Seekers are provided with Education Opportunities" state that minor asylum-seekers are offered additional Latvian language classes and additional classes for the acquisition of different subjects.

Malta

There has been refurbishment works on upgrading the conditions of the centres for unaccompanied minors. The home which houses the younger youths, Dar is-Sliem, has seen the largest amount of work while the other house has ongoing smaller work. Both are aiming to improve the 'home feel' environment.

The Netherlands

There has been a progress in the campaign 'No child on the streets' (Geen kind op straat). On 14

January 2008, Defence for Children International - The Netherlands Section submitted a collective complaint to the European Committee of Social Rights together with Fischer lawyers, UNICEF the Netherlands and LOS (support centre for undocumented persons), and with the support of the Dutch Section of the International Commission of Jurists. The European Committee of Social Rights found that the Netherlands' policy of evicting children and their families from reception centers violates the rights contained in the European Social Charter, pointing out that the right to shelter is directly linked to the right to life, social protection, respect for the child's human dignity and best interests.

The Dutch authorities seem to be reluctant implementing the Committee's decision. A Dutch court in The Hague has ruled in the appeal of an asylum seeker and her three children versus the Netherlands, that the government has the legal obligation to obtain a legal and factual situation to create the rights and interests of children in the territory of the State which are protected and secured under this rules. The Minister of Justice said he will separate children and parents if there is no place to stay. He proposes to send the children to youth care institutions and leave the parents on the street. This means a new human rights violation, namely of the right to family life. For separated children the decision of the European Committee of Social Rights is important because they have a right to shelter even if the children do not have a residence permit.

Read more about the experiences of undocumented children without shelter in the brochure 'A home for every child':

<http://www.defenceforchildren.nl/images/20/998.pdf>

See for more information on the campaign 'No child on the streets':

<http://www.geenkindopstraat.nl/pages/gkos/Englisch>

See for more information also the website of the European Committee of Social Rights you will find the documents of the complaint under number 47: http://www.coe.int/t/dghl/monitoring/socialcharter/Complaints/Complaints_en.asp

Norway

Because of a big decrease in the number of separated children seeking asylum in Norway in 2010 several reception centres have been reduced. The number of separated children seeking asylum in Norway has a decrease on 68% compared to the same period in 2009.

Poland

Since 2004, due to the agreement between the City of Warsaw and the Office for Foreigners all unaccompanied minors seeking asylum in Poland are accommodated in an orphanage in Warsaw. The orphanage designated a separate part for foreign children with tutors present 24hours/day. Separated children accommodated in the orphanage have the access to education, health care and social assistance. If a separated child would reach age of 18 before the end of RSD procedure he/she receives accommodation in one of the reception centres for asylum seekers.

In case the separated child receives decisions denying the international protection, he/she shall remain in the facility assigned to, or be placed in another location designated for children's stay by the custody court with jurisdiction over the minor's place of residence until they can be handed over to the institutions of their country of origin whose statutory tasks include issues related to minors.

In March 2009, the Polish Parliament has adopted amendments to the Law on the Educational System to tackle the problems of education of foreign children including refugee children and children seeking asylum. The legislation, which entered into force on 1 January 2010, provided for additional activities in the field of education such as:

- 1) Children's access to additional free of charge Polish language classes organized by schools they attend;
- 2) Assistance for non-Polish speaking children provided by the native speakers hired by schools;
- 3) Additional activities for foreign children to improve their education knowledge to the level of other children at school.

Romania

The reception facilities are generally adequate to the children needs. However, reception conditions in general need improvement, mainly in relation to the financial assistance, psychological assistance as well as gender and age specific hygienic items.

Slovakia

All unaccompanied minors found on the territory of the Slovak Republic are placed in one of the foster homes. Priority is always given to the specialized facility (the specialised foster home for unaccompanied minors in Horne Orechove). In case there is no free space, courts decide on placement of separated children in other foster homes, where they are together with Slovak children.

Separated children who become asylum seekers are transferred to the facilities of the Migration office, with no specialized treatment for children.

Spain

In June, Human Rights Watch critiqued the decision of the Government of The Canary Islands of keeping more than 250 separated children in emergency centres which do not fulfil the minimal procedure demanded from these centres, putting these children in situation of risk, as it was denounced in its report, *Eternal Emergency: No end to unaccompanied children's institutionalization in Canary Islands Emergency Centres*, launched this summer. On several occasions, Human Rights Watch has followed up closely on the situation of separated children in these emergency centres. These new conclusions are published three years after Human Rights Watch document for the first time presented serious allegations of ill-treatment to minors on the part of the personnel; deficient and saturated infrastructures; violence; and also a lack of supervision.

These centres were created in 2006 after the arrival of a high number of separated children to Canary Islands with the idea of solving the problem temporarily. The NGO criticizes that the Canary Government has neither promised to eliminate the current regime of emergency for separated children nor to regulate the centres in conformity with the existing procedure.

Sweden

Since 2005, the number of Separated Children arriving in Sweden has markedly increased. The Swedish Migration Boards predictions are that some 2,800 to 3,000 Separated Children will apply for asylum in Sweden 2010. A majority of them are boys in the age of 16 -17 originating from Afghanistan, Somalia Iraq and Eritrea.

The recent increase in the number of unaccompanied asylum-seeking children has put reception facilities under considerable strain; however, the Government was consulting with municipalities to address that issue. The arrival of unaccompanied minors continues to increase, one consequence being a lack of municipality reception facilities to host them. Due to the municipalities' unwillingness to accommodate the children during the asylum procedure, they stay for extended periods in arrival reception centers situated in nine locations throughout the country.

Switzerland

As part of the above-mentioned proposed revision of the Swiss Asylum Law, extension of stay of asylum-seekers in Federal reception and proceedings centres from 60 to 90 days is being

discussed. The purpose of this proposal is to permit the return of Dublin II cases directly, without first transferring them to one of the Cantons. Concerns have been raised that these centres, which are intended for an initial reception, are not equipped for an even longer stay. There are, moreover, generally no special structures for separated and unaccompanied children in these Federal centres. A greater number of asylum-seekers in the centres, due to the longer stay, could also mean that asylum-seekers would be accommodated in greater numbers in underground nuclear bunkers, as this was the case in the past. Separately, a parliamentary motion had been filed calling on the Federal Government to assign children only to Cantons with specialized facilities. The Federal Council noted that the Cantons are competent in this area (not the Federation) and that the general allocation key generally worked well. The motion was not yet discussed in parliament.

Missing children

Austria

Since January 2010 separated children absconded increased (most of the time during their admissibility procedure). The initial reception centre in Traiskirchen has de registered 92 children in 2010. During the whole of the previous year only 66 children were de registered during the admissibility procedure in the initial reception centre. Children often decide to take this step in order to avoid the imminent detention pending deportation (which is often imposed after they have become of full age). Since the beginning of 2010, the Austrian authorities have increasingly imposed detention pending deportation over child asylum-seekers. Between January and June 2010, 23 children had to leave the facility for separated children in Traiskirchen because detention pending deportation had been imposed on them. As opposed to this, during the whole previous year 2009 only in 20 cases was detention the reason for de registration.

The Netherlands

Vulnerable separated children are placed in protected care centres to prevent them from disappearing as illegal aliens and running the risk of being exploited.

Out of the 170 children that were placed in a protected care centre in the years 2008 and 2009, 19 children are missing until mid February 2010. This is a percentage of 11 %.

Finland

The Finnish Immigration Service has noticed that every year about 10 separated children go missing.

When the number of the minor applicants went high in 2008 the number of missing children also grew. There are no records kept on this and it is extremely difficult to say what the reasons are behind. Some minors might have chosen to leave the country before the return process under the Dublin regulations would be executed. Some minors say that they rather want to return to the country of origin than to Italy, Malta or Greece because of the poor reception conditions or because they got into troubles with the smugglers or possible traffickers.

Ireland

Seven young people went missing from HSE care between January and August 2010. The HSE has begun to put in place more stringent safeguards to prevent separated children from going missing from their care. As mentioned above, the hostels now have 24hour care-staff. The HSE has an agreement with the Garda National Immigration Bureau whereby immigration officials will inform the HSE if they identify a separated child at the airport during office hours. Where possible, a social worker will undertake a joint interview at the airport. A social work team is in place for afterhours referrals.

Romania

One Nigerian underage girl left from one of the reception centres with no information regarding her destination.

Slovenia

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

Sweden

During the reporting period, concerns have been raised among NGOS that a number of unaccompanied minors have disappeared from reception centres or group homes. Among NGOs, there have been fears and indications that some of these children may have been forced into trafficking or prostitution. According to the Swedish Migration Board, these disappearances have decreased inter alia as a result of the introduction of the Act on Representation and Custodianship for Unaccompanied Children.

Dublin II practice

Austria

Access to the asylum procedure (on the merits) has been the most delicate issue for asylum-seekers in

Austria for several years now. First, an interrogation by police agents takes place. No legal counsellor is being involved therein if separated children residing outside the initial reception centre are concerned. This practice leads to problems, as illustrated by the following tragic case:

R was in Austria for the first time at the end of 2009. The Austrian authority transferred him back to Italy because he had come from Italy and they handled his case like an adults' case of an illegal migrant (without any age assessment).

In an interview with the Austrian police in Traiskirchen in May 2010 he stated that he had also tried to ask for asylum when he was in Austria for the first time, but the police officer had not listened to him!

Afterwards he went to Sweden and applied for asylum there.

The Swedish authorities told him that Austria - under the Dublin II regulation - was responsible to handle his case. He told the authority in Sweden that he was 16 years old, but they said that he was of full age. So they brought him to a facility for adults in the village of Hagfors in the province of Värmlands. He was in Hagfors for about five months and was abused by an adult asylum-seeker there. He went to the police, where the officer told him that if this should happen again, he should come back.

He felt so insecure and ashamed about this that he left Sweden, went to France and finally came back to Austria. He told his story to the police in Austria but instead of supporting him they put him in detention pending deportation to Sweden. After some weeks he committed suicide.

Belgium

Separated children from Afghanistan are de facto not being returned to Greece under the Dublin system since May 2010.

Denmark

According to information from the Danish Immigration Office, 19 separated children were returned under the Dublin Regulation in 2009.

Greece

Greek NGOs have observed the return of unaccompanied minors from other EU and Non-EU Member States under the Dublin II Regulation. However, in some of these cases, it was stated by the sending country's authorities that the said minors had been recorded by them, following age assessment, as adults.

Greek NGOs have noted recently considerable delays in the implementation of family reunification

processes under Dublin II (outcoming requests from Greece), resulting in the failure of many such cases (of children with legitimate claims to family reunification, for which receiving Member States have acknowledged responsibility) due to administrative hurdles.

Hungary

Dublin II transfers to Hungary took place from the following countries: Austria (4), Finland (2), France (2), Germany (2), Norway (2), Switzerland (1), Sweden (1). 4 separated children were transferred to France.

Ireland

The total number of minors transferred under Dublin II in 2010 was two; both were transferred to the United Kingdom. They were two females from Zimbabwe.

Presently, there is a case on-going that involves one separated child with a pending transfer order to Greece. However the transfer order is suspended pending a judicial review of this case at the High Court.

Malta

When persons who are returned through Dublin II have been recognised as minors in Malta, they are accommodated in a centre for unaccompanied minors. This has been standard practice for a long time.

There has been an increased interest related to the return of unaccompanied minors from Sweden and the Netherlands via the Dublin II regulation. There are persons who declare that they are minors when they are in other countries and when they are about to be returned, the authorities check with AWAS if these persons have been recognised as minors in Malta. As mentioned above, if they are minors, they are accommodated accordingly.

The Netherlands

The Division of the Council of State will provisionally hold higher appeals which relate to the transfer of asylum seekers to Greece under the Dublin Regulation and the applicability of article 3 second paragraph of this Regulation, which includes the interstate trust principle.

The reason is the preliminary question from the Court of Appeal in England and Wales to the Court of Justice of the European Union on the scope of article 3, second paragraph of the Dublin Regulation. The Department waits for the reply of the Court of Justice on the question.

Another development is that the guardianship institution Nidos has hired a person who will advise the guardians on the Dublin Procedure.

Spain

The Dublin regulation is not being applied in cases of unaccompanied minors.

Slovenia

In 2010 eight separated children (seven from Afghanistan and one from Albania) were returned from Austria, Denmark and Sweden under the Dublin regulation. Six of them were, after their transfer to Slovenia, accommodated in the Centre for foreigners (detention center); five of them again applied for asylum and were transferred to the Asylum Home, one minor decided to return to his country of origin (Albania). Two minors were directly accommodated in the Asylum Home.

Sweden

Dublin cases are normally not granted any legal representative to represent him/her in neither issues concerning asylum nor detention. UNHCR is aware that separated children awaiting transfer to another EU country has in Gothenburg been placed in temporary detention for shorter periods of time while awaiting a planned transfer. Sweden does not transfer children to Greece, but has in 2010 been criticized by NGOs for continue doing so to Malta and Italy.

United Kingdom

A successful challenge to the government's 'no notice of removal policy in relation to groups including separated children has resulted in a change in policy. Removal directions must be issued five days in advance of a planned removal, enabling legal challenges to be made where necessary.

Procedures and Recognition

Austria

Official statistics concerning the apportionment of subsidiary protection and asylum to separated children are not available. A survey carried out by Asylkoordinations Österreich for the Daphne III programme named "Better Integration of Separated Children" showed following results:

In 2009, 142 separated children were granted subsidiary protection, a relatively high number in comparison to the 17 separated children who received asylum. The vast majority of children who were granted subsidiary protection in 2009 came from Afghanistan (114). As to gender distribution it is estimated that 95% of the applications were submitted by boys; whereas girls have the same chance to be granted subsidiary protection as boys (136 boys, 6 girls), the likelihood of being granted

asylum is considerably higher for girls than for boys (10 girls, 7 boys).

The duration of the asylum procedure varies considerably. While the Federal Asylum Agency Branch Office Traiskirchen often made fast decisions concerning Afghans in 2009, unaccompanied children residing in Vienna usually waited one year or sometimes longer for their first instance decision.

An exact comparison of the apportionment of asylum and subsidiary protection granted to adults and unaccompanied children respectively are not possible and would still be problematic even if official statistics were available. Since asylum procedures often take very long, many refugees who are still minors at the time of applying for asylum often "age out" by the time a decision is made, which can lead to a distortion of the results.

However, three conclusions can easily be drawn from the present data:

1. While asylum-seekers in general are granted asylum more often than subsidiary protection, the results are exactly the opposite in the case of separated children.
2. Girls have a considerably higher chance of being granted asylum than boys.
3. The country of origin is the most important factor when granting asylum or subsidiary protection.

Belgium

Several delays have been noted to deliver documents under the Circular of 15 September 2005 for separated children who do not seek asylum or cannot benefit from another residence procedure. This causes some separated children to have discontinuity between their documents and this can be problematic for certain social rights and for certain types of schooling where the minor needs to do an internship.

Bulgaria

In 2010, as of 31 August, out of 14 asylum applications, 2 separated asylum seeking children were granted subsidiary protection, and none were rejected by that time.

Estonia

Article 17 of the Act on Granting International Protection to Aliens (AGIPA) reiterates corresponding provisions of Article 17 of the Procedural Directive. The national law provides a number of guarantees for separated and unaccompanied children, including an explicit reference to the principle of the "best interests of the child".

In accordance with the law, an applicant who is an unaccompanied minor shall be represented in the RSD procedure by a guardian or a guardianship

institution or the head of the reception centre, unless the law provides otherwise. The person involved in procedures involving minors, should have the necessary professional expertise and experience. Yet, the AGIPA does not specify, if a minor applicant (either accompanied or unaccompanied) shall be interviewed by the specially trained personnel of the BBG or CMB.

The law reiterates in Article 18(5), that an applicant of at least 10 years of age shall be granted the right of a personal interview. If the circumstances so require and the child is mature enough to understand and answer the questions, an individual interview can be conducted even with an applicant younger than 10 years of age.

Finland

2 unaccompanied children were granted Convention status as by end of June 2010. 155 children were provided with different forms of complimentary protection: 39 were granted humanitarian protection, 79 subsidiary protection and 37 children a residence permit on compassionate grounds. Applications of 3 children were rejected, cases of 39 children were otherwise closed: 16 cases were transferred to other countries on the basis of Dublin II Regulation; 2 applications were recognized as manifestly unfounded and examination of 19 applications was terminated. There was a remarkable decline of Dublin cases: the proportion of Dublin cases was only 9% between January-April 2010, while it was as much as 51 % at the same period in 2009. (However, the proportion was 32% if we look at the whole year 2009).

Germany

In the period January. to August. 2010 the protection rate declined in comparison to the year 2009 mostly due to the fact that Yezidi applicants from Iraq are no longer granted refugee status on a group basis. In the period Jan. to August 2009 39% of all separated children were granted protection, in 2009 the rate was a bit higher.

Greece

The UNHCR Office observes with continued concern that deportation orders against separated children continue being issued without discrimination. In parallel, the vast majority of the asylum decisions issued at first instance are negative, not excluding separated children. The fact that the current law provides for no administrative appeals' stage within the asylum procedure, tapped with the general insufficiency of the guardianship system and the absence of state legal aid, leaves children totally unprotected against removal, arrest or detention, and unable to effectively enjoy any of their social, welfare or protection rights.

UNHCR initiated, in June 2010, a border monitoring Project (forming part of the UKBA/UNHCR Grant Agreement on Various Components) which is run at six border points of Greece (islands of Samos, Chios, Lesbos, Kos and Crete, and the continental cities of Patras and Igoumenitsa) as well as Athens. The Project's aim is to monitor and effect capacity building on reception and asylum conditions. Special emphasis is foreseen on the identification, treatment and protection of unaccompanied minors, with a view to reinforcing and enhancing reception, guardianship, referral and asylum procedures at the borders.

Hungary

Nationality	Age	Gender	Refugee Status	subsidiary Protection	Exile
Afghanistan	14-17	Male	1	14	2
Kosovo	14-17	Male			1
Somali	14-17	Male	2	2	
Somali	14-17	Female	1		
Summary			4	16	3

'Exile' shall mean any person who is provided temporary shelter and may not be returned to the country of his/her nationality, or in the case of a stateless person to the country of domicile, for fear of being subjected to capital punishment, torture or any other form of cruel, inhuman or degrading treatment, and there is no safe third country offering refuge, and who is not entitled to asylum or treatment as a stateless persons, nor to any subsidiary form of protection or temporary protection.

Ireland

The inter agency training undertaken by UNHCR identified a need to clarify the policies, practices and procedures in place for the conduct of RSD interviews and the roles of the respective agencies.

The Refugee Legal Service had indicated that it intends to end the automatic attendance at refugee status determination interviews of a solicitor or caseworker of separated children

The Netherlands

On the first of July 2010 the asylum procedure has been revised. Now there is a rest and preparation period awarded to the separated children who ask for asylum. This will help the children to start the asylum procedure in a better condition. Before the

first of July 2010 the children had to start the asylum procedure within 48 hours. The new procedure takes at least 8 days.

Romania

National legislation regarding unaccompanied minors

The Romanian Asylum Law applies to citizens who do not have Romanian citizenship and also to stateless persons who are asylum seekers or beneficiaries of a form of protection. Romanian Asylum Law has special provisions regarding the unaccompanied minors asylum seekers.

According to the Romanian Asylum Law – Law no. 122/2006 – an „unaccompanied minor” is a „minor, alien citizen or stateless person, who reached Romania unaccompanied by parents or legal representatives or who is not taken care of by other person, according to the legislation, as well as the minor who remain unaccompanied after entering Romanian territory”.

In the field of child protection the main Romanian Law is Law no. 272/2004 on the protection and promotion of the rights of the child, which provides the conditions for the protection of the rights of the child, irrespective of the child’s nationality.

Even when the Romanian Asylum Law is not applicable, the Romanian authorities in the field of child protection will take all the measures for the protection of the unaccompanied minors who are not Romanian citizens. In the case of an unaccompanied minor who is not an asylum seeker or a beneficiary of a form of protection, the Romanian Aliens Law and Child Protection Law are applicable.

Standards regarding the asylum procedure

In Romania, the unaccompanied minors or minors with families who are asylum seekers can not be held in detention solely on the ground of being asylum-seekers.

According to Romanian Asylum Law, unaccompanied minors asylum seekers shall benefit from the same protection that is offered to Romanian minors in difficulty as provided by the law.

Unaccompanied minors asylum seekers have the right to take part in cultural adaptation activities, to receive identity documents, social assistance etc. Also, they have access to education.

At the same time the asylum application is lodged, Romanian Immigration Office and the other competent authorities for receiving asylum applications shall fingerprint all the asylum applicants who, according to their statements, have reached the age of 14, subsequently submitting and storing this data.

The asylum applications lodged by unaccompanied minors shall not follow the procedure at the border. The unaccompanied minors asylum applicants shall be granted the access to the territory and to the ordinary procedure. The asylum applications of the unaccompanied minors cannot be resolved by accelerated procedure.

According to the Romanian Asylum Law, the forms of protection which can be granted to an asylum seeker are refugee status (the criteria are the same as those provided in the 1951 Geneva Convention) and subsidiary protection (the criteria are the same as those provided in the Directive 2004/83/EC – „Qualification Directive”).

Applications lodged by minors

The interests of a minor alien shall be represented by her or his own legal representative. The minor alien shall lodge her or his asylum application by her or his own legal representative, and in the case the age of the minor is 14 the asylum application may be lodged personally. In case of an unaccompanied minor alien who manifested, orally or in writing, her or his will to be granted asylum, in front of the competent authorities, shall be registered as asylum applicant and her or his application shall be lodged when appointing her or him a legal representative.

Interviewing the asylum applicants minors

The asylum applicant minor shall be interviewed in the presence of her or his own legal representative. The legal representative informs the asylum applicant minor on the purpose and possible consequences of the personal interview and shall undertake the necessary measures in order to prepare the minor for the interview. The asylum applicant minors and the unaccompanied asylum applicant minors shall be interviewed in all the cases, if possible, according to their physical development. When conducting an interview with the asylum applicant minor, her or his intellectual development and maturity shall be taken into consideration.

Resolving the asylum application

When resolving the applications of the asylum applicants minors, their intellectual development and maturity shall be taken into consideration.

Most asylum applications submitted by separated children have been rejected in the administrative stage of the procedure, but they were granted a form of protection by courts.

Slovakia

First time, the asylum was granted to a separated child seeking asylum. The protection was granted to a young Afghan boy for humanitarian grounds after the case had been returned to the Migration office from the Supreme Court.

Spain

The Spanish Ombudsman in the 2009 annual report of the institution reflects that there are persisting problems and a serious disparity of practices that has motivated numerous actions of the Ombudsman, to avoid serious consequences of an incorrect application of the legislation.

On 27th April 2010, the Judgment of the Contentious Administrative in Madrid, issued a sentence that recognized the right of a separated child to have a residence permit with retroactive effect.

Sweden

Among Separated Children, 1951 Refugee Convention recognition rates are generally low; the rate of granting subsidiary protection on grounds of internal armed conflict and/or risk of serious abuses is fairly high with regard to separated children originating from Afghanistan and Somalia. Traditionally, separated children were granted protection on the grounds of seriously distressing circumstances ("humanitarian reasons") which contains specific reference to children, emphasizing that the circumstances referred to in the case of a child applicant not need to have the same seriousness and weight as required for an adult to be granted a residence permit. Reportedly, due to an unforeseen restrictive interpretation of the provision, the government has appointed an inquiry which is currently looking into the adherence between application of the provision and the intended scope of application.

In August 2010, the general processing time for a child claim amounted to 140 days (4,6 months) which entails a shortening of processing times as compared to previous years.

The Swedish Migration Board has taken initiatives aimed at strengthening the child-specific aspects and quality of RSD in relation to children such as internal guidelines on how asylum claims submitted by children should be examined, the introduction of an interview guide on how to conduct interviews with children, and training of staff involved with children. Nonetheless, the measures taken do not necessarily guarantee that child-specific forms of persecution are taken into account, that guidelines are adhered to by individual case workers and decision makers, or that the best interests of the child principle is implemented as it should be.

The right to family reunification of unaccompanied and separated children under the Swedish Aliens Act was strengthened in connection with the implementation of the EU Directive on Family

Reunification, for those having received refugee status or as otherwise in need of protection. However, in relation to the low recognition rate of refugees and persons otherwise in need of protection, only a minority of the unaccompanied and separated children in Sweden receive a status which would guarantee them the right to reunification.

United Kingdom

In August 2010 the first refugees who had been given limited leave when recognised as refugees had to apply for settlement. Concerns had been raised by NGOs as the process for applying was not publicised early enough and little thought apparently given as to the legal situation for those who may apply after their leave had expired.

Family Tracing and Reunification

Austria

Age assessment procedures are increasingly commissioned by embassies when it comes to family reunification. E.g. Afghans are mostly examined in Islamabad, Pakistan. Although the concerned persons have to pay the expert opinions themselves, they are not handed out to them but directly sent to the Austrian Embassy. It is unknown which procedures to assess a person's age are applied by the doctors in Pakistan.

Belgium

The present government crisis blocks debate and initiatives to ensure the alignment of the Belgian family reunification procedures applicable for recognized refugees with beneficiaries of subsidiary protection, as well as the creation of a more effective and less costly procedure.

Finland

There are some new restrictions for family reunification of separated children. According to the amendment of the Aliens Act that came into force on the 1 August 2010, 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). It means that applicant's legal rights would be depending on the handling time in the bureaucracy. This means in practice that most of separated children will not get their families to Finland – most of them are 16-17 years old when they come to the country.

Latvia

Section 46 paragraph 2 of the Asylum Law provides a right to reunite with family members for a person who has been granted temporary protection. Temporary protection in the Republic of Latvia shall be granted to a family member who arrives in the Republic of Latvia in order to reunite with a person who has been granted temporary protection.

On 26 January 2010 the Cabinet of Ministers adopted Regulation No. 74 „Procedure by which Reunification of Family is Provided for a Person who is Granted Refugee Status, Alternative Status or Temporary Protection”.

Poland

In case of asylum seeking unaccompanied minors, the Head of the Office for Foreigners is obliged by the Aliens Protection Law to undertake any steps to trace the family members of a minor. When the search is successful, reunification procedures are initiated.

Romania

(1)The person who has been granted a form of protection under the conditions of the art. 23 and 26 of the present law may lodge an asylum application for her or his family members stipulated under art.2 letter j), in case these persons are outside the territory of Romania.

(2)These applications shall be lodged at the National Refugee Office or its territorial branches.

(3)In the case the civil servant foreseen under art. 48 paragraph (2) estimates that the family relation has been proven by the beneficiary of the form of protection or, as the case may be, of concluding marriage before entering the territory of Romania, shall request to the Ministry of Foreign Affairs to issue the visa and the travel documents for the family members provided under paragraph (1).

(4)After the family members enter the territory of Romania, in the case of their agreement concerning the asylum application, the application shall be resolved complying with the provisions of the present law.

If the conditions for family reunification, are complied, the family member (spouse or minor children) of the beneficiary of refugee status or subsidiary protection will be granted the same form of protection as the main beneficiary. If the family member is granted refugee status or subsidiary protection, he/she will have all the rights of beneficiaries of a protection form, including the right to stay on Romanian territory.

Also, Romanian Aliens Law provides the conditions for family reunification/reunion of any alien, including beneficiary of refugee status or subsidiary protection. If family reunification is made under the

conditions of the above mentioned law, the applicant will be granted only the right to stay on the Romanian territory. Also, the above mentioned law provides that the family members of a beneficiary of refugee status or subsidiary protection, due to their special situation, are excepted from some of the conditions provided for family reunification.

When the family member of a beneficiary of a form of protection in Romania is in the country of origin, the Romanian Immigration Office will forward to the General Directorate for Consular Affairs a note confirming the accomplishment of the conditions for family reunification for the family member of the beneficiary of a protection form in Romania. The General Directorate for Consular Affairs will forward the notification, as soon as possible, to the diplomatic mission or the consular office from the country where the family member is, and give order to these institutions to grant the interested person, at request, a 30 days visa for Romania, after establishing his/hers identity and only if a valid travel document is presented

However, according to the present legal provisions, a child can only apply for family reunification with his/her parents, not with the siblings as well. In practice, this makes the family reunification difficult for those parents who have other children living with them. Moreover, there is no financial assistance provided for family reunification cases thus making the family reunification in some cases almost impossible.

Sweden

The Swedish Migration Board does not have guidelines for caseworkers on how tracing should be carried out, nor at what stage of the procedure and how the results should be taken into account in decision-making. The result is an ad hoc approach based on the complexities of the individual cases at hand and the local policies of the Swedish Migration Board.

Another problem in the context of family reunification is the time Swedish embassies abroad take to process parents applications. When decisions are finally taken by the Swedish Migration Board, many children have reached the age of 18 and would thus no longer be entitled to family reunification. The Swedish Migration Board has internal guidelines instructing case workers and decision makers to take prompt decisions on applications for family reunification involving unaccompanied and separated children. Regrettably, however, the embassies have no such instructions, on how to process applications for family reunification in a speedy manner. The Swedish Migration Board is currently working on updating

the chapter in their internal handbook on how to carry out best interest determination including when and how to initiate tracing.

United Kingdom

Separated children do not have an automatic right to family reunion in the UK following a grant of refugee status. This is not a new policy.

Return and reintegration

Belgium

IOM will present through a final conference, its project called "Raising awareness on Unaccompanied Foreign Minors rights". The project, co-funded by the European Commission and supported by the Governments of Austria, Belgium, Bulgaria, the Czech Republic, Poland and Romania aimed at raising awareness among separated children residing in EU countries' reception structures on the rights they are entitled to as children and on the risks they face either by migrating alone or by leaving the structures they are hosted in. Separated children have been involved in the implementation of the project and will be informed on their rights through an info campaign.

Council of Europe

The Human Rights commissioner Thomas Hammarberg commented the fate of unaccompanied foreign minors in Europe. He points out that some European countries are looking into the possibility of sending these children back to orphanages established in their countries of origin and he argues that these countries, signatories of the UN CRC have obligations to provide protection to these children, according to their best interest. Read his opinion published by 'Sofia Echo' at:

http://sofiaecho.com/2010/04/21/890364_comment-we-have-a-duty-to-protect-these-children/bulletin

Denmark

Denmark in co-ordination with other Nordic countries wishes to initiate returns of minors not in need of protection to care centres in the country of origin or former place of residence.

Estonia

In general, there is a possibility to participate in the voluntary return programme, which is run by IOM as of 1 January 2010. It is funded by the European Return Fund and the Estonian Ministry of the Interior.

Hungary

The General Ombudsman's recent report on the return of two unaccompanied minors to Romania heavily criticized the current situation of the unaccompanied minors (born in Hungary and abandoned by the parents) and their return. The main findings are that the current legislation provisions are defective or missing and the stakeholders misinterpret the law.

The Netherlands

In April 2010 Defence for Children International-ECPAT the Netherlands and UNICEF launched a position paper on the return of separated children to countries of origin See:

<http://www.defenceforchildren.nl/images/20/1085.pdf>

In this position paper the various forms of return of separated children are discussed and recommendations are made in order for the return to be in line with the Convention on the Rights of the Child. The 40 separated children who returned to their country of origin in 2009 have never arrived at the 'adequate shelters', financed by the Dutch government. The Dutch government states that the children are living with their parents or other family members. This is however not investigated or monitored.

Norway

Norway has in its 2009-2013 platform adopted a stricter asylum policy with the aim to bring down the number of asylum-seekers and more separated children found not to be in need of protection will be returned.

The Norwegian government has decided to establish care centers for separated children in the country of origin. In June 2009, the Norwegian government presented a new measure to tighten the number of asylum seekers arriving to Norway: Establishing care centres in the home countries of unaccompanied minor asylum seekers. Separated children who do not have the protection needs, and who have been granted just because they have not managed to trace family members, will be returned to these care centers. It is decided to implement care centers in Afghanistan and Northern Iraq. Norway cooperates with the Netherlands, UK and Sweden on the establishment.

Norway has just signed the tripartite agreement between Norway, Afghanistan and UNHCR, which has been extended until June 2011. This gives the possibility to return to Afghanistan, even forced return.

Ireland

The Health Service Executive is undertaking a review on separated children who have been

returned to their families/guardians to evaluate their involvement in family reunification and the reintegration of the young people who had been referred into their care under Section 8(5)(a) of the Refugee Act 1996.

Presently, research is being conducted by the HSE to undertake follow-up visits to all children/young people who have been reunified since 2009.

Four young people (including one over the age of 18) were assisted by the International Organisation for Migration's Voluntary Return Home service.

Slovenia

In 2010 three separated children were returned to their country of origin. In Slovenia there are still no suitable return and reintegration programmes for the separated children who are returned to their country of origin.

Sweden

In May 2010, the Minister of Migration, announced that the Swedish Migration Board will explore the possibility to open care centers in Afghanistan and Iraq for separated children without protection needs. In spring 2010, the Swedish Migration Board visited Afghanistan and Iraq for this purpose. From a legalistic point of view, Swedish authorities need the centres because the EU Returns Directive specifies that the forcible return of children is only to take place if "adequate reception and care" exists on return. UNHCR has reminded that a careful best interests determinations is needed before any decision to send a child back is taken, as well as is family tracing, clarity on legal responsibility for the children after return, and a genuine plan for the child's reintegration.

United Kingdom

A tender for reintegration services in Kabul was issued by the government in March 2010. A decision on the successful contractor has not been made public. It will include specific provision for separated children aged 16 and 17 forcibly removed to Kabul following a refusal of asylum.

Trafficking

Belgium

The final report of the «Task Force Mineurs Voyageant Seuls» was submitted in June 2010 to the Secretary of State for Asylum and Migration Policy, who presented it to the Council of Ministers in July 2010. This report will be presented during the Separated Children (MENA) conference on 9 and 10 December 2010.

It contains recommendations in order to prevent that minors travelling alone would become victims

of abuse and in order to ameliorate the detection, identification, registration and reception of minor victims of human trafficking. The Task Force was created a year ago and was composed by representatives from the Aliens Office, CGRA, Guardianship Service, Ministry of Justice, Federal (border) police, UNHCR and Child Focus.

<http://presscenter.org/archive/20100720/f58c589100ff81520db65aaa7b0868f3/?lang=nl&prLang=fr>

and

<http://www.lesfamilles.be/portail/public/pages/?lang=1&rub=rubAccueil>

Finland

There is no information on how many minor applicants arriving in Finland have been victims of human trafficking.

There were some interesting conclusions in the first report of the National Rapporteur on Trafficking in Human Beings (the Ombudsman of Minorities) published in June. The National Rapporteur examined how the Dublin Regulations were carried out and if there were a connection to trafficking. There were some cases examined, among them also some separated children's cases. The Rapporteur considers that if the suspicion of victimization arises in Finland, the grounds of the asylum application must be examined in Finland, even if the person had originally applied for asylum in another EU Member State. Refusals of entry should not be used, especially when the subject of the procedure is a minor.

According to the report, however, it appears that since the applicant had already been registered in the Eurodac system in Greece or Italy, the decision to refuse entry was issued without looking at the person's situation in detail.

There were applicants coming from Greece or Italy who were forced to live on the streets because of poor conditions in reception. Applicants had faced violence and finally met people whom they wanted to help in getting out of the situation. Those people offered them work but that had led to exploitation. Finally they had met some smugglers who helped them out of the country: they ended up in Finland and now they owed money to these new persons who arranged their travel.

The report takes up the item of age disputes introduced also earlier in this newsletter. Some applicants who claim to be minors have previously been registered as adults in Greece or Italy. They have said that the smugglers had advised them to lie about their age because it would be easier to find jobs as adults. In the majority of these cases, the Immigration Service regarded the applicant as an adult.

According to the conclusions, the Immigration Service does not adequately ascertain whether accompanied or unaccompanied minors arriving in the country have been victims of human trafficking or are in danger of being victimized. The Rapporteur summarizes that it appears that the administrative procedure works in a way contrary to the applicants' stories in these cases: the procedure ends when indications of human trafficking are just beginning to emerge. The examined documents also show that e.g. authorities in Italy had acknowledged that their resources were restricted and even asked to avoid the return of people in vulnerable situations to Italy. However, Finnish authorities were counting on the system of helping victims of trafficking in other member states.

The Immigration Service's view on assessing suspicion of victimization or the risk of becoming a victim of human trafficking is that a minor's asylum application is only examined in substance if there are clear signs of human trafficking, the children themselves claim they have been victimized or refer to their rights, or there are arguments for examining the application in Finland because a criminal investigation into human trafficking is taking place. It is also the opinion of the Immigration Service that the victims of human trafficking can turn to a system for assisting such victims that also exists in the other EU Member State.

Ireland

On the 15 July 2010, the Minister for Justice and Law Reform announced that Ireland has ratified the Council of Europe Convention on Action against Trafficking in Human Beings, following the deposit of Ireland's instruments of ratification with the Secretary General of the Council of Europe. It will enter into force as regards Ireland on 1 November 2010.

There is an Anti-Human Trafficking Unit in the Department of Justice and Law Reform. Officials from the group meet regularly with representatives from State agencies and NGOs, the IOM and UNHCR. Five interdisciplinary Working Groups work to progress matters in relation to Child Trafficking, Development of a National Referral Mechanism, Awareness Raising and Training, Sexual Exploitation issues and Labour Exploitation issues and, in turn, report to a High Level Group.

In June of this year there was a two and half day Garda (Police) training course on prevention, protection and prosecution with 67 Garda participants and 2 from the PSNI (Police Service of Northern Ireland) in attendance. To date in excess of 400 operational Garda personnel have received

this detailed training. Human trafficking is included in the senior investigating officers' course in the Garda Training College.

The Anti-Human Trafficking Unit, Department of Justice and Law Reform is hosting a one day film festival on human trafficking on 18 October, 2010 as part of the wider blue-blindfold campaign. See: <http://www.blueblindfold.gov.ie/>

In August 2009, The Body Shop Ireland and ECPAT global began a three-year global campaign entitled: Stop Sex Trafficking of Children and Young People. The three aims of the campaign are to raise awareness of the 1.2 million children trafficked globally on an annual basis, influence governments worldwide to implement stricter anti-trafficking policies and legislation, and empower ordinary people to make a difference. See: <http://www.childrensrights.ie/index.php?q=what-s-new/stop-sex-trafficking-campaign>

Latvia

The official position is that child trafficking has been eliminated in Latvia. However, at the same time it is not clear what in practice is perceived as child trafficking. There are some indications that despite the legislative changes and awareness raising, the term often has been understood narrowly as only the trade in children from/to countries abroad against their will.

Official calculations on approximate scale of trafficking do not exist. For at least four last years the most often mentioned approximate data is that every month about 100 individuals from Latvia become victims of trafficking in human beings, making reference to the International Organisation for Migration or to the State Police. However, it is hard to judge whether this number still reflects the real situation.

The Netherlands

On the First of January 2008 the pilot 'protected reception' formally started. Separated children who belong to the so-called 'risk category' are received in specific, small-scale centers with a high level of escort and an intensive coaching during their stay. Nigerian and Indian youngsters, later on followed by Chinese and Guineese youngsters, were labeled as 'risk full'. They were seen as possible victims of trafficking.

The pilot started because a part of the separated children did leave with an unknown destination from the other reception facilities. The protected reception shelter aims to decrease the level of disappearances of the separated children, to

decrease the size of the 'risk category' and to increase the return.

In the report by the Research and Documentation Centre (WODC) an analysis is made on which extent the pilot contributes to the named objectives and on which extent success on the attained quantitative results can be linked to the objectives of this pilot. The quantitative results show that the number of youngsters at risk entering the Netherlands has decreased or stayed the same while the number of separated children applying for asylum has increased. It suggests the pilot had its effect. Except from the campuses, the disappearances from the facilities did decrease. There has been no increase in the return-numbers.

Next to this findings Dutch legislation appears to have no legal grounds for the protected reception because there is no legal base for it. Also there is no judge involved in the decision making process to give a judicial review. Furthermore a child doesn't get legal assistance during his placement in a protection reception centre. This violates the international human rights treaties and the Dutch Constitution. This leads to the necessity of revising the legislation and the practice. One of the troublesome bottlenecks in the pilot was an unclear demarcation of the pilot's target group.

Because of the vulnerability of the target group a continuation of some form of protected reception is needed but the present practice is not satisfying. An adequate legal base has to be found, and the level of security and needs of protection has to be reconsidered. The report puts a recommendation forward: maybe some form where deprivation of liberty is excluded but with intensive coaching of the child. The minister of Justice announced that the 'Protected Shelter' pilot will be continued. The Minister will however investigate whether these separated children can also find shelter in the detention facility De Maasberg for their protection. It is foreseen that this will lead to a lot of criticism from NGO's.

On www.ecpat.nl a petition in co-operation with the Body Shop is placed against trafficking. Since August 31, 2009 the Body Shop is working with ECPAT on a campaign called "Stop sexual exploitation of children and adolescents". It is a 3 year campaign. The goal of this campaign is three fold: to raise awareness of sexual exploitation of children, to raise money for children who became victim of sexual exploitation or are at risk and to encourage policymakers to take measures which will result in concrete changes.

Poland

On 8 September 2010 an amendment to the 1997 Penal Code entered into force introducing the definition of the human trafficking, which would allow for better recognition and chasing of the perpetrators as well as better recognition of victims. The amendment introduced also the definition of slavery.

A special working unit operates in the Ministry of Interior and Administration, for the purpose of preventing and combating trafficking of human beings. It helps to coordinate actions of different entities involved in the issue, such as the Police, the La Strada Foundation or Nobody's Children Foundation.

In April 2009, the government established the National Intervention Consultation Center, which expanded the ability of authorities to assist victims. The NGO-operated center established a 24-hour hotline, provided direct assistance to victims of trafficking, and served as a consultation point for law enforcement working with victims of trafficking. The national center enhanced victim protection available to foreign victims of trafficking, including children.

Slovenia

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

Sweden

The Swedish police reports to see increasing numbers of rejected asylum-seekers (adults and children) being exposed to human trafficking for sexual or other purposes.

Most victims come from Eastern European states, predominantly Russian minorities from the Baltics and Romas. There is an increase of victims originating from Nigeria.

The Police has been provided 10 million SEK to conduct training activities for their own staff, SMB, police, courts and prosecutors up until end 2010. See further 'The Government's Action Plan for combatting Human Trafficking' available at <http://www.regeringen.se/content/1/c6/11/06/28/c77ec2bb.pdf>

and the police's most recent report on human trafficking, available at http://www.polisen.se/Global/www%20och%20Internapolis/Rapporter-utredningar/01%20Polisen%20nationellt/Ovriga%20rapporter-utredningar/Manniskohandel_lagesrapport_10_webb.pdf

Children and Youth Participation

Ireland

The Irish Refugee Council and UNICEF have entered into the second last phase of creating a child-friendly map of the asylum process, a map by which children and young people will be able to navigate the complex asylum systems independently. The first draft has been presented to young people where they have provided ample feedback for the project to move into the final stages.

The Irish Refugee council will also engage with separated children as a partner in the research project Closing a Protection Gap: Core standards for guardians of separated children (funded by Daphne). This research looks to identify the needs of separated children in the asylum process and which needs can be met by guardians and how best to equip guardians to work with separated children by way of establishing guidelines with direct input from young people through in depth interviews and focus groups.

The Dun Laoghaire Refugee Project continues to engage with separated children and young people through direct advocacy. The young people are also involved in volunteering and participating in an annual event for World Refugee Day. The young people often participate in research projects and focus groups that informed the work of a gamut of non-governmental organisations.

Malta

There is more participation from NGOs doing activities for and with the minors living in AWAS Centres.

The Netherlands

At ECPAT-the Netherlands there is a new employee who will focus on children & youth participation.

Furthermore, the results of the Daphne project will be published in a couple of months. Around 15 children are interviewed about their experiences with their guardian. The results of these interviews (and the interviews in the other seven participating countries) will lead to the development of core standards for guardians working with separated children.

Romania

Two of the separated children became volunteers in the programs implemented by Save the Children and are involved in activities for the assistance of children in need of international protection.

Switzerland

Under the patronage of the Conseil Suisse des Activités de Jeunesse (CSAJ) a pilot project called “Speak-Out!”, which started in 2009, aims to build the capacity of unaccompanied minors through workshops to allow them to communicate their concerns to the public inter alia through meetings with government officials, participation in the Swiss youth parliament and other fora for public debate. Although the specific participants change over time due to departure or other reasons, in principle about 21 children between the age of 13 and 17 from 9 different countries participate in the project from five Cantons in Switzerland, namely Fribourg, Geneva, Zurich, Basle Stadt and Vaud. The Cantons were selected as they are the only Cantons with specific facilities for unaccompanied minors, thus facilitating initial contact, although unaccompanied minors may also be sent to other Cantons according to the general allocation key. This means that the situation and concerns raised in this project are not necessarily representative of unaccompanied children throughout Switzerland. Moreover, no distinction is made as to legal status, although the group consists mainly of asylum-seekers in the process and failed asylum-seekers. Only a very few have obtained a provisional admission and, to date, only one in the group has obtained refugee status. Nonetheless, the project is unique inasmuch as it is based on participatory assessments of issues of concerns to be raised. Most recently, they participated in the “Action 72 heures”, where about 28.000 adolescents participated in different voluntary projects to help improve community life. The members of the “Speak-Out!” group also created a glossary in seven languages to facilitate communication amongst themselves as well as with learning one of Switzerland’s official languages.

Miscellaneous

Council of Europe: Positions on the Rights of Minor Migrants in an irregular situation.

Human Rights Commissioner Hammarberg wrote an opinion about refuge-seeking children. He is pointing out that children accompanied by adults are treated as “possessions belonging to their parents”. When children arrive unaccompanied, the migration authorities tend to focus only on how to bring them back to their parents, ignoring that they have in many cases escaped from their country with the fullest support of their family.

Children should be asked for their reasons and guardians should be appointed for unaccompanied minors. Read the position paper here: <https://wcd.coe.int/ViewDoc.jsp?id=1654377>

Denmark

Save the Children Denmark is managing a project “Better integration of separated children – capacity building and exchange of good practice to prevent violation of their rights”. The project is funded by EC-Daphne III Program. Asylkoordination Österreich, Nobody’s Children Foundation, Slovene Philanthropy, Slovak Humanitarian Council are all partners in the project. Reports have been written on the challenges facing separated children in each of the four countries and the national reports have been analyzed and gathered in a compilation of the studies. Initiatives in each country have started in order to create national networks for professionals to build capacity and exchange knowledge.

Finland

An interesting 3-year project was launched in 2008 by a child welfare organisation called All Our Children. The project aims to improve the assessment of the best interests of the child and the psychosocial situation of separated children in the asylum procedure. The project is done in close cooperation with the Finnish Immigration Service, the reception center of the city of Espoo and the Federation of Special Welfare Organisations (EHJÄ). In order to support the evaluation of the best interests and the understanding of the psychosocial situation of the minors 1) a consultation model for the decision making authorities has been created 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 centers have been developed. In addition, the project has organised various trainings for professionals working with the unaccompanied asylum seeking minors and a brochure designed for children of the asylum procedure will be published.

Greece

In March 2010 the Legal Council of State issued a legal opinion regarding the unaccompanied minors’ registration in schools. Solutions for the relevant problems are suggested. The Legal Opinion refers that all minors can be registered even if they do not have any supporting documents. Following entry exams, the competent Committee may decide about the entry level. Children’s personal data will be recorded according to their declaration. Furthermore, in case there is no guardian, the School’s Director will send the relevant notification to Court.

The Greek Ombudsman reported to UNHCR that the Ministry of Education has adopted this Legal Opinion in July 2010. It is scheduled that a special circular will be issued and sent to all schools and

other educational authorities in Greece in order to facilitate the unaccompanied minors’ registration.

As several practical hindrances continued being observed in the registration of undocumented children (including separated children) to schools, in June 23rd 2010, the Ministry of Education issued another circular in order to highlight to all educational authorities the provisions of the immigration Law regarding the access of all children to education. The Ministry reminds to the Greek authorities that the registration in public schools of all foreign children (even if they do not have any residence permit) is possible. Particularly, it is reminded that the registration of all asylum seekers, refugee children, or children under UNHCR protection and generally of all children from countries where the situation is alarmed can be completed without any supporting documents.

Malta

ERF Funding is being accessed to further improve the current structure of one of the centres for unaccompanied minors and to engage the services of an educator who will be responsible for various socio-educational activities for the residents.

There has been an increased interest in research related to asylum seekers in Malta by students at the University of Malta at a degree level. This has included research related indirectly to unaccompanied minors.

Poland

On 9 August 2010, the Ombudsman for Children’s Rights has requested the Minister of Health to analyze and address the issue of the access to national health system for foreign Separated Children staying in Poland illegally. The latter, unless undertook some legalization steps do not have the access to free health services. Until the now this issue has not been solved.

Romania

The Report of the Special Rapporteur on the human rights of migrants, Jorge Bustamante examines the protection of the human rights of migrants, placing Romania primarily as a country of origin and transit of migration flows, but also a country where labour immigration and asylum-seeking are emerging trends. It highlights the legal framework at the international, European and domestic levels, underscoring some gaps in the implementation of existing laws, and noting problematic policies. An analysis of major groups involved in the migrant phenomenon follows, including the Romanian diaspora, migrant workers, children left behind by migrating parents and victims of trafficking in persons. The report

highlights key challenges, good practices and provides a number of recommendations.

The report can be found at:

http://www2.ohchr.org/english/bodies/hrcouncil/docs/14session/A.HRC.14.30.Add.2_en.pdf

Spain

In the Autonomous Community of Basque Country, the public budget (through decree of the Revenue of Income's Guarantee) will not include among its beneficiaries the young persons who are older than 18 years that have been under the guardianship of the County Councils in the Basque Country's Government. Though it had promised to do so as a measure to avoid the risk of social exclusion of this population group. In the end this group remains out of the public budget because of the precarious economical situation of this autonomous community.

Sweden

A Universal Periodic Review was submitted 7 May 2010.

United Kingdom

The biggest single provider of legal advice and representation for separated children, Refugee and Migrant Justice, closed in June. It has caused distress and anxiety for children and NGOs are concerned that there is now insufficient good quality legal advice available to separate children.

The National Register for Unaccompanied Children (NRUC) was closed on 31st July 2010 as a result of the withdrawal of government funding. The register did not provide the benefits which had been hoped for, and its closure marks a wasted opportunity to develop a tool in helping to safeguard separated children.

Events

26 March, Lithuania

National Expert Roundtable "Unaccompanied Minors in Shengen : Trafficking in Human Beings and Security of Lithuanian Borders" Caritas Lithuania within the project "Assistance for victims of THB and prostitution" www.anti-trafficking.lt

15 April, Preston, UK

Issues in safeguarding refugee and asylum-seeking children.

Organised by (BASPCAN) and University of Central Lancashire conference. Relevant paper:

Alistair Christie and Shirley Martin, University College Cork, "What role for guardians? Work with separated children in Ireland."

17th April, Malta

A group of minors was taken to the concert held at the Valletta Waterfront where the Pope met the youths during his visit in Malta.

6 May, Toledo, Spain

Presentation of the training tools on International protection and unaccompanied minors by Save the Children and UNHCR. (The tools include: a guide for professionals working with minors in CD format, brochure and poster on unaccompanied minors).

12 May, Cork, Ireland.

Meeting Youth Needs in the 21st Century.

Organised by School of Applied Social Studies University College Cork. Break out session on the care of separated children.

<http://www.ucc.ie/en/appsoc/resconf/youthpolicy/bodytext,95675,en.html>

13 May, Ciudad Real, Spain

Child rights violations and International Protection Seminar organized by Save the Children Spain, UNHCR and La Merced-Migraciones.

20 May, Madrid, Spain

Training on children and International Protection for social workers and lawyers of La Merced Migraciones.

Organised by La Merced Migraciones and UNHCR

27 May, Cuenca, Spain

Child rights violations and International Protection Seminar organized by Save the Children Spain, UNHCR and La Merced-Migraciones.

10 June, Madrid, Spain

Childhood and International Protection in Europe European congress organized by La Merced-Migraciones, UNHCR, Comillas University, CEAR (Spanish Commission for Refugee Aid), UNICEF and Save the Children Spain.

10 June, European Parliament, Brussels, Belgium

EP hearing on Trafficking. MEPs Anna Hedh and Edith Baur will host the ongoing trafficking proposal entitled Combating and Preventing Trafficking in Human Beings: The Way Forward. Parliament will decide with the Council on the Commission Proposal. Save the Children participated as a speaker in a panel at the hearing.

11 -12 June, Budapest, Hungary

Two days forum discussion on human rights for the upcoming Universal Periodic Review - the situation of the separated children were also among the topics.

Organized by the Ministry for Foreign Affairs

16 June, Belfast, Northern Ireland
North-South Immigration Forum- Children & Immigration: using domestic & international duties.
Organised by the Law Centre Northern Ireland.

17 June, Albacete, Spain
Child rights violations and International Protection Seminar organized by Save the Children Spain, UNHCR and La Merced-Migraciones.

19-20 June, L/Derry, Northern Ireland.
The Children's Convention at 21: The Rights of the Child Come of Age?
Organised by University of Ulster: ISFL Regional Conference. See:
<http://www.socsci.ulster.ac.uk/law/conf1/>

23 June, Guadalajara, Spain
Child rights violations and International Protection Seminar organized by Save the Children Spain, UNHCR and La Merced-Migraciones.

28 June, Warsaw, Poland
Conference in Warsaw "Handel ludźmi a migracja. Pomoc i reintegracja ofiar" ("Human trafficking and migration. The support and reintegration of victims") Organiser: The Embassy of United Kingdom in Poland

5 – 7 July, Dublin Castle
Inter-agency training on Separated Children.
Organised by UNHCR Ireland in conjunction with UNHCR Geneva.

9 July, Valencia, Spain
VII Seminar of Minors: The problems of unaccompanied children in Spain.
Seminar organized by Illustrious lawyers' college of Valencia.

10-11 July, Wien, Austria
Raise up your voice. Workshop for the participation of young refugees in Austria
Organized by a participant in the SCEP Youth Network with the support of Austrian NGOs and UNHCR.

10 August, Belfast, Northern Ireland.
Training - Protecting Children's Rights in Immigration /Asylum cases. At Law Centre (NI), Belfast.

23 August – 3 September, Sliema, Malta
Summer Camp involving migrant and local children OFD (Organization for Friendship and Diversity)

20-21 September, Riga, Latvia
Nordic - Baltic conference „Stop Trafficking and Stand for Health!”. Organized by Nordic Council of Ministers, Nordic School of Public Health and Resource Center for Women “Marta”.

21-22 September, Dublin, Ireland
Understanding the Needs of Separated Children Seeking Asylum.
Organised by the Health Service Executive, the City of Dublin Vocational Education Committee and the Curriculum Development Unit.

25 September, Nicosia, Cyprus
Children's Participation in decision making.
Organized by HFC "Hope For Children" -UNCRC Policy Center

5-7 October, Barcelona, Spain
International conference on Children on the Move, organized by Global Movement for Children
<http://www.gmfc.org/en/action-within-the-movement/gmc-actions/actions-by-imperatives/1-leave-no-child-out/current-actions/90>

10 October, Brussels, Belgium
Addressing trafficking in Human Beings. Governments' responses in the EU and NG strategies outside the EU

14 - 15 October, Hague, The Netherlands.
Monitoring Mechanisms in the Fight against Human Trafficking.
An International conference on the exchange of best practices and the strengthening of networks.

25 October, Brussels, Belgium
IOM final conference of the "Raising awareness on the rights of Unaccompanied Foreign Minors' rights" project The conference will serve as a platform to present information on the latest policy and programme developments on assistance to unaccompanied minors in the EU. This includes an EU Council conclusion on UAMs adopted in June 2010, a European Commission Action Plan on UAMs and an IOM programme focused on raising awareness of UAMs rights in Europe.

3 November, Copenhagen, Denmark
Launch of awareness - raising campaign within the IOM Brussels' coordinated project “Raising awareness on unaccompanied minors' rights in Europe”. Organized by IOM Copenhagen

5 November, Helsinki, Finland
A seminar about the best interests of the child and the wellbeing of separated children.

The programme aims to introduce what is the background of these children in the countries of origin and which are the risks they have faced during their journey to Finland. It also seeks to better understanding on the problems in making the best interest determination in the asylum process. Organised by All Our Children.

For further information contact project leader Henna Mustonen
henna.mustonen@yhteisestlapsemme.fi .

11-12 November, Nürnberg, Germany
Seminar about asylum and refugee law
Organized by FBB – Fortbildung für Betreuerinnen und Betreuer

17-19 November, Hamburg, Germany,
Conference: How political is social work with refugees?
Organized by Bundesfachverband UMF

19 November, Helsinki, Finland
The Government will organise a seminar in the child rights day. This year the item will be migrant children and their rights. The afternoon seminar will be organised by the Ministry of Interior.

23 November, Helsinki, Finland
The Red Cross will organise its yearly seminar on family reunification. The seminar will take a closer look to the current armed conflicts and international crises. Among the speakers is MP Mr. Pekka Haavisto, who has been e.g. taking part to peace negotiations of Darfur in Sudan as a special rapporteur of EU.

2-3 December, Gothenburg, Sweden
Nordic Network for Research on Refugee Children with a special focus on unaccompanied minors
<http://nordicrefugeechildren.se/?p=102>

10 December, Brussels, Belgium
Senperforto Seminar (Daphne project), Prevention of Sexual and Gender-based Violence in the European Reception and Asylum Sector

31 January 2011, Dortmund, Germany
Conference: Support of separated children in North-Rhine Westphalia
Organized by Bundesfachverband UMF

Publications

Annual report on children's rights 2010-the Netherlands (Jaarbericht kinderrechten 2010): by UNICEF and Defence for Children International-ECPAT the Netherlands. The Annual Report

measures the state of affairs in the areas of Migration, Exploitation, Child Welfare, Juvenile Justice and Child Abuse. The report is published in Dutch on: www.defenceforchildren.nl

Att få landa tryggt. Om mottagandet av ensamkommande barn och ungdomar [To land safely. About the reception of separated children and youth] Save the Children Sweden, May 2010

Aproximación a la Protección Internacional de los Menores no Acompañados en España, 2010 (Approach to the International Protection of unaccompanied minors in Spain. 2010)
La Merced Migraciones, UNHCR, Save the Children Spain, Comillas University, Baketik, ACCEM. Spain, 2010.

Asylum Seeking Children, Including Adolescent Development and the Assessment of Age, Diana ML Birch, Youth Support Publications, London April 2010.

Best interest of the child for migrants and refugees: Bundesfachverband UMF and German Red Cross, 2010

Checklista för ett bra mottagande av ensamkommande flyktingbarn [checklist for a good reception of separated children] Save the Children Sweden, May 2010

The Circumstances and Needs of Separated Children Seeking Asylum in Ireland. Child Care in Practice Abunimah, Sarah. Ali- Blower, 20 April 2010.

Comments on the proposal for a directive of the European Parliament and of the Council on preventing and combating trafficking in human beings, and protecting victims, MARIO Project Partners: Terre des hommes, Save The Children Albania, Nobody's Children Foundation, ECPAT Netherlands, Neglected Children Society children, 2010.
http://s3.amazonaws.com/rcpp/assets/attachments/1055_Mario_statement_Trafficking_directive_final_original.pdf

Documentation of the conference in Hofgeismar 2010: Bundesfachverband UMF, 2010 in German

Emergencia eterna: La institucionalización de menores extranjeros no acompañados en centros de emergencia de las Islas Canarias no tiene fin. 2010 (Eternal Emergency: No end to

unaccompanied children's institutionalization in Canary Islands Emergency Centers. 2010)
Human Rights Watch. Spain, June 2010.
<http://www.hrw.org/en/reports/2010/06/22/eternal-emergency-0>

Eternal Emergency: No End to Unaccompanied migrant Children's Institutionalization in Canary Islands Emergency Centers. Human Rights Watch 2010
<http://www.tdh-childprotection.org/documents/eternal-emergency>

Evaluation of the situation of separated children in Hessen and Hamburg : Bundesfachverband UMF and UNHCR, 2010, in German (will be published in the end of 2010)

EVASP (Enhancing Vulnerable Asylum Seekers Protection) report www.evasp.eu

The Finnish National Rapporteur on Trafficking in Human Beings Report 2010
Trafficking in human beings, phenomena related to it, and implementation of the rights of human trafficking victims in Finland. The Ombudsman of Minorities, 2010.
[http://www.vahemmistovaltuutettu.fi/intermin/vvt/home.nsf/files/Ihmiskaupparaportti%202010_englanti_netiversio/\\$file/Ihmiskaupparaportti%202010_englanti_netiversio.pdf](http://www.vahemmistovaltuutettu.fi/intermin/vvt/home.nsf/files/Ihmiskaupparaportti%202010_englanti_netiversio/$file/Ihmiskaupparaportti%202010_englanti_netiversio.pdf)

Greece: Irregular Migrants and Asylum-Seekers Routinely Detained in Substandard Conditions. Amnesty International, 2010. The report is based on a combination of field visits as well as detailed desk research.
<http://www.tdh-childprotection.org/documents/greece-irregular-migrants-and-asylum-seekers-routinely-detained-in-substandard-conditions>

Guide for Unaccompanied Minors and Other Vulnerable Groups and Manual of Instructions on the Procedures Concerning the Victims of Sexual and Gender Violence, Victims of Torture and Trafficked Persons. Two guides elaborated by The Romanian asylum authorities are used in cases of vulnerable groups. These guides are updated regularly by the members of the Task Force for vulnerable groups.

Informes, estudios y documentos. Centros de Protección de Menores con trastornos de conducta y en situación de dificultad social, 2009 (Reports, studies and documents. Protection centres for minors with disorders of conduct and in situation of social difficulty).

Defensor del Pueblo (Spain's Ombudsman). Spain, 2009.

Is the Government Keeping its Promises to Children? Report Card 2010: Children's Rights Alliance. January 2010.

Leaflet with information for separated children asylum-seekers drafted by Romanian National Council for Refugees under UNHCR Romania funding. Save the Children Romania drafted a leaflet with information for separated children with a form a protection and one brochure about the assistance to be provided to children with a form of protection for service providers. All the information materials drafted for children were done with the children's participation & contribution.

Leaving Home. Voices of children on the Move, Save the Children, Global Movement For Children aims to give children a voice and allow them to describe in their own words their experiences of going on the move and analyse the range of positive as well as negative impacts that movement can have on children's lives. The report is available in Spanish and English.
<http://www.tdh-childprotection.org/documents/leaving-home>

Legislation and the Situation Concerning Trafficking in Human Beings for the Purpose of Sexual Exploitation in EU Member States International Center for Migration Policy Development, 2010
http://s3.amazonaws.com/rcpp/assets/attachments/1031_ICMPD_2010_original.pdf

Lives on Hold. Migrants in Detention - Greece June 2010, Medecins sans frontieres
http://s3.amazonaws.com/rcpp/assets/attachments/1037_report2010_en_lowres_original.pdf

Los menores extranjeros no acompañados. 2010 (Unaccompanied Minors. 2010)
Lázaro González, Isabel E. / Moroy Arambarri, Beatriz (coord.)
Ed. Tecnos. Madrid, June 2010.
ISBN: 8430950834 ISBN-13: 9788430950836

Migration and the right to Health: A review of International Law, IOM International Office of Migration, 2009
The study concerns the heterogeneous group of individuals involved in the migration process. The objective of the publication is primarily to promote respect by the State for the right to health for those who migrate. Secondly, the publication aims more

generally at guiding through international instruments impacting on migrating persons' right to health.

http://s3.amazonaws.com/rcpp/assets/attachments/996_IML_19_original.pdf

No Right to Dream, The social and economic lives of young undocumented migrants in Britain, Alice Bloch (City University London), Nando Sigona and Roger Zetter (Refugee Studies Centre, University of Oxford, Paul Hamlyn Foundation, London 2009
<http://www.phf.org.uk/page.asp?id=884>

Opened Doors Transitions to the Future: research into challenges of former Separated children Seeking Asylum who have been granted Refugee Status or Leave to Remain. Viriri, Itayi. Dún Laoghaire Refugee Project, April 2010.

Parsons, Annika. The best interests of the child in asylum and refugee procedures in Finland, Helsinki 2010, available at
<http://www.vahemmistovaltuutettu.fi>.

Policies on Reception, Return and Integration arrangements for, and numbers of, Unaccompanied Minors – an EU comparative study, European Migration Network, 2010
This Report summarises the main findings of National Reports produced by twenty-two of the EMN National Contact Points. The purpose of the study was to fill a knowledge gap on policies on unaccompanied minors in the EU. The EMN Synthesis Report, as well as the 22 National Reports are available at:
http://s3.amazonaws.com/rcpp/assets/attachments/1001_EMN_Synthesis_Report_Unaccompanied_Minors_Final_Version_of_6th_May_2010_original.pdf

Position paper on the return of separated children to reception houses in countries of origin, Defence for Children-ECPAT the Netherlands and UNICEF-the Netherlands, April 2010
The position paper urge the European States to adjust the practice of returning separated children to reception huoses in the country of origin in line with the Convention on the Rights of the Child (CRC).When a child does not qualify for an asylum residence permit it is necessary to make an individual assessment to decide whether a durable solution is to return to the country of origin or integration in the country of residence.
http://s3.amazonaws.com/rcpp/assets/attachments/999_DCI_Separated_children_original.pdf

Report Additional (Hungary)

Case Number AJB 7120/2009 (on separated children) By dr. Katalin Haraszti, General Ombudsman's Office, Budapest, May 2010(unofficial English translation is available)

Report by the Parliamentary Commissioner for civil rights in case number AJB 7120/2009. (on separated children in hungary). By dr. Katalin Haraszti, General Ombudsman's Office, Budapest, January 2010 (unofficial English translation is available)

Report by the Parliamentary Comissioner for civil rights in case number AJB 2629/2010 and AJB 4196/2010. (on unaccompanied minors in Hungary) By dr. Katalin Haraszti, General Ombudsman's Office, Budapest, May 2010 (available only in Hungarian)

Safeguarding Young People: Responding to young people aged 11 to 17 who are maltreated National Society For The Prevention Of Cruelty To Children, Social Policy Research Unit, 2010.

The report concerns the risks faced by older young people who are likely to be quite different to those risks faced by very young children. Therefore it requires specific attention to ensure the safety of these young people. However, child protection research has paid relatively little attention to this issue – often tending to treat all children and young people between the ages of 0 and 17 as a homogeneous group.

http://s3.amazonaws.com/rcpp/assets/attachments/1061_safeguarding_maltreated_children_original.pdf

Separated, asylum-seeking children in European Union Member States, summary report by FRA, 2010

The research has found that many of the rights of these children, often notclearly reflected in EU legal provisions, are not always fulfilled. The challenge for the EU and its Member States is how to deal with this issue fully respecting fundamental rights and acting in the best interests of the children.

http://fra.europa.eu/fraWebsite/attachments/SEP_AC-SUMMARY-REPORT-FINAL-CONFERENCE-EDITION_en.pdf

Trees only move the wind. An study of unaccompanied Afghan Children in Europe, UNHCR 2010

More than 5,900 Afghan children, mostly boys, sought asylum in Europe last year, compared to 3,380 in 2008. UNHCR's study examines the

reasons for the departures, the routes the children take, and their reception on arrival.

<http://www.unhcr.org/4c1229669.html>

Unbegleitete Minderjährige Flüchtlinge in Österreich [Unaccompanied minor refugees in Austria], Heinz Fronck 2010. (In German)

Voices of Afghan Children. A study on asylum-seeking children in Sweden, UNHCR 2010

Over a period of four months, a total of 42 unaccompanied children from Afghanistan who had sought asylum in Sweden were interviewed on why they left Afghanistan and how they came to Sweden. The study aims to increase the knowledge and understanding of the problems facing Afghan unaccompanied children in countries of origin, transit and destination, as well as, of “onward movers”

http://s3.amazonaws.com/rcpp/assets/attachments/1036_Afghan_children_Sweden_original.pdf

Welcome to Germany – a guide for separated children: Bundesfachverband UMF:

<http://www.bumf.de/images/willkommen/willkommensbroschureenglisch-web.pdf>

Working with Young People: a national study of youth work provision and policy in contemporary Ireland. Fred Powell, Martin Scanlon Geoghegan, Katharina Margaret Swirak. Institute of Social Science in the 21st Century, University College Cork, May 2010.

You're witness you have the right and I'll be a witness in the court. Two brochures from Nobody's Children Foundation 2010

New useful websites

Estonia

The Estonian Union for Child Welfare (Lastekaitse Liit) www.lastekaitseliit.ee;

The Tartu Child Support Centre (Tartu Lastekaitsekeskus, www.tugikeskus.org.ee).

Terre des Hommes created its own Facebook group. The reason is: to reach the young people and alternative public and promote child rights in an up-to-date and friendly way. **Look for Child Protection In Europe on Facebook.**

Finland

<http://www.muuttoliikkeessa.fi> (in Finnish only) Background information and discussion about migration and the human rights of migrants.

http://www.humantrafficking.fi/in_english

Information about trafficking in human beings,

services available in Finland to victims of trafficking (e.g. tel.number to a helpline).

<http://www.finfo.net.fi> Introduces services for anyone who has moved to Finland from a non-European country, as well as professionals such as teachers, healthcare professionals or immigration advisors.

The Netherlands

www.evasp.eu Website project Enhancing Vulnerable Asylum Seekers Protection.

www.geenkindopstraat.nl/pages/gkos/English

English website with information about the right to shelter & the complaint at the European Committee of Social Rights.

Poland

www.kupdziecko.pl Public campaign against children trafficking, organized by Polish Foundation Child- Adoption - Family

Reporting organizations

Asylkoordination Österreich

AWAS Malta

British Refugee Council

Bundesfachverband UMF, Germany

Central Union for Child Welfare Finland

CNRR, Romania

Defence for Children – ECPAT the Netherlands

Human Rights League, Slovakia

Irish Refugee Council

Menedék, Hungary

Plate-forme Mineurs en exil, Belgium

Romanian Immigration Office

Save the Children Denmark

Save the Children Norway

Save the Children Romania

Save the Children Spain

Slovak Humanitarian Council

Slovene Philanthropy

Terre des Hommes, Germany

UNHCR Austria

UNHCR Athens

UNHCR Baltic and Nordic countries

UNHCR Bulgaria

UNHCR Brussels

UNHCR Hungary

UNHCR Ireland

UNHCR Poland

UNHCR Romania

UNHCR Slovakia

UNHCR Spain

UNHCR Sub-Office Nuremberg

UNHCR Stockholm

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Statistics on arrivals of separated children seeking asylum in Europe in 2010

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	661 ¹	N/A	N/A	²	Afghanistan 206 Nigeria 52 Moldova 32	Federal Ministry of Interior
Belgium	547	395	152	485	Guinea (123), Afghanistan (118), DRC (40), Iraq (33) and Russia (18)	Office of the Commissioner General for Refugees and Stateless Persons (CGRA)
Bulgaria	14	N/A	N/A	N/A	Afghanistan, Iraq	State Agency for Refugees
Denmark	(A) 259 by end of June	N/A	N/A	N/A	Afghanistan (203) Iran (8) Iraq (8) Algeria (5)	Danish Immigration Service
Estonia	0 (as of August 31)					
Finland	A / 195 as of 31 Aug 2010	76 % as of 30 April 2010	24 % as of 30 April 2010	in 2009 the proportion was 58 %	Somalia (65) Iraq (35) Afghanistan (25)	Finnish Immigration Service
Germany ³	Estimated January-December 2010: 1900				Afghanistan, Iraq, Somalia	Federal Office for Migration and Refugees
Greece	43	n/a	n/a	35	Afghanistan (10) Pakistan (19) Ghana (2) Bangladesh (2) Somalia (2) Albania (1) Georgia (1) Iraq (1) China (1) Morocco (1) Mauritania (1) Palestinian (1) Russian Fed. (1)	Greek Ministry of Citizen's Protection
Hungary	124	122	5	118	Afghanistan(74) West bank and Gaza strip (11) Somalia (8) Algeria (3),	Office of Immigration and Nationality's monthly

¹ In 178 cases the Austrian Federal Asylum Agency did not believe the age claimed by the asylum-seekers and declared them as adults. Therefore, the official number for SC is 483.

² 20 SCs were younger than 14 at the time of their asylum application.

³ There might be some underreporting in 2009 as well as 2010, possibly based on inconsistencies during the registration process of minor asylum applicants. These findings are based on data collected from other sources (youth authorities, ministries, accommodation centres etc.)

					West-Sahara (3) Moldova (3)	stats
Ireland ⁴	22 (applications) Referrals to HSE ⁵ : 63 Reunification: 10 Taken into HSE Care: 47 Missing: 7	8 (applications) 17 (Referrals to HSE)	14 (applications) 29 (referrals to HSE)	21 (applications)	Applications: Nigeria (4), Pakistan (2), DR Congo (2), Zimbabwe (2) Afghanistan, Angola, Cameroon, China, Eritrea, Ethiopia, Georgia, Iraq, Somalia, South Africa, Togo (all 1)	Office of the Refugee Applications Commissioner And Health Service Executive
Latvia	0, as of August 31, 2010					OCMA, Office of Citizenship and Migration Affairs
Lithuania	3	3	0	1	2 Vietnam 1 Georgia	Migration Department under the MIA
Malta	2 A	2 A	0	2 A	Somalia	AWAS Information Officer
Netherlands	425 (until 1 august)	N/A	N/A	N/A	Afghanistan Somalia Iraq Guinea Eritrea	www.coa.nl
Norway	A: 553 (per 31.8.2010)	A: 457	A: 96	A: 441	Afghanistan (243) Somalia (74) Eritrea (56) Ethiopia (26) Iraq (21)	The Norwegian Directorate of Immigration
Poland	10 (June 2010) A				Afghanistan, Russian Federation	Gov.
Romania	30 (A)	29	1	28	Afghanistan Moldova, Pakistan, Iraq, Russia	Government

⁴ It should be noted that a proportion of the 22 separated children seeking asylum will be counted within the total number of referrals of 63. [Note, we say a proportion because some of the 22 asylum seeking children may have been referred to the HSE prior to the period under review].

⁵ In principle, all separated children (whether asylum seeking or not) are referred to the national child protection service run by the Health Service Executive (HSE).

Slovakia	46	42	4	43	Moldavia Somalia Afghanistan Palestine	Department of social protection of children and social care, Labour, Social Affairs and Family Office, Trenčín
Slovenia	11 A	11	0	7	Afghanistan, Nigeria, Eritrea	Slovene Philanthropy
Spain	15	13	2	15	Guinea Conakry: 4; Nigeria: 3; Somalia: 3; S. Leone: 1; Haiti: 1; Colombia: 1; Cameroon: 1; Congo DR: 1	UNHCR, BO Madrid(*)
Sweden	1481 (Jan-29 August 2010)	1176	305		AFG, SOM, IRQ, ERITREA	Migration Board
Switzerland	124	89	35	92	Afghanistan Sri Lanka Eritrea	Federal Office for Migration (BFM)
UK (data from January-August 2010)	767	646	121	473	Afghanistan: 328 Iran: 72 Vietnam: 66 Eritrea: 54 Somalia: 33	Refugee Council Children's Section (Non-Governmental)
Total arrivals in 23 countries in 2010 (until October)	<u>7,232</u>					

Arrivals of non-asylum seeking separated children in 2010

Germany

We estimate that approx. 800 to 1,000 separated children arrived in Germany, who did not apply for asylum but for humanitarian status with the local aliens authority. (this is often the case with minors below age 16 who can not provide reasons which would be relevant for granting refugee status, e.g. minors from Vietnam or Morocco). These persons are not counted separately in any statistics.

Greece

No official figures are available; however, the estimation is that the number of non-asylum seeking separated children is high, and consists largely of Afghan, Pakistani and Somali nationals (who, for various reasons do not

want to seek asylum in Greece). Thus, the number of asylum seeking children is not representative of the overall situation.

Increases in the arrival/presence of unaccompanied minors are observed and have been reported by NGOs to the UNHCR Office. Particularly in the case of Patras (so-called 'exit point' from Greece to Italy and N. Europe), UNHCR has observed through its own monitoring activities that the number of Afghan separated children is significantly on the rise during the last three months. The minors found in Patras reside on the rough, without any appropriate assistance and care. The various gaps in the guardianship framework have resulted in the children remaining mainly unidentified and without legal status. In the absence of any state provision to the homeless migrant and asylum seeking population of Patras, UNHCR and the local Hellenic Red Cross are trying to identify ways to identify the mobile minor population (most children remain in hide, attempting to cross over to Italy), and to mobilise a concrete action for their potential transfer to safer environments.

Ireland

From the figures above we can see that during the period under review (1 January 2010 – 31 August 2010), 22 asylum applications were lodged by separated children and 63 children were referred to the HSE (please see above for precisions relating to these cohorts).

Clarification regarding how many of the 63 children who were referred to the HSE during the period under review have made an asylum application is pending from the HSE.

Romania

From the information available to us, most of the the separated children of foreign origin apply for asylum when they enter into contact with the Romanian authorities.

Slovakia

Only two children have applied for refugee status for the period of first 6 months and 44 children are non-asylum seeking children.

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 four.