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By Post and Electronic Mail

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Dear Mr. Laitinen,

We are writing to provide you with some reflections on *Frontex's study on unaccompanied minors in the migration process* (the public version dated December 2010 – hereafter the Frontex unaccompanied minors study). The undersigned organizations have been working on this subject area for years and possess specific expertise about this topic.

We believe EU agencies, including the Fundamental Rights Agency, the European Asylum Support Office and Frontex, can play a role in enhancing the protection of unaccompanied migrant children in Europe. We welcome Frontex's focus and engagement on this issue as regards children at the external borders of the EU. Our aim is to ensure that Frontex responds to the situation of these children at the borders in a manner - as required under the Commission's Action Plan - that puts child rights and the best interests of the child at the heart of all actions relating to unaccompanied migrant children.

To this end, we bring to your attention a range of concerns with regard to the Frontex unaccompanied minors study. These relate to the scope of the study, the manner in which the research was carried out, and the key conclusions drawn from the research. We are sensitive to the difficulties of embarking on research of this nature and the risks of uncovering only part of the picture. However, we are concerned that the very limited methodology employed by Frontex in its research was destined from the outset to fail fully to identify the situations in which these children may find themselves. We are even more concerned that the study failed to acknowledge these limitations, but that instead, general conclusions - based on assumptions - were set forth. Regrettably, this significantly diminishes the use to which the study can be put.

Below, we point to some examples of these concerns below, before providing some recommendations on future work in the field.

(1) Scope and methodology

We appreciate that the study was prompted by the request of the European Commission acting under the aegis of the Programme of the Spanish Presidency of the Council of the European Union (point 7: Promoting European Immigration and Asylum Policy) to launch a fact finding study to assess the situation of unaccompanied minors arriving irregularly in the EU.

The study indicates that the data integrated and evaluated in this document has been collected through a questionnaire, in-house resources and fact-finding missions to partner organizations on the one hand and countries of interest on the other. It describes the countries, agencies and organisations which it contacted to gather further information.

We note that this methodology relies on a very narrow range of sources, a limited range of stakeholders, a limited number of countries in Europe and one country of transit. It contains no attempt to reflect the views of children or their representatives in Europe (for example, guardians or legal advisers).

We recognize that there may be a range of explanations for the limited research methodology, including the absence of adequate resources and insufficient experience or expertise and knowledge given that Frontex's scope of activity focuses largely on what happens at the border. We nonetheless recommend that, in any future research or other assessment, Frontex ensures that both resources and expertise are available to the project, that the project corresponds to Frontex's scope of activity, and that proper consultation with relevant organizations is undertaken prior to and during the project.

2. General Conclusions Drawn from the Study

The study notes that it focuses on *“the magnitude of the phenomenon of unaccompanied minors arriving irregularly in the EU over the past two years before focusing on the main nationalities and favoured destinations within the EU. Then it analyses the threats faced by individuals or groups of children by considering the risk factors for each of the main nationalities and the pull factors in Member States”*. In describing and analyzing each of these elements, the study makes generalizations that in our assessment are not supported by the data presented. Examples are provided below.

Magnitude of the issue

As the EU Action Plan on Unaccompanied Minors correctly identifies, there is a lack of reliable data on the phenomenon of unaccompanied migrant children in Europe. The only available data that exists concerns those children who have filed an asylum application. While we recognize the effort of the research to complement the missing data, we feel that there is still insufficient evidence to

support a general conclusion that the number of unaccompanied children arriving to Europe is on the rise.

Profiles

The report includes stigmatizing and other generalizations about unaccompanied children generally and also specifically as regards particular nationalities among unaccompanied children without providing empirical evidence to support those conclusions. These include:

- “The majority of unaccompanied minors seem to be young males aged between 16 and 17, although it is possible that a significant part is already 18 or over.” (p.17)
- “Some unaccompanied minors arriving in the Member States are asocial and illiterate.” (p.17)
- “Begging and stealing are also common ways of funding the trip. As a consequence they often escape from humanitarian reception centres.” (p.17)
- “The Dutch authorities suspect that their country is, at least for Somalis, a transit country where minors clear their legal situation by obtaining an asylum applicant’s certificate.” (p.20)
- “Congolese [unaccompanied minors] from the DRC are reportedly picked up at the airports by ‘relatives’ and subsequently become part of various organized crime groups.” (p.22)

Key drivers

The report fails adequately to examine the push factors that make children move to Europe. Generally, the discussion of pull factors is predominant. The study, therefore, risks presenting an imbalanced picture that does not explain fully why these children migrate. This gap becomes most evident in the discussion about unaccompanied children from Afghanistan, where it would have been beneficial if the study noted the deteriorating security and protection situation for Afghan children in their country of origin, as well as in the neighbouring countries, Iran and Pakistan.

Here are some of the key drivers identified in the study:

- “Unaccompanied minors claiming asylum are ‘pulled’ by the level of social welfare and protection by a Member State.” (p.5)
- “Unaccompanied minors tend to seek asylum at their final destination. They may also claim asylum earlier if detected or even mid-way to clear their situation. Taking this step is a preferred modus operandi for irregular migrants even if they are not necessary [sic] minors.” (p.5)
- “Several authorities interviewed for this study, highlighted the importance of free medical treatment, free education and a readily accessible social benefit system as key drivers pushing the family to send their children to Europe to give them a chance of a better life and to benefit themselves from possible remittances.” (p.23)
- “[S]ending isolated boys eligible to ‘vulnerable persons’ status provisions in a European country is especially valid for Somalis.” (p.24)

- “Somali families accepting Somali minors are given an additional monthly child allowance. This is a major financial incentive for some of these families to ‘order’ minors from Somalia who are not necessary [sic] their biological children but who are presented as stepchildren.” (p.25)
- “The Afghan unaccompanied minors are also believed to have been sent by their own families, to give them a chance of a better future, to gain the possibility of benefitting later on from remittances.” (p.26)

While we certainly do not dispute the fact that there may be adult migrants who claim to be children and that some children may have been sent by their families, in our view the study presents a one-sided picture of the phenomenon. For example, it presents as a finding that Somali children are sent by their families because the Dublin II regulation does not apply in the same way to them as it does to adults. These conclusions, in combination with some statements in the list above, completely ignores the current escalation of conflict in Somalia, the fact that hundreds of thousands of Somalis had to flee their country in recent years due to generalized violence or individualized persecution, and that many have been found to qualify for international protection in Europe.

Threats faced by children

The section on threats faced by unaccompanied minors is very limited. The list of threats faced by unaccompanied children (p.21) is derived from a “typology of threats faced by unaccompanied children” by “Payoke, the Belgian NGO assisting victims of human trafficking.” This list is valid largely for the minority of unaccompanied children who are trafficked into Europe but it does not shed light on the threats and vulnerabilities for those who fall outside that specific category of children. In particular it says nothing about lack of access to a guardian or legal advice, lack of access to basic services, including accommodation, food and health services, risk of summary removal, and vulnerability to violence.

In its discussion of threats, the report fails to identify these key protection gaps that currently exist in Europe and that place children in very vulnerable position. Instead the report’s discussion of “special protection of children” is placed under the heading of “pull factors in destination countries”. This implies that special safeguards and protection guarantees that do exist in certain countries should only be considered as drivers behind children’s migrations or at least as problematic in addressing the phenomenon.

Conclusion and recommendations

In summary, the findings as presented in this study are incomplete, partial and in some instances contain stigmatizing statements about unaccompanied children. In our assessment, the study and its content do not accurately reflect the complex reasons that lie behind these children’s migration.

We strongly encourage Frontex to acknowledge publicly that the study conclusions cannot, in and of themselves, be relied upon to inform responses to the situation. In particular, the study conclusions

should not be used to inform the establishment of border guard procedures for unaccompanied children or their subsequent application, whether as part of a practical handbook, in the Schengen Borders Catalogue, or otherwise.

We take note of the adoption by Frontex of a Fundamental Rights Strategy in March which notes that *"Frontex considers that respect and promotion of fundamental rights are unconditional and integral components of effective integrated border management."* More specifically, the Strategy indicates that any risk analysis *"shall specifically take into consideration the particular situation of persons seeking international protection, and the particular circumstances of vulnerable individuals or groups in need of protection or special care,"* including *"separated and unaccompanied children."*

We welcome Frontex's commitment to the respect and promotion of fundamental rights and stand ready to further contribute to Frontex's efforts in the future to consider the situation of separated and unaccompanied children in all their dimensions.

Yours sincerely,



Benjamin Ward
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Europe and Central Asia Division
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Save the Children EU Office
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Chair of the Separated Children in Europe Programme

Cc: *Diana Schmitt – Immigration and Integration, Directorate General for Home Affairs of the European Commission.*
Henrik Nielsen – Border management and return policy, Directorate General for Home Affairs of the European Commission.