

# **Separated, asylum-seeking children in the EU**

## **Living conditions and legal procedures**

## The FRA: background information

- Established 15 February 2007 in Vienna
- Providing **evidence based** assistance and expertise on issues of fundamental rights to EU institutions and MSs when implementing EU law
- Since 2007 collecting data and reporting on child rights issues

→ **Rights of the child a key issue (MAF)**

## FRA development of EU child rights indicators

- European Commission request (2008) supporting the objectives set up in the 2006 Commission Communication
- Specific FRA Indicator Group: adaptability of immigration processes to the vulnerabilities of separated children
  
- The work on the Indicators identified two types of situations of particular vulnerability:
  
- Trafficked children: (July 2009) FRA report on '**Child Trafficking in the EU**'
- Third country nationals/stateless separated from both parents or primary carer in EU Member States: (April 2010) summary **report on separated, asylum-seeking children** addressing 'challenges'

## ‘Separated, asylum seeking children in EU Member States’

- **Rights based approach:**
  - involves children directly in the research through interviews (child participation, Article 12 CRC)
  - involves also, the views, experiences and perspectives of officials and other staff dealing with the children
  - is a critical means to assess the adequacy of current practices and to identify the changes necessary
  - aims to provide a valuable insight into children's views and perspectives
- \* 12 EU MSs covered: Austria, Belgium, Cyprus, France, Hungary, Italy, Malta, The Netherlands, Poland, Spain, Sweden and the United Kingdom
- **Complements the European Migration Network study covering legal provisions and policies for unaccompanied minors**

## Subject of the report

- **‘Separated children’**: ‘those children separated from both parents, or from their previous legal or customary primary care-giver’ - more inclusive than **‘unaccompanied minors’**
- ‘Separated, asylum-seeking’: stateless or third country nationals staying in the country under host state care (not always claiming asylum) mainly over 14 years old
- Refers to relevant CRC provisions and EU legislation in its references to the protection of unaccompanied minors
- **Considerations** as to how the needs of the children can be addressed

## Areas covered

### **1 Living Conditions**

- accommodation and boarding
- religion
- recreation and leisure
- social workers
- healthcare
- education
- social interaction
- discrimination and other forms of mistreatment

### **2 Legal Issues and Procedures**

- legal guardianship and legal representation
- age assessment qualifying a person as 'child'
- family tracing and reunification
- the asylum procedure
- detention

# Views on living conditions

## Accommodation and boarding

**Positive:** small-scale preferred to large scale, foster care and semi-autonomous living preferred for younger children and children over 16 respectively

**Negative:** detention facilities, closed accommodation facilities, hotels and hostels, mixed housing of children and unrelated adults considered entirely inappropriate

\* Overcrowding and sanitary conditions identified as a problem in some facilities

## Location of accommodation

- Children preferred living in larger urban areas, while adults held differing opinions
- **Initial Reception Centers:** living conditions often considered unsatisfactory (re. lack of privacy, food and care standards, access to health care, education, leisure activities and electronic media – TV and Internet)

## Food

Important issue for the children

### Regarding the forms of provision:

- more liked: access to kitchen facilities – and pocket money to buy food
- less liked: institutionalised provision of meals and luncheon vouchers

**Quality and quantity:** children not provided with as much food as wanted in a number of MS and sometimes complaining about meal timing

**Consideration of cultural habits:** food familiar to them rarely available (good practice: country of origin cooks)

## Religion

### source of motivation and support

- some children complained that religious needs not taken seriously
- In some MS Muslim children questioned whether food conformed to religious requirements

## Importance of Leisure Activities

### strength and distraction from negative thoughts: mostly available

- complaints of lack of financial resources to have access (ex. sport facilities)
- watching TV and access to the Internet: pass-time activities and sources of information – often the only ones children could afford)
- some children no access to the media/not frequently
- lack of pocket money reduces possibilities for social interaction

## Social workers

**Positive role of care workers:** in most MS children satisfied with level of care and support provided

- however, for adults in most countries the number, qualifications and training of social workers (particularly in reception centers) should be improved
- training required on the specific needs of these children

## Health Care

Mixed experiences: most children had positive experiences but problems were also identified, e.g.:

- Lack of adequate medical screening and health assessment upon arrival in some MS or no assessment at all
- Cases of denial of specialist medical treatment
- Need for better psychological support
- Interpretation often not adequate
- Some girls noted they would prefer female doctors, but this wish could not always be accommodated

## Education

In most MS efforts to place children in main stream education

- although for children placed in large accommodation centers this often not the case
- difficulties in mainstream school enrolment frequent
- in some reception centers education mainly consisting of language courses, and children asking for more hours
- some adults express concerns re. school attendance
- lack of sufficient and child-friendly information about educational options

## Social Interaction

All children expressed strong desire to interact more with peers from the host society:

- although some children indicated they were more comfortable with people from their own country/ethnicity
- important motivation for language learning
- most children living in accommodation centers no friends from the local community – those who have feel more accepted/integrated
- practical barriers such as lack of adequate pocket money and early evening care few in accommodation

## Discrimination/Mistreatment

Research not designed to address particularly sensitive issues and few children or adults spoke about them

However:

- reported verbal and physical abuse by the police and other officials
- children frequently asked to repeat the details of traumatic experiences to assess the validity and consistency of their applications
- children mostly offended about not being taken seriously or being accused of lying
- limited possibilities of redress for the children or lack of information for the children about their existence

# Legal Issues and Procedures

Emerged as being of primary importance for the children

However:

- children often uninformed about their rights and the proceedings concerning them
- inquiries addressed to children sometimes are not child friendly or culturally sensitive
- in some MS no standard practice to have legal advisors present at interviews and official interrogations
- concern expressed about the children's access to free and quality legal aid with regard to the various procedures

# Legal Guardianship/Legal Representation

Provision of legal guardianship and representation valued

However:

- most children unaware of whether they have a guardian, who that person is, or the responsibilities attached to the function
- in some MS adults believe they are the guardians when this is not the case/unaware of provisions and duties
- adults referred to delays in assigning a guardian and children complained as to the frequency of contacts with guardians
- lack of adequate training and qualification of legal reps. and lack of professional interpretation

## Age assessment

A variety of methods applied, including documentary evidence

However, medical tests frequent and lack of certainty about:

- the applicable tests and the qualifications required by those conducting them
- the steps to inform the children of the procedures
- the obtaining of the child's informed consent
- appeal mechanisms against age assessments often unavailable

## Family Tracing and Reunification

Most children wish to be reunited with their family

However:

- lack of information on professional family tracing and on who can assist the children is frequent
- successful family tracing rare and children's wish for tracing often not acted upon
- assistance by the ICRC and Red Cross' National Societies tracing and message services highlighted
- some children distrust the procedures and fear that if their family is found their asylum claim may fail

## Asylum procedure

The children were very eager to discuss the asylum procedure in most countries

- long duration of legal status determination leads to feelings of uncertainty, insecurity and lack of prospects
- the children often lack of information about the role of the different persons involved in the asylum procedure (interviewers, legal guardians, advisers)
- many children frustrated by the time allocated to discussing their case with legal advisers
- lack of adequate interpreters or knowledge of the dialect spoken by the children, some children expressed doubts about the impartiality of interpreters

## Detention

Only a few children were interviewed during detention, but other spoke of earlier experiences of detention

- Not easy for children to understand why they are 'locked up' if they have not committed a crime
- In some MS children systematically detained upon arrival until their age is established
- Adults and children claimed in a number of MS that no legal advice or any form of counselling was available during detention
- In some MS children claimed they had experienced verbal and physical abuse during detention

# Concluding remarks

- Experiences, views and perceptions of children differed, according to their living environment and also previous experience
- Views expressed offer valuable insight into the children's situation and how their needs can be met
- **The Stockholm Programme** adopted by the European Council highlights that the situation of unaccompanied children requires special attention and dedicated responses
- **The Stockholm Programme** notes that the strengthening of border controls should not prevent access to protection systems by those persons entitled to benefit from them

# The FRA

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