

**Speech by Maud de Boer-Buquicchio, Deputy Secretary
General of the Council of Europe at the Regional Conference
on "Migration of unaccompanied minors: acting in the best
interest of the child"**

Malaga, 27 October 2005

Many of us here are parents and have, on occasion, sent our children travelling on their own. Sometimes for a day trip with their school, sometimes for a longer period to a holiday camp, for a visit to a family living abroad, or even, when they were older, to explore other countries with the Council of Europe's Inter-rail.

We all know the mixture of excitement and dread which accompanies their departure, the moment when we wave them off and mentally check the very long list of just about every measure meant to get them to their destination and back as safely as possible. Travel documents, appropriate clothes, food, money, vaccinations, medicine, names of responsible adults accompanying or waiting for them at the end of their journey, a list of consular representatives and so on and so forth. And with all this planning and protection we are still going to be anguished and suffer insomnia until they return home safely.

We should keep this image in mind when discussing and deciding policies on migration of unaccompanied minors, which is a bureaucratic name for children who are left on their own to deal with very difficult and often dangerous situations. They are unlikely to have travel documents, or appropriate clothes, or enough food or even shelter. They are traumatised by the separation from their family and by the risks resulting from their hazardous journey.

Their vulnerability makes them an easy prey to all sorts of human predators and they will, more often than not, perceive an adult as a source of threat rather than protection. In this respect, the term "unaccompanied minors" is perhaps not the most appropriate, because many of these children are in fact worse off than being alone - they are accompanied by the wrong kind of people.

Malaga is a very appropriate setting to discuss issues of migration because Spain is one of the countries which is, because of its geographic location, facing a particularly difficult challenge and where – as we have recently seen in the Spanish enclaves of Ceuta and Mellila – illegal immigration may take dramatic and even tragic proportions.

I should like to thank the Spanish authorities for inviting the Council of Europe to organise this conference here, and I believe that this is a sign of their effort to tackle the difficult issue of migration, including the migration of unaccompanied children in a responsible manner and in line with international humanitarian and human rights standards.

Before speaking on the specific subject matter of this conference, I would like to make several brief points on migration in general.

Firstly, unaccompanied children represent the most vulnerable category of migrants, and make up about 4% of total asylum-seekers in Europe. In 2003, these 4% represented some 12 800 unaccompanied children in 28 of the most economically developed European countries. The total number of migrating children is of course much higher, and in spite of the relative protection resulting from their family entourage, their rights and needs should not be forgotten either.

Secondly, I think we need to look at our approach to migration critically, both in terms of policies in place as well as the manner in which this subject is treated in the political debate in many of our member states. We must make it clear to our citizens that migration is not a war, that migrants, be they legal or illegal, are not enemies and that, consequently, migration is something we should strive to manage, not fight. Migration should not be considered as a threat and an exclusively negative phenomenon, which is regrettably very often the case

today. Greater opportunities for legal migration are not only in the interest of potential migrants, but our fast-ageing societies as well.

Thirdly, successful management of migratory flows requires, simultaneously, more resources and efforts at national level but above all international co-operation between all concerned: countries of origin, countries of transit, countries of destination. The key word in dealing with migration is solidarity, starting with solidarity towards migrants, but also towards the countries of origin. Similarly, there should also be more solidarity in co-operation between the different countries of destination. Those which, like Spain, are more exposed to this problem because of their geographic location, have the right to expect and receive support from those which lie outside the main migratory flows.

Fourthly, the long-term solution to the challenges of migration can only be achieved through a substantial improvement of living conditions in the countries of origin. They will not be able to do this quickly and they cannot do it alone. Paradoxically, it is precisely the migrants who by supporting their relatives at home can make a substantial contribution to this process.

This, however, cannot substitute the need for development aid. Helping them is in the interest of the countries of destination because there are no borders which could effectively stop desperate people who are escaping from the horrors of war, persecution, hunger and disease. At the same time, much more must be done to promote the social and legal integration of immigrants - a failure to do so turns a demographic, social and economic opportunity into a time-bomb. When they enter our countries migrants – regardless of whether they are entering legally or illegally – are also entitled to a full protection of their human rights.

Finally, our efforts aimed at long-term solutions must be accompanied by a better, speedier and more humane approach to emergencies. Tragedies such as the ones recently observed in Ceuta and Mellila should simply no longer occur.

The conclusion we may draw from the points made above is that we need a two-fold approach if we want to improve the precarious situation of unaccompanied migrating children. On the one hand, we must introduce child-friendly policies into all our existing migration policies, on the other, we must also critically examine these policies and their objectives, in order to make them more efficient, more humane and more respectful of human rights.

In recent years, the Council of Europe has produced a number of important legal instruments and recommendations on how member states should approach the problem of migration in general, while the process of systematically introducing specific child-friendly provisions into all relevant policy recommendations has been accelerated following the Council of Europe's Third Summit which took place in Warsaw in May.

The backbone of our children-related activities for the period between 2006 and 2008 is a three-year Action Programme "Building a Europe for and with Children", with the aim to streamline a child rights perspective into all of the Council of Europe activities.

The underlying idea is that children are not mini-persons with mini-human rights.

As the name of the Action Programme indicates, our activities will not only be conducted for children, they will be discussed, designed and implemented with their active participation.

As part of this broader initiative, the Third Council of Europe Summit endorsed a Programme of Action for the promotion of the Rights of the Child and their protection against all forms of violence. It is therefore clear that the Council of Europe Programme of Action "Europe for and with children" is based on child-rights approach". I particularly appreciate that this approach has been adopted by this conference here.

It is my understanding that the Council of Europe's Committee on Migration has already decided to use the results of this conference to review existing migration policies in Council of Europe member states and prepare specific guidelines on how to deal with the migration of

unaccompanied children, which will possibly be on the agenda of the next Ministerial Conference on Migration planned for 2007. This is in tune with the objectives of the Action Programme and also provides for a concrete follow-up to your work here in Malaga.

I will not pre-empt your debates and conclusions, but would like to offer an example from my own country, the Netherlands. In recent years, a number of experts and non-governmental organisations alleged that the government policy on unaccompanied minors has shifted its priorities from protection to deterrence. One of the symptoms of this trend has been the introduction of new rules refusing the right to asylum on the grounds of lies or silence during the processing of the demand. I will leave it to you to judge on the appropriateness of deciding on the fate of a child or an adolescent on the basis of how willing, able or free he or she is to tell the truth – or even to remember the facts! Only after considerable pressure, the authorities agreed to waive interviews for children under six years of age.

I believe that there are many similar problems in many of our member states and there is a clear need to act to protect the interests and the rights of children. In many respects, there is no need to reinvent the wheel. All of our member states are parties to the United Nations Convention on the Rights of the Child, which includes all the key principles which should guide our policies in this field; namely the principle of the best interest of the child, the principle of non-discrimination, including on grounds of nationality, the facilitation of family reunion and the right of the child to be consulted on all matters that may affect him or her. The challenge is to effectively apply these principles in our policies. And there is still much to do.

To this I would also add the urgent need for our member states which do not yet recognise child-specific forms of persecution - such as forced recruitment in armed forces, forced child labour, female genital mutilation or forced marriages or pregnancies, as grounds for seeking asylum - to revise their approach and end the double jeopardy which is denying children fleeing such appalling practices the right to seek refuge in our countries.

Our objective must not be to process and return all children to their countries of origin because, in many cases, this would expose them to huge risks including death. We must always act in the best interest of the child. For some, this may well mean a return to where they came from, but others must be given the possibility and be helped to rebuild their lives, benefit from education and find a new home in our countries.

We must also act together to combat trafficking in human beings, being careful to distinguish between this phenomenon and illegal migration. The Council of Europe has done so by opening to signature at the Third Summit of Heads of State and Government the ground-breaking Council of Europe Convention on action against trafficking in human beings. This Convention, which is centred on the protection of fundamental human rights of the victims of trafficking and on the prosecution of traffickers, contains specific provision for the protection of children, victims of trafficking. Law enforcement should be alerted to this problem which is taking on epidemic proportions in Europe and in the world.

I have great expectations from this conference, because what is at stake is not only the protection and well-being of thousands of children exposed to tremendous risks to their physical and mental integrity, but also a judgment on who we are and who we want to be as societies – humane, open and tolerant, or selfishly turned towards ourselves and our own narrow interests. The objective is to design policies which will offer every child the kind of assistance we would hope to be available if ever our own children were in such desperate need for help and protection.