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REGIONAL CONFERENCE ON
« MIGRATION OF UNACCOMPANIED MINORS:
ACTING IN THE BEST INTERESTS OF THE CHILD »

Torremolinos, Málaga - Espagne
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FINAL COMMUNIQUE OF THE CONFERENCE

The participants gathered together in Malaga thank the Spanish authorities and the Council of Europe for organising this conference on the migration of unaccompanied minors.

They note that a growing number of unaccompanied minors find themselves alone, far from their family environment, separated from their parents or relatives and exposed to many kinds of dangers.

Bearing in mind states' obligations to uphold human rights and human dignity, the participants call on the member states of the Council of Europe, the countries of origin and of transit, intergovernmental organisations, regional and local authorities and civil society to unite all their efforts to seek solutions with the unaccompanied migrant minors concerned, allowing them to build a better future.

On the basis of the conference proceedings, the participants have reached the following conclusions :

General principles

Children's best interests shall be a primary consideration in all decisions affecting them at all stages in the migration process.

All the measures taken must safeguard the rights and the persons of unaccompanied migrant minors and foster their well-being.

Unaccompanied migrant minors must be guaranteed the right to be treated in an appropriate manner and in particular:

- the right to physical, mental and moral safety
- the right to health
- the right to material support
- the right to information, to confidentiality and to respect for their opinions
- the right to legal protection
- the right to education and training.

The diversity and disparity of unaccompanied migrant minors (ethnic and migratory backgrounds, cultural diversity, etc.) must be taken into consideration on a case by case basis.

Unaccompanied migrant children, including those who arrive unlawfully in a country, must not be incarcerated for having breached administrative law.

Unaccompanied migrant minors must be protected against all forms of trafficking for the purpose of their economic and/or sexual exploitation.

As soon as an unaccompanied migrant minor is taken into care, every effort must be made to trace his or her family and re-establish family ties.

Arrival, reception and care of unaccompanied migrant children

The initial contact with an unaccompanied migrant minor must take place under conditions designed to foster the child's confidence, protect the child and provide him or her with care and/or assistance, as necessary.

Gathering basic information on the child's identity should be performed in an appropriate manner, in designated areas suitable for receiving children and by properly trained officials.

A presumption that a migrant is under-age should be applied based on a variety of evidence. This presumption entails acknowledging individuals as minors in cases of doubt. It also means that age claims should not be verified solely using bone mass measurements but that other evidence must be taken into account such as the documents presented and the individual's behaviour, statements and maturity. The child's word should be heard.

Immediately upon arrival unaccompanied migrant minors should be informed, in a language they understand, of their rights under the law of the country of destination, including the right to seek asylum and to benefit from legal aid, as well as the asylum procedure¹.

It is important that unaccompanied migrant minors should be provided as soon as possible with qualified legal counsel to assist them throughout their stay in country of destination.

A genuine public policy aimed at developing and implementing a full reception and care programme must encompass:

- measures to identify and inspire confidence in unaccompanied migrant minors ("street work"), a reception procedure, assessment and guidance, arrangement of care and support facilities and monitoring of children's progress in attaining their goals in life, as determined with them;
- co-ordination measures between the different agencies involved;
- assignment of properly qualified staff to these jobs;
- the effective involvement of consular services or, failing that, legal representatives of the country of origin.

Seeking sustainable solutions

Prevention

Prevention must be based on the following key lines of action:

- Development programmes implemented through partnership between states, regions, local authorities and civil society associations;
- Efforts to combat trafficking in human beings and dismantling of networks;
- International co-operation in the exchange of information on how unaccompanied children migrate (on account of their considerable mobility);

¹ The last part of this paragraph, i.e. « including the right to seek asylum and to benefit from legal aid, as well as the asylum procedure » was not accepted by the representative of Germany.

- Information and awareness-raising campaigns on the issue, run, in particular, in co-operation with the media in the countries of origin, transit and destination;
- Minors with goals in life requiring the acquisition of skills and vocational training unavailable in their countries of origin must be able to access educational facilities in Europe¹.

"Life goals" in the context of return to the country of origin

Any return of a child migrant must satisfy the following criteria:

- guarantee of care and quality assistance provision;
- support in devising and implementing reintegration plans in the country of origin.

With these aims in mind, co-operation between states, regions, local authorities and civil society associations must be promoted, strengthened and enhanced.

"Life goals" in the country of destination

Working with unaccompanied migrant minors to determine what they want from life must be based on an individualised, multi-disciplinary, participatory approach aimed at integrating the young person concerned into the host society.

Unaccompanied migrant minors who have committed themselves to achieving certain goals in life (e.g. acquisition of skills or training not available in their home country) in the country of destination and have reached the age of majority should be issued with a residence permit allowing them to reside in that country until they have attained those goals².

Recommendations to the Council of Europe and to member states

The participants recommend:

- adopting a global, balanced approach that is sufficiently flexible to take account of the needs of each unaccompanied migrant children;
- harmonising at European level the systems for dealing with unaccompanied migrant children, which should include the processing of asylum applications and all legal guarantees, in particular those relating to the Convention on the Rights of the Child and other international human rights law;
- establishing effective co-ordination measures between all the players concerned in the countries of origin, transit and destination;
- setting up a network for the regular exchange of information and good practices and the improvement of knowledge on this subject;
- reinforcing European co-operation in combating trafficking organisations and networks;
- making the issue of migration by unaccompanied migrant minors a systematic focus of North-South and East-West relations.

¹ This point was not accepted by the representative of Germany.

² This paragraph was not accepted by the representative of Germany.