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**Regional Conference on «Migration of unaccompanied minors:  
acting in the best interests of the child»**

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**THE SITUATION OF THE UNACCOMPANIED MINORS MIGRANTS  
IN HUNGARY**

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## **1. Introduction**

In a situation, where people have to leave the country or the territory where they live owing to fear from persecution, it happens quite often that children get separated from their parents or other people having obligation to care about them, and arrive to the country of asylum alone. These children are in a special situation compared to the adult asylum seekers, and as such, they need special treatment and help.

Hungary uses the widely accepted notion for unaccompanied minors – that is also used by EU directives – saying that UAMs are third-country nationals or stateless persons below the age of 18, who arrive on the territory of the Member States unaccompanied by an adult responsible for them whether by law or custom, and for as long as they are not effectively taken into the care of such a person; it includes minors who are left unaccompanied after they have entered the territory of the Member States. The Hungarian Asylum Act gives an exception from the above definition by taking out the people who gained adult status before their 18<sup>th</sup> birthday according to the Hungarian law (people over the age of 16 having married).

- **Statistics**

The fact that the problem of unaccompanied minors has to be a key question in the area of asylum is founded by the statistics on the number of this type of asylum seekers

According to the statistics, the average proportion of the UAMs among the total number of asylum seekers in 21 European countries was 4 % in 2000, around 5 % in 2001 and 2002, and 4 % in 2003. In Hungary, this number was highly above the average in 2003: this rate was 7,9 %. After 2003, an important decline followed, the total number of applicants in Hungary fell to 1600 persons, 2,6 % of which were UAMs. In the first half of 2005, the rate was 3,7 %.

As the unaccompanied minors – owing to their young age – need very special treatment, well-preparedness, adequate formation from the part of the people directly working with these children, and a special system of care and maintenance, financial and social services is needed as well.

## **2. Legal Basis and Specialties of Asylum Procedure of UAMs**

### **a) History and present situation**

The Hungarian asylum law has a relatively young history. Hungary signed the Geneva Convention in 1989 with geographic restriction, which was ceased in 1998. The first law on asylum was born in 1997 and entered into force in 1998, before that, lower level legal rules contained dispositions in this domain.

As far as the UAMs are concerned, the Asylum Act of 1997 didn't contain any dispositions on them, only the Government Decree no. 24/1998 contained rules on UAMs. It declared that if the applicant hasn't reached the age of 18 and does not have legal representative, the Office has to nominate a guardian right after the lodging of the application.

The substantial change was brought by the 2001 modification of the Asylum Act. This modification incorporated the notion of unaccompanied minor in the Asylum Act. For the protection of the interests of UAMs guardian must be nominated, and the procedure must be finished out of turn. During the procedure of an UAM, psychologist expert can be involved who takes part in the hearing of the UAM. In case of doubt on the age of the minor, medical examination can be ordered with the agreement of the concerned in order to gain information on the age of the applicant. If the applicant does not give his agreement to this examination, this sole fact cannot be reason for refusal of his/her claim.

Government Decree no. 172/2001 also contains dispositions on UAMs. Concerning the participation of the guardian in the procedure, the regulation says that the guardian must sign the record of the hearing of the UAM.

There are rules for the accommodation of UAMs, too. The place designated for separated children as a place of accommodation shall be a children's institution or a reception center for unaccompanied minors, or a commercial or private accommodation maintained under contract. UAMs may be placed at relatives other than immediate family members, if the relative undertakes a commitment to provide room and board and support for the minor, and if it is evident that such placement is the minor's best interest by virtue of the relationship between the minor and the said relative.

#### **b) Family Reunification**

The most important aim of the asylum authority must be to reunify the unaccompanied child to his/her family, if it is possible. It is many times the Dublin Regulations that need to be used; this is an evident way of family reunification. In many cases, the UNHCR gives adequate help in facilitating such reunion.

The asylum seekers whose application is rejected have to leave the territory of Hungary, but only under certain conditions of the Aliens Act in the protection of the children's interests. According to article 39(2) the unaccompanied minor who does not meet the conditions of legal stay may be expelled only when the unification of his/her family or appropriate state or other institutional care is guaranteed for him/her in the state of origin or another admitting state. In practice we never expel any separated child, thus their stay until the age of 18 is ensured. The Hungarian Asylum Act contains a many dispositions protecting the UAMs' interests during the asylum procedure. A special question of the asylum procedure is the reception of the applicant, which is a specially sensitive question in case of UAMs.

### **3. Reception of UAMs**

Minors – just like women – are a special group who need special treatment. This special treatment can only be assured in special institutions, where the children can live separately from the adult applicants, and where experts can deal with them.

#### **a) History**

The first special institution specialized for the reception of the UAMs was founded in 2003 in Békéscsaba (Oltalom Charitable Association Home for Children). The creation of this youth center was financed by the OIN and the Hungarian Embassy of the United States. Before that, the UAMs were accommodated in the facilities of the Hungarian child protection system. The need for a separate institution arose after a higher influx of UAMs to Hungary in 2002, when difficulties to take care of them arose. The normal foster children homes had no specialized experts on this field and no language knowledge.

Short after the opening of the Békéscsaba UAM Hostel, it began to receive Hungarian children, too, as it needed more financing than the sum that our Office could pay. From that time on, they worked in the frames of the Hungarian guardian system. With Békéscsaba UAM Hostel having lost its specialisation, we had to open a new center in Nagykanizsa.

#### **b) Youth hostels in Hungary**

- Functioning of Youth Hostels

The youth hostels for UAMs are not the part of the organisational system of the OIN, the one in Békéscsaba is functioned by a charitable organisation, the other one, in Nagykanizsa, is maintained by the Hungarian Red Cross. Accordingly, the people working in these institutions are the employees of the functioning organization, and are payed by them.

As already mentioned, the Békéscsaba Home for Children is at the same time registered as a child protection institution which deals not only with the care and maintenance of foreign children, but also with Hungarian ones.

The Directorate of Refugee Affairs nowadays sends all the UAM applicants to the other youth hostel in Nagykanizsa. This institution is partly financed from European Refugee Fund sources, and partly from OIN money. This organ only deals with the care and maintenance of foreign separated children who are under asylum procedure.

- Role of Social Workers and Training of Staff

The Youth Hostels are not only special in their legal status and financing, but also because of the people working there. As already mentioned the workers of these facilities are not the employees of the OIN.

Theoretically youth hostels are reception centers and community shelters in the same time, but as they are only for minors, the workers are not the same as in the Reception Centers for adults. Most of the employees are social workers who have special formation; they have pedagogic, nursery pedagogic, sociologist, psychologist, and etc. skills. These people all have qualification and experience that specifically fit the needs of the applicant children. The children are under 24 hour care and surveillance in the youth hostels.

The staff of the reception centers for minors have to participate in special trainings. The trainings focus on country of origin information, psychological care, etc.

The OIN has organized a conference on domestic violence with the financial contribution of the UNHCR. There are also trainings on selected country of origin information, and rotary meetings for social workers at least once in two months. The Cordelia Foundation also organizes meeting, recreational weekends with UNHCR financial aid. These meetings contain actual practical exercises.

#### **4. Care and Maintenance**

##### **a) Special needs**

Government Regulation no. 25/1998. contains the rules for the care and maintenance of the foreigners falling under the Asylum Act. According to this rule, there are two main types of care and maintenance: personal care and pecuniary benefits. These are for example health care, tuition, education for minors, free language tuition, regular subsistence contribution, enefit received upon definitive departure from the country.

For UAMs, psychologist care is provided in Nagykanizsa, and psychiatric care in Békéscsaba. The UAMs are entitled to a full range of health care, and not only for emergency care taking. There is special focus on sports training (eg. soccer) and skilled training (pottery, painting) as the average age of these young people fall between 15 and 18.

The UAMs can also profit from these services, naturally except for those ones that are given under the condition of being adult (eg. home creation benefit). A special form of care and maintenance for UAMs is the following.

## **b) Tuition, Education and Placement in Institutions of Education and Institutions for Children**

The OIN shall refund the costs related to the pre-school education and the primary school education of temporarily protected persons and UAM claimants, provided that they fulfil their obligation of compulsory school attendance in the basic educational institute nearest to their accommodation. The OIN shall, furthermore, refund the cost of meals provided in educational and child protection institutions, as well as the cost of travel (travel card). From among the costs of school equipment, the OIN shall refund the costs of textbooks and notebooks (exercise books of the various subjects) verified by the educational institution.

## **c) Practice and Statistics**

The children automatically get accommodation and alimentation. As soon as they are mentally prepared for it, they receive free language education in the youth hostels, and if they are well prepared or mature enough, they should [?] attend primary school for free. Primary education is compulsory in Hungary, for applicants, this rule stands from the age of 6, and after one year spent in the country as applicant, or earlier if the parents desire so. As the Council Directive 2003/9/EC laying down the minimum standards for the reception of asylum seekers prescribes that access to the education system of the receiving country shall not be postponed for more than three months from the date the application for asylum was lodged. Hungary hasn't yet integrated this rule in the national law, but the asylum authority tries to follow these dispositions in the practice, and our Ministry lobbied for the change of the Act on Public Education in this respect.

## **5. Latest statistics figures**

According to the statistics, the number of UAM asylum seekers is decreasing – this tendency can be seen for all the asylum seekers. There is a change in the structure of the nationality of UAM applicants, too. Out of the 190 children in 2003, 53 % were Afghans, 11,5 % Somali, 4-4 % Iraqi, Vietnamese and Bangladeshi. In 2004, out of the 59 UAM applicants, 17 % were Moldavians, 8,5-8,5 % Turkish and Georgian, 6,7-6,7 % Afghan and Vietnamese. In the first half of 2005 24 UAMs applied for refugee status in Hungary, 37 % of them were Nigerians, 20 % Moldavians, 12,5 % Vietnamese, 8,3-8,3 % Serbian and Georgian.

Currently, the number of Nigerian separated children has risen. According to our information, these kids – all boys – were travelling to Hungary under an official invitation to a sports event. After the event, only 30 % left officially Hungary and the rest of the team disappeared. Two months after the tour, UAMs started to arrive, very tired, thirsty, in a severe health condition to one of our Reception Centers. We transferred them to Nagykanizsa, and since then, a whole Nigerian youth football team is placed in our Hostel.

In 2003, only two UAMs were recognized as refugee. In 2004 four children were recognized as refugee. There has been no recognition in 2005 yet. It has to be mentioned that in 2003, 60 %, in 2004, 54 % and in the first half of 2005, 37 % of the cases were ceased, in most of the cases because of the applicant's disappearance. The high disappearance rate gives reason for the assumption that the UAMs – just as the adult claimers in Hungary – are not considering Hungary as a target country, and wish to move further to the west.

## **6. Conclusion**

The question of unaccompanied minors always has to be an important concern for the asylum authorities, as children are the most vulnerable group of asylum seekers. The tendency of arrival is unpredictable, thus the asylum authorities must always be prepared, with adequate facilities and qualified, professional staff.