**Human Rights Council Advisory Committee**

**UNACCOMPANIED MIGRANT CHILDREN AND ADOLESCENTS AND HUMAN RIGHTS**

**Questionnaire**

*This questionnaire forms part of consultations undertaken by the Human Rights Council Advisory Committee with* ***civil society organizations*** *with a view to developing a research-based study on the global issue of unaccompanied migrant children and adolescents and human rights, pursuant to Human Rights Council resolution 29/12.*

**Background**

In its resolution 29/12, the Human Rights Council requested the Advisory Committee to develop a research-based study on the global issue of unaccompanied migrant children and adolescents and human rights, in which it identifies areas, reasons and cases where this issue arises in the world, and the ways in which human rights are threatened and violated, and makes recommendations for the protection of human rights of members of this population, and to submit it to the Council at its thirty-third session for its consideration.

In this context, the Advisory Committee decided, at its fifteenth session held in August 2015, to establish a drafting group in charge of the preparation of this study.[[1]](#footnote-2) The drafting group will present a draft progress report at the sixteenth session of the Committee in February 2016, before its submission to the thirty-third session of the Council.

In its preparation of the study, the drafting group decided to seek the views and inputs of Member States of the United Nations, international and regional organizations (including UNICEF, IOM and OHCHR), relevant special procedures mandate holders and treaty bodies (such as the Special Rapporteur on the human rights of migrants and the Committee on the Rights of the Child), national human rights institutions, civil society organizations and other relevant stakeholders.

The drafting group elaborated the hereunder questionnaire in order to seek the views and inputs from civil society organizations. Respondents are advised to reply only to questions that are applicable to them, on the basis of their country’s situation (source, transit or destination country).

*Please note we have responded to the questions in line with our particular focus on the challenges facing undocumented children (and an international – primarily European - network).*

**1. General situation**

**1.1** What is the situation of unaccompanied migrant children[[2]](#footnote-3) and adolescents in your country? Please provide available statistics and relevant information.

**1.2** What are the main causes that force or encourage children and adolescents into situations of unaccompanied migration?

1. Structural causes.

Among the structural causes for children and adolescents migrating unaccompanied is the lack of or strict criteria to qualify for regular channels for family reunification. In Europe there are often minimum income requirements on adults to sponsor their children for family reunification, excluding low-income migrant workers, and at times having a particularly discriminatory effect on migrant women. Despite the common EU legislation on family reunification, there remain restrictions in some EU member states in terms of the age of the child and the family members that are able to sponsor the child. Further, some migrant workers are unable to apply for official family reunification as they are irregularly resident in the country of destination. This leads to many children migrating unaccompanied or separated in order to join parents or other family members in countries of destination.

1. Immediate causes. [[3]](#footnote-4)

Children may also be separated from their parents, family members or other caretakers during the course of their migration journey under various different circumstances (e.g. including, injury, death, detention, and deportation of the parents as well as separation in border situations), and so continue their migration unaccompanied.

**1.3** Based on your organization’s experience, what are the transit, reception and living conditions of unaccompanied migrant children and adolescents in your country?

**1.4** What are the main human rights violations faced by unaccompanied migrant children and adolescents in or from your country? Please give examples.

Across the European Union, age determination procedures are frequently intrusive and unreliable, meaning unaccompanied children are often subjected to the same violations as undocumented adults and undocumented children in families. If apprehended, and particularly if not recognised as a child, unaccompanied children can face detention, deportation, and violence.

Unaccompanied children that are residing undocumented and outside any form of state protection for children can face the same limitations on access to essential services (e.g. education, health care) as undocumented children living irregularly with their families, or avoid accessing services to avoid integration into the protection system or out of fear of deportation.

Another key rights violation highlighted by our network is the limited protection afforded to children in terms of the length and security of their status. This has negative impacts on children’s integration, mental health, identity and well-being, including planning for their future etc. Unaccompanied migrant children often become undocumented adults with all the human rights violations that irregular status brings.

**2. Cross-cutting issues**

**2.1** In connection with article 12 of the Convention on the Rights of the Child, in your country or region, are there specific mechanisms or procedures to ensure that migrant children and adolescents’ views are heard and fully taken into account in all matters affecting them? If yes, please describe.

Not at EU level.

**2.2** If your answer to question 2.1 is positive, what have unaccompanied children or adolescents expressed as their main reasons for migrating? And what did they describe as their reception and living conditions in transit and destination countries?

**2.3** Based on your organization’s experience, do you think the human rights violations inflicted on unaccompanied migrant children and adolescents are motivated by gender considerations?

**2.4** In your country, what is the legal definition of a child / an adolescent?

**3. Laws, policies and coordination mechanisms**

**3.1** Do you consider that your country’s migration policies take into account the protection of the rights of migrant children and adolescents in general, and of unaccompanied migrant children and adolescents in particular? Is the migrant child/adolescent considered as a distinct right-holder by policy-makers? Are there any specific measures implemented to protect the rights of unaccompanied migrant children and adolescents? If yes, please provide details.

Across Europe migrant children are rarely treated as individual rights-holders, particularly if they are accompanied by their parents or other caregivers. There is rarely attention paid in immigration and asylum applications to the individual children’s rights, situation and potential child-specific forms of discrimination and needs for protection. This is also evident in the significant gaps in disaggregated data on children in immigration and asylum procedures. Though still nascent and inadequate in many countries there are additional protections for unaccompanied children – such as further restrictions on the use of detention, reception facilities that also ensure access to services such as education and health care, and efforts to find a durable solution for the child, with consideration of the best interests of the child. However, undocumented children – usually residing with their family – are unable to avail of any of this protection unless they are separated from their family. That said, several countries provide access to education and health care, and implement alternatives to detention, for all children, regardless of status. Further information can be found in PICUM (2015) Protecting undocumented children: Promising policies and practices from governments.

**3.2** What are the main challenges and barriers (legal, political, financial, administrative, economic, social and cultural) that impede the effective protection of unaccompanied migrant children and adolescents in your country/from your country?

**3.3** As a civil society organization, do you participate and collaborate with governmental and other organizations to elaborate effective measures to protect the rights of migrant children and adolescents, and monitor and evaluate their implementation?

PICUM works collaboratively with a broad range of organisations in the fields of human rights, children’s rights, health, education, social inclusion and migration, to call for a rights-based approach to all migrant children, regardless of status, in line with the Convention on the Rights of the Child and the recommendations of the Committee in its Report of the Day of General Discussion 2012 on “The rights of children in the context of migration”. Various positive policies and practices in the protection of migrant children are evaluated and highlighted with the aim of extending their application to different cities, regions and countries, and all migrant children (e.g. when tools are developed to integrate BID in decisions for unaccompanied children).

**3.4** Do you think there is an effective collaboration between countries in your region to guarantee the promotion, protection, respect and fulfilment of the rights of unaccompanied migrant children and adolescents? Please explain your answer.

There is cooperation between civil society in different countries in the region, and some cooperation through the European Union institutions focused on the rights and protection of unaccompanied children, but limited cooperation at European level focusing on the rights of all migrant children, regardless of status.

**4. Others:**

**4.1** What is the role of your organization in the protection of unaccompanied migrant children and adolescents?

PICUM provides an international network for exchange for frontline organisations and advocates working to ensure the rights of all children, regardless of status. PICUM’s work with its members and advocacy focuses on the rights of undocumented children, particularly those with their families or other caregivers, as the systematic violations of this group of children’s rights are under-addressed, and on supporting the implementation of a rights-based approach to all migrant children at European, national and local level, to improve effective protection of all migrant children, whatever their status.

**4.2** Please provide examples of best practices with regard to issues related to unaccompanied migrant children and adolescents.

Although practices focus on all undocumented children, please see PICUM (2015) Protecting undocumented children: promising policies and practices from governments.

**Deadline for submission of responses to the questionnaire:**

All parties are encouraged to submit their responses via email or fax as soon as possible but no later than **30 october 2015** to:

[**hrcadvisorycommittee@ohchr.org**](mailto:hrcadvisorycommittee@ohchr.org)[Subject line: HRC AC unaccompanied migrant children and adolescents]

or

Secretariat of the Human Rights Council Advisory Committee

Attn. Ms. Dina Rossbacher

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Thank you in advance for your contribution.

For more information about the Advisory Committee, please visit <http://www.ohchr.org/EN/HRBodies/HRC/AdvisoryCommittee/Pages/HRCACIndex.aspx>

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1. A/HRC/AC/15/L.2 [↑](#footnote-ref-2)
2. According to CRC General Comment No.6 (2005), “Unaccompanied children” (also called unaccompanied minors) are children, as defined in article 1 of the Convention, who have been separated from both parents and other relatives and are not being cared for by an adult who, by law or custom, is responsible for doing so. [↑](#footnote-ref-3)
3. Structural and immediate causes are defined as follows: The structural causes are those depending on a system already installed. In the case of migration, this could be the control of production and distribution of national resources, social norms or social organization.

   The immediate causes or direct causes are actions, events, flaw, or forces that are the immediate, initiating, or primary agent which leads to, or allows an action, event, or state to happen. One can refer to: beliefs, behaviours, practices, access to services and people's capabilities. [↑](#footnote-ref-4)