

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

For further information:

<http://fra.europa.eu>

maria.estebanez@fra.europa.eu