

European Network of Ombudspersons for Children (ENOC)

Position Statement on urging the EU institutions to respect the rights of the child in developing the new Common European Asylum System (CEAS)

Adopted in Stockholm on 24 April 2017

We, European Independent Children's Rights Institutions (ICRIs), members of ENOC, are deeply concerned about the lack of a child rights perspective in the development of the new Common European Asylum System (CEAS) and call on all EU institutions to ensure that the obligations set out in the UN Convention on the Rights of the Child (UNCRC) are respected when adopting the new instruments. ENOC endorses the communication from the European Commission on the protection of children in migration, published on 12 April 2017, and urge all member states to adhere to the recommendations therein.

In our report "[Safety and Fundamental Rights at risk for Children on the Move](#)" from 2016 we highlighted the risks children face when coming to Europe to apply for international protection. ENOC once again calls on the EU and its member states to **adopt measures for children to enter the EU safely and legally when they are in need of international protection**. This is urgently needed to stop the many deaths on the Mediterranean that we see today. Legal measures adopted should include an increase in resettlement schemes, family reunification possibilities and that member states issue humanitarian visas.

ENOC is deeply concerned about the lack of **possibilities for long term or permanent residency permits for children in need of international protection** in the proposals for the new CEAS. The uncertainty of short term permits for a child limits the child's possibility to fully enjoy his/her right to development, rehabilitation, education and health and it also limits the child's possibility to integrate in the new country.

Furthermore ENOC deeply regrets the limitation in family reunification possibilities introduced by several European states. **Family reunification is a right** set out both in the UNCRC and the European Convention on Human Rights and every child must be able to apply for family reunification and have his/her individual case examined, together with a best interests assessment. In this regard, ENOC urges the member states to ensure that unaccompanied children entering the EU stating that they have relatives in another member state are informed about the possibilities for family reunification through the Dublin III process. The member states should also treat the applications for family reunification through the Dublin III process as quickly as possible.

Detention of children, accompanied or unaccompanied, should not be permitted solely on the basis of their migration status. Immigration detention is a child rights' violation and always contravenes the principle of the best interest of the child. The fact that an increasing number of States are detaining asylum seekers, including children, is a matter of deep concern for ENOC. The new proposed CEAS must be in line with the UNCRC and encourage the member states to abolish deprivation of liberty as a step prior to children's transfer to an appropriate protective environment.

Considering that the best interest of the child must be the primary consideration in returning a child and must not be solely part of migration management, ENOC is concerned that the new action plan on return, presented by the European Commission on 1 March 2017, will accelerate the

use of forced return and detention of children. ENOC urges the Commission and the member states to ensure that, when children are to be returned, voluntary return is primarily preferred, that a best interests assessment is always carried out before a return decision is made, that children are informed about the return in a timely manner before it takes place, that the child is allowed to finish the school term before the return is executed and that deprivation of liberty is only used as a measure of last resort and for the shortest possible time. These measures should apply to all children, whether they are unaccompanied or being returned with their families. For unaccompanied children states must ensure that there is an organised reception in the country to where the child is returned.

Recognizing the importance attached to relocation, ENOC is concerned about the extremely low rate of relocation, especially of unaccompanied minors, and calls for enabling efforts to address the limited number of pledges as well as the procedural obstacles in the context of relocation mechanisms. ENOC encourages the competent authorities to examine the implementation of a more flexible scheme regarding the relocation eligibility criteria, especially in cases of particularly vulnerable unaccompanied children, who are in real need of international protection regardless of their nationality and on the basis of their best interests assessment.

Many children seeking refuge in Europe are originating from Syria. Some of these children are considered stateless, due to the citizenship rules in Syria.¹ According to Article 7 of the UNCRC every child has the right to citizenship. The EU should therefore set up common standards to ensure that stateless children can obtain citizenship within a short period after being granted residency permit.

Recalling our previous statements from 2013, 2015 and 2016, highlighting the risks for children on the move as well as the obligations states have to protect the rights of the child, ENOC calls on the EU institutions to ensure that the following is adhered to in the adoption of the new CEAS:

- All children have equal rights as enshrined in the UNCRC, regardless of their residency status. Equal support must be given to all children on the move, whether accompanied by parents or not.
- The best interests of the child must be a primary consideration in all decisions affecting children on the move.
- Respect the child's right to life, survival and development, access to education and health services throughout the whole migration process.
- Ensure every child's right to be heard and having his/her views taken into consideration in decisions at all levels.

Children on the move must be seen as children first and their rights as set out in the UNCRC must always be respected. All children on the move, whether unaccompanied or accompanied, with or without necessary documents, have the same rights as others. We, the members of ENOC, urge all EU institutions developing, negotiating and adopting the new EU policies on asylum and migration to respect this and ensure that the child rights perspective is respected.

¹ UNHCR. I am here, I belong: the urgent need to end childhood statelessness. 2015