

Position Paper

Children on the move in Europe

Background :

The wide disparity of economic and social development within the EU as well as at its borders is conducive to lead, if not force, children to move from one country to another. Often, the movement of children, alone or in families, brings along with it hope for a better and dignified life, exempt of discrimination, allowing for the realisation of the rights that may not have been fulfilled in their country of origin. However, unsafe movement may also contribute to increasing the vulnerability of children who decided or were forced to move internally or across borders.

In Europe, a significant number of children possessing the citizenship of one or several Member States of the European Union (EU) exercise their right to freedom of movement and travel across internal EU borders. Despite additional conditions and under a different framework, children who are citizens of a state benefiting from a visa liberalisation agreement with the EU (a common feature of all South East European neighbours of the EU but Kosovo¹), also benefit from facilitated access to the EU territory and the Schengen area.

Though intra-EU migration is difficult to quantify, the vulnerability to abuse, exploitation and in worst cases trafficking of EU children found on the territory of another Member State appears to be higher as reflected in the available figures on child trafficking.

The 2014 Trafficking in Human Beings report published by Eurostat² corroborated by UNODC and ILO estimates, indicate that the majority of children in Western Europe who are recognized or potential victims of trafficking within the EU either possess an EU citizenship or that of a South Eastern European neighbour of the EU.

19 child protection NGOs working in various European countries - joint together under the Mario project - therefore decided to carry out 5 transnational outreach research in the period May-September 2014 in order to document and analyse those factors that contribute to making European children vulnerable in their transnational endeavours. 143 children in street situation(s), 48 caretakers as well as 105 key community or statutory respondents were approached and interviewed to share their views on the vulnerability of Romanian, Bulgarian and Albanian children migrating to other European states and carrying out economic activities in the streets. This exploratory research process took place in Greece (Thessaloniki and Athens), Italy (Rome and Naples), The Netherlands (Amsterdam), Belgium (Brussels), Kosovo (Prishtina and Peja) and the Former Yugoslav Republic Of Macedonia (FYROM; Skopje and Tetovo).

¹ This designation is in line with UNSCR 1244 and the ICJ opinion on the Kosovo Declaration of Independence and is without prejudice to positions by several states on the status of Kosovo.

² Eurostat Statistical Working Paper, Trafficking in human beings, 2014 Edition, available at http://ec.europa.eu/dgs/home-affairs/what-is-new/news/news/docs/20141017_working_paper_on_statistics_on_trafficking_in_human_beings_en.pdf [accessed on December 2014].

This innovative research project is one of the very few, if not the only one, that has aimed at understanding the vulnerabilities and resiliencies of European children on the move in this very specific regional context, paving the way for further research. Despite limited resources, it succeeded in uncovering an important and persistent protection gap and that partners of the project Mario are eager to convey in this document.

This paper is based on the analyses provided in the 5 transnational research reports and zooms out to put the views of children, family members and front line professionals in a wider European perspective, reflecting on their rights in an area of facilitated movement.

Findings:

Scope of the phenomenon:

Though the research process did not focus on providing exact and solid figures on intra-EU child migration or child migration from neighbouring countries, the number of children concerned is high at a European scale and is likely to increase in upcoming years.

The number of 143 Romanian, Bulgarian and Albanian children on the move interviewed during a week of street work in each location is not representative of the total number of children on the move that were observed carrying out economic activities in the streets of the cities mentioned: for instance, and in less than a week of street work, 240 Bulgarian and Romanian children were identified in a vulnerable situation in Italy and Greece only³.

The regional migration of children, be it unaccompanied or in the context of family migration is significant throughout all countries subject to the research: for example and in a year of outreach work, the NGO ARSIS identified 672 Albanian, Bulgarian or Romanian children in street situation in Athens and Thessaloniki only.

In spite of all efforts spent during this research process, data on children moving within Europe remains scarce and not only prevents policy makers to develop adequate policies but first and foremost hampers frontline professionals to envisage the scale and type of services required.

Vulnerabilities and migration patterns

Though the research exclusively focussed on Albanian, Romanian and Bulgarian children on the move who constituted the majority of children on the move observed, an important number of children coming from South Eastern European countries were also detected in vulnerable situations, especially from Serbia and Bosnia and Herzegovina.

In all countries reviewed, most of children approached indicated that they migrated with their families for financial reasons and had experienced migration in other EU countries as well. The majority of children and families interviewed, who were mainly of Roma origin, were carrying out economic activities in the streets, as part of family survival strategies, and were mostly involved in begging or selling items of small values, as well as playing music.

Earnings of children were - as a general rule - shared with other members of the family to cater to the needs of the family as a whole, and spent on basic needs including food, clothes as well as medication.

Housing conditions were in most of cases extremely precarious, ranging from huts in shanty towns located in the suburbs of cities to overcrowded apartments shared with other members

³ All these figures exclude a large number of Serbian and Bosnian children who were also present but not included in the scope of the research due to time and budget limitations.

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of the migrant community which did not always provide for the basic amenities, including access to water and sanitation.

Educational opportunities and access to health services were rarely reported by children and families as being either offered or used, with the notable exception of Albanian children in Greece who displayed a greater awareness of existing services.

Children and families were involved in two types of movement: some children and families were moving for long periods of time to countries of destination and occasionally returning to their country of origin to maintain family ties while a second group was migrating in a more circular manner, counting on seasonal opportunities and coming back home at regular intervals.

Socialisation and possibility to rely on a social network were, in the vast majority of cases, limited to the community to which they belong. Many children reported feeling excluded or discriminated against by their peers and the system as a whole when getting in contact with existing services such as schools or health services.

All these factors contribute to increasing an already high level of vulnerability of children on the move and fuelled a feeling of mistrust towards existing protection services resulting in a state of segregation.

Absence of adequate protection avenues:

The research has evidenced differential legislation between different EU countries which results in variable degrees of protection offered to EU children on the move⁴. These differences are deriving from the compartmentalisation of laws and policies which remain at both national and EU level based on administrative status and citizenship (among others), in contravention with Article 2 of the UN Convention on the Rights of the Child.

On the one hand, national children are falling under traditional child protection schemes and benefit from procedures and services allowing their welfare and safety to be secured in all European countries (to varying degrees). On the other hand, children coming from third countries fall under a specific category that is partly regulated at EU level in the framework of the asylum *acquis* providing for *inter alia* minimum procedural and material safeguards, as well as family reunification, minimum reception conditions and possibilities to be granted a status affording the right to stay in the country concerned.

However, children coming from another EU Member State, and in some instances children coming from South East Europe, especially those countries benefitting from a visa liberalisation with the European Union, did not enjoy the same level of material and procedural guarantees (if any) afforded to their national or third country national counterparts, in contravention with the non-discrimination principle as enshrined in Article 2 of the UN Convention on the Rights of the Child. This does not imply that third country nationals children on the move benefit from adequate protection, the violations of an important number of their rights remaining widespread in Europe.

For children coming from neighbouring countries such as Albania, Kosovo and Macedonia, the use of the concept of safe country of origin lowers the level of procedural guarantees they

⁴ A finding which concurs with the initial findings of a mapping of child protection systems in the EU conducted by the Fundamental Rights Agency of the European Union. Available at: <http://fra.europa.eu/en/publications-and-resources/data-and-maps/comparative-data/child-protection> [accessed on 27 February 2015]

should benefit from in determining their status and thereby their best interests which should remain a primary consideration in all decisions affecting them.

As far as EU children on the move are concerned, domestic norms of countries subject to the research make them fall under the national child protection schemes. However, in practice this often means that they are deprived from services and solutions offered to their third country national counterparts such as guardianship services or residence status. The fragmentation of regulations and policies providing procedural and material guarantees as well as services remains based on a categorisation approach in all countries subject to this research which inevitably leads to varying levels and quality of assistance as demonstrated in the case of EU children on the move.

Though initiatives in a limited number of countries have taken place to end parts of this discriminatory regime⁵ the situation is likely to continue in the absence of viable solutions tackling the root causes of migration and protecting vulnerable children and families.

Absence of adequate protection services:

As evidenced by the research process, and since EU children on the move fall under national child protection schemes designed for national children, services offered were not adequate to cater to the protection needs of children on the move coming from another EU country, and in a majority of cases, were not accessible either.

Issues relating to interpretation or translation obviously constitute a major obstacle for statutory service to provide an adequate protection to children. However in most cases, children from other EU countries and carrying out economic activities in the streets were not perceived as children who may need protection and when they were, the inadequacy of the services provided led in many instances to them disappearing or running away.

Very often, frontline professionals also reported a sort of discouragement and hopelessness in addressing the perceived difficulties that migrant children and families coming from other EU Member States are posing to traditional child protection services. The absence of tools and resources (from language to outreach capacity) to carry out an adequate work with them was first pointed out by professionals.

Moreover, policies of eviction of shanty towns, on the ground that they constitute a threat to the health of their occupants, or due to their illegal nature, take place in part of the countries subject to the Mario research, and remain widespread throughout Europe. In Italy, these policies have not only hampered the social, educational and health work that could have been carried out by both state and non-state actors, but it has also created a sense of mistrust in existing protection schemes from children and communities.

Professionals, therefore and in all countries subject to the research, cannot and do not afford adequate protection to EU children on the move on the grounds that they are more difficult to approach than national children and that services are not equipped with adequate protection tools that would support frontline workers in protecting the children concerned.

Absence of transnational protection schemes and criminalisation of migration

⁵ See Cour Constitutionnelle Belge, 5411, Arrêt n°106/2013 of 18 July 2013 available at <http://www.const-court.be/public/f/2013/2013-106f.pdf> [accessed on January 2015]

The research also explored how authorities were assessing the individual situation and circumstances of children on the move from Albania, Bulgaria and Romania. Since they were only rarely entering into contact with protection services for the reasons exposed above, children cases were often triggering a response from authorities when coming into contact with the criminal justice system when suspected or accused of having committed an offence or a crime. Indeed, the numbers of children in conflict with the law coming from Romania or Bulgaria in other EU countries appears to be overly high in several of the countries studied as well as in other Member States, such as France.

It is therefore in a criminal context, too often overlooking the possibility of considering children compelled to commit crimes as victims of trafficking (and in violation of the non-punishment principle), that EU children on the move's cases were genuinely managed by State authorities, which in many instances resulted in separation from the family and placement in closed settings.

Transnational collaboration between countries of origin and destination appears to be triggered only when a criminal investigation is taking place. The aim is to obtain information on the situation and circumstances of EU children on the move, especially those appearing to be without parental care.

However, the absence of common standards and clear procedures between countries hampers the quality and pace of the exchanges between countries in order to take adequate short term protection measures and, on the long run, durable solutions for the children on the move concerned.

Interviews with stakeholders and children all pointed out to the fact that return to the country of origin is - if not the only - at least the most widely used option in the context of such proceedings.

The high mobility of children within Europe, as demonstrated by their knowledge of multiple EU languages and migration experiences and stories, requires an increased transnational collaboration for the purpose of protection, in both civil, administrative and criminal procedures. Member States operating in isolation from others will not get access to sufficient and relevant information allowing them to take timely, well informed and adequate decisions for EU children on the move, and therefore to identify durable solutions for them.

Recommendations

To the European Union

General:

Use both **legislative and non-legislative measures to support the protection of children on the move at European level** and initiate a debate with Member States on the issue of intra-EU migration of children and what the EU can or cannot do.

These should at a minimum contemplate the inclusion of a reinforced transnational component in guiding Member States to set up child protection system – these systems should be able to prevent and respond to violence, abuse, exploitation and neglect of children in a coherent way – especially when children move across EU external and internal borders, be they nationals or not.

Equally, the EU should further develop common Guidance on the concept of Best interests determination and foster transnational cooperation, in particular within the context of return procedures with a view to ensure adequate reintegration of the child in his/her home country and access to school.

Any measure should be firmly anchored in, and form an integral part of, a **new EU Agenda for the Rights of the Child**. In line with the integrated approach promoted in the Stockholm Programme, migrant children's rights should be mainstreamed across all relevant policy areas. Coordination and cooperation between different directions, in particular in the areas of justice, home affairs and enlargement, is essential to ensure a coherent European response to meet this common challenge.

Funding

Better target and increase its financial support to the reinforcement of child protection systems through existing financial instruments with a view to ensuring a better protection of children on the move. Strengthening Child Protection Systems should be a priority of the 2014-2020 Rights, Equality and Citizenship Programme.

Data collection

Continue efforts to collect and consolidate data in the area of children's rights (including data on children moving within the EU and ending up in a exploitative or otherwise vulnerable situations).

Take steps to define common approaches and language, allowing data to be compared across Europe, in particular by amending existing instruments, such as the Eurostat Regulation EC n°458/2007.

Enlargement:

Despite the important progress achieved and which needs to be acknowledged, a **more prominent place to child rights and child protection in the accession process** should (continue to) be given, both within chapters 23 and 24 and beyond.

The enlargement process offers a clear opportunity to promote the European Commission's Recommendation in the candidate countries in order to address child poverty and social exclusion at an early stage and from a child rights perspective keeping a cross-sectorial

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approach. This will ensure non-discrimination, the right to be heard, and access to education, health care services and leisure activities.

The enlargement process should foster specific initiatives to support Roma inclusion and their access to education, healthcare, employment, housing and provisions of personal documents, including through the allocation of financial resources to support Roma inclusion through existing financial instruments such as the Instrument for Pre-Accession. Funding strategies aiming at the provision of services should aim at reinforcing their sustainability in order to avoid their disruption.

To EU Member States

Initiate a dialogue at the Council level (COREPER II) on the opportunity of adopting legislative measures aiming at improving the level of collaboration between Member States on the issue of intra EU migration of children on the move. Associate neighbouring countries' representations when and where that is possible in this dialogue.

Put discriminatory practices to an end when deciding upon EU migrant children cases and conduct best interests determination on an individual basis, including when children are accompanied with family members, based on objective elements contemplating the adoption of durable solutions for children on the move.

Invest in outreach and extend child protection services to migrant children, including those from other EU Member States

To acceding states

Consolidate child protection system at national level and foster transnational collaboration to ensure an appropriate management of children on the move cases at transnational level.

Invest in capacity building initiatives aiming at assessing risks and security of children on the move, conducting social and family inquiries and at reaching out children and families in vulnerable situations, including those living or working in the streets.

To NGOs

In the context of transnational case management, reinforce their networking capacity and facilitate communication and collection of objective elements in the absence or a failure of state to undertake social and family inquiries, including risks and security assessments.

In close coordination - and with the support of Member States - develop further research on the issue of European child mobility and improve the capacity of teams to reach out to children and communities in vulnerable situations, including those living or working in the streets.

Continuously advocate governments and EC delegations or representations in your country to put children on the move's rights and their best interests at the core of their action. In acceding states, that includes advocating for the inclusion of such considerations in the negotiations on the chapters 23 and 24 of the accession programme and beyond.

To institutional and non-institutional donors :

Consider the recommendations provided above in your funding strategies and continue to support child protection work within the European Union in the current context of increased child poverty, discrimination and exploitation of children

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Protect children on the move

Support both awareness raising actions and campaigns to prevent unsafe migration of children, be it internal or cross border, and systemic solutions fostering safe movement and focus on those actions that are based on the views of children on the move.



About the Mario project

The project Mario aims at improving the level of protection of C/SEE migrant children who are vulnerable to abuse, exploitation and/or trafficking. The project has and continues to promote – through transnational outreach research, advocacy, trainings and direct support to professionals and empowerment of C/SEE at-risk migrant children – multilateral solutions to the problems that children on the move face prior, during or after migration and that require coordinated protection schemes for the children concerned.

The project provides services which protect at-risk migrant children in Central and South Eastern Europe from abuse, exploitation or other violations of their rights with a strong emphasis put on child participation. The project Mario implements activities in 16 European countries (both outside and within the EU) and at regional level, coupling field work with a strong research component and fosters inter-institutional and transnational collaboration while promoting evidence-based and European solutions to the unsafe migration of C/SEE children.

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