DRAFT REPORT

on the situation of unaccompanied minors in the European Union
(2012/2263(INI))

Committee on Civil Liberties, Justice and Home Affairs

Rapporteur: Nathalie Griesbeck
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The European Parliament,

– having regard to the Treaty on European Union and in particular Article 3 thereof,

– having regard to the Treaty on the Functioning of the European Union, and in particular Article 67 and 79 thereof,

– having regard to the provisions of the Charter of Fundamental Rights of the European Union, particularly Article 24 thereof,

– having regard to the European Convention on Human Rights and the protocols thereto,


– having regard to the Commission's Communication of 20 April 2010 to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on the ‘Action Plan implementing the Stockholm Programme’ (COM(2010)0171),

– having regard to its resolution of 25 November 2009 on the Commission communication to the European Parliament and the Council entitled ‘An area of freedom, security and justice serving the citizen – Stockholm programme’¹,

– having regard to the conclusions of the Justice and Home Affairs Council of 3 June 2010 on unaccompanied minors, adopted at its 3018th session,


– having regard to the directives on asylum, particularly Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted³, as well as Directive 2008/115/EC of the European Parliament and of the Council

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of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals,

– having regard to the Commission’s proposals for reform of the instruments of the common European asylum system (CEAS), particularly the amended proposal for a directive of the European Parliament and of the Council laying down standards for the reception of asylum seekers (recast) (COM(2011)0320), the amended proposal for a directive of the European Parliament and of the Council on common procedures for granting and withdrawing international protection status (recast) (COM(2011)0319), and the proposal for a regulation of the European Parliament and of the Council establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (recast) (COM(2008)0820),

– having regard to the contributions by the Council of Europe, particularly Resolution 1810 (2011) of its Parliamentary Assembly on ‘unaccompanied children in Europe: issues of arrival, stay and return’, and the recommendation of its Committee of Ministers to Member States on life projects for unaccompanied migrant minors (CM/Rec(2007)9),

– having regard to international instruments concerning the rights of children, particularly the United Nations Convention on the Rights of the Child, especially Article 3 thereof,

– having regard to Rule 48 of its Rules of Procedure,

– having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs (A7-0000/2013),

A. whereas, every year, thousands of under-18-year-olds who are citizens of third countries or stateless persons arrive in the European Union alone or find themselves alone after arrival;

B. whereas the reasons behind the arrival of unaccompanied minors are diverse: war, violence, violations of their fundamental rights, natural disasters, poverty, trafficking, exploitation, etc.;

C. whereas these minors are by definition extremely vulnerable and whereas it is necessary to ensure that their fundamental rights are respected;

D. whereas, pursuant to the Treaty on European Union and the Charter of Fundamental Rights, the European Union has an obligation to protect the rights of children;

E. whereas the Stockholm Programme assigned priority to protecting unaccompanied minors;

F. whereas the reception and care of unaccompanied minors varies considerably from one country to another, there being no consistency between States;
**General recommendations**

1. Recalls that an unaccompanied minor is above all a minor who is potentially in danger and that child protection, rather than immigration control, must be the guiding principle for States and the European Union when dealing with them;

2. Recalls also that the best interests of the child, as enshrined in provisions and case-law, must take priority over any other consideration in any act taken with regard to them, whether by public authorities or by private institutions; calls on the Commission to propose a common reference framework, based on a set of indices, to assess what constitutes the best interests of a child;

3. Strongly condemns the existing lacunae in the protection of unaccompanied minors in the European Union and denounces the often deplorable conditions in which such minors are received and the numerous breaches of their fundamental rights in certain Member States;

4. Welcomes the adoption by the Commission of an action plan on unaccompanied minors; deplores, however, the fact that the Commission’s approach is not based more on protecting the fundamental rights of such minors;

5. Deplores the fragmentation of the European provisions concerning unaccompanied minors and urges the Commission to compile a manual drawing together these various legal bases;

6. Deplores the lack of reliable official data on unaccompanied minors; calls on the Member States and the European Union to establish a coordinated method for gathering information in each Member State, by means of platforms bringing together all parties involved in the problem of unaccompanied minors, and to draw up a list of national contact points;

7. Recalls that the European Union and Member States ought to step up their cooperation with third countries of origin and transit concerning the problem of unaccompanied minors, preventing their arrival, combating trafficking, irregular immigration, restoration of family ties, return and readmission, in the context of the regular dialogues conducted between the European Union and these States and the European External Action Service (EEAS);

8. Recalls that combating trafficking in human beings is a necessary first step, as minors are particularly confronted with the risks of trafficking and exploitation and because action should be taken in third countries to tackle the root causes of trafficking;

9. Calls on the Commission to devote specific headings to unaccompanied minors in the European Asylum and Migration Fund, particularly in the sections concerning refugees, the external borders and return, and in the European Social Fund;

**Strategic guidelines**
10. Calls on the Commission to draw up binding strategic guidelines for use by all Member States, which should draw inspiration from their best practices, take the form of common minimum standards and detail each stage in the process, from the arrival of a minor in European territory until an appropriate solution has been found for him;

11. Recalls that no child should be prevented from gaining access to the territory or be sent back by means of a summary procedure at the border of a Member State;

12. Calls on Member States to comply strictly and without fail with the fundamental obligation never to place a minor in detention;

13. Considers that each Member State has a responsibility to identify unaccompanied minors; calls on Member States to direct them immediately to specialist services which must, on the one hand, assess the individual circumstances and needs of each minor and, on the other hand, provide them with all the information they need, in a language and form they can understand;

14. Deplores the unsuitable and intrusive nature of the medical techniques used to ascertain age in some Member States; recommends that the Commission establish a common method for ascertaining age, consisting of a multidisciplinary assessment performed by independent, trained practitioners, and with minors always being given the benefit of the doubt; considers that it should be possible to appeal against the results of this assessment; welcomes the work of the European Asylum Support Office (EASO) on this subject, which should be taken as a basis for dealing with all minors;

15. Calls on Member States, as soon as a minor arrives within their territory and until a durable solution has been found, to appoint a person responsible for accompanying, assisting and representing him in all procedures; calls furthermore for this person to have specific training in the problems associated with unaccompanied minors and to act completely independently; calls on the Commission to establish common standards concerning the mandate, functions, qualifications and skills of this person;

16. Calls on Member States to give unaccompanied minors, irrespective of their status and under the same conditions as children who are nationals of the host country:
   - access to appropriate accommodation: accommodation in a ‘centre’ should never be in a closed centre and, during the initial days, should be specialised in the reception of unaccompanied minors; minors should always be separated from adults; accommodation with host families and in ‘living units’ should be encouraged when it is appropriate and accords with the minor's wishes;
   - adequate material and psychological provision must be made for them;
   - the right to education, vocational training and socio-educational advice;
   - the right to health;

17. Recalls that all procedures must be appropriate for minors and that the point of view of the minor should be listened to and taken into account in all procedures;

18. Welcomes the progress which has been made in asylum legislation; recalls, however, that unaccompanied minors should always be exempted from expedited procedures and from
procedures at the border; recalls also that the State responsible for an asylum application by an unaccompanied minor should always be the State of the most recent asylum application;

19. Condemns the very precarious circumstances with which these minors are suddenly confronted when they reach the age of majority; calls on States to institute procedures for assisting these minors in their transition to adulthood; welcomes the work of the Council of Europe on this subject and calls on the Commission to propose common standards for the planning of ‘individualised life projects’ for, and with, the minor;

20. Stresses firmly that the ultimate aim, once an unaccompanied minor has arrived in European territory, must be to seek an appropriate solution for him, which respects his interests; recalls that efforts to achieve this must always begin with an examination of the possibilities of family reunification;

21. Calls on the Commission to propose a common reference framework outlining a series of conditions to be met before a minor can be returned, respecting the best interests of the child; reiterates in the strongest terms that no decision to return a minor may be taken if it endangers the minor's life, security or fundamental rights or those of his or her family, and that the individual circumstances of each minor must be taken into account; calls on Member States to establish monitoring arrangements to ensure the protection of minors after their return, in cooperation with countries of origin and transit;

22. Stresses that the integration of unaccompanied minors in the host country must be centred around an individual life project drawn up for, and with, the minor;

23. Instructs its President to forward this resolution to the Council, the Commission, the governments and parliaments of the Member States and the Council of Europe.