



Separated Children in Europe Programme



Save the Children

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Statement to EU Justice and Home Affairs Ministers ahead of the JHA Council, June 3- 4 2010

We write in connection with the conclusions on the European Commission's EU action plan concerning unaccompanied children that the EU Justice and Home Affairs Ministers are expected to adopt this coming Friday, June 4. We expect that, in line with its Stockholm Programme, the Council will welcome a common EU approach to the vulnerable situation of these children, recognising their rights and need for protection as children, regardless of their nationality or migration status. The Council will also undoubtedly welcome that the Commission took a global approach in its action plan, addressing the prevention of unsafe migration and trafficking, reception and protection in the EU and the need to find a durable solution for these children (including integration into an EU country, return to countries of origin or transfer to third countries). We encourage the Council to recognize that any durable solution should be examined individually and based on the best interests of the child and that children subject to such an examination are represented by guardians and lawyers, as well as to recognize the need to work with third countries to develop child protection systems.

But some actions relating to unaccompanied children, which have been discussed at national and EU level, are more contentious and merit further reflection. This is the case with proposals to establish reception centres in countries of origin so that EU countries can send children back, if they cannot trace family members. Although this sounds like a tantalizingly simple solution, leading international organizations and agencies have warned that setting up such centres raises questions about how children's well-being will be protected, as well as posing a number of practical challenges.

Most EU countries are keenly aware of the need for comprehensive national child protection systems and careful procedures when addressing children in care in their countries. They are also well aware of the terrible consequences for a child when the system breaks down. So what role would the EU take on (and how will the EU work with third country authorities) if it were to support establishing centres for children returned from Europe in countries which currently struggle to operate any child protection system at all?

Moreover, might some national authorities in Europe view these centres in and of themselves as a sufficient basis systematically to send children back, even to countries torn by war or suffering from serious deprivation? From a pragmatic perspective, it is unclear that this kind of return would be durable. And how can it be ensured that returns to such facilities are compatible with the best interests' principle (as reflected in the EU Charter of Fundamental Rights)? Without proper protection, opportunities, and reintegration, there is a clear risk that the children may simply disappear from institutions and try to undertake dangerous journeys to the EU again.

As parties to the European Convention on Human Rights and the UN Convention on the Rights of the Child, all EU Member States are bound by international law to afford special protection to children deprived of their family environment, to base any decision on return on the child's best interests and to refrain from returning children to places where their safety and well-being is at risk.

The EU Action Plan on unaccompanied minors represents a real opportunity to improve the situation of these children here and in their home countries and to reduce unsafe migration and trafficking. The Commission and the Council have already identified some concrete steps which should achieve real progress. But the Council should take great care not to rush to identify apparently easy solutions for complex situations that might put children at risk. Instead we urge the Council, through this welcome initiative, to ensure that EU actions demonstrate the EU's commitment to fundamental rights, by carefully exploring how to achieve durable solutions in the child's best interests. As the Council of Europe Commissioner for Human Rights, Thomas Hammarberg, recently noted in a comment on the issue, "a humane society takes these problems more seriously".

We look forward to working with the EU actors to contribute to the implementation of the Action Plan.

June 2, 2010