



Separated Children in Europe Programme



Save the Children

HUMAN  
RIGHTS  
WATCH

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Following up from our joint recommendations on EU action with regards to unaccompanied and separated children dated September 15, 2009, Save the Children joined by Human Rights Watch and the Separated Children in Europe Programme look forward to the Commission Communication on an EU action plan which will address unaccompanied and separated children of third country origin. We understand that it is intended that the EU action plan will be adopted by the Council in June under the Spanish Presidency who have prioritized the issue.

Following the Commission's consultations with our organizations in November and our organizations' individual submissions in this regard, we come together to urge the Commission to emphasise in its Communication that:

- The EU action plan should be fully in line with the *UN Convention on the Child of the Rights (UN CRC)*, which all the Member States have signed and ratified; the Court of Justice of the European Union has also recognized that EU measures must take due account of the UN CRC;
- *The best interests* of the child as a primary consideration in all actions under the plan and the plan should recognise the right of unaccompanied and separated children to special protection and assistance while on the territory of Member States;
- The plan should address *all unaccompanied and separated children* of third country origin and ensure coherence across EU asylum, migration and trafficking policies;
- The EU action plan should be balanced, covering actions addressing *prevention of unsafe migration, reception, protection, guardianship and assistance in the EU and durable solutions*, including return where this is in the best interests of the child;
- In particular as regards durable solutions, the action plan should expressly aim to foster common understandings among Member States as regards (i) the *appropriate substantive considerations* to assess a child's best interests (ii) the need for *transparent procedures and accessible safeguards* at Member State level to ensure proper consideration of the individual circumstances of each child; and (iii) the need for *tools* to support Member States in making best interest assessment. This aim of developing *practical means to implement the best interests' principle* should run through all relevant activities proposed by the action plan. (The ongoing work of the Commission in relation to the implementation of the Returns Directive is an example of EU action in this regard.) Without this aim, any EU action plan may fail *both* to provide support to Member States where they need it most *and* to fulfil the protection of children's rights, as mandated by Article 2 of the EU Treaty.
- In relations with third countries, the EU should energetically focus on building capacity in *child protection systems in third countries*, without which it will be extremely difficult to achieve two key goals, namely, prevention of unsafe migration and sustainable return and reintegration work, where return is in the child's best interests.