



**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 17 May 2010**

**9824/10**

**LIMITE**

**ASIM 62**

**PUBLIC**

**NOTE**

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from: Presidency

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to: Permanent Representatives Committee / Council

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Subject: **Draft Council Conclusions on unaccompanied minors**

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Delegations will find attached a new compromise text of the above draft Conclusions on the basis of the JHA Counsellors meeting of 17 May 2010.

Changes to the previous version are highlighted in bold.

## Draft Council Conclusions on [...] Unaccompanied Minors [...]

The Council:

- a) Considering that an increasing number of third-country nationals or stateless persons below the age of eighteen arrive annually on EU territory, unaccompanied by a parent or legal guardian, or are left unaccompanied after they have entered EU territory;
- b) Taking into account that the reasons behind the arrival of this particularly vulnerable category of minors are manifold and include, inter alia: to escape from wars and conflicts, discrimination or persecution; being sent by their family in the expectation of work, for a future family reunification, a better life or in order to access education and welfare; to join family members; being victims of trafficking;
- c) Recalling that the EU Charter for Fundamental Rights and the United Nations Convention on the Rights of the Child, establish that children should be treated as such regardless of their migratory status, nationality or background;
- d) Taking into account Recommendation Nr 9 of the Committee of Ministers of the Council of Europe to Member States on life project for UAM where it is stated that UAM should be able to enjoy all rights recognised by the relevant international and European standards and in particular the UN Convention on the rights of the child, which are preconditions for the realisation of the their life projects.;
- e) Having in mind that the Stockholm Programme, adopted by the European Council of December 10 and 11 2009, highlights that a comprehensive response to the phenomenon of unaccompanied minors (UAM) at EU-level should combine preventive, protection and assisted return measures which take into account the best interest of the child and that it also welcomes the initiative of the European Commission to develop an action plan on this issue [...]

- f) Recalling that in its Resolution on the Stockholm Programme, the European Parliament<sup>1</sup>, stresses that the best interest of the child should be a primary consideration and that an EU action plan on UAMs should tackle issues such as protection, durable solutions for every child and co-operation with third countries in the scopes of return, reintegration and prevention;
- g) Welcoming the Commission's Action Plan on Unaccompanied Minors (2010-2014) adopted on 6 May 2010, which by putting forward a common EU approach based on the principle of the best interest of the child and identifying main strands for action such as prevention, reception and identification of durable solutions makes an essential contribution to the on-going debate on this issue.
- h) Taking into account the fact that current EU legislative and financial instruments on asylum, immigration and trafficking in human beings already directly or indirectly address the specific situation of certain UAMs, but [...] a global and coherent approach on the situation of all unaccompanied minors **should be envisaged**;
- i) Considering that the UAMs phenomenon cannot be properly assessed, nor appropriate and durable solutions be found, without a clear evaluation based on comprehensive, reliable and comparable data;
- j) Highlighting the need to prevent unsafe migration and trafficking of minors as a first step for effectively curbing the phenomenon of UAMs;
- k) Considering that from the moment an unaccompanied minor is detected and until a durable solution is found, the Member States should apply reception measures responding to the needs of the minors and should grant access to relevant procedural guarantees;

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<sup>1</sup> P7\_TA(2009)0090.

- l) Stressing the importance of finding durable solutions based on an individual assessment of the best interest of the child consisting of return and reintegration in the country of origin or return, granting international protection status or granting other status according to national law of the Member States;
- m) Recalling that Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals constitutes the EU-wide legal framework for the return of UAMs who are not eligible for international protection or other forms of protection and who are illegally staying on the territories of Member States;
- n) Recalling that Council Directive 2003/9/EC of 27 January 2003 laying down minimum standards for the reception of asylum seekers, Council Directive 2005/85/EC of 1 December 2005 on minimum standards on procedures in Member States for granting and withdrawing refugee status and Council Regulation (EC) No 343/2003 of 18 February 2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national, introduce, inter alia, specific reception and procedural rules concerning UAMs who are asylum seekers whereas Council Directive 2004/83/EC of 29 April 2004 on minimum 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 granted introduces, inter alia, specific rules concerning UAMs who have been granted international protection.
- o) Recalling that the Stockholm Programme calls to practical measures to facilitate the return of the high number of unaccompanied minors who do not require international protection, while recognising that the best interest for many of them may be their reunion with their families and development in their own social and cultural environment;
- p) Acknowledging that it is of utmost importance to reinforce co-operation with third countries on prevention, protection, return and reintegration in their home countries;

- q) Recognising the role of civil society and regional and international organisations in pursuing durable solutions, in improving awareness on the phenomenon and, in particular, in the context of preventing illegal immigration, assisted return and reintegration; protection and care;

On the basis of a political debate on these issues and in accordance with the Stockholm Programme, the Council has adopted the following Conclusions:

**I.-CONCERNING KNOWLEDGE OF THE PHENOMENON, THE COUNCIL HAS AGREED:**

1. To encourage Member States to use the full potential of of the Regulation (EC) 862/2007 on Community statistics on migration and international protection in order to collect comprehensive data on UAMs arriving on the territory of the Member States.
2. To encourage Member States to cooperate with EU agencies and networks, mainly FRONTEX, Europol, the European Asylum Support Office (EASO), the Fundamental Rights Agency (FRA) and the European Migration Network (EMN), to improve the analysis and exchange of relevant information on UAMs arriving on EU territory.
3. To request FRONTEX and Europol to systematically improve data collection, analysis and exchange of detailed information on UAMs using all available sources, including information collected by the Immigration Liaison Officers' networks and the Frontex Risk Analysis Network (FRAN) in order to provide Member States with appropriate risk analysis according to their mandate.
4. To invite EASO to organize, promote and coordinate activities relating to information on countries of origin **according to its mandate**, so that Member States can assess UAMs' protection needs with a view to better supporting quality decision [...].
5. To invite FRONTEX to introduce in the training programme for border guards, a specific module on how to detect particularly vulnerable situations related to UAMs, **especially those with a high risk profile**, such as trafficked minors.

**II.-CONCERNING THE PREVENTION OF UNSAFE MIGRATION AND TRAFFICKING IN HUMAN BEINGS**  
**THE COUNCIL HAS AGREED:**

6. To call on the Commission and the Member States to make use of EU and national existing external co-operation instruments in a well co-ordinated manner to finance projects in third countries to prevent UAM's **unsafe** migration, particularly by providing alternatives in the country of origin regarding education, health care, professional training, support for programmes for youth employment, raising awareness and training in prevention.
  
7. To request the Commission and the Member States, under the existing EU financial tools, to give priority to financing the following areas in partnership with central and local authorities from countries of origin, international and regional organisation and civil society organisations:
  - a) Preventive actions at local level, in schools, communities and families, mainly by targeted awareness-raising programmes for minors at risk.
  
  - b) Training of specialised personnel to detect risk situations and intervene with families and communities for durable **solutions for** UAMs.
  
  - c) Studies to better understand the causes leading UAMs to undertake the journey to EU territory.
  
  - d) Initiatives aimed at providing, to minors at risk of unaccompanied **unsafe** migration, alternatives in the country of origin aiming at benefiting children.

8. To call on Member States' consular services to continue thoroughly assessing all aspects of visa applications and travel documents submitted on behalf of minors and to call on Member States' Border Control Authorities to devote more attention to minors **with high risk profiles** who travel accompanied by adults who are not their parent or legal guardian. Immigration Liaison Officers are called upon to continue devoting attention to the minors including those who travel accompanied by adults.
9. To invite the Commission to include a specific reference to UAMs in the Immigration Portal, in order to better inform potential migrants and to raise awareness about the inherent risks of UAM's migration.
10. To encourage Member States to **make use of** the network of national contact points in relation to border control on minors, as set out in Annex 37 of the Practical Handbook for Border Guards.

**III.-REGARDING THE RECEPTION AND THE PROCEDURAL GUARANTEES IN THE EU THE COUNCIL HAS AGREED:**

11. To invite the Commission to assess whether the EU legislation on UAM offers them sufficient protection in order to ensure adequate standards on reception and procedural guarantees for all UAMs, regardless of whether they are asylum seekers, victims of trafficking or illegal migrants, to guarantee that minors are treated as such until proven otherwise.
12. To encourage Member States to adopt a decision on the future of each UAM within the shortest possible period of time taking into account the importance of finding durable solutions based on an individual assessment of the best interest of the child. These solutions could consist of return and reintegration in the country of origin or return, granting international protection status or granting other status according to national law of the Member States.

13. To call on the Commission and the Member States to promote the development **and exchange** of best practice guidelines on age assessment, by combining scientific and legal criteria.
14. To urge Member States to use the Visa Information System (VIS), once it becomes operational, to verify the identity of a UAM if he/she is registered therein and under the conditions of Article 19 of the VIS Regulation (Regulation (EC) No 767/2008).
15. To underline the need for an adequate implementation by the Member States of the measures provided by Directive 2004/81/EC on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subjects of an action to facilitate illegal immigration, who cooperate with the competent authorities. Moreover to ask Member States to reinforce actions regarding UAMs who are victims of trafficking in human beings by referring them to the competent authorities in the Member State where they are found.
16. To ask the Commission to support Member States making use of the existing and establishing, operative networks, **as soon as possible**, to facilitate family tracing in countries of origin and transit promoting a common approach on the basis of an exchange of good practices.
17. To encourage Member States to thoroughly study **and combat the phenomenon of** the disappearance of UAMs in care of their authorities and, **where possible**, prioritise the use of missing person alerts in the Schengen Information System for cases of absconding or disappearance from care.
18. To invite Member States to monitor the quality of care for UAMs in order to ensure that the best interest of the child is being represented throughout the decision-making process.



19. To call on the Commission to support an exchange of best practices on care arrangements for UAMs and develop guidelines and common curricula and training.
20. To call on the Commission and the Member States under the European Fund for the Integration of third country nationals and the European Refugee Fund, to strengthen UAM-related actions, mainly in order to establish and improve reception facilities responding to the specific needs of minors, as well as measures for the development of appropriate integration actions. Likewise, to ask the Commission to reflect on how best to include the UAM dimension in the next generation of financial instruments, as of 2014, in the field of migration management.
21. To ask the Commission to address the specific challenges posed by the UAM in the new EU agenda for migrants' integration.

**IV.-REGARDING THIRD COUNTRIES, THE COUNCIL HAS AGREED:**

22. To call on the Commission and the Member States to regularly address child protection issues in human right and migration dialogues between the EU and third countries.
23. To invite the Commission and the Member States to introduce in relevant agreements with third countries, on a case-by-case basis, specific provisions addressing migration by UAMs and enabling co-operation on prevention, family tracing, return to the family or to reception centres and reintegration in the countries of origin or return.
24. To recommend Member States and the Commission to reinforce EU and national external cooperation instruments in order to support third countries in improving their legislative and administrative capacity to fight against trafficking in and smuggling of minors and to assist and protect minors, including, in particular, by the development of systems on child protection and birth registration the issuance of travel documents, or parental authorisation for minors who travel unaccompanied, and the determination of the adult responsible for requesting such documents on behalf of the minor.

25. To encourage FRONTEX and other European agencies to set up actions aimed at supporting the training of border authorities in third countries on how to detect counterfeited passports and visas, at targeted joint operations.
26. To invite the Commission to include a section on UAMs in the migration profiles of the main countries of origin and transit.

**V.- REGARDING RETURN AND REINTEGRATION IN THE COUNTRY OF ORIGIN, THE COUNCIL HAS AGREED:**

27. To urge the Commission to publish a study on existing Member State practices and legislation on the return of UAMs and on the situation of UAMs falling under readmission agreements in order to promote existing best practices.
28. To call on the Commission and Member States to promote the development of methods of pre-departure counseling, with the aim of encouraging the voluntary return of minors to their countries of origin.
29. To ask the Commission to support **forms of practical** cooperation among Member States, as well as between Member States and countries of origin and between Member States and International and Non-Governmental Organizations in order to establish operative networks to facilitate the return of minors to their countries of origin, **in a process which takes account of the importance of a humane, safe and dignified return in accordance with the UN Convention on the Rights of the Child and within the framework of Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals .**

30. To encourage Member States to make full use of **operational** networks in order to establish and maintain contacts with the authorities in the countries of origin or return, with a view to finding ways and means to facilitate the return and reintegration of minors in their countries of origin or return.
31. To encourage the Commission and Member States so that EU and national external co-operation instruments are used in a well co-ordinated manner to finance projects in third countries to facilitate the return and reintegration of UAMs in their countries of origin.
32. To encourage the Commission to prioritise financial support for specific actions and programmes on UAMs by the European Return Fund for the period 2008 to 2013 as part of the General Programme and the Thematic Programme for cooperation with third countries in the areas of migration and asylum, including:
- (1) support for the authorities of the countries of origin or return in managing return, by creating reception centres that can provide **care** for minors returned when the family cannot be found to facilitate the reintegration of the minors in their social and cultural environment while guaranteeing the respect of their best interest.
  - (2) support for families and communities for the reintegration of their returned minors.
  - (3) the development of training and educational opportunities for the returned minors.
33. To invite the Commission to report on the implementation of these Conclusions by mid-2012 and by 2015, and, when necessary, to propose a review and/or additional actions.
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