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“Protecting children affected by the refugee crisis from sexual exploitation and sexual abuse”.

Introduction

In March 2016 the Council of Europe’s Secretary General called for a series of [priority actions to protect children affected by the refugee crisis](#).

As you know the Council of Europe strives to protect and promote the rights of children through an extensive set of legal norms. The Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse ([the Lanzarote Convention](#)) is one of these legal norms.

At its 15th meeting (14-17 June 2016) in light of the high number of children affected by the refugee crisis who have arrived and continue to arrive in Europe and being aware that many may be or could become victims of sexual exploitation and sexual abuse, the Lanzarote Committee decided to start an urgent monitoring round on this topic. The Parties to the Lanzarote Convention were asked to submit replies to a focused questionnaire to the Secretariat of the Lanzarote Committee later that year (15 September 2016) and on the third of March 2017 the Lanzarote Committee adopted its special report. The report drafted by the Lanzarote committee speaks of children “affected by the refugee crisis” and covers migrant and asylum seeking children. These children can be accompanied or unaccompanied.

In May 2016, the Committee of Ministers instructed the newly established Ad hoc Committee on the Rights of the Child (CAHENF) to make proposals concerning standards on legal guardianship and age assessment.

In May 2017 the Council of Europe adopted one single Action Plan concerning Protecting Refugee and Migrant Children in Europe. The Action Plan outlines concrete actions for the benefit of refugee and migrant children, which will take place within 2017 -2019.

First I will look into some key challenges that the Lanzarote committee in its report set for worth.

Challenges

Children recognising as children

Article three of the Lanzarote convention stipulates that a child means any person under the age of 18.

In the specific context of children on the move, coming from regions where not necessarily the day of birth is formally registered, it is not always easy to know if a person is under or above 18 years of age. It is in the best interest of the child to be officially recognised as a child as certain safeguards, protective measures and rights are in place in Parties for children. At that moment children can be fully protected against sexual abuse and exploitation. Article 11 §2 of the Convention states that during the verification of his or her age children should be provided protection and assistance measures. The report draws particular attention to the fact that where the age of the victim of sexual abuse or exploitation is uncertain the principle of the benefit of the doubt should apply.¹

The Lanzarote Committee also reminds Parties that child-friendly information on rights and procedures is another key preventive mechanism to protect children from being declared wrongly as adults which would put them at risk of sexual abuse and exploitation.

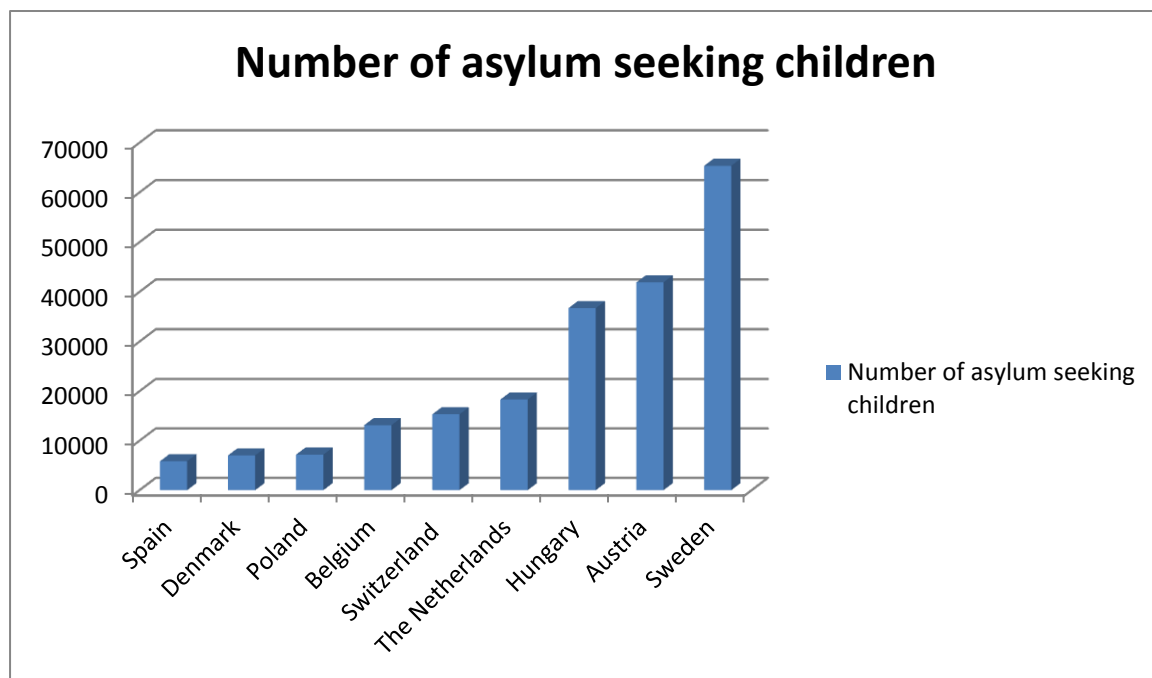
Lack of data

It is essential to have reliable data on the number of children affected by the refugee crisis and of those sexually abused and/or exploited.

¹ Recommendation 1 and 2, Lanzarote Committee Special Report on protecting children affected by the refugee crisis from sexual exploitation and sexual abuse, March 2017

Most Parties have been able to provide some data on the number of asylum-seeking children for the period between 1 July 2015 and 30 June 2016 as asked for by the Lanzarote Committee. This is explained by the fact that persons seeking asylum must register and that, accordingly, data is available.

Some of the MS have no asylum-seeking children, others have a few and other MS are dealing with a much larger number of asylum seeking children.



Germany mentioned for the whole of 2015 and for January to June 2016, 134,615 children.

Greece, Italy and Turkey who are also affected by the crisis gave data on how many children were on their territory. Turkey indicated that more than 1 million Syrian children were staying on its territory.

It is far more difficult to obtain overall data of children affected by the refugee crisis.

When it comes to know how many children affected by the refugee crisis are a victim of sexual abuse or sexual exploitation, data are all most in every Party lacking.

Victim identification

In order to protect a victim, a child needs to be identified as a victim. The identification of children affected by the refugee crisis who are (or have been) victims or who are presumed victims of sexual exploitation or sexual abuse is an essential step for authorities to be able to protect them and help them in the recovery process.

There is one key element that the Lanzarote Committee puts for worth in order to recognise a child as a victim or to make it possible for a child to disclose and that is building trust with the child.

The Committee considers that the guardian plays a key role in building trust with the child and may enable the child to disclose sexual exploitation and sexual abuse. The appointment of an independent guardian was highlighted in the report by the Lanzarote Committee as a preventive mechanism to protect children from sexual exploitation and sexual abuse.² The Committee recalled that the *“guardian is an independent person who safeguards the child’s best interests and general well-being”*.³

It is also important that persons who come into contact with migrant or refugee children who might be victims are well trained in order to be able to recognise the child as a possible victim of sexual abuse or sexual exploitation. Despite the fact that some Parties have done efforts to identify potential victims, most Parties highlight the particular difficulties in identifying such victims which explains off course also the low figures.

² Recommendation 25, Lanzarote Committee Special Report on protecting children affected by the refugee crisis from sexual exploitation and sexual abuse, March 2017

³ Lanzarote Committee Special Report on protecting children affected by the refugee crisis from sexual exploitation and sexual abuse, March 2017, page 39

Prevention

According to the Lanzarote Convention MS should take all the necessary measures to prevent all forms of sexual exploitation and sexual abuse of children and protect children.

The Lanzarote Committee considers that information and advice concerning prevention of and protection from sexual exploitation and sexual abuse should be provided to children affected by the refugee crisis in a manner adapted to their age and maturity, in a language they understand and which is sensitive to gender and culture.

The language barrier is being shared by all the Parties as a specific challenge.

Awareness raising material on the situation of children affected by the refugee crisis, with a view to adapting this material to their own specific situation and with a special focus on the risks faced by children with respect to sexual exploitation and sexual abuse is important. Many Parties provide information of a general nature, but targeted ones would be more effectively.

In line with Article 5 of the Convention to effectively screen all persons who due to their profession have regular contact with children the Lanzarote Committee took note of the fact that not many Parties are screening persons coming into contact with migrant and refugee children. Therefore the Lanzarote Committee urged the Parties to screen all those in contact with these children for convictions of acts of sexual exploitation or sexual abuse of children. This should also apply to volunteers working in contact with these children.

In order to prevent these children from becoming victims, not only child friendly material, screened personnel is important, but also safe accommodation. Therefore their accommodation should be child friendly and safe, meaning that unaccompanied children are separated from adults and that children are not detained. Although there are some good examples in some MS like prioritizing foster parenting for unaccompanied children, there are also some bad examples of children who are placed in closed facilities where they are at risk.

There are many more challenges in the report so I invite you all to read it, you can find it on the website of the Lanzarote Committee.

CAHENF - work

As I already mentioned being recognised as a child and having access as an unaccompanied child to a guardian has been stipulated by the Lanzarote Committee in its report as very important.

In May 2016, the Committee of Ministers instructed the Ad hoc Committee on the Rights of the Child (CAHENF) to make proposals concerning standards on legal guardianship and age assessment. Work is underway to draft a recommendation concerning guiding principles and guidelines for an effective guardianship for unaccompanied children in migration.

As the work of the working group is not yet finalised I cannot go into much details, but from the discussions we had I can say that the prompt appointment of an independent, well trained guardian to all unaccompanied and separated children in migration has been considered by all the members of the working group as very significant. The guardian should take into account the best interest of the child in any decision he/she has to made. His/her role is to take care of the general well-being of the child and to search for a durable solution taking into account the views of the child.

As soon as the working group of experts has completed this work the CAHENF will adopt it.

This work will be completed in the first half of 2018.

The CAHENF will also draft guidelines on age assessment procedures to assist States with the task of transposing these principles into concrete procedures that respect children's rights.

Age verification is a very sensible topic. On the 20 September The Council of Europe published a report on age assessment procedures in the Council of Europe member States. This is the fruit of a literature review and a survey of practices in 37 member States.

Age assessment procedures are too often used as a part of a normal procedure in the migration management to identify a child. It is true that age assessment procedures can resolve serious doubts about the age of an individual, but the best interests principle should guide these age assessment procedures and the benefit of the doubt should play a key role. The fact that the CAHENF will draft guidelines on age assessment procedures can therefore only be very welcomed.

This work is planned to be completed for the end of 2018.

The work done by the Lanzarote Committee and by the ad hoc committee on children rights is in line with or is an action of the Council of Europe Action Plan on Protecting Refugee and migrant Children in Europe.

To conclude

If we are committed to give a “chance for integration to the refugee and migrant children” who would like to stay in Europe we should make sure that they feel safe, protected and can fully enjoy their life as a child.

A lot has been done as you can see in the report drafted by the Lanzarote Committee, but there are still some problems to be solved and issues to be tackled. The CAHENF will come forward in 2018 with some important guidelines on an effective guardianship and on age assessment procedures. The elaboration of the actions in the Action Plan on Protecting Refugee and migrant Children in Europe will continue to be finalised in 2019.

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