

Statement on the new Hungarian law on unaccompanied minors

The National Youth Council of Hungary would like to express its growing concern about an amendment to the Refugee Law that came to force recently. According to this change, unaccompanied asylum-seeker minors aged between 14-18 are now considered as adults during the asylum process and are excluded from the beneficiaries of the Law on Child Protection. These minors have to wait for the result of the asylum seeking procedure in the transit zone, without any child protection services, guardian or education which would increase the risk of sexual exploitation of these children.

According to the UN Convention on the Rights of the Child, every person under 18 is entitled to the whole array of children's rights in a manner consistent with the evolving capacities of the child. Albeit the youth category is independent from child protection, naturally, depending on the context, there is an overlap in regards to children between 12-18.

The Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (Lanzarote Convention) clearly states as well that everyone under 18 is considered a child, and that "the implementation of the provisions of this Convention by the Parties, in particular the enjoyment of measures to protect the rights of victims, shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth, sexual orientation, state of health, disability or other status."

The Lanzarote Committee, the Council of Europe body monitoring the implementation of the Lanzarote Convention has sent an urgent letter to the Hungarian government asking to clarify the situation described above. The Committee has enquired about how child protection services will be ensured and provided for unaccompanied asylum-seeker minors, may they be under or over 14, with a special focus on the prevention and identification of sexual exploitation and abuse, as well as professional support offered for victims. The state reply will be discussed at the meeting of the Lanzarote Committee between May 10-12, 2017 where a decision will be made whether a country visit would prove to be necessary.

The Lanzarote Committee has issued a report on the sexual abuse and exploitation of children affected by the refugee crisis in the beginning of 2017 where special recommendations have been made for Hungary concerning the age determining process. In its interim measure on March 27, 2017, the European Court of Human Rights has prohibited the transfer of asylum-seeker minors between the age of 14 and 18 from the shelter for unaccompanied minors (situated in the town of Fót) to the transit zone. The

issuance of this already provides a decisive measure about the amendment added to the law and the concerns about it.

This is however not the first time asylum seeking children have to face the violation of equal treatment in Hungary. The government argues that the reason for temporary regulations is the crisis caused by the big influx of migration under the state of emergency which was declared. From September 2015, in case of the crimes related to trespassing the lockdown at the border, the provisions of the juvenile justice chapter were excluded; therefore, children above 14 years were tried in court as adults. This regulation was found to be discriminative by the Hungarian Ombudsman and was one of the concerns of the Lanzarote Committee in its latest report, although, the law has been amended by the Parliament recently.

We would like to emphasize that, in accordance with the UN Convention on the Rights of the Child, every person under the age of 18 is entitled to children's rights to protection from sexual abuse and sexual exploitation irrespective of their race, gender, language, religion, opinion, citizenship, minority or social status or any other status, which shall be respected, protected and promoted by the Member States even in state of emergency.

Budapest, 8th May 2017.



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president

National Youth Council of Hungary