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COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

Strasbourg, 30 March 2022

CDEF(2022)PV01

Steering Committee for the Rights of the Child (CDEF)

Second plenary session dedicated to the rights of children in migration

Meeting Report

Strasbourg, 1 – 3 February 2022

By videoconference

Prepared by the Children's Rights Division

children@coe.int
www.coe.int/cdef

Meeting Report

1. Opening of the meeting

1. The Steering Committee for the Rights of the Child (CDENF) held its second plenary session dedicated to the protection of the rights of children in migration in Strasbourg in an online format on 1-3 February 2022 with Ms Maria-Andriani Kostopoulou (Greece) in the Chair. This plenary session was introduced into the CDENF calendar in addition to the regular plenary meetings in order to finalise the work initiated during the first session dedicated to the same subject matter (16-17 September 2021).

2. The Chair welcomed all members, participants and observers to this meeting, and invited new Committee members to introduce themselves. She reminded participants of the objective of this session, which were notably to continue and finalise the work on the draft documents on Human Rights Standards for age assessment and effective guardianship for children.

2. Adoption of the agenda and order of business

3. The CDENF adopted its agenda as it appears in Appendix I. The list of participants appears in Appendix II.

3. Statement by the Chair and the Secretariat

4. The CDENF took note of its new [Terms of Reference \(2022-2025\)](#), as adopted by the Committee of Ministers during its 1418th meeting (23-25 November 2021). It also took note of the information provided by the Secretariat on the 2022 meeting calendar for the CDENF and its subordinate bodies as reviewed by its Bureau, and of the fact that the schedule would be further completed by an outline of priorities and timeframes for the delivery of activities for the next plenary meeting on 18-20 May 2022.

5. The Committee adopted the report of its 4th plenary meeting (13-15 October 2021).

6. Ms Regína Jensdóttir, Head of the Council of Europe Children's Rights Division, reminded delegations of the high relevance of the new Strategy for the Rights of the Child (2022-2027), currently under examination by the Committee of Ministers, not only as a response to topical issues, but also as the result of an inclusive process, involving other Council of Europe bodies, international partner organisations, and more than 220 children from ten member States.

4. CDENF opinion for the Committee of Ministers

7. The CDENF revised and adopted its draft opinion on PACE Recommendation 2216(2021) on “Best Interests of the child and policies to ensure work-life balance”, as prepared by its Bureau, to be submitted to the Committee of Ministers. Two delegations requested their following proposals, which had not found the support of the majority of the CDENF, to be reflected in this meeting report:

- The proposal by one delegation (the Russian Federation) to include, in paragraph 6 of the Draft opinion, the word “majority of the CDENF members” as regards the approval of the draft Strategy for the Rights of the Child.
- The proposal by two delegations (Hungary and the Russian Federation) to add a paragraph referring to paragraph 3 of PACE Recommendation 2216(2021), stating that the term “sexual minority” did not exist in International Law.

5. Age assessment for children in migration (for examination and approval) (Specific task v)

8. The CDENF heard an address and held an exchange of views with Ms Leyla Kayacik, Special Representative of the Secretary General (SRSG) on Migration and Refugees, who expressed her strong support to all the migration-related activities carried out by the CDENF, and informed about an event on “Age assessment of unaccompanied migrant children: promoting a human rights and multidisciplinary approach”, organised by Italy’s National Institute for Health, Migration and Poverty (INMP) together with the SRSG, which would take place as part of the calendar of activities of the Italian Presidency of the Committee of Ministers in Rome, in a hybrid format, with the participation of the CDENF Chair, on 30 March 2022. The CDENF and its Secretariat expressed their appreciation for the very valuable support provided by the SRSG and her Office in its current work and looked forward to further collaboration under the CDENF’s new terms of reference, notably with regard to the review of implementation of the Committee of Ministers Recommendation (2019)¹¹ on effective guardianship for unaccompanied and separated children in the context of migration.

9. The CDENF pursued the examination of the Draft Recommendation of the Committee of Ministers on Human Rights Principles and Guidelines on age assessment for children in the context of migration, addressing remaining issues on the basis of comments and proposals submitted by members and observers before and during the meeting, as presented on screen by the Chair and Secretariat, with the support of the mandated consultant.

10. The CDENF

- **examined and revised** the following remaining parts of the draft Recommendation on Human Rights Principles and Guidelines on age assessment for children in the context of migration: the title, the preamble, principle 7 of the Recommendation and the Appendix as from principle 1, paragraph 18 (included);
- **included** a number of editorial and substantial changes to the text, on the basis of comments submitted by members, participants and observers in advance of the meeting;
- **agreed** to move a certain amount of information from the text of the Draft Recommendation itself into its Explanatory Memorandum, to be revised by the Secretariat after the meeting;
- **took note** of the following proposals and comments presented by delegations on specific issues or paragraphs in the Appendix, which did not find the support of the majority of delegations:
 - One delegation (Denmark) expressed its opposition to paragraph 3, principle 1, section III of the Recommendation (“Any method involving nudity, or the examination, observation or measurement of the genitalia or intimate parts should be prohibited during the process of age assessment”);
 - One delegation (Poland) proposed to add “only” for age assessment purposes” in paragraph 22, principle 1, section III,
 - to change the word “recognised” by “considered” in paragraph 7, principle 5, section III, as proposed by the German Delegation (“States should ensure that the age assessment decision is recognised by all relevant national authorities, to avoid multiple age assessments or conflicting decisions at national level”). Three Delegations (Hungary, the Russian Federation and Turkey) expressed their disagreement with the reference to the word “gender” in the whole text of the Recommendation and to the Istanbul Convention in its preamble, where they suggested to include an informative footnote reflecting their position.

- Two Delegations (Hungary and the Russian Federation) suggested to eliminate paragraph 9 of the preamble ("Referring to the Council of Europe Programme "Building a Europe for and with children", the Council of Europe Strategy on the Rights of the Child (2022-2027), and the Council of Europe Action Plan on Protecting Vulnerable Persons in the Context of Migration and Asylum in Europe (2021-2025).

A formal dissenting opinion submitted by the delegation of the Russian Federation is appended to this meeting report (original version in English only; see Appendix III).

11. The CDENF **approved** the revised draft of the Recommendation, as circulated among Delegations before the vote, with a view to its submission to the Committee of Ministers for adoption, once the Explanatory Memorandum has been finalised and adopted by the CDENF.

12. The CDENF **instructed its Secretariat** to revise the draft Explanatory Memorandum of the Recommendation, thereby aligning it to the modifications carried out on the Draft Recommendation itself, and in the light of the comments made before and during the meeting, to be circulated among national Delegations for last comments, **in view of its adoption in written proceedings.**

6. Guardianship for unaccompanied and separated children in migration (for examination and approval) (Specific task v)

13. The CDENF pursued the examination of the Draft Explanatory Memorandum, addressing remaining issues on the basis of the latest comments and proposals submitted by different members and observers before and during the meeting, as presented on screen by the Chair and Secretariat, with the support of the mandated consultant.

14. The CDENF

- **examined and revised** the remaining part of the draft Explanatory Memorandum of Recommendation CM/Rec(2019)11 of the Committee of Ministers to member States on Effective guardianship for unaccompanied and separated children in the context of migration as it appears in the restricted document CDENF(2021)17rev2 from its paragraph 47 (included) until the end;
- **included a number of editorial and substantial changes** to the text, on the basis of comments presented by delegations, observers and experts;
- **took note** of the following reservations and comments by delegations on specific issues or paragraphs in the Appendix, which did not find the support of the majority of delegations:
 - six Delegations (Azerbaijan, Bulgaria, Hungary, Poland, the Russian Federation and Turkey) expressed their preference to replace the word "gender" with "sex" in paragraph 15 and the remainder of the text, including in combination with other words. One Delegation (the Russian Federation) proposed to include a footnote to the text.
 - one Delegation (the Russian Federation) made a reservation on paragraph 98.

15. After comprehensive examination, the CDENF **adopted** the Explanatory Memorandum of Recommendation CM/Rec(2019)11 of the Committee of Ministers to member States on Effective guardianship for unaccompanied and separated children in the context of migration with a view to its submission to the Committee of Ministers for information.

7. Any other business

16. The Committee agreed to approve the final implementation report on the previous Strategy for the Rights of the Child (2016-2021) in written procedure, as it was currently still being finalised by the Secretariat on the basis of last elements received from different Council of Europe sectors at the end of 2021.

8. Upcoming events

17. Mr Alfredo Ferrante (Italy) informed the CDENF on the progress achieved in the preparation of the High Level Launching Conference of the new Strategy to be held in Rome on 7-8 April 2022 under the Italian Presidency of the Committee of Ministers.

18. The Committee was invited to take note of the draft programme and to present any comments or suggestions as appropriate. The Secretariat informed that individual CDENF delegations were about to be invited to signal, if not yet done so, how their respective national delegation for the event would be composed.

9. Date and place of next meeting

- **5th Plenary CDENF meeting (online): 18-20 May 2022.** The CDENF took note of the Bureau decision to slightly extend the time slot to two days and a half to allow sufficient time to discuss all items in depth.
- **6th Plenary CDENF meeting (face to face or hybrid): 14-16 November 2022.** The CDENF took note of the fact that the dates of the meeting had been slightly advanced upon suggestion by the Bureau, in light of activities organised in some member States on 18 November (European Day on the Protection of Children against Sexual Exploitation and Sexual Abuse).

10. Adoption of the abridged meeting report

19. In view of the limited time available, the Committee agreed to proceeding with the approval of the abridged report in a written procedure.

Appendix I**Agenda**

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1. **Opening of the meeting**

 2. **Adoption of the agenda and order of business**

 3. **Statement by the Chair and the Secretariat**

 4. **CDENF opinion(s) for the Committee of Ministers**

 - Age assessment for children in migration (*for examination and approval*) (Specific task v)**
 5.
 - Draft Recommendation of the Committee of Ministers on Human Rights Principles and Implementing Guidelines on age assessment for children in migration
 - Draft Explanatory Memorandum of the Recommendation

 - Guardianship for unaccompanied and separated children in migration (*for examination and approval*) (Specific task v)**
 6.
 - Draft Explanatory Memorandum of Recommendation CM/Rec(2019)11 on Effective guardianship for unaccompanied and separated children in the context of migration

 7. **Any other business**

 8. **Upcoming events**

 9. **Date and place of next meeting**

 10. **Approval of the abridged report of the session**

Appendix II

List of participants

MEMBERS / MEMBERS

ALBANIA/ALBANIE

Ms Alma Tandili
Director of the State Agency for the Protection of Children's Rights

Ms Arda Hoxha
Head of Sector and Protection and Monitoring of Child Rights
Ministry of Health and Social Protection

ANDORRA/ANDORRE

Mr Jordi Olivé Cadena
Head of the Care Service to Children and Adolescents

ARMENIA/ARMÉNIE

Ms Ivetta Shahbazyan
Head of Children Rights Protection Unit
Staff of the Human Rights Defender of the Republic of Armenia

Ms Sevane Kalamazian
Human Rights Officer
Human Rights Defender Office

AUSTRIA/AUTRICHE

AZERBAIJAN/AZERBAÏDJAN

Ms Raida Amirbayova
Department of Work with Regional Centers
State Committee for Family, Women and Children Affairs

BELGIUM/BELGIQUE

Mme Valérie Gengoux
Attaché
Federal public Service Justice
Service for criminal policy

Mr Joost Van Haelst
Children's Rights Policy Officer
Department for Culture, Youth and Media
Flemish Government

BOSNIA AND HERZEGOVINA/ BOSNIE ET HERZÉGOVINE

Ms Irena Penc Puzic
Ministry of Human Rights and Refugees

BULGARIA/BULGARIE

Ms Eleonora Lilova
Chairperson of the State Agency for Child Protection

Ms Milena Anastasova
Chief expert at “Child Policies and Programs, Strategic Development and Co-ordinator” Directorate
State Agency for Child Protection

Ms Maria Belichovska
Junior expert at “Child Policies and Programs, Strategic Development and Co-ordinator” Directorate
State Agency for Child Protection

CROATIA/CROATIE

Ms Margareta Mađerić
State Secretary
Ministry of Labour, Pensions System, Family and Social Policy

Ms Anica Jezic
Head of Sector for International Cooperation
Ministry of Labour, Pensions System, Family and Social Policy

Ms Tatjana Katkic Stanic
Ministry of Labour, Pensions System, Family and Social Policy

CYPRUS/CHYPRE

Ms Despo Michaelidou
Cypriot Commissioner for Children’s Rights

CZECH REPUBLIC/RÉPUBLIQUE TCHÈQUE

Ms Diana Šmídová
Lawyer and Children’s Rights Committee’s Secretary
Department of Human Rights and Protection of Minorities
Office of the Government of the Czech Republic

DENMARK/DANEMARK

Ms Amalie Taarup Kroon
Head of Section
Legal and International Relations
Ministry of Social Affairs and Senior Citizens

Ms Sarah Boutrup Funch
Head of Section
Ministry of Immigration and Integration

ESTONIA/ESTONIE

Ms Hanna Vseviõv
Head of Department
Children and Families Department
Ministry of Social Affairs

FINLAND/FINLANDE

Ms Helinä Heikkinen
Legal Officer
Unit for Human Rights Courts and Conventions
Legal Service

Ministry for Foreign Affairs

Ms Marjo Malja
Senior Ministerial Adviser, Social affairs
Ministry of Social Affairs and Health

FRANCE

Mr Alexis Rinckenbach
Chef du Bureau des affaires européennes et internationales
Direction Générale de la Cohésion sociale
Ministère des Solidarités et de la santé

Mme Stefania Chiru
Chargée de mission
Bureau des affaires européennes et internationales
Ministère des Solidarités et de la Santé

Mme Claire-Marie Casanova
Magistrat
Ministère de la Justice

Mme Charlotte Rummele
Elève avocate
Protection judiciaire de la jeunesse
Ministère de la Justice

GEORGIA/GÉORGIE

Ms Maka Peradze
Head of the Human Rights
Administration of the Government of Georgia

GERMANY/ALLEMAGNE

GREECE/GRÈCE

Ms Maria-Andriani Kostopoulou
Attorney at Law, Supreme Court

Ms Panagiota Margaroni
Official
Department of Relations with International Organisations
Directorate of International Relations
Ministry of Labour and Social Affairs

HUNGARY/HONGRIE

Ms Boglarka Eniko Barkaszi
EU and International Policy Officer
Department for Multilateral Affairs
Ministry of Human Capacities

ICELAND/ISLANDE

Ms Silja Stefánsdóttir
Legal Advisor
Ministry of Education and Children

Ms Hjördis Thordardottir
Special Advisor
Ministry of Education and Children

IRELAND/IRLANDE

Ms Catherine Roe
Department of Children, Equality, Disability, Integration and Youth

Ms Éimear O'Brien
Children's Rights Policy Unit
Department of Children, Equality, Disability, Integration and Youth

Mr Cormac Smith
Department of Children, Equality, Disability, Integration and Youth

ITALY/ITALIE

Mr Alfredo Ferrante
Chief of Service
Department for Family Policies
Presidency of the Council of Ministers

LATVIA/LETONIE

LIECHTENSTEIN

LITHUANIA/LITUANIE

Ms Kristina Stepanova
Head of Family and Child Rights Protection Group
Ministry of Social Security and Labour

LUXEMBOURG

Ms Marguerite Krier
Chef de service des droits des enfants
Conseiller de Gouvernement 1ère classe
Ministère de l'Éducation nationale, de l'Enfance et de la Jeunesse

Ms Eva Pisana

MALTA/MALTE

Mr Jonathan Silvio
Director
Policy Development and Programme Implementation
Ministry for Social Justice and Solidarity, the Family and Children's Rights

Ms Darlene May Gauci
Manager II
Research, Policy and Operations Division
Ministry for Social Justice and Solidarity, Family and Children's Rights

REPUBLIC OF MOLDOVA/REPUBLIQUE DE MOLDOVA

Mr Igor Chisca
Head of the Child and Families with Children Rights Protection Policy Department
Ministry of Labor and Social Protection

MONACO

Mme Dalila Mehdi
Administrateur
Direction de l'Action et de l'Aide Sociales

MONTENEGRO

NETHERLANDS/PAYS-BAS

Ms Jiska van den Berg
Immigration Policy Department
Ministry of Security and Justice

Mr Dirk Westhoek
Policy Officer
Ministry of Security and Justice

NORTH MACEDONIA/MACEDOINE DU NORD

Mr Aleksandar Georgievski
Head of Strategic Planning Department
Ministry of Labor and Social Policy

NORWAY/NORVEGE

Ms Solvor Bäcklund
Senior Advisor
The Norwegian Directorate for Children, Youth and Family Affairs

POLAND/POLOGNE

Ms Anna Czech
International Co-operation Department
Ministry of Family and Social Policy

Ms Joanna Dlugolecka
Department of International Affairs
Ministry of Interior and Administration

Ms Iwona Przybylowicz
Board Advisor for Foreigners Border Guard Headquarters

Ms Agnieszka Matysek
Ministry of Justice

Ms Agnieszka Tomczewska
Ministry of Justice

PORTUGAL

Ms Rosário Farmhouse
President of the National Commission for the Promotion of the Rights and Protection of Children and Young People

ROMANIA/ROUMANIE

Ms Florica Cherecheș
President of National Authority for the Rights of Persons with Disabilities, Children and Adoptions

Ms Cristina Cuculas

RUSSIAN FEDERATION/FEDERATION DE RUSSIE

Ms Olga Opanasenko
Expert
Ministry of Foreign Affairs

SAN MARINO/SAINT-MARIN

Ms Giulia Santi
Foreign Affairs Department
Ministère des affaires étrangères

SERBIA/SERBIE

Ms Ivana Banković
Senior Adviser
Ministry of Labour, Employment, Veteran and Social Affairs

SLOVAK REPUBLIC/REPUBLIQUE SLOVAQUE

Ms Mária Vargová
Director of National Coordination Centre for Resolving the Issues of Violence against Children (NCC)
Ministry of Labour, Social Affairs and Family

SLOVENIA/SLOVENIE

Ms Ružica Boškić
Secretary
Family Affairs Directorate
Ministry of Labour, Family, Social Affairs and Equal Opportunities

SPAIN/ESPAGNE

Ms Cristina Ayuso Cabrerizo
General Directorate for the Rights of Children and Adolescents
Ministry of Social Rights and Agenda

SWEDEN/SUEDE

Ms Johanna Aurell Viklund
Desk Officer
Division for Discrimination Issues, Human Rights and Child Rights Policy
Ministry of Employment

SWITZERLAND/SUISSE

M. Jean-Marie Bouverat
Affaires internationales
Secteur Organisations internationales
Office fédéral des assurances sociales

TURKEY/TURQUIE

Mr Ömur Göktürk
Expert on Family and Social Services
General Directorate on Child Services
Ministry of Family and Social Services

Ms Zeynep Han Akin
Expert on Family and Social Services
General Directorate on Child Services
Ministry of Family and Social Services

UKRAINE/UKRAINE

UNITED KINGDOM/ROYAUME-UNI

Mr Thomas Madden
Children's Rights, Senior Policy Advisor
Children's Services, Communications & Strategy Group (CSCSG)
Department for Education

Ms Tammy Manhire
Team Leader
Social Care, Mobility & Disadvantage Directorate
Department for Education

**OBSERVER STATES TO THE COUNCIL OF EUROPE /
ÉTATS OBSERVATEURS AUPRÈS DU CONSEIL DE L'EUROPE**

Mexico / Mexique

Japan / Japon

Mme Françoise Nadia Richer
Consulat Général du Japon à Strasbourg

**NON-MEMBER STATES WITH THE COUNCIL OF EUROPE HAS A NEIGHBOURHOOD PARTNERSHIP /
ÉTATS NON MEMBRES AVEC LESQUELS LE CONSEIL DE L'EUROPE A UN PARTENARIAT DE
VOISINAGE**

Tunisia / Tunisie

Morocco / Maroc

INTERNATIONAL ORGANISATIONS / ORGANISATIONS INTERNATIONALES

EUROPEAN UNION / UNION EUROPEENNE

European Union Agency for Fundamental Rights (FRA) / Agence des droits fondamentaux de l'Union Européenne (FRA)

Ms Monica Gutierrez Arques
Children migration expert

European Asylum Support Office / Bureau Européen d'appui en matière d'asile

Ms Maria Dapena Vilarino
Senior Vulnerability Officer
Asylum Thematic Cooperation Sector, Asylum Knowledge centre

Ms Nilde Robotti
Vulnerability Officer

United Nations High Commissioner for Refugees (UNHCR) / Haut-Commissariat des Nations Unies pour les Réfugiés (HCR)

Mr Andreas Wissner
UNHCHR Representative to the European Institutions in Strasbourg / Représentant de l'UNHCR auprès des Institutions européennes à Strasbourg

Ms Delphine Leneutre
Legal Associate / Associée juridique
UNHCR Representation to the European Institutions in Strasbourg / Représentation de l'UNHCR
auprès des Institutions européennes à Strasbourg

Mr Denis Neslovskiy
Intern / stagiaire

Ms Florine Casier
Intern / stagiaire

OBSERVERS / OBSERVATEURS

Children's Rights Information Network (CRIN) / Réseau d'information sur les droits des enfants (CRIN)

Mr Leo Ratledge
Legal and Policy Director

Missing Children Europe

Ms Louise Bonneau
Senior Policy and Advocacy Officer

**ORGANS AND COMMITTEES OF THE COUNCIL OF EUROPE /
ORGANES ET COMITES DU CONSEIL DE L'EUROPE**

***Secretary General's Special Representative on Migration and Refugees /
Représentante spéciale auprès de la Secrétaire Générale sur les migrations et les réfugiés***

Ms Leyla Kayacik

Committee of the Parties to the Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (Lanzarote Committee) / Comité des Parties à la Convention du Conseil de l'Europe sur la protection des enfants contre l'exploitation et les abus sexuels (Comité Lanzarote)

Mr George Nikolaidis
Representative of Lanzarote Committee
Psychiatrist
Research Director of Department of Mental Health & Social Welfare
Institute of Child Health, Greece

European Committee on Legal Co-operation (CDCJ) / Comité Européenn de Cooperation Juridique (CDCJ)

Mr Werner Schütz
Member of Austria

Advisory Committee on Youth (CCJ) / Conseil consultative sur la jeunesse (CCJ)

Ms Zuzana Pavelkova
Member / member

Committee of Experts on Roma and Traveller Issues (ADI-ROM) / Comité d'experts sur les questions relatives aux Roms et aux Gens du voyage (ADI-ROM)

Ms Malgorzata Milewska

Children Rapporteur

EXPERTS

Ms Daja Wenke
Independent Researcher and Policy Analyst
Rights of the Child – Implementation of International Standards

Ms Naomi Trewinnard
Independent expert

SECRETARIAT / SECRETARIAT

Secretariat of the Parliamentary Assembly / Secrétariat de l'Assemblée parlementaire du Conseil de l'Europe

Ms Yulia Pererva
Secretary of the Committee on Social Affairs, Health and Sustainable Development / Secrétaire à la Commission des questions sociales, de la santé et du développement durable

Ms Angela Garabagiu
Secretary of the Committee on Migration, Refugees and Displaced Persons / Secrétaire de la Commission des migrations, des réfugiés et des personnes déplacées

DGI – Directorate General of Human Rights and Rule of Law / Direction générale Droits de l'Homme et Etat de droit

Office of the Secretary General's Special Representative on Migration and Refugees / Bureau du Représentant spécial auprès de la Secrétaire Générale sur les migrations et les réfugiés

Ms Carolina Lasen-Díaz
Legal Adviser / Conseillère juridique

Ms Anne Kayser-Attuil
Legal Adviser / Conseillère juridique

Justice and Legal Co-operation Department / Service de la coopération judiciaire et juridique

Ms Livia Stoica Becht
Head of Legal Co-operation Division / Cheffe de la Division de la coopération juridique

Secretariat of Bioethics / Secrétariat Bioéthique

Ms Natalia Zaytseva
Legal administrator

DGII – Directorate General of Democracy / Direction générale de la Démocratie

Education Department / Service de l'éducation

Ms Marta Medlinska
Coordinator / Coordinatrice
Education Policy Division / Division des politiques éducatives

Gender Equality Division / Division de l'égalité entre les femmes et les hommes

Ms Catarina Bolognese

Head of Division / Cheffe de division

Secretariat to the Steering Committee for the Rights of the Child / Secrétariat du Comité Directeur pour les droits de l'enfant

Ms Regina Jensdottir

Children's Rights Co-ordinator, Head of the Children's Rights Division / Coordinatrice des droits des enfants, Cheffe de la Division des droits des enfants

Ms Katrin Uerpmann

Secretary to the Steering Committee for the Rights of the Child / Secrétaire du Comité Directeur pour les droits de l'enfant

Programme Officer / Responsable de programme

Ms Maren Lambrecht-Feigl

Co-Secretary to the Steering Committee for the Rights of the Child / Co-secrétaire du Comité Directeur pour les droits de l'enfant

Programme Officer / Responsable de programme

Ms Mireya Garcia de Murcia

Assistant Lawyer

Ms Sylvie Bollini

Programme Adviser / Conseillère de programme

Ms Ana Guerreiro

Policy Adviser / Conseillère politique

Ms Maia Mamulashvili

Communication

Ms Valérie Giret-Lerch

Assistant / Assistante

INTERPRETERS / INTERPRÈTES

Mr Grégoire Devictor

Ms Chloé Chenetier

Mr Jean-Jacques Pedussaud

Mr Nicolas Guittonneau

Appendix III

Dissenting opinion of the Delegation of the Russian Federation on the draft Recommendation CM/REC(2021) of the Committee of Ministers to member States on Human Rights Principles and Guidelines on age assessment for children in the context of migration

The Delegation of the Russian Federation appreciates the work that has already been done by the Secretariat providing the revised draft Recommendation on Human Rights Principles and Guidelines on age assessment for children in the context of migration. We also thank the Secretariat and the experts for taking into account some of our comments made during the meeting.

Unfortunately, the final text of the draft Recommendation contains a number of provisions upon which the Russian Federation cannot agree¹, in particular:

1. References to the Istanbul Convention in paragraph 5 of the preamble are misplaced. The Convention indeed mentions the rights of children and girls in particular, but in the context of domestic violence (including witnessing violence in the family), which is different from the issues dealt with in the draft Recommendation on age assessment for children in the context of migration. Chapter VII "Migration and asylum" also does not make the Convention fall within the scope of the draft Recommendation, since it deals with resolving problems arising from the victim's dependent residence status in the event of the dissolution of marriage. Article 60 dealing with gender-based asylum claims of women also has a rather distant connection with age assessment of migrant children.

2. The Delegation of the Russian Federation reserves its position regarding paragraph 9 of the preamble that contains a reference to the new Council of Europe Strategy on the Rights of the Child (instead of the present one), which hasn't yet been adopted by the Committee of Ministers.

3. There is no definition of the "social sex" in the Russian Federation, as well as in other legal systems in which the feature of the biological sex is fixed. The Russian legislation therefore does not contain the concept of "gender" and there is no commonly accepted definition of the word "gender" at the international level.

We therefore cannot be satisfied with use of the word "gender" in the text of our Recommendation.

Taking this into account we still kindly ask the Secretariat to reflect the position of the Russian Federation relating to the word "gender" after its first mentioning in the text of the Recommendation in a footnote, reading:

"The Russian Federation expresses its position that in this document any reference to "gender" should be considered as a sex-based concept".

4. Not all the CoE member states have a special law on age assessment for children in migration (paragraph 4 of principle 1). And there is no need in the adoption of such a law for the countries where the migrant children are insignificant in number.

The Delegation of the Russian Federation reiterates all the points and reserves the right to provide further comments, as well as concrete amendments to the whole text of the draft Recommendation, as the work on the draft progresses.

The Delegation of the Russian Federation kindly asks the Secretariat to reflect its position in the meeting report.

¹ Some of them were listed in the Abridged Report of the plenary session dedicated to the rights of children in migration (16-17 September 2021).