



COMMISSIONER FOR HUMAN RIGHTS
COMMISSAIRE AUX DROITS DE L'HOMME



CommDH/Speech(2016)4
English only

***Migration and the digital environment:
two areas where children's rights must be better respected***

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**Conference on children's rights in the migration crisis
and in the digital environment**
Tallinn, 4 November 2016

It is a great pleasure for me to be here today to launch the new Council of Europe Strategy for the Rights of the Child. I am pleased to see that children's rights can attract so many high level participants.

Thank you for inviting me to open this conference. Not only are the topics of the conference high on my list of priorities, but the conference also gives me an opportunity to come back to Estonia, three years after my country visit of 2013.

When I took office in 2012, I decided that children's rights would be among the main priorities of my mandate. I identified a few core issues, including: the still widespread segregation of children in education; statelessness of children, which perpetuates statelessness from generation to generation; and the rights of migrant and refugee children. I have raised these issues in a number of country visits. The human rights of migrant and refugee children have moved even higher on my agenda since the number of refugees arriving in Europe started to increase, largely due to the war in Syria. However, even before these developments, I had paid particular attention to the way in which the child's best interests are protected in migration and asylum proceedings in several countries. I found out that, in practice, little consideration was usually given to their best interests. Children are all too often not considered as full bearers of rights but rather as "luggage" of their parents. I insisted on the fact that children should be recognised as "active subjects of rights" in asylum proceedings, that they should be allowed to claim asylum on their own and on child-specific grounds and that a child-sensitive approach to asylum should be developed. This requires notably more awareness-raising and training of asylum and migration staff. In some countries, children's rights ombudspersons have also played an important role in this area. Furthermore, I urged member states to ensure that, in conformity with their human rights obligations flowing from the UN Convention on the Rights of the Child, the best interests of the child are treated as a primary consideration in family reunification proceedings as well as when taking return decisions affecting families.

The detention of migrant and refugee children, whether in family or unaccompanied, is another priority topic for me. For children travelling with their family, the argument for imposing detention is often the fact that family unity must be preserved. For unaccompanied children detention is often presented as a means of providing protection to them. "Crisis situations" are also used as arguments to justify detention. I firmly believe that immigration detention of children is never in a child's best interests and should never be ordered.

Detention of children in the migration process is on the rise in Europe, notably following the EU-Turkey statement of March 2016 and the setting up of hotspots in Italy and Greece. It is also one of the practical consequences of populist rhetoric criminalising irregular migrants, including children. Moreover, in countries where detention of children is prohibited, the ban is not always implemented.

Detention has long-standing harmful effects on the physical and psychological health of children, as also underlined by the European Court of Human Rights. Detention conditions can amount to inhuman and degrading treatment: children can be detained together with adults and ill-treated; they are sometimes not provided with basic health care, they are deprived of contacts with relatives and lack access to education. In many places, they are not provided with a guardian, legal representation and they lack information about their situation and existing legal remedies.

Yet, alternatives to detention exist. I have visited places where families with children are accommodated outside closed detention centres. I could see that in these facilities the living conditions were much more respectful of the rights of the child. I was also informed that such options are sometimes less costly for states than detention. Moreover, they help better prepare subsequent steps in the life of children, whether they will stay in the host country or are returned to their country of origin. I believe that more efforts should be invested in developing sustainable and human rights-compliant alternatives rather than increasing the number of detention places.

The right of the child to a nationality is another right that is under threat for children in the migration process. Statelessness can arise as a result of laws of countries of origin that deprive those staying abroad for a certain period of time of their nationality. Some countries, such as Syria, also forbid women to transmit nationality to their child. Children born or found at sea are at particularly high risk of statelessness. Measures should therefore urgently be taken in countries of refuge or those of transit to prevent a generation of refugee children from being stateless.

The last issue I would like to highlight is the need for better integration policies. It is high time we drew lessons from past failed integration policies. I have issued earlier this year a short paper on the main elements that should be part of any integration policy.

Among these, I have stressed the need for easier access to family reunification. It is a key integration tool. Moreover, for refugees, it is a legal and safe alternative to risky travel to Europe with the help of smugglers.

Another key factor of integration is education. The lack of reform of education systems so as to meet the needs of diverse groups of children, including migrants, has been one of the greatest weaknesses of past integration policies. All too often, existing systems have produced segregation and have resulted in children with immigrant background being left behind. I strongly believe that governments should seriously consider reforming education system so as to move towards inclusive education, ie education systems that are capable of meeting the diverse needs of children, be they of immigrant or minority background, or children with disabilities. Inclusion is good for everyone, not only for children with specific needs. It favours interaction of different groups of children, and different communities, and contributes to reducing social exclusion. This, however, requires a mental shift from seeing children as the problem to eliminating obstacles that hinder equal participation of all children in education. This is a remarkable challenge for states, educators, school administrations and parents. Nonetheless, it is an indispensable step if we want to avoid repeating mistakes of the past and perpetuating exclusion.

Let me now turn to the second focus of the conference: children's rights in the digital environment.

In a recent Human Rights Comment on violence against children, I highlighted that the digital environment was an increasingly risky space for children, where they could be confronted with illegal and harmful content, including racist and violent contents, pornography or sites inciting substance abuse, suicide and other forms of self-harm. They can also be recruited by terrorist organisations, traffickers, or become victims of sexual predators. The Lanzarote Committee, in charge of monitoring the implementation of the Council of Europe Convention on sexual abuse and sexual exploitation of children, recently issued a [call](#) to member states to identify and remove web addresses that explicitly advertise or promote child sexual abuse material and images. I am also worried by the growing problem of cyber-bullying, which can turn children into victims or perpetrators. While bullying is not a new issue, it is greatly amplified by the use of social media. It sometimes has tragic consequences, such as children committing suicide.

Lastly, children's right to protection of privacy is threatened by the way they use social media. Teenagers tend to post extensive personal information and photos on social media, which will remain

online for potentially long periods of time. The profiling of information and retention of data regarding children's activities on Internet for commercial purposes also raises privacy concerns.

At the same time, risks and threats should not overshadow the extraordinary potential that Internet represents for learning, communicating, playing and exploring the world.

States have the duty to provide comprehensive responses to these threats for the rights of the child, for instance by establishing helplines and setting up frameworks for responding to cyber-bullying. They must also strive to ensure equal access to the digital environment. As for creating a safe digital environment, we all know that the task is complex. Firstly, it is sometimes difficult to draw a line between illegal and inappropriate content. Then, deleting illegal material at the source is in practice very difficult because websites hosting such content are often located outside the scope of European cooperation. The use of blocking lists and filtering to combat the dissemination of illegal material, notably child abuse material, is also controversial as it can lead to disproportionate restrictions to freedom of expression.

However, the complexity of the issues at stake, the fast pace of technological developments and the fact that it is very difficult to provide protection to children in the digital context, as they mostly use the Internet privately, require new approaches. Responses cannot be left entirely to the state, to schools, to private businesses, or to parents. They must be holistic, coordinated and they must take into account technological developments.

But first and foremost, the best protection is to rely on children themselves, as repeatedly stressed by the Council of Europe over the last decade and reiterated in the ongoing Council of Europe Strategy for the Rights of the Child. Children must learn about potential risks and long-term consequences of sharing personal information on the Internet. They should also be able to identify, understand and deal with harmful content. Moreover, I believe that human rights education plays an important role. Children should be more aware about their rights such as the right to freedom of expression and the right to privacy, but also the rights of others not to be harmed. In conclusion, the key word is empowerment of children through education, including Internet literacy and human rights on the Internet, an area in which the Council of Europe has a lot to offer.