

## **“Family reunification for refugee and migrant children: Standards and promising practices”**

### **Webinar**

*Thursday, 2 July 2020, 9.30 – 12.00*

### **Opening remarks by Christos Giakoumopoulos Director General of Human Rights and Rule of Law**

Good morning Ladies and Gentlemen,

I am pleased to welcome you all to the launching of this timely and comprehensive handbook on *Family reunification for refugee and migrant children*.

The handbook is published at a critical moment in time. It addresses a crucial topic that continues to be a priority for the Council of Europe: the protection of children on the move.

According to the latest UNHCR report, published only a few days ago, forced displacement reached a new record high in 2019 with nearly 79.5 million people forced to flee their homes. This is more than 1% of the world’s population. Almost 40% of those are children, many unaccompanied or separated.<sup>1</sup>

In 2019 over 33,000 children arrived in Greece, Italy, Spain, Bulgaria, Cyprus and Malta.

27% of these children were unaccompanied or separated. In Greece alone, arrivals of children in 2019 increased by nearly 50% compared to 2018 and over 5,000 unaccompanied and separated children are currently estimated to be in the country.<sup>2</sup>

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<sup>1</sup> UNHCR, [Global Trends Forced – Displacement in 2019](#), June 2020; UNHCR, [1 per cent of humanity displaced: UNHCR Global Trends report](#), 18 June 2020.

<sup>2</sup> UNHCR, UNICEF and IOM, [Refugee and Migrant Children in Europe Accompanied, Unaccompanied and Separated – Overview of Trends January to December 2019](#), 23 June 2020; National Center for Social Solidarity (E.K.K.A), [Situation Update: Unaccompanied Children \(UAC\) in Greece](#), 30 April 2020.

I cite these numbers simply to highlight the scale and urgency of the situation. As we know, however, the realities on the ground are often far more challenging, complex and tragic than any numbers can convey. In short, it is imperative to continue finding and disseminating concrete, human rights compliant solutions in order to protect the most vulnerable members of our society.

In the case of children who are, as such, extremely vulnerable – by virtue of their age, lack of independence and asylum/migration status – family separation can have devastating effects. It profoundly affects their wellbeing and ability to rebuild their lives. It further complicates future integration prospects in the host country. Moreover, children who are separated from their families are particularly exposed to additional risks such as human trafficking, violence and exploitation.

Family reunification is, therefore, a crucial issue where children are concerned.

As we know, respect for family life is protected, *inter alia*, under Article 8 of the European Convention on Human Rights. The European Court of Human Rights has emphasised that “family unity is an essential right of refugees and that family reunion is an essential element in enabling persons who have fled persecution to resume a normal life.”<sup>3</sup>

Overall, of course, the State has the right to control the entry and residence of non-nationals into its territory and Article 8 does *not* guarantee an express right to family reunification.<sup>4</sup> States enjoy a wide margin of appreciation when examining family reunification cases. The outcomes depend on the particular circumstances of each case where a fair balance should be struck.

As we shall hear in greater detail later today, the Court has still on a number of occasions found a violation of the right to respect for family life because a proper balance was *not* struck between the applicants’ interest - including children’s right to respect for private and family life - and the States’ interest in controlling immigration. The Court has also stressed that the procedure for examining applications for family reunification has to contain a number of elements. It needs *inter alia* to have regard to the applicants’ refugee status and the

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<sup>3</sup> [Tanda-Muzinga v. France](#), No. 2260/10, ECtHR, 10 July 2014, para. 75; [Mugenzi v. France](#), No. 52701/09, ECtHR, 10 July 2014, para. 54.

<sup>4</sup> [Abdulaziz, Cabales and Balkandali v. the United Kingdom](#), No. 9214/80; 9473/81; 9474/81, 28 May 1985, para. 67; [Boujlifa v. France](#), 122/1996/741/940, 21 October 1997, para. 42

best interests of the child.<sup>5</sup> To effectively enjoy the right to family life, it is also important that family reunification mechanisms be swift and efficient so as to bring families together as early as possible.

Other Council of Europe instruments such as the European Social Charter address the rights of migrants and their families, obliging States to facilitate as far as possible “the reunion of the family of a foreign worker permitted to establish himself in the territory.”<sup>6</sup> The Committee of Ministers has recommended that applications for family reunification made by refugees or persons in need of international protection be dealt with in a “positive, humane and expeditious manner” and that independent and impartial review of a rejection of the application is available.<sup>7</sup>

When it comes to children in particular, the relevant provision of the UN Convention on the Rights of the Child (CRC) are of great importance. Under the CRC, States parties are to ensure that applications for family reunification are dealt with in a “positive, humane and expeditious manner, including facilitating the reunification of children with their parents”. When the child’s relations with his or her parents and/or sibling(s) are interrupted by migration, the “preservation of the family unit should be taken into account when assessing the best interests of the child in decisions on family reunification.”<sup>8</sup>

Family reunification is an important instrument in the field of children’s rights. Effective procedures can, *inter alia*:

- (a) ensure the protection and well-being of family members, especially children;
- (b) expand the possibilities for safe and legal migration pathways thus reducing the risks linked to irregular migration;
- (c) help to ease the sense of loss and rebuild people’s lives;

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<sup>5</sup> See, for example, [Sen v. the Netherlands](#), No 31465/96, 21 December 2001; [Tuquabo-Tekle and Others v. the Netherlands](#), No. 60665/00, 1 December 2005; [Mugenzi v. France](#), [Tanda-Muzinga v. France](#), [Senigo Longue and Others v. France](#), No. 19113/09, 10 July 2014.

<sup>6</sup> [European Social Charter \(Revised\)](#), Articles 16 and 19.

<sup>7</sup> Committee of Ministers, *Recommendation N° R (99) 23 of the Committee of Ministers to Member States on Family Reunion for Refugees and Other Persons in Need of International Protection*, 15 December 1999, para. 4.

<sup>8</sup> *Joint General Comment No.4 (2017) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and No.23 (2017) of the Committee on the Rights of the Child on the General Principles regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return*, CMW/C/GC/4-CRC/C/GC/23, 16 November 2017, paras 32-38.

(d) facilitate appropriate integration and longer-term solutions.

However, despite the overall benefits of family reunification for individuals, policies in the field remain very restrictive. Furthermore, practical obstacles seriously hinder access to family reunification procedures and render the situation on the ground extremely complex and painful.

The benefits of the handbook launched here today are that it addresses concrete ways in which to overcome these obstacles. It illustrates promising practices that can bring further advancement. It also supports legal and other professionals in the field by delineating both the pertinent legal standards on family reunification and restoring family links. It thereby highlights the primacy of family as the natural and fundamental unit of society.

The handbook forms a part of a wide range of activities undertaken by the Council of Europe on human rights and migration. Let me just name a couple of recent ones: Last week a new HELP/UNHCR online course on *Alternatives to immigration detention* with a particular focus on children was published. I encourage you to familiarise yourselves with this course as it addresses a wide range of both legal and practical issues pertaining to children on the move, including the right to family life. The course has been developed under the Council of Europe [Action Plan](#) on Protecting Refugee and Migrant Children with the support of the [Special Representative](#) of the Secretary General on Migration and Refugees. In addition, the Steering Committee for Human Rights is now working on *family-based care for unaccompanied and separated children*. Other Council of Europe bodies continue working on a wide variety of other thematic areas directly relevant here today. All these activities aim to promote the protection of human rights of migrants, asylum seekers and refugees, especially children. This handbook fits well into this larger picture and I trust it will further strengthen the foundations for good actions in the field – actions that are urgently needed.

In closing, let me again wish you all warmly welcome to this webinar. Someone once said: “family is not an important thing, it is everything.” Be that as it may, but most of us would certainly do almost anything to protect our children from harm, and we all know that children need a sense of family, care and belonging as much as they need food and water. The stakes are high and every little practical step in the right direction is of value. I wish you a good and fruitful day.

Thank you.

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