



COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

T-ES(2017)11_en final

30 January 2018

LANZAROTE COMMITTEE

Committee of the Parties to the Council of Europe
Convention on the protection of children against sexual
exploitation and sexual abuse

.....

Special report

**FURTHER TO A VISIT UNDERTAKEN BY A DELEGATION
OF THE LANZAROTE COMMITTEE TO TRANSIT ZONES AT
THE SERBIAN/HUNGARIAN BORDER (5-7 JULY 2017)**

Prepared by the members of the delegation with the support of the
Secretariat

Secretariat of the Council of Europe Convention on the Protection of Children
against Sexual Exploitation and Sexual Abuse (Lanzarote Convention)
F- 67075 Strasbourg Cedex

lanzarote.committee@coe.int

www.coe.int/lanzarote

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INTRODUCTION

1. The Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (“Lanzarote Convention”) provides that a specific monitoring mechanism be set up to ensure an effective implementation of its provisions by Parties (Article 1§2), namely the Committee of the Parties to the Lanzarote Convention (the “Lanzarote Committee”).

2. When the Lanzarote Committee “receives reliable information indicating a situation where problems require immediate attention to prevent or limit the scale or number of serious violations of the Convention, it may request the urgent submission of a special report concerning measures taken to prevent possible serious or persistent cases of sexual exploitation and sexual abuse against children in any Party or Parties to the Convention”. This procedure is stipulated in [Rule 28](#) of the Lanzarote Committee’s Rules of Procedure which is dedicated to special reports and urgent situations.

3. The current report was prepared under Rule 28 following a decision of the Lanzarote Committee on 12 May 2017. It addresses only issues with a (direct or indirect) link to the protection of children against sexual exploitation and sexual abuse. It is not intended to provide a full picture of the situation of asylum-seeking children in the transit zones in Hungary at the border with Serbia.

4. The report includes a series of recommendations agreed upon by the delegation of the Lanzarote Committee, having visited the transit zones, addressed to the Hungarian authorities. Comments by the Hungarian authorities are appended to this report to provide the Lanzarote Committee with a comprehensive understanding of the situation at stake. The Lanzarote Committee is expected to discuss the recommendations contained in this report and decide on the consequences it wants to draw from them (the report, as such, is not subject to adoption by the Lanzarote Committee).

Preliminary remarks

5. This report should be read in accordance with Article 3 of the Lanzarote Convention:

- a) “child” shall mean any person under the age of 18 years;
- b) “sexual exploitation and sexual abuse of children” shall include the behaviour as referred to in Articles 18 to 23 of the Convention;¹
- c) “victim” shall mean any child subject to sexual exploitation or sexual abuse.

¹ These are the substantive criminal law provisions in Chapter VI of the Lanzarote Convention which cover sexual abuse (Article 18), offences concerning child prostitution (Article 19), child pornography (Article 20), participation of a child in pornographic performances (Article 21), corruption of children (Article 22) and solicitation of children for sexual purposes (Article 23).

The urgent situation at stake

1. Context

6. In March 2016 the Secretary General of the Council of Europe called for a series of [priority actions to protect children affected by the refugee crisis](#).² In this context, and being aware that many of these children may be or become victims of sexual exploitation and sexual abuse, the Lanzarote Committee launched an urgent monitoring procedure to map the ways in which the Parties to the Lanzarote Convention address the risks of sexual exploitation and sexual abuse of children arising in the context of the refugee crisis. This resulted in the [special report “Protecting children affected by the refugee crisis from sexual exploitation and sexual abuse”](#) adopted by the Lanzarote Committee on 3 March 2017 which covers the situation in the Parties to the Lanzarote Convention.

7. On 7 March 2017, the Hungarian authorities adopted new legislation, Act XX of 2017 “On the amendment of certain acts related to increasing the strictness of procedures carried out in the areas of border management”, which entered into effect on 29 March 2017 and amended, among others, Act LXXX of 2007 on asylum. The new law extended the grounds on which the Government may order a “state of crisis”.³ It requires, in particular, that all asylum applications be lodged exclusively in a transit zone and that all asylum-seekers, except unaccompanied children under the age of 14, stay in a transit zone for the duration of the asylum procedure. With the result that since 29 March 2017, unaccompanied children aged 14 to 18 must remain in a transit zone for the duration of the examination of their request for asylum whilst, before this date, they were sent to open facilities. Families with children also have to stay in a transit zone for the duration of the asylum procedure. The new law also provides for the removal of migrants who are present irregularly on the Hungarian territory, through the border fence without screening or procedural safeguards, such as access to asylum procedures or access to an effective remedy to challenge the removal order.

8. Having been informed of the new legislation of March 2017 and in the context of the Committee’s urgent procedure⁴, the Chair of the Lanzarote Committee, Mr Claude Janizzi, addressed a letter to Prime Minister Viktor Orbán (see Appendix 1). This letter raised concerns about the impact of the new legislation on migrant and asylum-seeking children and invited the Hungarian authorities to reply to the following questions:

- 1) Specify what action will be taken to ensure that unaccompanied children, be they above or below 14 years of age, may benefit from effective child protection measures, including reference to means to identify and protect victims of sexual exploitation and abuse.

² See document SG/Inf(2016)9 final of 4 March 2016.

³ In Hungary, the status of crisis caused by mass immigration (state of emergency) was first declared for six months for the southern counties in September 2015. In March 2016, it was renewed for six additional months and declared for the whole territory of the State. Since then it has been renewed every six months (in September 2016 and in March 2017). The government spokesperson declared on 30 August 2017 that the government decided to extend it until 7 March 2018, for the whole territory of the State.

⁴ Rule 28.3 of the Rules of Procedure

- 2) Indicate the specific measures taken in the context of the new Bill No. T/13976 to prevent that children affected by the refugee crisis, unaccompanied or not, may become victims of sexual exploitation and sexual abuse or are placed in conditions increasing their vulnerability to become so; also specify where children arriving with their families are placed.
- 3) Since the legal changes concern only asylum-seeking children, provide information about the situation of children on the move that do not request asylum, in particular by indicating what measures are taken to prevent and protect them from sexual exploitation and sexual abuse.

9. The Minister of Interior of Hungary, Mr Sándor Pintér, replied by a letter of 26 April 2017 (see Appendix 2). At the 18th meeting of the Lanzarote Committee (10-12 May 2017), an exchange of views took place with the representatives of the Hungarian authorities. The Hungarian representatives drew the committee's attention to the following measures taken to protect children against sexual exploitation:

- identification of potential victims of sexual exploitation and sexual abuse begins when they first come into contact with the officials (first-line workers are trained to acquire competences to early identify victims);
- appointment of a guardian to applicants aged 14 and above for the duration of the asylum procedure;
- provision of free of charge legal advice;
- supervision of unaccompanied children between the age of 14 and 18 in the transit zone by social workers who are present in the transit zone 24 hours a day, 7 days a week;
- provision of extracurricular education programs (language, cultural and development programs) by social workers. This ensures the protection of children and allows the development of a relationship based on trust between the children and the social workers;
- provision of medical and health care 24 hours a day, 7 days a week;
- presence of security guards in the transit zones at all times.

10. At its meeting in May 2017, the Lanzarote Committee:

- discussed the adoption of Bill No. T/13976 "On the amendment of certain acts related to increasing the strictness of procedures carried out in the areas of border management" (March 2017);
- examined the information provided by the Hungarian authorities as well as other sources⁵;
- expressed concern that children (under 18) affected by the refugee crisis are at risk of sexual exploitation and sexual abuse in Hungary;
- welcomed the invitation by the Hungarian authorities to visit the affected transit zones in order that the Committee gain a better understanding of the situation.

11. On 5-7 July 2017, a delegation of the Committee undertook an on-the-spot visit to Hungary, following the invitation made by the Hungarian authorities.

⁵ In particular from the Hungarian Child Rights NGO Coalition and the Council of Europe Youth Advisory Council.

12. The delegation held meetings in Budapest and Szeged, and visited the two transit zones of Röszke and Tompa (see programme of the visit in Appendix 3).

13. The delegation of the Lanzarote Committee extends their thanks to:

- the Hungarian authorities for the invitation and for the organisation of transport to and from the transit zones and for its careful consideration of a previous version of this report and its constructive comments, which have enabled the delegation to enrich the present report (see appendices 4 to 6);
- UNHCR Hungary for the provision of interpreters (into Arabic, Dari and Pashtu) in the transit zones;
- the European Youth Centre for the meeting room in Budapest;
- all persons met by the delegation during its visit;
- the asylum-seekers themselves who spoke to the delegation on their situation;
- the interpreter (English/Hungarian), who accompanied the delegation during the visit and its meetings with the authorities.

2. Description of the transit zones and information on the asylum-seekers staying there

14. The transit zones of Röszke and Tompa are located on the Southern border of Hungary.



15. The fence of the transit zones is located between 2 and 10 meters from the official border with Serbia, on Hungarian territory.



(Fence of the Röske transit zone, a few meters away from the official border with Serbia)

16. At the time of the visit an average of five people per working day were permitted to cross the Serbian border to access each of the two transit zones (totalling 10 people per working day) via a turnstile opening. When justified (e.g. in case of big families or most vulnerable persons), the number could be slightly higher.



(Entrance of the Röske transit zone for asylum-seekers)

17. The transit zones are composed of a series of containers and are surrounded by high fences and barbed wire.



(Entrance of Rösztke transit zone for visitors and employees, from the Hungarian side)



(Entrance of Tompa transit zone for visitors and employees, from the Hungarian side)

18. Several containers are dedicated to the administrative authorities managing the zones by the main entrance, including medical doctors, social workers and other services provided for the asylum-seekers. The rest of the transit zones are divided into several sectors. Rösztke transit zone contains a sector for unaccompanied children aged 14-18 and another sector for families. Tompa transit zone contains a sector for families and another sector for men travelling alone. Unaccompanied asylum-seeking children aged 14-18 entering the Hungarian territory are therefore sent to the Rösztke transit zone while men travelling alone are sent to Tompa transit zone. The delegation was not authorised to take pictures in the transit zones.

19. Two categories of children are held in transit zones:

1. Unaccompanied children aged 14-18. Since the adoption of the legislation in March 2017, unaccompanied children aged 14 to 18 years old are no longer sent to child protection institution during the asylum procedure, but stay in the Röszke transit zone in a sector dedicated to them. Unaccompanied children under 14 years of age are sent to the child protection institution in Fót (not visited by the delegation);

Suggested recommendation

In the framework of immigration procedures, the Hungarian authorities should treat all persons under the age of 18 years as children without discrimination on the ground of their age and ensure that all children under Hungarian jurisdiction are protected against sexual exploitation and abuse. (R1)

Suggested recommendation

The Hungarian authorities should care for all the children within its regular child protection system, i.e. in open child protection institutions, especially in light of the very limited number of children falling under the new regulation (19 unaccompanied boys aged 14-18 were accommodated in the specific sector in Röszke transit zone at the time of the visit). (R2)

2. Children (under 18) accompanied by family members (parents but also adult brother or sister). They are placed in the family sector with their family.

Numbers and nationality of asylum-seekers in the transit zones (as of 5 July 2017)

(data provided by UNHCR)

- In Röszke: 226 (149 Afghans, 41 Iraqis, 16 Iranians, 9 Syrians, 9 Pakistani, 2 Bangladeshi) including 103 accompanied children and 19 unaccompanied children.
- In Tompa: 180 (118 Iraqis, 37 Syrians, 7 Turkish, 5 Iranians, 4 Afghans, 2 Nepalese, 2 Bangladeshi, 1 Moroccan, 1 Nigerian, 1 Tunisian, 1 Congolese, 1 Cameroonian) including 72 accompanied children, 20 single men and 6 single women.

20. As reported by UNHCR⁶, according to official data, from 1 January to 31 May 2017, 1,742 asylum claims were registered and more than 8,200 people were prevented or intercepted whilst attempting to cross the border. Since the new legislation came into force (28 March 2017) and up to 28 May 2017, 383 asylum applications were registered in the transit zones⁷.

⁶ It should be emphasised that when this report refers to official data, this information is specified. On the contrary, when nothing is specified, the data comes from other sources (which are not necessarily mentioned for reasons of confidentiality).

⁷ UNHCR-Hungary Note on amendments to the asylum law and returns under Dublin in Hungary, 31 May 2017.

21. In line with the holistic approach of the Lanzarote Convention, this report examines the situation of the children in the transit zones with regards to prevention and protection of sexual exploitation and sexual abuse. It, thus, also considers the management by the Hungarian authorities of the risks that these offenses may occur. The report also assesses the way assistance to victims of these offences is handled, notwithstanding whether the offences were committed before the child victim entered the Hungarian territory or after, should such cases arise. In fact, even when no cases of sexual exploitation or sexual abuse of children are reported, as in the present situation, measures should nevertheless be taken by the authorities in order to facilitate disclosure.

I PREVENTION OF SEXUAL EXPLOITATION AND SEXUAL ABUSE OF CHILDREN IN THE TRANSIT ZONES

22. It is recalled that “(t)he main aim of the Lanzarote Convention is to prevent sexual exploitation and sexual abuse of children. This also applies to children affected by the refugee crisis. Children having been forced to flee their homes are not automatically safe once they reach the Lanzarote Convention Parties’ jurisdictions. (...) (S)everal factors contribute to them being at risk of sexual exploitation and sexual abuse. Parties’ first obligation in their respect under the Lanzarote Convention thus consists in taking all the necessary legislative or other measures to prevent them from falling victims of sexual exploitation and sexual abuse”.⁸

I. 1 At the border (before entering Hungary)

I. 1. 1 The waiting list of asylum-seekers in Serbia wishing to enter Hungary

23. Names of asylum-seekers wishing to apply for asylum in Hungary (and subsequently to enter the transit zones) are put on a waiting list in Serbia (Migrants who do not wish to seek asylum in Hungary are not allowed to enter the Hungarian territory and therefore have no access to this waiting list). This waiting list was first managed by community leaders in Serbia. It is currently managed by the Serbian Committee for Refugees and Migrations (SCRM) who, according to the Hungarian Helsinki Committee, delegated this task to one single person. The Hungarian authorities underline that they have no role in the constitution of the list.

24. At first, unaccompanied children⁹ and families had priority to have their names on the list. However, because the numbers of asylum-seekers allowed to enter each transit zone were reduced in February 2017 to five per working day per transit zone, single men complained because they felt that they would no longer have any chance to be put on the list. There is now a separate list for unaccompanied children to address this issue. In practice, according to UNHCR, five unaccompanied children enter the Röszke transit zone every Thursday. Families and single men may enter the remaining working days. According to IOM, the waiting list is full until the end of 2019¹⁰.

25. The existence of this waiting list, as well as the waiting times, are cause for concern. The delegation heard reports that a child had referred to a “fee” of 500€ to be paid in Serbia to the person in charge of the waiting list, to move up the waiting list and enter Hungary. Other asylum-seekers also spoke of money changing hands. The delegation is concerned that sexual favours may also be exacted to move up the list and shortcut the overly long waiting times.

⁸ Special report “Protecting children affected by the refugee crisis from sexual exploitation and sexual abuse”, adopted by the Lanzarote Committee on 3 March 2017, §62.

⁹ For an understanding of the terms “unaccompanied children”, please refer to section I.3 “Accompanied / unaccompanied children” in the special report “Protecting children affected by the refugee crisis from sexual exploitation and sexual abuse”, adopted by the Lanzarote Committee on 3 March 2017.

¹⁰ [Mixed migration flows in the Mediterranean](#) – Compilation of available data and information, IOM’s Displacement Tracking Matrix (DTM), May 2017, p. 17.

26. Because Hungary limits the number of children allowed to enter the transit zones each week, Serbia had to organise a system with a waiting list to manage those staying on its territory. This situation seems to have encouraged corruption and the danger is real that children without financial resources could be sexually abused in exchange of a position on the waiting list. Considering that, according to Article 38 of the Convention¹¹, Parties to the Lanzarote Convention are required to cooperate with one another in order to prevent and combat sexual exploitation and sexual abuse of children, the Hungarian authorities have to cooperate with the Serbian authorities in order to avoid such offences being committed – even if they are not committed on the Hungarian territory.

Suggested recommendation

The Hungarian authorities should be asked to cooperate with the Serbian authorities as regards the management of the waiting lists to enter the Hungarian transit zones in order to prevent corruption through sexual exploitation and sexual abuse of the asylum-seeking children. (R3)

I. 1. 2 Consequences of the illegal passing of the border

27. Asylum-seeking and migrant children who are found to be irregularly on the Hungarian territory are removed to the other side of the fence which protects the border with Serbia (this also applies to adult migrants and asylum-seekers). According to the authorities this is not a transfer to Serbia because they are still on the Hungarian territory since the fence is about 2 meters after the border. The delegation heard reports that even if these children ask for international protection, they are not interviewed but pushed back to the other side of the fence. The Hungarian authorities deny that children under the age of 14 are sent back to Serbia.

28. The delegation heard several allegations that the Hungarian police uses violent means to push migrants and asylum-seekers, including children, back to the other side of the border, including use of physical force, dogs, removal of shoes, destruction of telephones, use of batons, people asked to lay down in mud during winter. The Hungarian authorities reject these allegations.

29. Pushing children back to the other side of the border, even without violence, is of major concern since they are left in a vulnerable situation which might expose them to the risk of being sexually exploited or abused.

¹¹ “Article 38 – General principles and measures for international cooperation

1. The Parties shall co-operate with each other, in accordance with the provisions of this Convention, and through the application of relevant applicable international and regional instruments, arrangements agreed on the basis of uniform or reciprocal legislation and internal laws, to the widest extent possible, for the purpose of:

a. preventing and combating sexual exploitation and sexual abuse of children; (...)”

Suggested recommendation

The Hungarian authorities should cease all push-backs of migrant and asylum-seeking children at the border and ensure that any child on Hungarian territory is immediately referred to the competent child protection authorities to undergo a needs assessment in line with the rights of the child to ensure that they are protected against any risk of sexual exploitation and abuse. (R4)

I. 2 Reception (Entering the transit zones)

I. 2. 1 Age verification

30. When unaccompanied young asylum-seekers enter a transit zone, they undergo a preliminary interview with the authorities during which their age is assessed in order to determine in which sector they should be placed. If they are assessed as being under 14 years of age they are placed outside the transit zone, in the Fót child protection institution facility. If they are assessed as aged 14 to 18 they are kept in the Rözske transit zone, in the specific sector dedicated to them. It is recalled that, under Article 11§2 of the Lanzarote Convention¹², the “issue of age verification is of crucial importance in order to identify and delimit who are the recipients of the rights enshrined in the Convention, in particular in the context of protection (e.g. to ensure that children are separated from adults in asylum facilities (...)). Indeed, on the one hand, it is important that children should not be denied protection, and, on the other hand, it is equally important to avoid that adults claim to be children in order to benefit from the protection afforded to children, such as dedicated accommodation, with the additional risk that children housed in these facilities be sexually abused by these adults.”¹³

31. It is also recalled that, in its Special Report “Protecting Children Affected by the Refugee Crisis from Sexual Exploitation and Sexual Abuse”, adopted on 3 March 2017, the Lanzarote Committee urged Hungary to “take the necessary legislative or other measures to ensure that the principle of the benefit of the doubt is adequately applied and adequate protection and assistance measures are provided in line with the Lanzarote Convention to individuals pending verification of their age when there are reasons to believe that they are children”.¹⁴

32. Age verification of children when entering the transit zone is firstly based on the age indicated on the identity documents. Since most children have no identity document (or have documents that the Hungarian authorities consider false or falsified), age

¹² “Article 11§2 – Principles

(...)

2 Each Party shall take the necessary legislative or other measures to ensure that when the age of the victim is uncertain and there are reasons to believe that the victim is a child, the protection and assistance measures provided for children shall be accorded to him or her pending verification of his or her age.”

¹³ Special report “Protecting children affected by the refugee crisis from sexual exploitation and sexual abuse”, adopted by the Lanzarote Committee on 3 March 2017, §16.

¹⁴ Special Report “Protecting Children Affected by the Refugee Crisis from Sexual Exploitation and Sexual Abuse”, adopted on 3 March 2017 by the Lanzarote Committee, Recommendation R1.

verification is carried out by police or military doctors. It is based on the physical appearance of the person, only. This examination lasts less than one minute in most cases. According to the authority running the transit zone, if the person does not accept the result of this examination, a forensic doctor conducts a medical examination by checking teeth, arms and bones. The forensic doctor may also use X-ray pictures (the costs of which are borne by the asylum authorities). Other interlocutors met by the delegation are of the opinion that the medical examination is not carried out in much more depth than the first physical examination.

33. The Hungarian Commissioner for Fundamental Rights' Office acknowledges that the methods used to verify age and their reliability are problematic, in particular the physical age verification by police or military doctors in the transit zone.

34. The unreliability of the age verification procedure put unaccompanied children at risk of sexual exploitation or sexual abuse. In fact, unaccompanied boys¹⁵ of 14 to 18 (assessed to be above 18) may be accommodated with men travelling alone and unaccompanied boys under 14 (assessed to be above 14) may be put together with older children in the transit zone. This risk is real since, during its visit to the Röszke transit zone, the delegation met two boys who claimed to be under 14 (and who, according to the members of the delegation who spoke to them, looked very young) and said that the authorities did not believe them.

Number of age-verifications in the transit zones from 28 March to 5 July 2017
(data provided by UNHCR, based on daily observations)

- 56 unaccompanied boys were age assessed by a military doctor
- 44 were assessed as under 18 (36 of them between 14 and 18 and 8 of them under 14)
- 12 of them were assessed 18 or above and subsequently processed as adult single men

35. Migration management interests should not determine the need for an age assessment. Age verification should be used to resolve serious doubts about the age of an individual and not to determine if a child needs a higher or lesser level of protection, as all unaccompanied children should be protected against sexual abuse or sexual exploitation.

Suggested recommendation

Where age verification is necessary, the Hungarian authorities should reinforce its age verification procedures and complement it by other verification processes than only physical appearance of the person, in order to avoid cases of unaccompanied children under 18 being assessed as being above 18 and held together with single men, thus preventing cases of their being sexually exploited or sexually abused. (R5)

¹⁵ Cases of unaccompanied asylum seeking girls are very rare. The authorities managing the transit zones acknowledge that only 2 unaccompanied girls came to the transit zone since early 2017 (see section I. 3. 3. infra).

Suggested recommendation

The Hungarian authorities should ensure that the principle of the benefit of the doubt is adequately applied to individuals pending verification of their age when there are reasons to believe that they are children and to individuals when the age verification procedure is over and if doubts about the age of the person remain. (R6)

36. Since the changes in the legislation in March 2017, unaccompanied asylum-seeking children assessed to be over 14 years old are kept in the Röszke transit zone until their asylum claim is processed. UNHCR Hungary explained that some children assessed to be over 14 prefer to return to Serbia rather than stay in the transit zone. This raises concerns since these children are not properly taken care of when they are back in Serbia, which puts them at risk of being sexually exploited or abused there.

37. Unaccompanied asylum-seeking children assessed to be under 14 are removed from the transit zone and sent, more or less immediately, to open child protection institution in Fót, together with Hungarian orphans (which are a majority in these places). The delegation did not visit this child protection institution. According to data provided by some interlocutors, 20 unaccompanied children aged under 14 were in the Fót institution. A Government official referred to a total of 34 unaccompanied children under 14 in Fót and 90 elsewhere.

38. Unaccompanied asylum-seeking children aged under 14 currently accommodated in Fót are taken in charge by the mainstream child protection system.

39. The delegation was told that children often disappear from child protection institution of the normal child welfare system within a month. These children are at risk of sexual exploitation and abuse. In addition, the delegation was informed that the Fót child protection institution would close by June 2018. The Hungarian authorities denied this but indicated that large child institutions will be replaced by small ones by 2019 in order to implement EU requirements.

I. 2. 2 Verifying family-ties

40. It is recalled that the Lanzarote Committee had invited “Parties to systematically verify family links of the children affected by the refugee crisis with the adults who accompany them, and particularly to verify who these adults are, in order to protect these children against possible sexual abuse or sexual exploitation and to determine whether they are accompanied or not and in the latter case to provide them with the necessary protection from sexual exploitation and sexual abuse”.¹⁶

41. UNHCR Hungary explained that one of the aspects checked by the authorities during the preliminary interview at the entrance of the transit zone is that the group of persons presenting itself as a family is really a family. Situations of a single man with children (whether they present themselves as their father or their “uncle”) receive particular attention. UNHCR representatives explained that, in some circumstances, DNA

¹⁶ Special report “Protecting children affected by the refugee crisis from sexual exploitation and sexual abuse”, adopted by the Lanzarote Committee on 3 March 2017, Recommendation R4.

tests may be conducted. However, according to UNHCR, even when the authorities do not consider the adult accompanying the children as being a relative, separation is rare. Lack of separation of children from adults who are unrelated to them exposes them to risks of sexual exploitation and sexual abuse.

Suggested recommendation

The Hungarian authorities should protect asylum-seeking children from sexual exploitation and sexual abuse by strengthening verification procedures to establish family links between these children and the adults who accompany them and, if necessary, separating children from adults who are found to be unrelated to them. (R7)

I. 2. 3 Guardianship

42. According to Hungarian legislation, a child protection guardian is appointed to each unaccompanied child under 14 (accommodated in Fót) within 8 days of arrival. These child protection guardians are trained professionals but, according to sources, are under extreme stress and a heavy workload (they are also child protection guardians of Hungarian orphans). While by law a guardian may care for a maximum of 30 children, in practice they are in charge of 45 to 50 children (unaccompanied asylum-seeking children are a minority since the Fót child protection institution houses mostly Hungarian orphans). In concrete terms, these guardians have no possibility to meet the child regularly in person because of their workload and, as a consequence, they cannot build a relationship of trust.

43. Children aged 14-18 (in the Röszke transit zone) are not provided with a child protection guardian, since the amendments to the Act XXXI of 1997 on Child Protection and Guardianship Administration they have a form of limited legal capacity, called procedural capacity, and are therefore considered as capable of representing themselves. However, they do have an ad hoc guardian (also referred to as “temporary guardians”).

44. The authorities running the transit zone indicate that children aged 14-18 can see their temporary guardian upon request and that, in practice, the frequency of their meetings varies from one child to the other. There are four to six temporary guardians altogether but children rarely meet them (they are physically located in Szeged and are only rarely present in the Röszke transit zone). Some unaccompanied children interviewed by the delegation hardly knew they had a guardian, if they did, they did not know how to contact him or her and were certainly not able to contact him or her directly.

45. The temporary guardians are primarily engaged in the asylum procedure and not in general child protection, i.e. they do not accompany the child in their everyday life. The delegation heard reports that some of these temporary guardians were good when others neglected their work and were even not interested in their role as temporary guardian.

46. It is recalled that the Lanzarote Committee underlined that “a guardian should be provided to all unaccompanied children, regardless of their age”¹⁷ and invited “Parties who do not yet foresee so, to ensure that unaccompanied children affected by the refugee crisis, regardless of their age, are provided with a guardian in order to build trust and enable disclosure of possible sexual exploitation and sexual abuse”¹⁸.

Suggested recommendation

The Hungarian authorities should repeal their legislation to ensure a full protection of all unaccompanied children aged 14-18 and grant them a guardian with the same qualifications, functions and legal powers as those appointed for children aged less than 14, in order to facilitate disclosure of possible cases of sexual exploitation or sexual abuse. The authorities should make sure that children are informed that they have a guardian and able to contact their guardian directly if they are facing problems or need assistance. (R8)

Suggested recommendation

The Hungarian authorities should take measures to respect the Hungarian legal maximum of 30 children per child protection guardian in order to ensure that guardians receive manageable caseloads since, in addition to refugee seeking children, they are also in charge of Hungarian children in care. This would enable them to spend more time with each of the unaccompanied asylum-seeking children in order to build a relationship of trust with them which, as a consequence, would facilitate disclosure of any possible cases of sexual exploitation and sexual abuse. Where a child discloses that they have been a victim of sexual exploitation or sexual abuse the Hungarian authorities should provide appropriate protection and assistance regardless of the child’s age. (R9)

I. 2. 4 Information given to the child

I. 2. 4. 1 Languages

47. The professionals (social workers, doctors) in contact with the children mostly speak Hungarian and do not speak a language the children can understand. The presence of interpreters provided by the authorities is rare. Interpretation is only provided by the Hungarian authorities for the interview related to the request for asylum. There are therefore no interpreters provided by the authorities on other occasions for other purposes, in particular when children, parents or other relatives want to speak to social workers or when they go to the medical staff.

48. In order to mitigate this situation, UNHCR and some NGOs (such as the Hungarian Interchurch Aid and the Hungarian Red Cross) are present in the transit zones with their own interpreters.

¹⁷ Special report “Protecting children affected by the refugee crisis from sexual exploitation and sexual abuse”, adopted by the Lanzarote Committee on 3 March 2017, §99.

¹⁸ Special report “Protecting children affected by the refugee crisis from sexual exploitation and sexual abuse”, adopted by the Lanzarote Committee on 3 March 2017, Recommendation R25.

49. As acknowledged by the Lanzarote Committee, “(o)ne commonly shared challenge is that of existing language barriers. This makes the communication between children affected by the refugee crisis and those responsible for their care very complex”¹⁹. The delegation noted an immediate need for interpreters, which should be provided in the transit zones, both during the first stages after entry in the transit zone and during the whole duration of the children’s stay. This would help create a relationship of trust with the interlocutors, and would facilitate disclosure for victims of trafficking, sexual exploitation or sexual abuse. The availability of interpreters would also protect children from threats of trafficking for sexual purposes, sexual exploitation or sexual abuse by facilitating their access to services and protection or help from the staff and the authorities.

50. In addition, some asylum-seeking children spoken to by the delegation said that there were no teachers to teach them Hungarian whilst they would be ready to study the language to be able to interact with the guards, social workers and other staff working in the transit zones.

Suggested recommendation

The Hungarian authorities should provide access to interpreters especially during appointments between the child and staff, including medical staff, social workers and guardians to facilitate disclosure of actual or potential sexual exploitation and sexual abuse. In addition, the Hungarian authorities should provide Hungarian language courses for children held in the transit zones (or accept that NGOs provide such courses). (R10)

1.2.4.2 Distribution of printed material

51. It appears from the visit in the transit zones that information for children is lacking. The delegation did not see (and was not made aware of) any written documentation given to children by the Hungarian authorities, in a language they understand, aimed at raising their awareness on how to prevent sexual exploitation and sexual abuse. Nor did the delegation see any prevention posters or other printed material displayed in the sectors where children are accommodated.

52. It is recalled that 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”.²⁰

¹⁹ Special report “Protecting children affected by the refugee crisis from sexual exploitation and sexual abuse”, adopted by the Lanzarote Committee on 3 March 2017, §64.

²⁰ Special report “Protecting children affected by the refugee crisis from sexual exploitation and sexual abuse”, adopted by the Lanzarote Committee on 3 March 2017, Recommendation R15.

Promising practice

The [material developed by IOM](#) is seen as a promising practice even if it is of a general nature on children's rights and responsibilities and does not deal with the prevention of sexual exploitation and sexual abuse of children. This material (leaflet and poster) was prepared together with unaccompanied migrant and asylum-seeking children through a focus group methodology. The leaflet is available in English, French, Hungarian, Arabic, Pashto, Farsi and Urdu while the poster is only available in English.

Suggested recommendation

The Hungarian authorities should take measures to inform children in the transit zones, in a manner adapted to their age and maturity, in a language they understand and which is sensitive to gender and culture, to raise their awareness on the risks they face of being sexually exploited or abused and to inform them of the help and protection available if they are or become victims of such offences. (R11)

I. 3 Accommodation

I. 3. 1 Living conditions

53. Unaccompanied boys aged 14-18 accommodated in the transit zone are kept in a distinct area in the zone (among themselves), which they can exit only to visit a medical doctor or for meetings related to their request for asylum. They are not allowed to visit the zone dedicated to families even if they know families held there. The same applies for the area dedicated to the other groups of asylum-seekers (families and single men).

54. The zones for children 14-18 and for families are organised in the same way: there are containers on three sides and a fence on the fourth where the entrance gate to the zone is located; a gravel courtyard in the middle has no shaded areas; the whole zone is surrounded by barbed wires set on the roofs of the containers and the fences; each zone is locked and kept by police and a guard, 24 hours a day, 7 days a week; video surveillance is also used (except in the private spaces). The maximal capacity of each container is 5 persons. Bigger families may have two containers.



(Inside a container – picture provided by the Hungarian authorities – since the delegation was not allowed to take any pictures in the transit zones during its visit)

55. At the time of the visit, there were 19 unaccompanied boys aged 14-18 accommodated in the specific section dedicated to unaccompanied boys in the transit zone, when the maximum capacity of this zone is 30.

56. The children met expressed feelings of imprisonment and did not understand why they were forced to live in such conditions.

57. The Governmental authorities and the Office of the Fundamental Rights Commissioner which met the Lanzarote Committee delegation consider that the transit zones are open areas from which the asylum-seekers can leave freely since they can return to Serbia.

58. The situation has been considered as deprivation of liberty by the Council of Europe Special Representative of the Secretary General on Migration²¹ and international bodies such as UNHCR and NGOs.

59. The closed environment in which the children are kept in the transit zones is a factor exposing children to risks of sexual victimisation, including risks of peer to peer violence. Although all interlocutors met during the visit asserted that none of the adolescent boys held in the transit zone had engaged in any sexual activity during their time spent there, the delegation has reason to believe that this assertion should be treated with some reasonable reservation. At the very least, this closed environment does not facilitate disclosure of past or on-going situations of sexual abuse or sexual exploitation and aggravates the vulnerability of these children. In fact, such closed environment put children to further risks of sexual victimisation for a number of reasons

²¹ Report of the fact-finding mission by Ambassador Tomáš Boček, Special Representative of the Secretary General on migration and refugees to Serbia and two transit zones in Hungary, 12-16 June 2017, [SG/Inf\(2017\)33](#), part IV.2.3.

(i.e. it is much more difficult for children to physically run away from someone who is assaulting them sexually if they stay in a closed environment; relations between people are restricted to only those between residents; etc.).

Suggested recommendation

The Hungarian authorities should cease the practice of detaining children in the transit zones as a measure to prevent them from falling victims of sexual exploitation or sexual abuse and to facilitate disclosure of cases of sexual exploitation or sexual abuse. Preventing the direct and uncontrolled access to the Hungarian territory does not necessarily include detaining children in fenced open air areas with shelter containers. (R12)

60. Asylum-seeking children met by the delegation (be they unaccompanied boys aged 14-18 or children in the family sector) complained about their living conditions. They were suffering from summer heat because no shade was provided in the courtyard and no air-conditioning was provided in the containers. The Hungarian authorities encountered during the visit informed the delegation that air conditioning would be provided in community interiors and shaded areas would be set up in the courtyards. Asylum-seeking children also complained about the fact that they had no access to education (no classes, no language classes – neither English nor Hungarian – and no books in their languages) and no leisure activities (except for young children with a swing and the possibility of doing some drawings), despite the existence of a container dedicated to leisure which contained mainly tables, chairs and a TV screen. Mobile phone connections were scarce in the transit zones and non-existent in the specific zone where children aged 14-18 were kept. This prevents these children who would wish to call their temporary guardian or a helpline in order to refer to their possible fear of being sexually exploited or abused, to do so.

Suggested recommendation

The Hungarian authorities should take steps to improve the living conditions of children in the transit zones, in particular by providing shaded areas in the courtyards and air conditioning in the containers, providing access to education to children, reinforcing leisure activities and ensuring mobile phone connection in all sectors of the transit zones in order to minimise their vulnerability. (R13)

I. 3. 2 Food

61. According to the authorities, children receive five meals per day, including dairy products, fruits and vegetables. The lunch meal is hot, other meals are cold.

<p>One-week menus given to the asylum-seekers in the transit zones, as provided to the delegation by the Hungarian authorities during the visit (unofficial translation)</p>	<p>Day 11</p> <p>Breakfast: Juice, “mini” turkey pariser (100 gr), jam 1 piece, rolls 3 pieces</p> <p>Lunch: Juice, “tavaszipulykatokany” (turkey pot spring style), with rice, one piece of bread</p> <p>Dinner: Chicken liver pate 50 gr, 1 piece fruit, rolls 3 pieces, cacao rolls 120 gr</p>	<p>Day 12</p> <p>Breakfast: Juice, “mini” chicken pariser (100 gr), cheese (cake type) 1 piece, rolls 3 pieces, “bombi” (sponge cake with chocolate) 1 piece</p> <p>Lunch: Juice, “lecsospulykaragu” (turkey casserole with paprika, tomato, onion), tarhonya (Hungarian pasta), one piece of bread</p> <p>Dinner: “Harcসা” (cat fish) pate 1 piece, gugelhupf with raisin 150 gr, rolls 3 pieces</p>	<p>Day 13</p> <p>Breakfast: Juice, trappista cheese (120 gr), “mini” margarin 1 piece, rolls 3 pieces, fruit 1 piece</p> <p>Lunch: Juice, baked chicken leg, with potato, one piece of bread</p> <p>Dinner: Duck liver pate 50 gr, rolls 3 pieces, cinnamon rolls 120 gr</p>
	<p>Day 14</p> <p>Breakfast: Juice, cheese (cake type) 2 pieces, “mini” turkey ham 1 piece, rolls 3 pieces, fruit</p> <p>Lunch: Juice, turkey stew with rice, one piece of bread</p> <p>Dinner: Beef spam 1 piece, rolls 3 pieces, bun with jam 100 gr</p>	<p>Day 15</p> <p>Breakfast: Juice, “mini” turkey pariser 1 piece, rolls 3 pieces, cheese (cake type) 1 piece</p> <p>Lunch: Juice, turkey meat baked with potato, one piece of bread</p> <p>Dinner: Poultry liver pate 30 gr, fruit 1 piece, “kalacs” (scone) 25 gr, rolls 3 pieces</p>	<p>Day 16</p> <p>Breakfast: Juice, “mini” turkey ham (100 gr), rolls 3 pieces, “bombi” (sponge cake with chocolate) 1 piece</p> <p>Lunch: Juice, turkey pot with cream and pasta, one piece of bread</p> <p>Dinner: Brioche 100 gr, honey 2 pieces, fruit 1 piece, rolls 3 pieces</p>

62. Some of the 14-18 years old children met in the transit zones reported that they got food three times a day and that the quantities were not sufficient and very repetitive (many complained about the quality of the food). The Hungarian authorities, on the contrary, affirmed that food rations were provided five times a day and were supplemented by NGOs if need be.

63. Receiving insufficient quantity of food (or food which is not considered as good quality) can be seen as a risk factor of sexual exploitation or sexual abuse since some children may be lured to offer sexual favours in order to get more food from those distributing the food or from peers.

64. Once a week, these children have the possibility to buy food and other items (such as tomatoes, onions and salt). This service is organised by the authorities. Handling charges are asked in addition to the price of the item. The Hungarian authorities deny this. The delegation was concerned that many children held in the transit zones do not have money and therefore cannot buy additional items. The delegation has identified this as a risk factor since children may be lured to offer sexual favours to get more food (or other items) from those who can buy, be they peers or adults.

Suggested Recommendation

The Hungarian authorities should provide children with food that is appropriate to their age, free of charge and of adequate quality and quantity. This should diminish the risk of children becoming exposed to sexual exploitation and sexual abuse. (R14)

I. 3. 3 No dedicated places for unaccompanied girls

65. No designated accommodation is provided for unaccompanied girls. The Hungarian authorities managing the transit zones acknowledge that 2 unaccompanied girls came to the transit zone since early 2017. In practice, the authorities find solutions within the system in order not to have to open specific facilities in the transit zones for unaccompanied girls. The Hungarian authorities managing the transit zones stated that the unaccompanied girls were placed in the family section. The delegation was told by UNHCR that in one instance, in March 2017, a girl of 14 was officially considered to be under 14 and was therefore transferred out of the transit zone.

66. Placing unaccompanied girls of 14 together with unaccompanied children of less than 14 in mainstream child protection institutions can be considered as a good practice, in order to avoid placing them in the transit zone. On the contrary, placing unaccompanied girls of 14 to 18 in the family section puts these girls at risk of sexual exploitation or sexual violence since they are accommodated together with adults and adolescents who are not their relatives.

Suggested recommendation

The Hungarian authorities should pay special attention to the heightened vulnerability of unaccompanied children, especially girls, and systematically place them in mainstream child protection institutions to prevent possible sexual exploitation or sexual abuse against them by adults and adolescents in the transit zones. (R15)

I. 4 Screening and training of professionals and voluntary workers working in the transit zones

67. As underlined in the Special report “Protecting children affected by the refugee crisis from sexual exploitation and sexual abuse”, “Article 5 of the Lanzarote Convention is of particular relevance in the context of the refugee crisis. All persons in contact with these children should be screened and adequately trained, from the front-line persons they encounter upon arrival, to the guardians, foster families or other caregivers they

may be assigned to. This also includes all the persons children are in contact with to process family reunification or asylum requests, be they professionals or volunteer workers.”^{22 23}

I. 4. 1 Screening

68. There are many persons in contact with children in the transit zones (officers of the authority, police guards, social workers, medical and health care staff, case guardians, lawyers, etc.). According to the authorities managing the transit zone, these persons have to provide a criminal record certificate delivered by the ministry of Interior. Persons under an on-going criminal procedure are also excluded from this type of work. A national vetting is also required if the person comes on a daily basis. It has been specified that this monitoring is continuous and not a one-time event.

69. NGO staff are treated in a different manner: they are delivered an entry permit to the transit zone after the relevant authority checked their situation.

70. The delegation does not see why it should call into question these declarations and merely asks Hungary to maintain the efforts made in term of screening of all persons.

I. 4. 2 Training

71. The Lanzarote Committee has already stressed that “professionals and voluntary workers in contact with children affected by the refugee crisis require special training with a view to increasing their awareness of the specific needs of children in this particularly vulnerable situation. Such persons also include the interpreters. Most Parties acknowledge that specific training tailored to all relevant stakeholders (including voluntary workers) is essential. Persons in contact with children affected by the refugee crisis need guidance to process stories of traumatised young people”.²⁴

72. According to the information provided by the Hungarian authorities, social workers, care givers and other staff working in the transit zones are trained on the protection of children against sexual exploitation and sexual abuse. No precise information was nonetheless provided on the training offered. The Hungarian

²² Special report “Protecting children affected by the refugee crisis from sexual exploitation and sexual abuse”, adopted by the Lanzarote Committee on 3 March 2017, §76.

²³ Article 5 of the Lanzarote Convention (Recruitment, training and awareness raising of persons working in contact with children) states that:

“2 Each Party shall take the necessary legislative or other measures to ensure that the persons referred to in paragraph 1 [persons who have regular contacts with children in the education, health, social protection, judicial and law-enforcement sectors and in areas relating to sport, culture and leisure activities] have an adequate knowledge of sexual exploitation and sexual abuse of children, of the means to identify them and of the possibility mentioned in Article 12, paragraph 1.

3 Each Party shall take the necessary legislative or other measures, in conformity with its internal law, to ensure that the conditions to accede to those professions whose exercise implies regular contacts with children ensure that the candidates to these professions have not been convicted of acts of sexual exploitation or sexual abuse of children.”

²⁴ Special report “Protecting children affected by the refugee crisis from sexual exploitation and sexual abuse”, adopted by the Lanzarote Committee on 3 March 2017, §81.

authorities stated that all social workers and other personnel will be trained in order to better detect sexual exploitation and sexual violence against a child.

73. NGOs met during the visit expressed serious doubts about the fact that these persons are trained. The delegation shares the same impression following its visit of the transit zones. In any event, if training is provided, there are serious doubts about the quality and efficiency of the training on the protection of children against sexual violence supposedly provided to social workers and care givers since these persons are, in practice, not in close contact with the children. The delegation considers that social workers should spend their time in contact with children to build trust and confidence, and therefore facilitate possible disclosure of sexual exploitation or abuse (before entering the transit zone or within the transit zone) or threats of such sexual violence.

74. Interlocutors indicated that training sessions were organised over the summer for police officers and immigration officials but admitted that this would take time before being effective and bring results.

Suggested recommendation

The Hungarian authorities should provide specialised training to all personnel, including paid staff and voluntary workers, who come into contact with asylum-seeking children, in the transit zones or in the mainstream child protection institutions. Specialised training should include modules on the specific needs of these children, in particular on prevention, protection and detection of sexual exploitation and sexual abuse. (R16)

I. 5 Building a relationship of trust and confidence with the children

75. The personnel in the transit zones are at the fore front with children. Building a relationship of trust with them facilitates disclosure of possible sexual exploitation or abuse. This would, as a consequence, allow for the implementation of appropriate measures, either for recovery of child victims or for prevention.

I. 5. 1 Social workers

76. Officially, there are a few social workers in the transit zones. Many interlocutors were very critical towards them. UNHCR explained that many of those employed have limited expertise and experience relating to this type of work (many have no specialised qualifications). Therefore, social workers' coverage of the transit zones is not always provided by qualified social work graduates but by laymen having taken brief training.

77. Social workers have air-conditioned offices at their disposal in the transit zones, by the entrance area and not in the sectors where families and children are accommodated. As stressed supra (see section 1. 2. 4. 1), they do not speak languages children can understand and are not accompanied by interpreters. Several interlocutors met during the visit explained that social workers do not leave these offices to go to the specific zones where children stay (except for food delivery) and are therefore unable to build a relationship of trust with the children. Children met by the delegation confirmed that they are only in contact with the social workers for food delivery. The delegation

noted that, indeed, social workers did not accompany the delegation during the visit of the sectors where families and children are kept. It therefore appears that, if social workers are not in close contact with children, they cannot build a relationship of trust with them.

78. The delegation stresses that building such a relationship of trust does not necessarily take long. It however requires the capacity of listening to the children. For instance, the delegation was informed about possible cases of sexual abuse by the police in Bulgaria after only a few minutes of talking with children (see below).

Suggested recommendation

The Hungarian authorities should ensure that the social workers in the transit zones make all possible efforts to build up a relationship of trust and confidence with the children in order to facilitate disclosure and prevent their sexual exploitation and sexual abuse. (R17)

I. 5. 2 Medical assistance

79. Medical assistance is provided in the transit zones. However, interlocutors explained that it is limited to basic needs. In case of a more serious health problem, asylum-seekers can be transferred to a local hospital. Several asylum-seekers explained however that they were not allowed to go or send their children to the local hospital, even when they did not recover from their sickness or when it worsened. They also complained about the underestimation of their medical condition at several instances and the fact that they are prescribed only with painkillers and similar medication regardless of the condition they suffer from. Some asylum-seekers also complained about the behaviour of some members of the medical staff who told them to return to their country of origin if they were not happy with the assistance provided. The delegation is deeply concerned by these reports as such instances not only do not encourage confidence in the staff but may also deter possible victims of sexual exploitation or sexual abuse from seeking medical advice and attention.

Suggested recommendation

The Hungarian authorities should ensure that the medical staff in the transit zones practice medical assistance in the state of the art, with a positive attitude of care and concern towards children and in a language children can understand, in order to build up a relationship of trust and confidence to facilitate disclosure of possible cases of sexual exploitation or sexual abuse. (R18)

80. The delegation heard reports that girls can be examined by both a male doctor and a female doctor. In some occasions the doctor is alone, on others a nurse stays in the room.

Suggested recommendation

The Hungarian authorities should revise the management procedure of visits of children to the medical staff with a view that, for sake of confidence building towards the doctor, and to limit risks of sexual abuse and facilitate disclosure, children should be accompanied by one of their parents if they wish so. If a parent does not accompany the child, a nurse should always stay in the room during the examination. The latter should always apply in the case of unaccompanied children. (R19)

81. Finally, the delegation was concerned to learn that no psychological assistance is provided. The delegation highlights that a child victim of sexual exploitation or abuse could therefore not be accompanied along the path to disclosure and recovery. The NGO Cordelia Foundation was not allowed to access the transit zones since October 2016 while its tasks are to provide psychological support to asylum-seekers.

Suggested recommendation

The Hungarian authorities should provide psychological support to children in the transit zones in a language they can understand in order to accompany those of them who have been victims of sexual exploitation or sexual abuse along the path to disclosure and recovery. Where State provision of psychological support is not possible, the authorities should allow voluntary psychologists access to the transit zones. (R20)

I.6 Release out of the centre

82. According to UNHCR, in the first week of July 2017, 6 unaccompanied children (4 Pakistani and 2 Bangladeshi boys) left the transit zone to return to Serbia.

83. The delegation questioned both the authorities running the transit zones and the NGOs present in the transit zone whether they asked these children about their motivations for leaving the transit zone. It was made clear to the delegation that neither the authorities nor the NGOs enquire and ask these children to justify or explain why they retract the procedure and leave the transit zone. They even seemed to be surprised by this type of question while some of these children may prefer to leave because of their living conditions in order not to suffer violence, in particular sexual exploitation and sexual abuse in the transit zones.

84. Even if unaccompanied children and families who are not granted asylum may not appeal against the first instance decision because there is no higher level above the first instance in the administrative stage, an independent judicature may decide during the review. Once the final decision is taken, they have no other choice than to leave the country (they may return to Serbia or, possibly, if they are under the Dublin regulations, to the first country of entry – often to Bulgaria, or, with the help of IOM, return to their country of origin). UNHCR indicated that most of the asylum-seekers under the Dublin regulation prefer to go back to Serbia instead of Bulgaria.

Suggested recommendation

The Hungarian authorities should monitor the requests from children to leave the transit zone to return to Serbia in order to screen these children for possible cases of sexual violence, to remedy the cases and to act in order to limit recurrence of such cases. (R21)

II. PROTECTION OF CHILDREN AGAINST SEXUAL EXPLOITATION AND SEXUAL ABUSE IN THE TRANSIT ZONES AND ASSISTANCE TO VICTIMS

II. 1 Victim identification

85. According to the Deputy State Secretary Imre Nyitrai, no cases of sexual abuse or sexual exploitation of asylum-seeking children were registered in the past two years. Interlocutors met during the visit admitted that they have not been informed of any form of sexual exploitation or sexual abuse in the transit zones. When specifically asked about possible sexual abuse among children committed by peers, the UNHCR representative in the transit zones said he was not aware of such cases occurring within the transit zones despite visiting every day. No cases of sexual exploitation and abuse occurring in the transit zones were reported to the delegation during the visit. Even if this may sound positive, caution is required because it is a well-known fact that it is not easy for victims of sexual violence to speak out and if they do so it will only be in a reassuring environment. Therefore, holding that no case of sexual exploitation or sexual abuse in the transit zones was reported to the delegation may mean that there were indeed no such cases but this may also mean that victims preferred to remain silent.

86. The delegation heard reports of children held in the transit zones who had been victims of sexual exploitation or sexual abuse in their country of origin or on the journey to reach Hungary, in particular reports of sexual violence suffered in Serbia). IOM reported a case of two unaccompanied brothers who explained to an NGO social worker that they had been sexually abused during their travel to Hungary. They however did not wish to make an official complaint, therefore their case does not appear in official data and they were not receiving any medical or psychological support at the time of the visit.

87. Members of the delegation were approached during the visit by a 15-year-old girl who appears to have been a victim of sexual violence by police forces in Bulgaria (see details in the box below). Other interlocutors reported cases of violence against asylum-seekers by police forces in Bulgaria.

Testimony of a 15-year-old girl

A 15-year-old girl approached a female member of the delegation during the visit in the family sector of the Tompa transit zone. She travelled alone with her 12-year-old sister and her 19-year-old brother.

In Bulgaria, the two sisters had to stay in the same room for two days under police surveillance while their older brother was taken away. She did not expressly refer to sexual violence but said that this experience was not good and her body language was very expressive.

After this experience, she had gynaecological problems (no periods for seven months). She was given medicine in Serbia and the problems seemed to be solved but the treatment was interrupted when she arrived in the transit zone. She now fears that the problems come back.

She said that she did not feel comfortable in the transit zone, being afraid all the time. In particular she was extremely afraid to be sent back to Bulgaria as a first country of entry in the Dublin zone (because her finger prints were taken there) and being forced to see the same policemen.

88. UNHCR reported that there has been at least one case where there was suspicion of sexual abuse among peers in the Fót child protection institution for unaccompanied children under 14.

89. The Lanzarote Committee has acknowledged that “identification of children affected by the refugee crisis who are (or have been) victims or 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.”²⁵ It is also well-documented that children on the move are at higher risk of sexual victimisation compared to the general population because of their increased vulnerability.

90. Children who are (or have been) victims of sexual abuse or sexual exploitation will find it difficult to disclose such abuse to the authorities in the situation as described above, in particular because of a lack of confidence in the adults being present in the transit zones, a lack of feeling being really taken care of, and because of language barriers. The fact that no cases of sexual abuse and sexual exploitation were registered needs therefore to be seen with prudence. It may mean that children do not want to disclose under these conditions. The fact that this delegation – composed of complete strangers to the children – was informed by the children about some possible situation of sexual abuse in Bulgaria is evidence that there is a lack of victim identification in the transit zones.

91. As recalled by the Lanzarote Committee there are many reasons to explain why it is difficult to identify victims. This may be due “to limited human resources, insufficient training of staff, limited access by NGO partners to reception and detention centres, backlogs in registration as well as time constraints during registration”.²⁶ The Lanzarote Committee also noted that “many child victims of sexual abuse or exploitation do not report the violence. For example, they talk only when their situation is secured and not at an early point of their journey. They also do not report because they fear that they would have to stay in the country where they have disclosed the abuse or exploitation when their objective is to reach their final destination. Some children fear that the persons who accompany them would abandon them if they talk, even if these persons are not the abusers. One commonly shared challenge is also that communication between children affected by the refugee crisis and those in charge of their care is difficult because of linguistic diversity and difficulties in finding interpreters”.²⁷ In the special report mentioned supra, the Lanzarote Committee stated that “many Parties have highlighted that gaining a foreign child’s trust is a difficult task. Disclosing sexual

²⁵ Special report “Protecting children affected by the refugee crisis from sexual exploitation and sexual abuse”, adopted by the Lanzarote Committee on 3 March 2017, §39.

²⁶ Special report “Protecting children affected by the refugee crisis from sexual exploitation and sexual abuse”, adopted by the Lanzarote Committee on 3 March 2017, §48.

²⁷ Special report “Protecting children affected by the refugee crisis from sexual exploitation and sexual abuse”, adopted by the Lanzarote Committee on 3 March 2017, §49.

exploitation or sexual abuse becomes particularly hard for these children, as this is a taboo in most of the victims' countries of origin. There is a need to invest in building children affected by the refugee crisis' trust in representatives of the authorities".²⁸ All these factors may explain why no incidents of abuse have been reported to the Hungarian authorities. This, of course, does not mean that there have been cases of sexual exploitation or sexual abuse of children in the transit zones. This only means that should such cases have arisen, they may well have stayed unnoticed.

Suggested recommendation

The Hungarian authorities should implement a corporate culture whereby all personnel in contact with asylum-seeking children in the transit zones have a positive attitude of care and concern towards children, are better trained and equipped with trained interpreters, to identify child victims of sexual exploitation or sexual abuse. (R22)

II. 2 Helplines

92. It is recalled that, in order to implement article 13 of the Lanzarote Convention²⁹, the "Lanzarote Committee considers that Parties that have not yet done so should encourage and support the setting up of specific information services such as telephone or Internet helplines to child victims of sexual exploitation and sexual abuse affected by the refugee crisis as well as persons wishing to help them to provide advice in a language which is understandable to them"³⁰. The Lanzarote Committee stated that "at some early stage when raising their awareness on their rights/procedures they may wish to use, children affected by the refugee crisis should be informed of the existence of helplines which they may turn to".³¹

93. The delegation stresses that it was not made aware of the existence of any such helplines available to the asylum-seeking children in the transit zones. It saw no printed material and posters in the common areas informing children that they can contact such a helpline and how they could do so (such as promoting a telephone number or an internet address).

²⁸ Special report "Protecting children affected by the refugee crisis from sexual exploitation and sexual abuse", adopted by the Lanzarote Committee on 3 March 2017, §51.

²⁹ "Article 13 – Helplines

Each Party shall take the necessary legislative or other measures to encourage and support the setting up of information services, such as telephone or Internet helplines, to provide advice to callers, even confidentially or with due regard for their anonymity."

³⁰ Special report "Protecting children affected by the refugee crisis from sexual exploitation and sexual abuse", adopted by the Lanzarote Committee on 3 March 2017, Recommendation R32.

³¹ Special report "Protecting children affected by the refugee crisis from sexual exploitation and sexual abuse", adopted by the Lanzarote Committee on 3 March 2017, §112.

Suggested recommendation

The Hungarian authorities should ensure that children in the transit zones and persons wishing to help them have access to information services such as telephone or Internet helplines in order to provide advice on sexual exploitation and sexual abuse, in a language they can understand. Then Hungary should inform children in the transit zones of the existence of such helplines. (R23)

II. 3 NGO and other bodies presence in the transit zones

94. Only a few NGOs are allowed to access the transit zones when many are willing to work there. The Hungarian authorities justify this with a need to organise the modalities of access, in particular to avoid that too many NGO workers are present at the same time in the transit zones. This explains why NGOs are present on a rotation basis, on the basis of a precise schedule (some come once a week, on a specific day, others during week days). This also explains the fact that only a few NGOs are selected among those which would be willing to work in the transit zones. According to the Hungarian authorities, the selection criterion is qualitative. The delegation notes that most of the selected NGOs are religious charities³² even though, according to the authorities, they are ecumenical and do not bring religious ideology in the transit zones. Representatives of NGOs which do not have access to the transit zone described them to be more or less governmental.

95. In addition to these NGOs, UNHCR has access to the transit zones.

96. Most NGO representatives complained about the fact that their NGOs had no (or, for some, no longer) access to the transit zones. They explained that, according to them, this was mainly due to the fact that most of their NGOs were on the list of NGOs funded by foreign money (which in this case includes funds by the European Union and UNHCR).

97. While understanding the need to organise the modalities of access, as explained by the Hungarian authorities, the delegation considers that the access of NGOs to the transit zone is too restrictive (with no clear explanations given on the selection criteria). A stronger presence of NGO representatives in the transit zones (staying longer and having the possibility to come every day and not only once a week), in line with the provisions of the Lanzarote Convention,³³ would help build confidence and facilitate

³² The delegation met with the Hungarian Baptist Aid, the Hungarian Reform Church Aid, Ökumenikus Segélyszervezet (Hungarian Interchurch Aid), the Hungarian Red Cross.

³³ See "Article 9 – Participation of children, the private sector, the media and civil society (...)

2. Each Party shall encourage the private sector, in particular the information and communication technology sector, the tourism and travel industry and the banking and finance sectors, as well as civil society, to participate in the elaboration and implementation of policies to prevent sexual exploitation and sexual abuse of children and to implement internal norms through self-regulation or co-regulation.

(...)

4 Each Party shall encourage the financing, including, where appropriate, by the creation of funds, of the projects and programmes carried out by civil society aiming at preventing and protecting children from sexual exploitation and sexual abuse."

possible disclosure of sexual exploitation or abuse cases (which could have arisen before entering the transit zone or within the transit zone).

Suggested recommendation

The Hungarian authorities should revise their policy of restricting access to the transit zones to a very limited number of NGOs, since NGOs with specific expertise may bring added value to the care provided by the authorities to children seeking asylum and efficiently complement it at no cost for the state authorities (such as psychological care).
(R24)

* * *

List of all the recommendations suggested in this report

R1 – In the framework of immigration procedure, the Hungarian authorities should treat all persons under the age of 18 years as children without discrimination on the ground of their age and ensure that all children under Hungarian jurisdiction are protected against sexual exploitation and abuse.

R2 – The Hungarian authorities should care for all the children within its regular child protection system, i.e. in open child protection institutions, especially in light of the very limited number of children falling under the new regulation (19 unaccompanied boys aged 14-18 were accommodated in the specific sector in Röszke transit zone at the time of the visit).

R15 – The Hungarian authorities should pay special attention to the heightened vulnerability of unaccompanied children, especially girls, and systematically place them in mainstream child protection institutions to prevent possible sexual exploitation or sexual abuse against them by adults and adolescents in the transit zones.

Measures to be taken towards asylum-seeking children

R3 – The Hungarian authorities should be asked to cooperate with the Serbian authorities as regards the management of the waiting lists to enter the Hungarian transit zones in order to prevent corruption through sexual exploitation and sexual abuse of the asylum-seeking children.

“Article 14 – Assistance to victims

(...)

2 Each Party shall take measures, under the conditions provided for by its internal law, to co-operate with non-governmental organisations, other relevant organisations or other elements of civil society engaged in assistance to victims.”

R4 – The Hungarian authorities should cease all push-backs of migrant and asylum-seeking children at the border and ensure that any child on Hungarian territory is immediately referred to the competent child protection authorities to undergo a needs assessment in line with the rights of the child to ensure that they are protected against any risk of sexual exploitation and abuse.

R5 – Where age verification is necessary, the Hungarian authorities should reinforce its age verification procedures and complement it by other verification processes than only physical appearance of the person, in order to avoid cases of unaccompanied children under 18 being assessed as being above 18 and held together with single men, thus preventing cases of their being sexually exploited or sexually abused.

R6 – The Hungarian authorities should ensure that the principle of the benefit of the doubt is adequately applied to individuals pending verification of their age when there are reasons to believe that they are children and to individuals when the age verification procedure is over and if doubts about the age of the person remain.

R7 – The Hungarian authorities should protect asylum-seeking children from sexual exploitation and sexual abuse by strengthening verification procedures to establish family links between these children and the adults who accompany them and, if necessary, separating children from adults who are found to be unrelated to them.

R8 – The Hungarian authorities should repeal their legislation to ensure a full protection of all unaccompanied children aged 14-18 and grant them a guardian with the same qualifications, functions and legal powers as those appointed for children aged less than 14, in order to facilitate disclosure of possible cases of sexual exploitation or sexual abuse. The authorities should make sure that children are informed that they have a guardian and able to contact their guardian directly if they are facing problems or need assistance.

R9 – The Hungarian authorities should take measures to respect the Hungarian legal maximum of 30 children per child protection guardian in order to ensure that guardians receive manageable caseloads (since, in addition to refugee seeking children, they are also in charge of Hungarian children in care). This would enable them to spend more time with each of the unaccompanied asylum-seeking children in order to build a relationship of trust with them which, as a consequence, would facilitate disclosure of any possible cases of sexual exploitation and sexual abuse. Where a child discloses that they have been a victim of sexual exploitation or sexual abuse the Hungarian authorities should provide appropriate protection and assistance regardless of the child's age.

R10 – The Hungarian authorities should provide access to interpreters especially during appointments between the child and staff, including medical staff, social workers and guardians to facilitate disclosure of actual or potential sexual exploitation and sexual abuse. In addition, the Hungarian authorities should provide Hungarian language courses for children held in the transit zones (or accept that NGOs provide such courses).

R11 – The Hungarian authorities should take measures to inform children in the transit zones, in a manner adapted to their age and maturity, in a language they understand and which is sensitive to gender and culture, to raise their awareness on the risks they face of being sexually exploited or abused and to inform them of the help and protection available if they are or become victims of such offences.

R16 – The Hungarian authorities should provide specialised training to all personnel, including paid staff and voluntary workers, who come into contact with asylum-seeking children, in the transit zones or in the mainstream child protection institutions. Specialised training should include modules on the specific needs of these children, in particular on prevention, protection and detection of sexual exploitation and sexual abuse.

In the meantime, measures to be taken in the transit zones

R12 – The Hungarian authorities should cease the practice of detaining children in the transit zones as a measure to prevent them from falling victims of sexual exploitation or sexual abuse and to facilitate disclosure of cases of sexual exploitation or sexual abuse. Preventing the direct and uncontrolled access to the Hungarian territory does not necessarily include detaining children in fenced open air areas with shelter containers.

R13 – The Hungarian authorities should take steps to improve the living conditions of children in the transit zones, in particular by providing shaded areas in the courtyards and air conditioning in the containers, providing access to education to children, reinforcing leisure activities and ensuring mobile phone connection in all sectors of the transit zones in order to minimise their vulnerability.

R14 – The Hungarian authorities should provide children with food that is appropriate to their age, free of charge and of adequate quality and quantity. This should diminish the risk of children becoming exposed to sexual exploitation and sexual abuse.

R17 – The Hungarian authorities should ensure that the social workers in the transit zones make all possible efforts to build up a relationship of trust and confidence with the children in order to facilitate disclosure and prevent their sexual exploitation and sexual abuse.

R18 – The Hungarian authorities should ensure that the medical staff in the transit zones practice medical assistance in the state of the art, with a positive attitude of care and concern towards children and in a language children can understand, in order to build up a relationship of trust and confidence to facilitate disclosure of possible cases of sexual exploitation or sexual abuse.

R19 – The Hungarian authorities should revise the management procedure of visits of children to the medical staff with a view that, for sake of confidence building towards the doctor, and to limit risks of sexual abuse and facilitate disclosure, children should be accompanied by one of their parents if they wish so. If a parent does not accompany the child, a nurse should always stay in the room during the examination. The latter should always apply in the case of unaccompanied children.

R20 – The Hungarian authorities should provide psychological support to children in the transit zones in a language they can understand in order to accompany those of them who have been victims of sexual exploitation or sexual abuse along the path to disclosure and recovery. Where State provision of psychological support is not possible, the authorities should allow voluntary psychologists access to the transit zones.

R21 – The Hungarian authorities should monitor the requests from children to leave the transit zone to return to Serbia in order to screen these children for possible cases of sexual violence, to remedy the cases and to act in order to limit recurrence of such cases.

R22 – The Hungarian authorities should implement a corporate culture whereby all personnel in contact with asylum-seeking children in the transit zones have a positive attitude of care and concern towards children, are better trained and equipped with trained interpreters, to identify child victims of sexual exploitation or sexual abuse.

R23 – The Hungarian authorities should ensure that children in the transit zones and persons wishing to help them have access to information services such as telephone or Internet helplines in order to provide advice on sexual exploitation and sexual abuse, in a language they can understand. Then Hungary should inform children in the transit zones of the existence of such helplines.

R24 – The Hungarian authorities should revise their policy of restricting access to the transit zones to a very limited number of NGOs, since NGOs with specific expertise may bring added value to the care provided by the authorities to children seeking asylum and efficiently complement it at no cost for the state authorities (such as psychological care).

* * *

Appendix 1

Letter sent by the Chair of the Lanzarote Committee to the Prime Minister of Hungary

Mr Viktor Orbán
Prime Minister
The Prime Minister's Office
1357 Budapest, Pf. 6.
Hungary

Strasbourg, 22 March 2017

Dear Prime Minister,

I have the honour to address you in my capacity as Chair of the Committee of the Parties to the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (Lanzarote Convention), a treaty that Hungary ratified in 2015.

Since ratification, Hungary has made efforts to enhance the protection of children against sexual exploitation and sexual abuse, in particular by considering the adoption of the Barnahus/children's house model.

However, I am concerned by the adoption of the Bill "On the amendment of certain acts related to increasing the strictness of procedures carried out in the areas of border management" (Bill No. T/13976). I understand that the legal implications of these amendments will increase the already highly vulnerable situation of children on the move, exacerbating in particular the exposure of those aged 14 or more to sexual exploitation and sexual abuse.

Introducing these legal changes implies in particular that Section 4(1)c of the Act of Parliament XXXI of 1997 on the protection of children and guardianship administration, will no longer apply to unaccompanied children aged 14 or more. If this is indeed the case, instead of having access to a guardian and being able to benefit from the child protection system, these children will be considered as adult asylum applicants, placed in transit zones increasing the risk of becoming a victim of sexual exploitation and sexual abuse.

.../...

The Lanzarote Committee has just concluded an urgent monitoring round on "Protecting children affected by the refugee crisis against sexual exploitation and sexual abuse". In its [special report](#) adopted on 3 March, the Lanzarote Committee underlines that unaccompanied children are particularly exposed to sexual exploitation and sexual abuse. The higher vulnerability of these children to sexual crimes, particularly during times of crisis, calls for more protection, not less. In this context, guardians play a central role in informing unaccompanied children of the dangers of sexual exploitation and sexual abuse and they contribute to building the unaccompanied child's trust that may enable disclosure of possible sexual exploitation and sexual abuse (see §§ 95-97 of the special report).

I therefore respectfully call upon you to ensure that child protection measures benefit all children without exception (including adolescents below 18 years of age). In case of doubt as regards a person's age, the Lanzarote Committee has urged Hungary "*to take the necessary legislative or other measures to ensure that the principle of the benefit of the doubt is adequately applied and adequate protection and assistance measures are provided in line with the Lanzarote Convention to individuals pending verification of their age when there are reasons to believe that they are children*" (see §§ 17 and following of the special report).

As concerns reception conditions for unaccompanied children, I am concerned that some may *de facto* be deprived of liberty in the transit zones and lack the care and services provided in shelters. Alternatives to detention should be found for children in accordance with standards of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) and as recently recalled by the Lanzarote Committee in its special report (see Appendix II).

In light of the above, and in compliance with Rule 28§1 of the [Lanzarote Committee's Rules of Procedure](#), I invite the Hungarian authorities to reply to the questions included in Appendix I within one month and provide the Committee with the information it needs to assess the situation and decide (see Appendix I) whether there is a need for a visit to Hungary in order to better understand the situation in cooperation with your authorities (as foreseen by Rule 28§3 of the Committee's Rules of Procedure).

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Janizzi', with a long horizontal flourish extending to the right.

Claude Janizzi
Chairperson of the Lanzarote Committee

Appendix I to the letter

Questions addressed to the Hungarian authorities in the context of Rule 28§1 of the Lanzarote Committee's Rules of Procedure

- 1) Specify what action will be taken to ensure that unaccompanied children, be they above or below 14 years of age, may benefit from effective child protection measures, including reference to means to identify and protect victims of sexual exploitation and abuse.
- 2) Indicate the specific measures taken in the context of the new Bill No. T/13976 to prevent that children affected by the refugee crisis, unaccompanied or not, may become victims of sexual exploitation and sexual abuse or are placed in conditions increasing their vulnerability to become so; also specify where children arriving with their families are placed.
- 3) Since the legal changes concern only asylum-seeking children, provide information about the situation of children on the move that do not request asylum, in particular by indicating what measures are taken to prevent and protect them from sexual exploitation and sexual abuse.

Replies to these questions should be sent to the Secretariat of the Lanzarote Committee (lanzarote.committee@coe.int) within one month from 22 March 2017.

Appendix II to the letter

Alternatives to detention of children

§91 of the Lanzarote Committee Special Report on "Protecting children affected by the refugee crisis against sexual exploitation and sexual abuse":

"The Lanzarote Committee recalls that the United Nations Committee on the Rights of the Child has found that "Children should not be criminalised or subject to punitive measures because of their or their parents' migration status. The detention of a child because of their or their parent's migration status constitutes a child rights violation and always contravenes the principle of the best interests of the child". The case law of the European Court of Human Rights is also uncontroversial in this regard and the Council of Europe's Commissioner for Human Rights has thus repeatedly stated that "there are no circumstances in which detention of a child for immigration purposes, whether unaccompanied or with family, could be in the child's best interest. (...) Alternatives [to detention] are not only an essential tool in safeguarding the human rights of migrants. They are also helpful for states. If properly implemented, they can build trust (...) between the migrant and the state (...)". Building the child's trust (see section II.3.1) is particularly relevant under the Lanzarote Convention to help children affected by the refugee crisis to feel safe and create the conditions to enable their possible disclosure. As advocated by the Council of Europe's Parliamentary Assembly Campaign to End Immigration Detention of Children, alternatives to detention that respect a child's right to liberty and family should be sought."

Factsheet on "Immigration detention" issued on 13 March 2017 by the Executive Secretary of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), (see, in particular, its last section which outlines standards concerning care of vulnerable persons (in particular children):

"10. Care of vulnerable persons (in particular children)

- Specific screening procedures aimed at identifying victims of torture and other persons in situation of vulnerability should be put in place and appropriate care should be provided. In this context, the CPT considers that there should be meaningful alternatives to detention for certain vulnerable categories of person. These categories include *inter alia* victims of torture, victims of trafficking, pregnant women and nursing mothers, children, families with young children, elderly persons and persons with disabilities.³⁴
- The CPT wishes to recall its position that every effort should be made to avoid resorting to the deprivation of liberty of an irregular migrant who is a child.³⁵
- When, exceptionally, children are held with their parents in a detention centre, the deprivation of liberty should be for the shortest possible period of time. Mother (or any other primary carer) and child should be accommodated together in a facility catering for their specific needs.³⁶
- The CPT concurs with the United Nations Committee on the Rights of the Child which considers that "[i]n application of article 37 of the Convention [on the Rights of the Child] and the principle of the best interest of the child, unaccompanied or separated children should not, as a general rule, be detained. Detention cannot be justified solely on the basis of the child being unaccompanied or separated, or on their migratory or residence status, or lack

³⁴ Hungary: 2015 visit, paragraph 51; Denmark: 2014 visit, paragraphs 77-79; Cyprus: 2013 visit, paragraph 33; United Kingdom: 2012 visit (September), paragraphs 132 and 133; 19th General Report of the CPT's activities, paragraphs 75 and 76; Malta: 2008 visit, paragraph 68.

³⁵ 19th General Report on the CPT's activities, paragraph 97.

³⁶ Cyprus: 2013 visit, paragraph 36; Czech Republic: 2014 visit, paragraph 32.

thereof".³⁷ Further, other Council of Europe bodies, such as the Parliamentary Assembly³⁸ and the Commissioner for Human Rights,³⁹ have stated that unaccompanied children should not be detained.⁴⁰

- As soon as possible after the presence of an unaccompanied minor becomes known to the authorities, a professional qualified person should conduct an initial interview, in a language the child understands. An assessment should be made of the child's particular vulnerabilities, including from the standpoints of age, health, psychosocial factors and other protection needs (including those deriving from violence, trafficking or trauma).⁴¹ Every effort should be made to facilitate their immediate release from a detention facility and their placement in more appropriate care.⁴²
- Any unaccompanied or separated child deprived of their liberty should be provided with prompt and free access to legal and other appropriate assistance, including the assignment of a guardian or legal representative⁴³ who keeps them informed of their legal situation and effectively protects their interests. Review mechanisms should also be introduced to monitor the ongoing quality of the guardianship.⁴⁴
- Children should only be held in centres designed to cater for their specific needs and staffed with properly trained men and women.⁴⁵
- In order to limit the risk of exploitation, special arrangements should be made for living quarters that are suitable for children, for example, by separating them from adults, unless it is considered in the child's best interests not to do so. This would, for instance, be the case when children are in the company of their parents or other close relatives. In that case, every effort should be made to avoid splitting up the family.⁴⁶
- Children deprived of their liberty should be offered a range of constructive activities (with particular emphasis on enabling a child to continue his/her education).⁴⁷

³⁷ Committee on the Rights of the Child, General Comment no. 6 (2005) on the Treatment of unaccompanied and separated children outside their country of origin, CRC/GC/2005/6, 1 September 2005, paragraph 61

³⁸ Parliamentary Assembly of the Council of Europe, Resolution 1707 (2010) on detention of asylum seekers and irregular migrants in Europe, 28 January 2010, paragraph 9.1.9, and Resolution 2020 (2014) on the alternatives to immigration detention of children, 3 October 2014, paragraph 3

³⁹ Commissioner for Human Rights, Positions on the rights of minor migrants in an irregular situation, CommDH/PositionPaper(2010)6, 25 June 2010.

⁴⁰ Finland: 2014 visit, paragraph 29.

⁴¹ 19th General Report on the CPT's activities, paragraph 98.

⁴² Denmark: 2014 visit, paragraph 77.

⁴³ "The former Yugoslav Republic of Macedonia": 2014 visit, paragraph 122.

⁴⁴ 19th General Report on the CPT's activities, paragraph 98.

⁴⁵ Greece: 2015 visit, paragraph 108.

⁴⁶ 19th General Report on the CPT's activities, paragraph 100.

⁴⁷ 19th General Report on the CPT's activities, paragraph 99.

Appendix 2

Reply of the Minister of Interior of Hungary to the Chair of the Lanzarote Committee



MINISTRY OF INTERIOR

SÁNDOR PINTÉR
Minister

Courtesy translation

Mr. Claude Janizzi

**Chairperson of the Lanzarote Committee
Council of Europe**

Strasbourg

Budapest, 26 April 2017

Dear Chairperson Janizzi,

I have received your letter on behalf of the Lanzarote Committee of the Council of Europe regarding the child protection aspect of the amendment of the Hungarian border management laws. I have examined the matter with the involvement of the national authorities concerned, and I would like to inform you of the following.

First of all, it should be stressed that the new rules that entered into force in March 2017 are only applied during a crisis situation caused by mass immigration. Legal capacity in the asylum procedure is also granted to asylum seekers between the age of 14 and 18, therefore this age group is placed in the transit zone for the duration of their asylum procedure. However, special provisions were introduced given their need for special treatment. A guardian is appointed without delay by the guardianship authority closest to the transit zone and the unobstructed contact between the guardian and the unaccompanied minor placed in the transit zone is ensured. Persons who may be appointed as guardians all have experience in victim protection, child protection and guardianship, and their training, practical experience and guidance received from the relevant authority enables them to perform their duties well. Unaccompanied minors under the age of 14 will continue to be placed in child protection institutions.

Three meals a day, clothing if necessary, health care and education are provided, and the free practice of religion is ensured for unaccompanied minors between the age of 14 and 18 in the transit zone. Their supervision is ensured by social workers who are present in the transit zone 24 hours a day. If the unaccompanied minor above the age of 14 is granted international protection in the asylum procedure, the asylum authority immediately takes care of the temporary placement of the child in a children's home providing child protection services, where he or she is entitled to the same benefits as a Hungarian national. When the child reaches the age of majority, s/he, upon request, will be eligible for after-care up to age of 25 if his/her livelihood is not secured or s/he wants to study.

The identification of potential victims of sexual exploitation and abuse begins when they first come into contact with the officials of the authorities. In order to enable early identification of victims of trafficking, child trafficking, sexual exploitation and abuse and to facilitate the sharing of experience, the training of front-line professionals is ensured through the National Anti-Trafficking Strategy, various national and EU-funded projects (such as Széchenyi 2020, EFOP, ISF), as well as expert working groups.

In the transit zone, we pay special attention to the care of people with special treatment needs. To prevent sexual exploitation, abuse and any kind of violence, twenty-four-hour health and social service are provided on an established schedule. Moreover, continuous security service and camera surveillance are also in place. By establishing different and separated accommodation for unaccompanied minors between the age of 14 and 18, single man, single women and families, we ensured that the different needs of these groups are taken into account.

Since the beginning of the migration crisis, Hungary has made a significant effort to only allow those to enter the country, and thus the European Union, who are indeed eligible for international protection. It should be emphasized that the right to enter a country, as a basic human right, does not exist. At the same time, in our view, Hungary provides necessary and adequate protection as well as assistance to those who are entitled to it while respecting the practice of other Member States and the applicable legal framework.

When a foreign national who does not want to submit a request for asylum is intercepted in the territory of Hungary, his/her personal data are registered and checked in the available records, and a medical examination is performed to determine his/her probable age. With the exception of unaccompanied minors under the age of 14, these nationals are either escorted through the temporary security border barrier or are transferred under a readmission agreement in aliens policing procedure. Unaccompanied minors under the age of 14 are always placed in a child protection institution until being handed over.

Yours sincerely,

Sándor Pintér

Background note
to the letter addressed to Mr. Claude Janizzi, Chairperson of the Lanzarote
Committee

1. Please provide information on what action will be taken to ensure that unaccompanied children, be they above or below 14 years of age, may benefit from effective child protection measures, including reference to means to identify and protect victims of sexual exploitation and abuse.

With regards to the question above, it is important to highlight that in case a crisis situation caused by mass immigration is not in place, all unaccompanied minors will be placed in the child protection system. In this case the legal representation of the child will be provided by a guardian, appointed by the guardianship authority within 8 days. As an acknowledgement of the rights and special needs of unaccompanied minors, an implementation act – defining the content with regards to placement and care – entered into force in 2015.

Statements, claiming that asylum seekers between the age of 14 and 18 will be treated as adults by the authorities, are misleading, since no amendments were adopted to this end. The provisions, entered into force recently, are only applicable in case of a crisis situation caused by mass immigration. According to the general rules, applicants between the age of 14 and 18 will undergo an asylum procedure that takes into account their diminished capacity and they will be placed in the transit zone until their procedure is conducted. Unaccompanied minors below the age of 14 will be accommodated in child protection institution even during a crisis situation caused by mass immigration. Unaccompanied minors below the age of 14 will receive the same child protection measures as Hungarian citizens, including the appointment of a child protection guardian and the provision of accommodation in a children center.

With regards to applicants above the age of 14, a legal guardian will be appointed for the asylum procedure, furthermore, procedural and reception guarantees will be ensured for applicants between the age of 14 and 18 accommodated in the transit zone. A further guarantee is the possibility to request a medical opinion, and in the event of uncertainty, the benefit of the doubt principle will be applied.

Act LXXX of 2007 on Asylum includes special provisions on vulnerable persons – and as such on unaccompanied minors, regardless of their age – furthermore it also sets that the special needs of vulnerable persons shall be taken into account (Article 29.)

In accordance with Government Decree 70/2017 (hereinafter: Government Decree) - on amendments of government decrees to strengthen the procedures in the field of border surveillance were adopted and entered into force on 31th March 2017 – in case of crisis situation caused by mass immigration an ad hoc guardian shall be appointed for unaccompanied minors under the age of 14 in the transit zone.

Regarding unaccompanied minors above the age of 14 and placed in the transit zone the governmental representative of the territorially competent office, authorised for carrying out legal assistance in the transit zone, shall be appointed, which guarantees the availability of the appointed legal representative for unaccompanied minors without any difficulties.

While assigning the first instance guardianship authority designated by Government Decree for appointment of the ad hoc guardian to provide legal representation for the unaccompanied minors, special attention was paid to the location of the guardianship authority supervising the appointed ad hoc guardian. Hence, Szeged District Authority acts as an appointed child protection and guardianship body in the name of Government Office of Csongrád County.

The appointed guardianship office after thorough consideration assembled a list of competent professionals with victim, child protection background who can be appointed as ad hoc guardian. Accordingly, it can be stated that the appointed guardians possess the needed special

competencies and knowledge thus able to represent the minor's best interest. The preparation for this duty was supported by the Ministry of Human Capacities who is responsible for the sectoral supervision of the public guardianship administration. In the framework of the preparation meetings and workshops were organized where professional experts shared their experiences in the field of child protection.

In the transit-zones for unaccompanied minors below the age of 14 three meals a day, for unaccompanied minors above the age of 14 five meals a day, as well as clothing, healthcare, education and free practice of religion is ensured. Their supervision is provided by social workers who are present in the transit zone 24 hours a day. During the reception, every applicant has to undergo a medical examination, where their health status is assessed, and they can get the necessary health care. If the applicant indicates or the health personnel recognize the marks of former sexual exploitation/violence, the health personnel or the asylum authority will take the necessary steps.

If as a result of the asylum procedure an unaccompanied minor over 14 receives international protection, the asylum authority immediately ensures the temporary placement of the child in a children's home where the necessary child-protection provision is provided. After this, the guardianship authority designates a child-protection guardian and ensures the short-term foster care of the child, and on the basis of this decision the unaccompanied minor is entitled to the same benefits as a Hungarian national. After reaching the age of majority, at their request unaccompanied minors are entitled to after-care provision, if their livelihood is not assured, or if they would like to follow studies until the age of 25.

With regards to human trafficking and sexual exploitation, Hungary is both a country of source and a country of transit. The identification of potential victims of sexual exploitation or abuse begins with the experts of the authorities who first come into contact with them (hereinafter: first-line workers); so immediately after entering and submitting their asylum request in the transit-zones. During their communication with their occasional guardian, the behavior of the children can clearly indicate that they can be victim of such criminal offences. The first-line workers will receive trainings the main aim of which is to acquire competences to early identify the victims of trafficking in human beings and sexual abuse – in particular in view of asylum seekers.

2. Indicate the specific measures taken in the context of the new Bill No. T/13976 to prevent that children affected by the refugee crisis, unaccompanied or not, may become victims of sexual exploitation and sexual abuse or are placed in conditions increasing their vulnerability to become so; also specify where children arriving with their families are placed.

Within the framework of the Széchenyi Programme, the VEKOP⁴⁸-7.5.1-16 project and the EFOP⁴⁹-3.8.2-16 project, both titled "Developing Human Capacities in Social Services" focus on providing training to professionals working in child protection. Specific training programs will be developed on the sexual exploitation of children and their vulnerability to sexual violence.

Moreover, the General Directorate of Social Affairs and Child Protection established a working group on child prostitution. The working group, in which 26 organizations participate, assesses the risk of prostitution amongst children in child protection institutions, and develops procedures and protocols that aim at reducing and preventing child prostitution. The working group is expected to finish its work and publish the procedures developed by the summer of 2017.

Section B.1.5.-B.2.5 of the 2013-2016 National Strategy against Human Trafficking recognizes that children and minors are especially vulnerable to human trafficking. The Strategy also provides that professionals working with victims have a key role, thus their regular participation in training programs should be promoted, and the establishment of workshops both on the specific aspects of trafficking and on trafficking in general must be supported.

⁴⁸Competitive Central Hungary Operational Programme

⁴⁹Human Resources Development Operational Programme

In order to enhance the identification of trafficking victims, two ISF (Internal Security Fund) funded projects will provide training on human trafficking for professionals who work with victims or are likely to come into contact with victims in 2017. The National Police Headquarters' project titled "*BBA-5.3.4-16 – Providing training programs on the protection of victims in relation to the fight against human trafficking*" will implement a large-scale training program on the identification and referral of trafficking victims for police officers working on the detection and investigation of trafficking cases, as well as for professionals protecting and supporting victims. The training program will cover all 20 counties and is expected to be attended by 600 professionals. Training on human trafficking will also be provided for migration officials in the framework of the Immigration and Asylum Office's project titled "*BBA-5.3.4-16 – Successful identification of trafficking victims during the Immigration and Asylum Office's procedures*". The training is expected to enhance the efficiency of identification of trafficking victims during the asylum procedures.

The Immigration and Asylum Office will ensure that unaccompanied minors above the age of 14 are accommodated separately from adults. The protection of children against sexual exploitation is guaranteed by the following measures: security guards are present at all times in the transit zone, social workers are working in the transit zone 24/7, specialized officials conduct the hearing of children, 24/7 medical and health service is available, guardianship and legal advice service is available free of charge. It should be highlighted that a social worker working exclusively with children is present at all times in the transit zone. He/she also organizes extracurricular education programs (language, cultural and development programs) for the children. This ensures the protection of children and allows the formation of a relationship based on trust between the children and the social workers.

To facilitate the participation in education, the necessary conditions for nursery care and education are ensured in the transit zone during the asylum procedure for those asylum seekers who fall under the scope of the Act on Nursery Education and the Act on Public Education, in accordance with section 99/E. (1) of the Government Decree 301/2007 on the implementation of the Act on Asylum.

During the establishment of the transit zone, Hungary paid particular attention to the different needs of those who will be placed there, thus different and separated accommodations were built for families, single men, single women and unaccompanied minors between the age of 14 and 18. All four types of accommodations have its own canteen, community room, storage container and containers used for providing social services.

3. Since the legal changes concern only asylum-seeking children, provide information about the situation of children on the move that do not request asylum, in particular by indicating what measures are taken to prevent and protect them from sexual exploitation and sexual abuse.

Since the beginning of the migratory crisis, Hungary is taking significant efforts to control the entry of people in the territory of the Union in order to let in only those who are entitled for international protection. Under recent legislation, in a crisis situation caused by mass immigration, applications for asylum may only be submitted personally before the asylum authority and exclusively in a transit zone, and applicants for international protection are obliged to stay there until the final decision on their request.

It shall also be stressed that the right to entry in the territory of a state, as fundamental human right, does not exist. Every state has its own right – moreover Hungary is obliged – to examine, in respect of the Schengen Border Code, whether someone is or not entitled to enter in its territory and thus the territory of the Union.

If a third country national cannot prove his or her right to stay in the territory of Hungary, and he/she does not submit an application for asylum, the acting refugee authority shall initiate an alien policing procedure.

The aliens policing authority shall without any delay, request the guardianship authority to appoint a guardian for the case. The asylum authority shall make arrangements forthwith for the temporary placement of such child and shall at the same time contact the guardianship authority and the consulate of the unaccompanied minor's state of nationality, located in the territory of Hungary. During the aliens policing procedure, the authority considers whether the minor arrived to Hungary with or without the company of an adult, in the latter situation informs the guardianship authority and initiates the temporary placement of the unaccompanied minor. During the procedure, the guardian shall represent the best interest of the minor. If the unaccompanied minor is a victim of trafficking in human beings, the authority will accordingly arrange the temporary residence permit to be issued.

Third country nationals, who cannot prove their right to stay in the territory of Hungary, will be apprehended by the police. During the apprehension their personal data shall be recorded and checked in all available databases, if necessary age assessment procedure will be carried out as well. Based on the available information and data, these persons – with the exception of unaccompanied minors under the age of 14– are escorted across the temporary border protection device or they are returned based on readmission agreement in the framework of aliens policing procedure. The unaccompanied minor shall be placed at child protection institute until the time of return. Unaccompanied minors under the age of 14 are placed – with the appointment of an ad hoc guard – in child protection institute in every case.

According to Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals and Act CXXXV of 2005 on Crime Victim Support and State Compensation, one month is provided for foreign victims of trafficking in human beings to decide whether they are willing to cooperate with the authorities. For this one-month period, a temporary residence permit shall be issued by the aliens policing authority. Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals sets out as guarantees that victims of trafficking in human beings may be expelled from Hungary only if his/her continued residence represents a serious threat to the public policy, the national security or the public health interest of the country. If after this one month reflection period, the third country national who was victim of trafficking in human beings indicates his/her willingness to cooperate with the authorities, the aliens policing authority gives her/him a residence permit on humanitarian grounds, which is valid for 6 months.

Appendix 3

Situation of children in the transit zone in Hungary

Visit by a delegation of members of the Lanzarote Committee (5-7 July 2017)

Programme of the visit

Tuesday 4 July 2017

Arrival of the Lanzarote Committee delegation in Budapest

Wednesday 5 July 2017

- 9.00am* Meeting with Mr Jon HOISAETER, Deputy Regional Representative, UNHCR
H-1022, Budapest, Felvinciút 27
- 10.45pm* Meeting with the media
European Youth Center Budapest (Room E, ground floor)
1024, Budapest, Zivatar u. 1
- 12.00* Lunch
- 1.00pm* Meeting with Mr Laszlo SZEKELY, Hungarian Commissioner for Fundamental Rights, Ms Katalin HARASZTI, Ms Judit MENYHÁRT, Ms Fanni MURÁNYI, Mr Miklós GARAMVÁRI, Ms Katalin SZAJBÉLY and Ms Eszter GILÁNYI
H-1051, Budapest, 22 Nador u
- 2.30pm* Meeting with NGOs, UNICEF and IOM representatives
European Youth Center Budapest (Room E, ground floor)
1024, Budapest, Zivatar u. 1
- 4.30pm* Transfer to Szeged
- 7.00pm* Arrival in Szeged
- 7.30pm* Meeting with Mr Jenő BENO, local UNHCR representative
Dóm Hotel
H-6720 Szeged, Bajza u. 6.

Thursday 6 July 2017

- 8.00pm* Departure to the Röszketransit zone
- 8.30pm* Meeting with Mr Jozsef SERES, Regional Director of the Röszke Transit Zone, Immigration and Asylum Office, and other persons working in the transit zones
- 9.30pm* Meeting with the representatives of the NGOs working on the spot.
- 10.30pm* Visit of the Röszketransit zone
(Interpretation into English, Arabic, French, Dari and Pashtu provided by UNHCR)
- Early afternoon* Visit of the Tompa transit zone
(Interpretation into English, Arabic, French, Dari and Pashtu provided by UNHCR)
- Mid-afternoon* Transfer to Budapest

Friday 7 July 2017

- 8.30am* Meeting with Ms Orsolya PACSAY-TOMMASSICH, Deputy State Secretary for EU and international affairs, Mr Imre NYITRAI, Deputy State Secretary for social policy of the Ministry for Human Capacities, Mr Attila KISS, Deputy Director General of the Immigration and Asylum Office and with the representative of the Ministry of Justice as well as the representative of the Ministry of the Interior
1054 Budapest, Báthory u. 10. 4/416
- Afternoon* Departure from Budapest

Appendix 4

Letter sent by the Chair of the Lanzarote Committee to the Prime Minister of Hungary

Mr Sándor Pintér
Minister of Interior
József Attila utca 2-4
1051 Budapest
Hungary

Strasbourg, November 6th, 2017

Dear Minister,

I refer to our exchange of letters of this spring further to my concerns raised after the adoption of the Bill "On the amendment of certain acts related to increasing the strictness of procedures carried out in the areas of border management" (Bill No. T/13976) and the implications of these amendments on children on the move, exacerbating in particular the exposure of those aged 14 or more to risks of sexual exploitation and sexual abuse.


First let me to express my gratitude once again to the Hungarian authorities for having invited the Lanzarote Committee to send a delegation to Hungary for an on-the-spot-visit to allow the Committee to gain a better understanding of the situation of asylum-seeking children in the transit zones with regards to risks of sexual exploitation and sexual abuse. During this visit the Hungarian authorities have been very cooperative, organising the transport to and from the transit zones and receiving the delegation at a high level meeting on Friday 7 July 2017.

In my capacity as Chairman of the Committee of the Parties to the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (Lanzarote Convention), I have the honour to address you attached to the present letter the report prepared by the delegation further to the visit of the transit zones at the Serbian / Hungarian border (5-7 July 2017).

I would like to offer to the Hungarian authorities the opportunity to suggest corrections of factual errors but also to formulate any remarks that they consider necessary after reading the report.

The Lanzarote Committee will take note of the report of the delegation at its 20th meeting, which will be held in Strasbourg on 29-31 January 2018, in order to decide how the Committee will react to the findings of the delegation. For the discussion of this point of the agenda, representatives of the Hungarian authorities are invited to participate in this meeting, if they so wish, in addition to the member of the Lanzarote Committee nominated by Hungary.

Yours sincerely,



Claude Janizzi
Chairperson of the Lanzarote Committee

Appendix I to the letter

Remarks by the Hungarian authorities to the Special report further to a visit of a delegation of the Lanzarote Committee to transit zones at the Serbian / Hungarian border (5-7 July 2017) (document T-ES(2017)11_en) may be of two kinds:

- Factual errors which the delegation of the Lanzarote Committee will assess and may agree to integrate in the report;
- Comments on substance, which will be appended to the report.

The Hungarian authorities are asked to send these remarks to the Secretariat of the Lanzarote Committee (lanzarote.committee@coe.int) before Friday 15 December 2017, in English or French.

The revised report will then be sent to the Lanzarote Committee in due time for consideration at its 20th meeting (29-31 January 2018). The Hungarian authorities will have the opportunity to reiterate their remarks orally during this meeting if they so wish.

Appendix 5

Reply of the Minister of Interior of Hungary to the Chair of the Lanzarote Committee



MINISTRY OF INTERIOR

SÁNDOR PINTÉR
Minister

Courtesy translation

Mr. Claude Janizzi
Chairperson of the Lanzarote Committee
Council of Europe

Strasbourg

Budapest, 13 December 2017

Dear Chairperson Janizzi,

I have received your letter dated 6 November 2017 and the draft report about the visit of the Lanzarote Committee in the Röszke and Tompa transit zones of which I would like to make the following comments.

I examined the draft report and its suggested recommendations, but I cannot professionally agree with a significant part of its statements and recommendations. I believe that the report by the Committee departs several times from the subject of the question to be examined, namely the protection of children in the transit zones against sexual exploitation and sexual abuse, and instead, contains biased criticism suitable for inflicting political controversy upon the Hungarian asylum practice and Hungary as well.

The draft report sent by the Committee suggests a generally negative image, yet, it did not find justified that the asylum-seekers in the Hungarian transit zones were or are fallen victim to sexual exploitation or sexual abuse, but this statement, which was essential and important, was not emphasized in the transmitted text.

The Committee in its critical assessment did not identify any sign proving that migrant children placed in the transit zone were victims of sexual exploitation or abuse in our country, however, the editing of the text, the high number of recommendations, the highly critical composition of the wording and its embedding in a negative environment intends to bolster this image in the reader's mind, so I would like to request that our answers to the recommendations and our amending comments of the text of the report to be taken into account and accordingly, the text to be amended.

I hope that on the Committee's twentieth session which will be held between 29 and 31 January 2018, in accordance with the above, we can accept the report amended with our observations by consensus.

Budapest, 08 December 2017

Yours sincerely

Dr. Pintér Sándor

Appendix 6

Comments to the report by the Hungarian authorities

Note from the Secretariat:

The comments below were made on a draft version of the report. They are reproduced without any change from the version sent out by the Hungarian authorities on 15 December 2017.

These comments have induced some changes in the draft report, in particular amendments in the text in some instances and the addition of a few additional paragraphs. As a consequence, paragraphs had to be renumbered. The numbers of the paragraphs referred to below are the current numbers, for sake of clarity, with, in parenthesis the old number to which comments refer.

Preliminary remarks

As a general comment we would like to state that the mandate of the Lanzarote Committee is limited to the evaluation of the measures taken in order to prevent sexual exploitation or sexual abuse of children and the measures taken in order to investigate and sanction such incidents, therefore the report should abstain from making statements which are not relevant in connection with the mandate of the Committee and of the subject matter of the report (see especially Points 3, 4, 14, 15, 17, 19 and 25).

As it can be read under Point 83 of the Report, neither the interlocutors met during the visit, nor the UNCHR representative, nor the Deputy State Secretary Imre Nyitrai could report or was aware of any form of sexual exploitation or sexual abuse committed against children in the Hungarian transit zones.

This should be considered as the most significant message of the Report. Therefore, we would like to kindly ask the Secretariat to highlight this fact at the beginning of the Report: "Those concerned, including applicants for international protection and children affected by the refugee crisis, did not report any form or case of sexual exploitation or sexual abuse committed against them within the Hungarian transit zones, which is of high importance with regard to the subject matter of the Report.

In spite of the above mentioned facts, the Report states- for the sake of legitimating its own existence – that regardless of what the interlocutors concurrently said (e.g. no cases of sexual abuse were registered) there is still a chance that such case had occurred since some members of the delegation heard that children in the transit zone reported sexual abuse or exploitation committed against them on route to Hungary (e.g. in Serbia) and cases of violence by police forces in Bulgaria. Upon these reports of alleged incidents, such conclusions are drawn or suspicion is left open by the Report that similar cases might have occurred in Hungary although the 'victim' has not yet admitted or reported it.

Instead of the purpose aimed to be achieved by both the Committee and Hungary, thus ensuring proper protection for children affected by the refugee crisis from sexual abuse, the wording of the Report suggests that the Report was rather prepared to place Hungary in the spotlight as a result of problems evidenced in other countries, although the Report itself admits that there is no proof of any case of sexual exploitation or sexual abuse, no matter of how minor nature, committed in Hungary.

One may conclude from the above that the implicated aim of the Report is to prevent returns and permit entrances (by which facilitating the journey of migrants to other countries). The Report evaluates every statement and experience of the interlocutors whom the delegation met during the visit by keeping this preconception in mind and indisputably accepts allegations about sexual

abuses suffered on the way to Hungary, while questioning and doubting those statements which clearly affirm that no such cases have occurred in the transit zones.

The Report, which supposedly was prepared in order to prevent future sexual crimes against children, implies throughout its whole text that there is a serious and real risk of sexual exploitation and sexual abuse of children in the Hungarian transit zones and in order to support this presumption it puts forward completely irrelevant information considering its main subject matter, not to mention the fact that it also points out concerns addressed by the European Commission in its infringement case against Hungary, all together painting a negative image of the situation and circumstances in the Hungarian transit zones.

Therefore it is crucial to express our objection toward the Report which, going beyond its general scope, in certain instances is capable of creating unsolicited political connotations.

§7

Point 7 of the report incorrectly refers the concept of expulsion. In cases where foreigners stay illegally in the territory of Hungary, no expulsion occurs, but they are directed to the transit zone where they can avail themselves of the possibility of filing an asylum application. This practice is correctly formulated in point 25 of the report but is not explained in point 7.

In Point 7 and further on in the text the relevant Act is referred to incorrectly. Correctly it is the Act XX of 2017 on the amendment of certain acts related to increasing the strictness of procedures carried out in the areas of border management (instead of Bill No. T/13976). It entered into force on 29 March 2017, and amended amongst others the Act LXXX of 2007 on asylum.

§16

Regarding Point 16, it has to be stated that 10 persons are generally accepted in the transit zones on workdays. It is important to emphasize that when justified (big families, vulnerable persons) the number can be higher.

§17

Taking into account the subject matter and the proposed aim of the Report, the comment in Point 17 (especially the part and surrounded by high fences and barbed wire.) is completely irrelevant, therefore it should be deleted.

§18

Taking into account the subject matter and the proposed aim of the Report, the comment in Point 18, according to which The delegation was not authorised to take pictures in the transit zones, is completely irrelevant, therefore it should be deleted. Such comments are capable of intensify negative judgements towards Hungary, which effect could not be reached otherwise by the findings of the Report.

(R1)

The Immigration and Asylum Office (hereinafter referred to as "the Office") also provides placement for unaccompanied minors aged between 14 and 18 in a separate sector in the transit zones, paying particular attention to their care, thus ensuring their protection against sexual exploitation and sexual abuse as well.

It should be also duly noted that according to the Hungarian legislation, every child under 18 years of age is prominently protected by the Hungarian criminal law regarding any kind of sexual exploitation or sexual abuse committed against them.

(R2)

The recommendation is not acceptable and therefore it should be refused since there is no discrimination on the ground of age under Hungarian law and in the practice of the authorities. However, it must be emphasized that in the case of children between 14 and 18 years of age, the age verification procedure must be carried out as a first step to verify the alleged age of the

person concerned. In several instances, it happened that in order to receive more favorable treatment (to be placed in a child protection institution) some applicants declared false (younger) age. If no (though time-consuming) age verification procedure was carried out regarding unaccompanied persons who testified that they were children, they would be placed in a child protection institution and this would cause that children in the child protection institutions would be exposed to possible unwanted consequences (from which the Report aims to prevent children, namely sexual exploitation and sexual abuse).

§19 – 2

The phrase "women and men, together" could also be interpreted as unrelated women and men are placed in one container, however, this is not the case, only family members are placed together in a container (obviously, woman and man family members are not separated)

§20

The data referred to in Point 20 are not provided by the Hungarian Immigration and Asylum Office, but by the UNCHR, therefore these data should only be taken into account if confirmed by the official Hungarian data.

§23 (former §22)

The Hungarian authorities understands that the list only serves that those who intend to seek asylum in Hungary could do it in an organized way, taking into consideration the vulnerability of the applicants.

The draft report in Point 22 does not reveal whether the information is official or not. Both for Hungary and for Serbia, the described connotation is disadvantageous, so it is certainly indispensable to indicate some official source in order to avoid possibly conflicting Serbian and Hungarian authorities in the future with international judgment and criticism of the established practice. Instead of "deny" in the last sentence of the paragraph, we propose a more diplomatic formulation, given that this wording suggests that Hungary has been "suspected" in a forum on this issue.

§24 (former §23)

Concerning Point 23 of the report, it is necessary to state that men in the transit zones are also accommodated, and therefore the Commission's finding that single men have no chance of reaching a waiting list is incorrect.

The statement made in Point 23 is strongly opposed and rejected by the Hungarian Government since there is no regulation under the Hungarian law concerning the number of applicants to be let in the transit zones per day. The number of applicants to be let in per day depends only on the number of cases the official staff on duty can make well founded decisions per day in order to carry out the necessary security proceedings. Therefore, the statement that unaccompanied children can enter only on Thursday is incorrect.

§25 (former §24)

We also strongly oppose and reject that the 'waiting lists' managed in Serbia and referred to in Point 24 (as well as in Point 22) to be mentioned in connection with the Hungarian asylum procedure especially while taking account the relevant results of the present fact-finding Report regarding Hungary. As it is noted in Point 22, the Hungarian authorities do not have any link to the 'waiting lists' initiated and managed amongst the migrants in Serbia, moreover, the Hungarian authorities have no means to affect those lists. Therefore, with regard to the purpose of the Report the detailed information about any person and how much money is paid in Serbia ('a child had referred to a „fee" of 500€ to move up the waiting list') is irrelevant, it is only a rhetorical mean for the sake of intensifying the emotional outcome of the Report.

(R3)

Hungary does not have a direct influence on the initiation and operation of the waiting list system for refugees in Serbia. In this regard, it is important to point out that Hungary does not have jurisdiction in the territory of Serbia and therefore Hungarian authorities have no means to affect those lists on the grounds of identity, gender, age or denomination.

§28 (former §26)

Hungary rejects Point 26 of the report. In recent years, international and non-governmental organizations have published content reports that refer to unconfirmed sources of information and ignored all facts. None of the "acts" mentioned in the reports of international and civil organizations are related to the Police and are based on uncontrolled information as previously formulated. The reports accept the related reports of some law enforcement organizations, even though they have not been proven. In order to prevent unjustified allegations, the Police will make an image and voice recording of escorts, as far as possible, ensuring impartial investigation of possible complaints. Therefore, the text contained in the draft, indicating that the police are using physical violence against foreigners, is necessary to delete.

(R4)

It is necessary to note that the recommendation describes the Hungarian practice. In the cases of applicants under the age of 14, the protection is the same as for the Hungarian citizens. For children under 18 a guardian is assigned. The circumstances of their placement depend on the level of their maturity. Children under the age of 18 are escorted to the transit zones, where they are admitted, afterwards children under 14 are transported to the Children's Centre in Fót. It should be noted that children under the age of 14 are not sent back to Serbia, which is not included in the report at all.

§§32-33 (former §§30-31)

In determining the age of refugee children, the authorities shall take into account the age indicated in the identity document if they are not false or falsified. A physician from the transit zone, in order to prevent adults from benefiting from child protection, performs a primary examination for the age of the child. If the person concerned does not agree with the probable age of the investigation, the asylum authority arranges for an expert to be seconded. An X-ray is also being made during the trial, the costs of it are borne by the asylum authority.

§34 (former §32)

Regarding Point 32 of the draft report, it is suggested to mention a counter-example.

Furthermore, we dispute the delegation is in possession of anything other than the assertion of the two persons concerned, which would suggest that the authorities have unjustifiably questioned the boys' allegations of their age. Particularly, in the context of the information provided in the box, which, does not come from the Hungarian authorities, according to which almost 80% of the investigations concluded that the person concerned was considered to be a child, and therefore, the "military doctor" should not have an accusation.

(R5)

When determining the age of refugee children, authorities may take into account the age indicated in their identity document, if not false or falsified. If there is any doubt regarding the age of the applicant, a medical examiner will be seconded. If the outcome of the expert examination is disputed, the asylum seeker may ask for further expert examinations at his or her own expense. An X-ray examination is also being made during the inspection, the costs of which are borne by the asylum authority. During the age-determination, not only physical conditions, but also mental maturity is examined.

(R6)

During the procedure, the asylum authority always applies the "in case of doubt to the child" principle.

§36 (former §34)

In Point 34 of the draft report, it is wrong conclude that unaccompanied minors are more likely to leave instead of staying in transit zone, given that about 10% of those leaving to Serbia and about 5% who did not wait for the decision. Furthermore, it is difficult to understand and illogical for Hungary to be responsible for the decision made by such persons on their own free will, and

on the other hand, it proves that the transit zone is not de facto detained as it can be freely abandoned at any time.

§39 (former §37)

The provision of child protection special services in the future is a part of the more than two decades of ongoing child home care offspring in children homes that were not modernized for the purposes of childcare. Unaccompanied minors will continue to be provided by the government in children's homes in the future. Children are accommodated only in institutions that in all respects comply with the provisions of the Child Protection Act and are registered in a valid service.

(R7)

With regard to the recommendation, it should be indicated that the asylum authority proceeds in accordance with the recommendation, which is part of the daily practice.

§§43-46 (former §§41-44)

Legal representation is provided to all unaccompanied minors. During a mass immigration crisis, in the case of unaccompanied minors under the age of 14, as well as unaccompanied minors over 14 years of refugee or protected status, while providing children's home or foster care, the child protection guardians, in the case of adolescents aged between 14 and 18, during the stay in the transit zone until their asylum application has been processed, the temporary guardians, and in the period outside the mass immigration crisis and in the case of both age groups, the child protection guardians perform duties of legal representation of children in a children's home or foster family.

These child protection guardians have special knowledge, experience and language skills, and are continuously trained and supported, so it can be said that at the designated institution, specialists with specialized knowledge and experience provide the legal representation of unaccompanied minors, which ensures efficient delivery.

According to the Report (Point 19.2, page 10), in time of the visit a total of 19 unaccompanied minors between 14 and 18 years of age were present in the transit zone in Hungary (Röszke), whose legal representation was given by four to six temporary guardians (Point 42) as a result of their status. Considering that the Child Protection Act regulates the child protection guardians by the fact that a child protection guardian can simultaneously provide legal representation for up to 30 minors in child protection, we believe that the low number of unaccompanied minors under temporary guardianship does not justify the finding that the number of temporary guardian staff shall be increased.

(R8)

In the case of persons who are over 14 years, the appointment of the temporary guardian always happens during the procedure and the required guarantees will also be provided for applicants between 14 and 18 years in transit zones.

In order to ensure the effective and prominent legal guardianship of a temporary guardian for unaccompanied minors between 14 and 18 years placed in the transit zones, we organize the following:

- *The professional assistance of temporary guardians and their access to professional consultations regarding the guardianship of unaccompanied minors.*
- *The transfer of cases in the framework of consultation between temporary and permanent guardians in case unaccompanied minor asylum-seekers after the decisions on their applications are placed in child protection institutions from the transit zones.*

(R9)

Child protection guardians have special knowledge, experience and language skills, and are continuously trained and supported, so it can be said that specialists with specialized knowledge and experience at the designated institutions provide the legitimate representation of unaccompanied minors, which ensures effective performance.

According to the Report (point 19.2, page 10) at the time of the visit (July 2017) there were 19 unaccompanied minors between 14 and 18 in the transit zone of Hungary (Röszke), whose legal representation was made - according to Point 42: a total of 4-6 persons – by a temporary guardian due to their status. Considering that the Child Protection Act regulates that child protection guardians can at the same time represent legally up to 30 children in child protection specializations, we believe that the low number of unaccompanied minors under temporary guardianship does not justify the finding that the number of temporary guardians should be increased.

§§47-48 (former §§45-46)

The statements in Point 45 are incorrect and needed to be modified.

The staff of Hungarian Interchurch Aid and Hungarian Red Cross speaks Dari, Farsi and Pashtu, and the staff of the guarded refugee center in Békéscsaba speaks Arabian and they cooperate in the transit zones in order to help communication.

It would be unrealistic to expect the 24 hour a day availability of the interpreters in every language. It is not true that the interpreters are only present during the asylum procedure.

(R10)

Social workers working in transit zones speak European foreign languages, which serve as intermediary languages between those in transit zones and social workers. From the end of October 2012, an Arabic-language interpreter in the transit zone in Tompa is available and there are ongoing evaluations of additional applications by which the asylum authorities will employ Kurdish, Urdu, Dari, Farsi and Pashtu interpreters. At present, charity organizations also provide interpretation services to help the work of social workers and health care staff.

It should be emphasized that the school-based education began on the 4th of September 2017 in the transit zones, in line with the academic year of Hungarian public education. Education is a must for children between 6 and 16 years of age. For children between 16 and 18 years of age education is optional. The equipment required for education is provided by the Office. In the transit zone, the language of the school system is Hungarian, but in addition to school education, those children who want to learn Hungarian, can strengthen their Hungarian language skills with the help of social services and charity organizations.

(R11)

It is present in the practice of the asylum authority, the children are informed in the language they speak and understand, a guardian or a temporary guardian is assigned to the children to ensure their protection.

§56 (former §54)

We strongly oppose and refuse the statement in Point 54 since it is completely irrelevant in respect of the subject matter of the Report. It is considered to be a rhetorical mean for the sake of intensifying the emotional outcome of the Report. ('The children met expressed feelings of imprisonment and did not understand why they were forced to live in such conditions.')

§58 (former §56)

We oppose and therefore refuse the statement in Point 56 ('The situation has been considered as deprivation of liberty by the Council of Europe Special Representative of the Secretary General on Migration and international bodies such as UNHCR and NGOs.') inasmuch as without the legally binding decision of the European Court of Human Rights (see case Ilias and Ahmed) the present stay in the transit zones cannot be considered as deprivation of liberty. Certain international organisations and NGOs often quote each other in their reports treating the above sentence as quasi fact and use it for influencing the already politically sensitive prejudice toward the Hungarian transit zone system. Moreover, it is irrelevant in respect of the subject matter of the Report.

It is also necessary to be mentioned that even if the stay in the transit zone would be considered as deprivation of liberty, nothing can prove that in case of unaccompanied children (compared to those accompanied by their family or other adults) the risk of sexual abuse or sexual exploitation is higher by keeping them in the transit zone compared to the danger to what they are exposed to on their journey from country to country. Therefore, the statement in connection with deprivation of liberty is neither well founded nor relevant in view of the mandate of the Committee.

§59 (former §57)

The relevant and important fact in Point 57 ('All interlocutors met during the visit asserted that none of the adolescent boys held in the transit zone had engaged in any sexual activity during their time spent there') is, however, not sufficiently emphasized in the Report. All in all and with special respect to the statement in Point 83, it can be declared according to the concurrent testimonies of the interlocutors that neither sexual exploitation nor any sexual abuse had happened in the Hungarian transit zones. The Report should duly highlight this fact right at the beginning of its text.

(R12)

It is necessary to emphasize that placement in the transit zone is not a detention. The transit zone can be freely left to Serbia, leisure time can be divided freely, communication channels are unrestricted. When entering the transit zone, information is provided to the entrants prior to the submission of an asylum application, which includes the description of the procedure and the circumstances surrounding the placement. In the light of the description, the applicant decides whether to enter the transit zone and whether she/he wishes to apply for asylum in Hungary or decides on her/his departure, as there have been many examples in both cases.

§60 (former §58)

We also oppose and refuse the statement in Point 58 because it is completely irrelevant in respect of the subject matter of the Report. How does it serve the purpose of the Report that the interlocutors complain that there is no shade in the courtyard against the summer heat? From our point of view this statement is again made for the sake of intensifying the negative emotional prejudice towards the Hungarian transit zones.

There is access to telephone or WiFi in the specific zone for children aged 14-18 as well.

(R13)

Throughout the summer sunshades and also shading canopies were installed at the living containers. As Suggested recommendation 10 already mentioned, schooling began in the transit zones on 4 September 2017. The education is carried out by the territorially responsible educational authorities under the guidance of the Ministry of Human Capacities in accordance with the curriculum accepted by it. Education is provided from pre-school education to school-leaving age. In the transit zones, recreational programs tailored to the different ages and cultural backgrounds of asylum seekers are organized. Children can also participate in programs organized for adults (e.g. board games, chess, sports, library, etc.), but social workers also organize special programs for children. In addition, non-governmental organizations active in transit zones also provide leisure-time activities for children.

It has to be noted that during the visit of the Committee, there was a summer holiday affecting every Hungarian school.

It should be indicated that large-screen televisions (in Rösztke LED televisions) were made available in every sector on which asylum-seekers are able to watch satellite channels of their countries of origin. The community rooms are air-conditioned during summer, in the living quarters a fan operated, also, the living quarters are individually heated during winter.

§§63-64 (former §§61-62)

It is outrageous and it is necessary to reject the presumption in Point 61 that anyone would ask sexual services in exchange for food, in particular because NGOs provide regular supplementation

to the food rations provided by the authorities five times a day. This fact, however, was left out of the report, so it should be noted. Furthermore, it is untrue that the asylum authorities charge any cost for the purchase of food, because the purchase as a service is provided by the asylum authority, like any other service, free of charge.

(R14)

People placed in the transit zones are given three meals a day, while children under 18 are provided five meals a day. Every person should be given at least 10900 Kjoule amount of food a day, also having regard to the person's health, age and religious principles. Children under 18 are given fruit and a half litre of milk or a half litre of other dairy product as a part of the five meals. Pregnant women and mothers with small children receive every day fruit, one litre of milk or one litre of other dairy product.

Four kinds of diets are available: basic, diabetic, vegetarian and gluten-free, however, on medical proposal, other diets (such as lactose free) can be provided. Most of the applicant arrive from countries with a Muslim majority, thus still no food provided contains pork. The Office provides from the October of 2017 an additional food package every week for different age groups, which contains fruits and preserved food. The dining rooms are equipped with microwave ovens and water heaters, suitable for preparing food for babies or making tea. The dining rooms also have fridges. People placed in the transit zones can also have the opportunity to purchase items through a documented procedure with the help of social workers.

§ 65 (former §63)

There were no girls between the ages of 14 and 18 in the transit zones during the visit, that is why there was no special placement for them. However, if they are present, they are placed separately, so Point 63 of the Report is needed to be modified.

§66 (former §64)

The statement of Point 64 is rejected and needed to be modified. Only family members are placed in the family sector. Non-family members are never placed in the container of a family, let them be boys or girls.

(R15)

Concerning the recommendation, it has to be noted that the asylum authorities pay a special attention to unaccompanied minor girls in the transit zones, however, sexual exploitation or sexual abuse does not only threaten minor girls.

§74 (former §72)

The Hungarian authorities agree with the need for specialized thematic training for temporary guardians who legally represent unaccompanied minors in the transit zone and for other professionals providing their care.

(R16)

The Office has so far completed the training of 120 administrators for the successful identification of victims of human trafficking (partially sexual exploitation) and to increase the awareness of those who are more likely to be in contact with such persons during their day-to-day work. In addition, a summary of relevant knowledge has been prepared for the staff.

The police personnel serving in the transit zone participated since 2011 in psychological, tactical and intercultural training that greatly contributes to the recognition and proper handling of vulnerable persons and their situations. The briefing of the personnel contains the requirements of performing tasks in a multicultural environment and the instructions for appropriate behavior in such an environment.

Regarding the ad hoc guardians to unaccompanied minors, their special training and professional support is assured by regular consultation.

The legal guardians of asylum-seeking children placed in mainstream child protection institutions have special knowledge, experience and language skills, also, their coaching, further training and

support is continuous. Thus, it can be stated that professionals with special knowledge and experience provide the legal guardianship of unaccompanied minors, assuring effective performing of the tasks. The Hungarian government applied several measures in order to ensure the appropriate number of child protection guardians, thus the unaccompanied minors placed in the child protection system receive the same guardianship assistance as Hungarian children.)

§§76-77 (former §§74-75)

Social workers can only be qualified professionals and not "laymen" As there are no specialized training courses regarding asylum seekers, those who undertake basic training will receive special knowledge through the training and practice provided by the asylum authorities. It is also not factual that social workers do not come into contact with children, and during the delegation's one-hour visit it could not have been well established, especially considering that members of the delegation wanted to talk to children alone.

(R17)

The social workers of the transit zones already provide a high level of social help for the applicants. 12-14 social workers are available for the applicants every day around the clock, providing immediate response to any problems related to care or placement. The statement about the social workers' interactions with children being limited to the distribution of food is not accurate, throughout the constant presence of social workers, personal needs are dealt with and also group activities are organized. Apart from these, the social workers make every possible effort to build a relationship of trust and confidence with children.

(R18)

In the framework of medical care, the Police provides practitioners for adults, while the Office provides the pediatric service with the cooperation of an assigned institution. Practitioners for adults are present every day for four hours, while pediatricians are available twice a week in the transit zones. Besides, constant paramedic service provides emergency treatment and the distribution of medicine. In case of need, they call for ambulance service or decide on transfers to institutions providing specialist services. Both adults and children are provided with the adequate standard of medical care, fulfilling the obligations set out by law.

(R19)

The recommendation is based on general assumptions. The Hungarian authorities have no knowledge of such cases, when a child was examined by a doctor without the presence of a parent or when an unaccompanied minor was examined without the presence of a nurse. Apart from the above mentioned, the authorities take care of assuring the presence of a person of the same sex during the examination, the applicant can also ask for the presence of such a person.

(R20)

From November of 2017 the Office employs a psychologist in the transit zones. The psycho-social help was available by NGOs even before that date. The previous regulation also provided access to the psychiatric care of state hospitals which is still available for applicants. When justified, the psychiatrist organizes access to the specialist care of a clinic.

§82 (former §80)

The last sentence in Point 80 is irrelevant for the purpose of the Report, therefore it should be deleted. ('As a consequence of leaving the transit zone to go back to Serbia, their asylum claims were classed [ceased?] by the Hungarian authorities.')

§83 (former §81)

We also refuse the last sentence of Point 81 since it is viciously presuming and capable of intensifying the negative feelings against Hungary. If no one has ever asked children returning to Serbia about their reasons for leaving the transit zones, the Report trespassing its mandate by making presumptions about the motivation of these children. Moreover, such presumption is not supported by any fact, information, data or interview laid down in the Report. Since according to the Report (based on official data and information collected) no sexual abuse has happened in the Hungarian transit zones, upon what basis makes the author of the Report such presumption

that by knowing or evidencing that such abuse happened in Serbia children still prefer to leave to that country in order to avoid any sexual exploitation or sexual abuse in the Hungarian transit zones ('not to suffer violence, in particular sexual exploitation and sexual abuse in the transit zones').

§84 (former §82)

In the Point 82 there are a lot of inaccuracy, because there is no higher level above the first instance in the administrative stage, instead an independent judicature decides during the review. Also the foreigners have the possibility (if necessary with the help of the IOM) to return to their country of origin, instead of Serbia.

(R21)

The Hungarian authorities pay attention to the requests of unaccompanied minors for exit and immediately take the necessary measures. A minor can only leave the transit zone in the company of his or her legal guardian. In the case of an unaccompanied minor, the permission of the ad hoc guardian is needed. According to the practice, when an unaccompanied minor leaves for Serbia, the staff of the Office informs the representatives of the UNHCR Hungary, so they can inform the colleagues in Serbia for arrangement of the minor's protection.

§85 (former §83)

Highlight the most significant and actually relevant statement of the Report written under Point 83 at the beginning of the Report because it is unacceptable to read 26 pages containing several irrelevant statements and in some cases misleading presumptions just to reach the final conclusion on page 27. Also, the last sentence of this Point shall be deleted since it makes the reader of the report come to the conclusion that such abuse must have happened (despite all the facts and information gathered even by the Committee), but it was not properly noticed.

§86 (former §84)

Mentioning the atrocities suffered in the territory of Serbia and Bulgaria noted in Point 84 and 85 is irrelevant in view of the subject matter of this Report. The Hungarian Government oppose this part of the Report since such reprehensible actions ('sexual violence suffered in Serbia', 'violence by police forces in Bulgaria') mentioned in the Report dealing with the findings of an on-site mission in Hungary are capable of creating a negative overview with regard to the whole context of the Report. These comments shall be deleted.

§91 (former §89)

The concluding sentence in Point 89 ('All these factors may explain the absence of recorded incidents of abuse to the Hungarian authorities') makes the whole Report disbelieving, therefore such conclusion is rejected by the Hungarian Government.

(R22)

The social service in the transit zones is provided by professionals with the adequate qualifications. It can be stated that the staff's attitude towards the children and the circumstances are up-to-date thanks to the continuous training and the daily routine. It is also necessary to refer to the previously stated remarks which explained that the adequate service of interpreters is provided in the transit zones.

(R23)

There are no landlines in the transit zones and their introduction cannot be expected. The asylum-seekers have access to internet connection (Wi-Fi) 24 hours a day and they can present those problems to the social service, which a helpline would serve.

§96 (former §94)

The Hungarian Government strongly oppose the presumption in Point 94 ('Most NGO representatives complained about the fact that their NGOs had no (or, for some, no longer) access to the transit zones. They explained that, according to them, this was mainly due to the fact that most of their NGOs were on the list of NGOs funded by foreign money (which in this case includes funds by the European Union and UNHCR') especially because first of all it indirectly

refers to the content of the on-going infringement procedure initiated by the European Commission and serves as a new platform for mentioning the issue in a totally different context, second of all it is completely irrelevant in respect of the subject matter and aim of the Report.

(R24)

It should be highlighted that due to the design of the transit zones, there are only limited possibilities for the entry of NGOs. The NGOs function with coordinated limitations to avoid any overlapping of their services. It has to be stressed again that psychosocial care is provided appropriately in the transit zones. Apart from the organizations of the Charity Council, the presence of the representatives of the UNHCR and the IOM is also assured.