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PICUM

PLATFORM FOR INTERNATIONAL COOPERATION ON
UNDOCUMENTED MIGRANTS



IFM-SEI

international falcon movement
socialist educational international

Terre des Hommes
International Federation

**Joint submission to the DG Home Consultation:
Debate on the future of Home Affairs policies: An open and safe Europe – what next?**

Children's rights must be a priority in the strategic guidelines for Home Affairs from 2015

Children move for a variety of reasons and may experience various different migration, residence and citizenship statuses during their migration project. While some children have different and particular protection needs, every child involved in international migration **should be regarded, first and foremost, as a child.**

However, despite a clear legal framework obliging the European Union and all EU Member States to guarantee children's rights and all the rights enshrined in the Convention on the Rights of the Child to all children under their jurisdiction and address all violations of those rights, regardless of their or their parents' migration status, migrant children face numerous systematic violations of their rights in the European Union.

While child rights and the best interests of the child are referred to in various migration and asylum legislation and policy documents, these safeguards are rarely operationalised or made meaningful in practice. Children remain largely absent from migration and asylum policy and practice, and are often subject to the same immigration control measures as adults, both when they migrate alone and when accompanied by their parents, including arrest, detention, and deportation. Children are rarely given individual consideration in applications for asylum and migration of their parents, making them more vulnerable to becoming undocumented.

At the same time, children affected by migration are largely unconsidered by or even excluded from public policies and services, particularly when undocumented. Their access to services, including education and health care, to protection and to justice are severely restricted. Migrant children can be at greater risk of experiencing or witnessing violence, abuse and exploitation on their journeys and in countries of destination, as a result of their or their parent's migration status, particularly in the context of immigration control. This leads to further exclusion and child rights violations. The EU lacks an overall integrated approach to child protection which would address these challenges, largely due to the lack of a comprehensive strategy defining overarching principles and priorities of the EU child rights and child protection agenda.

The strategic guidelines for Home Affairs post-Stockholm present a vital opportunity for the European Union to collectively address the violations of migrant children's rights in the European Union and meet the EU's legal obligations to every child in its jurisdiction.

Save the Children, Eurochild, World Vision (Brussels & EU Representation), PICUM – the Platform for International Cooperation on Undocumented Migrants, IFM-SEI – International Falcon Movement-Socialist Education International and Terre des Hommes International Federation propose that the following be addressed in the strategic guidelines:

- 1. A comprehensive strategy** should be adopted in order to develop a holistic and integrated approach to child protection and to reiterate the political commitment of relevant EU institutions and Member States. **The scope of EU action should be widened to explicitly and concretely address the situations of all migrant children**, including those that are accompanied by their parents or other caregivers. The scope of EU action should also include measures to ensure better protection of children turning 18, during their transition to adulthood.
- 2. Important developments in the protection of unaccompanied children and child victims of trafficking must be strengthened, built upon and adapted to protect all children** in immigration and asylum processes, as appropriate (e.g. appointment of an appropriate single caseworker, access to legal representation, Best Interests Determination procedures, family tracing etc).
- 3. Ending the immigration detention of children** should be a concrete goal for the EU within the next strategic framework. According to the Committee on the Rights of the Child, **detention of a child because of their or their parent's immigration status always constitutes a child rights violation and contravenes the principle of the best interests of the child.** Interpretation and application of EU legislation regarding the detention of migrant and asylum-seeking children and families should be adapted accordingly. The EU should pioneer with Member States in the development of alternatives to detention both for unaccompanied children and families.
- 4. Jurisprudence** from the European Court of Justice, European Court of Human Rights, European Committee on Social Rights, and Committee on the Rights of the Child reaffirming the rights of migrant children in Europe, **as well as existing legal safeguards in EU and national legislation, should be operationalised and implemented in practice.** In particular, policy guidelines regarding the practical application of the best interests of the child in decisions on immigration, asylum, detention and deportation, alternatives to detention for families, the improvement of reception facilities and measures for the development of appropriate integration actions should be further developed and implemented by EU Member States.
- 5. The rights, well-being and development of every child in the European Union should be concretely integrated and enhanced** through EU legislative and non-legislative action in the field of Home Affairs in the next strategic framework, as well as **mainstreamed through improved structural coordination** between the Child Rights Coordinator and all DGs, including through enhancing the mandate and resources of the Child Rights Coordinator.

6. Measures to promote **non-discriminatory access to mainstream services, protection and justice** for all migrant children regardless of their or their parent's migration status should be developed. This should include promoting a separation between access to services, protection and justice and immigration enforcement, to safeguard access for children and their families, through implementing the [EU Fundamental Rights Agency's \(FRA\) guidelines on apprehension practices](#).

7. **The protection of the rights of all migrant children should be explicitly recognized a political priority of the external dimension of EU migration and asylum policy.** Immigration control and border management concerns must not prevail over child protection concerns and the principle of the best interests of the child in cooperation with third countries. The Post-Stockholm agenda should strengthen existing tools in order to ensure that child protection is a core component of the dialogue with third countries, in particular with regards to durable solutions and family tracing.

January 2014