**Human Rights Council Advisory Committee**

**UNACCOMPANIED MIGRANT CHILDREN AND ADOLESCENTS AND HUMAN RIGHTS**

**Questionnaire**

*This questionnaire forms part of consultations undertaken by the Human Rights Council Advisory Committee with* ***civil society organizations*** *with a view to developing a research-based study on the global issue of unaccompanied migrant children and adolescents and human rights, pursuant to Human Rights Council resolution 29/12.*

**Background**

In its resolution 29/12, the Human Rights Council requested the Advisory Committee to develop a research-based study on the global issue of unaccompanied migrant children and adolescents and human rights, in which it identifies areas, reasons and cases where this issue arises in the world, and the ways in which human rights are threatened and violated, and makes recommendations for the protection of human rights of members of this population, and to submit it to the Council at its thirty-third session for its consideration.

In this context, the Advisory Committee decided, at its fifteenth session held in August 2015, to establish a drafting group in charge of the preparation of this study.[[1]](#footnote-2) The drafting group will present a draft progress report at the sixteenth session of the Committee in February 2016, before its submission to the thirty-third session of the Council.

In its preparation of the study, the drafting group decided to seek the views and inputs of Member States of the United Nations, international and regional organizations (including UNICEF, IOM and OHCHR), relevant special procedures mandate holders and treaty bodies (such as the Special Rapporteur on the human rights of migrants and the Committee on the Rights of the Child), national human rights institutions, civil society organizations and other relevant stakeholders.

The drafting group elaborated the hereunder questionnaire in order to seek the views and inputs from civil society organizations. Respondents are advised to reply only to questions that are applicable to them, on the basis of their country’s situation (source, transit or destination country).

**1. General situation**

**1.1** What is the situation of unaccompanied migrant children[[2]](#footnote-3) and adolescents in your country? Please provide available statistics and relevant information.

The Situation of unaccompanied Minors in Malta is very fluid. The majority of the UM hail from Somalia, West Africa, Egypt, and Eritrea. The reception conditions of UM is also very unstable and often handled on an *ad hoc* basis depending on the number of arrivals in one year. For example, in 2013, one third of the arrivals were UM[[3]](#footnote-4). The national reception agency not only kept them in detention centres alongside adults and families for months on end but, once released, they were housed in overcrowded reception centres housing adults, including men, with little support and supervision. As of 2014, the Prime Minister of Malta has declared that no child will ever be detained. In fact, on 23 February 2015, the Government opened an Initial Reception Centre (IRC), which is an alternative to detention for minors and their families. The aim of the IRC is to provide shelter over the period of no longer than two weeks, to conduct health screening and, if required, age assessment, as well as information about the reception system in Malta. However, the amount of arrivals in 2015 has decreased dramatically due to most persons arriving by sea disembarking in Italy, for which the IRC has not yet been utilised, to our knowledge. However, there is little assurance that, if the influx of UM would increase again to the levels of 2013, children would not be detained and that emergency *ad hoc* measures would not be adapted yet again.

**1.2** What are the main causes that force or encourage children and adolescents into situations of unaccompanied migration?

1. Structural causes

Family pressures (also related to the below)

Economic disadvantages / Lack of economic opportunities

Extreme poverty

Oppressive regimes

1. Immediate causes [[4]](#footnote-5)

SGBV

War/Conflict

Sexual orientation (e.g. discrimination against LGBTIQQ minors)

Persecution

**1.3** Based on your organization’s experience, what are the transit, reception and living conditions of unaccompanied migrant children and adolescents in your country?

Since 23 February 2015, UM are no longer detained and are housed in the IRC. Following the IRC, UM will be placed in an Open Centre for unaccompanied migrant minors, until turning 18 years. The care order for UM is under the Minister for the Family and Social Solidarity, whilst legal guardianship is then delegated to a social worker who is a Government employee. Any minor under the age of 16 is obliged by law to attend school, whilst minors over the age of 16 can work. Many UM opt to work, even in unstable situations, rather than to pursue their education. Once UM turn 18, they are either provided with a service agreement of one year to reside in another Open Centre for adults, where their support from the reception system dramatically decreased, or they can opt to move into the community (which requires them to pay their rent independently, however).

**1.4** What are the main human rights violations faced by unaccompanied migrant children and adolescents in or from your country? Please give examples.

 Whilst there are no human rights violations faced by UM currently recorded in Malta, it is pertinent to emphasise that Open Centres may not provide a conducive and capacitating environment for the upbringing and development of minors. We also experienced cases where UM were not aware of all their rights, which bares the risk of abuse.

**2. Cross-cutting issues**

**2.1** In connection with article 12 of the Convention on the Rights of the Child, in your country or region, are there specific mechanisms or procedures to ensure that migrant children and adolescents’ views are heard and fully taken into account in all matters affecting them? If yes, please describe.

We are not aware of such mechanisms.

**2.2** If your answer to question 2.1 is positive, what have unaccompanied children or adolescents expressed as their main reasons for migrating? And what did they describe as their reception and living conditions in transit and destination countries?

**2.3** Based on your organization’s experience, do you think the human rights violations inflicted on unaccompanied migrant children and adolescents are motivated by gender considerations?

N/A

**2.4** In your country, what is the legal definition of a child / an adolescent?

Under Maltese law, any person under the age of 18 is considered to be a minor.

**3. Laws, policies and coordination mechanisms**

**3.1** Do you consider that your country’s migration policies take into account the protection of the rights of migrant children and adolescents in general, and of unaccompanied migrant children and adolescents in particular? Is the migrant child/adolescent considered as a distinct right-holder by policy-makers? Are there any specific measures implemented to protect the rights of unaccompanied migrant children and adolescents? If yes, please provide details.

* Since 2015, Malta has aimed to increase the provision of rights and services to migrant children and adolescents by not detaining them, placing them in a specific reception centre (IRC) and increasing the support provided.
* The Government has also attempted to increase the protection measure of UM through training of volunteers and information sessions to non-state actors who may come in contact with them.

**3.2** What are the main challenges and barriers (legal, political, financial, administrative, economic, social and cultural) that impede the effective protection of unaccompanied migrant children and adolescents in your country/from your country?

* Minors go missing due to poor guardianship and poor support. Passports and travelling tickets are issued with little knowledge of knowing the UM’s destination or receiving network.
* Concerning support services once the minor turns 18, UM are placed in a reception centre for adults with very little follow up or support to assist in the transition.
* Conflict of interest concerning legal guardianship: guardianship is being delegated from the Minister to a social worker who is an employee of the Government
* Lack of provision of information provided to UM concerning their rights
* Lack of financial means and political will to implement structured, coherent inclusion, integration and educational services for Ums.

**3.3** As a civil society organization, do you participate and collaborate with governmental and other organizations to elaborate effective measures to protect the rights of migrant children and adolescents, and monitor and evaluate their implementation?

Yes, we engage with a number of different NGOs and Government organisations to monitor and advocate for effective measures to protect the rights of migrant youth.

* Kopin is a founding member of the informal NGO network that advocates, exchanges information and monitors all issues relating to migration specifically minors.
* Kopin provides educational and information services to UM to help facilitate their integration and their awareness of Maltese society.
* Collaboration with UNHCR, the Agency for the Welfare of Asylum Seekers (AWAS, Government), social services, in providing a variety of services to UM. The latter also includes, as from NOV 2015 on, services to minors traumatised by war and conflict, and to minors who are victims of THB.
* Kopin is the strategic partner of the Terre des Hommes International Federation and a member of the Destination Unknown Campaign (DUC), which both provide services to UM world-wide, exchange information, engage in joint advocacy for UM.

**3.4** Do you think there is an effective collaboration between countries in your region to guarantee the promotion, protection, respect and fulfilment of the rights of unaccompanied migrant children and adolescents? Please explain your answer.

Between CSOs: yes; between Governments: we do not believe so. Specifically the CSO network of TdHIF and the DUC (as mentioned above) are highly effective.

**4. Others:**

**4.1** What is the role of your organization in the protection of unaccompanied migrant children and adolescents?

Until now, we only provided educational and information services to UM. As from November 2015, Kopin will also provide services to traumatised and trafficked UM.

**4.2** Please provide examples of best practices with regard to issues related to unaccompanied migrant children and adolescents.

* Kopin providing educational services in the UM Open Centre on various topics, on a regular basis five times per week.
* Kopin providing tools and training to all relevant stakeholders concerning the prevention of and fight against trafficking in minors.
* Provision of psychological support to UM upon their arrival by JRS Malta.
* The Organisation for Friendship in Diversity’s (OFD’s) Summer Camp bringing together minors from different backgrounds with the aim to create friendships and assist in integration.

**Deadline for submission of responses to the questionnaire:**

All parties are encouraged to submit their responses via email or fax as soon as possible but no later than **30 october 2015** to:

**hrcadvisorycommittee@ohchr.org**[Subject line: HRC AC unaccompanied migrant children and adolescents]

or

Secretariat of the Human Rights Council Advisory Committee

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Thank you in advance for your contribution.

For more information about the Advisory Committee, please visit <http://www.ohchr.org/EN/HRBodies/HRC/AdvisoryCommittee/Pages/HRCACIndex.aspx>

1. A/HRC/AC/15/L.2 [↑](#footnote-ref-2)
2. According to CRC General Comment No.6 (2005), “Unaccompanied children” (also called unaccompanied minors) are children, as defined in article 1 of the Convention, who have been separated from both parents and other relatives and are not being cared for by an adult who, by law or custom, is responsible for doing so. [↑](#footnote-ref-3)
3. http://www.timesofmalta.com/articles/view/20130827/local/Underage-asylum-seekers-on-the-rise.483694 [↑](#footnote-ref-4)
4. Structural and immediate causes are defined as follows: The structural causes are those depending on a system already installed. In the case of migration, this could be the control of production and distribution of national resources, social norms or social organization.

The immediate causes or direct causes are actions, events, flaw, or forces that are the immediate, initiating, or primary agent which leads to, or allows an action, event, or state to happen. One can refer to: beliefs, behaviours, practices, access to services and people's capabilities. [↑](#footnote-ref-5)