

April 2017

Child migrants' access to quality services¹

Background

"Policies of inclusion seek to bring refugees and migrants into the receiving society. This means that refugees and migrants should be supported in learning the language of the country at an early stage. Best practice shows that inclusion works best when it begins immediately following arrival. Inclusion means emphasis on securing access to all types and levels of education, access to health, and employment at all skills levels. I therefore call on all Member States to develop national policies of inclusion for refugees and migrants."²

With the adoption of the New York Declaration for Refugees and Migrants, Member States reaffirmed their commitment to protect the rights of refugees and migrants on a global scale - recognizing the special needs and vulnerabilities of children among large movements of refugees and migrants. The declaration also calls for the development of two migration compacts to be adopted in 2018 - the Global Compact on Refugees and the Global Compact for Safe, Orderly and Regular Migration. It is crucial that the special needs and vulnerabilities of child migrants will be prominently present within both compacts.

UNICEF provided significant input to the 'New York Declaration for Refugees and Migrants' and developed six policy asks to advocate for the principle of the best interest of the child to be at the center of the two 2018 Compacts. The right of all refugee and migrant children to keep learning and have access to quality services was identified as one priority among the six policy asks.³

Framing the issue

"Migration and refugee laws and policies have been revised in some contexts, limiting rights and access to services for children based on their migration status. Children seeking asylum and those in irregular migration situations have been the most affected, with some European states denying them full access to even basic services."⁴

In the **New York Declaration for Refugees and Migrants** Member States reaffirmed their commitment to provide child migrants with access to basic services such as health, education and psychosocial services, and to take into account the best interest of the child. Particular attention was given to the importance of quality education throughout the document, stating that access to quality education as well as early childhood education in times of conflict and crisis can be a "...*fundamental protection to children and youth in displacement context...*" and "...*higher education (can) serve as a powerful driver for change...*".⁵ Yet, many migrant children still lack access to quality services, due to existing gaps between legal entitlements and children's ability to effectively access quality services resulting from practical implementation barriers and lack of political will.

Besides legal barriers in national policies and lack of documentation papers that prevent child migrants to access services, common reasons include; language, administrative and financial barriers, fear of detection and being reported to immigration authorities, financial affordability and the fear to have to

¹ Quality services refer to: education, health, shelter, nutrition, water and sanitation, and access to legal and psychosocial support

² In Safety and Dignity: Addressing Large Movements of Refugees and Migrants http://www.un.org/pga/70/wp-content/uploads/sites/10/2015/08/21-Apr_Refugees-and-Migrants-21-April-2016.pdf

³ The six policy asks can be found under the following link: https://www.unicef.org/emergencies/childrenonthemove/files/Refugees_Summit_policy_asks.pdf

⁴ Uprooted-THE GROWING CRISIS FOR REFUGEE AND MIGRANT CHILDREN <https://www.unicef.org/videoaudio/PDFs/Uprooted.pdf>

⁵ New York Declaration for Refugees and Migrants, 13 September 2016, A/71/L.1, http://www.un.org/ga/search/view_doc.asp?symbol=A/71/L.1

pay for services as well as lack of awareness about eligibility for certain services. Whilst many migrant families lack information about their entitlements, service providers struggle to understand the complex and frequently changing rules regarding access to services that -in addition- vary according to the status of the child (child refugee, child migrant, undocumented child etc.). Moreover, service providers themselves tend to particularly exclude and discriminate children in irregular situations in the provision of services.

The complexity in policies and guidelines and the increasing responsibility on service providers, linked with a lack of adequate and sufficient training for responsible staff often creates confusion– which might ultimately lead to refusal of entitlements to the migrant children and their families. In addition, access to services often lies within regional / local competences, which adds another layer of complexity and can generate inequities in access to services even within the same country. The need to ensure that service provision is provided through and with host communities is an essential consideration, to increase opportunities for integration and inclusion of migrant children and also a means of avoiding resentment on the part of those host communities.

The **Principles and Guidelines of the Global Migration Group (GMG)**⁶ further stress the importance of the provision of non-discriminatory, culturally appropriate and gender sensitive health care as well as access to shelter and housing. Member States are urged to include migrants in national plans of action on housing and as well as to develop “...*procedures and mechanisms to ensure the access of all school-aged migrant children, including separated and unaccompanied children, as well as undocumented children, to adequate and appropriate education, on the basis of equality of treatment with nationals and with primary education free of charge for all.*”

In his latest **report to the General Assembly, the Special Representative on Migration Mr. Peter Sutherland**, urges Member States to fulfill their migration-related commitments, laid out in the 2030 Agenda and explicitly calls upon Member States to ensure continuing care and support as well as access to key services to all child migrants, in particular to unaccompanied and separated children.⁷

However, particularly in transit countries, child migrants and their families often face the risk of human rights violations and abuses as well as denial of access to quality services – as transit countries might not be willing or question their obligations towards migrants who are only in transit on their territory. Article 2 of the **UN Convention on the rights of the child** makes it clear that all Member States have to “...*respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind.*”⁸

Special considerations

“All children involved in or directly affected by international migration are entitled to the enjoyment of their rights, regardless of age, gender, ethnic or national origin and economic or documentation Status, in both voluntary and involuntary migration situations, whether accompanied or unaccompanied, on the move or otherwise settled, documented or undocumented or any other.”⁹ Yet far too often the ability of a child migrant to access quality services depends on the profile and or/ migration status of a child or the child’s family. **All persons under the age of 18** involved in or directly affected by international migration are entitled to the full enjoyment of their rights and access to quality services and Member

⁶ Principles and Guidelines, supported by practical guidance, on the human rights protection of migrants in vulnerable situations within large and/or mixed movements <http://www.ohchr.org/Documents/Issues/Migration/PrinciplesAndGuidelines.pdf>

⁷ Report of the Special Representative of the Secretary-General on Migration (A/71/728), February 2017 <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N17/002/18/PDF/N1700218.pdf?OpenElement>

⁸ The UN Convention on the rights of the child https://downloads.unicef.org.uk/wp-content/uploads/2010/05/UNCRC_united_nations_convention_on_the_rights_of_the_child.pdf?_ga=1.63639401.756721282.1487192644

⁹ Committee on the rights of the child. Report of the 2012 day of general discussion <http://www.ohchr.org/Documents/HRBodies/CRC/Discussions/2012/DGD2012ReportAndRecommendations.pdf>

States are urged to treat **children first and foremost - and without exception - as children**. The following group of child migrants experience particularly severe difficulties in accessing quality service, based on their demographic and profile:

*Adolescent migrants*¹⁰ represent the largest group among child migrants. Among the overall population of migrants under 20 years of age, adolescent migrants account for some 33 per cent.¹¹ Yet, children above the age of 16 are often considered as 'adults' rather than 'children' and therefore provided with a much lower level of attention and protection.¹² In addition child migrants above the age of 16 years old are often neglected in terms of services with the idea that they will soon be 18, their asylum claim rejected and they will be returned home.

In General Comment No.20 the Child Rights Committee notes with concern the numbers of adolescents in marginalized situations, such as adolescents who are migrating, who are not given the opportunity to access education. *Many adolescent migrants are denied access to education, housing, health, recreation, participation, protection and social security. Even where rights to services are protected by laws and policies, adolescents may face administrative and other obstacles in gaining access to such services, including: demands for identity documents or social security numbers; harmful and inaccurate age-determination procedures; financial and linguistic barriers; and the risk that gaining access to services will result in detention or deportation*¹³

Child migrants in irregular situations face numerous barriers and discrimination in accessing quality services. Child migrants in irregular situations are often unable or unwilling to seek protection and access to services when they need it. Schools may refuse to accept undocumented children due to administrative barriers to enroll a child without documentation papers. Health care professionals might only provide emergency care but may lack training and guidance on providing continuing or specialized care to undocumented children - often resulting in denying the right of the child to medical treatment. Additionally, fear of detection and fear to be reported to immigration authorities often prevents undocumented families to access services. In many cities, such as Geneva, Seoul, or Munich, "firewalls" have been placed between service providers and immigration authorities allowing migrants – including those in irregular status – to access quality services without fear of reprisals are providing sealed barriers of confidentiality have been placed.¹⁴

Of additional concern is the current practice in some countries to separate undocumented children from their parents when it comes to providing access to adequate housing – meaning that some local authorities make accommodation available only for undocumented children but not for their accompanying family. To separate a child from his/her family for the purpose of migration control is not in the best interest of the child.

Migrant children with disabilities, girl migrants and others all may also require special and specific tailored interventions to ensure that their particular needs are considered and that they are able to access services on an equal basis to other children.

¹⁰ Due to the lack of data and research related specifically to migrants in the adolescent age group 15-18, the data below represent the age group 15 to 19 years of age.

¹¹<http://www.un.org/en/development/desa/population/publications/pdf/migration/Factsheet%20Children%20and%20Adolescent%20Migrants%2009062013.pdf>

¹² Committee on the rights of the child. Report of the 2012 day of general discussion <http://www2.ohchr.org/english/bodies/crc/docs/discussion2012/ReportDGDChildrenAndMigration2012.pdf>

¹³ General comment No. 20 (2016) on the implementation of the rights of the child during adolescence http://tbinternet.ohchr.org/Treaties/CRC/Shared%20Documents/1_Global/CRC_C_GC_20_8122_E.pdf

¹⁴ Report on the Status of the Convention on the Rights of the Child, the Secretary-General http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=A/71/413&Lang=en

Recommendations

- 1. In order to ensure that the best interest of the child are considered before any administrative requirements and ensure that all children on their territory have equal access to quality services**, Member States can mandate that child care, education and protection agencies/bodies take primary responsibility for all migrant children, rather than immigration authorities.
- 2. Immediate** assistance, support and access to quality services for child migrants should be prioritized. These services can be delivered before conducting an assessment and best Interest determination of the situation of the child.
- 3. Services for migrant children that are delivered alongside services for local children and in a manner that benefits host communities as well as migrant children** can act as a positive means of promoting the inclusion and integration of migrant children, and help to combat xenophobia and mistrust amongst host communities.
- 4. Member States are encouraged to establish an age and gender disaggregated database** to register and monitor all children who enter the country in order to assess special vulnerabilities and ensure adequate protection and continuity in assistance across member states.
- 5. In many countries, service providers are not obligated to report on the immigration status of child migrants (and their families)**, making it easier for migrants with any legal status to seek and receive the services they need.
- 6. Greater cooperation and coordination between countries of origin, transit and destination** in order to ensure that all child migrants have continuing nonstop access to quality services during all phases of the migration cycle would both protect vulnerable children and enhance migration governance.
- 7. National child protection systems are the best resource for the protection of migrant children, and many Member States have increased investment in this sector** to better address the needs of migrant children. In addition, Member States are encouraged to consider supporting regular follow up trainings in the area of migration policies, legislation and procedures, conflict-sensitivity, cross-cultural communication, entitlements to migrant families, child protection and confidentiality ('firewall') to frontline service providers.
- 8. Member States and Service providers are urged to take into account the views and opinions of all migrant children**, as this will help to build trust and ultimately to adjust services to the special needs of the child migrant. Many Asylum procedures and Best Interest Determination Procedures explicitly require the views and opinion of the child to be taken into consideration.