

Protecting Migrant Children's Rights



Training workshop, 28 January 2017
Network for Children's Rights, Athens, Greece
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<https://migrantchildren.org/>

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Executive Summary

This report relates to the training workshop on the protection of migrant children's rights which is part of an ESRC-funded research project currently led by Dr Ana Beduschi (<https://migrantchildren.org/>). The event was organised by the University of Exeter in partnership with the NGO Network for Children's Rights Greece. The workshop was held at their headquarters in Athens on the 28 January 2017. Agenda and training materials (in English and in Greek) available here: <https://migrantchildren.org/2016/10/25/upcoming-in-january-2017/>

The event was attended by aid workers (frontline workers) providing services in three refugee camps in Athens and by refugee lawyers working for the Network for Children's Rights and for ARSIS (Greek NGO providing support for children). This workshop emphasised training on legal aspects of the protection of migrant children. It also explored the possibility of developing a vulnerability and best interests tool which would be simple and accessible to frontline workers.

Despite the absence of specific official procedure, frontline workers at the NGO Network for Children's Rights are already conducting a form of best interests of the child determinations in relation to migrant children. Following the workshop and considering their input, we propose a vulnerability and best interests of the child determination tool, which can be used by frontline workers in their daily work.



Participants

The event was attended by aid workers (animators, social workers, volunteers) providing services in three refugee camps in Athens and by refugee lawyers working for the Network for Children's Rights and for ARSIS (Greek NGO providing support for children). Speakers and facilitators: Dr Ana Beduschi, Dr Kyriaki Patsianta, Alexandros Katsiakioris, Charitini Emmanouilidou, Syd Bolton and Catriona Jarvis.



Understanding migrant children's vulnerabilities

The participants have overwhelmingly defined migrant children as vulnerable. However, they emphasized the need to avoid stigmatizing these children. Animators pointed out that they should be very careful not to take on responsibilities that they feel are not theirs as this could lead worsen the children's situation. They can contribute to identify vulnerabilities but they should refer the case to psychologists and lawyers within their team if necessary. Participants agreed that more support is needed from interpreters. Participants were asked to identify non-apparent and apparent vulnerability criteria based on their own knowledge and experiences.

Non-apparent vulnerabilities	Apparent vulnerabilities
<ul style="list-style-type: none"> • Post Traumatic Stress Disorder • Other mental health issues • Learning difficulties • Domestic violence • Family situation • Religious minorities- e.g. Yazidis • Physical or emotional abuse • Ill-nourishment • Separation and loss • Victims of human trafficking • Torture survivor 	<ul style="list-style-type: none"> • Age • Gender • Disability • Poor physical health • Unaccompanied children • Language difficulties • Poor living conditions • Behaviour - e.g. isolation, aggressiveness

A *composite form of vulnerability* can be identified: migrant children are in a vulnerable situation not only because they are children, but also because they are aliens, sometimes in an irregular situation in a foreign country, sometimes not even accompanied by an adult. Unaccompanied or separated girls may be also exposed to a greater risk of sexual violence while migrating and when placed in detention camps. Disabled migrant children are also more frequently exposed to different forms of abuses.

That's why their rights must be protected adequately and their composite form of vulnerability should be analysed in light of their specific situation. Identifying their vulnerability can lead to a more tailored approach to protection and care. It should not lead to stigmatisation of vulnerable groups. On the contrary, it should be a useful tool to recognise specific needs and to address their particular situation.

Discussing the child's best interests

All participants were familiar with the concept of the child's best interests. Many of them were teachers and had come across the concept within their work in the field. According to the participants, the concept of the best interests means: "to reduce violence", "not to cause physical harm", "to establish with the children relationships based on trust, to be there for them, to make them feel safe and to have good communications with them". The participants reminded themselves that the provisions set out in the Convention on the Rights of the Child are rights of children. These are entitlements and not benefits to be allowed at the discretion of the State or any organization or individual. They highlighted that we all have a part to play in ensuring that best interests and other rights are respected.



'The best interest principle must be kept in mind at all stages of work with migrant children'

The Separated Children in Europe Programme Statement of Good Practice, supported by UNHCR, UNICEF and Save the Children, which refers to the concept of the best interests of the child was presented to the participants. They were familiar with the UNHCR procedures regarding the evaluation of migrant children's best interests. Some of them were quite critical towards these procedures, pointing out that they are not always fairly conducted. According to the participants, the best interests of the child should be the basis of every decision affecting migrant children. They emphasized that "in all we do, the interests of the child are top". They confirmed that they are using the best interests concept in their daily work. It was specified that they make decisions considering the best interests of the child as a matter of routine in their work in the camps. It was agreed that the best interest principle must be kept in mind at all stages of work with migrant children including identification of children as such; care of children; decision making and service provision.

States have the primary responsibility for best interest determinations in relation to the children in the camps. However, in Greece a State-based practice and procedure are lacking. Therefore, NGOs and charities should support each other in doing the best they can, however it is not their responsibility to make any big decisions about the future of migrant children. Nevertheless, the participants affirmed that they proceed to best interests determination in their daily work in the camps. They also emphasized that much more responsibility falls upon their shoulders in respect of children who are unaccompanied. For example, when they noticed that within a group of 40 or 50 children one child was sitting alone, they had to persuade that lone child to come and join the group and sing a song with the other children. Leaving the child isolated would have consequences

beyond the activity with the animators and influence his situation within the camp. Another example was when a child needed to be separated from an abusive father and placed with his mother and sister in Germany; in this particular case, it was in the child's best interest not to be with the father and for him not to be allowed to travel with the child to be reunited with the other family members. Moreover, the participants referred to the various difficulties families have to face while staying in the camps, pointing out that they often choose to leave via smuggling networks rather than waiting on the legal process. The participants underlined that, after conducting an individual "cost/benefit analysis", they usually do not report such situations, because camp authorities already know, see it happening and allow it to happen. Nonetheless, in cases where child trafficking is a concern, they try to deter the child from leaving and if they fail, they intervene and report it to the authorities.



'The determination of the child's best interests should be based on a holistic approach'

According to the participants, the determination of the child's best interests should be based on a holistic approach. It was noted that a particular weight should be given to the family environment of the child. The participants were fully aware of the fact that the child's best interests should be determined on the basis of the specific situation of the child concerned, and not in an automatic and generalized way. Moreover, they noted that the determination of a child's best interests must be a multi-disciplinary exercise involving relevant actors and undertaken by specialists and experts who work with children. Furthermore, they acknowledged that, while determining the best interests of the child, the views, wishes and feelings of the child concerned should be taken into account, according to his or her age and maturity. They equally pointed out the importance of the re-evaluation of the child's situation so as to see whether the decision and measures taken continue to serve the child's best interests.

It was further observed that children who were with their parents were calmer than those who were alone. The participants considered that, at a first level, it is in the children's best interests to stay with their family, to help the parents take better care of their children and to try to keep the family together. However, they noted that many children who were with their families were called on to help their families, for example with washing and cleaning tasks and errands which often meant they were called away from their learning or play activities which is not a good state of affairs. It was suggested that it was in the best interests of these children if participants could persuade parents to come to join in play and educational sessions, or at least to come to better understand the importance of these to the children and the rights of children to play and to learn and develop. It was of concern that children were becoming little adults and caring for others at a very young age.

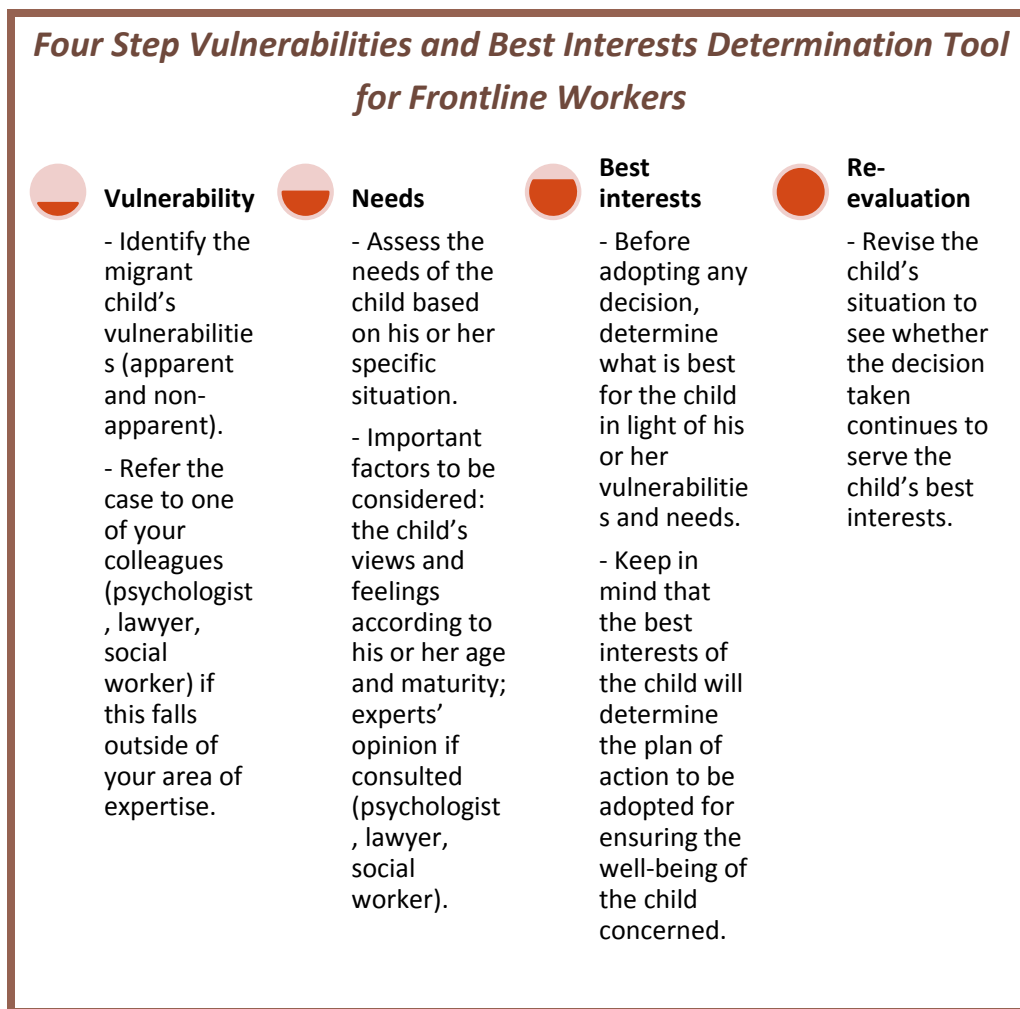
The participants stressed that animators are important to the best interests of the children because they provide continuity and some degree of normality. They can act as bridges in different ways, as between other groups and other individuals; as between migrants and the host population. The participants also underlined that, because of the close contact they are having with the children during play and learning activities, animators can provide significant information on the children's situation, which could be useful for determining their best interests. For instance, a specific procedure called "outreach" is followed by the participants in the camps: they guide the children from their tents to the place where recreational and learning activities take place. Thus, very often, they have the opportunity to observe how a child is being treated by his or her family when he or she leaves the tent together with them (if, for example, the parents are caring and loving towards their child in that precise moment). However, the participants added that, despite having a lot of knowledge about individual children, they are not asked for their views and experiences. In that respect, they said that their views and experiences should be asked for.



Furthermore, the participants noted the huge pressures on their time in combination with the great responsibility of having a high number of children at their charge any one time (40-50 children per animator). They observed that, in this context, it is hard to give the level of attention they would wish to give to each child. It was equally noted that interpreters, who are key workers, have their own pressures and often there would be only one interpreter or even none available. Moreover, the participants said that they have problems in obtaining accurate information about the children they work with, because the transfer of duties from one NGO to another is not followed by the prompt transfer of the children's files. It was also pointed out that there were some specific issues and challenges for various groups of migrants. One group mentioned frequently was the Yazidis who have had very specific experiences and are unwilling to allow their children to come to play and learn with children who are not Yazidis. Also, when this group of children do try to socialize they can be singled out and treated badly by other children.

Recommendations

Despite the absence of specific official procedure, frontline workers at the NGO Network for Children's Rights are already conducting a form of best interests of the child determinations in relation to migrant children. Following the workshop and considering their input to the design of a vulnerability and best interests tool, the following is proposed:



More information

Project website:

<https://migrantchildren.org/>

Toolkit with materials in Greek:

<https://migrantchildren.org/toolkit/>

<https://migrantchildrenorg.files.wordpress.com/2016/10/toolkit-materials-in-greek.pdf>

Academic papers and reports:

- Ana Beduschi, 'Reassessing the Concept of Vulnerability in the European Court of Human Rights' Jurisprudence: Implications for the Protection of Migrant Children's Rights' (forthcoming 2017) – available at <http://www.anabeduschi.org/publications>
- Ana Beduschi, 'Reception of Asylum seekers with disabilities in Europe', Forced Migrations Review, no. 35, University of Oxford, 2010 available at <http://www.fmreview.org/>
- Ana Beduschi, Nick Gill, Kyriaki Patsianta, '*Situation of children that migrate unaccompanied or separated from their parents: legal framework and evidence from practice in Greece*', United Nations Committee on Migrant Workers, 2016 available at http://www.ohchr.org/Documents/HRBodies/CMW/JointGC_CRC_CMW/Beduschi_Patsianta_Gill.pdf
- Ana Beduschi, Written Evidence on unaccompanied minors in the EU (UME0008). House of Lords, EU Home Affairs Sub-Committee, Parliament UK, House of Lords, 2016, available at <http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/eu-home-affairs-subcommittee/unaccompanied-minors-in-the-eu/written/30276.pdf>