Panel Meeting on Unaccompanied Minor Asylum Seekers

21-22 October 2015
Kyiv, Ukraine
EXECUTIVE SUMMARY

The two-day expert meeting of the Eastern Partnership Panel on Migration and Asylum took place on 21-22 October 2015 in Kyiv and was co-hosted by Ukraine and Sweden. The representatives of the EU Member States and agencies such as the European Asylum Support Office (EASO), Eastern Partnership countries, academia and such international organizations as IOM, UNHCR, UNICEF, and the Danish Refugee Council (DRC), gathered in the Ukrainian capital to compare their policies and practices in relation to unaccompanied minor asylum seekers (UMAS).

Although the number of unaccompanied minors seeking asylum varies throughout the EU Member States and is relatively small in the Eastern partnership countries, the subject remains of a crucial importance for every country, since it concerns children in a very vulnerable condition. Unaccompanied children seeking asylum require special support and special care at all stages of asylum procedure, as well as in case of return.

The experts from different fields (case workers, researchers, policy makers) had an open and thoughtful discussion about protection of minors seeking asylum, ensuring their rights and addressing the child-specific needs throughout the asylum procedure. Moreover, the participants had a chance to exercise their knowledge during the interactive case study sessions under the supervision of the experts.

Ms. Johanna Peyron from the Ministry of Justice of Sweden reported on the dramatically increasing number of unaccompanied minors seeking asylum, whereas Ms. Nataliia Naumenko from the State Migration Service of Ukraine highlighted state’s efforts to build effective reception system for such children despite relatively low number of them.

UNHCR underlined that identification of durable solutions and addressing child-specific needs is a key. The European Commission, describing the legal framework for the subject, presented the EU Reference Document on Unaccompanied Children, as a comprehensive, user friendly compilation of all related policy and legislative documents on unaccompanied children in asylum procedure.

Belgium, Moldova, Ukraine and Sweden have shared their national approaches to unaccompanied minor asylum seekers. Challenges of the age assessment procedures and influence of child’s memory on credibility assessment, as well as the family tracing practices and return of unaccompanied children were also in focus. A controversy with determination of the best interest of the child, which is crucial for securing children’s rights, was a keynote of many presentations.
Welcome and Opening

Mr. Robert Rybicki, DG Home Affairs, European Commission, welcomed the participants and speakers of the meeting and thanked the host and co-host. He highlighted that EaP countries and EU MS are not always affected by asylum flows in the same way, but sharing knowledge and good practices has its positive effects. It is important not to look at numbers of UMAS in each country, but rather bring attention to the problem, understand it and have appropriate solutions to address it.

Ms. Johanna Peyron, Ministry of Justice, Sweden, thanked the hosting country and organizers of the meeting, stressing Swedish adherence to cooperation with EaP countries in terms of sustainable migration policies development. Sweden is currently witnessing increase in number of UMAS, and even though national capacities are well-developed, the intensity of the flows raises up new challenges. This category of children requires special care and support, so building of a child-friendly asylum system is a key.

Ms. Nataliia Naumenko, State Migration Service, Ukraine, welcomed everyone and underlined that despite relatively small number of UMAS in Ukraine, the topic of the meeting is very relevant, as voice of every child should be heard. Thus, the best interest of the child should be a primary principle at every stage of asylum procedure. Development of common approaches and exchange of best practices by countries of transit and countries of destination is much desired.

Session I. Global and legal overview
Facilitator: European Commission

Ms. Anna Rich, Senior Protection Officer, UNHCR Kiev, Ukraine, opened the session with a speech highlighting importance of the proper response to minor asylum seekers’ specific needs. Identification of durable solutions for such children is a priority for UNHCR, which works consistently with the State Migration Service of Ukraine in order to ensure adequate access of minor asylum seekers to the national asylum system. The principle of the best interest of a child is put first in identification of needs and care for children; it should be a primary consideration at every stage of the asylum procedure. UNHCR has produced a report on the best interest of separated children together with UNICEF. The report titled “Safe and Sound” offers suggestions for improvement of national systems that states might consider.

Mr. Eskil Wadensjö, The Stockholm University, Linnaeus Center for Integration Studies (SULCIS), spoke about life and integration of unaccompanied minors. The issue of UMAS in Sweden is extensive compared to other EU MS, both in relation to population size and in absolute terms. Although age and gender composition really depend on the country of origin, the majority of UMAS coming to Sweden are 16-17 years old. The cases when very young children are accompanied by one of the parents who are minors also take place. The percentage of girls who are not involved in employment or education is higher than the percentage of boys of the same age. UMAS coming from Afghanistan are more successful in employment. UMAS are earning more than asylum seeking minors accompanied by parents. Please see the presentation “Unaccompanied and Separated Refugee Minors in Sweden”

Mr. Robert Rybicki, DG Home Affairs, European Commission, delivered a presentation on the Reference Document on Unaccompanied Children. The document is a comprehensive source of EU legal and policy framework information. It covers all categories of unaccompanied children of third country origin, whether they are seeking asylum, trafficked, seeking to reunite with family members, or are in Europe for another reasons. Majority of UMAS in EU MS are 14 years old and most of them are boys. Unaccompanied children represent four percent of total number of asylum seekers throughout Europe. The main countries of origin of UMAS are Afghanistan, Syria, Somalia, Gambia and Morocco. The top countries, where the children are distributed are Sweden, Italy, Austria and UK. Please see the presentation “Reference Document on Unaccompanied Children: EU Law, Policy and Practical Measures”
Ms. Nataliia Naumenko, State Migration Service, Ukraine, presented update on the situation with UMAS in Ukraine. The state authorities work closely with the civil society organizations in order to ensure comprehensive approach to the problem of UMAS. The current number of UMAS in Ukraine is not high, however, the system should be set up in order to be ready to possible challenges in case of increase of asylum seekers flows through the country. The definition of UMAS is introduced into national asylum legislation, but is absent in the rest of legislation. The coordination between the authorities involved into the reception of UMAS is ensured through specific instruction. Proper legislation is in place, but its practical implementation is challenging. Specialized centers for UMAS are to be opened soon. Programmes of UMAS integration, as well as, proper identification system should be further developed. Please see the presentation “Situation with Unaccompanied Minor Asylum Seekers in Ukraine” (in Russian)

Ms. Olga Kulebyakina, International Organization for Migration (IOM), Mission in Ukraine, presented the discussion paper, developed based on results of the questionnaires disseminated among the participating countries prior to the meeting. A total of 14 countries provided their input. The policies and practices concerning UMAS differ across the EU, as well as between the EU MS and EaP countries, due to the fact that some countries receive significantly more UMAS than others. For the EaP states that have provided their responses to the questionnaire, the UMAS are not among major challenges in the sphere of migration and asylum. At the same time, certain EU MS receive increasingly high numbers of the UMAS every year. Due attention towards reception, accommodation and qualifications of staff working with UMAS is a key to their wellbeing. Application of the best interest of the child secures rights of UMAS at different stages of the asylum procedure and return. Legislation and capacity building opportunities should be further developed to support UMAS. Please see the presentation “Unaccompanied Minor Asylum Seekers: National Approaches and Practices in the EU and EaP countries”

Discussion
Azerbaijan raised a question of what happens after a minor, who has temporary protection, turns 18 years old. DRC asked whether there any prognosis made by the State Migration Service of Ukraine, since the number of UMAS has been changing. Ukraine replied that routes of UMAS flows have changed and there is indication that their number has increased in some countries, where it was quite low before. Thus, Ukraine is working on possible solutions to stand ready if the flows intensify.

Session II. Asylum procedure and returns for minors
Facilitator: Ukraine

Ms. Maria Dapena Vilarino, Expert on Asylum Procedures for Children, European Asylum Support Office (EASO), shared EASO approach to age assessment, highlighting its importance for securing rights of the children. The procedure of age assessment should take into consideration best interest of the child, incorporate procedural safeguards throughout the whole process and may apply medical methods for verification of the age. Medical methods of age assessment include dental observation, physical development assessment by pediatrician, psychological tests, sexual maturity examination and X-ray; whereas non-medical methods cover age determination interview, documentary evidence and estimations based on physical appearance. Making selection of the most proper method is challenging, as each of them has its own limitations, which include limited accuracy, absence of consensus on what is least invasive, duplication of the assessments on the same person, etc. Please see the presentation “Challenges of Age Assessment”

Dr. Zoe Wilson, Royal Holloway University of London, reported on the reliability of child’s memory in connection to credibility assessment. During the asylum procedure the interview becomes a key evidence and decisions often rest on whether the story seems credible. Length, volume and proficiency of autobiographical memory increase throughout childhood and adolescence in terms of temporal, causal and thematic coherence. Young asylum seekers may present with uneven development or
maturity which does not fit the EU conceptions. Culture and life scripts shape how we remember and what recount. When the attachment between infant and caregiver is disrupted, it can affect memory, help seeking and general development. Traumatic experiences and ongoing trauma limits length and increases the number of omissions. Normal autobiographical memory is not fixed and not absolutely accurate, which should be considered in credibility assessment. Please see the presentation “Asylum Credibility Assessment in Minors and Memory: A Psychological Perspective”

Ms. Anna Guistiniani, International Organization for Migration (IOM), Rome, presented family tracing and family reunification practices based on the experience of IOM projects in Italy. Increasing number of projects address family tracing, as it is a key for better understanding of causes and motivations of migrants. Beneficiaries of such projects are usually victims of trafficking, orphans, IDPs, asylum seekers, refugees and child soldiers. Family tracing and assessment is able to provide in-depth knowledge of child’s migratory projects, expectations of the family, their attitudes and consequences for child’s future, as well as the contest of origin of the child. The tool to carry out the family tracing and assessment is an interview protocol made of open-ended and close-ended questions. Interviews are carried out at the place of residence of the families. Experienced staff ensures addressing the family in a culture sensitive manner. The consent of the family, as well as the agreement of the child is ascertained beforehand. Please see the presentation “Family Tracing and Assessment Activities – Italian Experience”

Mr. Peter Neelen, Fedasil, Belgium, reported on the Belgian practices of UMAS voluntary return. Voluntary return is a social assistance instrument rather than migration management practice. Since forced return is not possible before the age of 18, the option remaining for return of minors is a voluntary return. The assistance provides for pre-departure accommodation, flight back home and reintegration assistance, which depends on nationality, administrative status and social situation of the minor. The actual return is possible only when durable solution is found and it correlates with the best interest of the child. Reintegration of the minor in the country of origin may include different components, such as provision of accommodation or assistance to parents, and it is executed by local partners. Starting from the age of 16.5, rejected asylum seekers are being prepared for return after he/she turns 18 years old with the help of return counselors. Please see the presentation “Voluntary Return – UAM – Belgian Approach”

Session III. Breakout session: Case management
Facilitator: Sweden

This practical session was dedicated to a group work led by Mr. Kjell Terje Torvik from the Swedish Migration Agency. Each group has received description of the same case and the participants had a chance to discuss and make a decisions related to age assessment, credibility assessment and best interest of the child determination.

22 October 2015 – Day 2

Session III. Case management
Facilitator: Sweden

Mr. Kjell Terje Torvik, Swedish Migration Agency, started the second working day by summarizing the case management sessions from the previous day and sharing conclusions the working groups reached. Age assessment and credibility assessment are crucial in cases of UMAS, but these procedures require thorough attention and careful approach. There are different approaches to conducting age assessment, which might include non-medical examination (e.g. ocular inspection, physical appearance, age-determination interviews), medical examination (e.g. dentist/radiological examination, hand/wrist analysis, medical ends of both collarbones, pediatrician examination), as well as consideration of documentary evidence. Credibility assessment should take into account child-specific circumstances and child-specific country of origin information. Best interest of the child should be properly determined and
preserved. Family tracing activities should be performed when necessary, considering all possible consequences for the family and the child. Please see the presentation “Introduction to Asylum Procedure and Case Study”

Session IV. Reception conditions and protection of children’s rights
Facilitator: Ukraine

Ms. Gabrielle Akimova, Child Protection Specialist, UNICEF, focused in her speech on the unique needs UMAS have as children. UMAS should be treated as forced migrants, as their decision to migrate is not taken voluntarily. The assistance to UMAS should be designed in a way to ensure that they do not become migrants again. The best interest of the child determination in case of asylum covers such issues as accommodation in safe environment, access to health, education and psycho-social assistance, as well as ensuring psychological wellbeing. The best interest of the child should consider the rights of the child and respect for parental responsibility. Appropriate accommodation is crucial for UMAS; it should be safe and at the same time not deprive liberty. The child should be listened to and treated as a partner.

Ms. Dina Gud, Senior Protection Specialist, DRC, reported on legal and social protection of UMAS. DRC has been implementing asylum-related projects in Ukraine since 1996. The coordination committee of the project addressing UMAS incorporates all relevant stakeholders, such as state authorities dealing with migration and child protection issues, international organizations and civil society organizations. Joint work and cooperation led to the development of a national instruction on the children seeking asylum. The focus of the project is a direct assistance to children seeking asylum on the local level through the partner civil society organizations. UMAS is an extremely vulnerable group, since they are children and they are alone in the foreign country. Please see the presentation “Legal and Social Protection of Asylum Seeking and Refugee Children in Ukraine” (in Russian)

Ms. Natalia Naumenko, State Migration Service, Ukraine, presented information on the reception conditions of UMAS in Ukraine. The most important factor for ensuring effective reception system is cooperation and mutual understanding of all stakeholders involved in the process. The national legislation reflects minimum standards for reception of UMAS. Children are usually placed into the centers of socio-psychological rehabilitation for children in difficult life circumstances. The centers ensure social protection, pedagogical assistance, education, and healthcare services. The most problematic issue of the reception is appointment of the legal guardian. The committees on the best interest of the child determination proved to be effective. The State Migration Service has signed a Memorandum of Understanding with the Red Cross in relation to family tracing. Specialized reception center for UMAS is about to start its operation. Please see the presentation “Practical Aspects of Reception Conditions for UMAS” (in Russian)

Ms. Annika Kempas, Ministry of Justice, Sweden, delivered a presentation on special assistance provided to UMAS based on the Swedish experience. Recently the number of UMAS has increased. The state holds a primary responsibility for reception of all asylum seekers, including UMAS. The support and care to UMAS is provided by the municipalities, while the Swedish Migration Agency (SMA) assigns this municipality. Special accommodation options for UMAS include homes for care or residence, family homes and supported accommodation. Legal assistance is provided through the public counsel appointed by the SMA. At the same time, guardian ad litem is appointed by the chief guardian in the municipalities. Medical and dental care services are provided on the same level as for own nationals. Education available for UMAS includes preschool, primary school, high school and special school. Please see the presentation “Special Assistance Provided to Unaccompanied Minors – Example of Sweden”

Ms. Ala Ganaciu, Main specialist of international protection and asylum procedures Unit of the Refugee, Moldova, shared Moldovan experience regarding the reception conditions for UMAS. The asylum procedure for persons with special needs is applied in cases UMAS, as this category of asylum seekers is vulnerable. Such procedural guarantees as prioritization of the asylum claim and appointment
of legal guardian are in place for UMAS. An application is submitted by the applicant if he/she is over 14 years old, otherwise the legal guardian does it. An asylum interview takes place in presence of the legal guardian. The Municipal child protection authority is always present during the interview and at every other stage of the asylum procedure. Best interest of the child is a primary consideration throughout the whole asylum procedure. Please see the presentation “National Practices of Reception Conditions for UMAS” (in Russian)

Discussion
EC raised a question on the operation of the system of supported housing. Sweden replied that it is an independent system of housing without heavy supervision with individual type apartments. Ukraine asked on the terms during which the subsistence allowance is received by the UMAS. Sweden answered that this allowance is paid throughout the asylum procedure, and once the status is granted, the person becomes a part of another support system. Ukraine also asked on the timeframe of the asylum procedure for minors and whether there is any difference in comparison to the case of adults. Sweden replied that minor’s cases are prioritized, but since current flow is very intense the processing time might take up to 200 days.

Closure

Mr. Robert Rybicki, DG Home Affairs, European Commission, thanked the participants and speakers for discussions, emphasizing how important it is to understand UMAS problem to provide adequate assistance. The current migration crisis shows that this matter might be very dynamic. It is important therefore, for every state to have the appropriate policy tools and infrastructure to deal with it.

Ms. Johanna Peyron, Ministry of Justice, Sweden, expressed her gratitude to the participants and organizers of the meeting and highlighted the value of the information on UMAS shared by all participating countries. Dealing with cases of UMAS has many sensitive moments, such as proper age assessment, credibility assessment and best interest of the child determination procedure, so sharing different practices is crucial.

Ms. Nataliia Naumenko, State Migration Service, Ukraine, thanked Sweden and the participants for revealing their ideas and underlined the importance of being prepared and ready for possible challenges, taking into consideration current situation with refugees in the EU. Development of unified approaches to UMAS for all countries could be very beneficial.

All presentations mentioned in this report, as well as all the material related to the meeting, can be found at the Panel website www.eapmigrationpanel.org