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from : CIREFI
to : Strategic Committee on Immigration, Frontiers and Asylum/
Mixed Committee (EU-Iceland/Liechtenstein/Norway/Switzerland)

Subject : Analysis of the replies to the questionnaire on unaccompanied minors arriving to
the EU

Introduction

In recent years, Member States have been confronted with the arrival on their territories of an increasing number of unaccompanied minors from third countries. With a view to gaining knowledge on the nature and scale of the problem, the Swedish Presidency submitted a questionnaire to CIREFI at its meeting on 28 July 2009 (11889/09 CIREFI 20 COMIX 571). Following comments made by delegations, the Presidency issued doc. 11889/1/09 REV 1 CIREFI 20 COMIX 571 on 31 July 2009.

The questionnaire aims at gathering information on different aspects of this phenomenon such as: trends, modus operandi, dismantling of criminal networks involved in helping minors to enter the EU/Schengen area, push and pull factors and any possible preventive measures that Member States undertake or plan to undertake in the countries of origin or in cooperation with them.

The Presidency welcomes the fact that all delegations, including the Associated countries, were able to respond to the questionnaire, although it is clear from the variety of responses that the problem is far greater for some countries than for others. However, even if Member States face different situations, the phenomenon of unaccompanied minors arriving in the EU raises some recurrent common challenges.

In addition, the issue of the arrival of unaccompanied minors from third countries has also been the subject of an exchange of views with Canada and the U.S. at the Joint meeting of CIREFI on 5 November 2009.

As a contribution to work already underway in the competent bodies of the Council and by the Commission on this issue, the Presidency submitted to CIREFI an analysis regarding "Unaccompanied minors arriving in the EU from third countries" (in the Annex) based on replies to a Presidency questionnaire on the matter (doc.16697/09 CIREFI 34 COMIX 894 (RESTREINT UE)).

At its meeting on 16 December 2009, CIREFI agreed to the text submitted by the Presidency with a view to submitting it for information to SCIFA subject to a certain limited number of changes suggested by two delegations. The Presidency has therefore revised the text of the second paragraph in point D and the conclusion on that point and has introduced a new paragraph in point F.

CIREFI asks the Strategic Committee on Immigration, Frontiers and Asylum to take note of the analysis regarding "Unaccompanied minors arriving in the EU from third countries" as set out in the Annex.

ANALYSIS

Unaccompanied minors arriving in the EU from third countries

A. Profile

There are some regional differences as regards minors' nationalities. In most of the Member States, Afghans are the most frequent unaccompanied minors. Another significant group, travelling to many Member States, are unaccompanied minors from Somalia; they mostly head for countries which are already countries of destination for Somali asylum seekers.

Besides these two large groups, there are other groups of minors who owe their presence to historical, linguistic or geographical factors. For example, minors from Morocco, Egypt and West Africa mainly travel to Member States in southern Europe, whereas minors from Ukraine and Russia are primarily encountered in eastern Europe.

There are also minors whose presence cannot be directly linked to historical factors or ongoing conflicts, e.g. unaccompanied minors from China and Nigeria.

As regards the age and sex of unaccompanied minors, Member States' reports arrive at the same conclusions. An overwhelming majority of unaccompanied minors are boys between the ages of 15 and 17; this applies in particular to Afghan and Somali minors.

However, some Member States report that girls are in the majority as regards unaccompanied minors. They include Nigerian and Chinese girls, who in some cases are no more than 12 years old. The proportion of girls from Somalia and Eritrea is particularly large in the Scandinavian countries.

B. Routes and methods of travel

Most indications are that unaccompanied minors enter the EU/Schengen area illegally in the same way as adults. There is no information to suggest that criminal organisations are particularly focused on smuggling minors.

The unaccompanied minors who arrive by air at the external border from third countries usually present false passports or genuine documents with substituted photographs. However, the majority of unaccompanied minors are discovered within the territory of the Member States. These minors usually lack passports or other identity documents and have used several different means of transport. The most common methods of travel are bus, train, ferry, boat, and concealment in a lorry.

The majority of Member States report that particular methods are used by certain nationalities. For example, Somali minors usually travel by plane between the Member States, whereas Afghans and Iraqis travel through Europe over land. Unaccompanied minors from Somalia travel on borrowed passports ("look-alikes") or accompanied by adults who claim to be their relatives.

The routes taken vary, depending on the nationality of the unaccompanied minors. Some routes used by minors to enter the EU/Schengen area are:

Afghanistan: Pakistan - Iran - Turkey - Greece or Pakistan - Iran - Russia - Estonia - Sweden.

China: by plane from Hong Kong via either Moscow or a country in the Middle East, e.g. Dubai/United Arab Emirates, to France.

Vietnam: Hanoi - Moscow - Ukraine - Poland.

Somalia: by plane from Addis Ababa or Dubai directly to a Schengen country, or by boat from Libya to Malta or Italy.

Nigeria: by plane within Schengen from southern Europe to other Member States.

West Africa: by boat from Mauritania to the Canary Islands.

Morocco: by boat to Gibraltar, Spain and Italy.

Algeria: by boat to Spain (Almeria, Murcia or Alicante).

Russia, Georgia and Chechnya: by train from Minsk or Moscow to Poland.

Moldova: transit through Slovakia to reach Austria or Italy.

Albania and Kosovo: the Balkan route to Italy.

C. Push and pull factors

A combination of political, social and economic circumstances cause minors to leave their countries of origin. Minors applying for asylum mostly cite reasons such as war, persecution, poverty, a lack of education and care, etc. Examples of social factors in countries of origin include the risk of forced marriage, genital mutilation or being forced into prostitution.

Several pull factors have been identified. One important factor is Member States' asylum practices for minors. The knowledge that minors are treated differently from adults in the asylum process may be felt to be advantageous to minors. Fellow nationals or persons from the same ethnic group living in the country of destination may also offer some security to the minor. Another important pull factor is an exaggerated belief in the economic welfare which Europe can offer, and the possibility of finding work. There are great expectations that the minor will be able to provide for the family in the country of origin.

D. The aim of entry

Unaccompanied minors have different aims when entering a country. This influences their choice of transit and destination countries, and whether or not they intend to apply for asylum.

The Member States in northern, western and central Europe are countries of destination for asylum purposes, whereas the Member States in eastern Europe are primarily transit countries. The biggest countries in Southern Europe are destination countries as showed by the significant increase over the last few years of third-country unaccompanied minors present in flows of illegal immigration by sea who enjoyed of the general applicable child protection schemes. Insular Southern Mediterranean Member States are on the contrary mainly countries of transit and this is evident for example from searches in EURODAC in connection with asylum applications, which often produce a high percentage of hits from southern Europe.

Minors who apply for asylum

A large proportion of minors apply for asylum with the aim of obtaining protection in the Member States. However, some unaccompanied minors apply for asylum as a preventive measure, so that they are not sent back when they are detected by the authorities. For example, there are Afghan minors who apply for asylum on arrival in southern Europe, and are subsequently detected in other Member States. Unaccompanied Chinese, Vietnamese and Nigerian minors generally apply for asylum, but often their primary aim is to work illegally. Some Member States report that children from China and Vietnam are exploited in connection with the production of cannabis, and that Nigerian girls are abused through prostitution.

Minors who do not apply for asylum

There are also minors who do not apply for asylum, but who enter the EU/Schengen area with the aim of finding work, so as to be able to provide for family and relatives remaining in the country of origin. This trend is, for example, observed to a great extent amongst unaccompanied minors from Morocco.

The proportion of minors who do or do not apply for asylum varies between the Member States. In some countries most do apply for asylum, while in others those who do not apply are in the majority. Most Member States are not experiencing any trend of increasing numbers of unaccompanied minors who do not apply for asylum. Nor is there any trend of unaccompanied minors applying for family reunification. Only a few Member States have noted an increase in the proportion of minors seeking family reunification, or report that this proportion is significant. Some Member States have reported that many unaccompanied minors seek reunification with relatives in extended families rather than with parents.

The care which minors receive may differ to some extent depending on whether or not the minor applies for asylum. However, for all minors a special guardian is generally appointed to look after the minor's interests. Initially there is no difference in where the minor is placed.

Statistics on minors who do not apply for asylum are generally lacking or incomplete. However, some statistics can be produced from other records such as the register of guardians, the records of minors placed in reception centres, and the registers of the police or social services.

E. Minors who disappear

In a number of Member States there are cases of unaccompanied minors disappearing from reception centres. In general there are no legal means of taking minors into custody as a preventive measure.

There are several reasons why minors disappear. It may be that the minor did not intend to stay in that Member State, but rather to apply for asylum or join family members in some other country. Some Member States have noted that the reason for the disappearance may also be that the person is not a minor. Such disappearances have occurred immediately before the person is due to undergo a medical examination to determine age. Several Member States link disappearance to minors being the victims of criminal activity, human trafficking, forced labour or prostitution. Some minors disappear when the possibility of return under the Dublin Regulation arises.

Some Member States report the use of methods other than taking a minor into custody to try to prevent disappearances. For example, minors might be held separately from adults; special protected reception centres might be set up; minors staying at reception centres might have to report regularly, or the minors might have to obtain the approval of their guardian to get a travel document. In some Member States there are also special support mechanisms for minors who are suspected of being victims of human trafficking. In some Member States there is cooperation between the immigration authorities, police and social services.

F. Age assessment

The majority of unaccompanied minors detected on the territory of the Member States do not have identity documents confirming their age. Many Member States gave similar replies as regards the reasons for giving an incorrect, usually younger age. The reason is that, in the asylum process, it is more advantageous to be a minor than to be an adult. By claiming to be minors, they may benefit from the special treatments which apply in such cases. There are other reasons for giving an incorrect age. One example is to avoid giving fingerprints for registration in EURODAC; another is that many Member States do not take minors into custody but place them in "open" reception centres, which makes it easier to abscond. There are also cases where applicants give the wrong age because they simply do not know their real age, as their country of origin does not register evidence of birth dates.

The methods used to determine the age of unaccompanied minors vary between the Member States. Besides interviews and checks on identity documents, many Member States use various types of medical examination, which may include measurement of the radius, hand/wrist, collar-bone and pelvis, and dental examinations. Several Member States report that the minor or the appointed guardian must give their consent for medical examinations to be carried out.

An additional problem occurred when the age assessment examinations determine that the person in question is not actually a minor but in the meantime he or she has been issued with a passport attesting that he or she is aged less than 18 years-old.

In cases where it has not been possible to determine the age of someone who is claiming to be a minor, many Member States choose to give the benefit of the doubt, so that the person is regarded as a minor. However, there are Member States which believe that the burden of proof lies with the asylum applicant to show that he or she is a minor.

G. Return

Unaccompanied minors, whether or not they apply for asylum, are generally regarded as a vulnerable group. Many Member States emphasise that return must take the minor's best interests into consideration, in accordance with the Convention on the Rights of the Child. The majority of Member States choose only to return minors on a voluntary basis. In the few cases where the Member States return minors to their countries of origin, they ensure in advance that they will be met by parents, relatives, social services or voluntary organisations. In principle, forced return is not practised by any Member State.

A number of circumstances render return difficult. Unaccompanied minors' lack of identity documents and passports makes it practically impossible to investigate their identities. Moreover, many countries of origin lack central or local population registers, or choose not to cooperate with the Member States.

A number of Member States have signed bilateral agreements with individual countries of origin. There are agreements between some Member States and Morocco, Senegal, Angola, the Democratic Republic of the Congo and Albania. In many Member States there is cooperation with non-governmental organisations and international organisations such as the International Organisation for Migration (IOM), the UNHCR and the Red Cross.

H. Strategies and challenges for the future

It appears from Member States' replies that most lack an overall strategy for dealing with unaccompanied minors. However, in some Member States there are strategies in particular areas which affect unaccompanied minors. For example, these might be national programmes for the protection of children generally. Several Member States refer to cooperation with non-governmental organisations and international organisations on issues relating e.g. to human trafficking and sexual exploitation. Cooperation with different organisations on return is also mentioned, especially the cooperation with IOM. Some Member States have concluded bilateral agreements with countries of origin as part of their national strategies.

Both as transit countries and countries of destination, the Member States predict an increasing influx of unaccompanied minors, which will place a greater burden on reception arrangements for minors. The problem of minors disappearing from reception centres will remain. Another challenge is to find ways of determining the age of minors. Return issues are of central importance for the Member States. Ways need to be found of exchanging information and best practice between the Member States, and for cooperation between the Member States and countries of origin.

I. Contributions by Canada and the U.S.

In Canada, the number of unaccompanied minors arriving from third countries is not particularly high. Approximately, 366 unaccompanied minors had claimed refugee status in Canada so far in 2009, most of them inland. The main air routes used were through United States, London, Mexico City, Amsterdam, Athens, Beijing and Shanghai. There were more female than male and predominant age was 15-17. Among push and pull factors, Canada mentioned that those minors will try to serve as anchors for further refugee claims or are escaping return to their own country (for example for Afghan exchange students in the United States). The main challenges to face by Canada are to deal with those unaccompanied minors who have made it into Canada and then make inland claims and data collection of unaccompanied minors versus separated minors which requires a more cohesive tracking system.

In its presentation on issues related to unaccompanied minors and immigration benefits, the U.S. Citizenship and Immigration Services (USCIS) said to encounter unaccompanied minors in one of the four situations: 1) when such a child requests asylum in the U.S; 2) in the context of processing refugees for resettlement; 3) as a "special immigrant juvenile" already in the U.S; and 4) through a request for humanitarian parole, most often obtain specialized medical treatment in the U.S. USCIS indicated that it was currently receiving approximately 20 asylum applications per week from unaccompanied minors. In 2009 so far, 1300 minors had asked for the refugee status and in 1043 cases such status was approved. As to the challenges with children's cases, USCIS regularly refined procedures to address new changes.

Conclusions

The phenomenon of unaccompanied minors affects most of the Member States in one way or another, either as first country of entry into the EU/Schengen area, transit country or country of destination. To a great extent, the Member States in northern, western and central Europe are countries of destination as well as biggest countries in Southern Europe. The Member States in eastern and smaller island countries in southern Europe are entry and transit countries for unaccompanied minors applying for asylum.

Three main groups of unaccompanied minors arrive to the Member States:

- minors who apply for asylum so as to obtain protection in the Member States;
- minors who apply for asylum but whose actual aim is e.g. to find work or travel onwards within the EU or to another third country; and
- minors who do not apply for asylum.

An overwhelming majority of the minors applying for asylum do so within the territory of the Member States, often without any documents. There is nothing to suggest that this group of asylum applicants is smuggled in differently from adults. The most common profile for an unaccompanied minor applying for asylum is a boy aged between 15 and 17.

The lack of identity documents makes it difficult to determine a minor's age. Many Member States attempt to establish age using various medical methods and interviews.

Minors disappear from reception centres in many Member States. Problems in preventing disappearances stem from a lack of possibilities for taking children into custody.

In principle, the legislation of the Member States allows minors to be returned to their countries of origin, on condition that the child is taken care of on arrival. However, difficulties in locating family and relatives and in cooperating with authorities in countries of origin mean that only few minors are returned after their asylum applications have been refused.

The Member States emphasise the importance of better ways of cooperating and exchanging information and best practices, and of strategies for cooperation with countries of origin.

Among the greatest challenges for the Member States are how to determine the age of unaccompanied minors, and their return to their countries of origin.
